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THE  
ACTS  
OF THE  
GENERAL ASSEMBLY  
OF  
PRINCE EDWARD ISLAND.

FROM

THE ESTABLISHMENT OF THE LEGISLATURE, IN THE THIRTEENTH  
YEAR OF THE REIGN OF HIS MAJESTY KING GEORGE  
THE THIRD, A. D. 1773,

TO

THE FIFTEENTH YEAR OF THE REIGN OF HER PRESENT MAJESTY QUEEN  
VICTORIA, A. D. 1852, INCLUSIVE.

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VOL. I.

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PRINTED BY JOHN INGS, AT THE "ROYAL GAZETTE" OFFICE.

1862.

\* PE. 6

DDN 4928425

**Published under the authority of 23 Vic. cap. 10, and 24 Vic. cap. 3.**

**EDWARD PALMER,  
JOHN LONGWORTH,  
WILLIAM H. POPE,**  
*Commissioners.*



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<b>XXIV.</b> An Act to regulate the specie currency of Prince Edward Island,	635
<b>XXVI.</b> An Act to repeal three certain Acts therein mentioned,	638
<b>XXVIII.</b> An Act relating to costs in cases of penalties recoverable before Justices of the Peace, and to repeal a certain Act therein mentioned,	639
<b>XXXIV.</b> An Act for the appointment of clerks to Justices of the Peace, and to regulate proceedings had before them,	640

14th Victoria, 1851.

<b>I.</b> An Act to regulate the laying and altering of highways,	647
<b>II.</b> An Act to consolidate and amend the laws now in force, for the relief of insolvent debtors,	662
<b>III.</b> An Act to commute the Crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned,	671
<b>IV.</b> An Act for shortening the language used in Acts of the General Assembly,	678
<b>V.</b> An Act for constituting boards of health,	679
<b>VI.</b> An Act to alter and amend the laws now in force relating to the Militia,	688

VII. An Act to oblige husbands and natural relatives of indigent and impotent persons, unable to maintain themselves, to contribute to their support,	689
XI. An Act relating to emigrants,	691
XII. An Act to provide for the transfer of the management of the inland posts within Prince Edward Island,	702
XIII. An Act to regulate the costs of distresses levied for payment of rents, and to amend the laws relating to distress,	715
XIV. An Act relating to stray cattle,	722
XX. An Act to authorize a loan for the use of this Island, and also to make provisions respecting the payment of treasury bonds and warrant, and the interest thereon,	727
XXI. An Act to provide for the summary trial of common assaults and batteries,	731
XXIII. An Act to provide for removing the Post Office of Charlottetown into the Old Court House therein, and for other purposes therein mentioned,	735
XXIV. An Act authorizing the Colonial Secretary of this Island to appoint a deputy,	735
XXV. An Act authorizing the Treasurer of this Island to appoint a deputy,	736
XXVI. An Act to reduce the salary of the Collector of Impost and Excise, for the district of Charlottetown,	737
XXX. An Act to alter the appropriation of a certain sum of money raised by the present land assessment Act,	738
XXXI. An Act relating to the office of Registrar of deeds and keeper of plans,	738
XXXII. An Act to provide salaries for the Controllers of customs and navigation laws, appointed or to be appointed at the various out-ports in this Island, and to repeal a certain Act therein mentioned,	741

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15th Victoria, 1852.

I. An Act to further continue an Act intituled "An Act to regulate the fisheries of this Island,"	744
II. An Act to continue two several Acts therein mentioned, relating to the floating of logs, scantling, deals and other kinds of wood down the rivers and lesser streams in this Island,	744
III. An Act further to continue an Act relating to landlord and tenant,	744
V. An Act to consolidate the laws now in force regulating the sale of the interest of leaseholders when taken in execution,	745
VI. An Act to facilitate the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick,	747
VII. An Act to amend the Act providing for the payment of the civil list of Prince Edward Island and for commuting the Crown revenues thereof,	751

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X. An Act to consolidate and amend the laws now in force relating to division fences,	753
XI. An Act to prevent the stealing of dogs,	756
XIV. An Act relating to corporate bodies,	757
XV. An Act to amend an Act relating to corporate bodies,	760
XX. An Act to regulate the office of Colonial Secretary and Road Correspondent of this Island, and the amount of fees to be taken therein,	761
XXI. An Act to make provision for the service of nonbailable process in certain cases,	762
XXII. An Act to amend certain parts of the law in force relating to the admission of barristers, solicitors and attorneys, and to make other provisions in addition thereto,	764
XXIV. An Act to regulate the sale of arsenic and other poisons therein mentioned,	765
XXV. An Act further to continue an Act relating to dogs, and the taxation thereon,	769
XXXI. An Act to regulate the publishing of notices and advertisements relating to the public service,	770
XXXII. An Act to facilitate the proving of wills and testamentary dispositions within this Island,	770
XXXIII. An Act authorizing the harbor and ballast masters of the various harbors and rivers in this Island, to superintend the laying down, erection and maintenance of the buoys and beacons therein,	772
XXXIV. An Act relating to the Charlottetown ferry, and the wharfs connected therewith,	773
XXXVI. An Act to provide for the care and maintenance of idiots, lunatics, and persons of unsound mind,	777

THE  
ACTS  
OF THE  
GENERAL ASSEMBLY  
OF  
PRINCE EDWARD ISLAND.

ANNO DECIMO TERTIO GEORGII III. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Seventh day of July, *Anno Domini* 1773, in the Thirteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith.

Being the First General Assembly convened in the said Island.

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C A P. I.

An Act for confirming the past Proceedings of His Majesty's Governor and Council, antecedent to the calling of a General Assembly.

WHEREAS it has been found absolutely necessary and expedient, by His Majesty's Governor and Council of this Island, to make several Resolutions, Rules, Ordinances, and Regulations, for the good government of said Island:

Be it therefore enacted, by the Governor, Council and Assembly, That all the Resolutions, Rules, Ordinances and Regulations made by His Majesty's Governor and Council, antecedent to the calling of a General Assembly within this

1773.

W. PATTERSON,  
Governor.

JOHN DUPONT,  
President of  
Council.

R. STEWART,  
Speaker.

All Ordinances,  
&c., by Govern-  
or and Council  
antecedent to  
calling a Gene-  
ral Assembly,

repealed,  
saving rights  
of parties.

Island, are hereby repealed and made void, saving always, to all and every person or persons whatsoever, what was and is his, her or their Rights and Benefits, which he, she or they had by the said Resolutions, Rules, Ordinances and Regulations; and also, saving harmless and indemnified all and every person or persons who hath or have acted or done any thing in consequence of or pursuant to any of them: and all proceedings heretofore had and done in pursuance of such Resolutions, Rules, Ordinances and Regulations, and every of them, shall be, and the same are hereby ratified and confirmed, to all intents and purposes whatsoever.

Proceedings  
thereunder  
confirmed.

## CAP. II.

An Act to confirm and make valid in Law all manner of process and proceedings in the several Courts of Judicature within this Island, from the First day of May One thousand seven hundred and sixty-nine, to this present Session of Assembly.

See 16 G. 3,  
cap. 4.

**W**HEREAS this Island has been without a complete Legislature from the commencement of the Government thereof, which took place on the First day of May One thousand seven hundred and sixty-nine, unto this present Session of Assembly; during which time many and various proceedings have been had at the several Courts of Judicature in this Island:

All prior pro-  
ceedings of  
Courts con-  
firmed,

Be it therefore enacted, by the Governor; Council and Assembly, That all Writs, Pleas, Process, Actions, Bills, Suits, Indictments, Informations, Judgments and Decrees, of or concerning any matter or thing whatsoever, which have been heretofore sued out and prosecuted to judgment in any of the said several Courts within this Island from and after the said first day of May One thousand seven hundred and sixty-nine, to the end of this present session of Assembly, shall be good and valid in the law: Provided always, that this Act shall not be construed to extend to take away or rectify errors in the misusing of Process, Mispleadings, and erroneous rendering of Judgment in point of Law: but in all such cases the parties aggrieved may have their Writ or Writs of Error upon such erroneous Judgment, in such manner as they might have done before the making of this Act.

saving to par-  
ties Writs of  
Error.

## CAP. III.

Repealed by 12  
Vic. cap. 9. An Act for establishing the times and places of holding the Supreme Court of Judicature.

## CAP. IV.

An Act for the publication of all the Laws within this Island, and for recording the same in the Secretary's Office; as also for transmitting the Journals of the Council and House of Assembly into the said Office, to the end that no person be ignorant of the Laws of this Island.

Repealed  
G. 3, c.

## CAP. V.

An Act for ascertaining damages on protested Bills of Exchange.

BE it enacted, by the Governor, Council and Assembly, that from and after the first day of August, in the year of our Lord One thousand seven hundred and seventy-three, all Bills of Exchange drawn from and after said time, by any person or persons residing within this Island, upon any person or persons in Europe, and which shall be protested and returned to this Island under protest, each and every such protested Bill of Exchange shall be subject to ten pounds *per centum* damages, and six pounds *per centum per annum* interest, over and above all charges of protest, postage, and other attendant expenses; the same to be calculated on such Bill or Bills from the day of the date of the protest, up to the time of payment.

Foreign Bills of Exchange returned protested, subject to 10 per cent. damages, and 6 per cent. interest, per annum.

II. And be it further enacted, That all Bills of Exchange drawn by any person or persons residing within this Island, from and after the expiration of said time, on any person or persons in other Colonies, and sent back protested, shall be subject to five pounds *per centum* damages, and to six pounds *per centum per annum* interest; to be calculated from the day of the date of the protest, up to the time of payment.

Bills drawn on other Colonies, subject to 5 per cent. damages, with interest.

III. And be it further enacted, That all Bills and Orders which shall or may be drawn from and after the said first day of August, by any person or persons living or residing within this Island, on any person or persons also living or residing in the same, and which may be duly protested, shall be subject to six pounds *per centum* interest, to be calculated from the day of the protest up to the time of payment.

Inland Bills, 6 per cent. interest.

## CAP. VI.

An Act to prevent the throwing of Ballast into Rivers and Creeks on this Island.

Repealed by  
12 Vic. c. 18.

## CAP. VII.

Repealed by  
39 G. 3, c. 2.

An Act for indemnifying persons who shall burn small Bushes, rotten Windfalls, decayed Leaves, and all other Brush and Rubbish, upon the Lands and in the Woods on this Island.

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## CAP. VIII.

Repealed by  
5 Vic., c. 6.

An Act for the more easy and effectual trial of Criminal Offenders; also, trials of Property, or any other suit or suits of what nature or kind soever; and for the ascertaining the qualifications of Jurors in trials of such offenders, as also in trials of property, or any other suit or suits, of what nature or kind soever.

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## CAP. IX.

Repealed by  
21 G. 3, c. 5.

An Act empowering His Excellency the Governor, or other Commander in Chief for the time being, to direct the making of public Roads, and to appoint persons to carry the same into execution.

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## CAP. X.

Repealed by  
25 G. 3, c. 9.

An Act prohibiting all Masters of Ships or Vessels, or any other person, from transporting or conveying away any person or persons out of this Island, or the Territories adjacent thereto, without a License or Pass, except only such as are hereinafter excepted.

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## CAP. XI.

Repealed by  
2 W. 4, c. 1.

An Act for the more easy and speedy recovery of Small Debts.

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## CAP. XII.

Amended by 25  
G. 3, c. 5 and 6,  
G. 4, c. 8; sus-  
pended by 11  
G. 4, c. 18; re-  
pealed by 9 Vic.  
c. 26.

An Act prohibiting the sale (by retail) of Rum, or other Distilled Spirituous Liquors, without first having a License for that purpose, and for the due regulation of such as shall be licensed.

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## CAP. XIII.

Repealed by 43  
G. 3, c. 2.

An Act for the effectual recovery of certain of His Majesty's Quit Rents in the Island of Saint John.



ANNO DECIMO QUARTO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Fourth day of October, *Anno Domini* 1774, in the Fourteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith:

Being the First Session of the Second General Assembly convened in the said Island.

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1774.

W. PATTERSON,  
Governor.

P. CALLBECK,  
President of  
Council.

R. STEWART,  
Speaker.

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### CAP. I.

An Act for licensing and regulating Ferries.

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Continued by 21  
G. 3, c. 11;  
amended by 9  
G. 4, c. 5; re-  
pealed by 3 W.  
4, c. 8.

### CAP. II.

An Act to prevent the non-attendance of Members to serve in General Assembly. Expired.

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### CAP. III.

An Act for regulating the measure of Boards, and all other kind of Lumber; and for appointing Officers to survey the same.

Continued by  
21 G. 3, c. 11;  
amended by 49  
G. 3, c. 6, and  
57 G. 3, c. 5;  
repealed by 1  
G. 4, c. 3.

## CAP. IV.

Repealed by 21 G. 3, c. 5. An Act empowering His Excellency the Governor, or other Commander-in-Chief for the time being, to direct the making of Public Roads, and to appoint persons to carry the same into execution.

## CAP. V.

Virtually repealed by 25 G. 3, c. 4, s. 1. An Act laying an imposition upon Retailers of Rum and other Distilled Spirituous Liquors.

## CAP. VI.

Expired. An Act for the purpose of making the whole of this Island one County.

## CAP. VII.

Expired. An Act for the better regulation of the proceedings of His Majesty's Supreme Court in Civil Suits, and concerning Bail.

## CAP. VIII.

An Act entitling people called Quakers to certain privileges.

\* \* \* The execution of this Act was suspended until approved of by His Majesty; and no such approbation being had, it is not printed.

ANNO DECIMO SEXTO

# GEORGI II. REGIS.

At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Fourth day of October, *Anno Domini* 1774, in the Fourteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith:

1776.

P. CALLBECK,  
President and  
Commander-in-  
Chief.

J. R. SPENCE,  
President of  
Council.

And from thence continued, by prorogation, to the twenty-sixth day of June, 1776, and in the sixteenth year of His said Majesty's reign; being the second Session of the second General Assembly convened in the said Island.

JOHN BUDD,  
Speaker.

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## CAP. I.

### An Act for regulating Fees.

**B**E it enacted, by the Commander-in-Chief, Council and Assembly, That no Officer, Clerk, or other person whatsoever, who is or are respectively in any manner whatsoever entitled to receive or take any Fee or Fees, by virtue of this Act, nor any person or persons whatsoever, acting by or under him or them, shall from and after fourteen days next ensuing the publication hereof, either directly or indirectly, receive or take of any person or persons whatsoever any greater or other Fee or Fees for his or their respective services than is or are herein after expressed and allowed; that is to say—

No Officer to  
take greater  
Fees than are  
by this Act  
allowed.

HIS EXCELLENCY THE GOVERNOR OR COMMANDER-IN-CHIEF'S  
FEES.

	STERLING	
For a Writ of Appeal to him in Council	£0 10 0	Fees of Govern- nor or Com- mander in Chief
For the Great Seal to every Grant, not exceeding one thousand acres	0 10 0	

For all Grants exceeding one thousand acres, for every thousand acres	-	-	0	5	0
For a License of Marriage, and all other Licenses			0	5	0
For a Certificate under his hand and seal			0	10	0
For his Seal to a Register of a Vessel, or any other matter.	-	-	0	5	0

## PROVINCIAL SECRETARY'S FEES.

*Repealed by 15th Vic. cap. 20.*

## PRIVATE SECRETARY'S FEES.

*Repealed by 15th Vic. cap. 20.*

## CLERK OF THE COUNCIL'S FEES.\*

	For every Petition in Council	-	-	0	2	3
Clerk of Council's Fees.	For every Order in Council relating to a private person	-	-	0	3	4½
	For reading every matter in Council, <i>per side</i> , relating to any private person	-	-	0	1	0
	For copy of any matter from Council Records, <i>per side</i>	-	-	0	1	0
	For all searches	-	-	0	1	0

## SPEAKER OF THE HOUSE OF ASSEMBLY'S FEES.

	For every private Bill	-	-	0	5	0
Speaker's Fees.	For every private enacting clause			0	2	0
	If the Bill concerns a County or Counties	-	-	0	10	0
	For every Warrant of commitment or discharge, or Witness to attend, signed by the Speaker			0	1	0

## CLERK OF THE ASSEMBLY'S FEES.

	For entering every Petition	-	-	0	2	0
Clerk of Assembly's Fees.	For every Order	-	-	0	2	0
	For every copy of do.	-	-	0	2	0
	For every private Bill, the several readings			0	3	0
	For breviating amendments, interlocutory orders and other proceedings	-	-	0	1	3
	For every private enacting Clause			0	1	0
	For every copy of a Motion in Committees appointed in private matters, or of Committees in public matters, taken out by any private person	-	-	0	1	0
	For every order of commitment, or discharge of any person	-	-	0	1	0
	For copies of all Petitions or other matters out of the Journals, at the rate of one penny for every fifteen words.					

\* See 14 Vic. cap. 3, and 23 Vic. cap. 39.

For every search in the Journals	-	0	1	0	
For engrossing Bills, at the rate of one penny for every ten words.					
For every hearing at the Bar, from each side		0	1	0	
For attending Committees of the whole House, or Grand Committees on private concern		0	2	6	
For preparing the Report and transcribing		0	2	6	
For reading at the table and interlining in the Journals	-	0	1	0	
A Report in private matters, if long,		0	1	0	
For swearing every Member	-	0	1	0	

N. B. The Clerk to find Stationery for the above purposes.

THE PROVOST MARSHAL OR SHERIFF'S FEES, WHEN ACTING AS  
SERJEANT TO THE HOUSE OF ASSEMBLY.

For taking a Member in custody	-	0	4	6	
For travelling charges, when ordered by the House, <i>per</i> mile	-	0	0	4	Provost Mar- shal or Sheriff's Fees, when act- ing as Serjeant at Arms.

IN THE SUPREME COURT—CHIEF JUSTICE'S FEES.

For taking Bail out of Court	-	0	4	6	
For allowance of Writ of Error	-	0	9	0	Chief Justice's Fees.
Taxing every Bill of Costs, every page		0	2	0	
For acknowledging satisfaction of a Judgment		0	1	0	

CLERK OF THE CROWN'S FEES.\*

For drawing Indictment, if found	-	0	2	3	
Every submission	-	0	2	3	
Every Cause continued by traverse or otherwise		0	1	0	Clerk of the Crown's Fees.
Every Recognizance	-	0	2	0	
Discharging ditto	-	0	1	0	

\* See 16 Vic. cap. 3

CLERK OF THE CROWN'S FEES ON OTHER MATTERS.\*

Every Presentment proceeded on, to be paid by the delinquent	-	0	3	4	
Crown Capias	-	0	1	0	Clerk of the Crown's Fees on other matters.
Certificate of administering State Oaths		0	2	0	

\* See 16 Vic. cap. 3.

CLERK OF THE COURT'S FEES.

For every Writ and Seal	-	0	1	0	Clerk of the Court's Fees.
An Affidavit for Bail, if drawn by him		0	1	0	
Filing every Precept, Warrant of Attorney, Appearance, Declaration, Plea, &c., for each		0	1	0	
For every Rule of Court	-	0	1	0	
Entering up Judgment	-	0	2	6	

Enrolling the same	-	0 2 6
Every Execution	-	0 2 0
Every Subpœna	-	0 1 0
A Writ of Error, and entering thereon		0 2 3
Continuing a Cause to another Court		0 1 0
Copies of all papers, at the rate of one penny for every fifteen words.		
Taking special Bail at Bar	-	0 2 3
Receiving and filing Returns of Execution		0 1 0
Searching the Records	-	0 1 0
Certifying the Judgment and the Seal of the Court	-	0 2 3
If above two hundred words at the rate of one penny for every fifteen words over and above the two hundred.		
For every Commitment from the Court, for contempt or otherwise	-	0 1 0
For every Warrant to levy Fines, to be levied with the fine	-	0 1 0
Minuting a motion	-	0 1 0
For all Money lodged in Court, six pence <i>per</i> pound.		
Drawing and taking Recognizance	-	0 2 3
Entering a Bond of Arbitration and Award, and entering up Judgment thereon, a penny for every fifteen words.		
For entry of every Verdict or Non-suit		0 1 0
For making up a Record for the trial of an Issue, one penny for every fifteen words.		
Every Writ of <i>Habere Facias Possessionem</i>		0 2 0

## ATTORNEY'S FEES.

<b>Attorney's Fees</b>		
Issuing of Writs for ten pounds or under		0 1 0
Between ten and twenty pounds	-	0 1 6
From twenty pounds upwards		0 2 3
Drawing Affidavits of Debts	-	0 1 6
Drawing Declaration	-	0 4 6
Special Declarations, that are of necessity long, from the nature of the cause, to be taxed by the direction of the Court.		
Attending the Court on trial and arguing the cause	-	0 9 0
On default	-	0 4 6
Special Pleas in Abatement, Bar, Demurrers, Replication and Rejoinder, each		0 2 3
Entering an Appearance	-	0 1 0
Plea to the Issue	-	0 1 0
Warrant of Attorney	-	0 1 0

In real Action in Ejectment, or <i>Scire Facias</i> , filing the Writ or Summons, Declaration and Copy	-	-	0	6	0
Service to the Tenant in possession	-	-	0	1	0
Preparing the Rule	-	-	0	3	0
Affidavit of service for the first person	-	-	0	1	0
If any more in the same cause, for each ditto	-	-	0	0	6
Motion and Rule for judgment	-	-	0	2	3
The <i>Habere</i>	-	-	0	2	3

## PROVOST MARSHAL OR SHERIFF'S FEES.

Service of a <i>Capias</i> or marked Writ	-	0	2	3	Provost Mar- shal or Sheriff's Fees.
Service of Execution	-	0	2	3	
For levying, paying and receiving all Moneys upon Execution, to twenty pounds, one shil- ling in the pound; from twenty pounds to fifty, sixpence; from fifty pounds to one hundred, three pence; and all above at two- pence.					
For summoning a Jury, for every trial where the Crown is not a party	-	0	2	3	
Drawing and executing a Bail Bond, for every sum under twelve pounds, one shilling; be- tween twelve pounds and twenty, one shilling and three pence; between twenty pounds and forty, one shilling and sixpence; and all above, two shillings.					
<i>Habere Facias</i> , or writ of possession	-	0	9	0	
Speeding a Writ of Inquiry, and all proceed- ings thereon	-	0	4	6	
Executing a Writ of Replevin	-	0	2	3	
Travelling <i>per</i> mile, to be computed from the place of service, to the Court to which the Writ of Execution shall be returned, at the most; but in no case no more miles to be paid for than he can actually make appear that he has travelled	-	0	0	4	

PROVOST MARSHAL, OR SHERIFF'S FEES FOR PRISONERS,  
UNTIL THERE IS A JAIL BUILT.

Every prisoner arrested upon a civil action, to pay for the first night's lodging	-	0	1	6
For every other night, while in custody	-	0	0	8

## IN THE COURT OF CHANCERY—SUBPENA OFFICE.

*Repealed by 12th Vic. cap. 14.*

## REGISTER OR CLERK OF THE COURT'S FEES.

*Repealed by 12th Vic. cap. 14.*

## CORONER'S FEES.

<b>Coroner's Fees.</b>	For serving a Writ, Summons, Execution, and travelling charges—the same as is allowed the Provost Marshal or Sheriff.	
	Taking an Inquest, to be paid out of the Estate of the deceased	0 9 0
	And if no estate, to be paid by the Treasurer of the Island.	
<b>Juror's Fees on an Inquest.</b>	To the Foreman of the Jury	0 2 3
	To every other Juror	0 2 0
	To be paid by the Coroner to them, which he is to receive in the same manner as he does his own fees.	

## PETTY JUROR'S FEES IN CIVIL CAUSES.

<b>Juror's Fees in civil causes.</b>	To each Juror in every cause	0 1 0
	To Jurors on Writs of Inquiry, in every cause	0 1 0
	Jurors on Special Juries, their travelling expenses, &c., to be paid at the discretion of the Court.	

## WITNESSES' CHARGES.

<b>Witnesses' charges.</b>	Attendance for each cause	0 1 6
	If more than one day, to be paid at the rate of one shilling and sixpence <i>per</i> day.	
	For travelling charges, three pence <i>per</i> mile, to be computed from the place of his or her residence, to the place of trial, and back again, upon his or her making it appear that he or she attended upon that business only.	

## CRIER'S FEES.

<b>Crier's Fees.</b>	For calling a Jury in a private suit	0 1 0
	A Verdict	0 0 6
	For every Oath sworn in Court	0 0 4
	For every Bill brought into Court or Exhibit	0 0 4
	Every Bail taken in Court	0 0 6
	Every person who takes the Oath of Allegiance in Court	0 1 0

## CONSTABLES' FEES.\*

<b>Constables' Fees.</b>	Attending a Jury, for each cause	0 1 0
	Service of a Warrant	0 1 0
	Travelling Expenses, to be computed from the place where the Warrant is issued, to the place of service, and back again; and in no case to be paid more miles than he proves to have travelled, <i>per</i> mile	0 0 3

\* See 19 Vic. cap. 22.



## JAILER'S FEES.

For turning the key for every prisoner confined on all civil actions	-	0	1	0	Jailer's Fees.
For discharge of every prisoner		0	1	0	
For turning the key for all prisoners committed for breaches of the Peace	-	0	2	3	
For discharge of every such prisoner		0	2	3	
Prisoners lying in the best lodgings, to pay <i>per</i> night, if found with sheets and other bedding, the bed to be sheeted with clean sheets once a fortnight	-	0	0	4	
In case the prisoner finds his own bedding, <i>per</i> night	-	0	0	2	
Prisoners lying in the worst lodgings, if found bedding, and the bed to be sheeted with clean sheets once <i>per</i> month, to be paid <i>per</i> night	-	0	0	2	
In case the prisoner finds his own bedding, <i>per</i> night	-	0	0	1	
In case the prisoner chooses to have a bed to himself in the best lodgings, to pay <i>per</i> night, if found bedding		0	0	6	
If the prisoner finds his own bedding, <i>per</i> night		0	0	3	
Every prisoner that goeth abroad with the keeper, to pay <i>per</i> day	-	0	1	0	
If the keeper finds his own provisions, <i>per</i> day		0	1	8	

## COURT OF THE PROBATES OF WILLS—JUDGE'S FEES.

For granting Administration and Bonds, for every sum under ten pounds	-	0	3	0	Judge of Probate's Fees.
For every Probate, ten pounds, or under		0	2	3	
For granting Administration and Bond, from ten to twenty pounds	-	0	4	6	
For every Probate, from ten to twenty pounds		0	3	6	
For granting Administration and Bond, from twenty to thirty pounds	-	0	5	6	
For every Probate, from twenty to thirty pounds		0	4	6	
For granting Administration and Bond, from thirty to fifty pounds	-	0	6	0	
For every Probate, from thirty to fifty pounds		0	5	0	
For granting Administration and Bond, from fifty pounds and upwards	-	0	7	0	
For every Probate, for fifty pounds and upwards		0	6	0	
For every Citation	-	0	2	3	
For every Caveat	-	0	1	0	
For every Oath	-	0	1	0	
Every Warrant of Appraisement	-	0	2	0	

Examining every Exhibit	-	0 1 0
Letters <i>ad Colligendum</i>	-	0 9 0
Definitive decrees upon Estates, under fifty pounds		0 4 6
Attendance upon the same, if above one day, for every day exceeding, at <i>per day</i>		0 4 6
For allowing of Appeals, and transmitting of papers relative to them, and for all expenses attending the same	-	0 4 6

## REGISTER'S FEES.

<b>Register's Fees</b>	For registering Letters of Administration, for every sum under ten pounds	0 2 6
	For registering a Will of the same sum, and copy of ditto, at the rate of one penny for every twenty words.	
	For registering all Probates, ten pounds or under	0 1 6
	For registering Letters of Administration, for every sum between ten and twenty pounds	0 3 0
	For registering a Will, the same sum, and copy of ditto, at the rate of one penny for every seventeen words.	
	For registering all Probates for the same sum	0 2 0
	Letters of Administration, from twenty to thirty pounds	0 3 6
	A Will for the same sum, and copy of ditto, at the rate of one penny for every sixteen words.	
	A Probate for the same sum	0 2 6
	Letters of Administration, from thirty to fifty pounds	0 4 0
	A Will for the same sum, and copy of ditto, at the rate of one penny for every fourteen words.	
	A Probate for the same sum	0 3 0
	Letters of Administration, from fifty pounds and upwards	0 5 0
	A Will from fifty pounds and upwards, and copy of ditto, at the rate of one penny for every twelve words.	
	A Probate, from fifty pounds and upwards	0 4 0
	Definitive and interlocutory Decrees upon Estates under fifty pounds	0 1 0
	Ditto, for all above	0 2 0
	For his attendance in Court, <i>per day</i>	0 2 3
	For his attendance with Records, <i>per day</i>	0 2 3
	For every search	0 1 0
	Copies of all writings, at the rate of one penny for every fifteen words.	

## APPARITOR'S OR MARSHAL'S FEES.

For serving every Citation in Town	-	0	1	0	Apparitor's or Marshal's Fees.
For serving every Decree or Citation whatsoever, in the Country, two pence <i>per</i> mile for travelling expenses, reckoning from the Court to the place of service, and back again.					
For every Sentence	-	0	1	0	
If his attendance for the same be more than one day, <i>per</i> day	-	0	2	6	

## APPRAISER'S FEES.

To be paid, when employed, at the rate of four shillings and sixpence <i>per</i> day, but not to be obliged to meet on any business, under one shilling each.					Appraiser's Fees.
Travelling expenses, three pence <i>per</i> mile, to be computed from the place of their residence to where they are employed, and back again.					

## JUSTICES OF THE PEACE'S FEES.\*

For taking an Affidavit or Examination		0	1	0	Justices of Peace's Fees.
Warrants	-	0	1	0	
Recognizance	-	0	1	0	

## NOTARY PUBLIC'S FEES.

For noting Bills for non-acceptance		0	1	0	Notary Public's Fees.
For every Protest	-	0	3	6	
For every Certificate under seal of his office		0	2	3	
For registering Protests and other writings, at the rate of one penny for every fifteen words.					

## SURVEYOR GENERAL'S FEES.

For the survey of each Town and Pasture Lot together	-	0	9	0	Surveyor General's Fees.
For surveying of Lands, for himself, <i>per</i> day, to be computed from the day he leaves his own house, to the day of his return, no unnecessary time to be allowed		0	10	6	
One Chainman to be allowed the Surveyor, if found provisions, to have <i>per</i> day		0	2	0	
In case he finds himself, to have <i>per</i> day		0	3	0	
The employer to find the other attendants.					
Every search in his office	-	0	1	0	
Every Certificate	-	0	1	0	

\* See 19 Vic. c. 22, sec. 16.

Except for the Town and Pasture Lots, for which there is to be no charge of Certificate.

For a Plan of every Survey under one hundred acres - -

0 2 6

Every Plan between one hundred and one thousand acres, at the rate of three pence *per* hundred ; and all above at the rate of one penny *per* hundred acres.

The person employing him to choose the scale he will have the Plan drawn upon, he paying for paper.

For drawing every Plan of a Township, copied from the original survey -

0 4 6

If done upon a larger scale than the original survey, for each - -

0 9 0

Persons who employ to pay for paper.

Particular officers to hang up in their offices a list of their fees.

II. And be it further enacted, That each and every of the Officers, Clerks, and other persons before mentioned, as also all others acting by or under him or them, who from the nature of their respective appointments, do keep, or ought to keep, a public Office for the purpose of executing their several trusts, shall cause to be posted up in some conspicuous part thereof, a list drawn out in words at full length, of the several Fees appertaining to his or their office or offices, there to remain and to be resorted to by all persons interested therein, or who shall or may be desirous to inspect the same.

Particular officers, if required, to give an account of their charges to the person applying :

III. And be it further enacted, That all and every the Officers, Clerks, and persons before mentioned, and others acting by or under him or them, except His Excellency the Governor, or other Commander-in-Chief, who shall or may in any manner enjoy any of the aforesaid offices or trusts, are hereby required, upon application made therefor, to give to the person so applying, as soon as the same may be conveniently done, an account of such fee or fees as shall or may be charged for the aforesaid respective services ; the said account to be in words at full length, and signed by such Officer, Clerk, or other person, or by the person or persons employed by or under him or them, if the same shall be demanded by the person so applying.

or forfeit five pounds.

IV. And be it further enacted, That all and every the said Officers, Clerks, or other persons, and all persons acting by or under him or them, who shall refuse to give and deliver to the person applying therefor, such account as is hereinbefore directed, shall, for each and every offence, forfeit and pay to the party aggrieved, the sum of five pounds.

V. And be it further enacted, That if any Officer, Clerk, or other person whatsoever, or any person or persons employed

by or under him or them respectively, shall charge, demand, or take any other or greater fee or fees than is hereinbefore mentioned and allowed, he or they so offending, shall, for each and every such offence, forfeit and pay to the party or parties from whom he or they shall have so charged, demanded, or received the same, the sum of Five Pounds, over and above the amount of the fees which shall have been so as aforesaid illegally charged, demanded or taken.

Officers demanding larger fees than herein limited, to be fined.

VI. And be it further enacted, by the authority aforesaid, That each and every the person or persons before mentioned, who shall offend against this Act, or any part thereof, shall, for each and every such offence, forfeit and pay to the party thereby aggrieved, the sum of five pounds—to be recovered, with treble costs of suit, in His Majesty's Supreme Court of Judicature, where no essoin, protection or wager of law, nor more than one imparlance shall be allowed. Provided nevertheless, such action or suit shall be commenced within six months next from the time when such offence shall or may have been committed.

Penalty for offences against this Act.

Mode of recovery.

Limitation of Actions.

\* \* \* So much of the above Act as relates to Fees to be taken in the Court of Chancery, being repealed by 12 Vic. cap. 14, and so much thereof as relates to Fees to be taken by the Provincial and Private Secretaries, being repealed by 15 Vic. cap. 20, are not inserted in this edition.

## CAP. II.

An Act in addition to and amendment of an Act made and passed in the thirteenth year of his present Majesty's Reign, intituled "An Act for the more easy and speedy Recovery of Small Debts."

Repealed by 2 W. 4, c. 1.

## CAP. III.

An Act to prevent Trespasses upon Crown Lands.

Repealed by 12 Vic. c. 16.

## CAP. IV.

An Act to confirm and make valid in Law all manner of Process and Proceedings in His Majesty's Supreme Court of Judicature of this Island, from the twenty-fifth day of July in the year of our Lord one thousand seven hundred and seventy-five, to this present session of Assembly.

See also 13 G. 3, c. 2.

**W**HEREAS the said Supreme Court of Judicature has, from time to time, agreeable to and by virtue of an Act

13 G. 3, c. 3.

made and passed in the thirteenth year of His present Majesty's Reign, intituled *An Act for establishing the times and places of holding the Supreme Court of Judicature*, sat and adjourned for the purposes therein mentioned: And whereas the said Court, on the said twenty-fifth day of July, was continued from that time, by adjournment, to the third Tuesday in February, then next following, as prescribed by the said hereinbefore recited Act: And whereas, in the month of November last, the capital of this Island was invaded by two Provincial Privateers, who, among other wanton depredations, made prisoners of, and carried away the then and present Commander-in-Chief, the Surveyor General of the Island, and most of the effects belonging to the former; as also several of the public, as well as his private papers, together with many of the Records of the said Supreme Court of Judicature, the Public Seal of this Island, His Majesty's Commission, and divers other necessary and valuable papers and effects belonging to this Colony,—by reason whereof, and more especially as, at or about that time, a Chief Justice appointed by His Majesty to this Island, arrived therein, who, on account of the distracted state of it, occasioned as aforesaid, could not procure His Commission, as directed by His Majesty's Royal order; by means of which unfortunate events, the said Supreme Court of Judicature did not sit on the said Third Tuesday in February, for the dispatch of the business thereof, agreeable to the adjournment, as prescribed in and by the said herein before recited Act: And whereas, notwithstanding there have been many and various proceedings had in said Court; and in order to expedite justice, the said Court, agreeable to said Act, did sit on the last Tuesday (being the twenty-fifth day) of June last, and proceeded upon such business as was then ready, and adjourn to the third Tuesday in February next, according to the requisition of said Act: And whereas doubts have since arisen as to the legality of such proceedings, on account of the said Court not having been continued over from last February: Be it therefore enacted, by the Commander-in-Chief, Council and Assembly, That all Writs, Pleas, Process, Actions, Bills, Suits, Indictments, Informations, Judgments, Orders and Sentences, given or awarded of and concerning any matter or thing whatsoever, which was sued or prosecuted to judgment or otherwise, in the said Supreme Court of Judicature, at any time or times from and after the said twenty-fifth day of July, to the end of this present session of Assembly, and the present adjournment of said Court, shall be deemed, construed, and taken to be good and effectual in the Law, to all intents and purposes whatsoever: Provided always, that nothing herein contained shall extend, or be construed to extend, to take away such errors in Law as shall or may have arisen upon the misusing of process, mis-

All Writs, Pleas &c. saved and held good and effectual in law.

Not to extend to take away errors in law, arising from misusing of process, &c.

pleadings, and erroneous rendering of Judgments in the said Supreme Court; but that in all such cases the parties aggrieved may have their Writ of Error upon such erroneous Judgments, any thing herein contained to the contrary in anywise notwithstanding.

Parties aggrieved may have writ of error.

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### CAP. V.

An Act in addition to and amendment of two Acts made and passed in the thirteenth and fourteenth years of His present Majesty's Reign, severally entitled "An Act empowering His Excellency the Governor, or other Commander-in-Chief for the time being, to direct the making of public Roads, and to appoint persons to carry the same into execution.

Repealed by 21 G. 3, c. 5.

13 G. 3, c. 9.

14 G. 3, c. 1.

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### CAP. VI.

An Act for continuing sundry Laws that are near expiring.

Expired.





ANNO DECIMO NONO

# GEORGE III. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Eighth day of October, *Anno Domini* 1779, in the Nineteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith: 1779.

T. DESBRISAY,  
Lt. Governor.

P. STEWART,  
President of  
Council.

Being the First Session of the Third General Assembly convened in the said Island. D. HIGGINS,  
Speaker.

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## CAP. I.

An Act for continuing sundry Laws that are near expiring. Expired.

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## CAP. II.

An Act for imposing a Duty of four pence *per* gallon on Rum and other Spirituous Liquors, and for regulating the conduct of Tavern-keepers, and for altering and amending an Act made and passed in the fourteenth year of His present Majesty's reign, imposing a duty on Retailers of Rum and other Distilled Spirituous Liquors. Virtually re-pealed by 25 G. 3, c. 4, s. 1.

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## CAP. III.

An Act for regulating Weights and Measures, and the conduct of Storekeepers. Expired.



ANNO VICESIMO

# GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Eighth day of October, *Anno Domini* 1779, in the Nineteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith: 1780.

W. PATTERSON,  
Governor.

T. DESBRISAY,  
President of  
Council.

And from thence continued, by prorogation, to the thirteenth day of March, 1780, and in the twentieth year of His said Majesty's reign; being the second Session of the third General Assembly convened in the said Island. W. BERRY,  
Speaker.

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## CAP. I.

An Act to prevent forestalling the Market. Expired.

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## CAP. II.

An Act to explain and amend an Act of the fourteenth year of His present Majesty's Reign, intituled "An Act laying an imposition upon Retailers of Rum and other Distilled Spirituous Liquors." Expired.  
14 G. 3, c. 5.

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## CAP. III.

An Act empowering the Justices of the Peace for this Island to inquire into and regulate the Prices of all sorts of Provisions, and the rates of entertainment in Public Houses or Inns. Expired.

## CAP. IV.

Made perpetual  
by 21 G. 3, c. 11.  
Disallowed by  
His Majesty,  
29th June, 1781

An Act ascertaining the privileges of the Members of the General Assembly, their Servants, and the mode of general and partial Elections, &c.

## CAP. V.

Amended and  
made perpetual  
by 21 G. 3, c. 11

An Act for preventing the running at large of Stone-Horses or Stallions, and the killing of Partridges at improper seasons.

**W**HEREAS the improving the breed of Horses is of great importance to this Island; and as the same has been degenerating for some time past, occasioned by the general and uninterrupted custom of allowing Stone-Horses or Stallions, exceeding one year old, to roam about at large:—For remedy whereof,

Penalty of 20s.  
for Stone-Hor-  
ses above one  
year old, being  
at large be-  
tween 15th  
March and 1st  
November.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, no Stone-Horses or Stallions, exceeding one year old, shall be allowed to roam at large between the fifteenth day of March and the first day of November in each and every year, under the penalty of twenty shillings for each offence.

If found at  
large, may be  
impounded.

II. And be it further enacted, That it shall and may be lawful for any inhabitant of this Island, who may find any Stone-Horse or Stone-Horses, Stallion or Stallions, exceeding one year old, roaming at large within the time above limited, to impound or confine the same: and as soon as the proprietor or proprietors of such Stone-Horse or Stone-Horses, Stallion or Stallions, can be conveniently notified of such impounding or confinement, the person or persons so impounding or confining, is or are hereby required to give such notice to him or them respectively: and if the said proprietor or proprietors do not thereupon, as soon as may be, take away all such Horses or Stallions, that then and in such case the person or persons who shall or may impound or confine the same, shall have full remedy, by applying to any one of His Majesty's Justices of the Peace in this Island, who is hereby empowered, upon proof being made to his satisfaction of the said offence, to grant a Warrant to levy by distress and sale made of the goods and chattels of the proprietor of such Horse or Stallion, to the amount, in money, of the above mentioned penalty, and also such damages as may have been sustained, with costs of suit; one half of the said penalty to be paid to the informer or prosecutor, and the other half to be applied to the use of His Majesty's Government in this Island.

Persons im-  
pounding, to  
give notice  
thereof.

Owners of hor-  
ses neglecting,  
after notice, to  
take them  
away, how to  
be proceeded  
against.

Application of  
penalty.

III. And whereas the killing of Partridges in the pairing and hatching season, and before they can fly, has greatly reduced the breed of that useful bird, and endangers a total loss of the same: to prevent which — Be it enacted, by the authority aforesaid, that from and after the publication hereof, no person or persons whatever shall presume to shoot, kill or destroy any Partridge or Partridges between the first day of April and the first day of August\* in each and every year, under the penalty of forfeiting the sum of ten shillings for each Partridge so shot or killed.

Partridges not to be killed between 1st April and 1st August, under penalty of 10s.

IV. And be it further enacted, That any one of His Majesty's Justices of the Peace is hereby empowered and required, upon proof being made to his or their satisfaction, of such shooting or killing any Partridge or Partridges, to issue his or their Warrant or Warrants, for the levying, by distress and sale of the goods of such offender or offenders, to the amount of said penalties, with costs of suit; one half of which penalties to be paid to the informer, and the other half to be applied to and for the use of His Majesty's said Government.

Penalties, how recovered and applied.

V. And it is hereby declared, That this Act shall continue and be in force for the space of three years next after the publication hereof, and to the end of the then next session of the General Assembly of the Island, and no longer.

Continuance of Act.

\* Extended to 1st September by 21 G. 3, c. 11.

## CAP. VI.

An Act for preventing Trespasses by unruly Horses, Cattle, and Sheep, and for preventing the running of Hogs at large through the town of Charlottetown.

Continued by 21 G. 3, c. 11; repealed by 12 Vic. c. 16.



ANNO VICESIMO

# GEORGII III. REGIS.

At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Eighth day of October, *Anno Domini* 1779, in the Nineteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith. 1780.

W. PATTERSON,  
Governor.

T. DESBRISAY,  
President of  
Council.

And from thence continued, by several prorogations, to the third day of July, 1780, and in the twentieth year of His said Majesty's Reign; being the third Session of the third General Assembly convened in the said Island.

W. BERRY,  
Speaker.

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## C A P. I.

An Act for the establishing and regulating a Militia.

**W**HEREAS the security and preservation of this Island at all times, and especially during the continuance of the present war and unhappy rebellion, greatly depends upon a Militia being established and embodied, as soon as possible, under such regulations as may make the same most useful for

Amended by 35  
C. 3, c. 1, and  
37 G. 3, c. 1.  
For other Acts  
relating to the  
Militia, see 3  
W. 4, c. 30, 9  
Vic. c. 6, 14  
Vic. c. 6, and  
21 Vic. c. 9.

the support and defence thereof; and that the inhabitants should be well armed, and properly trained up in the Art Military, as well for the honor and service of His most sacred Majesty, and the security of this his Island, against any hostile attack or invasion whatsoever, as for the preservation of their own lives and fortunes; and that every person may know his duty herein, and be obliged to perform the same:

**Persons liable to serve in the Militia.**

This clause altered by 3 W. 4, c. 30, s. 7.

**Persons enrolled in a Company, to do duty therein until orderly dismissed. In case of removal into another precinct, to produce certificate.**

**Persons liable, who attempt to evade service, to be fined 10s.**

**Mode of recovery.**

**Officers of companies to punish disorders, by commitment or fine.**

**Military Watches may be appointed by the Governor, &c. All persons of age to attend the same, on penalty of 5s.**

**Officers empowered to appoint and displace**

I. Be it enacted by the Governor, Council and Assembly, That from and after one month next from the publication hereof, all male persons, planters and inhabitants, and their servants, between the ages of sixteen and sixty, residing in, and belonging to this Island, shall bear Arms, and duly attend all musters and military exercises of the respective companies in which they shall or may be enrolled or belong.

III. That every person enrolled in any company, shall so continue and attend all duty therein, or suffer the penalty by law provided, until orderly dismissed, or removed out of the town or precinct of such company; and in case of removal into the precinct of another company, to produce a certificate under the hand of the captain, or chief officer of the precinct whereunto he is removed, that he is enrolled there.

IV. If any person, liable to be enrolled as aforesaid, do attempt to exempt himself from such service, by shifting from house to house, or place to place, with intent to avoid his being so enrolled, he shall pay, as a fine for every such offence, to the use of the company to which he properly belongs, ten shillings, on being thereof convicted before any of His Majesty's Justices of the Peace for this Island.

VII. That the commissioned Officers of any company, or the major part of them, may order the correcting and punishing disorders and contempt committed while on duty; the said punishment not being greater than commitment for a time not exceeding forty-eight hours, or the payment of five shillings as a fine.

VIII. That there be military watches appointed and kept at such times, in such places, in such numbers and under such regulations, as the Governor or Commander-in-Chief of this Island for the time being shall appoint; and that all persons able of body, and who are of age, shall themselves, or by some proper person in their stead, to the satisfaction of the Commanding Officer of the watch, attend the same, on penalty of forfeiting five shillings for each neglect, there having been due warning previously given.

XII. That the Captain and commissioned officers of each company shall, and they are hereby fully empowered to nomi-



nate and appoint proper persons to serve as Serjeants and Corporals in their respective companies, and to displace them and appoint others in their room, as they shall or may see occasion.

Serjeants and Corporals.

XIII. That all persons who shall or may be so nominated and appointed to serve as Serjeants or Corporals, and who shall refuse to serve in such capacity, shall be subject to pay a fine of two pounds, and thereupon others shall be chosen or appointed in their room, and so on, until proper persons are nominated, who shall accept of their appointment.

Persons so appointed, and who refuse to serve, subject to a fine of 40s.

XIV. And be it further enacted, That if any Serjeant or Corporal appointed as aforesaid shall be guilty of any neglect of duty, or be drunk or disorderly while on duty, he shall forfeit and pay, for each and every offence, the sum of ten shillings, or be committed for twenty-four hours—which fines shall or may be recovered and applied in the same manner as is hereinafter directed for a person refusing to serve as Clerk.

Serjeants and Corporals who neglect their duty, &c., shall forfeit for each offence 10s. or be committed for 24 hours. Mode of recovery.

XVI. And be it further enacted, That all persons who shall attend at places of muster, in order to be trained and instructed in military discipline, shall be, and they are hereby declared to be, exempted and freed from all arrests in civil causes, as well while going to such place of muster, as while they may be there, or coming from thence, during the space of twenty-four hours—the same to be allowed for the time and continuance of such muster.

Persons attending musters to be exempted from all arrests in civil causes while there, and in going to or coming from place of muster.

XVII. That such person as by the Commissioned Officers of any Company may be appointed Clerk, and refuses to serve in that capacity, shall pay forty shillings fine, and another be chosen in his room, and so on, till one do accept or consent to execute that duty; and which person so accepting or consenting, shall be under oath for the faithful discharge of his duty in said office—the same to be administered unto him by a Justice of the Peace of the County, in words following, viz:

Person appointed Clerk of any Company, and who refuses to serve, shall pay 40s. fine.

Persons serving shall be sworn.

‘ You do swear truly to perform the office of Clerk of the Militia Company, under the command of A. B. Captain, to the utmost of your skill and power, in all things appertaining to your office, according to law. So help you God.’

Form of oath.

And for every distress made for any fine not exceeding forty shillings, the said Clerk shall have one quarter part thereof for his pains and trouble; and for the levying and recovering such fines, he may make distress for, *ex officio*—the said distress to be made subject to such rules as the law hath provided in other cases; and after ten days’ notice for that purpose, he shall pay the Captain or chief officer all such fines as he shall or may have received, his own part being deducted therefrom.

Clerk’s allowance for levying fines.

Overplus of all fines received by him to be paid to the Captain.

Chief Officers of Regiments may require Captains of Companies to meet and confer.

Chief Officer empowered to try and punish offenders against this Act.

Allowance to Clerks for executing Warrants.

No Clerk to make distress *ex officio*, for any fines until six days after offence is committed. Clerk neglecting to account for fines, &c. how punished.

Alarm, how to be made at Charlottetown.

XVIII. The chief Officer of the regiment, as often as he may see cause so to do, shall require the Captain or chief Officer of each Company in his regiment to meet at such time and place as he shall or may appoint, and there to confer with them, and to give in charge such orders, as shall by them or the major part of them, be judged meet, for the better ordering and settling their several companies, and for the more effectually promoting military discipline amongst them: And the said chief Officer is hereby empowered, by virtue of his warrant, directed to any Clerk or officer of his regiment, to summon or cause to be brought before him, any offender against this Act, and, according to law, to hear and determine all matters proper for their cognizance, and to give sentence, and to award mittimus, or warrant of distress, to the Clerk of the Company where the offence shall or may be committed—for executing which warrant, if for levying above forty shillings, he shall have ten shillings out of the same, for his pains and trouble therein, and no more.

XIX. That no Clerk, *ex officio*, make distress for any fine until six days next after the offence shall have been committed, in order that the party may have opportunity to make excuse, if any he hath, why he should not pay the fine: And all such Clerks neglecting or refusing to account, or make payment, as by this Act is required, shall be subject to distress to the full amount of what they ought to have collected, by virtue of a warrant from the chief Officer of the Company, directed to any Constable.

XXI. That any alarm which may be given or made at Patterson's Battery, in Charlottetown, upon such occasions as are agreeable to instructions to be given by the Governor or Commander-in-Chief for the time being, to the Officer commanding at the said Battery, shall be by setting on fire or lighting a beacon at the summit of the hill of Queen Street, or at such other place as the Governor or Commander-in-Chief for the time being shall or may hereafter appoint for that purpose, and by firing two guns distinctly at the said Battery, or at such other place or places as the Governor or Commander-in-Chief for the time being, shall or may appoint for the aforesaid purpose; as also by firing two guns in like manner at the Tartar's Wharf, the same to be so fired at the space of five minutes after the firing of the aforesaid guns at the Battery, or at such other place as may be appointed as aforesaid; and thereupon all the trained Officers, Soldiers, and other persons able to bear arms, who shall or may be then resident in the said town, or the suburbs thereof (in case of such alarm), shall forthwith appear complete with their arms and ammunition, according to the directions of this Act, at such place or places of rendezvous as may from time to time

be appointed by the Governor or Commander-in-Chief for the time being, there to attend such commands and orders as shall or may be given for His Majesty's service, on penalty of forfeiting the sum of five pounds, or suffering three months' imprisonment. And the Members of His Majesty's Council, Justices of the Peace, and Provost Marshal, are hereby required to attend upon the Governor or Commander-in-Chief, if he or they should be then at Charlottetown—but if he or they should happen, in case of such emergency, to be at any other place or places in this Island, then to appear there, and advise with the chief military Officers of such place or places where such alarm may be made, and to be assisting in His Majesty's service, according to their quality and rank: And all persons wilfully making false alarms, shall be fined to His Majesty in the sum of fifty pounds, for the support of his Government, or suffer twelve months' imprisonment; and all alarms which shall or may be made in other parts of this Island, shall be made according to the instructions given by the Governor or Commander-in-Chief for the time being to the officers commanding there.

Penalty for not appearing upon alarm.

Duty of Members of Council, Justices, &c., on such occasions.

Penalty of £50, or 12 months' imprisonment, for making false alarms.

Alarms, how to be made at other parts of the Island.

XXII. And be it further enacted, That every person who shall, in pursuance of this Act, adventure himself as a militiaman in the defence of this Island upon any invasion, and shall, while in such service happen to be maimed, or receive any hurt, so as to be rendered incapable of getting a livelihood, that then such person or persons shall, according to the degree of his or their disability, receive a yearly pension or allowance, the same to be paid out of the public moneys of this Island; and if slain, then his or their widow or widows, during the time of her or their widowhood, and his and their children, shall, have a competent allowance, to be paid yearly out of the said public moneys—each and every such pension or allowance to be estimated and fixed by the Governor or Commander-in-Chief, by and with the consent and advice of His Majesty's Council.

Allowance to Militia-men who may be wounded in defence of the Island in case of invasion.

Allowance to the widows and children of such as may be slain.

XXIII. And for the better preventing false alarms—Be it further enacted, by the authority aforesaid, that no Captain, Master, or Commander of any ship or vessel, riding at anchor, or being within the harbour of Charlottetown, or any other person or persons whatsoever, either afloat or on shore, within the town or suburbs of Charlottetown, &c., or at places within twenty miles therefrom, shall presume to fire any guns or small arms, or beat any drum after sunset, unless on some lawful occasion, under the penalty of forfeiting forty shillings for every gun or small arm so fired or drum so beaten—the same to be levied by warrant of distress from any of His Majesty's Justices of the Peace in this Island, and sale of the offender's goods; and for want of sufficient distress, then to

No guns to be fired, nor drums beat after sunset, under a penalty of 40s.

Mode of recovery.

commit such offender or offenders to Jail, there to remain until payment shall have been made of such fine or fines.

**Not to extend to His Majesty's ships or troops.**

XXIV. Provided always, That this last mentioned clause shall not be construed to extend to any Captain or other Officer of any of His Majesty's Ships of War, for their firing at setting the watch, nor to any of His Majesty's troops on shore or on board, in the due execution of their duty.

**Persons exempted from training shall, notwithstanding, provide arms, &c.**

XXV. That all persons exempted by this Act from training, shall, notwithstanding such exemption, be provided with arms and ammunition complete, or suffer the same penalty as those that are obliged to train.

**Persons not to be liable to any penalty for want of arms; but when provided with arms, &c., to be subject to the regulations contained in this Act.**

XXVII. And whereas the situation of many of the settlers of this place cannot bear the expense of purchasing fire-arms and ammunition—Be it therefore further enacted, that notwithstanding the regulations relative thereto as contained in the preceding part of this Act, no person shall be subject to any penalty or forfeiture on that account; but that, as soon as the Governor or Commander-in-Chief for the time being shall have provided the fire-arms and ammunition, the several enrolled militia-men, also those who shall or may receive the same, shall thereupon be, and they are hereby declared to be, subject to the regulations above mentioned, with respect to their keeping their arms, &c., in good order, and always fit for service

\*.\* Several sections of the above Act having been repealed by 3 W. 4, c. 30, and 9 Vic. c. 6, are not herein inserted.

## CAP. II.

An Act to enable Proprietors to divide their Lands held in common, and for ascertaining the mode of carrying such division into execution.

**Amended by 36 G. 3, c. 4.**

**W**HEREAS many of the Proprietors of certain half, third, and fourth parts of Lots or Townships of Land, belonging to this Government, have never been in the Island, nor appointed agents or attorneys to manage their respective affairs there; whereby the settlement and improvement of the parts or shares of such proprietors as do reside and live in the Island, or in their occasional absence, have committed the management of their affairs to Attorneys or Agents, have been delayed and impeded, to the general prejudice and injury of the said Island: For remedy whereof, Be it enacted, by the Governor, Council and Assembly, that when and so often as any of the proprietors of such Land shall be desirous of having a division or partition of the same, in order that such proprietors may know their own Lands with certainty,

**Proprietors of land resident in the Island, desirous of dividing lands held in common with**

and thereby be enabled to proceed with effect in the settlement and cultivation thereof, any of the said proprietors or their attorneys, may apply to the Governor or Commander-in-Chief for the time being, and to His Majesty's Council, who are hereby empowered and required to appoint some fit person to act as agent or attorney for the absent proprietor or proprietors; and after administering to such agent or attorney an oath for the faithful discharge of the trust reposed in him by the said appointment, shall thereupon appoint the Surveyor or General, or some other well qualified person, to make an exact survey of such Lands or Lots, and by and with the advice of three judicious landholders or farmers (one of whom to be elected by each of the parties, and the other to be appointed by the Governor and His Majesty's Council) to divide and lay out the said Lands in equal parts, and ascertain, by distinct and permanent marks, metes or boundaries, the line or lines of divisions of the different shares; and that as soon as the same shall or may be done, the person or persons claiming or suing for such division, and the attorney or agent appointed in manner aforesaid, are to report a draft or survey of said division, and to draw lots in the presence of the Governor or Commander-in-Chief, and His Majesty's Council, for the said division; and the respective shares or divisions, to which each of the parties may have right in consequence of such draft, shall be attested by the said Governor and Council, in writing; and the written Certificate thereof shall be immediately recorded in the Registrar's Office, in a book to be kept by him for that purpose, and shall be held as authentic and unalterable, and received and allowed in evidence on any trial against the party interested in the said lands for ever thereafter.

II. And be it further enacted, That the proprietor or his agent claiming a division in manner aforesaid, shall be obliged to defray all expenses incurred thereby; but at the conclusion thereof, he may, and he is hereby empowered, to lay an account of the expenses incurred by him before the Governor and Council: and upon their examining and certifying their approbation thereof, the said party shall be considered as a real creditor upon the estate or property of the absent proprietor or proprietors, to the amount of one-half of said account; which moiety shall bear interest in his favor from and after the date of the said attestation, at the rate of six *per centum per annum*, till paid: and unless the same shall have been paid within the space of three years, that then, upon application to the Supreme Court, the Chief Justice thereof is hereby empowered and required to grant a warrant to the Provost Marshal, or to his deputy, to expose to public sale (Advertisements being duly posted up for thirty days previous thereto, in all the usual places, notifying the time and place thereof,)

non-resident proprietors, to apply to Governor and Council who are to appoint an agent for the absent proprietors, who shall be sworn.

A qualified Surveyor, with the assistance of 3 landholders, shall make an equal division.

Draft of division to be reported and lots drawn for, in presence of the Governor and Council, who are to certify the same.

Certificate thereof to be registered, and shall be held unalterable against parties interested.

Party claiming division, to defray all expenses incurred thereby, but to be afterwards reimbursed one-half the amount

Remedy, if not paid within 3 years.

so much of the Lands of the absent proprietor or proprietors as will satisfy and pay the one-half of the said account of the expenses so as aforesaid incurred and approved of, as well in obtaining the said division, as for the expenses and charges incurred in the application hereby appointed to be made to the Supreme Court, and the sale in consequence thereof.

Persons who reside, or have resident agents, and hold lands in common, may be compelled, by writ of partition, to divide the same.

III. And it is hereby enacted, by the authority aforesaid, That all persons holding their Lands in common, and who either reside themselves or have attorneys in this Island, may be compelled, by Writ of Partition, to divide the same in the manner directed by Statute 8th and 9th William the Third, chapter the thirty-first.

### CAP. III.

An Act for the due observance of the Lord's Day.

**W**HEREAS the due observance of the Lord's Day in this Island has been hitherto much neglected, and many abuses of the same have been committed, to the manifest prejudice and dishonor of Religion, and the shameful violation of public decorum and good order :

No person shall open shop, &c., nor sell or send out any goods on the Lord's Day.

I. Be it therefore enacted, by the Governor, Council and Assembly, in order that all persons may be restrained from such indecent and irregular conduct in future, and may be prompted to apply themselves to the rational duties of religion and true piety, both publicly and privately, no tradesman, storekeeper, or any other person or persons whatsoever, shall hereafter open, or cause or suffer to be opened, his, her, or their shop or storehouse, or, either by himself or herself, or by his or her servant or servants, child or children, sell, expose, or offer to sale, upon any bulk, stall or shed, or send or carry out any manner of goods or merchandise on the Lord's Day, or any part thereof. Provided nevertheless, that this Act shall not extend to prohibit any persons from selling or exposing to sale milk and fresh fish, before the hour of nine o'clock in the morning, and after five of the clock in the afternoon of the said day.

Milk and fresh fish may be sold before 9 a. m. and after 5 p.m.

No labor or business to be performed,

II. And be it further enacted, by the authority aforesaid, That no truckman, driver of carts, labourer, or other person whatsoever, shall hereafter do or perform any labour, work or business appertaining to his or their respective ordinary callings or professions, or other worldly labour, or suffer the same to be done by his, her, or their child or children, servant or servants, either by land or by water (works of necessity and charity only excepted), or practise, or suffer to be practised, any sport, fowling, fishing, game, play or pastime whatsoever,

nor any sport or pastime practised.

in any of the County Towns, or other parts or places wheresoever within this Island, on the Lord's Day, or any part thereof, upon pain, that every person so offending, upon conviction thereof by the oath of one credible witness, before any of His Majesty's Justices of the Peace in this Island, or upon view of such Justice, shall, for every such offence, forfeit and pay the sum of ten shillings; the same to be levied, in case of non-payment, by warrant of distress and sale made of the offender's goods—all fines and penalties incurred by this Act to be applied to the use of the poor, and disposed of at the discretion of the Justice or Justices before whom the offenders shall or may be convicted; the said Justice or Justices to keep a record of the fines levied and disposed of by them.

Penalty of 10s.  
for each offence.

How to be re-  
covered and ap-  
plied.

Justices to keep  
a record of fines.

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#### CAP. IV.

An Act to prevent the cutting of Pine or other trees without permission of the proprietor, and to prevent the cutting down and destroying of Fences.

Repealed by 12  
Vic. c. 16.

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#### CAP. V.

An Act to regulate the Salmon, Salmon Trout, and Eel Fishery.

Amended by 21  
G. 3, c. 1; re-  
pealed by 4 W.  
4, c. 11.

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#### CAP. VI.

An Act for altering the name of this Island from SAINT JOHN to that of NEW IRELAND.

Passed with a  
suspending  
clause and not  
approved of by  
His Majesty.

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#### CAP. VII.

An Act directing the proceedings against forcible entry and detainer.

Disallowed by  
His Majesty in  
Council.

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#### CAP. VIII.

An Act appointing the recording of all Deeds of Sale, Conveyances and Mortgages.

Amended by  
25 G. 3, c. 1;  
41 G. 3, c. 5;  
49 G. 3, c. 4;  
repealed by 3  
W. 4, c. 10.  
This Act affects  
titles to lands.

## CAP. IX.

An Act to enable Creditors to recover their just debts out of the effects of their absent or absconding debtors.

Goods and estate of absconding debtors may be attached,

**B**E it enacted, by the Governor, Council and Assembly, That it shall and may be lawful for any person entitled to any action for any debts, dues or demands whatsoever, against any person absconding, or being absent out of this Island, to cause the goods and estate of such absent or absconding person to be attached, in whose hands or possession, or under whose management soever the same are or may be found; and the attaching any part thereof shall secure and make the whole that is in such person's hands, or under his management, liable in law to the judgment to be recovered upon such process, and shall be subject to be taken in execution for satisfaction thereof, or so far as the value thereof may extend; and the person, in whose hands they are, shall expose and discover them accordingly, upon request made for that purpose.

and subjected to execution.

Agent of an absconding debtor to be summoned to Court.

II. And be it further enacted, That where no goods, lands, houses or effects of such absent or absconding person in the hands or under the management of his agent, factor, attorney or trustee, shall be exposed to view, or can be come at, so as to be attached, it shall and may be lawful to and for any person entitled to any such action as aforesaid, to file a declaration against such absent or absconding person, in the office of the Clerk of the Supreme Court of Judicature, therein setting forth particularly his debt and damage, and how they may have arisen; and also to cause the attorney, factor, agent or trustee of such absent or absconding person to be served with a summons out of the said Clerk's office, being annexed to the declaration, fourteen days previous to the sitting of the said Supreme Court; which being duly served, and return duly made thereof, under the hand of the Provost Marshal, or any of his deputies, shall be sufficient in law to bring forward a trial without other or further summons, unless the principal be an inhabitant, or hath for some time had his residence within this Island; in which case a like summons, with an attested copy of the declaration thereto annexed, shall also be left at his dwelling-house, lodging, or place of his last and usual abode, fourteen days before the sitting of the Court; and such attorney, factor, agent, or trustee, upon his desire, shall be admitted to defend the suit, on behalf of his principal, throughout the course of the law, and an imparlance shall be granted two terms successively, that he may have an opportunity to notify his principal thereof; and at the third term, without special matter alleged and allowed in bar, abatement, or further continuance, the cause shall peremptorily come to trial;

Process and trial thereupon.



and if judgment shall have been rendered for the plaintiff, then all the goods, effects, credits and estate of any kind whatsoever, of such absent or absconding person, in the hands of such attorney, factor, agent or trustee, or under his care or management, which were in his hands; or under his management and direction, at the time of his being served with the summons and declaration aforesaid, to the amount of the sums contained in the said judgment (if so much there be), shall be liable and subject to the execution granted upon such judgment; for or towards satisfying the same; and from the time of serving the summons as aforesaid, shall be liable and secured in law in his hands, to answer the same, and may not be otherwise disposed of or converted.

Goods, &c., in agent's hands, subject to execution.

III. Provided nevertheless, and be it enacted by the authority aforesaid, That if upon summons being served as above mentioned, the supposed attorney, factor, agent or trustee shall come into Court at the first term thereof, and declare that he had not in his hands, nor under his care or management, at the time of the service of such summons, any lands, goods, effects, or credits whatsoever, of the absent or absconding person, and shall submit to an examination upon oath respecting the same; and if, upon examination, it shall appear, to the satisfaction of the Court; that he had not any lands, goods, effects or credits whatsoever, of the absent or absconding person in his hands, or under his management at the time of his being summoned as aforesaid, then and in every such case, the plaintiff shall become nonsuited, and shall pay to him who may have been so summoned as attorney, agent, factor or trustee, his reasonable costs, to be taxed in common form by the Court:

Plaintiff to be nonsuited where no effects are in agent's hands;

and to pay costs

IV. And be it therefore further enacted; That if any attorney, factor, agent or trustee, who being duly served with summons and declaration as aforesaid, shall not appear at the first term, and then either acknowledge himself to have had in his hands, or under his management, some lands, goods, effects, or credits of the absent or absconding person, at the time of the service aforesaid, and thereupon pray that he may be admitted to defend the action, or otherwise submit himself to an examination upon oath as aforesaid, he shall be liable to pay to the plaintiff all such costs as shall or may arise upon his suit, the same to be taxed by the Court in common form.

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

V. And be it further enacted; That in case any attorney, factor, agent or trustee, from and after the time of his being served with summons and declaration as aforesaid against his principal (being an absent or absconding person), shall transfer, remit, dispose of, or convert any of the lands, goods, effects or credits of such absent or absconding person in his hands, or

Execution to be levied on the agent's proper goods, &c. if he transfer the effects of his principal.

**Agent to discover upon oath the goods, &c. of his principal: on failure, judgment to be entered against him of his own proper estate, &c.**

under his management, at the time of such service, so that there shall not be sufficient to satisfy the judgment, (the debt being afterwards ascertained by judgment of Court) or that shall not discover, expose, and subject the lands, goods, effects and credits of such absent or absconding person in his hands, or under his management, to be taken in execution towards the satisfaction of the said judgment, so far as the same will extend, shall be liable to satisfy the same out of his own proper goods and estate, as of his own proper debt; and a writ of *scire facias* may be sued out of the said Supreme Court of Judicature, and served on him as the law directs, to appear and show cause (if any he hath) to the contrary; and where, upon default of appearance, or refusal to disclose upon his oath (which oath the Chief Justice is hereby empowered and required to administer), what lands, houses, goods, effects, or credits of the absent or absconding person are in his hands, or under his management, and to what value judgment shall be entered up against him of his own proper goods, and execution be awarded accordingly.

**Agent to be allowed his costs upon discovering the effects, &c., of his principal, and subjecting them to satisfy the judgment.**

VI. Provided nevertheless, and be it further enacted, That if it shall appear that the attorney, factor, agent or trustee, so summoned as aforesaid, and having in his hands, or under his management, at the time of such summons, any lands, houses, goods, effects or credits of the absent or absconding person, hath not remitted, disposed of, or in any manner converted the same, after the summons being served on him as aforesaid, but that he hath discovered and subjected them to be taken in execution, to satisfy the judgment recovered against the absent or absconding person as aforesaid; then, and in such case, the party who may have commenced the suit, shall pay such attorney, factor, agent or trustee his reasonable costs, the same to be taxed in common form by the Court.

**Agent to be acquitted and discharged from any action of his principal.**

VII. And be it further enacted, That the lands, houses, goods, effects, and credits of any absent or absconding person, so taken as aforesaid by process and judgment of law, out of the hands of his attorney, agent, factor or trustee, by any of his creditors, shall fully acquit and for ever discharge such attorney, agent, factor or trustee, his executors or administrators, of, from, and against all actions, suits, damages, payments and demands whatsoever, to be asked, commenced, had, claimed, or brought by his principal, his heirs, executors, or administrators, of and for the same: and if any attorney, agent, factor or trustee shall be molested or sued by his principal for any thing done by him in pursuance of this Act, he may plead the general issue, and give this Act in evidence.

**General issue.**

**Principal entitled to rehear-**

VIII. Provided nevertheless, and be it further enacted, That any absent or absconding person, against whom judg-

ment shall or may be recovered as aforesaid, shall be entitled to a rehearing of such cause at any time within three years next after such judgment: and the plaintiff, in such action, before any execution shall issue on such judgment, shall give sufficient security, to the satisfaction of the Court, for repayment of all such moneys as may be levied by said execution, in case the said judgment be reversed on such rehearing as aforesaid.

ing within  
three years.

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### CAP. X.

An Act to enable the Governor, or other Commander-in-Chief, to lease out certain parts of the Common of Charlottetown, rent free, for the space of ten years.

Repealed by 49  
G. 3, c. 7.



ANNO VICESIMO PRIMO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Eighth day of October, *Anno Domini* 1779, in the Nineteenth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith :

1781.

W. PATTERSON,  
Governor.

T. DESBRISAY,  
President of  
Council.

And from thence continued, by several prorogations, to the thirteenth day of February 1781, and in the twenty-first year of His said Majesty's reign; being the fourth Session of the third General Assembly convened in the said Island.

W. BERRY,  
Speaker.

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### CAP. I.

An Act to explain and amend an Act passed in the twentieth year of His present Majesty's reign, intituled "An Act to regulate the Salmon, Salmon Trout and Eel Fishery."

Repealed by  
4 W. 4, c. 22.

## CAP. II.

Repealed by 6  
Vic. c. 26, which  
Act came into  
operation on  
the 1st Jan'y.  
1844.

Any person  
may by last  
Will and Testa-  
ment, devise  
lands, &c.

*Feme Coverts,*  
Minors, &c. ex-  
cepted.

No devise in  
writing to be  
revocable, ex-  
cept by another  
Will or Codicil,  
also in writing.

No *nuncupative*  
Will to be  
deemed valid,  
except proved  
by the oath of  
three witnesses,  
&c.

No testimony to  
be received to  
prove such  
Will, except,  
&c.

Letters testa-  
mentary, &c.  
not to pass any

An Act relating to Wills, Legacies and Executors, and for the settlement and distribution of the Estates of Intestates.

**B**E it enacted, by the Governor, Council, and Assembly, That every person in this Government shall have power to give and devise, by his or her last Will and Testament, in writing, and subscribed by the party so giving and devising, or by some other person in his or her presence, and by his or her express directions and authority, and attested and subscribed, in the presence of the devisor, by three or more credible witnesses, any lands, tenements, or hereditaments, whereof he or she shall, at the time of his or her so giving or devising the same by such will, be lawfully seized, either of a sole Estate in fee simple, or of any Estate in coparcenary, or in common, in fee simple, in possession, reversion, or remainder, as much as in him or her of right is to the said lands, tenements and hereditaments, or in like manner to devise any rents or profits out of the same at his or her pleasure: provided nevertheless, that Wills made for any lands, tenements or hereditaments, or of any rents or profits out of the same, by any *feme covert*, or person within the age of twenty-one years, idiot, or of unsound mind, shall not be good in law.

II. And be it further enacted, That no devise in writing, of any lands, tenements or hereditaments, shall be revocable, otherwise than by some other Will or codicil, also in writing, subscribed in the presence of three or more witnesses.

III. Be it further enacted, by the authority aforesaid, That from and after the publication hereof, no *nuncupative* Will shall be good, where the Estate thereby bequeathed may exceed the value of thirty pounds, except the same be proved by the oath of three witnesses, who were present at the making thereof, and unless it be proved, that the testator, at the time of pronouncing the same, desired the persons present to bear witness that such was his will, or words to that effect; and unless, also such *nuncupative* Will shall have been made during the time of the last sickness of the deceased.

IV. And be it further enacted, That after the expiration of six months from the pronouncing the testamentary words, no testimony shall be received to prove any *nuncupative* Will, except the said testimony shall have been committed to writing within six days next after making the said Will.

V. And be it further enacted, That no letters testamentary or probate of any *nuncupative* Will shall pass the seal of any Court, till the expiration of fourteen days at least next after

the death of the testator ; nor shall any *nuncupative* Will be at any time received to be proved, unless process hath first issued to cite or call in the relict, or next of kin to the deceased, to the end that they may contest the same if they see cause : and all such witnesses as ought to be deemed to be good and competent witnesses in trials at law, shall be deemed good witnesses to prove any *nuncupative* Will or any thing relative thereto.

Court till 14 days after testator's decease, &c.

VI. And be it further enacted, That no Will in writing, concerning any personal Estate, shall be repealed or revoked, nor shall any clause, devise or bequest therein be altered or changed by words or will (by word of mouth only), except the same be, in the life of the testator, committed to writing, and after the writing thereof, read unto the testator, and allowed by him, and proved to have been so done by three witnesses.

No Will in writing concerning personal estate to be altered by word of mouth only, unless committed to writing in the lifetime of the testator.

VII. And be it further enacted, by the authority aforesaid, That if any executor or executors of the Will of any person deceased, knowing of their being so named and appointed, shall not, within thirty days next after the death of the testator, or his, her or their appointment being made known to him, her or them respectively, cause such Will to be proved and recorded in the Register's Office, or present the Will and give in a written declaration of his, her or their refusal of the executorship, every executor so neglecting his or her duty in that behalf (without just excuse made and accepted for such delay), shall forfeit the sum of five pounds every month from and after the expiration of the said thirty days, until he, she or they shall have caused probate of such Will to be made, or have presented the same in the manner above appointed — each and every such forfeiture to be had and recovered by action of debt in the Supreme Court of Judicature of this Island, at the suit of any of the heirs or creditors who shall or may prove, to the satisfaction of said Court, that any injury has accrued to him, her or them respectively by the said delay, and to and for the proper use of him, her or them, who shall inform and sue for the same : and upon any such refusal of the said executor or executors, the Judge shall order and commit administration of the Estate of the deceased, with the Will annexed, unto the widow, or next of kin to the deceased ; and in case of their refusal, to one or more of the principal creditors, as he shall or may think fit.

Executors knowing of their being appointed, to prove Will within 30 days, &c.

on penalty of £5 for every month's delay. Mode of recovery.

Application of forfeiture.

VIII. And be it further enacted, That if any person or persons shall be found guilty of suppressing any Will and Testament, such person or persons shall be subject and liable to the same penalty as is directed in and by this Act for persons neglecting to prove any last will and testament.

Penalty for suppressing Wills.

IX. And be it further enacted, That where any certain

Legacies ascertained, recoverable at common law.

legacy is or shall be bequeathed and given by any person in his or her last Will and Testament, as also where any residuary or uncertain legacy is, or shall, by the account of any executor, be reduced to a certainty; in those cases, every such legacy and legacies may be sued for and recovered at common law; any law, custom, or usage to the contrary notwithstanding.

Executors to exhibit an inventory of the estate of the deceased, within three months after probate, on pain of £5 for each month's neglect.

X. And be it further enacted, That henceforth every Executor named in any Will, and taking upon himself that charge, by proving such Will within the space of three months next after the probate thereof, (or at such further or longer time as the Judge of Probate shall think proper to allow, or the circumstances of the Estate may require,) shall exhibit in the Register's Office, upon oath, a full and true inventory of the whole estate of the deceased, so far as the same has then come to his hands and knowledge, on pain of forfeiting his office of executorship, together with the sum of five pounds for every month's neglect thereof, as is by law provided for not presenting a Will, and to be recovered in like manner: provided nevertheless, that in Wills where, after the payment of debts, and of any certain particular legacy or legacies, the residue or remainder of the Estate is bequeathed generally to any one or more persons, other than the executors themselves; in every such case an inventory of the estate is hereby required to be presented on oath as aforesaid, and the executors shall be liable to account as administrators are by law obliged to do: and any executor, being a residuary legatee, may bring his action of account against his co-executor or executors of the estate of the testator in their hands, and may also sue for and recover his equal and ratable part thereof; and any residuary legatee may have the like remedy against the executors.

Executors liable to account in like manner as Administrators.

Residuary legatee may bring action of account against executors.

Administration

XI. And be it further enacted, That when and so often as it shall happen that any person dies intestate, upon the application of the widow, or next of kin, within thirty days after the death of such intestate, the said Judge of the probate shall grant letters of administration to such widow or next of kin: and in case they neglect applying within the said thirty days, upon first citing such widow, or next of kin, and their refusing to accept the same, such Judge of Probate shall grant administration to such person or persons as he shall or may judge fit—creditors being always considered as having a preferable right to persons in no wise interested in the affairs of the deceased; and to whomsoever the said Judge shall grant administration, according to the regulations and directions contained in this Act, he shall oblige him, her or them to give bond, with sufficient sureties, in the manner as is directed by the Statute of the twenty-second and twenty-third years of the reign of Charles the Second, chapter the tenth, intituled An



*Act for the better settling Intestates' Estates*; and shall and may proceed to call such Administrators to account for and touching the goods of the intestates; and upon due hearing and consideration thereof (all just debts and funeral expenses being first allowed), the said Judge shall, and he is hereby fully empowered to order and make a just distribution of the surplusage, or remaining goods and estate, as well real as personal, in manner following: that is to say—one third part of the personal estate to belong to and vest in the wife of the intestate for ever, besides her dower in the houses and lands during life, where such wife shall not be otherwise endowed before marriage: and the said Judge having appointed Guardians, in manner as hereafter shall or may be by law directed, shall then, out of all the residue of such real and personal estate, distribute two shares, or a double portion, to the eldest son then surviving (where there is no issue of the first-born, or of any other elder son); and the remainder of such residue equally to and among his other children, and such as shall or may legally represent them: provided, that children advanced by settlement or portions, not equal to the other shares, shall have so much of the surplusage as may make the estate of all to be equal, except the eldest son then surviving (where there is no issue of the first-born, or of any other elder son), who shall have two shares, or a double portion of the whole.

and distribution of the estates of intestates.

Children advanced by settlement.

XII. And be it further enacted, That each estate where-with such child or children shall have been advanced in the lifetime of the intestate, shall be accounted for upon the oath of such child or children, before such Judge of Probate of Wills and for granting letters of administration, or by other evidence to the satisfaction of the Judge; and in case of refusal to account upon oath, such child or children so refusing shall be debarred of any share in the estate of the intestate.

Children advanced in the lifetime of the intestate, to account therefor on oath.

XIII. And be it further enacted, That the division of lands or tenements shall be made by five capable freeholders, upon oath, or by any three of them, to be for that purpose appointed and sworn by the Judge: provided always, that if all the parties interested in such lands or tenements, being of lawful age, shall by deed agree to a division, such agreement, the same being acknowledged by the parties thereto before the Judge, and being entered on record in the Probate Office, shall be deemed a legal and valid partition and settlement of such estates, as effectually, to all intents and purposes whatsoever, as if the same had been divided and settled by writ of partition, and shall be received and allowed in evidence on any trial against the parties so interested in the said lands and tenements: provided nevertheless, that where any estate in houses and lands cannot be divided among all the children, without great prejudice to the whole, the said Judge may, on

Division of lands.

Of estates in houses and lands which

cannot be divided without prejudice to the whole.

sufficient evidence of the same, order the whole to the oldest son—or, upon his refusal, to any other of the sons successively—he paying unto the other children of the deceased their equal and proportionable parts or shares of the real value of such houses and lands, upon a just appraisal thereof, to be made by three sufficient unexceptionable freeholders upon oath, to be appointed and sworn as aforesaid; or giving good security to pay the same in such convenient time as the said Judge shall or may limit, making reasonable allowance in the mean time, at the rate of six pounds on the hundred in the year: and if any of the children should happen to die under age, or before marriage, then the portion of such deceased child shall be equally divided among the survivors: and in case there be no children, nor any legal representatives of them, then one moiety of the personal estate shall be allotted to the wife of the intestate for ever, as also one third of the real estate for her term of life: and the residue both of real and personal estate shall be allotted equally to every of the next of kin of the intestate in equal degree, and those who shall or may legally represent them—no representatives to be admitted among collaterals, after brothers' and sisters' children: and if there be no wife, then the whole shall be distributed among the children; and in case of no child then, to the next of kin to the intestate in equal degree, and their legal representatives as aforesaid, and in no other manner whatsoever: and every one to whom any share shall be allotted, shall give bond, with sufficient sureties, to the satisfaction of the said Judge of Probate, if debts afterwards be made to appear, conditioned to refund and pay back to the administrator his or her rateable part thereof, and of the administrator's charges.

Widow's dower, after her death, how to be divided.

XIV. And it is hereby enacted, That the lands and tenements wherewith any widow shall be endowed as aforesaid, shall, after the decease of such widow, be divided in like manner as by this Act is directed—saving to any person aggrieved at any order, sentence or decree, made for the settlement and distribution of the estate of any intestate, their right of appeal to the Governor and Council—every person so appealing giving security to prosecute such appeal with effect: provided that such appeal be made within forty days after sentence of the said Judge.

Appeal to the Governor and Council.

XV. And be it further enacted, That all such estate, whether real or personal, which shall or may not be comprised in any last will and testament, or which shall or may not be devised or given by the same, shall be distributed in the same manner as the estates of intestates are directed to be distributed by this Act.

Estates not comprised in any last Will, to be distributed as intestates' estates.

XVI. And be it further enacted, That in case personal assets shall be deficient for the payment of any debts or legacies, and it shall be found necessary by any Executor or Administrator to make sale of any part of the real estate of the deceased for the payment of any debts or legacies; then such executor or administrator shall apply to the Governor, or other Commander-in-Chief for the time being, and to His Majesty's Council, to give order and direction for the sale of such part of such real estate as may be most convenient for the payment of such debts or legacies; and before any sale be made of any real estate, the executor or administrator shall give thirty days' public notice, by posting up notifications in the most public places in Charlottetown, Georgetown and Princetown; and whoever will give most, or appear to be the highest bidder, shall have the preference at such sale: and in case the estate of such intestate shall be insolvent, then the executor or administrator shall make like application to the Governor or other Commander-in-Chief for the time being, and to His Majesty's Council, for an inquiry, and for the appointment of Commissioners to inquire into such insolvency, and examine and settle the claims of all the creditors, and into the amount of the estate of such insolvent, and to authorize such executor or administrator to sell the lands and tenements of such insolvent, and to divide the produce of the whole of such estate in due proportions to and amongst the creditors.

Real Estate may be sold for payment of debts and legacies, where personal assets are insufficient.

In case of insolvency, Governor and Council to appoint Commissioners to examine claims of creditors, and to sell real estate to pay them.

XVII. And be it further enacted, That if any person shall in future presume to act as Executor or otherwise, by intermeddling with the goods of the deceased, without being duly authorized thereto, as is directed in and by this Act, such person shall forfeit the sum of twenty pounds for every such officious intermeddling; the same to be recovered in any of His Majesty's Courts of Record, by the executor, administrator, or other person interested in the estate of the deceased; one half of which penalty shall be paid to the person suing for the same, and the other half to and for the use of His Majesty's Government: and such person so intermeddling shall be further obliged to account for and pay into the hands of the executor or administrator, whatever effects he may have got possession of in such an irregular manner, with full costs of suit.

Any person not duly authorized, intermeddling with effects of any deceased person, shall forfeit £20.

Mode of recovery.

Application of forfeiture.

### CAP. III.

An Act making Lands and Tenements liable for the payment of Debts.

Repealed by 26 G. 3, c. 9.

## C.A.P. IV.

## An Act for determining differences by Arbitration or Umpirage.

**W**HEREAS references made by Rule of Court may contribute much to the ease of the subject, in determining controversies, (especially in matters of account, and other mercantile transactions of a complicated nature, which are often difficult to be accurately adjusted on trials at law,) as thereby the parties become obliged to submit to the award of the arbitrators, or umpire, under penalty of imprisonment for their contempt, in case they refuse submission: Be it therefore enacted, by the Governor, Council, and Assembly, That it shall and may be lawful for all merchants, traders and others, or their respective agents or attornies, who shall or may be desirous of ending any controversies, suits or quarrels (for which there is no other remedy, but by personal action or suit in equity,) by arbitration, to agree that the submission of all such controversies, suits or quarrels,—to the award or umpirage of any person or persons, shall be made a Rule of His Majesty's Supreme Court of this Island, and to insert such their agreement in their submission, or in the condition of the bond, whereby they had obliged themselves respectively to submit to such award or umpirage: which agreement, being so made and inserted in the submission or condition of their respective bonds, shall or may, upon producing an affidavit made by the witnesses thereto, or any one of them, in the said Court, of the due execution thereof, and upon reading and filing the same, such submission shall be there entered of Record, and a Rule thereupon made by the said Court for the respective parties to submit thereto, and be finally concluded by the award and determination of such arbitrators or umpire therein severally named, the same being made in pursuance of said submission or bond: and in case of disobedience to the award and determination of such arbitrators or umpire, the party neglecting or refusing to obey the same, or any part thereof, shall incur and be subject to all the penalties of contemning a rule or order of Court; and the said Court, on motion, shall issue process accordingly, unless such award be set aside for contempt or other misbehaviour in the arbitrators or umpire, on satisfactory proof made thereof, by oath, to the said Court within one term after the award or determination shall have been so made—in which event, the same shall be judged void and of no effect; anything in this Act contained to the contrary notwithstanding.

Persons desirous of ending suits or quarrels by arbitration, may agree that the submission be made a rule of Court.

In case of disobedience, parties to be punished as for a contempt;

unless Arbitrators act improperly.

## CAP. V.

An Act to explain, amend, and render into one Act, all the Laws now in being for the purpose of making and repairing Highways in this Island.

Altered by subsequent Acts—  
Repealed by 35 G. 3, c. 3.

## CAP. VI.

An Act giving a Reward for the killing of Bears.

Expired.

## CAP. VII.

An Act for granting to His Majesty an additional Duty on all Rum, Brandy, and other distilled spirituous Liquors; and a Duty on all Wines imported into this Island.

Virtually repealed and re-enacted by 25 G. 3, c. 4, s. 1.

## CAP. VIII.

An Act for allowing a Drawback on all Rum, Brandy and other distilled spirituous Liquors, and all Wines exported from this Island; as likewise for exempting all spirituous Liquors and Wines from paying any Duty, that may be imported into this Island on purpose to be re-exported.

Virtually repealed and re-enacted by 25 G. 3, c. 4, s. 20.

## CAP. IX.

An Act for continuing sundry Laws near expiring.

Expired.

## CAP. X.

An Act appointing Vestries.

Repealed by 3 W. 4, c. 20.

## CAP. XI.

An Act for amending and rendering perpetual several Laws near expiring.

WHEREAS the several Acts hereinafter mentioned, which are near expiring, have been found to be variously useful and beneficial, viz:—An Act made and passed in the fourteenth year of His Majesty's reign, intituled *An Act for licen-*

- 14 G. 3, c. 1. *sing and regulating Ferries (a)*—an Act made and passed in the said fourteenth year of His Majesty's reign, intituled
- 14 G. 3, c. 3. *An Act for regulating the measure of Boards, and all other kind of Lumber, and for appointing Officers to survey the same (b)*—an Act made and passed in the twentieth year of His Majesty's Reign, intituled *An Act to ascertain the Privileges of the Members of the Assembly, &c. (c)*—an Act made and passed in the said twentieth year of His Majesty's reign, intituled *An Act to prevent Swine running at large in Charlottetown (d)*—and an Act made and passed in the said twentieth year of His Majesty's Reign, intituled *An Act to prevent the running at large of Stone Horses, and killing of Partridges in the pairing and hatching season*: And whereas it is found that the first Friday of August is too early for killing of Partridges—Be it therefore enacted, by the Governor, Council and Assembly, That from and after the publication hereof, it shall not be lawful for any person or persons whatsoever, to shoot, kill, or otherwise destroy, or to have in his, her, or their possession, any Partridge or Partridges, between the first day of April and the first day of September, annually; and all persons offending herein shall be subject to the same penalties as mentioned in the said last recited Act—which penalties are to be recovered and applied in the same manner as is directed by the said Act.
- No person to kill or have in possession, Partridges, between 1st April and 1st Sept., under the penalty inflicted by 20 G. 3, c. 5.

Recited Acts made perpetual

II. And be it further enacted, That the several Acts hereinbefore mentioned, and every clause, matter and thing therein contained, together with the foregoing clause, altering, amending and enlarging the said Act, intituled *An Act to prevent the running at large of Stone Horses, and killing of Partridges*, from henceforth be, and the same are hereby declared to be, in full force and effect for ever.

(a) Repealed by 3 W. 4, c. 8. (b) Repealed by 1 G. 4, c. 3. (c) This Act was disallowed by His Majesty in Council, the 29th of June, 1781. (d) Repealed by 3 W. 4, c. 27.

## CAP. XII.

- See 26 G. 3, c. 1. An Act for raising a fund to make and keep in repair the Streets and Wells of Charlottetown.

## CAP. XIII.

- Passed with a suspending clause, and not approved of by His Majesty. An Act for enforcing the payment of His Majesty's Quit Rents, due, or which may become due, within this Government; and to authorize the Receiver General to recover the same, by sale of the Lands, or otherwise.

## CAP. XIV.

An Act to prevent disorderly riding of Horses, and driving of Carts, Trucks and Sleds, or any other Carriage whatsoever within Charlottetown.

Repealed by 1  
Vic. c. 14.

## CAP. XV.

An Act declaring that Baptism of Slaves shall not exempt them from bondage.

Repealed by  
6 G. 4, c. 7.

## CAP. XVI.

An Act for the preservation of Highways.

Amended by 25  
G. 3, c. 7; re-  
pealed by 36 G.  
3, c. 6.

## CAP. XVII.

An Act for the limitation of Actions, and for avoiding Law-suits.

See 7 W. 4, c.  
30.

III. And be it further enacted, That all Actions of Trespass *quare clausum fregit*, all actions of trespass, detinue, action of trover and replevin for taking away of goods and cattle; all actions of account and upon the case, (other than such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants;) all actions of debt grounded upon any lending or contract without specialty; all actions of debt for arrearages of rent, and all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall or may be sued or brought at any time after the end of this present session of the General Assembly, shall be commenced and sued within the time and limitation hereafter expressed, and not after—that is to say, the said actions upon the case (other than for slander), and the said actions for account, and the said actions for trespass, debt, detinue, and replevin for goods or cattle, and the said action of trespass, *quare clausum fregit*, within three years next after the end of this present session of the General Assembly, or within six years next after the cause of such action or suits, and not after; and the said actions of trespass, assault, battery, wounding, imprisonment, or any of them, within six months next after the end of the present session of the General Assembly, or within one year next after the cause of such actions or suits, and not after; and the said action on the case for words, within three months after the end of the present session of the General Assembly, or within six months next after the words spoken, and not after.

All actions of  
trespass, &c.,  
to be com-  
menced within  
six years after  
the cause of  
such action.

Battery, &c.,  
within one  
year.

Words within  
six months.

Any of the said actions reversed by error, or in arrest of judgment, may be commenced *de novo* within one year.

IV. And be it further enacted, That if in any of the said actions or suits, judgment be given for the plaintiff, and the same be reversed by writ of error; or if a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be thereupon given against the plaintiff, that he or she take nothing by his or her plaint, writ, or bill; or if any of the said actions be brought by original, and the defendant therein be outlawed, and shall afterwards reverse the outlawry—that in any or all such cases the party plaintiff, his heirs, executors or administrators (as the case may require), may commence a new action or suit, from time to time, within one year after such judgment reversed, or such judgment given against the plaintiff, or outlawry reversed, and not after.

After judgment or nonsuit in *quare clausum fregit*, the plaintiff barred to renew the suit.

V. And be it further enacted, That in all actions of trespass *quare clausum fregit*, hereafter to be brought, wherein the defendant or defendants shall disclaim, in his, her or their plea, to make any title or claim to the land in which the trespass is, by the declaration, supposed to be done, and the trespass be by negligence or involuntarily done, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntarily done, and a tender or offer of sufficient amends for such trespass before the action brought; whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue: and if the said issue be found for the defendant or defendants, or if the plaintiff or plaintiffs be nonsuited, the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and from all other suits concerning the same.

In actions of trespass, assault and slander no more costs than damages to be given,

VI. And be it further enacted, That in all actions of trespass, actions for assault and battery, and in all actions for slanderous words to be sued or prosecuted by any person or persons whatsoever, after the end of the present session of the General Assembly, if the jury upon the trial of the issue in such action, or the jury that shall inquire of the damages, do find or assess the damages under forty shillings, that then the plaintiff or plaintiffs in such action shall have and recover only so much costs as the damages so given or assessed amount unto, without any further increase of the same: provided, the Judge, at the trial of any action of assault and battery, or action of trespass, shall and do certify, under his hand, upon the back of the record, that the assault was sufficiently proved; or that the freehold and title of the land mentioned in the plaintiff's declaration was chiefly in question; or that the trespass was voluntary and malicious; that then the plaintiff, in such case, shall recover his full costs, though the jury should find damages to be under forty shillings: provided nevertheless, that if any person or persons that is or are, or that shall or may be entitled to any such action of trespass, detinue,

unless the judge certify, &c.

Proviso, in case of non age, *feme*



action of trover, replevin, action of account, debt, trespass for assault, menace, battery, wounding or imprisonment, actions on the case of words, &c., at the time of any such cause of action given or accrued, within the age of twenty-one years, *feme covert, non compos mentis*, imprisoned, or beyond the seas — in any or either of which cases, such person or persons shall or may be at liberty to bring the same actions, so as the same be done within such times as are hereinbefore limited after their coming to or being of full age, discover, of sane memory, at large, and returned from beyond the seas, as by other persons having no such impediment should or might be done.

*covert, non compos mentis, &c.*

VII. And be it further enacted, That if any person or persons against whom there is, shall, or may be any cause of suit, or action of trespass, detinue, trover, or replevin for taking away any goods or cattle, or of action of account, or upon the case, or of debt grounded upon any lending or contract without specialty, of debt for arrearages of rent, or assault, menace, battery, wounding and imprisonment, or any of them be, at the time of such cause of suit or action given or accrued, beyond the seas; that then such person or persons who are or may be entitled to any such suit or action shall be at liberty to bring the said actions against such person and persons after their return from beyond the seas, so as they commence the same within such times after their return, as are respectively limited for the bringing of the same by this Act.

**Actions against persons beyond the seas, may be brought after their return.**

\* \* \* 7 W. 4, c. 30, repeals so much of this Act as related to "the limitations of actions of or for Real Estate;" the two first sections relating thereto, are therefore omitted.



ANNO VICESIMO QUINTO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-first day of March, *Anno Domini* 1785, in the Twenty-fifth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith. 1785.

W. PATTERSON,  
Lt. Governor.

P. STEWART,  
President of  
Council.

Being the First Session of the Fourth General Assembly convened in the said Island. A. FLETCHER,  
Speaker.

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### CAP. I.

An Act to explain, alter and amend an Act made and passed in the twentieth year of his present Majesty's reign, intituled "An Act appointing the recording of all Deeds of Sale, Conveyances and Mortgages.

This Act, and the Acts 41 G. 3, c. 5, and 49 G. 3, c. 4, in addition thereto, repealed and re-enacted, with amendments, by 3 W. 4, c. 10.

\* \* \* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic. cap. 23.

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### CAP. II.

An Act to explain, alter, amend, and reduce into one Act, an Act made and passed in the twentieth year of his present Majesty's Reign, intituled "An Act to enable Creditors to recover their just debts out of the effects of their absent or absconding debtors.

This Act did not receive His Majesty's approbation.

## CAP. III.

Repealed by  
35 G. 3, c. 3.

An Act to alter and amend so much of an Act made and passed in the twenty-first year of His present Majesty's reign, intituled "An Act to explain, amend, and render into one Act, all the Laws now in being, for the purpose of making and repairing Highways in this Island," as relates to the time appointed by said Act for performing Statute Labour; and some further regulations as to the payment and duty of Overseers of the Highways.

## CAP. IV.

Repealed by  
29 Vic. c. 1.

An Act to amend, render more effectual, and to reduce into one Act, the several Laws made by the General Assembly of this Island, relative to the Duties of Impost on Wines, Rum, Brandy, and other distilled Spirituous Liquors; and for allowing a Drawback on all Wines, Rum, Brandy, and other Distilled Spirituous Liquors, exported from this Island.

## CAP. V.

Repealed by  
2 Vic. c. 26.

An Act in addition to and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled "An Act prohibiting the sale (by retail) of Rum, or other distilled Spirituous Liquors, without first having a License for that purpose, and for the due regulation of such as shall be licensed.

## CAP. VI.

Altered by 24  
Vic. c. 28.

An Act for establishing the Rate of Interest.

No greater interest than six per cent. per annum to be taken

**BE** it enacted, by the Lieutenant Governor, Council and Assembly, That no person or persons whatsoever, upon any contract hereafter to be made, shall take, directly or indirectly, for loan of any moneys, wares, merchandises, or other commodities whatsoever, above the value of six pounds, for the forbearance of Interest of one hundred pounds for a year; and so after that rate for a greater or lesser sum, or for a longer or shorter time.

If more is exacted, bonds, contracts, &c. to be void.

II. And be it further enacted, That all bonds, contracts and assurances whatsoever, for payment of any principal or Money to be lent, or covenanted to be performed, upon or for

any usury, whereupon or whereby there shall be reserved or taken above the rate of six pounds in the hundred as aforesaid, shall be utterly void; and that all and every person or persons whatsoever, who shall, upon any contract to be made, take, accept and receive, by way or means of any corrupt bargain, loan, exchange, chevizance, shift, or interest of any wares, merchandise, or other thing or things whatsoever, or by any deceitful way or means, or by any covin, engine, or deceitful conveyance, for the forbearing or giving day of payment for one whole year, of and for their money, or other thing or things, above the sum of six pounds for the forbearing of one hundred pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time, shall forfeit and lose, for every such offence, the moneys, wares, merchandise, and other things so lent, bargained, exchanged or shifted; one moiety thereof to be to the King's most Excellent Majesty, his Heirs and Successors, for the public use and support of his Government on this Island, and the other moiety to him or them who shall or may sue for the same in His Majesty's Supreme Court of Judicature, or in any other of His Majesty's Courts of Record that now are, or which may hereafter be established within this Island, by action of debt, bill, plaint or information, in which no essoin, wager of law, or protection shall be allowed: provided always, that nothing in this Act shall extend, or be construed to extend, to prevent any person or persons from contracting and agreeing with each other for the loan or hire of any quantity of Grain of any kind, or for any number of cows, horses, oxen, heifers, sheep, swine, or or any other kind of cattle, or for poultry of any kind, upon halves or otherwise, as the lender and hirer may agree; and that no such dealings shall be accounted usury; anything herein contained to the contrary notwithstanding: provided also, that nothing in this Act shall extend, or be construed to extend, to any specialty, hypothecation, instrument or agreement whatever, in writing, which shall or may be made, entered into, or executed for any money lent or advanced upon the bottom of any ship or vessel—anything herein contained to the contrary notwithstanding: provided also, that all contracts and agreements upon loan at interest, upon any other rate heretofore made than is prescribed by this Act, shall be good, valid and effectual, to all intents and purposes whatsoever, in the same manner as if this Act had not been made.

Persons who shall on any contract for goods, &c. take more than six per cent. interest,

to forfeit the whole value—half to the King, and the other to the prosecutor.

Not to extend to loan or hire of grain, cattle, &c., on shares:

nor to hypothecation, bottomry, &c.

Contracts upon loan at interest heretofore made, shall be good.

III. And be it further enacted, That all prosecutions which may be brought for any offence hereafter done or committed against this Act, shall be brought by the person or persons aggrieved, or by any person or persons who shall or may sue for the same, within twelve months from the time the offence was committed; and it shall and may be lawful for any person

Prosecutions to be commenced within twelve months.

Persons ag-  
grieved at judg-  
ment of any in-  
ferior Court to  
bring writ of  
error.

or persons who shall think themselves aggrieved by any judgment of any inferior Court in this Island, to bring his Writ of Error, returnable in His Majesty's Supreme Court of Judicature.

Moneys arising  
from forfeitures  
to be accounted  
for to His Ma-  
jesty, &c.

IV. And be it further enacted, That the moneys which may arise by operation of this Act, shall be accounted for unto His Majesty in the Kingdom of Great Britain, and to the Commissioners of His Majesty's Treasury, or High Treasurer for the time being, and audited by the Auditor General of His Majesty's Plantations, of his Deputy.

### CAP. VII.

Repealed by  
36 G. 3, c. 6.

An Act to explain and amend an Act made and passed in the twenty-first year of his present Majesty's reign, intituled "An Act for the preservation of Highways."

21 G. 3, c. 16.

### CAP. VIII.

See 59 G. 3, c.  
& note.

An Act for admitting Depositions, *de bene esse*, of Witnesses, aged, infirm, or otherwise unable to travel, and of Witnesses departing from this Island.

Any Justice of  
Supreme Court,  
after due notice  
to adverse party  
or attorney,  
may take the  
deposition of  
witnesses, in-  
firm, or about  
to leave the  
Island; which  
shall be sealed  
up and directed  
to the Court  
where cause is  
to be tried.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That when it shall so happen that any of the Witnesses who may be judged necessary to be produced on the trial of any cause between party and party, shall be infirm, aged, or otherwise unable to travel, or when any such witness is obliged to leave this Island, it shall and may be lawful for any one of the Justices of His Majesty's Supreme Court of Judicature of this Island, or for any one of the Justices of any other of His Majesty's Courts of Record that now are, or which hereafter shall or may be established therein, where such cause is to be tried, after due notice in writing hath been given to the adverse party or parties, or to his, her or their Attorney or Attorneys, to be present (if he, she or they, or any of them see fit,) to take the deposition of such infirm or aged person or persons so unable to travel, or who is or are obliged to leave this Island as aforesaid: and such depositions so taken and certified under the hand and seal of the Justices of said Courts respectively (before whom such deposition has been taken), and sealed up and directed to the Court where such suit or action may be depending, shall be received as legal evidence in such cause: provided, proof shall be first made on oath, that due written notice was given to the adverse party or parties, or to his, her or their attorney or attorneys, of the time and place of taking such depositions: and each and every such written notice shall be duly served, at least six days pre-

Oath to be made  
of due notice to  
adverse party  
or attorney.

vious to the day appointed for taking such evidence, if the same should be between the first day of May and the first day of November in each year; and if between the first day of November and the first day of May, then the same to be served ten days before such caption—each of said stated days to be exclusive of the day of service: and provided, nevertheless, that if such witnesses shall, at the time of the trial of the cause, be on this Island, or able to travel, they shall be required to give their testimony, *viva voce*, at such trial, in the same manner as if such depositions had not been taken: provided also, that all benefit of exceptions to the credit of such deponents shall be reserved in the same manner as on producing witnesses for examination, *viva voce*, at the trial.

If at time of trial, such witnesses are in the Island, and able to travel, to be examined *viva voce*.

Benefit of exceptions to the credit of such witnesses.

II. And be it further enacted, That every person of the profession of the people called Quakers, who shall be required to take an oath as aforesaid, shall, instead of an Oath, be permitted to make his or her solemn affirmation.

Quakers allowed to make affirmation.

III. And be it further enacted, That every person who shall have made such oath or, or solemn affirmation, and shall be convicted of having wilfully, falsely and corruptly sworn or affirmed, he, she or they shall incur the same penalties as persons convicted of wilful and corrupt perjury.

Persons convicted of swearing or affirming falsely, to incur penalties as for perjury.

## CAP. IX.

An Act to repeal an Act made and passed in the thirteenth year of His Majesty's reign, intituled "An Act prohibiting all masters of Ships or Vessels, or any other persons, from transporting or conveying away any person or persons out of this Island, or the Territories adjacent thereto, without a License or Pass, except only such as are thereafter excepted."

13 G. 3, c. 10.

## CAP. X.

An Act for permitting persons of the profession of the people called Quakers to make an affirmation instead of taking an oath.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That all persons of the religious profession of the people called Quakers, who shall or may be required upon any lawful occasion to take an oath, may, instead of an oath in the usual form, be permitted to make his, her or their solemn declaration or affirmation in the following words, to

Quakers may make affirmation instead of taking an oath.

**Form of affirmation.**

wit: I, *A. B.*, do solemnly, sincerely, and truly declare and affirm: Which solemn affirmation being duly administered, shall be adjudged and taken to be of the same force and effect, in all cases where by law an oath shall or may be required, as if such Quakers had taken an oath in the usual form.

**False affirmation punished as perjury.**

II. And be it further enacted, That all persons who shall or may have made such solemn affirmation, and who shall or may have been duly convicted of having wilfully, falsely and corruptly affirmed any thing, which, if the same had been sworn in the usual form of an oath, would have amounted to wilful and corrupt perjury, are hereby made to incur the same penalties as other persons convicted of wilful and corrupt perjury: provided, nevertheless, that no Quaker, or reputed Quaker, shall, by virtue of this Act, be admitted to give evidence in any criminal prosecution whatever, under the sanction of such solemn declaration or affirmation: provided also, that no person or persons whatever shall be deemed or construed to be Quakers, within the true intent and meaning of this Act, except such as shall affirm, in the form before directed, that he, she or they, is or are of the said profession of people called Quakers, and have been so for one year next before such affirmation made.

**Affirmations not admitted in criminal prosecutions.**

**Persons professing to be Quakers, to affirm they have been so for one year.**

**Public Act.**

III. And be it further enacted, That this Act shall be deemed to be a public Act, and be judicially taken notice of as such.

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## CAP XI.

**Disallowed by His Majesty in Council.**

An Act to repeal an Act made and passed in the sixteenth year of His present Majesty's reign, intituled "An Act for regulating Fees.

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## CAP. XII.

**Disallowed by His Majesty in Council.**

An Act directing the Register of this Island to procure new and sufficient bound Books, for the purpose of properly re-recording all the Grants, Deeds of Sale, Conveyances, Leases, and other Writings belonging or relating to this Island, which are now entered or recorded in several small unbound Books hereafter mentioned: also empowering the Governor, Lieutenant Governor, or Commander-in-Chief for the time being, and His Majesty's Council, to destroy the said several small unbound Books, after having been fairly extracted and copied as hereinafter is prescribed.



## CAP. XIII.

An Act for continuing sundry Laws that are near expiring. Expired.

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## CAP. XIV.

An Act for granting the sum of one hundred and sixty-one Executed.  
pounds two shillings and eleven pence for the support of  
His Majesty's Government.



ANNO VICESIMO SEXTO

# GEORGI II. REGIS.

1786.

At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-first day of March, *Anno Domini* 1785, in the Twenty-fifth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith :

W. PATTERSON,  
Lt. Governor.

P. CALLECK,  
President of  
Council.

A. FLETCHER,  
Speaker.

And from thence continued, by several prorogations, to the fifteenth day of March, 1786, and in the twenty-sixth year of His said Majesty's Reign; being the second Session of the fourth General Assembly convened in the said Island.

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## C A P. I.

An Act to alter, amend, and reduce into one Act, an Act made and passed in the twenty-first year of His present Majesty's reign, intituled "An Act for raising a fund to make and keep in repair the streets and wells of Charlotte-town." Expired.

NOTE.—The provisions of this Act affect the titles to lands, but are omitted pursuant to 12 Vic. c. 23.

\* \* \* For other Acts which have reference to this subject, see 30 G. 3, c. 3; 41 G. 3, c. 3; 48 G. 3, c. 7; 52 G. 3, c. 6; 6 G. 4, c. 9; 8 G. 4, c. 11; 10 G. 4, c. 17; 1 W. 4, c. 17; 3 W. 4, c. 37; 4 W. 4, c. 11; 6 Vic. c. 4, and 10 Vic. c. 5.

Suspended by 6  
W. 4, c. 9.  
Repealed by 7  
Vic., cap. 3.

## CAP. II.

## An Act for the relief of Insolvent Debtors.

## CAP. III.

## An Act for preventing abatement and discontinuance of Suits.

Plaintiff or defendant dying between interlocutory and final judgment, action not to abate.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, in all actions to be commenced in His Majesty's Supreme Court of Judicature, or in any other Courts of Record which now are or which hereafter shall or may be established within this Island, if any plaintiff happen to die after interlocutory judgment, and before a final judgment shall have been obtained therein, the said action shall not abate by reason thereof, provided such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant: and such Court is hereby empowered to try the said action, and to determine and give judgment thereon, in the same manner as if the said suit had been commenced by or against such executors or administrators, as in right of their testators or intestates.

Action may be proceeded upon notwithstanding the death of one of the parties.

II. And be it further enacted, That if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated; but such death, being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

Death of either party between verdict and judgment.

III. And be it further enacted, That in all actions, personal, real or mixed, the death of either party between the verdict and the judgment thereupon shall not be alleged for error, so as that such judgment be entered within two terms after such verdict.

Judgment obtained by an executor or administrator.

IV. And be it further enacted, That where any judgment, after verdict, shall have been had by or in the name of any executor or administrator, in such case an administrator *de bonis non* may sue forth a *scire facias*, and take execution upon such judgment.

No suit before Justices shall

V. And be it further enacted, That no process or suit before any of the Justices of His Majesty's Supreme Court of

Judicature, Justices of Assize, Jail Delivery, Oyer and Terminer, Justices of the Peace, Commissioners, or other Courts of Record, which now are or which hereafter shall or may be established within this Island, shall be discontinued by the making and publishing of any new commission or association, or by altering the names of the Justices of His Majesty's Supreme Court of Judicature, Justices of Assize, Jail Delivery, Oyer and Terminer, Justices of the Peace, Commissioners or other Courts of Record, as aforesaid; but that such new Justices of His Majesty's said Supreme Court of Judicature, Justices of Assize, Jail Delivery, and of the Peace, Commissioners, or other Courts of Record as aforesaid, may proceed in manner, as if the former Commissioners, Justices or other Commissioners, had remained and continued without alteration.

to be discontinued by a new commission.

#### CAP. IV.

An Act for amending defects in Pleas, Processes and Records.

**B**E it enacted by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, that for error in any record, process or warrant of attorney, original writ, or judicial panel, or return, in any places of the same razed or interlined, or in any addition, subtraction, or diminution of words, letters, syllables, or titles found therein, no judgment or record shall be reversed or annulled; but the Justices of the Courts before whom such records and process may be depending, shall have power to examine such records and process, words, pleas, warrants of attorney, writs, panels, or returns, and to reform and amend, in affirmation of the judgments of such records and processes, all that which to them seemeth to be the misprision of the Clerk (except appeals, indictments of treason, felonies and outlawries for the same), and the substance of the proper names, surnames, and additions left out in the original writs, and writ of *exigent*, and any other writs containing proclamation.

See 26 G. 3, c. 7. and 10 Vic, c. 17.

No judgment, &c., to be reversed for any writ razed or interlined.

Justices of Courts may amend all defects which are misprision of their Clerk.

Cases excepted.

II. And be it further enacted, by the authority aforesaid, That all writs of error, appeals from judgments in any action, real, personal or mixed, according to the course of proceedings in this Island, wherein there shall be any variance from the original record, or other defect, may, and the same shall be amended and made agreeable to such record, by the Courts where such writ or writs of error, or such appeals shall be returnable; and that where any verdict shall be given in any action, suit, bill, plaint, or demand, in any of His Majesty's Courts of Record, which now are or which hereafter shall or may be established within this Island, the judgment thereupon

Writ of error varying from the record may be amended.

After verdict, no judgment shall be stayed, &c., for any defect in any Bill, &c.

shall not be stayed or reversed, for any defect or fault, either in form or substance, in any bill, writ, original or judicial, or for any variance in such writs from the declaration, or other proceedings.

Not to extend to appeal of felony, &c.

III. Provided, nevertheless, that nothing in this Act contained shall extend, or be construed to extend, to any appeal of felony or murder, or to any process upon any indictment, presentment, or information of or for any offence or misdemeanor whatsoever.

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### CAP. V.

Disallowed by His Majesty in Council, the 8th of Aug., 1789.

An Act to render good and valid in law, all and every of the proceedings in the years one thousand seven hundred and eighty, and one thousand seven hundred and eighty-one, which in any respect related to or concerned the suing, seizing, condemning, or selling of the Lots or Townships hereinafter mentioned, or any part thereof.

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### CAP. VI.

Repealed.

25 G. 3, c. 3.

An Act for altering, amending, and reducing into one Act, an Act made and passed in the twenty-fifth year of His present Majesty's reign, intituled "An Act to alter and amend so much of an Act made and passed in the twenty-first year of His present Majesty's reign, intituled 'An Act to explain, amend, and render into one Act, all the laws now in being for the purpose of making and repairing Highways in this Island,' as relates to the time appointed by said Act for performing Statute Labour, and some further regulations as to the payment and duty of Overseers of the Highways."

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### CAP. VII.

See 26 G. 3, c. 4, and 10 Vic, c. 17.

An Act for reformation of jeofails and mispleadings, and to prevent arrests and reversals of judgments, and for the better advancement of justice.

After an issue tried, there shall be judgment given notwithstanding

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, if any issue be tried by the oath of twelve or more indifferent men for the party plaintiff or demandant, or for the party tenant or defendant, in His Majesty's Supreme Court of

Judicature within this Island, or in any other Courts of Record which now are or which shall or may be established therein, the Justice or Justices by whom judgment thereupon ought to be given, shall proceed and give judgment in the same—any mispleading, want of colour, insufficient pleading or jeofail, any miscontinuance, or discontinuance, or misconveying of process, misjoining of the issue, want of warrant of attorney for the party against whom the same issue shall or may be tried, or other default or negligence of the parties, their counsellors or attorneys, had or made, to the contrary notwithstanding; and the said judgment shall stand according to the said verdict, without reversal by writ of error, or false judgment: provided, that in avoiding of errors, through the negligence of attorneys, every person named as attorney in actions and suits, prosecuted and pleaded to issue, shall, from time to time, deliver, or cause to be delivered, his or their sufficient and lawful warrant of attorney, to be entered of record, for each and every of the said actions or suits wherein they shall or may be named as attorneys, to the Clerk of the Court—that is to say, the attorney for the plaintiff or demandant shall file his warrant of attorney as aforesaid, the same term he shall have declared, and the attorney for the defendant or tenant shall file his warrant the same term he shall have appeared, upon pain of forfeiting unto our Sovereign Lord the King the sum of five pounds, for not so delivering the said warrant of attorney—the same to be recovered by action of debt, bill, plaint, or information.

any mispleading, &c.

When warrants of attorney shall be filed.

II. And be it further enacted, That after verdict as aforesaid, the judgment thereupon shall not be stayed or reversed, for any defect in form, in any writ, original or judicial, count, declaration, bill, plaint, suit or demand, or for any variance in form only between the original or bill, and the declaration or plaint, or for want of any writ original or judicial, or for any imperfect or insufficient return of any Sheriff or other officer.

After verdict, judgment shall not be stayed, &c., for want of form, &c.

III. And be it further enacted, That after verdict, judgment thereupon shall not be stayed or reversed for want of an averment of any life or lives, so as the said person be proved to be alive; or for awarding the *venire facias* to a wrong officer upon any insufficient suggestion; or because the *visne* is in some part misawarded, or sued out of more or fewer places than it ought to be, so as some one place be right named; or for misnaming any of the jurors in surname or addition, in any of the writs, or the returns thereof, so as it be proved to be the same man that was meant to be returned; or by reason that there is no return upon any of the said writs, so as a panel of the names of jurors be returned and annexed to the said writ; or for that the Sheriff's or other officer's name, having the return thereof, is not set to the return of

Divers jeofails in suits of law prevented and reformed.

any such writ, so as it be proved that the said writ was returned by such officer; or by reason that the plaintiff in any *ejectione firmæ*, or in any personal action or suit, being an infant under the age of twenty-one years, did appear by Attorney therein, and the verdict passed for him.

In what case, judgment, after verdict, shall not be stayed for want of form of pleading.

IV. And be it further enacted, That judgment shall not be stayed or reversed, after verdict, for want of form or pledges returned upon the original writ, or because the name of the Sheriff is not returned on the original writ, or for want of entering pledges upon any bill or declaration, or for not alleging the bringing into Court any bond, bill, indenture, or other deed mentioned in the declaration or other pleading, or for want of allegation of bringing into Court any letters testamentary, or letters of administration, or for omission of "by force of arms, and against the peace," or of mistaking the Christian name or surname of the plaintiff or defendant, demandant or tenant, sum or sums of money, day, month, or year, by the Clerk, in any bill, declaration or pleading, where the right name, surname, sum, day, month, or year, in any writ, plaint, roll, or record preceding, or in the same roll or record, where the mistake is committed, is or are once truly and rightly alleged, whereunto the plaintiff might have demurred and shewn the same for cause; nor for want of averment of "this he is ready to verify," or for "this he is ready to verify by record," or for not alleging as it appears by record; or for that there is no right *venire*, so as the cause were tried by a jury of the proper country or place where the action is laid; nor for that the increase of costs after a verdict in an action, or upon a nonsuit in replevin, are not entered to be at the request of the party for whom the judgment is given; nor by reason that the costs in any judgment whatsoever are not entered to be by consent of the plaintiff—but that all such omissions, variances, defects, and all other matters of the like nature, not being against the right of the matter of the suit, nor whereby the issue or trial are altered, shall be amended by the Justice or Justices of His Majesty's said Supreme Court of Judicature, or of any other of the Courts of record aforesaid, where such judgments are or shall be given, or whereunto the record is or shall be removed by writ of error or by appeal, in any action, real, personal or mixed, according to the usage and course of proceedings in this Island.

Justices shall give judgment on demurrer, &c., without regarding any defect in writ, &c.

V. And be it further enacted, That where any demurrer shall be joined, and entered in any action or suit in His Majesty's Supreme Court of Judicature aforesaid, or in any other of the Courts of Record which now are or which hereafter shall or may be established within this Island, the Justice or Justices thereof shall proceed and give judgment, according as the very right of the cause and matter in law shall appear unto



them, without regarding any imperfection, omission or defect, in any writ, return, plaint, declaration or other pleading, process, or course of proceeding whatsoever, except those only which the party demurring shall especially and particularly set down and express, together with his demurrer, as causes of the same, although such imperfection, omission or defect be matter of substance, so as sufficient matter appear in the said pleadings, upon which His Majesty's said Supreme Court of Judicature, or any other Court of Record as aforesaid, may give judgment according to the very right of the cause; and therefore no advantage or exception shall be taken of or for any immaterial traverse, or of or for the default of entering pledges upon any bill or declaration; or of or for the default of alleging the bringing into Court any bond, bill, indenture, or other deed whatsoever, mentioned in the declaration or other pleading; or of or for the default of alleging the bringing into Court letters testamentary, or letters of administration; or of or for the omission of "by force and arms, and against the peace," or either of them; or of or for the want of averment of "this he is ready to verify," or of "this he is ready to verify by record;" or of or for not alleging "as it appears by the record;" but any of the said Courts shall give judgment according to the very right of the cause as aforesaid, without regarding any such imperfections, omissions and defects, or any other matter of the like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer.

Exceptions.

VI. And be it further enacted, That no judgment entered upon confession, *nihil dicit* or *non sum informatus*, in His Majesty's said Supreme Court of Judicature, or in any other Court of Record aforesaid, shall be reversed, nor any judgment upon any writ of inquiry of damages, executed thereon, be stayed or reversed for or by reason of any imperfection, omission, defect, matter or thing whatsoever, which, by force of this Act, would have been aided and cured as jeofails, in case a verdict of twelve men had been given in the said action or suit, so as there be an original writ or bill, and warrants of attorney duly filed, as by this Act is directed.

Judgments entered upon confession, &c. not to be reversed for any imperfection, &c.

VII. And be it further enacted, That this Act shall extend in all jeofails as aforesaid, to all suits in His Majesty's said Supreme Court of Judicature, or in any Court of record that now is or which hereafter may be established for recovery of any debt immediately owing, or any revenue belonging to His Majesty, his heirs or successors.

Act to extend to all suits for the King's debts, &c.

VIII. Provided always, and be it enacted, by the authority aforesaid, That nothing in this Act before contained, shall extend to any writ, declaration, or suit of appeal of felony or

To what this Act shall not extend.

murder, or to any indictment or presentment of treason, felony or murder, or other matter, or to any process upon any of them, or to any writ, bill, action, or information, upon any penal statute.

No dilatory plea to be received, unless on affidavit.

IX. And be it further enacted, That no dilatory plea shall be received in His Majesty's said Supreme Court, or in any other Court of record which now is or which shall or may be established, unless the party offering such plea do, by affidavit, prove the truth thereof, or shew some probable matter to the Court, where the suit may be depending, in order to induce them to believe that the fact of such dilatory plea is true.

### CAP. VIII.

See 11 G. 4, c. 7.

An Act for quieting the minds of, and establishing certain privileges to His Majesty's subjects professing the Popish Religion, now residing, or who may hereafter reside on this Island.

### CAP. IX.

Altered and amended by 35 G. 3, c. 8, and 7 Vic. c. 13. See also 7 W. 4, c. 14; 12 Vic. c. 2; 23 Vic. c. 7, and 24 Vic. c. 5.

An Act for more especially making Lands and Tenements liable for the payment of debts; also, to enable the holders of Mortgages to sell the premises mortgaged to them more speedily and at less expense than heretofore; as also to repeal an Act made in the twenty-first year of his present Majesty's Reign, intituled *An Act making Lands and Tenements liable for the payment of debts.*

Recited Act repealed.

WHEREAS great inconveniences have arisen to the creditors, as well as owners of Real Estates within this Island, from the manner in which lands and tenements have been heretofore made liable to the payment of debts: for remedy whereof — Be it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the publication hereof, an Act made in the twenty-first year of his present Majesty's reign, intituled *An Act making Lands and Tenements liable for the payment of Debts*, shall be no longer in force within this Island, but that the same, and every part thereof, is hereby repealed.

Lands, &c. made liable for payment of debts.

II. And whereas it will tend to the great benefit of this Island, to make lands and tenements liable, like goods and chattels, to the payment of debts, as thereby the value of lands will be increased, and the landholders more easily obtain credit, by which means they will be enabled to extend their cultivations and improvements: — Be it therefore enacted,

That from and after the publication hereof, all lands, tenements and hereditaments within this Island, shall, and the same are hereby made liable to the payment of all debts contracted by the owner thereof, in as full and ample a manner as the goods, chattels or effects of debtors were heretofore made liable for the payment of their just debts, subject only to the rules and regulations hereinafter mentioned and expressed—that is to say, when any person or persons, after the publication hereof, shall recover judgment in any of His Majesty's Courts of Record which now are or hereafter shall or may be established in this Island, for any sum or sums of money, or for costs of suit, and the person or persons against whom judgment shall be so obtained shall be either unable or unwilling to satisfy such judgment in money, or if he or some person in his behalf, shall not produce and shew sufficient personal estate, whereon to levy execution on such judgment; then and in such case, it shall and may be lawful for the Sheriff or his deputy to extend such execution on the real estate of such debtor or debtors; and after such real estate or estates shall be so taken in execution, it shall and may be lawful for the said Sheriff or his deputy immediately to advertise, as hereinafter is directed, the said estate so taken in execution, or so much thereof as shall be sufficient to discharge the execution so extended thereon, with costs and charges, to be sold at the most public place within his precinct, in six calendar months,\* to be computed from the day in which such execution shall be extended, and advertisements so posted; which advertisements shall be posted at three of the most public parts of Charlottetown, and shall also be posted upon the premises so to be sold: and the said premises so to be sold shall be thereupon put up to fair auction, and shall be sold to the highest bidder, who shall be declared by the Sheriff or his deputy to be the purchaser: and it shall and may be lawful for the said Sheriff or his deputy to execute immediately, to such person or persons as shall purchase the premises so sold at auction as aforesaid, an absolute deed of sale, without any clause of redemption therein contained, specifying therein the consideration paid by the purchasers, as well as the name or names of the former owner or owners of said lands, and the name or names of the person or persons at whose suit such lands have been sold; which deed shall be good and sufficient in law to create to and vest in such purchaser or purchasers, their heirs or assigns, a good and absolute estate in fee simple, for ever, or otherwise as the nature of the estate so sold shall admit of, and in the premises comprehended in such deed—provided, such premises were the absolute estate in fee simple or otherwise as aforesaid, of the person or persons against whom the execution, by virtue whereof such sale shall be made, was

Any person recovering judgment, for want of other effects, Sheriff may levy execution on the debtor's real estate; and advertise as much thereof as may be sufficient for discharging the execution, &c., to be sold in six months.

Sheriff to execute a deed to the purchasers of the premises, without any clause of redemption;

which deed shall be to the purchaser a good estate in fee simple.

Proviso.

\* Extended to two years by 35 G. 3, c. 8.

issued: and it shall and may be lawful for the Sheriff or his deputy, after such deed shall have been so executed, to enter into the premises specified in such deed, and to put such purchaser or purchasers into the quiet and peaceable possession thereof.

If premises so sold shall be under lease, Sheriff to notify tenant to attorn to the purchaser.

Tenant refusing to attorn, his lease to become void, without any process at law, and be subject to action of damages, for illegal-ty overholding.

In case only part of pre-mises under lease may be necessary to be sold by said execution.

Sheriff, &c., to swear three householders appraisers to estimate the rents, &c.

III. Provided nevertheless, That if the premises so sold, or any part thereof, shall have been leased by instrument in writing, to any tenant or tenants, before the extending execution thereon, whose lease or leases shall not have expired at the time of such sale, that then it shall and may be lawful for the Sheriff or his deputy, to notify such tenant or tenants, that they must attorn and become tenants to such purchaser or purchasers: and in case such tenant or tenants, after such notice received as aforesaid, shall refuse to attorn and become tenant or tenants to such purchaser or purchasers, according to law, that then the lease or leases of such tenant or tenants shall be deemed null and void, to all intents and purposes, without any process at law whatsoever, the same as if such lease or leases had never been executed: and further, it shall and may be lawful for such purchaser or purchasers, in any Court of Record which now is or which hereafter shall or may be established in this Island, to prosecute and recover against such tenant or tenants, damages and costs for such illegal overholding: and in case only part of the premises included in the lease or leases of such tenant or tenants may be necessary to be sold by virtue of such execution or executions, and it may be uncertain how much of the whole rent reserved in the lease or leases of such tenants he or they ought to pay the purchaser or purchasers under such execution or executions, it shall and may be lawful for the Sheriff or his deputy to estimate the same by the appraisement of three reputable impartial householders, dwelling in the neighbourhood where such lands shall or may lie, who shall be thereupon sworn by the Sheriff or his deputy to decide impartially between the parties—one of said appraisers to be appointed by the owner or owners, tenant or tenants, or his or their landlord or landlords; the other by the purchaser, and the third by the Sheriff; and if the said parties, or some person lawfully authorized thereto by them, after such notice given, shall neglect to attend the Sheriff to appoint appraisers as aforesaid, it shall and may be lawful for the Sheriff or his deputy to nominate as aforesaid for the persons so neglecting: and after such appraisers shall have estimated the portion of rent such tenant or tenants ought to pay to the person or persons so purchasing a part of the premises leased to him or them, such tenant, after being properly notified, shall attorn and become tenant to such purchaser; and in case of refusal to attorn and become tenant to such purchaser, he or they shall thereupon be liable to the same penalties in every respect, and to be prosecuted as

aforesaid ; and such tenant or tenants, upon attorning as aforesaid, shall stand discharged of and from the claims of his or their landlord, for so much rent as the said appraisement shall amount to, and shall perform all such covenants in his or their lease, so far as the same may relate to the premises so sold, to the purchaser thereof, in as full and ample manner as he was bound to perform the same to his or their landlord.\*

IV. And be it further enacted, That the Sheriff or his deputy shall appraise the value of all real estates taken in execution as aforesaid, by three impartial respectable householders, to be appointed as aforesaid, who shall be first sworn by the said Sheriff or his deputy, whether he knows or is acquainted with the premises so to be appraised, fourteen days before he shall proceed to sell the same ; and if they do know, or are acquainted with the said premises, then such householders shall be sworn by the said Sheriff or his deputy, justly and truly to appraise and value such estates : and if the appraised value thereof shall exceed the amount of such execution, including the Sheriff's fees, then it shall and may be lawful for the said Sheriff or his deputy, to set up at auction, and sell only so much of said real estate as will be sufficient to discharge the said execution, and costs and charges : and in case the owner of such estate so to be sold, or some person on his behalf, shall neglect to attend the Sheriff or his deputy, to point out which part of such real estate it will be least inconvenient for such debtor to be deprived of, then it shall be lawful for the said Sheriff or his deputy, to set up and sell that part of the said estate which shall appear at the time of such sale to be of the least immediate advantage to the debtor ; and if the proceeds of such sale shall exceed the amount of such execution or executions, and costs and charges, such overplus shall be paid over to the debtor, or to some person lawfully authorized to receive the same—and in case no such person appears, then the Sheriff, or his deputy, shall pay the overplus into the Court out of which such execution issues, there to be lodged for the benefit of the right owner—and in case there shall not be sufficient real estate as aforesaid to satisfy such execution, upon return thereof, then the party shall or may have an *alias* execution for the remainder : and the Sheriff or his deputy shall annex to all executions, when they return the same, the appraisement hereinbefore directed to be made : and the said Sheriff or his deputy shall on no account disturb any person or persons in possession of lands or tenements at the time he shall levy execution thereon, but shall leave such person or persons in the peaceable possession thereof, until final sale shall be made as aforesaid.

Sheriff, 14 days before proceeding to sale of real estates, to have the same appraised by 3 householders, who shall be sworn.

Only so much to be sold as shall be sufficient to discharge the execution, &c.

In case owner of such estate, or some person in his behalf, shall not attend, Sheriff may then sell such part as he may deem least disadvantageous to the debtor.

Overplus arising from sale to be paid to debtor, or into Court for his use.

For want of sufficient real estate, creditor to have an *alias* execution.

\* This section is altered and amended by 7 Vic., c. 13.

Not to affect any suit now depending.

V. Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to such real estates, against which any action or suit at law has been already commenced, or is now depending, in pursuance of the said hereinbefore recited Act, but that each and every such action or suit may be prosecuted without delay.

Lands, &c., mortgaged for any sum not exceeding £200, action may be brought in Supreme Court.

Substance of mortgage to be set forth in declaration.

In case mortgager appears and pleads, to be entitled to give in evidence all payments he had made, &c.

Provided he shall furnish mortgagee or attorney, with account thereof, fourteen days before trial, jury to liquidate all accounts and allow interest.

In case mortgager shall neglect to appear, the Justices shall cause principal and interest to be made up in their presence.

On judgment, execution to issue, and Sheriff to sell as hereinbefore directed.

Mortgagee, in case of premises, when sold, being insufficient to pay off, to have an alias execution.

VI. And whereas the manner in which mortgages are now foreclosed within this Island is found tedious and very expensive: for remedy whereof—Be it enacted, by the authority aforesaid, That from and after the publication hereof, it shall and may be lawful for any person or persons whatsoever, to whom any lands or tenements within this Island now are or may hereafter be mortgaged for any principal sum not exceeding two hundred pounds, he, she or they electing so to do, may bring an action on the case in His Majesty's Supreme Court of Judicature, at any of the terms thereof, to recover the same against the mortgager, his executors or administrators, and to set forth in his, her or their declaration, the substance of such mortgage: and in case the mortgager shall appear and plead thereto, it shall and may be lawful for such mortgager to give in evidence and proof all such payments as have been made by him, on account of such mortgage; provided he shall have furnished the mortgagee or his attorney with such account fourteen days before trial: and it shall and may be lawful for the jury by whom such issue shall be tried, to liquidate such accounts, and to find a verdict for the amount of the principal sum and interest then due on such mortgage, calculating interest thereon for six months after the end of the term in which such trial shall be had; and the said Supreme Court shall thereupon give judgment for the same, with full costs: and in case the said mortgager shall neglect to appear and suffer judgment to go against him by default, then the said original mortgage shall be produced in open Court; and the Justices shall cause the amount of the principal, and interest due thereon, to be made up in their presence, allowing interest as aforesaid, and judgment shall be given for the same, with full costs; and execution shall thereupon issue, directed to the Sheriff or his deputy, who shall sell the mortgaged premises, under the restrictions, and in manner and form as hereinbefore specified for the sale of lands taken in execution; and in case the mortgaged premises, when sold as aforesaid, shall not produce sufficient to discharge the amount of the execution and the said charges, the party, on return thereof, may have an alias execution against the mortgager's body, chattel interest, or real estate, for the balance unsatisfied on such execution.

Not to extend where principal

VII. Provided always, that nothing herein contained shall extend, or be construed to extend, to any mortgages wherein

the principal sum shall exceed two hundred pounds, or where any suit has already been brought to foreclose the same; but that such mortgages shall be proceeded on in the usual form, any thing herein contained to the contrary notwithstanding.

sum exceeds  
£200;

VIII. And be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to the sale of houses or lands on which execution shall have been levied, and which may sell for more than the amount of such execution; in which case, the overplus shall be paid in manner and form as hereinbefore is directed, respecting sales of real estates.

Nor to sale of  
houses on which  
execution has  
been levied,  
and may sell  
for more than  
the amount of  
execution.

IX. Provided also, that nothing in this Act contained shall have any force or effect until His Majesty's pleasure therein shall be known.

Suspending  
clause.

\* \* This Act was allowed by His Majesty, 18th August, 1790.

### CAP. X.

An Act to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning Bail, and to prevent frivolous and vexatious arrests.

Amended by 7  
Vic., c. 12—  
Repealed by 12  
Vic., c. 17.

### CAP. XI.

An Act in addition to and amendment of an Act, made and passed in the thirteenth year of His present Majesty's reign, intituled "An Act for establishing the times and places of holding the Supreme Court of Judicature."

This Act altered  
by 35 G. 3,  
c. 7; and 3 W.  
4, c. 12—Re-  
pealed by 12  
Vic., c. 9.

### CAP. XII.

An Act for re-investing His Majesty, for a limited time, with certain tracts of land in the Island of Saint John.

This Act has  
not received  
His Majesty's  
approbation.

### CAP. XIII.

An Act for the trial of actions in a summary way.

WHEREAS the recovery of small sums has heretofore been tedious, and very expensive, by disproportional costs: and whereas the trial of causes in a summary way, so far as the same has been in practice, has been found useful, and a means of determining many suits with little costs:

Supreme Court to proceed in a summary way, in causes not exceeding £20.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, the Justices of His Majesty's Supreme Court of Judicature shall be, and they are hereby empowered, in all actions of debt, case, trover, trespass or detinue (and all other actions wherein the title of Lands shall not be drawn in question), and which shall or may be brought before them, and wherein the sum or damages demanded shall not exceed twenty pounds, of lawful money of this Island, to proceed in a summary way, upon the appearance of both parties, or upon it being proved in open Court, upon oath, by one competent witness, that the defendant had been duly served with the usual process of the said Court; after which the said Court shall proceed to examine the merits of such causes by witnesses (wherein no dilatory plea shall be allowed), and to determine either for the plaintiff or defendant, according to law and equity, and to make up judgment accordingly.

Defendant, on trial, to have benefit of the ordinary forms of law or equity.

II. And be it further enacted, That the defendant or defendants in such actions shall, on the trial or hearing thereof, have the benefit of all matters in his, her or their defence, that he, she or they might have had, if he, she or they had been sued in the ordinary forms of common Law heretofore and now practised in the said Court, or in any court of equity in this Island; and the said Justices are hereby empowered and required so to do.

When the fact may be doubtful, or parties desire it, jury may be sworn to try the same.

III. Provided always, That when, on examination of the witnesses (which is hereby directed to be taken in writing), the matter of fact, from a consideration of the whole evidence, may appear doubtful; or when either of the parties shall desire it, and so elect, the said Court shall, in all such cases, thereupon order the Sheriff or his deputy immediately to summon a jury for the trial of such matter of fact, or, if it be found necessary, appoint a day for such trial: and judgment on the verdict shall or may be entered up and signed for the party in favour of whom the same shall have been given.

Any one Justice of the Court may take the confession of the debtor, and grant execution thereon;

IV. And be it further enacted, That any of the Justices of the said Court, either in term or vacation time, is or are hereby empowered, in all causes of action brought there, where the debt does not exceed twenty pounds, to take the voluntary confession of the debtor for the sum demanded by the creditor, as agreed between the debtor and creditor; and upon such confession so made by the debtor, and the specialty, contract or account on which the said debt arose, being left with the said Justice, and afterwards filed in the Clerk's office of the said Court, together with the whole proceedings, and a record made of the same, such Justice is hereby empowered to order execution thereon, according to such agreement as



shall appear upon the said record to have been made between the parties for stay of execution — such creditor, or his or her attorney, agent or factor, prior to such execution being issued, making oath, that the debt is at the very time, *bona fide* due to him or her—which affidavit shall be, in like manner as aforesaid, filed: and the whole of which said last mentioned proceedings, together with the proceedings which shall or may be had in the said summary actions, shall or may operate in the same manner, in every respect, as if the said actions had been tried as heretofore in the said Court—the said execution to be sued out against the body or goods of the defendant in the suit, at the option of the plaintiff, which, together with the proceedings or *mesne* process in such suit, the Sheriff or his deputy shall execute in like manner as writs heretofore issuing out of the said Supreme Court have or ought to have been executed, and shall be answerable in like manner, as in other cases he may have been heretofore answerable, for neglect of duty.

Creditor or Attorney first making affidavit that the debt is due.

Execution to be against body or goods, at the option of the plaintiff.

V. And be it further enacted, That the whole costs on the said actions so as aforesaid proceeded upon or tried in a summary way, shall not exceed one shilling and sixpence upon each pound so sued for and recovered: and on such confession and record of the same, as is hereinbefore mentioned, together with the said execution and the costs thereof, shall not exceed one shilling in the pound: and the said costs so allowed and directed shall be exclusive of any charge or costs for or attendant on a jury impanelled for the purposes aforesaid; also, the sheriff or his deputy, bailiff's, crier, court-keeper and jailer's fees.

Costs, on trial and recovery, not to exceed one shilling and sixpence in the pound. On confession, one shilling in the pound;

exclusive of Jury, &c.

VI. And be it further enacted, That for the future, no action for any debt, except those hereinbefore particularly mentioned, where the whole cause of action does not exceed five pounds, shall be brought against any person or persons whatsoever in the said Court.

No action for less than £5 to be brought in Supreme Court.

VII. And be it further enacted, That all persons who shall or may be legally served with a ticket, by virtue of a writ of *subpoena*, to give evidence in any summary action, and shall, at the same time, have his, her or their reasonable charges tendered to him, her or them, shall be obliged to appear as therein commanded, and give his, her or their testimony, or in default thereof, be subject to be proceeded against in the said Supreme Court of Judicature, for his, her or their contempt for such neglect; as also to make good the damages that the injured party may have sustained in such action, for want of the benefit of his, her, or their said testimony: and the costs attending such *subpoena* ticket and attendance, (the same to be ascertained and taxed by any one of the said Jus-

Witnesses legally served with *subpoena* to attend and give evidence, or be subject to be proceeded against for contempt, and to make good damages sustained by party injured.

tices,) shall be allowed over and above the several other costs herein before mentioned.

Punishment  
or perjury.

VIII. And be it further enacted, That all persons who shall or may be examined on oath before the said Justices of the said Supreme Court, or any one of them, by virtue of this Act, and who shall commit wilful perjury, and be thereof duly convicted, shall be severally set in and upon the pillory, for the space of one hour, besides having his, her or their ears nailed thereto.

#### CAP. XIV.

An Act to prevent the multiplicity of Law suits.\*

In actions sued upon book accounts, defendant may file account with the Clerk of the Court 7 days before the sitting thereof.

Plaintiff also to be served with a copy.

Both accounts to be inquired into by the same jury.

Actions commenced on bonds, &c., receipts may be filed and proceeded on, as above directed.

See 31 G. 3, c. 1.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That in all Actions, sued on Book accounts, the defendants therein may file their respective accounts against the plaintiffs with the Clerk of His Majesty's Supreme Court of Judicature, or the Clerk of any other Court of Record that now is or which shall or may hereafter be established in this Island, wherein such actions now are or hereafter shall or may be depending: provided the same be filed, and an attested copy thereof be served on the plaintiff or his attorney, at least seven days before the first day of the respective terms of the said Courts: and the said Courts are hereby respectively empowered to proceed, on issue joined, to inquire into the merits of both accounts, before one and the same jury, and on the verdict of the jury, to award costs as they shall find, whether for the plaintiffs or defendants: and where the action shall be commenced on any bond, bill, note, or agreement in writing, the defendant may in like manner file his receipt or discharge for part or the whole, according as he hath made payment; provided such receipt or discharge be in writing, and signed by the plaintiff or his attorney lawfully empowered to receive the same: and the said several Courts are hereby empowered to proceed to examine into the merits of the same, in like manner as in book accounts between plaintiffs and defendants, and equitably to reduce all such bonds, notes, bills, and writings obligatory, to the just debt, with interest, damages and costs, according to the nature of such writing, deed, or instruments: and the jury are hereby empowered to give their verdict accordingly.

\* On this subject, see also 1 W. 4, c. 13.

## CAP. XV.

An Act to empower the Governor, Lieutenant Governor, or Commander-in-Chief for the time being, to appoint a Sheriff or Sheriffs for this Island; also to regulate the office of Sheriffs, and the manner in which they shall return and pass their accounts of all fines and forfeitures levied by them, for the use of the Crown.

Amended by 48  
G. 3, c. 2, and  
7 W. 4, c. 2.

Repealed by 18  
Vic. c. 7.

## CAP. XVI.

An Act for granting the sum of Three hundred and sixty-five pounds, fifteen shillings and tenpence, for the support of His Majesty's Government.

Expired.



ANNO VICESIMO SEPTIMO

# GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-first day of March, *Anno Domini* 1785, in the Twenty-fifth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith.

1786.

W. PATTERSON,  
Lt. Governour.

P. CALLECK,  
President of  
Council.

And from thence continued, by several prorogations, to the eighth day of November, 1786, and in the twenty-seventh year of His said Majesty's reign; being the third Session of the fourth General Assembly convened in the said Island.

A. FLETCHER,  
Speaker.

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## CAP. I.

An Act for setting aside and annulling, at the request of the present proprietors, the sales, &c., of the hereinafter enumerated Lots and shares of Lots of Land within this Island, and for repealing so much of an Act passed in the twenty-sixth year of his present Majesty's reign, intituled "An Act to render good and valid in Law all and every of the proceedings in the years One thousand seven hundred and eighty, and One thousand seven hundred and eighty-one, which in any respect related to or concerned the suing, seizing, condemning, or selling of the Lots or Townships hereinafter mentioned, or any part thereof," as relates to the said Lots or Townships, or half Lots or Townships of Land.

Disallowed by  
His Majesty in  
Council, the 8th  
of August, 1789



ANNO VICESIMO OCTAVO

# GEORGII III. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the twenty-second day of January, *Anno Domini* 1788, in the twenty-eighth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith: 1788.

E. FANNING,  
Lt. Governor.

T. DESBRISAY,  
President of  
Council.

Being the First Session of the Fifth General Assembly convened in the said Island. P. CALLBECK,  
Speaker.

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## CAP. I.

An Act in addition to two several Acts hereinafter in part recited; that is to say, an Act made and passed in the twenty-first year of His present Majesty's reign, intituled "An Act to explain, amend and render into one Act all the Laws now in being for the purpose of making and repairing Highways in this Island;" also an Act made and passed in the twenty-sixth year of His present Majesty's reign, intituled "An Act for altering, amending, and reducing into one Act an Act made and passed in the twenty-fifth year of

Repealed by  
35 G. 3, c. 3.

21 G. 3, c. 5.

26 G. 3, c. 6.

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His present Majesty's reign, intituled 'An Act to alter and amend so much of an Act made and passed in the twenty-first year of His present Majesty's reign, intituled 'An Act to explain, amend and render into one Act, all the Laws now in being for the purpose of making and repairing Highways in this Island,' as relates to the time appointed by said Act for performing Statute Labor, and some further regulations as to the payment and duty of Overseers of the Highways."



ANNO TRICESIMO

# GEORGII III. REGIS.

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1790.

At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-second day of March, *Anno Domini* 1790, in the Thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith :

E. FANNING,  
Lt. Governor.

P. STEWART,  
President of  
Council.

A. FLETCHER,  
Speaker.

Being the first Session of the sixth General Assembly convened in the said Island.

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## C A P. I.

An Act ascertaining the Toll to be taken at the different Grist Mills in this Province.

Amended by 4  
W. 4, c. 3.  
Expired.

## CAP. II.

An Act to establish authenticated copies of the Records of His Majesty's Council of this Province as legal evidence.

Copy of proceedings of his Majesty's Council, relative to titles of lands, properly attested, made legal evidence.

Clerk of the Council to give attested copies of such proceedings.

**W**HEREAS many titles to lands depend on votes, and other proceedings in His Majesty's Council, and become frequently necessary evidence in suits at law: and whereas doubts may arise relative to the admissibility of such evidence; and as the producing the original records in Court is attended with great inconvenience: to remedy the same—Be it enacted, by His Excellency the Lieutenant Governor, Council and Assembly, That hereafter the transcript or copy of any vote or proceedings of His Majesty's Council, relating to the grants or titles of lands, attested as a true and genuine extract from the said records, and signed by the Clerk of the Council, shall be deemed, admitted and received as legal evidence in any cause depending, or that may at any time hereafter be depending, in any of His Majesty's Courts within this Province: and the Clerk of the Council is hereby required and directed, upon the application of any of the parties to the said suits, or their attorneys, to give an exact copy or extract of all such resolutions or proceedings of Council relative to lands, attested and signed by him; and that there shall be paid for the same—for every search one shilling; for every authenticated copy six shillings (if under one hundred words); and for every hundred words above the first hundred, at the rate of one shilling for every hundred words.

## CAP. III.

This Act continued by 26 G. 3, c. 1, for three years.

Expired.

An Act for continuing an Act made and passed in the twenty-sixth year of His Majesty's reign, intituled "An Act to alter, amend and reduce into one Act, an Act made and passed in the twenty-first year of His present Majesty's reign, intituled 'An Act for raising a fund to make and keep in repair the streets and wells of Charlottetown.'"

## CAP. IV.

An Act for repealing so much of an Act made and passed in the twenty-sixth year of His present Majesty's reign, intituled "An Act to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning bail, and to prevent frivolous and vexatious arrests," as relates to the attachment of the goods, chattels or estate of any debtor or debtors. 26 G. 3, c- 10.

WHEREAS the aforesaid Act, so far as the same extends to the attachment of the goods, chattels or estate of any debtor or debtors, has, in its operation, been found, in many instances, injurious and oppressive to the inhabitants of this Island:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted, That from and after the publication hereof, so much of the said Act, intituled "An Act to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning bail, and to prevent frivolous and vexatious arrests," as extends to the attachment of the goods, chattels or estate of any debtor or debtors, be, and the same s hereby repealed. Repealing clause.

II. Provided nevertheless, That this Act shall not extend to affect any suits now depending under the said Act, so as the same are prosecuted without delay. Not to affect suits now depending.

III. Provided also, That nothing herein contained shall be of any force or effect until His Majesty's pleasure is known. Suspending clause.

\* \* This Act has been allowed by His Majesty, dated June 22d, 1796.

## CAP. V.

An Act to empower the Lieutenant Governor to give grants of lands, under the great seal of this Island, to such loyalists and disbanded troops as are in the occupation thereof, by virtue of locations formerly made by the Governor and Council.

WHEREAS in the year one thousand seven hundred and eighty-three, a number of the proprietors of lands in this Island, or their attorneys for them, signed and delivered a paper to the Right Honourable Lord North, at that time one of His Majesty's principal Secretaries of State, of which the following is a copy, *videlicet* :

Copy of tender to Government of lands for the benefit of American loyalists, made by certain land proprietors in this Island.

‘ We the undersigned proprietors of lands in the Colony of Saint John, being informed that many of the loyalists at New York prefer a settlement in that Island to one in Nova Scotia; and being very desirous of encouraging such a preference, and of affording an asylum to those deserving fellow subjects, do engage for ourselves, or as attorneys for others, to grant, as we hold of the Crown, and in the same proportions to each family as the other loyal emigrants receive in Nova Scotia, one fourth of the quantity of lands placed opposite to our names, which they shall receive, upon their arrival at Charlottetown, by application to the Governor in Council: and that they may receive the said lands in the fairest and most impartial manner, we will direct, that the whole be divided by the Surveyor General into parcels, of not less than one thousand acres each, and drawn for by ballot before the Governor and Council. In consideration of the preference expressed by those loyal emigrants, and of the conditions offered by us, we have the fullest confidence, that your lordship will give instructions to the Commander-in-Chief of His Majesty’s forces at New York, to furnish such loyalists as prefer a settlement in Saint John’s, with provisions and transports to carry them to Charlottetown, and every other necessary, such as is given to those who go to Nova Scotia: and that your lordship will also give such instructions to the Governor of Saint John’s, as will place such emigrants, in every respect, on a similar footing with their brethren who settle in Nova Scotia. The undersigned are the more zealous in promoting this measure, as they are persuaded it will greatly advance the prosperity of an infant Colony, which, from its natural and relative situation, is peculiarly adapted to become a permanent and valuable possession to Great Britain. And they confide in your Lordship’s wisdom and equity, that you will obtain for them such an abatement of quit rent, as will place them on an equality with their neighbouring Colonies, and, by that means, remove a cause which may prevent many faithful subjects to this country from emigrating to that Island from the American States, and which has hitherto obstructed the settlement and prosperity of this Colony.’

(Signed)	Edward Lewis,	20,000 acres.
	John Townson,	10,000
	John Stuart,	10,000
	Richard Burke,	15,000
	John Moteux,	20,000
	Robert Mackay,	20,000
	Alexander Anderson,	20,000
	John Patterson,	20,000
	John Patterson, attorney for	
	Walter Patterson,	40,000

John Patterson, attorney for Andrew Todd,	21,000 acres.
John Patterson, for Isaac Todd,	20,000
John Townson, for Charles Pearce,	10,000
Daniel Berreau, for Isaac Panchard,	20,000
Lawrence Sullivan,	80,000
Phillip Stephens,	20,000
Lord Townshend, for acres and gives two thou- sand to a loyalist, who is to draw for it in the mode prescribed above,	20,000
Lord Townshend, for Gen- eral Honeywood,	10,000
Lord Townshend, for the Lord Chief Baron Mont- gomery,	60,000

And whereas, on receipt thereof, the Governor of said Island, by the advice of His Majesty's Council, issued a proclamation, thereby promising all persons of the above description, who should choose to become settlers in the Island of Saint John, certain proportions of the lands so signed for, in the same manner as should be given to them in the neighboring Provinces of Quebec and Nova Scotia: in consequence whereof, a number of those deserving subjects did repair to this Island, and have had, by the orders of the Governor and Council, parts of the aforesaid lands laid out and allotted to them, and have been put in possession thereof, as also made considerable improvements thereon—notwithstanding which, and that years have elapsed, since the said proprietors covenanted and engaged with Government to make conveyances of the said proportions of lands so allotted and laid out to the said settlers, many of them have not yet fulfilled their said engagement, whereby, and in consequence of which, numbers of those who came to this Island returned to the Continent, many more have been deterred from coming, and those who remain are rendered unhappy, from the uncertainty under which they hold their lands:

For remedy whereof, and to promote the settlement and prosperity of this Colony—Be it enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted, That from and after the publication hereof, it shall and may be lawful to and for the Governor, Lieutenant Governor, or other Commander-in-Chief for the time being, to give grants, under the great seal of this

Governor em-  
powered to give  
grants of lands  
to such loyal-  
ists, &c., as are  
now in posses-  
sion thereof.

Island, of such proportions of the aforementioned resigned Lands as are now in the possession of such Loyalists and reduced officers and soldiers, by virtue of, and under the authority of the Governor and Council of this Island, as have not received deeds or grants from the said proprietors.

Suspending  
clause.

II. Provided, That nothing herein contained shall have any effect until His Majesty's pleasure shall be known.

\*.\* This Act received His Majesty's Allowance, July 31, 1793.

## C A P . V I .

An Act for quieting the minds of His Majesty's dissenting Protestant subjects in the Island of Saint John.

WHEREAS a groundless report has prevailed, of an intention upon the part of Government to subject His Majesty's dissenting Protestant subjects to the payment of Tithes, and other rates and taxes, for the support of the Established Church of England :

Dissenters to  
have liberty of  
conscience, &c.

and exempted  
from the pay-  
ment of rates,  
&c.,

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That Protestants dissenting from the Church of England, whether they be Presbyterians, Quakers, or any other denomination whatsoever, shall have free liberty of conscience ; and may erect and build Meeting houses for public worship ; and may choose and elect ministers or pastors for performing divine service, and the administration of sacraments, according to their several opinions : and all contracts made between such dissenting ministers and their congregations, for the support of the ministry, are hereby declared valid, and shall have their full force and effect, according to the tenor and condition of such contracts : and all such dissenters shall be excused, and are hereby exempted and excused, from the payment of any rates or taxes to be made and levied for the support of the Established Church of England in this Island.

suspending  
clause.

II. Provided, That nothing herein contained shall be of any force or effect, until His Majesty's pleasure is known.

\*.\* This Act received His Majesty's allowance, July 31, 1793.

## CAP. VII.

An Act to oblige the respective Proprietors of Lots or Townships of Land, or of parts of Lots or Townships of Land, in this Island, and who have contributed nothing towards the settlement or improvement of this Island, and whose lands lie in a waste and uncultivated state, to pay their proportion of the public charges for the making and repairing of the Highways, Roads and Bridges of the said Island.

\*\* This Act gave a summary power to three Justices of the Peace to assess the Township Lands of Proprietors for the purpose of making and repairing Roads and Bridges, but as the power of the Justices was thereby expressly limited in its exercise to those Townships only in which less than ten persons liable to Statute Labor were resident; and as the inhabitants of the least populous Township in this Island now far exceed that number, the Act has in consequence become inoperative — it is therefore unnecessary to reprint the same.

## CAP. VIII.

An Act for taking special Bail in the country, upon actions depending in His Majesty's Supreme Court of this Province. Repealed by  
12 Vic. c. 17.

## CAP. IX.

An Act to prevent the malicious killing, wounding or maiming of Cattle. Repealed by 12  
Vic. c. 16.

## CAP. X.

An Act to prevent unnecessary expense and delays in certain actions wherein judgments have passed by default. Repealed by  
6 G. 4, c. 5.





ANNO TRICESIMO PRIMO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-second day of March, *Anno Domini* 1790, in the Thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith.

1790.

E. FANNING,  
Lt. Governor.

P. STEWART,  
President of  
Council.

And from thence continued, by several prorogations, to the tenth day of November, 1790, and in the thirty-first year of His said Majesty's reign; being the second Session of the sixth General Assembly convened in the said Island.

J. ROBINSON,  
Speaker.

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### CAP. I.

An Act for admitting persons to swear to their own accounts in certain cases, and for amending certain practical parts of the law, in order to the more easy and speedy attainment of public justice in this Island.

Repealed by 12  
Vic., c. 17.

## CAP. II.

An Act for the more speedy assignment and recovery of dower.

**W**HEREAS certain provisions and directions in the law are become necessary, for the more speedy and less expensive remedy in the recovery of dower, by such persons as are by law dowable of houses, lands, tenements and hereditaments in this Island:

Heir, &c., to render dower within two months next after demand, or

Widow may have writ of *unde nihil habet*, for the recovery thereof.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted, That in all cases where any person or persons whatsoever having the freehold of any houses, lands, tenements and hereditaments within this Island, shall neglect to assign and set out to the widow of the deceased, her just or full third part of such houses, lands, tenements and hereditaments, within two months next after demand shall have been made by her of the person or persons so having the freehold thereof, it shall and may be lawful to and for such widow, to sue for and recover her said dower, by writ of *unde nihil habet*, against such person or persons as hath or have the freehold of such houses, lands, tenements and hereditaments, in the form following, that is to say—

Writ of dower.

‘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 (or Provost Marshal, as the case may be,) of our Island of Saint John, greeting:

‘Command *A. B.* of, &c., that justly and without delay render unto *C. D.*, the wife of *E. F.*, late of, &c., deceased, her reasonable dower, which happens to her of a certain house, &c., (as the case may be) with the appurtenances, situate in, &c., in possession of the said *A. B.*, and which was in the seizin and possession of her said husband, and whereof he was seized in his demesne as of fee, during the coverture, and whereof she hath nothing (as she saith), and the said *C. D.* complains that the said *A. B.* hath deforced her thereof. And unless the said *A. B.* shall so do, then summon the said *A. B.* that be before the Justices of our Supreme Court of Judicature, to be holden at Charlottetown, upon the Tuesday in then and there to shew cause, why to the said *C. D.* her reasonable dower as aforesaid doth not render. And have you then there this writ. Witness, &c., at our Supreme Court of Judicature, the day of in the year of our reign, *Annoque Domini*, *L. M.*, Clerk.

II. And be it further enacted, by the authority aforesaid, That if the defendant does not appear on the return day of said writ, it shall and may be lawful for the plaintiff in the action (the said Sheriff having duly returned the said writ, with his doings thereon), thereafter to enter common appearance for the said defendant, and to proceed thereon, as if the said defendant had actually entered his or her appearance; any law or usage to the contrary notwithstanding: and common bail being duly filed and entered, either by the plaintiff or defendant in the said suit (as the case may be), the plaintiff therein may thereupon file her declaration in the Clerk's office of the said Supreme Court of Judicature, as in other cases.

If the defendant does not appear on the return day of the writ, the plaintiff may file common bail for him, and file declaration, &c.

III. And be it further enacted, by the authority aforesaid, That in case the defendant in such suit do plead to the declaration therein, and judgment be thereupon rendered for the plaintiff to recover her dower in such houses, lands, tenements or hereditaments (whereof her husband had been seized during the coverture,) in that case, as also in the case where judgment shall have been signed for want of a plea, reasonable damages shall be assigned to her from the time her demand of dower shall be proved to have been made of the person or persons so having the freehold of such dowable estate: and thereupon it shall and may be lawful to and for the plaintiff in such suit, to sue out His Majesty's writ of seizin, directed to the Sheriff of the said Island, in manner following, that is to say—

Reasonable damages to be assigned to the widow;

And she may have her writ of seizin for the same.

' GEORGE the Third, by the Grace of God, of Great  
' Britain, France and Ireland, King, Defender of the  
' Faith, &c.

' To the Sheriff (or Provost Marshal, as the case may be,) of  
' our Island of Saint John, greeting:

' WHEREAS *C. D.*, widow, who was the wife of *E. F.*, late  
' of in the Island of Saint John, deceased, before our Jus-  
' tices of our Supreme Court of Judicature, holden at Char-  
' lottetown, on the day of now past, did recover her  
' seizin against *A. B.*, of, &c., of one third part of, &c., with  
' the appurtenances, situate, &c., in the possession of the said  
' *A. B.*, as of her dower of the endowment of the said *E. F.*,  
' her husband, by our writ of dower, whereof she hath nothing:  
' therefore we command you, that to the said *C. D.* full seizin  
' of one third part of the aforesaid, &c., with the appurtenan-  
' ces you cause to be had without delay. We command you  
' also, that of the goods and chattels of the said *A. B.*, within  
' your precinct, you cause to be paid and satisfied unto the  
' said *C. D.*, at the value thereof in money, the sum of, &c.,  
' for damages awarded her by our said Court, for her being  
' held and kept out of her dower aforesaid, and costs expended

Writ of seizin-

‘ on the suit, with more for this writ ; and thereof  
 ‘ also to satisfy yourself your own fees. And for want of  
 ‘ goods and chattels of the said *A. B.*, to be by him shewn un-  
 ‘ to you, or found within your precinct, to satisfy the same, we  
 ‘ command you to take his body, and commit him to the  
 ‘ keeper of our jail in in our County afore-  
 ‘ said, within the said prison ; whom we likewise command to  
 ‘ receive the said *A. B.*, and him safely keep, until he pay unto  
 ‘ the said *C. D.* the full sum above mentioned, and also satisfy  
 ‘ your fees. Hereof fail not, and make return of this writ,  
 ‘ and how you have executed the same, to our said Supreme  
 ‘ Court of Judicature next, to be holden at on  
 ‘ the day of next. Witness Esquire, at our  
 ‘ said Court, the day of in the year of our  
 ‘ reign, *Annoque Domini*,

‘ *A. D.*, Clerk.’

Where no dam-  
 ages shall be  
 assessed, the  
 writ to run only  
 for seizin, &c.,  
 with costs.

IV. Provided nevertheless, and it is hereby further enacted,  
 by the authority aforesaid, That in all cases where no dam-  
 ages shall be awarded to the plaintiff in such suit, for or by  
 reason of her being held or kept out of her said dower, the  
 said writ of seizin shall run only for the recovery of the seizin  
 and possession of the third part of the said dowable estate,  
 and costs of suit.

Dower to be  
 set forth by  
 five freeholders,  
 upon oath ;

V. And be it further enacted, by the authority aforesaid,  
 That the Sheriff to whom such writ of seizin shall or may be  
 directed, is hereby authorized and required, on receipt thereof,  
 to nominate and appoint five discreet persons (being freehold-  
 ers living or inhabiting near unto the place where such houses,  
 lands, tenements and hereditaments shall be,) who shall there-  
 upon repair to the said premises, to set off unto the plaintiff  
 in such suit, by metes and bounds (being previously sworn  
 before a Justice of the Peace faithfully and impartially to do  
 the same, and which oath the said Justice is hereby author-  
 ized and required to administer,) one third part of all such  
 dowable estate ; and the same being duly returned by the  
 Sheriff, the Court wherein the said judgment shall have been  
 given, shall thereupon give final judgment for such plaintiff  
 to hold unto her the said third part of the said allotted pre-  
 mises, in severalty.

and the same  
 being duly re-  
 turned by the  
 Sheriff, the  
 Court may give  
 final judgment.

In what man-  
 ner entire in-  
 heritance shall  
 be assigned.

VI. And be it further enacted, by the authority aforesaid,  
 That of inheritances which shall or may appear to be entire,  
 and whereof no division can by law be made, in such manner as  
 to enable women to be endowed of their due proportion of the  
 thing itself, whereof dower may be demanded, such women  
 may, in lieu of one third part of such dowable inheritance, by  
 metes and bounds, be endowed of one third part of the rents,  
 issues, or profits thereof—the same to be computed and as-

certained by the said five persons hereinbefore directed to be nominated and appointed by the Sheriff for the purpose aforesaid: and all persons endowed as aforesaid of any such houses, lands, tenements and hereditaments, in this Island, and who shall commit or suffer any strip or waste thereupon, are hereby made liable to such action or actions therefor, as tenants in dower are by law liable to, in that part of Great Britain called England.

Widow shall not make strip or waste.

### CAP. III.

An Act for providing pounds in the several Royalties in this Province.

Altered by 11 G. 4, c. 11—  
Repealed by 7 W. 4, c. 23.

### CAP. IV.

An Act to prevent the unnecessary firing off guns, and other fire-arms, in the town and suburbs of Charlottetown.

\* \* \* This Act has been repealed by a law of the City Council of Charlottetown, under the powers vested in said Council, under the Act of Incorporation, 18 Vic., cap. 34, sec. 37.

### CAP. V.

An Act for regulating the fees of Magistrates and Constables\* in certain cases, and for amending an Act made and passed in the sixteenth year of His Majesty's reign, intituled "An Act in addition to and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled 'An Act for the more easy and speedy recovery of small debts.'"

16 G. 3, c. 2.

**W**HEREAS there is no law for regulating the fees of Magistrates and Constables, for issuing and serving criminal process—Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the present session of the General Assembly, it shall and may be lawful for any of His Majesty's Justices of the Peace who shall or may grant any warrant, for the apprehending any person or persons against whom complaint shall or may be made, of any offence (except capital offences) for which a warrant shall be necessary to be granted, shall take and receive the sum of one shilling and sixpence, to be paid by the person complaining: and the said constable shall take, for executing every such warrant, the sum of one shilling, together with travelling charges, the same as is allowed for the service of executions.

Justices of Peace granting warrants for the apprehension of offenders (except capital offences), to receive 1s. 6d. of the complaint.

Constables to be allowed 1s., and travelling fees.

\* \* \* The remainder of this Act being repealed by 2 W. 4, c. 1, s. 1, is not printed.

\* See 19 Vic., caps. 22 and 23.

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**CAP. VI.**

**Repealed by 4** An Act to prevent the running at large of Rams at improper  
**W. 4, c. 5.** seasons.

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**CAP. VII.**

**Amended by 10** An Act for compelling persons owning lands adjoining to each  
**G. 4, c. 5—** other to make their respective parts or proportions of the  
**Repealed by 15** fence between them; and for empowering the Grand Jury  
**Vic., c. 10.** to nominate Fence-viewers.

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**CAP. VIII.**

**Executed.** An Act for emitting certain Bills or Debentures of public  
credit, within this Island.

ANNO TRICESIMO TERTIO

# GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-second day of March, *Anno Domini* 1790, in the Thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith.

1792.

E. FANNING,  
Lt. Governor.

P. STEWART,  
President of  
Council.

And from thence continued, by several prorogations, to the sixth day of November, 1792, and in the thirty-third year of His said Majesty's reign; being the third Session of the sixth General Assembly convened in the said Island.

J. ROBINSON,  
Speaker.

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## CAP. I.

An Act relating to treasons and felonies.

Repealed by 6  
W. 4, c. 22.

## CAP. II.

Disallowed by  
His Majesty in  
Council.

An Act for the rescinding, annulling and making void all and every the proceedings had in the years one thousand seven hundred and eighty, and one thousand seven hundred and eighty-one, which in any respect related to or concerned the suing, seizing, condemning, or selling certain Lots or Townships of land in this Island, hereinafter mentioned, or any of them, or any part thereof.

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## CAP. III.

Expired.

13 G. 3, c. 8.

An Act in addition to and amendment of an Act made in the thirteenth year of His present Majesty's reign, intituled "An Act for the more easy and effectual trial of criminal offenders; also trials of property, or any other suit or suits of what nature or kind soever; and for the ascertaining the qualifications of jurors in trials of such offenders, as also in trials of property, or any other suit or suits of what nature or kind soever."

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## CAP. IV.

Expired.

An Act for continuing sundry laws that are near expiring.



ANNO TRICESIMO QUINTO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the twenty-second day of March, *Anno Domini* 1790, in the thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith:

1795.

E. FANNING,  
Lt. Governor.

P. STEWART,  
President of  
Council.

And from thence continued, by several prorogations, to the Sixteenth day of February, 1795, and in the thirty-fifth year of His said Majesty's Reign; being the fourth Session of the sixth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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### CAP. I.

An Act in addition to and amendment of an Act passed in the twentieth year of the reign of His present Majesty, intituled "An Act for the establishing and regulating a Militia."

Amended by  
37 G. 3, c. 1.  
Expired.

This Act, so far as it can be supposed to be prospective in its operation, is virtually repealed by 7 W. 4, c. 30.

## CAP. II.

### An Act for confirming Titles and quieting possessions.

**WHEREAS** it is deemed expedient, and will tend to promote the speedy settlement and cultivation of this Island, that all *bona fide* purchasers and lessees of lands, tenements and hereditaments, who now have, or hereafter shall have been in the quiet and peaceable possession thereof for the space of seven years, or who have derived their titles from such purchasers, be confirmed in the possession of their said lands:

Purchasers and lessees who have been in peaceable possession of lands for the space of seven years, and all persons claiming under them, confirmed in the same.

Purchasers and lessees under persons in possession for the space of seven years also quieted.

Deeds of Sale by Sheriff also confirmed, notwithstanding defect in form.

Grantees of Crown Lands confirmed, want of Registry notwithstanding.

Not to extend to sales under

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That all persons who now have, or hereafter shall have been in the quiet and peaceable possession of lands in this Island, for the space of seven years, by lease or purchase, and all persons claiming from, by, or under them, be, and they are hereby confirmed in such possession, according to the right, title, or interest intended to be conveyed in and by such leases and conveyances: and that all persons now in possession by lease or purchase from any person or persons who have been in the quiet and peaceable possession thereof for the space of seven years, previous to such lease or sale, shall be, and they are hereby confirmed in the peaceable and quiet possession of their said land in all time coming—any want of registry thereof in terms of an Act intituled *An Act to explain, alter and amend an Act made and passed in the twentieth year of His present Majesty's reign, intituled 'An Act appointing the recording all Deeds of Sale, Conveyances, and Mortgages,'* in anywise notwithstanding.

II. And be it further enacted, by the authority aforesaid, That all deeds of sale of any lands or tenements in this Island, heretofore made by the Provost Marshal, Sheriff or Coroner, or their Deputies, under Writs of Execution to them, or any of them, directed, for the satisfaction of any judgment, and all purchases made in terms of the preceding clause of this Act shall be, and they are hereby confirmed—any want of legal form in such deeds of sale notwithstanding.

III. And whereas there are a number of grantees of Town and Pasture Lots, and other lands from the Crown, who, either from ignorance of the Register Laws or from neglect of the Register Office, have not had their Deeds registered agreeably to the provisions of the said Act—Be it therefore enacted, that all such grants shall be, and they are hereby confirmed; any want of registry of such grants notwithstanding.

IV. Provided always, and it is hereby particularly provided and declared, That nothing herein contained shall extend,

or be construed to extend, to the confirming of titles, or quieting possessions, of any persons claiming by virtue of deeds of sale or conveyances from the Provost Marshal or his Deputy, of certain Lands prosecuted and sold in the year One thousand seven hundred and eighty-one, under an Act intituled *An Act for the effectual recovery of certain of His Majesty's Quit Rents in the Island of Saint John.*

Quit Rent Act  
of 13 G. 3, c. 13

V. And provided also, That all possessors of lands who have been seven years in the quiet and peaceable possession thereof, and whose titles are hereby meant to be confirmed, shall have the same duly proved and registered within ninety days from the publication hereof.

All titles to be  
recorded within  
90 days.

VI. And provided also, That nothing in the preceding clause contained shall be construed to extend to enabling any persons claiming any lands, tenements or hereditaments in this Island, and who have neglected to register their respective deeds according to law, to set up any claim against the present actual possessor, whose title is duly proved or acknowledged, and registered according to law, by now registering the same within ninety days as aforesaid.

Proviso.

VII. And be it also further enacted, That nothing herein contained shall extend, or be construed to extend, to the confirming any error which may have taken place in fixing the Boundaries between the different Lots or Townships in this Island.

Not to extend  
to the confirm-  
ing errors in  
relation to  
Boundaries.

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### CAP. III.

An Act to alter and amend the High road Laws.

Amended by 41  
G. 3, c. 2, and  
43 G. 3, c. 4 ;  
repealed by 3  
W. 4, c. 1.

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### CAP. IV.

An Act for regulating Servants.

Repealed by  
3 W. 4, c. 26.

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### CAP. V.

An Act to prevent the running at large of Geese within the town of Charlottetown.

\* \* This Act has been repealed by a Law of the City Council of Charlottetown, under the powers vested in said Corporation by the Act 18 Vic. cap. 18, sec. 37.

## CAP. VI.

**Executed.**

An Act to repeal an Act intituled "An Act for the publication of all the Laws within this Island, and for recording the same in the Secretary's Office; as also for transmitting the Journals of the Council and House of Assembly into the said office, to the end that no person be ignorant of the Laws of this Island.

## CAP. VII.

**Altered by 3 W. 4, c. 12, s. 6; repealed by 12 Vic. c. 9.**

An Act to alter and amend an Act made and passed in the twenty-sixth year of His present Majesty's reign, intituled "An Act in addition to and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled 'An Act for establishing the times and places of holding the Supreme Court of Judicature.'"

## CAP. VIII.

**26 G. 3. c. 9. See also 7 Vic. c. 13; 12 Vic. c. 2; 23 Vic. c. 7; and 24 Vic. c. 5.**

An Act to alter and amend an Act made and passed in the twenty-sixth year of His Majesty's reign, intituled "An Act for more especially making Lands and Tenements liable to the payment of Debts; and also to enable the holders of mortgages to sell the premises mortgaged to them more speedily and at less expense than heretofore; as also to repeal an Act made in the twenty-first year of His present Majesty's reign, intituled 'An Act making Lands and Tenements liable to the payment of Debts.'"

**W**HEREAS in and by the said Act, Lands and Tenements are made liable to be sold within six calendar months after they shall have been taken in execution; and whereas this provision of the said Act has been found to operate with great severity against debtors: for remedy whereof—

**Lands, &c., hereafter taken in execution, not to be sold in less than two years.**

Be it enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted, That from and after the publication hereof, no lands and tenements hereafter to be taken in execution within this Island, by virtue of the said Act, shall be exposed to sale within less than two years\* after they shall have been taken in execution; any thing in the said Act to the contrary notwithstanding.

\* See Act 24 Vic. cap 5, sec. 8.

## CAP. IX.

An Act to amend an Act made and passed in the twentieth year of His present Majesty's reign, intituled "An Act to prevent trespasses by unruly Cattle and Sheep, and for preventing the running of Hogs at large through the town of Charlottetown. Repealed by  
12 Vic. c. 16.

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## CAP X.

An Act for raising a duty on Wine, Rum, and other distilled Spirituous Liquors, and for imposing a duty on Porter, Ale and Strong Beer. Repealed by  
19 Vic. c. 1.

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## CAP. XI.

An Act for granting the sum of Four hundred pounds for supporting His Majesty's Government in this Island. Executed.

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## CAP. XII.

An Act for ascertaining the standard of Weights and Measures in this Island. Repealed by  
3 W. 4, c. 19.



ANNO TRICESIMO SEXTO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the twenty-second day of March, *Anno Domini*, 1790, in the thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith:

1796.

E. FANNING,  
Lt. Governor.

P. STEWART,  
President of  
Council.

And from thence continued, by several prorogations, to the second day of February, 1796, and in the thirty-sixth year of His said Majesty's reign; being the fifth session of the sixth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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### CAP. I.

An Act for the preservation of Sheep throughout the Island.

Amended by  
39 G. 3, c. 4.  
Expired.

## CAP. II.

Repealed by  
12 Vic. c. 16.

An Act to prevent the robbing of Gardens and Orchards, Potato and Turnip fields, and the throwing down of fences; and for amending an Act made and passed in the twentieth year of His present Majesty's reign, intituled "An Act for preventing trespasses by unruly Horses, Cattle and Sheep, and for preventing the running of Hogs at large through the town of Charlottetown."

## CAP. III.

Repealed by  
14 Vic. c. 18.

An Act to render valid conveyances of Real Estates of married women, by them made, or to be made, during their coverture.

## CAP. IV.

20 G. 3, c. 2.

An Act to explain and amend an Act made and passed in the twentieth year of His present Majesty's reign, intituled "An Act to enable the Proprietors to divide their Lands held in common, and for ascertaining the mode of carrying such division into execution.\*"

**W**HEREAS by the provisions of the above recited Act, no person holding less than one fourth part of a Lot or Township is entitled to apply for a division of the Lot or Township in which his land lies: and whereas, since the date of the said Act, many persons have made purchases of smaller parts of undivided Lots, and are without any legal remedy to procure possession thereof, to the great hindrance of the settlement of the Island, and the manifest injury of such proprietors: To remedy which in time coming—Be it enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted and declared, That from and after the passing hereof, as often as any person holding not less than one thousand acres in a Township, nor less than five hundred acres in a half Township, being desirous to have his or their share or right set off and divided, such person or persons may, and they are hereby empowered, to apply to the Governor in Council, praying a division of such Township or half Township, as the case may be; and the Governor and Council is hereby authorized and required to grant the necessary orders to the Surveyor General

Upon application of persons owning Lands in undivided Townships, &c., Governor and Council to direct Surveyor General to proceed to final division.



for dividing the said undivided Township or half Township, and shall proceed to the final division thereof, agreeable to the mode prescribed by the before in part recited Act.

II. And be it further enacted, That the Surveyor General shall, as far as the same depends on him, be bound to complete the said division within forty days from the date of the Governor's order to him for that purpose, on pain of forfeiting to the proprietor petitioning for such division the sum of ten pounds—to be recovered in the Supreme Court, by bill, plaint or information.

Such division to be completed in forty days.

Penalty on neglect.

### CAP. V.

An Act to prevent disorderly persons from taking and riding or using the horses of others, without their leave or permission.

WHEREAS an unjustifiable practice has lately taken place of riding and using horses without the consent or knowledge of the owners thereof: for remedy whereof—Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted, That from and after the tenth day of March in the present year, all and every person and persons whatsoever, who shall ride or use any horse or horses belonging to any other person or persons, without their consent first had and obtained, shall on conviction thereof before any one Justice of the Peace, forfeit to the party injured the sum of twenty shillings, or suffer fourteen days' imprisonment—the said penalty to be over and above what may be adjudged to be the hire of such horse, during such time as the owner or owners shall be deprived the use thereof, or any damages the injured party may prove to have been sustained thereby.

Persons riding or using the horses of others without their permission, to forfeit 20s. or suffer 14 days' imprisonment.

Mode of recovery.

### CAP VI.

An Act for repealing two several Acts hereinafter mentioned—that is to say, an Act made and passed in the twenty-first year of His Majesty's reign, intituled "An Act for the preservation of highways;" also an Act made and passed in the twenty-fifth year of His present Majesty's reign, intituled, "An Act to explain and amend an Act made and passed in the twenty-first year of His present Majesty's reign, intituled 'An Act for the preservation of highways.'"

Executed.

21 G. 3, c. 16.

25 G. 3, c. 7.

## CAP. VII.

## An Act for appointing Commissioners of Sewers.

Upon applica-  
tion of proprie-  
tors of any  
marsh lands, &c.  
Governor and  
Council author-  
ized to appoint  
Commissioners  
of Sewers.

Their power  
and authority.

Commissioners  
to be sworn and  
paid for their  
trouble.

To whom ac-  
countable.

If no person  
appear to pay  
delinquent  
proprietor's as-  
sessment, Com-  
missioners may

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That upon each and every application of any of the proprietors of any marsh, low lands or meadow, the Lieutenant Governor, or Commander-in-chief, with the advice of His Majesty's Council, may and is hereby authorized, by commission, to appoint such able and discreet persons as to him shall seem meet, to be Commissioners of Sewers—in which commission such Commissioners shall be authorized and empowered to convene and meet together from time to time as occasion may require, to consult, consider and devise means and methods for building, erecting or repairing such dams, dykes and wares, as are or may be necessary to prevent inundations, and for the draining or drowning of marshes, swamps, and other unprofitable lands, and to employ labourers and workmen, for such reasonable wages as may be agreed on for that purpose, and to tax and assess all such persons, from time to time, as shall or may be owners of such marshes, meadows, swamps, or unprofitable lands as aforesaid, for defraying the expense thereof; having regard to the quantity of land of each person, and benefits thereby to be received, as equally as they can, according to their best judgment: and also to appoint and swear a collector or collectors for collecting such assessments, and paying the same to such persons as by said Commissioners shall be appointed; with powers to distrain all such persons as shall neglect or refuse to make payment of his, her or their proportions assessed as aforesaid, in like manner as is usually done in other cases by distress; and to call before them such collector or collectors, to account for his or their trusts in regard to the premises; and likewise to value such repairs as may have been made to such dykes and wares by the proprietors before the date of their said commissions, and to apportion an assessment for the payment thereof, by those who have been, or may be, benefited thereby, in the same manner as if such repairs had been made by their own orders—which said Commissioners shall be sworn to a faithful discharge of their duty, and may receive out of such assessment a reasonable compensation for their trouble, to be allowed by the Governor and Council, to whom such commissioners shall be accountable.

II. And be it further enacted, That if no person shall appear to pay the *quota* or proportion of any delinquent proprietor, in any assessment made as aforesaid, for the dyking or draining such lands, and no sufficient distress shall be found to answer such assessment, the Commissioners of Sewers,

or major part of them, shall, by advertisement, to be posted up on the lands of such delinquent proprietors, give public notice for letting the same; and if no person shall appear to hire the same, it shall and may be lawful for the said commissioners, or the major part of them, by warrant under their hands and seals, to order the Sheriff to sell at public auction, (giving six months previous notice by advertisement) to the highest bidder, so much of such delinquent's lands, so dyked in and drained, as may be sufficient to pay such proportion or *quota* due as aforesaid, with the charges of such sale; and such Sheriff is hereby authorized and directed to execute a good and authentic deed to the purchaser or purchasers thereof, their heirs and assigns.

advertise land to let.

If no person appear to hire, Commissioners may order Sheriff to sell so much land as will pay assessment, &c.

III. And be it further enacted, That in all ordinary cases, either in raising or repairing dykes, or draining lands, each and every owner or possessor of marsh or low lands in this Island, where such Commissioners are appointed, shall, upon receiving six days' notice from the Commissioners, attend, either himself, or provide a sufficient labourer, with proper tools, to work at such time and place as by them shall be appointed, agreeable to the rules and regulations made for that purpose, and according to the quantity or proportion of land belonging to such owner or proprietor: and where it may be necessary to employ oxen and carts, each and every owner or possessor of such lands who have them, shall in like manner be obliged to attend with such oxen and carts for such work, according to the discretion of said Commissioners, or shall forfeit and pay, over and above his tax or assessment, the sum of five shillings for every day's neglect, and so in proportion for oxen and carts—to be recovered in any Court proper to try the same; and the moneys arising from such fines to be paid into the hands of the Commissioners, to be appropriated for repairs of such dykes.

Owners, &c., of marsh, being duly notified, to assist in raising dykes, &c.

Oxen and carts may be employed instead of labourers, at discretion of Commissioners.

Penalty on neglect.

How to be recovered and applied.

IV. And be it also further enacted, That in case of any sudden breach in any dyke, or where the same is likely to be made, or inundation occasioned by high tides, storms, or otherwise, each and every owner or possessor of land within such dykes, shall immediately, on notice given by one or more of the Commissioners, repair to the place directed, with proper tools or teams, to labour and use their utmost endeavours to repair or prevent such breach, and shall continue to work from day to day, so long as the Commissioners of Sewers shall judge necessary; or shall forfeit and pay, over and above their tax or assessment, the sum of ten shillings for each day's neglect, and so in proportion for oxen and carts—to be recovered in manner and applied to the uses aforesaid.

Breaches in dykes, how to be repaired.

Penalty on neglect.

Appeal to Gov-  
ernor in Coun-  
cil.

V. Provided always, That any person aggrieved by any procedure of such Commissioners, may prefer his or their complaint, by way of appeal, to the Governor in Council, for relief, at any time within six months—who are hereby authorized to grant redress, and on any groundless complaint, to tax single costs in favor of such Commissioners.

ANNO TRICESIMO SEPTIMO.

## GEORGIUS III. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-second day of March, *Anno Domini* 1790, in the Thirtieth year of the Reign of our Sovereign Lord GEORGE the<sup>3<sup>d</sup></sup> Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith: 1797.

R. FANNING,  
Lt. Governor.

P. STEWART,  
President of  
Council.

And from thence continued, by several prorogations, to the eleventh day of July, 1797, and in the thirty-seventh year of His said Majesty's reign; being the sixth Session of the sixth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

## CAP. I.

**Expired.**

20 G. 3, c. 1.

35 G. 3, c. 1.

**An Act in addition to and amendment of an Act made and passed in the twentieth year of His present Majesty's reign, intituled "An Act for the establishing and regulating a Militia;" also, an Act made and passed in the thirty-fifth year of His present Majesty's reign, intituled "An Act in addition to and amendment of an Act passed in the twentieth year of the reign of His present Majesty, intituled 'An Act for establishing and regulating a Militia.'"**

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## CAP. II.

**Expired.**

**An Act for continuing sundry laws that are near expiring.**

ANNO TRICESIMO NONO

## GEORGII III. REGIS.

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At the General Assembly of His Majesty's Island of SAINT JOHN, begun and holden at CHARLOTTETOWN, the Twenty-second day of March, *Anno Domini* 1790, in the Thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith: 1798.

E. FANNING,  
Lt. Governor.

P. STEWART,  
President.

And from thence continued, by several prorogations, to the twentieth day of November, 1798, and in the thirty-ninth year of His said Majesty's reign; being the seventh session of the sixth General Assembly convened in the said Island. J. STEWART,  
Speaker.

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### CAP. I.

An Act for altering and changing the name of this Island, from Saint John to that of Prince Edward Island.

**W**HEREAS the name of Saint John, by which this Island hath hitherto been known and called, has from long experience, been frequently found to occasion much prejudice and inconvenience to individuals, as well as to His Majesty's service, by the miscarriage or delay of Government despatches and private letters, and even of merchandize and packages, sent out from England or other distant parts, addressed to persons in this Island, by being carried, through mistake, to

St. John's in Newfoundland, or St. John in New Brunswick, or St. John's on the Labrador coast, or elsewhere; and which miscarriages and delays are likely unceasingly to occur, and most probably to multiply, from an increase of inhabitants, and the consequent more frequent occasion of intercourse between this Island and foreign parts: for prevention whereof in future, as well as to perpetuate (*in omne volubile ævum*) the grateful remembrance of that peculiarly auspicious and happy period, of this Island having been under the command of Lieutenant General His Royal Highness Prince Edward, Commander-in-Chief of His Majesty's forces in the district of Nova Scotia, Islands St. John, Cape Breton and Newfoundland; Knight of the most noble order of the Garter; and of the most illustrious order of Saint Patrick, &c., &c., &c., we, the Lieutenant Governor, Council and Assembly of this Island, in General Assembly convened, most humbly beseech the King's most excellent Majesty that it may be enacted—

The name of this Island changed to Prince Edward Island.

I. And be it enacted, by the Lieutenant Governor, Council and Assembly, and it is hereby enacted by the authority aforesaid, That the name of this Island shall be altered and changed from Saint John's Island to that of Prince Edward Island.

Not to affect any Acts of Parliament, &c., wherein the name of St. John's Island is used.

II. And to the end that no temporary injury or prejudice whatever may result from the change and alteration of the name or appellation of this Island—Be it further enacted, by the authority aforesaid, That all Acts of Parliament and laws of this Island, and all commissions, both civil and military, and all patents, grants, deeds, leases, obligations, recognizances, and all writs and processes in the Courts of Law or Equity, and all other records and writings whatsoever, wherein the name of Saint John's Island now is, or heretofore hath been inserted or mentioned, or to which there is any reference or relation whatever, are hereby declared to be, and shall continue to be, of equal force, power, validity, operation and effect, to all and every intent and purpose whatsoever, as if the name or appellation of this Island had never been altered or changed.

Provision against mistakes occurring from the change of same.

III. And whereas, through mistake, inadvertency, or otherwise, it may so happen, that the name of Saint John's Island, instead of Prince Edward Island, may be written or inserted in some law, commission, patent, grant, deed, lease, obligation, recognizance, writ, process, record, or other writing, which shall or may hereafter be passed, issued, executed, made, done or entered into, in this Island or elsewhere, having reference or relation to the name of this Island—Be it further enacted, by the authority aforesaid, That no such error or mistake as aforesaid, in the name of this Island (provided the same shall



happen within the space of seven years from the passing of this Act, but not afterwards,) shall work any injury or prejudice whatever — but that all and every such Act of Parliament, commission, patent, grant, deed, lease, obligation, recognizance, writ, process, record, or other writing whatsoever, shall notwithstanding be of equal force, validity, operation and effect, to all intents and purposes whatsoever, as if no such misnomer, error or mistake in the name of this Island had ever been made.

IV. Provided, that nothing contained in this Act shall be of any effect, until His Majesty's pleasure is known. Suspended clause.

\* \* This Act received the Royal allowance, February 1st, 1799.

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### CAP. II.

An Act to repeal an Act made and passed in the thirteenth year of His present Majesty's reign, intituled "An Act for indemnifying persons who shall burn small bushes, rotten windfalls, decayed leaves, and all other brush and rubbish, upon the lands and in the woods on this Island." Executed.  
13 G. 3, c. 7.

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### CAP. III.

An Act in addition to and amendment of an Act made and passed in the thirty-sixth year of His present Majesty's reign, intituled "An Act for the preservation of Sheep throughout the Island." Expired.  
36 G. 3, c. 1.

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### CAP. IV.

An Act for continuing sundry laws that are near expiring. Expired.



ANNO QUADRAGESIMO PRIMO

# GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Twenty-second day of July, *Anno Domini* 1790, in the Thirtieth year of the reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith:

1801.

E. FANNING,  
Lt. Governour.

P. STEWART,  
President.

And from thence continued, by several prorogations, to the thirteenth day of July, 1801, and in the forty-first year of His said Majesty's reign; being the eighth Session of the sixth General Assembly convened in the said Island.

J. CURTIS,  
Speaker.

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## CAP. I.

An Act for granting a bounty for growing and cultivating of Hemp in this Island, and for the purpose of exportation. Expired.

## CAP II.

Repealed by 49 G. 3, c. 2.  
35 G. 3, c. 3.

An Act in addition to and amendment of an Act made and passed in the thirty-fifth year of His Majesty's reign, intituled "An Act to alter and amend the high road laws."

## CAP. III.

This Act was passed for three years.

Expired.

An Act to enable the inhabitants of Charlottetown to meet annually on the first Monday in August, to rate and assess themselves, towards making and repairing the pumps and wells within the said town.

## CAP. IV.

An Act for the better regulation of elections.

Repealed by 47 G. 3, c. 3.

\*\*\* The 11 Vic., c. 21, repealing 47 G. 3, c. 3, also re-enacts the repeal of this Act.

## CAP. V.

This and the other Acts on the same subject (20 G. 3, c. 8, and 25 G. 3, c. 1,) repealed, and re-enacted with amendments, by 3 W. 4, c. 10.

An Act to explain and amend the laws of this Island, appointing and directing the recording of deeds of sale, conveyances and mortgages.

\*\*\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic., c. 23 — *quod vide*.

## CAP. VI.

Repealed by 2 W. 4, c. 1.

An Act in further addition to and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled "An Act for the more easy and speedy recovery of small debts."

## CAP. VII.

Expired.

An Act for continuing sundry laws that are near expiring.

## CAP. VIII.

Expired.

An Act appointing William Knox, Esquire, and Thomas Knox, Esquire, to be Colony agents for this Island.

ANNO QUADRAGESIMO TERTIO

## GEORGI II. REGIS.

At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-second day of March, *Anno Domini* 1790, in the thirtieth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith:

1802.

E. FANNING,  
Lt. Governor.

R. THORP,  
President.

And from thence continued, by several prorogations, to the second day of November, 1802, and in the forty-third year of His said Majesty's Reign; being the ninth Session of the sixth General Assembly convened in the said Island.

J. CURTIS,  
Speaker.

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### CAP. I.

An Act for making perpetual certain Laws therein mentioned, and for continuing sundry other Laws that are near expiring.

\*.\* This Act was passed to render perpetual 30 Geo. 3, c. 1, and 35 Geo. 3, c. 5, and for continuing for a limited period, two Acts relating to the Militia—the 30th Geo. 3, c. 1, is repealed by 1 Vic. c. 10; the 35th Geo. 3, c. 5 has been virtually repealed by a law of the City Council of Charlottetown, passed under the powers vested in the said City Council by the Act of Incorporation, 18th Vic. c. 34, sec. 37; and the said two Acts relating to the Militia, although several times revived, have long since expired.

## CAP. II.

13 G. 3, c. 13.

An Act for repealing an Act intituled “ An Act for the effectual recovery of certain of His Majesty’s Quit Rents in the Island of Saint John,” and for the enforcing in future a due and regular payment of the Quit Rents payable to His Majesty, his heirs and successors.”

**W**HEREAS His Majesty has been graciously pleased to relinquish his claims against the proprietors of land in the Island of Prince Edward, on account of arrears of Quit Rent, on condition of their paying, within a limited time, into the hands of the Receiver General of His Majesty’s Quit Rents, a certain proportion of the sums due by them respectively, according to a plan for that purpose, which has been approved by His Majesty :

13 G. 3, c. 13.

And whereas it is highly expedient, that the regular and effectual payment and collection for the future of the Quit Rents reserved and payable to His Majesty, his heirs and successors, should be properly provided for and secured : And whereas the provisions of an Act passed by the Legislature of this Province, on the seventeenth day of October, One thousand seven hundred and seventy-four, intituled “ An Act for the effectual recovery of certain of His Majesty’s Quit Rents in the Island of Saint John,” apply to that part only of the lands in the said Island upon which Quit Rents were then due ; and the said provisions have been found otherwise inadequate to the purposes for which the same were enacted ; and it is therefore necessary that other and more general regulations should be made in that respect—We therefore pray your most sacred Majesty, that it may be enacted, and be it therefore enacted, by the Lieutenant Governor, Council and Representatives, in this present General Assembly met, and by the authority of the same, that immediately from and after the passing of this Act, the said Act intituled “ An Act for the effectual recovery of certain of His Majesty’s Quit Rents in the Island of Saint John,” and every part and clause thereof, shall be, and the same is hereby repealed.

Recited Act  
repealed.

Receiver General may enter, and distrain and sell, for Quit Rents in arrear and unpaid, for more than one year.

II. And be it further enacted, by the authority aforesaid, That if the Quit Rents reserved and due and payable to His Majesty, his heirs and successors, upon any Lots, or parts or shares of Lots, of land, in the said Island, shall at any time after the passing of this Act be in arrear and unpaid for more than one year, it shall and may be lawful to and for the Receiver General of His Majesty’s Quit Rents for the time being, or any person by him for that purpose duly authorized, to enter, in His Majesty’s name, into and upon each and every

of the said Lots, or parts or shares of Lots of land, upon which the Quit Rents shall be so unpaid and in arrear, and to distrain for such Quit Rents; and the distress or distresses on such Lots, or parts or shares of Lots of land, to take, lead, drive, carry away, impound, sell and dispose of, according to the laws and practice of Great Britain, and this Island, not repugnant thereunto, for the recovery of rents.

III. And be it further enacted, by the authority aforesaid, That if no sufficient distress or distresses can or may be had or found upon the premises, to satisfy the Quit Rents so in arrear and unpaid as aforesaid, it shall and may be lawful to and for the Sheriff of the said Island, or his deputy, and he is hereby authorized and required, at the sittings of the Supreme Court next after the entry shall be made into and upon such Lots, or parts or shares of Lots of land, in arrear of Quit Rents as aforesaid, and upon which no sufficient distress or distresses shall be found, to make proclamation of the said Lots, or parts or shares of Lots, so in arrear, with a notification that in case such arrear is not paid within thirty days from the date of such proclamation, application will be made to the said Supreme Court, at their next sitting after the expiration of the said thirty days, for judgment to be passed against each and every of said Lots, or parts or shares of Lots of land, in arrear, and proclaimed as aforesaid: and the said Sheriff or his deputy shall put up at the Court House a notice of such proclamation, signed by him, and shall also publish such notice in the Gazette, for and during the space of one month; and in case no Gazette shall be printed in the said Island, then the said Sheriff or his deputy shall post up, in the usual manner, and in the accustomed places, such notice, in printing or writing, within ten days after such proclamation shall be made as aforesaid.

If no distress sufficient, the Sheriff to make proclamation and notify; if arrear not paid, application will be made to Supreme Court for judgment.

Sheriff to post up notices of the said proclamation.

IV. And be it further enacted, by the authority aforesaid, That the Supreme Court next sitting after the expiration of the space of one month as aforesaid, upon application being made by the Receiver General of the Quit Rents for the time being, and proof upon oath that the proclamation, and the notice and publishing the same, as herein before directed, has been made and given, and also what Quit Rents were due and in arrear at the time of such proclamation, shall, and the Judges thereof are hereby respectively authorized and directed, to give judgment against such Lots, or parts or shares of Lots of land, in arrear as aforesaid, for the Quit Rents then due and in arrear, together with reasonable costs; and shall issue a writ of *fieri facias* thereupon, for such Quit Rents and costs, directed to the Sheriff, or if necessary, to the Coroner, and returnable within a reasonable time into the said Court.

Supreme Court shall, on proof, &c. give judgment against land in arrear, and issue *fieri facias*.

The Sheriff to proceed on the writ, to sell, first giving notice; and make conveyance thereof to the best bidder.

V. And be it further enacted, by the authority aforesaid, That the Sheriff or his deputy, or the Coroner, upon receipt of such writ, shall proceed to attach such Lots, or parts or shares of Lots of land, and shall give notice that he shall proceed to the sale thereof, on a fixed day therein to be mentioned, and not to be less than twenty, nor more than thirty days, from the date of such notice—such notice to be posted and published in like manner as the notice of proclamation is hereinbefore directed to be made—and the said Sheriff or his deputy, or the Coroner, shall proceed to sell the same, the day fixed upon for that purpose, as aforesaid, at public sale or vendue in Charlottetown, and the best bidder shall be deemed the purchaser of such Lots, or parts or shares of Lots of land; and upon the payment of the purchase money, which will be within twenty days after such sale, the Sheriff or his deputy, or the Coroner as aforesaid, shall execute proper and absolute deeds of conveyance therefor, which deeds shall be good and valid, to all intents and purposes, for conveying the same to the purchasers, and their heirs and assigns, for ever, subject in future to the same Quit Rents as before were payable for the said Lots, or parts or shares of Lots of land: provided nevertheless, that if the proprietors of such Lots, or parts or shares of Lots of land, attached as aforesaid, or any person in their behalf, shall at any time between the attachment and the time of sale, pay and discharge the Quit Rents in arrear, and the costs attending the proceedings, such sale shall not take place, and the said Lots, or parts or shares of Lots of land, shall be freed and discharged from the judgment given against the same, as aforesaid—any thing herein contained to the contrary notwithstanding.

Not to be sold if Quit Rent is paid subsequent to the attachment and before the sale.

Sheriff, within 20 days, to pay in the purchase money to the Receiver General.

VI. And be it further enacted, by the authority aforesaid, That the Sheriff or his deputy, or the Coroner, shall, within twenty days after the receipt of the purchase money as aforesaid, pay into the hands of His Majesty's Receiver General the balance thereof, after deducting such costs and charges of proceedings and sale, as shall be taxed and allowed by the Supreme Court.

Receiver General to pay the Quit Rent out of the purchase money and pay the surplus to the proprietors.

VII. And be it further enacted, by the authority aforesaid, That upon the receipt of the balance of the purchase money from the Sheriff or his deputy, or the Coroner, as aforesaid, the Receiver General shall deduct therefrom, and charge himself with so much thereof as shall discharge the Quit Rents due and in arrear upon such Lots, or parts or shares of Lots of land, sold as aforesaid, and shall pay the surplus (if any shall be) to the proprietors, their heirs or assigns, or their attorney or agent, upon the same being legally demanded, without any further charge or deduction whatever: and if any doubt shall arise, who is the real proprietor of the said Lots,



or parts or shares of Lots of land, and entitled to receive the surplus of the said purchase money; or if it shall appear that any person or persons are interested in the said Lots, or parts or shares of Lots, as mortgagees, or other legal incumbrancers, upon the same, or as claiming under any settlement, will, or other instrument in the law, or otherwise legally interested in the land sold, it shall be lawful for the said Court, and the Judges of the said Court are hereby authorized and required, upon application of any person interested as aforesaid, or upon the application of the said Receiver, to summon all such parties, or as many of them as they shall think fit to summon, and the said Receiver, and upon hearing of the matter in a summary way, to make such order therein, for adjusting the said claims, and determining the matter in dispute, and for paying and distributing the said surplus money, as to them shall seem meet, and cause the same to be carried into execution, in the same manner as any order or judgment of the said Court is executed by law: and the said order shall and may be pleaded by the said Receiver General, in bar to any action or suit that may be brought against him, for having acted in obedience to the said order; and the said order shall also be received in evidence on behalf of the said Receiver, in any such action or suit, upon a plea of the general issue.

VIII. And whereas it may happen that proprietors of parts or shares of undivided Lots of land may be willing to pay a just proportion of the Quit Rents payable for the same Lots, and the other proprietors thereof may not be willing to contribute thereto; in order, therefore, to prevent the proprietors who shall be ready to pay a just proportion from being injured by the operation of this Act—Be it enacted, by the authority aforesaid, That, upon application of any proprietor of such parts or shares, or upon application of His Majesty's Receiver General for the time being, to the Supreme Court, setting forth the particular state of the case, it shall and may be lawful to and for the respective Judges of the said Court, to direct a survey to be made, in such manner and by such persons as they shall think fit, of the Lot of land so circumstanced, in which survey the said Lot shall be fairly and impartially divided into such shares, to be held in severalty, as bear a just proportion to the interest which each of the several proprietors thereof shall be previously entitled to, in the said undivided Lots—regard being had, in making such division, to the appropriating to each proprietor the improved land which he before held in such Lot: and the Supreme Court shall order and direct, by an order, to be entered of record in the office of Register of the said Island, which of such shares shall from thenceforth belong to each of the said proprietors in severalty, and subject to what proportion of the said Quit Rent the same shall be held—regard being had, in estimating

If proprietors of parts of undivided Lots are willing to pay, they may apply to the Supreme Court, upon which survey may be made and Lots divided.

such proportions of the Quit Rent, to the nature and quality of the land comprised in each share, before such land was cultivated or improved—and the Supreme Court shall ascertain such proportions, in such manner and by such means as they shall think fit: and the shares so directed, by such order, to be holden by the said respective proprietors in severalty, shall thenceforth be holden by them and their heirs respectively in severalty, chargeable only with so much of the whole Quit Rent, payable for the undivided Lot, as shall be ascertained in the same order; and such respective share of the Lot so holden in severalty, shall be in future chargeable with such proportion only of the Quit Rent, but shall be subject to the like remedies for the payment and recovery of such proportions as are herein provided, with regard to any such undivided and entire Lot of land; and all arrears of the entire Quit Rent which at the time of such order, made as aforesaid, shall be due from the said Lot of land, shall be recovered in the same manner and in the like proportions, from the said respective shares, and the owners thereof.

IX. And whereas it may happen that the tenants of Lots, or parts or shares of Lots, within this Island, may have duly paid their rents to their proprietors of the said Lots, or parts or shares of Lots, or may be ready and desirous to pay the same, at the time of the distress to be taken by virtue of this Act, and it would be extremely injurious to the said tenants, if the distress made upon the said Lots, or parts or shares of Lots, was to be levied of the goods and chattels of the said tenants, in order to discharge the whole of the arrears of Quit Rents due from the said proprietors in respect of such Lots, or parts or shares of Lots—Be it enacted, that it shall and may be lawful for any such undertenant to apply to the Supreme Court, and upon proof of such tenants having paid the rent due from him or them respectively, or upon payment of such part of the rent as shall be in arrear to his landlord and unpaid, to the Receiver General of His Majesty's Quit Rents, towards the discharge of the arrear of the said Quit Rents due, for or on account of the Lots belonging to the landlords of such respective tenants, the goods and chattels, absolutely the property of such tenants, shall not be liable to be distrained or sold; and it shall be lawful for the respective Judges of the Supreme Court, and they are hereby required, on the application of any tenant as aforesaid, to hear and determine the same, in a summary manner, and to make such order therein as the nature of the case may require; and the arrear of rent due to the landlord, which shall be paid by the tenant to the Receiver General of His Majesty's Quit Rents as aforesaid, shall be applied in discharge of the Quit Rents due from the landlord of such tenant; and in case the same shall not be sufficient, the Lot or Lots of every such landlord shall be sold,

Undertenant  
not to be prejudiced by distress for Quit Rent, beyond the sum they owe to their landlords.

in order to make good the deficiency, subject to the lease of the said tenant: provided always, that if such tenant shall offer to pay the arrears of Quit Rent that shall be due, the said Receiver General shall receive the same, and the said tenant shall be entitled to hold the Lot or Lots of land, as against his landlord, as a security for the money so advanced in payment of the arrears of Quit Rent, and to deduct out of his future rent what he shall so pay; but such security, or right to deduct, shall not prejudice any future payments of Quit Rents due to His Majesty, his heirs and successors, or prevent any remedy for recovery thereof.

Tenants paying Quit Rents on account of their landlords, may hold the lands as a security for the money so advanced.

X. And be it further enacted, by the authority aforesaid, That if the Sheriff or his deputy, or the Coroner, shall neglect to comply with the directions of this Act, in respect to the making of proclamation, and giving the proper notices of such proclamation and sale of any Lots, or parts or shares of Lots of land, attached, by virtue of this Act, so that the proprietors be thereby prevented from discharging the same, by paying the Quit Rents due thereupon, such Sheriff or his deputy, or the Coroner, shall forfeit and pay for every default, the sum of fifty pounds, to be recovered in the Supreme Court, and to be to and for the use of the proprietors injured thereby, or such person who shall sue for the same; and shall moreover be liable to answer for any special damages that shall be suffered by any such proprietors, by reason of any such neglect, in any action or suit to be brought with the leave of the Supreme Court.

Penalty on Sheriff or Coroner neglecting to make proclamation, &c.

XI. And whereas many of the proprietors of land in the Island of Prince Edward are resident in Great Britain and Ireland, and cannot conveniently pay their Quit Rents in the said Island—Be it therefore enacted, by the authority aforesaid, That if any proprietors of Lots, or parts or shares of Lots of land in the said Island, residing in Great Britain or Ireland, shall and do, on or before the first day of August next ensuing the passing of this Act, discharge and pay their Quit Rents in arrear, and shall pay their future Quit Rents, annually and regularly in London, to the Receiver General of His Majesty's Quit Rents, or his sufficient deputy, such Lots, or parts or shares of Lots shall not be liable to be proceeded against, as directed by this Act: provided nevertheless, that if such proprietors do neglect to pay their Quit Rents from time to time, for the space of six months after the same shall become due and payable, according to their undertaking as aforesaid, the said Lots, or parts or shares of Lots shall be liable to be proceeded against as herein directed; and the Receiver General of His Majesty's Quit Rents, or his deputy as aforesaid, shall, for that purpose, transmit to the proper officer, in the Island of Prince Edward, within three months from

Proprietors resident in Great Britain or Ireland, may pay their Quit Rents in London;

if done within 6 months after the same shall become due—otherwise their lands shall be proceeded against.

and after the expiration, from time to time, of the said six months, whenever such neglect shall happen, on account of such proprietors who shall so neglect their payments, that the same may be made liable, and be proceeded against accordingly; and such account, so transmitted as aforesaid, shall be conclusive evidence, that the said proprietors have so neglected to pay their Quit Rents, and that the said Lots, or parts or shares of Lots are liable to be proceeded against as herein directed.

\* \* It appears by Governor Smith's proclamation, of 3rd February, 1818, that this Act has received the Royal allowance.

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### CAP. III.

Repealed by 6  
G. 4, c. 3.

An Act to alter and amend an Act made and passed in the twenty-sixth year of His present Majesty's reign, intituled "An Act for the trial of actions in a summary way."

26 G. 3, c. 13.

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### CAP. IV.

Amended by 47  
G. 3, c. 1.

An Act in addition to and amendment of an Act, made and passed in the thirty-fifth year of His present Majesty's reign, intituled "An Act to alter and amend the high road laws."

Expired.

35 G. 3, c. 3.

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### CAP. V.

Repealed by 4  
W. 4, c. 5.

An Act to amend an Act, made and passed in the thirty-first year of His present Majesty's reign, intituled "An Act to prevent the running at large of rams at improper seasons."

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### CAP. VI.

An Act for the better and more effectual establishment of the Church of England in this Island.

**F**ORASMUCH as His Majesty, upon the settlement of this Island, was graciously pleased, in his pious concern for the advancement of God's glory, and the more decent celebration of the divine ordinances amongst us, to grant a sum of money for the purpose of erecting a Church, for religious worship, according to the usage of the Church of England, and which, although not appropriated according to His Majesty's gracious intentions, yet no less gratitude is due to His Majesty, for this manifestation of his gracious intentions in this behalf—In humble imitation of His Royal example, and for the more effectual attainment of His Majesty's pious desires, that we might, in the exercise of religious duties, be seeking for the divine favor and protection :

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the sacred rites and ceremonies of divine worship, according to the liturgy of the Church established by the laws of England, shall be deemed the fixed form of worship amongst us; and the place wherein such liturgy shall be used, shall be respected and known by the name of the Church of England, as by law established: and that for the preservation of unity and purity of doctrine and discipline in the Church, and the right administration of sacrament, no Minister shall be admitted to officiate as a Minister of the Church of England, but such as shall produce to the Governor, Lieutenant Governor, or Commander-in-chief for the time being, a testimonial that he hath been duly licensed by the Bishop of London, or by the Bishop of Nova Scotia, and shall publicly declare his assent and consent to the Book of Common Prayer, and shall subscribe to be conformable to the orders and constitution of the Church of England, and the laws there established; upon which the Governor, Lieutenant Governor, or Commander-in-chief for the time being, is hereby requested to induct the said Minister into any Parish that shall make presentation of him: and if any other person, pretending himself a Minister of the Church of England, shall, contrary to this Act, presume to teach or preach, publicly, or privately, the Governor, Lieutenant Governor, or Commander-in-chief, and His Majesty's Council are hereby desired and empowered to suspend and silence the person so offending.

The liturgy of the Church of England shall be the fixed form of worship.

Place of worship shall be called the Church of England.

No Ministers to officiate, but such as have been licensed, &c.

Governor, &c., to induct Minister into any Parish making presentation.

Governor and Council to suspend and silence pretended Ministers.

II. Provided nevertheless, and it is the true intent and meaning of this Act, that Protestants dissenting from the Church of England, whether they be Calvinists, Lutherans, Quakers, or under what denomination soever, shall have free liberty of conscience,\* and may erect and build meeting houses for public worship, and may choose and elect Ministers for performing divine service and administration of the sacrament according to their several opinions, and according to the provisions of an Act of the General Assembly of this Island, made and passed in the thirtieth year of His present Majesty's reign, intituled "An Act for quieting the minds of His Majesty's dissenting Protestant subjects in the Island of Saint John."

Dissenters to have liberty of conscience.

30 G. 3, c. 6.

\* See 24 Vic., c. 17.



ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Twenty-second day of March, *Anno Domini* 1803, in the Forty-third year of the reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1803.  
E. FANNING,  
Lt. Governour.  
R. THORP,  
President.  
J. CURTIS,  
Speaker.

Being the first Session of the seventh General Assembly convened in the said Island.

## CAP. I.

**This Act has not received the Royal allowance.**

**An Act for effectually revesting in His Majesty, his heirs and successors, all such lands as are or may be liable to forfeiture within this Island.**

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## CAP. II.

**Expired.**

**An Act for the better preventing accidents by fire, and for appointing Fire-wards in Charlottetown, and the suburbs thereof.**



ANNO QUADRAGESIMO SEXTO

# GEORGII III. REGIS.

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**At** the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-second day of March, *Anno Domini*, 1803, in the forty-third year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith: **1805.**  
**J. F. W. DES-BARRES,**  
**Lt. Governor.**

**And** from thence continued, by several prorogations, to the twelfth day of November 1805, and in the forty-sixth year of His said Majesty's reign; being the second session of the seventh General Assembly convened in the said Island.  
**T. DESBRISAY,**  
**President.**  
**J. CURTIS,**  
**Speaker.**

## CAP. I.

Repealed by  
3 W. 4, c. 11.

An Act in addition to and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled "An Act for the more easy and speedy recovery of small debts."

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## CAP. II.

Expired.

An Act for continuing sundry Laws that are near expiring.

ANNO QUADRAGESIMO SEPTIMO

## GEORGII III. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the first day of December, *Anno Domini* 1806, in the Forty-seventh year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith :

1806.

J. F. W. DES-  
BARRES,  
Lt. Governor.

T. DESBRISAY,  
President.

Being the first session of the eighth General Assembly convened in the said Island.

R. HODGSON,  
Speaker.

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### CAP. I.

An Act to alter and amend an Act, made and passed in the forty-third year of his present Majesty's reign, intituled "An Act in addition to and amendment of an Act made and passed in the thirty-fifth year of His present Majesty's reign, intituled 'An Act to alter and amend the High road Laws.'"

Expired.  
43 G. 3, c. 4.

## CAP. II.

Continued by  
subsequent  
Acts.

Expired.

An Act for raising a fund for the purpose of defraying the contingent expenses of the General Assembly of this Island.

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## CAP. III.

Repealed by  
11 Vic. c. 21.

An Act to repeal an Act made and passed in the forty-first year of His present Majesty's reign, intituled "An Act for the better regulation of Elections," and to regulate Elections for Members to serve in General Assembly in future.

ANNO QUADRAGESIMO OCTAVO

## GEORGII III. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the first day of December, *Anno Domini* 1806, in the Forty-seventh year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith: 1808.

J. W. F. DES-  
BARRES,  
Lt. Governor.

C. COLCLOUGH,  
President.

And from thence continued, by several prorogations, to the eighth day of March, 1808, and in the forty-eighth year of His said Majesty's reign; being the second session of the eighth General Assembly convened in the said Island.

R. HODGSON,  
Speaker.

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### CAP. I.

An Act appointing and empowering Philip Codd, of Kensington, Esquire, to be Colony Agent for His Majesty's Island Prince Edward. Expired.

## CAP. II.

26 G 3, c. 15.

Repealed by  
18 Vic. c. 7.

An Act to amend an Act made and passed in the twenty-sixth year of His present Majesty's Reign, intituled "An Act to empower the Governor, Lieutenant Governor, or Commander-in-Chief for the time being, to appoint a Sheriff or Sheriffs for this Island; also to regulate the office of Sheriffs, and the manner in which they shall return and pass their accounts of all fines and forfeitures levied by them, for the use of the Crown," and to indemnify persons claiming under deeds executed by the Deputy, or Under Sheriff of this Island.

## CAP. III.

Amended by  
2 W. 4, c. 6.Repealed by  
12 Vic. c. 18.

An Act for repealing an Act intituled "An Act to prevent the throwing of ballast into rivers and creeks on this Island, and for the empowering the Governor, Lieutenant Governor, or Commander-in-Chief for the time being, to appoint Ballast Masters, and to regulate their duty.

## CAP. IV.

It does not appear that this Act received the Royal allowance.

An Act to alter and amend an Act made and passed in the thirtieth year of his present Majesty's reign, intituled "An Act to oblige the respective proprietors of Lots or Townships of land, or of parts of Lots or Townships of land, in this Island, and who have contributed nothing towards the settlement or improvement of this Island, and whose lands lie in a waste and uncultivated state, to pay their proportion of the public charges, for the making and repairing of the Highways, Roads and Bridges of the said Island."

## CAP. V.

Expired.

An Act to revive two several Acts of the General Assembly of this Island, that have lately expired.

## CAP. VI.

**An Act for raising a fund for defraying the expense of printing the Laws of this Island, and for other purposes therein mentioned.** Expired.

## CAP. VII.

**An Act for raising a fund to make and keep in repair the Pumps, Wells, and Streets of Charlottetown.** Expired.

\*.\* The provisions of this Act may affect Titles to Lands, but are omitted pursuant to Act 12 Vic. c. 23.

For other Acts which have reference to this subject, see note to 26 G. 3, c. 1.

## CAP. VIII.

**An Act to revive two certain Acts of the General Assembly of this Island that have lately expired.** Expired.





ANNO QUADRAGESIMO NONO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the first day of December, *Anno Domini*, 1806, in the forty-seventh year of the reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith: 1809.

J. F. W. DUG-  
BARRES,  
Lt. Governor.  
C. COLCLOUGH,  
President.

And from thence continued, by several prorogations, to the twentieth day of March, 1809, and in the forty-ninth year of His said Majesty's reign; being the third session of the eighth General Assembly convened in the said Island. R. HODGSON,  
Speaker.

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### C A P. I.

An Act for establishing a Meridional Line, to regulate Surveyors in this Colony.

See 9 Vic. c. 20,  
establishing a  
Line running  
east and west.

**W**HEREAS it is highly necessary, to promote accuracy in surveying the lands of this Colony, that a Meridional Line should be established by astronomical observation:

Governor to appoint Commissioners for establishing a Meridional Line.

How to be ascertained.

Surveyors to regulate their instruments thereby.

Surveyors to obtain Certificates of the sufficiency of their instruments.

Variation to be expressed in the Certificate.

Expense of fixing Meridional Line, how to be defrayed.

Executed.

41 G. 3, c. 2.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful to and for the Governor, Lieutenant Governor, or Commander-in-Chief of this Colony for the time being, to nominate and appoint three Commissioners, (of whom His Majesty's Surveyor General of Lands in this Colony shall be one,) for the purpose of establishing a Meridional Line, in manner herein after directed—that is to say, that a Meridional Line, by astronomical observation, shall be properly drawn and ascertained, by correctly fixing three stones, of such sufficient height and dimensions, as will admit a full view from the most northerly stone of the two others in the said line, which stones to have the line accurately marked thereon, together with the variation and year in which the same was done—the said Meridional Line to be fixed in the most convenient place in or near Charlottetown, by the said Commissioners, within six months after the passing of this Act, and by which all Surveyors shall regulate and rectify their several Instruments once in every year at least, and in the presence of the Surveyor General, or of some person by him duly authorized for that purpose, or of one or more of the said Commissioners: and all and every Surveyor of Lands is and are hereby required to demand and obtain from the said Surveyor General, or person authorized as aforesaid, or from one or more of the said Commissioners, a Certificate that the several Instruments of such Surveyor or Surveyors, to be used and employed in surveying, are good and sufficient; and in the certificate so to be granted, shall be set down and expressed the Variation found at the period of making such Certificate so to be granted, which the Surveyor General, or some one or more of the said Commissioners, is and are hereby authorized to do.

II. And be it enacted, by the authority aforesaid, That the expense of establishing and ascertaining a Meridional Line in manner before directed, shall be borne and paid out of the Treasury of this Colony; and that the Governor, Lieutenant Governor, or Commander-in-Chief of this Colony for the time being, by and with the advice of His Majesty's Council, shall have power to draw warrants on the Treasurer of this Island for the time being, for the amount of the aforesaid purposes.

## CAP. II.

An Act to repeal an Act intituled "An Act in addition to and amendment of an Act made and passed in the thirty-fifth year of His Majesty's reign, intituled 'An Act to alter and amend the high road Laws.'"

## CAP. III.

An Act for allowing a further Drawback on Wines, Rum, Brandy, and other distilled spirituous liquors, and a Drawback on Porter, Ale and strong Beer, Sugar and Tobacco, to be exported from this Island. Repealed by  
52 G. 3, c. 4.

## CAP. IV.

An Act appointing the recording of letters or powers of Attorney, in such cases as are therein mentioned. Repealed and  
re-enacted by  
3 W. 4, c. 10.

\*\*\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic., c. 23 — *quod vide*.

## CAP. V.

An Act for continuing sundry Laws that are near expiring. Expired.

## CAP. VI.

An Act for repealing certain parts of an Act made and passed in the fourteenth year of His present Majesty's reign, intituled "An Act for regulating the measure of Boards, and all other kind of lumber, and for appointing officers to survey the same," and for declaring what shall be deemed merchantable timber for exportation. Expired.  
14 G. 3, c. 3.

## CAP. VII.

An Act to repeal an Act made and passed in the twentieth year of His present Majesty's reign, intituled "An Act to enable the Governor, or other Commander-in-Chief, to lease out certain parts of the Common of Charlottetown, rent free, for the space of ten years." Executed.  
20 G. 3, c. 10.

## CAP. VIII.

An Act to confirm the Titles and quiet the possessions and locations, in this Colony, of the American loyal emigrants, and disbanded troops. This Act was  
passed with a  
suspending  
clause, and did  
not receive the  
Royal allow-  
ance.

## CAP. IX.

**Enacted.**

An Act for raising the sum of sixteen hundred pounds, for the purpose of erecting Buildings, for the meeting of the General Assembly, the Supreme Court and its offices, and other public offices, in Charlottetown, and for building two Jails—*videlicet*, one in Prince County and one in King's County, in this Island.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic. c. 23.

ANNO QUINQUAGESIMO

# GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the First day of December, *Anno Domini* 1806, in the Forty-seventh year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith: 1810.

J. F. W. DES-BARRES,  
Lt. Governor.

C. COLCLOUGH,  
President.

R. HODGSON,  
Speaker.

And from thence continued, by several prorogations, to the thirtieth day of July, 1810, and in the fiftieth year of His said Majesty's reign; being the fourth Session of the eighth General Assembly convened in the said Island.

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## CAP. I.

An Act to amend an Act intituled "An Act to prevent the malicious killing, wounding, and maiming of Cattle." Repealed by 12 Vic., c. 16.

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## CAP. II.

An Act for reviving two several Acts of the General Assembly, lately expired. Expired.

## CAP. III.

See 1 Vic., c. 18, and 2 W. 4, c. 11.

An Act to prevent the harboring deserters from His Majesty's navy or army, and for giving a reward for apprehending deserters; and to prevent harboring deserters from ships in the merchant service.

Persons harboring deserters from army or navy, to forfeit £20.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the tenth day of September next, any person harboring, concealing, or assisting any deserter from His Majesty's navy or army, knowing him to be such, the person so offending shall forfeit and pay for every such offence the sum of twenty pounds—one moiety whereof to be paid to the informer, or person by whose means such deserter shall be apprehended, and the residue to be paid to the officer or ship to which such deserter did belong—the same to be recovered by bill, plaint or information, in any Court of Record in this Island, by the oath of one or more credible witness or witnesses.

Sheriffs, constables, officers and soldiers, to apprehend suspected persons, and bring them before Justice of the Peace.

II. And be it further enacted, by the authority aforesaid, That it shall and may be lawful for the Sheriff of this Island or his deputy, or for any constable of the town or place where any person who may be reasonably suspected to be a deserter shall be found, or for any officer or soldier in His Majesty's service, to apprehend, or cause such suspected person to be apprehended, and to bring, or cause him to be brought, before any Justice of the Peace living in or near such town or place, who hath hereby power to examine such suspected person; and if by his confession, or the testimony of one or more witness or witnesses, upon oath, or by the knowledge of such Justice of the Peace, it shall appear, or be found, that such suspected person is a listed soldier, or a sailor belonging to His Majesty's navy, such Justice shall forthwith cause him to be conveyed to the jail of the County, in case there shall be a jail there, otherwise to the jail in Charlottetown, and shall transmit an account thereof to the Governor, Lieutenant Governor, or Commander-in-chief of the Island, or to the commanding officer of His Majesty's troops in the garrison of Charlottetown, to the end that such person may be removed, and proceeded against according to law: and the Sheriff of this Island, and the keeper of every jail or prison in which such deserter shall at any time be confined, shall receive the full subsistence of such deserter during the time he shall continue in his custody, for the maintenance of such deserter, but shall not be entitled to any fee or reward on account of the imprisonment of such deserter; and the keeper of every jail or other prison shall, and he is hereby required, to receive and confine such deserter while on the road from the place where

Any such person appearing to be a listed soldier, or belonging to the navy, to be conveyed to jail, and Justice to transmit an account thereof to Governor, &c.

Sheriff or jailer to receive full subsistence for maintenance of deserter, but to receive no fee for imprisonment.

he was apprehended to the place to which he is to be conveyed, either by warrant of the said Justice, or by order of the Governor, Lieutenant Governor, or commanding officer of the garrison of Charlottetown, and shall not be entitled to any fee or reward on account of the imprisonment of the said deserter, any law or usage to the contrary notwithstanding: provided, that every such deserter from His Majesty's navy shall have previously entered and received His Majesty's bounty.

III. And in order to give every encouragement to His Majesty's subjects in this Island to check a practice disgraceful in itself, and highly injurious to His Majesty's service— Be it further enacted, That the sum of five pounds be paid out of the revenue of this Island, for the apprehension of every deserter, either from His Majesty's navy or army.

Five pounds to be paid for apprehension of deserters from army or navy.

\* \* \* The remainder of this Act, relating to merchant seamen, repealed, and re-enacted, with amendments, by 9 Vic., c. 27.

#### CAP. IV.

An Act for continuing an Act of the General Assembly, made and passed in the forty-seventh year of His present Majesty's reign, intituled "An Act for the purpose of defraying contingent expenses of the General Assembly of this Island."

Expired.

47 G. 3, c. 2.





ANNO  
QUINQUAGESIMO SECUNDO  
GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Tenth day of August, *Anno Domini* 1812, in the Fifty-second year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

Being the first Session of the ninth General Assembly convened in the said Island.

1812.

J. F. W. DES-  
BARRES,  
Lt. Governor.

C. COLCLOUGH,  
President.

R. BRECKEN,  
Speaker.

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CAP. I.

An Act appointing Commissioners for expediting the printing of the Laws of this Island. Executed.

## CAP. II.

- Expired. An Act for reviving an Act of the General Assembly lately expired, intituled "An Act for repealing certain parts of an Act made and passed in the fourteenth year of His present Majesty's reign, intituled 'An Act for regulating the measure of boards, and all other kind of lumber, and for appointing officers to survey the same,' and for declaring what shall be deemed merchantable timber for exportation."

## CAP. III.

- Expired. An Act to continue and amend an Act intituled "An Act appointing and empowering Philip Codd, of Kensington, Esquire, to be Colony agent for His Majesty's Island Prince Edward."

## CAP. IV.

- 25 G. 3, c. 4.  
35 G. 3, c. 10.  
This Act is repealed by 19 Vic., c. 1.
- An Act to alter and amend two several Acts of the General Assembly of this Island, *videlicet*, an Act intituled "An Act to amend, render more effectual, and reduce into one Act, the several laws made by the General Assembly of this Island, relative to the duties of Impost on wines, rum, brandy, and other distilled spirituous liquors, and for allowing a drawback on all wines, rum, brandy, and other distilled spirituous liquors exported from this Island:" and an Act intituled "An Act for raising a duty on wine, rum and other distilled spirituous liquors, and for imposing a duty on porter, ale, and strong beer."

## CAP. V.

- Expired.  
35 G. 3, c. 1.  
37 G. 3, c. 1.
- An Act for reviving two several Acts of the General Assembly lately expired, *videlicet*, an Act made and passed in the thirty-fifth year of His present Majesty's reign, intituled "An Act in addition to and amendment of an Act passed in the twentieth year of the reign of His present Majesty, intituled 'An Act for the establishing and regulating a Militia'"—and an Act made and passed in the thirty-seventh year of the reign of His present Majesty, intituled "An Act in addition to and amendment of an Act made

and passed in the twentieth year of His present Majesty's reign, intituled 'An Act for the establishing and regulating a Militia;' also an Act made and passed in the thirty-fifth year of His present Majesty's reign, intituled "An Act in addition to and amendment of an Act passed in the twentieth year of the reign of His present Majesty, intituled 'An Act for the establishing and regulating a Militia.'"

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CAP. VI.

An Act for raising a fund to make and keep in repair the pumps, wells and streets of Charlottetown, and for other purposes therein mentioned.

Continued by  
57 G. 3, c. 1,  
6 G. 4, c. 9,  
8 G. 4, c. 11,  
10 G. 4, c. 17.  
Repealed by 4  
W. 4, c. 11.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic., c. 23. For other Acts which have reference to the same subject, see note to 26 G. 3, c. 1.

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CAP. VII.

An Act for continuing an Act of the General Assembly, made and passed in the forty-seventh year of His present Majesty's reign, intituled "An Act for the purpose of defraying contingent expenses of the General Assembly of this Island."

Expired.  
47 G. 3, c. 2.



ANNO  
QUINQUAGESIMO QUARTO  
GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Tenth day of August, *Anno Domini* 1812, in the Fifty-second year of the reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1813.

C. D. SMITH,  
Lt. Governor.

T. TREMLETT,  
President.

J. CURTIS,  
Speaker.

And from thence continued, by several prorogations, to the fifteenth day of November, 1813, and in the fifty-fourth year of His said Majesty's Reign; being the second Session of the ninth General Assembly convened in the said Island.

## CAP. I.

**Repealed by 7 Vic., c. 6.**    **An Act for better preventing accidents by fire within Charlottetown, and the suburbs thereof.**

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## CAP. II.

**Executed.**    **An Act in addition to and amendment of an Act for expediting the printing of the Laws of this Island.**

ANNO QUINQUAGESIMO SEPTIMO

## GEORGE III. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the tenth day of August, *Anno Domini* 1812, in the Fifty-second year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith: 1817.

C. D. SMYTH,  
Lt. GOVERNOR.

T. TREMLETT,  
President.

And from thence continued, by several prorogations, to the eighth day of July, 1817, and in the fifty-seventh year of His said Majesty's reign; being the third session of the ninth General Assembly convened in the said Island.

J. CURTIS,  
Speaker.

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### CAP. I.

An Act to continue an Act intituled "An Act for raising a fund; to make and keep in repair the pumps, wells and streets of Charlottetown, and for other purposes therein mentioned." 52 G. 3, c. 6.  
Expired.

## CAP. II.

Repealed by  
3 W. 4, c. 27.

20 G. 3, (2d  
sess.) c. 4.

An Act to alter and amend an Act made and passed in the twentieth year of His present Majesty's reign, intituled "An Act to prevent the cutting of pine or other trees, without permission of the proprietor, and to prevent the cutting down and destroying of fences."

## CAP. III.

An Act to enable Creditors more easily to recover their debts from Copartners and Joint Debtors.

When one or more joint debtors are absent out of the Island creditors may proceed to recover their debts by *mesne* process, against all the joint debtors—May be served on such defendants as are within the Island.

**W**HEREAS Copartners, and other persons, often contract debts jointly, and some of such joint debtors being resident out of the Island, or absent from it, the recovery of such debts is thereby delayed and impeded: For remedy whereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, That where copartners or others are or shall become jointly indebted by specialty or simple contract, to any person or persons, and any one or more of such joint debtors shall be absent or resident out of the Island, the creditor or creditors in all suits, in such cases hereafter to be instituted, may proceed to recover such debts by purchasing out of the Supreme Court a writ or writs of *mesne* process against all the said copartners or joint debtors, which shall be served in the usual manner upon such of the defendants as shall be within the Island; and which process so served shall be deemed as good and effectual, to all intents and purposes, as if the same had been served on all the said copartners or joint debtors.

If the names of any joint debtors are omitted in the writ, or any within the Island not served with same, Court may abate the writ, or stay proceedings.

II. Provided always, and be it enacted, That if it shall be made appear to the said Court, by affidavit or plea in abatement, that the names of any of the said copartners or joint debtors are omitted in the writ, or that any of them who were in the Island at the time of issuing such *mesne* process, as aforesaid, have not been duly served with the same in the usual manner, it shall be lawful for the Court to abate the writ, or to stay the proceedings, as the case may require, any thing herein contained to the contrary notwithstanding.

Plaintiff may file declaration against such joint debtors as have been served with

III. And be it further enacted, That in all cases as aforesaid, the plaintiff or plaintiffs may file his, her, or their declaration against such of the copartners or joint debtors as have been duly served with *mesne* process, and may suggest in the said declaration that the other copartners or joint debtors



[*naming them*] were absent out of the Island, and without the jurisdiction of the Court at the time of issuing the process, and at the time of filing such declaration; and thereupon the plaintiff or plaintiffs may proceed, according to the usual practice of the Court, to obtain judgment against the said copartners or joint debtors, who have been so duly served with process, in the same manner as is practised in England against a defendant whose copartner and joint debtor has been outlawed.

*mesne* process, and may there-  
after proceed to judgment, as is practised in England against a defendant whose joint debtor has been outlawed.

IV. And be it further enacted, That it shall and may be lawful for the plaintiffs, after judgment recovered as aforesaid, to take out a writ called a Statute Execution, and levy the amount on the goods and chattels, lands and tenements, the joint or separate property of the said Copartners, or to take the person or persons of the said joint debtors, or either of them, in satisfaction of the same: and provided always, that if any such defendant shall make affidavit, that it is necessary for him to receive instruction or information respecting such suit from his absent partner or joint debtor, and that he cannot safely proceed to the trial of the cause without communication with the said absentee, and that he is not seeking for delay only, it shall be lawful for the Court on application grounded on such affidavit, or other sufficient cause shewn by affidavit, to grant to the defendant or defendants such a reasonable imparlance as is allowed in common cases.

After judgment plaintiff may take out execution and levy the amount on the joint or separate property of said debtors, or take their persons in satisfaction of the same.

Court may grant imparlance.

V. And be it further enacted, That if any copartner or joint debtor, being absent as aforesaid, and not served with *mesne* process, shall come into the Island before the final determination of the suit against his copartner or joint debtor, and shall apply to the Court to be admitted to appear and defend the action, the Court shall admit him accordingly, and shall cause such amendment to be made in the proceedings as may be required to make the same regular and consistent.

If any joint debtor shall come into the Island before final determination of suit, he may be admitted to appear and defend the same.

VI. And be it further enacted, That if any such absent debtor or copartner shall come into the Island after final judgment given in any such cause, it shall be lawful for the plaintiff or plaintiffs, in case he or they shall not have received full satisfaction on such judgment, to sue out a *scire facias* against such last mentioned copartner or joint debtor, requiring him to appear and shew cause why execution should not be had against his person, or against his goods and chattels, lands and tenements, to satisfy the said judgment, or whatever may remain due thereon; and such defendant shall be allowed to plead either in bar to the original suit, or in answer to the said *scire facias*; and thereupon the Court shall proceed to try and determine the same, and to give judgment as in other causes instituted by such writ.

If joint debtor come into Island after final judgment, plaintiff, who has not received full satisfaction may sue out *scire facias* against him.

Defendant may plead either in bar to original suit, or in answer to *scire facias*.

Nothing herein  
to prevent pro-  
ceedings  
against absent  
debtors, under  
Act of 20 G. 3,  
c. 9.

Duration of  
Act.

VII. And be it further enacted, That nothing herein contained shall be construed to affect or prevent any proceeding which may or shall hereafter be instituted against any absent or absconding debtor, pursuant to the Act in such case made and provided.

VIII. And be it further enacted, That this Act shall continue and be in force for the space of three years from the passing thereof, and from thence to the end of the next session of the General Assembly.\*

\* This Act was further continued for five years by 1 G. 4, c. 2, and made perpetual by 6 G. 4, c. 1.

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#### CAP. IV.

Repealed by  
11 Vic. c. 31.

An Act to regulate the admission of Barristers, Attorneys and Solicitors.

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#### CAP. V.

Repealed and  
re-enacted with  
amendments,  
by 1 G. 4, c. 3.

An Act for repealing certain parts of an Act made and passed in the fourteenth year of His present Majesty's reign, intituled "An Act for regulating the measure of boards, and all kind of lumber, and for appointing officers to survey the same;" and for declaring what shall be deemed merchantable timber for exportation.

ANNO QUINQUAGESIMO NONO

## GEORGI II. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the third day of November, *Anno Domini* 1818, in the Fifty-ninth year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith: 1818.

C. D. SMYTH,  
Lt. Governor.

T. TREMLETT,  
President.

Being the first session of the tenth General Assembly convened in the said Island.

A. MACAULAY,  
Speaker.

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### CAP. I.

An Act for raising a fund to build Jails and Court Houses, and for appointing Commissioners to carry the same into effect.

Passed with a suspending clause, and did not receive the royal allowance

## CAP. II.

An Act to prevent Acts of the General Assembly from taking effect from a time prior to the passing thereof.

**W**HEREAS every Act of the General Assembly, in which the commencement thereof is not directed to be from a specific time, doth commence from the first day of the session of the General Assembly in which such Act is passed; and whereas the same is liable to produce great and manifest injustice: for remedy whereof—Be it enacted, by the Lieutenant Governor, Council and Assembly, That the Clerk of the Council shall endorse in English, on every Act of the General Assembly which shall pass after the third day of November, One thousand eight hundred and eighteen, immediately after the title of such Act, the day, month and year when the same shall have passed, and shall have received the Governor, Lieutenant Governor, or Commander-in-Chief's assent; and such endorsement shall be taken to be a part of such Act, and to be the date of its commencement, where no other commencement shall be therein provided.

Clerk of Council to endorse on every Act the day, month and year when the same shall receive the Governor's assent, which shall be the date of its commencement

## CAP. III.

An Act to limit the duration of the Terms of the Supreme Court of Judicature, and for other purposes therein mentioned.

Repealed by 12 Vic. c. 9.

## CAP. IV.

An Act to enable the Justices of the Supreme Court of Judicature to issue Commissions for examining Witnesses out of this Island.

See Acts 9 G. 4, c. 6; 5 W. 4, c. 4.

Justices of Supreme Court to issue Commissions for taking depositions of witnesses residing out of this Island.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That in all civil causes which may, at any time after the passing of this Act, be depending and at issue in the Supreme Court of Judicature of this Island, in which either party shall be desirous to take the depositions of witnesses residing out of this Island, to be read as evidence in such causes, it shall and may be lawful for the said Court, in term time, or for any one of the Justices of the same, in vacation, upon sufficient cause being shewn, by affidavit made by or on the behalf of the party desiring the same, to authorize the issuing of a Commission under the seal of the said Court, for taking such depositions, in such manner, and under such rules, res-

trictions and regulations, as the said Court, by any rules and orders for that purpose, shall direct and appoint: and such depositions so taken shall be read in evidence as depositions taken *de bene esse* at the trial of such causes; and the costs attending the issuing such commissions and taking such depositions shall be taxed, and shall be paid by the party who shall afterwards discontinue any such suit, or against whom any final judgment therein shall be given: provided that the Judge or officer taxing such costs shall be of opinion that such commission was necessarily issued, and that the depositions taken thereunder were material to the matter in issue, in favor of the party who desired the same—but if otherwise, such costs shall be paid by the party obtaining the commission.

Depositions so taken to be read as evidence *de bene esse*.

Costs to be taxed and paid by the party discontinuing or losing suit;

if otherwise, to be paid by party obtaining commission.

II. And be it further enacted, That this Act shall remain and be in force for and during the term of five years from and after the passing thereof, and no longer.

Continuance of Act.  
Made perpetual by 9 G. 4, c. 6.

#### CAP. V.

An Act for regulating Juries, and further declaring the qualifications of Jurors.

Continued by subsequent Acts.  
Repealed by 5 Vic., c. 6.

#### CAP. VI.

An Act to amend and repeal certain parts of an Act intituled “An Act to repeal an Act made and passed in the forty-first year of His present Majesty’s reign, intituled ‘An Act for the better regulation of elections;’ and to regulate elections for members to serve in General Assembly in future.”

Passed with a suspending clause, and did not receive the Royal allowance.

#### CAP. VII.

An Act to regulate the sale of the interest of leaseholders when taken in execution.

Continued and amended by 8 G. 4, c. 7, which is continued by 2 Vic., (2d session) c. 4—Repealed by 15 Vic., c. 5,

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 23 Vic., c. 10.

#### CAP. VIII.

An Act for the better regulation of merchant seamen; and to repeal part of an Act passed in the fiftieth year of His present Majesty’s reign, intituled “An Act to prevent the harboring deserters from His Majesty’s navy or army, and for giving a reward for apprehending deserters; and to prevent harboring deserters from ships in the merchant service.”

Repealed by 7 W. 4, c. 3; also by 7 Vic., c. 8; and by 9 Vic., c. 27.

## CAP. IX.

## An Act for barring Estates tail.

Re-enacted and confirmed by 19 Vic., c. 9.

See 10 G. 4, c. 4

Deeds made and executed by tenant in tail, acknowledged before Chief Justice, &c., shall be valid in law,

to pass all estate, right, title, &c., of the party to such deed.

as if the party so granting or conveying, had levied a fine with proclamation, or suffered a common recovery of such lands, &c., according to the laws of England.

Proviso,

where deed of conveyance shall be executed by *baron* and *feme*, to be acknowledged in manner provided by 36 G. 3, c. 3,

and to be as valid in law as if the same had been made by *feme sole*.

All deeds, &c., how to be ex-

WHEREAS there is no law in this Island whereby estates tail, or in reversion or remainder, may be barred, or defeated, or enlarged into estates in fee simple, other than by levying fines, or by suffering common recoveries, the process of which, and of making and executing deeds to lead to the uses, or to declare the uses of such recoveries, are attended with heavy expense, and with delays that are often injurious:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly of this Island, and by the authority of the same, That a deed in due form of law made and executed, of any lands, tenements or hereditaments within this Island, by any tenant in tail, acknowledged before the Chief Justice, or any of the assistant Judges of the Supreme Court of Judicature of this Island, shall, to all intents and purposes, be as effectual and valid in the law, to pass all estate, right, title, interest, and claim of the party to such deed in or to such lands, tenements and hereditaments, by such deed granted, conveyed, or made over to the grantee or bargainee, in such deed made over, his heirs and assigns, and to defeat, extinguish, cut off and destroy all estates tail, remainders and reversions, touching and concerning such lands, tenements and hereditaments, as if the party so granting or conveying had levied a fine with proclamations, or suffered a common recovery of such lands, tenements and hereditaments, according to the laws of England, duly levied in the Court of Common Pleas at Westminster, with deeds properly executed to lead the uses, or declare the uses of such fine or recovery of lands, tenements and hereditaments lying and being in England: provided always, that where such deed of conveyance shall be executed by *baron* and *feme*, of any lands, tenements and hereditaments as aforesaid, then the same shall be acknowledged in the form and manner provided by an Act of the General Assembly of this Island, of the thirty-sixth year of His present Majesty's reign, intituled "An Act to render valid conveyances of real estates of married women, by them made, or to be made, during their coverture;" and such deed of conveyance so acknowledged shall be as good and valid in law as if the same had been made by a *feme sole*, or as if such married woman had joined in levying a fine according to the law and practice in that behalf made and used in that part of Great Britain called England, and shall effectually bar her dower in such lands, tenements and hereditaments.

II. And be it further enacted by the authority aforesaid, That all deeds in due form of law made and executed in Great

Britain or Ireland, or in any of His Majesty's Colonies, of any lands, tenements and hereditaments in this Island, by tenant in tail, and acknowledged within three months of the time of executing the same, before any one of the Justices of the Court of Common Pleas in England or Ireland, or any one of the Lords of Session in Scotland, or any Chief Justice or assistant Justice of the Supreme Court in the Colonies, shall be as effectual and valid in the law to pass all estate, right, title, interest, and claim of the party to such deed, in or to such lands, tenements and hereditaments by such deed or conveyance granted, made over, or conveyed, to the grantee or bargainee in such deed made over, and his heirs and assigns, and to defeat, extinguish, cut off and destroy all estates tail, remainders or reversions, touching or concerning such lands, tenements and hereditaments, as if the party so granting and conveying had levied a fine with proclamations, or suffered a common recovery of such lands, tenements and hereditaments, according to the laws of England, duly levied in the Court of Common Pleas at Westminster, with deeds properly executed to lead the uses, or declare the uses of such fine or recovery of lands, tenements and hereditaments lying and being in England: provided always, that when such deed of conveyance shall be executed by *baron* and *feme* in Great Britain or Ireland, or in any of His Majesty's Colonies, of any lands, tenements and hereditaments as aforesaid, then the same shall be acknowledged in the form provided by the aforesaid Act of the General Assembly of this Island, made and passed in the thirty-sixth year of His present Majesty's reign, intituled "An Act to render valid conveyances of real estates of married women, by them made, or to be made, during their coverture;" and such acknowledgment may be taken within three months of the time of executing the same, before any one of the Justices of His Majesty's Court of Common Pleas in England or Ireland, or any one of the Lords of Session in Scotland, or any Chief Justice or assistant Justice of the Supreme Court in the Colonies, or any Justice of the Peace in Great Britain or Ireland, or the Colonies; and such deed of conveyance so acknowledged shall be as good and valid in the law as if the same had been made by a *feme sole*, or as if such married woman had joined in levying a fine according to the law and practice in that behalf made and used in that part of Great Britain called England, and shall effectually bar her dower in such lands, tenements and hereditaments.

executed and acknowledged by tenant in tail out of this Island.

Proviso.

36 G. 3, c. 3,

III. And be it further enacted, by the authority aforesaid, That no deed or instrument, executed as aforesaid, shall have any force or effect, excepting against the party granting it, until the same, or a memorial thereof, shall be duly registered in the proper office for registry of deeds within this Island.

Deed or instrument executed as aforesaid to be registered.





ANNO PRIMO

# GEORGII IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE 1820.

EDWARD, begun and holden at CHARLOTTETOWN, the twenty-fifth day of July, *Anno Domini*, 1820, in the first year of the Reign of our Sovereign Lord GEORGE the Fourth by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

C. D. SMITH,  
Lt. Governor.

T. TREMLETT,  
President.

Being the first session of the eleventh General Assembly convened in the said Island.

A. MACAULAY,  
Speaker.

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## CAP. I.

An Act for more effectually securing the title of purchasers and incumbrancers of real estates against claims of dower.

Disallowed by  
His Majesty in  
Council, 9th  
June, 1821.

## CAP. II.

This Act of 57 G. 3, c. 2, continued by this Act, is made perpetual by 6 G. 4, c. 1.

An Act to continue an Act to enable creditors more easily to recover their debts from copartners and joint debtors.

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## CAP. III.

Continued by 6 G. 4, c. 2; 3 W. 4, c. 6; and 4 Vic, c. 11.

Expired.

An Act to regulate the measurement of ton timber, boards, and all other kinds of lumber, and to repeal two certain Acts made and passed in the fourteenth and fifty-seventh years of His late Majesty's reign; and also for declaring what shall be deemed merchantable, and for appointing officers to survey the same.

ANNO QUINTO

## GEORGE IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifteenth day of January, *Anno Domini*, 1825, in the fifth year of the reign of our Sovereign Lord GEORGE the Fourth, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1825.

J. READY,  
Lt. Governor.

C. WORRELL,  
President.

Being the first session of the twelfth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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### CAP. I.

An Act to establish a reward for the killing of Bears and Loupcerviers. Expired.

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### CAP. II.

An Act for the preservation of Oysters.

Expired.

## CAP. III.

- Continued by** 9 G. 4, c. 2. **Expired.** An Act to amend certain parts of an Act intituled "An Act for preventing trespasses by unruly horses, cattle and sheep, and for preventing the running of hogs at large through the town of Charlottetown," by the appointment of hog reeves.
- 

## CAP. IV.

- Executed.** An Act for the relief of Michael Burke, an insolvent debtor.
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## CAP. V.

- Expired.** An Act for the encouragement of Education in the different Counties and Districts in this Island.
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## CAP. VI.

- Recited Act 59** G. 3, c. 4, made perpetual by 9 G. 4, c. 6. **Expired.** An Act to revive and continue an Act intituled "An Act to enable the Supreme Court of Judicature to issue Commissions for the examining witnesses out of this Island.
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## CAP. VII.

- Further continued by** 9 G. 4, c. 2. **Expired.** An Act to continue an Act intituled "An Act for regulating Juries, and further declaring the qualifications of Jurors.
- 

## CAP. VIII.

- Amended by** 9 G. 4, c. 7; **repealed by** 3 W. 4, c. 27. **Expired.** An Act to prevent the running at large of boar pigs, and to restrain swine from going at large without rings.
- 

## CAP. IX.

- Repealed by** 5 Vic. c. 12. **Expired.** An Act to prevent the using or taking away boats, flats or canoes, without the consent of the owners.
- 

## CAP. X.

- Continued by** 9 G. 4, c. 2. **Expired.** An Act to prevent the destruction of sheep by dogs.

## CAP. XI.

An Act to regulate the duties and charges of Pilots within this Island.

Continued by  
11 G. 4, c. 1;  
repealed by 7  
W. 4, c. 19.

## CAP. XII.

An Act to regulate the Fisheries of this Island.

WHEREAS the great advantages to be derived from the Fisheries of this Island have been hitherto neglected, and merchants and others discouraged from engaging in the same, through the want of such laws and regulations as are expedient for the conducting and carrying on of such Fisheries :

Continued by 9  
G. 4, c. 2; 2 Vic.  
(1st Sess.), c. 2,  
and 15 Vic. c. 1.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That no person or persons whatsoever shall employ, or cause to be employed, in this Island, or the dependencies thereof, for the purpose of carrying on the Fishery, any seaman, fisherman, or other servant, without first entering into a written agreement or contract with every such seaman, fisherman, or other servant, declaring what wages or shares such seaman, fisherman, or other servant is to have, and the time for which he shall serve, and in what manner such wages or shares are to be paid or allowed; and in all cases where disputes shall arise concerning the wages or shares of any such seaman, fisherman or other servant, the hirer or employer shall be obliged to produce such contract or agreement, and also at the time of entering into such contract to give a copy thereof to every such seaman, fisherman, or other servant; and in case such hirer or employer shall hire or employ any seaman, fisherman, or other servant, without first entering into such agreement, he shall forfeit for each offence the penal sum of ten pounds, to and for the use of His Majesty's Government.

All engagements with servants in the fishery to be in writing.

Where disputes arise respecting shares or wages, agreement must be produced.

Hirer employing servant without written agreement, to forfeit £10 to the use of Government.

II. And be it further enacted, That all the fish and oil which shall be taken and made by the person or persons who shall so hire or employ such seamen, fishermen, or other servants, shall be liable and subject, in the first place to the payment of the wages or shares of every such seaman, fisherman, or other servant, employed in or about the fishery, and of the demands of such person or persons as shall *bona fide* supply bait to such seamen or fishermen.

Fish and oil subject first to payment of servant's wages or shares,

and to demands of suppliers of bait.

III. And be it further enacted, That every creditor for supplies necessary and furnished *bona fide* for the fishery of the current season, shall be considered a preferable creditor, and shall first be paid twenty shillings in the pound, so far as

Creditors furnishing supplies for fishery of current year to have a preferable claim on

vessels, boats,  
fishing tackle,  
fish and oil,  
saying claims of  
fishermen or  
other servants.

the vessels, boats, fishing tackle, fish and oil, of any person or persons to whom such supplies are furnished, which may be realized within this Island or its dependencies, will go : provided always, that nothing in this Act contained shall affect the prior claims of seamen, fishermen, and other servants, actually employed in the catching and curing of fish and oil, upon all fish and oil caught by the hirers and employers of such seamen, fishermen, or servants, or the produce or value thereof.

Seamen, fishermen, or servants, absenting themselves, shall forfeit not exceeding 15 days' pay for each day's absence.

IV. And be it further enacted, That in case such seaman or fisherman shall at any time wilfully absent himself from his duty or employ without the consent of his hirer or employer, or shall wilfully neglect or refuse to work, according to the true intent and meaning of his said contract or agreement, such seaman, fisherman, or other servant shall, for every day he shall so absent himself, or neglect or refuse to work as aforesaid, forfeit any number of days' pay or shares not exceeding fifteen, to such hirer or employer : and if any such seaman or fisherman shall wilfully absent himself from his said duty or employment for the space of two days, without such leave as aforesaid, he shall be deemed a deserter, and shall forfeit such wages or shares as may be due to him at the time of such desertion : and it shall and may be lawful for any Justice or Justices of the Peace of this Island, or the dependencies thereof, to issue his warrant or warrants to apprehend every such deserter, and on the oath of one or more credible witness or witnesses, to commit him to prison, there to remain for any time not exceeding three calendar months.

If absent two days without leave, to be deemed deserters, and forfeit all wages then due.

Justices of the Peace may issue warrant to apprehend deserter and imprison him not exceeding 3 months.

Tavern-keepers and others shall not secrete, entertain, or vend liquor to servants in the fishery without consent of employer under penalty of 40s. for each offence.

V. And be it further enacted, That no tavern-keeper, or other person shall secrete, harbour or entertain, or vend liquor to, any seaman, fisherman, or other servant employed in the fishery, without the consent of the hirer or employer of such seaman, fisherman, or other servant, during the fishing season, under a penalty of forty shillings for every offence, to be recovered by one or more Justices of the Peace, to and for the use of His Majesty's government.

Fishermen, &c. privileged from arrest or execution, and property embarked in fishery not to be taken in execution or attached, during current fishing voyage.

VI. And be it further enacted, That during the fishing season, such seamen, fishermen, or other servants, as are actually engaged in the said fishing, shall be privileged from arrest for debt, or from being taken in execution ; and that the property actually embarked in the said fishery shall not be liable to attachment or execution during the current fishing season ; and also that no such seamen, fishermen or other servants, shall be called on to attend militia services during the said fishing season — any law, usage, or custom to the contrary, notwithstanding.

Vessels cleared out for fishery

VII. And be it further enacted, That whenever any ship or vessel shall be cleared out from any port in this Island for the

fisheries on the coasts of this Island, or for the fisheries within the Gulf of Saint Lawrence, or on the coasts of Cape Breton, Nova Scotia or Labrador, without having on board any article of traffic (except only such provisions, nets, tackle, and other things as are usually employed in and about fisheries,) the master of any such ship or vessel shall be entitled to demand from the Collector or other principal officer of His Majesty's Customs at such port, a certificate under his hand, that such vessel hath been specially cleared out for the said fishery, and such certificate shall be in force for the fishing season of the year in which the same may be granted, and no longer; and all ships or vessels having on board any such certificate as aforesaid, and being actually engaged in the fisheries, or in carrying coastwise, to be landed or put on board any other ship or vessel engaged in the said fishery, any fish, oil, salt, provisions, or other necessaries for the use and purposes thereof, shall be exempt from all obligation to make any entry at, or obtain any clearance from any Custom House in this Island, upon entering the ports or harbors of the same, or its dependencies, during the continuance of the fishing season, for which certificates may have been granted: provided nevertheless, that whenever any such ship or vessel as aforesaid shall finally quit the said fishery for any country or place, not being within this Colony or the dependencies thereof, such ship or vessel shall obtain the usual clearance from the principal officer of His Majesty's Customs at some port in this Colony.

within the gulf, or coasts of Cape Breton, Nova Scotia or Labrador, masters entitled to demand certificate thereof.

Certificate shall exempt them from entering or clearing at Custom House during fishing season.

Such vessels quitting the colony, to clear out at Custom House as usual.

VIII. And be it further enacted, That the current fishing season of the year commences on the fifteenth day of April, and ends on the first day of November.

Fishing season begins on 15th April and ends 1st November.

IX. And be it further enacted, That this Act shall continue in full force and effect for and during the space of three years, and from thence to the end of the then next session of the General Assembly.

Continuance of Act.

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### CAP. XIII.

An Act for summary punishment, in certain cases, of persons wilfully or maliciously damaging or committing trespasses on public or private property.

Continued by 9 G. 4, c. 2. Repealed by 3 W. 4, c. 27.

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### CAP. XIV.

An Act to limit and ascertain the jurisdiction of Justices of the Peace in matters of small debt.

Continued by subsequent Acts, and repealed by 2 W. 4 c. 1.

## CAP. XV.

Revised and  
continued by 3  
W. 4, c. 3.  
Expired.

An Act to prevent the running at large of Sheep in the town of Charlottetown.

## CAP. XVI.

Amended by  
1 W. 4, c. 6.

An Act to provide a remedy for injuries arising from improper burning of woods.

**W**HEREAS the practice of setting fire to woods at improper seasons, and the carelessness and improvidence with which fires in the forest are often managed, has already destroyed much valuable property, and unless restrained, threatens ruin and destruction to the woods in this Island:

Persons setting  
fire to woods  
and injuring  
thereby the  
woods or prop-  
erty of others  
to answer in  
damages the  
party injured,  
and also pay a  
fine of £5.

Mode of recovery.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That any person who shall set fire to the woods at any time of the year, and thereby injure the woods or property of another, the person so causing such injury shall be liable in damages to the person so injured, and shall also be liable to the payment of a fine of five pounds for each and every such offence, to be recovered before any one of His Majesty's Justices of the Peace—one half whereof to be paid to the person who sues for the same, and the other half to the Overseer of Highways within whose precinct the fire shall have been raised.

## CAP. XVII.

An Act to enable the Justices of the Peace for the Counties of King's County and Prince County to commit debtors under the small debt Act, and also persons charged with criminal offences, to the jail in Charlottetown.

\* \* \* This Act authorized Justices of the Peace for King's and Prince Counties to commit debtors or criminals to Charlottetown jail, until jails should be erected in said Counties.

## CAP. XVIII.

For Acts in ad-  
dition to this  
Act see

6 G. 4, c. 12;  
9 G. 4, c. 1;  
11 G. 4, c. 16;  
1 W. 4, c. 15;  
3 W. 4, c. 13;  
4 W. 4, c. 17;  
5 W. 4, c. 11;  
8 Vic., c. 11;  
10 Vic., c. 12.

An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes.

**B**E it enacted by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Lieutenant Governor, or Commander-in-chief for the time being, to appoint, as soon as may seem to him necessary, three fit



and proper persons to be Commissioners\* for the purpose of issuing Treasury Notes, to any amount not exceeding five thousand pounds; and that such Notes shall be issued in three equal shares and proportions in value, of Notes of the value of five pounds, two pounds, and one pound; and which Notes shall be signed by the said Commissioners, and countersigned by the Treasurer, and shall be in the words and figures following, to wit:

‘ No.

PRINCE EDWARD ISLAND,

CHARLOTTETOWN,

1825.

Form of Note.

‘ By law, the bearer of this Note is entitled to receive at the Treasury the sum of

And the said Commissioners are hereby authorized and required to direct the printing or engraving of such Notes, and to superintend the completing the blanks in the same.

II. And be it further enacted, by the authority aforesaid, That the whole of the Notes issued shall bear the same date, and when subscribed by the Commissioners shall be delivered to the said Treasurer, who shall countersign the same, and be accountable for the Notes so delivered to him.

III. And be it further enacted, by the authority aforesaid, That all Warrants for payments of money, when produced to the Treasurer, shall, at his option, be paid in gold or silver, or in the said Notes, to the person entitled to receive the same—which Notes shall be again received at the Treasury, and also by the Collectors of Impost throughout the Island, at their specified value, equal to the like value in gold or silver, when and as often as the same are presented in payment of duties.

IV. And be it further enacted, by the authority aforesaid, That whoever shall alter, forge, or counterfeit any of the said Notes, or shall erase or alter the same, or any endorsement thereon, or shall tender in payment, utter, vend, exchange, or barter any such altered, forged or counterfeited Note, or any erased or altered Note, or the endorsement thereon, or shall knowingly demand to have the same exchanged or paid, with intent to defraud, shall suffer as in cases of felony, without benefit of clergy.

V. And be it further enacted, by the authority aforesaid, That it shall and may be lawful for the Lieutenant Governor, or Commander-in-chief for the time being, by a warrant under his hand, to require the said Treasurer to re-issue Notes

Lt. Governor to appoint three Commissioners to issue Treasury Notes. Issue not to exceed £5000. Notes to be signed by Commissioners and Treasurer.

All Notes to bear same date, and to be delivered to Treasurer.

Warrants shall be paid by Treasurer, at his option, in gold, silver, or notes.

Notes to be taken by Treasurer and Collectors of Impost at their specified value.

Forging or altering Notes, felony without clergy.

Lt. Governor may by warrant require Treasurer to re-issue notes received at the Treasury.

\* Appointments made to vacancies occurring from death, &c., of Commissioners confirmed, and mode of filling up such vacancies in future pointed out by 10 Vic. c. 12, s. 7.

received at the Treasury, or to require the Commissioners aforesaid to issue other Notes in place of those received, or any part thereof, or to re-issue the Notes already received, or any part thereof, agreeably to the said warrant: provided always, that no Notes so to be re-issued shall exceed the amount of the Notes so from time to time received at the Treasury.

Proviso.

Quarterly periods when notes may be presented for payment.

If not paid, Notes may be funded and bear interest.

Notes so funded not to be again issued.

Three years after passing of Act, all notes to be paid in gold or silver.

Allowance to Treasurer.

VI. And be it further enacted, by the authority aforesaid, That if at any quarterly period, after the thirty-first day of December next—that is to say, at the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, in any succeeding year, any person shall tender for payment at the Treasury any number of the Notes issued or re-issued in virtue of this Act, in case the Treasurer shall not be able to pay the same in gold or silver, it shall and may be lawful for the Lieutenant Governor, or Commander-in-chief for the time being, by and with the advice of His Majesty's Council, by warrant under his hand and seal, to direct the Commissioners aforesaid to fund such sum or sums of Treasury Notes as shall be tendered for payment, from time to time as aforesaid, and to grant certificates to the amount thereof on interest; and the said Commissioners shall deliver the said Notes so presented to the Treasurer of the Island, and take his receipt for the same, and the Treasurer shall be charged with and accountable for the same; and the said Notes shall not be again issued from the Treasury, or put into circulation for any use whatsoever.

VII. And be it further enacted by the authority aforesaid, That if at the end and expiration of three years from the passing of this Act, all the Notes which may or have been issued, under and by virtue of this Act, shall not have been received and paid into the Treasury, the Treasurer is hereby directed and required to pay the amount of the same when demanded, in gold or silver, out of the moneys in the Treasury then not specifically appropriated.

VIII. And be it further enacted, by the authority aforesaid, That the Treasurer of this Island shall be paid for his duties and services under the authority of this Act, the sum of one *per centum* of all Notes issued by him, over and above any other percentage or emolument to which such Treasurer may be entitled by any law of this Island.

\* \* \* This Act is rendered perpetual by 5 Will. 4, c. 11.

## CAP. XIX.

An Act for increasing the revenue, by levying an additional duty on all wines, gin, brandy, rum, and other distilled spirituous liquors imported into this Island; and to repeal and amend certain parts of an Act passed in the twenty-fifth year of His late Majesty's reign, intituled "An Act to amend, render more effectual, and to reduce into one Act, the several laws made by the General Assembly of this Island, relative to the duties of impost on wines, rum, brandy, and other distilled spirituous liquors; and for allowing a drawback on all wines, rum, brandy, and other distilled spirituous liquors exported from this Island."

Expired.

25 G. 3, c. 4.

## CAP. XX.

An Act for increasing the revenue, by levying a duty on tobacco and tea.

Expired.

## CAP. XXI.

An Act for the preservation of sheep within the Royalty of Charlottetown, by imposing a tax on dogs.

Continued by 9 G. 4, c. 2—Repealed by 1 W. 4, c. 5.

## CAP. XXII.

An Act to regulate the performance of statute labor on the highways, and to suspend an Act made and passed in the thirty-fifth year of the late King, intituled "An Act to alter and amend the high road laws."

See 9 G. 4, c. 8.

## CAP. XXIII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and twenty-five.

Executed.



ANNO SEXTO

## GEORGII IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Fifteenth day of January, *Anno Domini* 1825, in the Fifth year of the Reign of our Sovereign Lord GEORGE the Fourth, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith: 1825.

JOHN READY,  
Lt. Governor.

S. G. W. ARCHIBALD,  
President.

And from thence continued, by several prorogations, to the twelfth day of October, 1825, and in the sixth year of His said Majesty's reign; being the second Session of the twelfth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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### C A P . I .

An Act to render perpetual an Act made and passed in the fifty-seventh year of the reign of His late Majesty, intituled "An Act to enable creditors more easily to recover their debts from copartners and joint debtors." 57 G. 3, c. 2.

**W**HEREAS the above recited Act will shortly expire, and the same has been found beneficial:

**Executed Act made perpetual.**

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said Act, intituled "An Act to enable creditors more easily to recover their debts from co-partners and joint debtors," be, and the same is hereby made perpetual.

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### CAP. II.

**Expired.**

An Act to continue an Act made and passed in the first year of His present Majesty's reign, intituled "An Act to regulate the measurement of ton timber, boards, and all other kinds of lumber, and to repeal two certain Acts made and passed in the fourteenth and fifty-seventh years of His late Majesty's reign; and also for declaring what shall be deemed merchantable; and for appointing officers to survey the same."

**See note to 1 G. 4, c. 3.**

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### CAP. III.

**Executed.**

An Act to repeal an Act made and passed in the forty-third year of His late Majesty's reign, intituled "An Act to alter and amend an Act made and passed in the twenty-sixth year of His present Majesty's reign, intituled 'An Act for the trial of actions in a summary way.'"

**43 G. 3, c. 3.**

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### CAP. IV.

**Executed.**

An Act to repeal a certain clause of an Act made and passed in the thirty-first year of the reign of His late Majesty, intituled "An Act for admitting persons to swear to their own accounts in certain cases, and for amending certain practical parts of the law, in order to the more easy and speedy attainment of public justice in this Island."

**31 G. 3, c. 1, s. 7.**

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### CAP. V.

**Executed.**

An Act to repeal an Act made and passed in the thirtieth year of the reign of His late Majesty, intituled "An Act to prevent unnecessary expense and delays in certain actions, wherein judgments have passed by default."

**30 G. 3, c. 10.**

## CAP. VI.

An Act relating to marriages and baptisms, and for making polygamy felony.

Disallowed by  
His Majesty in  
Council, 20th  
Nov., 1826.

## CAP. VII.

An Act to repeal an Act made and passed in the twenty-first year of His late Majesty's reign, intituled "An Act declaring that baptism of slaves shall not exempt them from bondage."

Executed.  
21 G. 3, c. 37.

## CAP. VIII.

An Act in addition to, and in the further amendment of an Act made and passed in the thirteenth year of the reign of His late Majesty, intituled "An Act prohibiting the sale (by retail) of rum, or other distilled spirituous liquors, without first having a license for that purpose, and for the due regulation of such as shall be licensed."

Expired.  
13 G. 3, c. 32.

## CAP. IX.

An Act to revive, alter and continue an Act made and passed in the fifty-second year of the reign of His late Majesty, intituled "An Act for raising a fund, to make and keep in repair the pumps, wells and streets of Charlottetown, and for other purposes therein mentioned."

Further con-  
tinued by 8 G.  
4, c. 11.

Expired.

\*\* This Act revived and continued for one year, 52 Geo. 3, c. 6.

## CAP. X.

An Act to continue an Act made and passed in the fifth year of the reign of His present Majesty, intituled "An Act for increasing the revenue, by levying an additional duty on all wines, gin, brandy, rum, and other distilled spirituous liquors imported into this Island; and to repeal and amend certain parts of an Act passed in the twenty-fifth year of His late Majesty's reign, intituled 'An Act to amend, render more effectual, and to reduce into one Act, the several laws made by the General Assembly of this Island relative to the duties of impost on wines, rum, brandy, and other

5 G. 4, c. 33.

Expired.

distilled spirituous liquors, and for allowing a drawback upon all wines, rum, brandy, and other distilled spirituous liquors exported from this Island.”

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CAP. XI.

**Expired.**

**5 G. 4, c. 20.**

An Act to alter and continue an Act made and passed in the fifth year of His present Majesty's reign, intituled “An Act for increasing the revenue, by levying a duty on tobacco and tea.”

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CAP. XII.

**For other Acts relative to Treasury Notes see**

5 G. 4, c. 18,  
9 G. 4, c. 1,  
11 G. 4, c. 16,  
1 W. 4, c. 15,  
3 W. 4, c. 13,  
4 W. 4, c. 17,  
5 W. 4, c. 11,  
8 Vic., c. 11,  
10 Vic., c. 12.

An Act to authorize the Commissioners named and appointed under an Act made and passed in the fifth year of the reign of His present Majesty, intituled “An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,” to issue Notes of the value of ten shillings each.

**5 G. 4, c. 18.**

**W**HEREAS it will tend to the convenience of the public if the Commissioners named and appointed under the Act intituled “An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,” were authorized to issue ten shilling notes :

**Commissioners to issue ten shilling notes to the amount of £800.**

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful to and for the Commissioners named under the said Act, intituled “An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,” to direct the printing and engraving of Notes not exceeding in value ten shillings each, and to superintend the filling up the blanks in the same, in the way and manner, and in the form prescribed by the said Act, to the amount of eight hundred pounds; which said ten shilling Notes the said Commissioners and the Treasurer of this Island are to dispose of in the way prescribed by the said Act with respect to Notes already issued, or to be issued, and the same are to be subject in every instance to the like rules.

**Felony to forge or alter notes.**

II. And be it further enacted, by the authority aforesaid, That any person or persons whomsoever that shall alter, forge, or counterfeit any of the said ten shilling Notes, or shall



erase or alter the same, or any endorsement thereon, or shall tender in payment, utter, vend, exchange or barter any such altered, forged or counterfeited Note, or any erased or altered Note, or the endorsement thereon, or shall knowingly demand to have the same exchanged or paid, with intent to defraud, shall suffer as in cases of felony, without benefit of clergy.

\* \* \* Rendered perpetual by 5 W. 4, c. 11.

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### CAP. XIII.

An Act for appropriating certain moneys therein mentioned, ~~Executed.~~  
for the service of the year of our Lord one thousand eight  
hundred and twenty-six.



ANNO OCTAVO

# GEORGII IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifteenth day of January, *Anno Domini* 1825, in the fifth year of the reign of our Sovereign Lord GEORGE the Fourth, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1827.

J. READY,  
Lt. Governor.

S. G. W. ARCH-  
BALD,  
President.

And from thence continued, by several prorogations, to the twentieth day of March 1827, and in the eighth year of His said Majesty's Reign; being the third Session of the twelfth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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CAP. I.

An Act for regulating Apprentices.

Repealed by  
8 Vic. c. 12.

## CAP. II.

**Expired.** An Act to amend an Act made and passed in the forty-third year of his late Majesty's reign, intituled "An Act to amend an Act made and passed in the thirty-first year of his present Majesty's reign, intituled 'An Act to prevent the running at large of rams at improper seasons.'"

**43 G. 3, c. 5.**

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## CAP. III.

**Continued by** An Act to establish an Assize of Bread within the Town and  
**1 W. 4, c. 7.** Royalty of Charlottetown.

**Expired.**

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## CAP. IV.

**Executed.** An Act to ascertain the population of the Island.

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## CAP. V.

**Expired.** An Act to regulate Appeals from the Courts of Justices of the Peace of this Island, in amendment of an Act made and passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "An Act for the more easy and speedy recovery of small debts.

**13 G. 3, c. 11.**

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## CAP. VI.

**Continued by** An Act to regulate the driving carts, carriages, sleighs and  
**1 W. 4, c. 7, and** carioles on the Highways.  
**3 W. 4, c. 5.**

**Expired.**

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## CAP. VII.

**Revived and** An Act to continue and amend an Act passed in the fifty-ninth  
**continued by** year of his late Majesty's reign, intituled "An Act to regulate the sale of the interest of leaseholders, when taken in  
**2 Vic. (2d sess.)** execution."  
**cap. 4.**

**Repealed by**  
**15 Vic. c. 5.**

\*.\* The provisions of this Act may affect titles to Lands, but are omitted pursuant to Act 23 Vic. c. 10.

## CAP. VIII.

An Act to authorize the formation of a Fire Engine Company for the town of Charlottetown.

Continued by  
3 W. 4, c. 4, and  
2 Vic. c. 3.  
Repealed by 7  
Vic. c. 14.

## CAP. IX.

An Act to establish and regulate the practice of the Supreme Court of Judicature of this Island, in cases of replevin.

Continued by  
3 W. 4, c. 28.  
Expired.

## CAP. X.

An Act for raising a fund in aid of supporting the Light House on Cranberry Island.

Expired.

## CAP. XI.

An Act to continue an Act made and passed in the sixth year of his present Majesty's reign, intituled "An Act to revive, alter and continue an Act made and passed in the fifty-second year of the reign of his late Majesty, intituled 'An Act for raising a fund to make and keep in repair the pumps, wells, and streets of Charlottetown, and for other purposes therein mentioned.'"

Further con-  
tinued by 10 G.  
4, c. 17.

Expired.

## CAP. XII.

An Act to revive, alter and continue an Act made and passed in the fifth year of his present Majesty's reign, intituled "An Act for increasing the Revenue, by levying an additional duty on all wines, gin, brandy, rum, and other distilled spirituous liquors imported into this Island; and to repeal and amend certain parts of an Act passed in the twenty-fifth year of his late Majesty's reign, intituled 'An Act to amend, render more effectual, and to reduce into one Act the several Laws made by the General Assembly of this Island relative to the duties of impost on wines, rum, brandy, and other distilled spirituous Liquors, and for allowing a drawback on all wines, rum, brandy, and other distilled spirituous liquors exported from this Island,' and to appropriate the moneys hereby granted.

Executed.

## CAP. XIII.

**Executed.**

An Act to revive, alter and continue an Act made and passed in the fifth year of his present Majesty's reign, intituled "An Act for increasing the Revenue, by levying a duty on tobacco and tea," and to appropriate the moneys hereby granted.

ANNO NONO

## GEORGIIV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifteenth day of January, *Anno Domini* 1825, in the fifth year of the Reign of our Sovereign Lord GEORGE the Fourth, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1828.

J. READY,  
Lt. GOVERNOR.

G. WRIGHT,  
President.

And from thence continued, by several prorogations, to the twentieth day of March, 1828, and in the ninth year of His said Majesty's reign; being the fourth session of the twelfth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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### CAP. I.

An Act to revive and continue two certain Acts therein mentioned. Expired.

\*.\* By this Act 5 Geo. 4, c. 18, and 6 Geo. 4, c. 12, were revived and continued for three years.

## CAP. II.

An Act for continuing several Laws near expiring.

\* \* \* This Act continued for ten years, the following Acts, viz :—5 Geo. 4, c. 12; 5 Geo. 4, c. 21; 5 Geo. 4, c. 13; 5 Geo. 4, c. 3; 5 Geo. 4, c. 7, and 5 Geo. 4, c. 10, —of which 5 Geo. 4, c. 12, is alone now in force.

## CAP. III.

Amended by 10  
G. 4, c. 3.

Continued by 5  
W. 4, (2d sess.)  
c. 1.

Expired.

An Act for establishing the standard weight of grain and pulse, and for appointing proper officers for measuring and weighing the same.

## CAP. IV.

Repealed by  
11 G. 4, c. 3.

5 G. 4, c. 5.

An Act to continue and amend an Act of the fifth year of His present Majesty's reign, intituled "An Act for the encouragement of Education in the different counties and districts in this Island.

## CAP. V.

Repealed by  
3 W. 4, c. 8.

An Act to alter and amend an Act intituled "An Act for licensing and regulating ferries."

## CAP. VI.

59 G. 3, c. 4.  
See 5 W. 4, c. 4.

An Act to render perpetual an Act intituled "An Act to enable the Justices of the Supreme Court of Judicature to issue Commissions for examining witnesses out of this Island.

59 G. 3, c. 4,  
made perpetual

**WHEREAS** the said Act will shortly expire, and the same hath been found highly beneficial, and it is deemed necessary that the same should be rendered perpetual—Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said Act, intituled "An Act to enable the Justices of the Supreme Court of Judicature to issue Commissions for examining Witnesses out of this Island, shall from henceforth be, and the same is hereby declared to be, in full force and effect for ever.



## CAP. VII.

An Act to continue and amend an Act of the fifth year of his present Majesty's reign, intituled "An Act to prevent the running at large of boar pigs, and to restrain swine from going at large without rings.

Repealed by 12  
Vic. c. 16.

5 G. 4, c. 8.

## CAP. VIII.

An Act to continue and amend an Act of the fifth year of the present King, intituled "An Act to regulate the performance of statute labor on the highways, and to suspend an Act made and passed in the thirty-fifth year of the late King, intituled 'An Act to alter and amend the high road laws.'"

Repealed by  
3 W. 4, c. 1.

## CAP. IX.

An Act to continue and amend an Act made and passed in the fifth year of His Majesty's reign, intituled "An Act to limit and ascertain the jurisdiction of Justices of the Peace in matters of small debt.

See 1 W. 4, c. 11

## CAP. X.

An Act to continue and alter an Act made and passed in the eighth year of his present Majesty's reign, intituled "An Act to revive, alter and continue an Act made and passed in the fifth year of his present Majesty's reign, intituled "An Act for increasing the Revenue, by levying an additional duty on all wines, gin, brandy, rum, and other distilled spirituous liquors imported into this Island; and to repeal and amend certain parts of an Act passed in the twenty-fifth year of his late Majesty's reign, intituled 'An Act to amend, render more effectual, and to reduce into one Act, the several Laws made by the General Assembly of this Island, relative to the duties of Impost on wines, rum, brandy, and other distilled spirituous liquors, and for allowing a drawback on all wines, rum, brandy, and other distilled spirituous liquors exported from this Island;" and to appropriate the moneys granted.

Expired.

8 G. 4, c. 12.

## CAP. XI.

Expired.  
8 G. 4, c. 13.

An Act to continue and alter an Act made and passed in the eighth year of his present Majesty, intituled "An Act to revive, alter and continue an Act made and passed in the fifth year of his present Majesty's reign, intituled 'An Act for increasing the Revenue, by levying a duty on tobacco and tea,' and to appropriate the moneys hereby granted.

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## CAP. XII.

Passed with a  
suspending  
clause and not  
approved of by  
His Majesty.

An Act for the further increase of the Revenue, by raising a duty of Impost on all goods, wares and merchandises imported into this Island.

ANNO DECIMO

# GEORGIIV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Fifteenth day of January, *Anno Domini* 1825, in the Fifth year of the Reign of our Sovereign Lord GEORGE the Fourth, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1829.

J. READY,  
Lt. Governor.

E. J. JARVIS,  
President.

And from thence continued, by several prorogations, to the fifth day of March, 1829, and in the tenth year of His said Majesty's reign; being the fifth Session of the twelfth General Assembly convened in the said Island.

J. STEWART,  
Speaker.

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## CAP. I.

An Act for keeping clean the streets of Charlottetown, and for removing obstructions therefrom. Expired.

CAP. II.

Repealed by 1 W. 4, c. 1.

An Act for the appointment of limits and rules for the Jail of Charlottetown.

\* \* This was an Act passed for two years.

CAP. III.

9 G. 4, c. 3. Continued by 5 W. 4, (2d session) c. 1.

An Act to amend an Act made and passed in the ninth year of His present Majesty's reign, intituled "An Act for establishing the standard weight of grain and pulse, and for appointing proper officers for measuring and weighing the same."

Expired.

CAP. IV.

See 59 G. 3, c. 9.

An Act to enable tenants in tail to execute leases, and grant terms of years of a long endurance.

WHEREAS there are many extensive tracts of forest land, and others, now in the possession of tenants in tail, which cannot be turned to any profitable use, unless the tenant in tail of such lands shall be allowed by law to grant leases, or terms of years, for the same, of a long endurance; and the settlement and cultivation of such lands may be very materially, if not altogether, prevented, unless some remedy be provided to enable tenants in tail validly to execute leases of such endurance as are usually executed within the Island by owners of land holding the same in fee simple:

Tenants in tail may make leases for any term of years,

and to be good in law.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That all leases hereafter to be made of any lands, tenements or hereditaments in this Island, by indenture under seal, for any term of years, by any persons, being of the full age of twenty-one years, held in fee tail in their own right, or in that of their wives, or jointly with their wives, made before the coverture or after, shall be good and effectual in the law against the lessors, their heirs and successors, and every of them, according to such estate as is comprised and specified in every such indenture of lease, in like manner and form as the same should have been if the lessors thereof, and every of them, at the time of making of such leases, had been lawfully seized of the same lands, tenements and hereditaments in such indenture, of a good, perfect and pure estate of fee simple thereof to their only uses: provided always, that this Act, or any thing herein contained, shall not extend to any lease to be made of any lands, tenements or hereditaments, above the number of nine hundred and ninety-nine years, and which

Term not to exceed 999 years,

shall not be made by indenture of lease, mutually executed by all the parties thereto, and at the best and highest rent that can be, at the time of making such lease, obtained for the same, and which shall be so expressed in the said indenture of lease; and that every person to whom the inheritance and reversion of such land shall appertain, shall, according to his right or interest in the same, after the death of such lessors, have such remedy and advantage, to all intents and purposes, against the lessees thereof, their executors and assigns, as the same lessor should or might have had against the same lessees: provided always, that the wife be made party to every such lease which hereafter shall be made by her husband of any lands, tenements or hereditaments to which the wife shall be entitled in estate tail; and that every such lease be made by indenture in the name of the husband and his wife, and she to seal the same; and that the farm and rent be reserved to the husband and to the wife, and to the heirs of the wife, according to the state of inheritance in the same; and that the husband shall not in any wise alien, discharge, grant, or give away the same rent reserved, nor any part thereof, longer than during the coverture, without it be by fine levied by the said husband and wife, but that the same rent shall remain, descend, revert, or come, after the death of such husband, unto such person or persons, and their heirs, in such manner and sort as the lands so leased should have done, if no such lease had been thereof made.

and shall be for the highest rent that can be at the time gotten.

Persons entitled to the reversion to have the same remedy against the lessees as lessors might have had.

Wife (when entitled to the estate) to be a party to lease.

Rent to be reserved to husband and wife, and heirs of wife.

After decease of husband, rent to revert to person legally entitled thereto.

II. Provided, That nothing herein contained shall have any force or effect, until His Majesty's pleasure therein shall be known.

Suspending clause.

\* \* \* This Act received the Royal allowance 7th December, 1829.

### CAP. V.

An Act to alter and amend an Act made and passed in the thirty-first year of the reign of His late Majesty, intituled "An Act for compelling persons owning lands adjoining to each other to make their respective parts or proportions of the fence between them, and for empowering the Grand Jury to nominate Fenceviewers."

31 G. 3, c. 7,

Repealed by 15 Vic., c. 10.

### CAP. VI.

An Act for encouraging the fisheries by granting bounties.

Expired.

## CAP. VII.

**Expired.** An Act to regulate the size of barrels, and enforce the inspection of such pickled fish as may be exported from Prince Edward Island.

## CAP. VIII.

**Repealed by 11 G. 4, c. 2.** An Act to regulate the introduction of passengers in vessels arriving in this Island.

## CAP. IX.

**For Acts on this subject, see 6 Vic. c. 21; 10 Vic. c. 14; 15 Vic. c. 29.** An Act for the establishment of an Academy in Charlottetown.

**\*\*\*** This Act and all other Acts, and parts of Acts relating to the same subject, are repealed by Act 23 Vic. c. 17.

## CAP. X.

**Repealed by 14 Vic. c. 1.** An Act to regulate the laying out and altering of Highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation.

**\*\*\*** The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic. c. 23. For other Acts on the same subject, see 3 W. 4, c. 9; 4 W. 4, c. 16; 5 W. 4, (1st session) c. 8; 1 Vic. c. 16; 5 Vic. c. 22; 6 Vic. c. 22; 8 Vic. c. 5; 11 Vic. c. 33.

## CAP. XI.

An Act for the security of navigation and for preserving all ships, vessels and goods, which may be found on shore, wrecked or stranded, upon the coasts of this Island, and for punishing persons who shall steal shipwrecked goods, and for the relief of persons suffering loss thereby.

**W**HEREAS the preservation of shipwrecked goods, as well as the punishment of persons who shall plunder or conceal the same, are objects of great importance: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That any ship or vessel which shall be in distress, or wrecked, stranded, or cast ashore, or any goods, merchandise, or articles

Wrecked ships, goods, &c., to be preserved for owners.

of any kind, belonging to such ship or vessel, or otherwise, which shall be forced on shore, wrecked or stranded, upon the coasts of this Island, or which shall be found floating in the rivers, bays, or harbors thereof, or so near to the coasts thereof as to be within soundings, shall be carefully preserved and taken care of, for the right owner or owners; and the person or persons discovering or finding the same shall give immediate notice to any one or more of the several officers hereafter named, *videlicet*— to the Sheriff of the Island, Coroner, Officers of the Customs, Officers of Impost, or Justices of the Peace, whichever of them, or either or any of them shall be nearest at hand; and such officer or officers, or a majority of them (if more than one shall attend), shall immediately take all necessary measures for securing and preserving of all such ships, vessels, goods, effects and property of every kind, and shall proceed therewith as hereinafter directed: and if any person or persons whatsoever shall plunder, steal, take away or destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore as aforesaid, or any goods, merchandise, or articles of any kind, belonging to such ship or vessel, or otherwise, or which shall be wrecked, lost, stranded, or cast on shore on the coasts of this Island, or shall steal or take away any kind of shipwrecked or lost goods, wares, or merchandise which shall be found floating in the rivers, bays, or harbors of this Island, or contiguous to the shores thereof, except so far as it may be necessary to take possession of them for security, or shall beat or wound, with intent to kill or destroy, or otherwise wilfully obstruct the escape of any person or persons endeavouring to save his, her or their life or lives, from such ship or vessel, or shall put out any false light or lights with intention to bring any ship or vessel into danger— then, and in all such cases, the person or persons so offending shall be deemed guilty of felony, and being lawfully convicted thereof, shall suffer death, as in cases of felony, without benefit of clergy: provided always, that when any goods or effects which are under the value of twenty shillings shall be lost, stranded, or cast on shore as aforesaid, and shall be stolen, without any circumstances of cruelty, outrage or violence, then and in such cases, it shall be lawful for any person or persons to prosecute for such offence by way of indictment for *petit* larceny, and the offenders, being lawfully convicted thereof, shall suffer such punishment as the laws in cases of *petit* larceny do enjoin or require.

Persons discovering same, to give notice to the Sheriff, Coroner, Officers of Customs, Officers of Impost, or Justices of the Peace.

Stealing or destroying any part of wrecked vessel or goods;

beating or wounding shipwrecked persons, or putting out false lights, punishable by death.

Stealing under 20s. *petit* larceny.

II. And be it further enacted, That if any goods, merchandise, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, shall, by virtue of a search warrant, to be granted by any one of His Majesty's Justices of the Peace, (who is

Justices of the Peace to issue warrants to search for stolen goods.

Persons convicted of having, same in possession, to forfeit, besides the value of goods, a sum not exceeding £5, or be committed to Jail.

Persons exposing goods, &c. for sale, taken, or suspected to be taken, from any wreck, the same may be seized;

and in default of shewing that they were lawfully come by offender to forfeit a sum not exceeding £5 over value of the goods, &c., or be committed to Jail for a term not exceeding three months.

Officers herein before named empowered to demand assistance of Inhabitants contiguous to a wreck, and of master or officers of any ship or vessel at anchor near the same.

hereby authorized and required, upon information on oath, to grant the same,) be found in the possession of any person, or on the premises of any person with his knowledge, and such person being carried before a Justice of the Peace, shall not satisfy the Justice that he came lawfully by the same, then the same shall, by order of the Justice, be forthwith delivered over to or for the use of the rightful owner thereof; and the offender, on conviction of such offence before the Justice, shall forfeit and pay, over and above the value of the goods, merchandise or articles, a sum of money not exceeding five pounds; or shall be committed to prison for a term not exceeding three months, at the discretion of the said Justice.

III. And be it further enacted, That if any person shall offer or expose for sale any goods, merchandise, or articles whatsoever, which shall have been unlawfully taken, or reasonably suspected so to have been, from any ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, in every such case, any person to whom the same shall be offered for sale, or any officer of the Customs or Excise, or Peace officer, may lawfully seize the same, and shall, with all convenient speed, carry the same, or give notice of such seizure to some Justice of the Peace; and if the person who shall have offered or exposed the same for sale, being duly summoned by such Justice, shall not appear and satisfy the Justice, that he came lawfully by such goods, merchandise or articles, then the same shall, by order of the Justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the Justice) to the person who seized the same; and the offender, on conviction of such offence by the Justice, shall forfeit and pay, over and above the value of the goods, merchandise or articles, a sum of money not exceeding five pounds, or be committed to prison for a term not exceeding three months, at the discretion of the Justice.

IV. And be it further enacted, That the officers hereinbefore named, or any one or more of them, when any ship or vessel shall be in danger of shipwreck, or when any vessel or goods shall be wrecked or cast on shore, or shall be discovered floating as aforesaid, are authorized to require and command as many men of the neighbourhood as shall be thought necessary to aid and assist in the preservation of the lives of the people on board such ship or vessel, and to preserve and save the vessels, goods, or whatever else may be wrecked or lost, or in danger thereof; and such officer or officers may, if necessary, command or order the master or principal officer of any ship or vessel which may be at anchor near to the place where such assistance shall be required, to furnish assistance with his or their boats; and as many men as



they can conveniently spare; and all persons so ordered by such officer or officers to aid and assist for the purposes aforesaid, are required to give their attendance accordingly, and to yield ready obedience to the orders which such officer or officers shall from time to time give for the accomplishment of the purposes aforesaid; and if any person or persons whatsoever, when commanded by such officer or officers to give his or their attendance for the purposes aforesaid, or when notified so to do by a person appointed by such officer or officers for that purpose, shall refuse to attend and give his assistance, or shall disobey any of the lawful orders which such officer or officers shall give to such person or persons touching or concerning the premises, it shall and may be lawful for any one of His Majesty's Justices of the Peace, on complaint thereof made on oath, to commit such offender or offenders to the nearest Jail for trial, unless he or they shall give good security to appear and answer to such complaint at the next sitting of the Supreme Court of Judicature; and if such person or persons shall, on information to be exhibited against him or them, be found guilty, the person, or persons so convicted shall each pay a fine not exceeding twenty pounds, or be imprisoned in the nearest Jail for a term not exceeding six months, at the discretion of the Justices of said Court, and according to the nature and circumstances of the offence: and for the encouragement of such person or persons as give assistance to such ships or vessels so in distress, or to the people or crew thereof who may be in danger, or who shall assist in the securing and preserving for the right owners any property whatsoever which shall be wrecked, lost, cast on shore, or found floating, as aforesaid, such person or persons shall, within thirty days after the service performed, be paid a reasonable reward for the same by the commander, principal officer, mariners, seamen or owners of the vessel, goods or property preserved as aforesaid; and the goods and property so saved, or in default thereof, the vessel or her materials, shall remain and be held in the custody of any or either of the hereinbefore named officers, until such charges be paid; and the officer or officers, and all others who shall aid in performing such service, shall be reasonably compensated for the assistance which he or they have actually and fairly given touching or concerning the premises: provided always, that no person or persons shall be entitled to receive any compensation for his aid or their service, if during the time thereof, he or they shall have been guilty of dishonesty, misbehaviour, or disorderly conduct of any kind; and unless the officer or officers, if any such shall attend and direct the making of such salvage, shall certify the services actually performed by each and every person who shall demand compensation; and the *quantum* of such reward or compensation to be paid to

Persons refusing to assist, &c., to be committed to Jail for trial, unless security be given;

and if found guilty, to forfeit a sum not exceeding £20, or be imprisoned for a term not exceeding six months.

Persons to be paid for assisting.

Proviso as to persons guilty of dishonesty, misbehaviour, &c.

Quantum of reward to be settled by 3 Justices.

Officer to sell part of goods to pay salvage;

if goods are in danger of perishing, the whole to be sold.

If no person appear to claim property, the proceeds to be paid into the Treasury.

Proviso, if the property be found in lawful charge of any person, no one to interfere unless requested.

Persons in charge may repel by force.

Persons improperly interfering to be punished as for a misdemeanor.

the officer or officers, person or persons, claiming the same, shall be adjusted and settled on a reference to be made to three of the neighboring Justices of the Peace, to be mutually chosen by the parties; which Justices shall adjust the *quantum* of the reward or compensation to be paid to the persons employed in making such salvage, and such adjustment shall be binding to all parties: and the officer or officers in whose custody the said goods so saved may be, shall sell so much thereof as will be sufficient to satisfy and pay the sum and sums of money adjusted and allowed for the salvage thereof, with incidental charges incurred—or if the goods are in danger of perishing, or of being otherwise lost by delay, then the whole to be sold—and shall put some principal officer of His Majesty's Customs, or some other responsible person, in case no such officer is present to receive the same, into immediate possession of the goods or money remaining, after payment of the salvage and costs aforesaid, first taking an account in writing of the said goods or money, to be signed by the officer of the customs, or person receiving the same: and if the said money or goods shall not be legally claimed within the space of twelve months next ensuing, by the owner thereof, such of the goods as may be on hand shall be forthwith sold at public auction, and the moneys arising from such sale or sales (reasonable charges being first deducted), with a fair and just account of the whole, shall be paid into the Treasury of this Island for the use of His Majesty's Government.

V. Provided always, and be it further enacted, That it shall not be lawful for any person or persons whatsoever, under pretence of making salvage under the authority of this Act, or under any pretence whatsoever, to meddle or interfere with any kind of property whatsoever, if there be found any person or persons whatsoever in the lawful possession thereof, unless such person or persons shall require his, her or their assistance, in which case notice shall be immediately given to one or more of the officers hereinbefore named that such assistance is wanted: and it shall and may be lawful for the master, or other person or persons having charge of any ship or vessel, or property, so wrecked or in distress, or for the officer or officers who shall come to his or their assistance, to repel by force any person or persons who shall dare to enter such ship or vessel, or to meddle with such property, without his or their leave, consent, or orders; and the person or persons who shall molest, insult, or disturb the officer or officers hereinbefore named, and those acting under his or their authority in and about the premises, such person or persons, if convicted thereof in the Supreme Court of Judicature, shall be punished as for a misdemeanor.

VI. And be it further enacted, That if any person or persons whatsoever shall be sued or prosecuted for any thing done in pursuance and execution of this Act, such person or persons, in whatever Court such suit or prosecution shall be commenced, may give this Act and the special matter in evidence on the general issue, and shall have his costs awarded him, if entitled thereto, from the plaintiff or prosecutor, with the usual remedy for the recovery thereof.

Act may be given in evidence.

VII. And be it further enacted, That if any person or persons whatsoever shall make, or aid or assist in the making, any hole or passage in the bottom, side, or other part of any ship or vessel, whether in distress or otherwise, if done with an intention wilfully to cause or increase the distress of such ship or vessel, or shall steal or take away, or wilfully destroy, or in any other way wilfully render useles the pump of a ship or vessel, whether in distress or not, if so done with a wilful intention to produce the loss or other danger of such ship or vessel, or shall wilfully do any other matter or thing whatsoever tending to produce the loss or destruction of any ship or vessel whatsoever, such person or persons shall be and are hereby made guilty of felony, without any benefit of his, her or their clergy.

Persons to suffer death who make any hole in a vessel, or otherwise attempt to destroy her.

VIII. Provided always, that nothing herein contained shall have any force or effect, until His Majesty's pleasure therein shall be known.

Suspending clause.

\* \* This Act received the Royal assent, 7th December, 1829.

## CAP. XII.

An Act to alter, amend and repeal certain parts of an Act made and passed in the forty-seventh year of His late Majesty's reign, intituled "An Act to repeal an Act made and passed in the forty-first year of His present Majesty's reign, intituled 'An Act for the better regulation of elections,' and to regulate elections for members to serve in General Assembly in future."

This Act not approved of by His Majesty.

47 G. 3, c. 3.

## CAP. XIII.

An Act to confirm certain marriages heretofore solemnized in this Island.

Not assented to by His Majesty.

## CAP. XIV.

~~Expired.~~

An Act to amend an Act intituled "An Act to render perpetual an Act intituled 'An Act to enable the Justices of the Supreme Court of Judicature to issue Commissions for examining witnesses out of this Island.'"

## CAP. XV.

~~See S W. 4, c. 2.~~

An Act in further amendment of an Act made and passed in the fifth year of the present King, intituled "An Act to regulate the performance of statute labor on the highways, and to suspend an Act made and passed in the thirty-fifth year of the late King, intituled 'An Act to alter and amend the high road laws.'"

## CAP. XVI.

~~Executed.~~

An Act to indemnify the Treasurer of this Island, and all other persons concerned, in paying certain moneys on warrants issued since the last session of the General Assembly.

## CAP. XVII.

~~Repealed by 4 W. 4, c. 11.~~

An Act to continue an Act made and passed in the eighth year of His present Majesty's reign, intituled "An Act to continue an Act made and passed in the sixth year of His present Majesty's reign, intituled 'An Act to revive, alter and continue an Act made and passed in the fifty-second year of the reign of His late Majesty, intituled 'An Act for raising a fund to make and keep in repair the pumps, wells and streets of Charlottetown, and for other purposes therein mentioned.'"

## CAP. XVIII.

~~Expired.~~~~See 4, c. 10.~~

An Act to continue and amend an Act made and passed in the eighth year of His present Majesty's, intituled "An Act for raising a fund, in aid of supporting the Light-house on Cranberry Island."

## CAP. XIX.

**An Act to authorize the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to negociate a loan, for the purpose of erecting a Government House and a building for an Academy.**

Repealed by 3  
W. 4, c. 13.

## CAP. XX.

**An Act to continue an Act made and passed in the ninth year of His present Majesty, intituled "An Act to continue and alter an Act made and passed in the eighth year of His present Majesty, intituled 'An Act to revive, alter and continue an Act made and passed in the fifth year of His present Majesty's reign, intituled 'An Act for increasing the revenue, by levying a duty on tobacco and tea,' and to appropriate the moneys hereby granted.'"**

Expired.

9 G. 4, c. 11.

## CAP. XXI.

**An Act to continue and amend an Act made and passed in the ninth year of His present Majesty, intituled "An Act to continue and alter an Act made and passed in the eighth year of His present Majesty's reign, intituled 'An Act to revive, alter and continue an Act made and passed in the fifth year of His present Majesty's reign, intituled 'An Act for increasing the revenue, by levying an additional duty on all wines, gin, brandy, rum, and other distilled spirituous liquors imported into this Island;' and to repeal and amend certain parts of an Act passed in the twenty-fifth year of His late Majesty's reign, intituled 'An Act to amend, render more effectual, and to reduce into one Act, the several laws made by the General Assembly of this Island relative to the duties of impost on wines, rum, brandy, and other distilled spirituous liquors, and for allowing a drawback on all wines, rum, brandy, and other distilled spirituous liquors exported from this Island;' and to appropriate the moneys hereby granted.'"**

Expired.

## CAP. XXII.

**An Act for appropriating certain moneys therein mentioned.**

Executed



ANNO UNDECIMO

## GEORGII IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifteenth day of January, *Anno Domini*, 1825, in the fifth year of the reign of our Sovereign Lord GEORGE the Fourth, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith:

1830.

JOHN READY,  
Lt. Governour.

E. J. JARVIS,  
President.

J. STEWART,  
Speaker.

And from thence continued, by several prorogations, to the fourth day of March, 1830, and in the eleventh year of His said Majesty's reign; being the sixth session of the twelfth General Assembly convened in the said Island.

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### CAP. I.

An Act to continue an Act made and passed in the fifth year of his present Majesty's reign, intituled "An Act to regulate the duties and charges of Pilots within this Island."

Repealed by  
7 W. 4, c. 192.

## CAP. II.

**Executed.** An Act to repeal an Act made and passed in the tenth year of his present Majesty's reign, intituled "An Act to regulate the introduction of passengers, in vessels arriving in this Island."

10 G. 4, c. 8.

## CAP. III.

**Expired.** An Act for the establishment and support of Schools, and to repeal the Acts heretofore passed for that purpose.

## CAP. IV.

**Repealed by** An Act to explain certain parts of an Act made and passed in the twenty-sixth year of the reign of his late Majesty, intituled "An Act for the relief of insolvent debtors."

2 W. 4, c. 1.

## CAP. V.

**See Acts relating to marriages** — 2 W. 4, c. 14; 6 Vic. c. 8.

An Act to require Clergymen and others authorized to solemnize marriages, to return certificates thereof to the Surrogate of the Island, and to require Clergymen to keep a Record of baptisms.

**Persons authorized to solemnize marriages, to transmit, within six months, a certificate thereof to the Surrogate.**

**WHEREAS** much serious inconvenience has arisen, and may continue to arise, from clergymen and others neglecting to transmit proper returns or certificates of marriages by them performed: for remedy whereof— Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, all clergymen and others authorized to solemnize marriage contracts shall, and they are hereby required to transmit, within the period of six months, a certificate of the celebration of each marriage by them performed, together with the names of the parties witnessing the same, to the Surrogate of the Island; which certificate shall be in manner and form following:

**Form of Certificate.**

Names of the Parties.	Whether Bachelor or Widower, Spinster or Widow.	Date of Celebration.	By License or Banns.	Names of Witnesses.



' I hereby certify that the above named parties were this day married by me under license from the Lieutenant Governor, [ or by publication of Banns, *as the case may be,* ] in the presence of the above named witnesses.'

And the Surrogate is hereby required, on receiving the fee hereinafter mentioned, to record the said certificate in a book, to be kept for that purpose; which record shall be deemed due and sufficient evidence in any Court of law or equity to establish the proof of such marriage.

Surrogate to record the same.

Said record to be evidence of such marriage in any Court.

II. And be it enacted, That any person authorized to celebrate marriage contracts shall be entitled (in addition to his usual fee) to demand and receive from the parties married by him the sum of One shilling and sixpence, which sum he is hereby required to pay to the Surrogate as a fee for recording such certificate; and every person desirous of a certified copy thereof from the record, shall be entitled to the same on paying to the said Surrogate the sum of One shilling and sixpence.

Clergymen, &c. on celebrating marriages, entitled to demand from the parties 1s. 6d., to be paid to the Surrogate for recording the same.

III. And be it enacted, That every ordained Clergyman within this Island shall keep a record of the names and ages of the children by him baptized, together with the names of the parents, and the date of the celebration of the rite in each case; and for every certificate from such record such clergyman shall be entitled to receive the sum of one shilling and sixpence.

Clergymen to keep a record of baptisms; and on giving a certificate from such record, entitled to a fee of 1s. 6d.

IV. And be it enacted, That each and every clergyman, or other person authorized to solemnize marriages, who shall refuse or neglect to comply with the provisions of this Act, shall, for each and every neglect or refusal, forfeit and pay into the Treasury of this Island the sum of five pounds, for the use of His Majesty — to be recovered before any one of His Majesty's Justices of the Peace.

Clergymen, &c. neglecting to comply with this Act, to forfeit £5 to His Majesty.

To be recovered before one Justice.

V. And be it further enacted, That nothing herein contained shall have any force or effect until His Majesty's pleasure be known.

Suspending clause.

\*.\* This Act received the Royal allowance, 6th February, 1832.

## CAP. VI.

An Act to amend and suspend certain parts of an Act made and passed in the fifty-fourth year of his late Majesty's reign, intituled "An Act for better preventing accidents by fire within Charlottetown and the suburbs thereof."

Repealed by 7 Vic. c. 6.

## CAP. VII.

An Act for the relief of His Majesty's Roman Catholic subjects.

WHEREAS the Imperial Parliament of the United Kingdom of Great Britain and Ireland has seen fit, in its wisdom and equity, to grant relief to the Roman Catholics of Great Britain and Ireland: and whereas His Majesty's Government has recommended the adoption of a similar measure in this Colony: wherefore, for the relief and benefit of His Majesty's Roman Catholic subjects of this Colony—Be it enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same, That from and after the passing of this Act, all such part or parts of any statute or statutes of this Colony as has or have a tendency or power to render ineligible or incapacitate for various offices, and to impose civil, or political disabilities upon any of His Majesty's subjects professing the Roman Catholic religion be, and the same is and are hereby repealed.

So much of any Acts as impose disabilities on Roman Catholics repealed.

Roman Catholics may vote at elections, and be elected members of the Assembly;

and may hold civil and military offices,

on taking the following oath:

II. \*And be it further enacted, That from and after the passing of this Act, it shall and may be lawful for any of His Majesty's subjects professing the Roman Catholic religion to elect and be elected a member of the House of Assembly, being otherwise duly qualified; and to hold, exercise and enjoy all civil and military offices and places of trust or profit under His Majesty, his heirs and successors, in this Colony; and to exercise any other franchise or civil right, upon taking the following oath, instead of the oaths of allegiance, supremacy and abjuration, and instead of such other oath or oaths as, are or may be now by law required to be taken for the purposes aforesaid, by any of His Majesty's subjects professing the Roman Catholic religion:—

'I, *A. B.*, do sincerely promise and swear, that I will be faithful and bear true allegiance to His Majesty King George the Fourth; and will defend him to the utmost of my power against all conspiracies and attempts whatever which shall be made against his person, crown, or dignity; and I will do my utmost endeavor to disclose and make known to His Majesty, his heirs and successors, all treasons and traitorous conspiracies which may be formed against him or them: and I do faithfully promise to maintain, support and defend, to the utmost of my power, the succession of the Crown, which succession, by an Act, intituled "An Act for the further limitation of the Crown, and better securing the rights and liberties of the subject," is and stands limited to the Princess

\* By Act 10th Vic., c. 21, no officers of Government or members of the Legislature are required in future to take the oath prescribed by this section.

‘Sophia, Electress of Hanover, and the heirs of her body, being  
 ‘Protestants; hereby utterly renouncing and abjuring any  
 ‘obedience or allegiance unto any other person claiming or  
 ‘pretending a right to the Crown of this realm: and I do  
 ‘further declare, that it is not an article of my faith, and that  
 ‘I do renounce, reject and abjure the opinion, that Princes  
 ‘excommunicated or deprived by the Pope, or any other au-  
 ‘thority of the Sec of Rome, may be deposed or murdered by  
 ‘their subjects or by any person whatsoever: and I do declare  
 ‘that I do not believe that the Pope of Rome, or any other  
 ‘foreign prince, prelate, person, state, or potentate, hath, or  
 ‘ought to have, any temporal or civil jurisdiction, power,  
 ‘superiority, or pre-eminence, directly or indirectly within this  
 ‘realm. I do swear, that I will defend, to the utmost of my  
 ‘power, the settlement of property within this Colony, as es-  
 ‘tablished by the laws; and I do hereby disclaim, disavow, and  
 ‘solemnly abjure any intention to subvert the present Church  
 ‘establishment, as settled by law within this realm. And I do  
 ‘solemnly swear that I never will exercise any privilege to which  
 ‘I am or may become entitled, to disturb or weaken the Pro-  
 ‘testant religion or Protestant Government in this Colony, or  
 ‘any other part of His Majesty’s dominions: and I do solemnly,  
 ‘in the presence of God, profess, testify and declare, that I do  
 ‘make this declaration, and every part thereof, in the plain  
 ‘and ordinary sense of the words of this oath, without any  
 ‘evasion, equivocation or mental reservation whatsoever.—  
 ‘So help me God.’

III. And be it further enacted, That wherever in the oath hereby appointed and set forth, the name of His present Majesty is expressed or referred to, the name of the sovereign of this realm for the time being, by virtue of the “Act for the further limitation of the Crown and better securing the rights and liberties of the subject,” shall be substituted, from time to time, with proper words or reference thereto.

The name of the Sovereign for the time being to be used in the oath.

IV. And be it further enacted, That no person in holy orders in the Church of Rome shall be capable of being elected to serve in Parliament as a member of the House of Assembly; and if any such person shall be elected to serve in Parliament as aforesaid, such election shall be void: and if any person, being elected to serve in Parliament as a member of the House of Assembly, shall, after his election, take or receive holy orders in the Church of Rome, the seat of such person shall immediately become void: and if any such person shall, in any of the cases aforesaid, presume to sit or vote as a member of the House of Assembly, he shall be subject to the same penalties, forfeitures and disabilities as are enacted by an Act of the Imperial Parliament, passed in the forty-first year of the reign of King George the Third, intituled “An Act to

No Roman Catholic Priest to sit in the House of Assembly.

What shall be deemed evidence of being in holy orders.

remove doubts respecting the eligibility of persons in holy orders to sit in the House of Commons:" and proof of the celebration of any religious service by such person, according to the rites of the Church of Rome, shall be deemed and taken to be *prima facie* evidence of the fact of such person being in holy orders, within the intent and meaning of this Act.

Not to exempt Roman Catholics from taking any other oaths required.

V. Provided always, and be it enacted, That nothing herein contained shall be construed to exempt any person professing the Roman Catholic religion from the necessity of taking any oath or oaths, or making any declaration, not hereinbefore mentioned, which are or may be by law required to be taken or subscribed by any person on his admission into any such office or place of trust or profit as aforesaid.

Time and manner of taking oaths of office.

VI. And be it further enacted, That any person professing the Roman Catholic religion who shall, after the commencement of this Act, be appointed to any office or place of trust or profit under His Majesty, his heirs or successors, in this Colony, shall, within three calendar months next before such appointment, or otherwise, before he presumes to exercise or enjoy, or in any manner to act in such office or place, take and subscribe the oath hereinbefore appointed and set forth, either in His Majesty's High Court of Chancery, or Supreme Court of Judicature, in this Colony, or before any Judge of the Supreme Court aforesaid, or in any Court of General or Quarter Sessions of the Peace in this Colony for the County or place where the person so taking and subscribing the oath shall reside: and the proper officer of the Court in which such oath shall be so taken and subscribed shall cause the same to be preserved amongst the records of the Court; and such officer shall make, sign, and deliver a certificate of such oath having been duly taken and subscribed as often as the same shall be demanded of him, upon payment of two shillings and sixpence for the same; and such certificate shall be sufficient evidence of the person therein named having duly taken and subscribed such oath.

Penalty on acting in offices without taking the oath.

VII. And be it enacted, That if any person professing the Roman Catholic religion shall enter upon the exercise or enjoyment of any office or place of trust or profit under His Majesty in this Colony, or of any other office or franchise, not having, in the manner and at the times aforesaid, taken and subscribed the oath hereinbefore appointed and set forth, then and in every such case, such person shall forfeit to His Majesty the sum of two hundred pounds, and the appointment of such person to the office, place or franchise so by him held, shall become altogether void, and the office, place or franchise shall be deemed and taken to be vacant, to all intents and purposes whatsoever.

VIII. And be it enacted, That all penalties imposed by this Act shall and may be recovered as a debt due to His Majesty, by information to be filed in the name of His Majesty's Attorney General for this Island, in the Supreme Court of the said Island.

Penalties how  
to be recovered.

### CAP. VIII.

An Act to alter, amend and suspend certain parts of an Act made and passed in the forty-seventh year of His late Majesty's reign, intituled "An Act to repeal an Act made and passed in the forty-first year of His present Majesty's reign, intituled 'An Act for the better regulation of elections,' and to regulate elections for members to serve in General Assembly in future,"

Repealed by II  
Vic., c. 21.

### CAP. IX.

An Act for the further security and recovery of moneys due to His Majesty upon duties of impost and excise—and for regulating the offices of Treasurer and Collector of Impost.\*

For further  
duties of Treas-  
urer see 9 Vic.,  
c. 21, and note  
thereto.

WHEREAS it is deemed necessary that, in addition to the present mode of securing moneys due to His Majesty upon duties of impost and excise, a further mode of securing the same should be provided—Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the Collectors of Impost and Excise, in addition to the recognizance now by law directed to be taken as security for the payment of the duties of impost and excise, shall take from the principal and sureties a warrant of attorney by them duly executed under their hands and seals, to which warrant of attorney shall be annexed a written or printed defeasance, stating the nature and true intent and meaning of such warrant of attorney, directed to the Attorney General or Solicitor General, authorizing them, or either of them, if any such sum or sums of money shall have become due and unpaid on the said warrant of attorney, to appear either in the said Supreme Court during any of its sittings, or before the Chief Justice, or any of the Judges of the said Court, and to confess judgment in the names and on the behalf of the persons who are the King's debtors under and by virtue of any such warrant of attorney, for the full amount of the sum thereby secured and promised to be paid to the King;

With recogni-  
ance taken for  
duties, Collec-  
tors of Excise  
to take a war-  
rant of attor-  
ney,

directed to the  
Attorney or  
Solicitor Gen-  
eral.

\* For further duties, &c., of Collector, see 19 Vic., c. 1.

Judgment to be entered up on such warrant of attorney.

Execution may be issued thereon for debt and costs.

Treasurer and Collectors of Excise to keep regular books, to be produced when called for by Lt. Governor in Council, and to be handed over to their successors in office on pain of forfeiting £500

Treasurer to grant a search in his books, on receiving a fee of 1s.

Treasurer not to engage in trade or commerce, or exchange public money for premium or profit, on pain of forfeiting £500, &c.

and it shall and may be lawful for the said Supreme Court, or for the Chief Justice, or any of the Judges thereof, and they are hereby required to direct the Prothonotary of said Court to file the said warrant of attorney, and to cause a judgment to be regularly entered up, docketed and signed, for the amount of the debt secured in such warrant of attorney, together with the costs; and it shall and may be lawful to sue out execution on behalf of the King for the amount of the debt and costs specified in every such judgment.

II. And be it enacted, That the Treasurer of this Island, and the several Collectors of Impost and Excise shall, and they are hereby required to keep a regular set of books, in which the accounts belonging to each office shall be duly entered, kept and balanced; which books shall be produced for inspection, with their general accounts, when called for by the Lieutenant Governor in Council: and upon the retirement or removal from office of the said Treasurer, or any of the said Collectors, the said books shall be handed over to his successor, together with all papers and documents to the said office belonging; and should the said Treasurer, or any of the said Collectors, refuse or neglect to keep such books, or to produce them when called for as aforesaid, or to hand them over, together with the other papers and documents, to his successor in office, he shall, for such neglect or refusal, forfeit and pay to His Majesty the sum of five hundred pounds.

III. And whereas the Office of Treasurer not being declared by law to be an office of public record, and there being no right of access to the Bonds therein kept, great uncertainty prevails in the purchase of Real Estate—Be it therefore enacted, that from and after the publication hereof, when and as often as any person shall make application to the Treasurer to ascertain what sum or sums of money may at any time be due and owing by any particular individual to His Majesty, he shall be entitled to a search for that purpose; and the treasurer is hereby required, between the hours of eleven and twelve in the forenoon, to grant such search, for which he shall receive the sum of one shilling, and no more.

IV. And be it enacted, That from and after the expiration of twelve months from the passing of this Act, it shall not be lawful for any person holding the office of Treasurer of this Island, to engage, directly or indirectly, in trade or commerce; nor shall such person, at any time, now or hereafter, exchange any of the public moneys for premium or profit, on pain of forfeiting to His Majesty, in either of the above cases, the sum of five hundred pounds, and being ever after rendered incapable of holding the said office of Treasurer.

V. And be it enacted, That all penalties or forfeitures arising by operation of this Act, shall and may be recovered by bill, plaint or information, in His Majesty's Supreme Court of Judicature of this Island. Fines and forfeitures how to be recovered.

### CAP. X.

An Act to ascertain and establish the Boundary Lines of the several Counties and Townships of this Island, and to regulate the duty of Surveyors.

\*.\* The operation of this Act was suspended until approved of by His Majesty, and no such approbation having been signified, it has been repealed and re-enacted, with amendments, by 4 Will. 4, c. 15.

### CAP. XI.

An Act for providing Pounds within this Island, and to suspend an Act made and passed in the thirty-first year of the reign of his late Majesty, intituled "An Act for providing Pounds in the several Royalties in this Province. Continued by 5 W. 4, (2d ses.) c. 1.  
Expired.

### CAP. XII.

An Act to authorize the conviction and punishment, in a summary way, of persons committing common assaults and batteries. Expired.

### CAP. XIII.

An Act to authorize the Lieutenant Governor, or other Administrator of the Government for the time being, to appoint Commissioners for building a Jail in Charlottetown. Executed.

### CAP. XIV.

An Act to regulate hawkers and pedlars, travelling within this Island. Expired.

### CAP. XV.

An Act to continue an Act imposing a duty of impost on tobacco and tea. Expired.

## CAP. XVI.

For other Acts  
relative to  
Treasury Notes  
see 5 G. 4, c. 18.  
6 G. 4, c. 12.  
7 G. 4, c. 1.  
8 W. 4, c. 15.  
9 W. 4, c. 13.  
10 W. 4, c. 17.  
11 W. 4, c. 11.  
12 Vic. c. 11.  
13 Vic. c. 12.  
14 G. 4, c. 1, con-  
tinued for five  
years.

An Act to authorize a further issue of Treasury Notes, and to continue an Act intituled "An Act to revive and continue two certain Acts therein mentioned."

WHEREAS the above mentioned Act will soon expire — Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the Act made and passed in the ninth year of his present Majesty's reign, intituled "An Act to revive and continue two certain Acts therein mentioned," be, and the same is hereby continued in force for five years from the passing hereof.

Further issue of  
Treasury Notes  
to the amount  
of £3000.

II. And whereas the former issues of Treasury Notes have greatly assisted trade, but have been found insufficient for general accommodation, it is therefore deemed expedient to make a further issue — Be it therefore enacted, by the authority aforesaid, That it shall and may be lawful for the Lieutenant Governor, or Commander-in-Chief for the time being, to order a further issue of Treasury Notes, to the amount of three thousand pounds, of which one moiety shall be of the value of twenty shillings each, and the other moiety of the value of ten shillings each.

Subject to pro-  
visions of 5 G.  
4, c. 18, and

III. And be it further enacted, by the authority aforesaid, That this further issue of Treasury Notes, to the amount of three thousand pounds, shall be in the form, and subject to the enactments and provisions of an Act made and passed in the sixth year of his present Majesty, intituled "An Act to empower His Excellency the Lieutenant Governor, or Commander-in-Chief for the time being, to appoint Commissioners to issue Treasury Notes" — and the Act made and passed in the same year, intituled "An Act to authorize the Commissioners named and appointed under an Act made and passed in the sixth year of the reign of his present Majesty, intituled 'An Act to empower the Lieutenant Governor, or Commander-in-Chief for the time being, to appoint Commissioners to issue Treasury Notes,' to issue Notes to the value of ten shillings each."

6 G. 4, c. 12.

Continuance  
of Act.

IV. And be it enacted, That this Act shall be and continue in force for five years from the passing hereof, and no longer.

\*.\* Rendered perpetual by 5 Will. 4, c. 11.

## CAP. XVII.

Explained and  
amended by 3  
W. 4, c. 29, and  
7 W. 4, c. 15.  
Expired.

An Act for raising a fund, by an Assessment on Land, for erecting a Government House and other public buildings within this Island.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic. c. 23.



## CAP. XVIII.

An Act for granting licenses to tavern or innkeepers and storekeepers, and for regulating persons licensed; and to suspend the operation of the Acts therein mentioned.

Repealed by  
9 Vic. c. 26.

## CAP. XIX.

An Act to amend an Act made and passed in the tenth year of his present Majesty's reign, intituled "An Act to continue an Act made and passed in the eighth year of his present Majesty's reign, intituled 'An Act to continue an Act made and passed in the sixth year of his present Majesty's reign, intituled 'An Act to revive, alter and continue an Act made and passed in the fifty-second year of the reign of his late Majesty, intituled 'An Act for raising a fund, to make and keep in repair the pumps, wells, and streets of Charlotte-town, and for other purposes therein mentioned.'"

Passed conditionally, and did not go into operation.

10 G. 4, c. 17.

## CAP. XX.

An Act for increasing the Revenue, by levying a duty on molasses and sugar.

Disallowed by His Majesty, 6th February, 1832.

## CAP. XXI.

An Act to continue and amend an Act made and passed in the tenth year of the present King, imposing a duty on wines, gin, brandy, rum, and other distilled spirituous liquors.

Expired.

## CAP. XXII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty.

Executed.



ANNO PRIMO

# GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Third day of February, *Anno Domini*, 1831, in the first year of the Reign of our Sovereign Lord WILLIAM the Fourth by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1831.

J. READE,  
Lt. GOVERNOR.

E. J. JARVIS,  
President.

Being the first session of the thirteenth General Assembly convened in the said Island.

W. MACNEILL,  
Speaker.

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## CAP. I.

An Act to repeal an Act made and passed in the tenth year of the reign of the late King George the Fourth, intituled "An Act for the appointment of limits and rules for the Jail of Charlottetown," and to make other provisions in lieu thereof.

Repealed by 7  
W. 4, c. 2.

\*.\* This Act was passed for five years.

## CAP. II.

**Repealed by 3 W. 4, c. 1.** An Act for the further regulation of statute labor, and to amend and continue two certain Acts therein mentioned.

## CAP. III.

**Expired.** An Act to continue an Act made and passed in the eleventh year of the late King, intituled "An Act to continue and amend an Act made and passed in the tenth year of the present King, imposing a duty on wines, gin, brandy, rum, and other distilled spirituous liquors."

## CAP. IV.

**Expired.** An Act to continue an Act made and passed in the eleventh year of the late King, intituled "An Act to continue an Act imposing a duty of impost on tobacco and tea."

## CAP. V.

**Executed.** An Act to repeal an Act intituled "An Act for the preservation of sheep within the Royalty of Charlottetown, by imposing a tax on dogs."

## CAP. VI.

**5 G. 4, c. 16.** An Act to amend an Act made and passed in the fifth year of His late Majesty's reign, intituled "An Act to provide a remedy for injuries arising from improper burning of woods."

**Fine directed to be imposed by 5 G. 3, c. 16, how to be recovered and applied.**

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That the fine directed to be imposed in and by the said Act, intituled "An Act to provide a remedy for injuries arising from improper burning of woods," shall be recovered, with costs, before any one of His Majesty's Justices of the Peace, and shall be paid into His Majesty's Treasury of this Island, for the repairs of roads and bridges—the same to be levied by warrant of distress on the goods and chattels of the offender or offenders; and if no goods and chattels can be found whereon to levy, the said Justice is hereby authorized and empowered to commit the offender or offenders to the Jail of Charlottetown, for a period not exceeding two months: provided, that all offences committed against the provisions of

**For want of sufficient distress, offender to be imprisoned for a period not exceeding 2 months.**

this Act shall be prosecuted within six months after the time the offence shall have been committed, and not afterwards.

Offences to be prosecuted within six months.

### CAP. VII.

An Act to continue an Act intituled "An Act to establish an assize of bread within the town and Royalty of Charlotte-town"—and an Act intituled "An Act to regulate the driving carts, carriages, sleighs and carioles on the highways."

Expired.  
8 G. 4, c. 3,  
8 G. 4, c. 6.

### CAP. VIII.

An Act to authorize the appointment of Commissioners for erecting certain public works therein mentioned.

Executed.

### CAP. IX.

An Act to authorize Justices of the Peace to enforce the attendance of witnesses, in certain cases.

WHEREAS it is deemed expedient to the furtherance of justice, that authority be given to Justices of the Peace to enforce the attendance of witnesses in all cases where they shall be considered necessary, and where the same may not be provided for by statute:—Be it enacted, by the Lieutenant Governor, Council and Assembly, That upon complaint being made before any Justice or Justices of the Peace of any offence committed against the provisions of any Act or Acts of the General Assembly now in force, or which may hereafter be in force, in this Island, and which may be cognizable before the said Justice or Justices, it shall and may be lawful for the said Justice or Justices to issue his or their summons or subpoena, requiring the attendance of such witness or witnesses, whose evidence may be deemed necessary in the premises; and in case any person or persons who shall have been duly served with a summons or subpoena, as aforesaid, requiring him, her or them, at a certain time and place therein mentioned, to give evidence as aforesaid, and such person or persons neglecting or refusing to appear, as therein required, and no cause of absence having been shewn to the satisfaction of the said Justice or Justices—or, when appearing shall refuse to be sworn and give evidence; and oath having been made by the party or parties, at whose instance or on whose behalf such summons or subpoena issued, that he, she or they hath or have reason to believe, that the person or persons served therewith was or were a material witness or witnesses for the

Justices of the Peace empowered to summon witnesses;

and if they neglect or refuse to attend;

or when appearing, refuse to be sworn and give evidence, how to be punished.

Application of fine.

Mode of recovery.

Justice or parties, then it shall be lawful for such Justice or Justices to impose a fine on such delinquent party, not exceeding fifty shillings, nor less than five shillings, together with costs—which fine shall be paid into the Treasury of this Island, to and for the use of His Majesty's Government; and in default of payment thereof, when directed by the said Justice or Justices, the same to be recovered by warrant of distress, and sale of the offender's goods and chattels; and in case no goods and chattels shall be found, then the said Justice or Justices shall commit the said offender or offenders to the jail of Charlottetown for a time not exceeding one calendar month.

Justices may award to witnesses their expenses.

II. And be it enacted, That it shall and may be lawful for such Justice or Justices to award and order such costs to the said witness, or witnesses, for his, her or their attendance as are now by law allowed to witnesses.

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### CAP. X.

Repeated by 4 W. 4, c. 5.

An Act to prevent the running at large of rams at improper seasons, and to regulate the appointment of sheep-reeves, and to suspend two certain Acts therein mentioned.

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### CAP. XI.

Repeated by 2 W. 4, c. 1.

An Act for the recovery of small debts, and to continue and amend the several Acts therein mentioned.

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### CAP. XII.

Expired.

An Act to alter an Act made and passed in the tenth year of the late King, for regulating the size of barrels, and the inspection of pickled fish.

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### CAP. XIII.

Sec 26 G. 3, c. 14.

An Act to discourage litigation, by regulating the set-off of mutual debts in actions at law.

Mutual debts may be set off in any Court of Record;

**WHEREAS** a provision for setting mutual debts one against the other in actions at law is highly just and reasonable at all times, and tends to prevent the multiplicity of lawsuits—Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That where there are mutual debts between the plaintiff and defendant in any Court of Record in this Island, or if either party sue or be sued as

executor or administrator, where there are mutual debts between the testator and intestate and either party, one debt may be set against the other, and such matter may be given in evidence upon the general issue, so as at the time of his pleading the general issue, when any such debt due from the plaintiff, his testator or intestate, is intended to be insisted on in evidence by the defendant, notice shall be given of the particular sum or debt so intended to be insisted on, and upon what occasion it became due, or otherwise such matter shall not be allowed in evidence.

and may be given in evidence on the general issue.

Particulars to be first delivered.

II. And be it further enacted, That by virtue of this Act mutual debts may be set against each other as well in replevin for rent as in other actions, notwithstanding that such debts may be deemed in law to be of a different nature: and in case any debt shall have accrued by reason of a penalty contained in any bond or speciality, the declaration of the plaintiff, and notice of set-off from the defendant, shall respectively show how much is claimed to be justly and truly due on either side; and judgment shall be entered for either the plaintiff or defendant for no more than shall appear to be justly due after one debt being set against the other as aforesaid: and if, upon the trial of any issue, the plaintiff shall become nonsuit, or the jury shall not assess damages to the plaintiff over and above the sum proved at such trial on behalf of the defendant, and of which notice of set-off shall have been given as aforesaid, then the plaintiff shall pay to the defendant costs, to be taxed; and if upon such trial, it shall appear to the jury that the plaintiff has been overpaid, then they shall not only find a verdict for the defendant, but shall also therewith certify in writing to the Court how much they find the plaintiff to be indebted to the defendant; and the sum or sums so certified shall be recorded with the verdict, and shall be deemed a debt of record; and the defendant shall have execution for the recovery thereof, with costs of the said action—any law, usage or custom to the contrary in any wise notwithstanding.

In replevin for rent, mutual debts may be set off.

In actions on bond or speciality, plaintiff's declaration and defendant's set-off to state the sum claimed.

If plaintiff become nonsuit, &c., he shall pay defendant's costs.

If the plaintiff be overpaid, jury may find a verdict for defendant.

#### CAP. XIV.

An Act to establish a reward for the destruction of bears and loupceviers.

Continued by 6 W. 4, c. 18.

Expired.

#### CAP. XV.

An Act to authorize a further issue of Treasury Notes.

WHEREAS it is deemed expedient to make a further issue of Treasury Notes—Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Lieutenant Governor, or Adminis-

For Acts which relate to Treasury Notes, see note to 11 G, 4, c. 16.

Further issue of Treasury Notes, to the amount of £3000.

trator of the Government for the time being, to order a further issue of Treasury Notes, to the amount of three thousand pounds—whereof one moiety shall be in notes of the value of ten shillings each, and the remainder in the following proportions, (that is to say)—one thousand pounds thereof shall be in notes of the value of one pound each, and five hundred pounds in notes of the value of five shillings each.

Subject to provisions of 5 G. 4, c. 18, and

II. And be it further enacted, That this further issue of Treasury Notes to the amount of three thousand pounds as aforesaid, shall be in the form and subject to the enactments and provisions of an Act made and passed in the sixth year of His late Majesty's reign, intituled "An Act to empower his Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes"—and an Act made and passed in the same year, intituled "An Act to authorize the Commissioners named and appointed under an Act made and passed in the sixth year of the reign of His present Majesty, intituled 'An Act to empower his Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,' to issue notes of the value of ten shillings each."\*

6 G. 4, c. 12.

Allowance to Commissioners.

III. And be it enacted, That the Commissioners named and appointed under and by virtue of the Act first above mentioned, shall be paid at and after the rate of one half *per centum* each, as a remuneration for their trouble in issuing Treasury Notes, from and after the passing of this Act.

Punishment for stealing Treasury Notes.

IV. And whereas no provision hath been made by any former Act authorizing the issue of Treasury Notes, for the punishment of persons who may be found guilty of stealing such notes—Be it therefore enacted, that any person or persons who shall hereafter be found guilty of feloniously stealing any Treasury Note or Notes heretofore issued, or which shall be hereafter issued, under and by virtue of any law of this Island, shall be liable to such punishment for the offence as he, she or they would by law be liable to, in case such person or persons had been found guilty of feloniously stealing the same amount in any coin which may be current within this Island at the time of committing such felony.†

Continuance of Act.

V. And be it enacted, That this Act shall be and continue in force four years from the passing thereof, and no longer.

\* \* \* Made perpetual by 5 Will. 4. c. 11.

\* The references to Acts made in this section being incorrect, are explained and amended by 10 Vic., c. 12, s. 8.

† See 6th W. 4, c. 22, s. 17.



## CAP. XVI.

An Act to amend an Act made and passed in the eleventh year of His late Majesty's reign, intituled "An Act for granting licenses to tavern or innkeepers and storekeepers, and for regulating persons licensed, and to suspend the operation of the Acts therein mentioned"—and to suspend part of an Act passed in the thirty-fifth year of the reign of King George the Third, intituled "An Act for regulating servants."

Repealed by 9  
Vic., c. 26.

## CAP. XVII.

An Act to amend an Act made and passed in the tenth year of the reign of His late Majesty, intituled "An Act to continue an Act made and passed in the eighth year of His present Majesty's reign, intituled 'An Act to continue an Act made and passed in the sixth year of His present Majesty's reign, intituled 'An Act to revive, alter and continue an Act made and passed in the fifty-second year of the reign of His late Majesty, intituled 'An Act for raising a fund, to make and keep in repair the pumps, wells and streets of Charlottetown, and for other purposes therein mentioned.'"

Repealed by  
3 W. 4, c. 27.

## CAP. XVIII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-one.

Executed.



ANNO SECUNDO

## GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the third day of February, *Anno Domini*, 1831, in the first year of the reign of our Sovereign Lord WILLIAM the Fourth, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1832.

A. W. YOUNG,  
Lt. Governor.

E. J. JAMES,  
President.

W. MACNEEN,  
Speaker.

And from thence continued, by several prorogations, to the third day of January, 1832, and in the second year of His said Majesty's reign; being the second session of the thirteenth General Assembly convened in the said Island.

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### CAP. I.

An Act to consolidate and amend the several Acts of the General Assembly therein mentioned, relating to the recovery of small debts.

Repealed by  
7 Vic. c. 2.

## CAP. II.

An Act to prevent the destruction of Oysters, by burning the same, for the purpose of converting the shells thereof into lime.

**W**HEREAS large quantities of Oysters are wantonly destroyed by persons burning them when making Lime from the shells: For remedy whereof—Be it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the twenty-fourth day of March, one thousand eight hundred and thirty-two, no person or persons shall use or destroy any Oysters taken from any of the rivers, bays or creeks of this Island, by burning the same for the purpose of converting the shells thereof into lime, under a penalty not exceeding five pounds, and costs of prosecution.

Penalty for burning Oysters for the purpose of making lime of the shells.

Mode of recovery.

II. And be it enacted, That upon complaint of a breach of this Act being duly made on oath by one or more witness or witnesses, before any one of His Majesty's Justices of the Peace for this Island, such Justice shall, and he is hereby required, forthwith to issue a summons to the party complained against, requiring him, her or them to appear before him the said Justice to answer the complaint, within such time as under the circumstances shall to such Justice appear proper and reasonable, when and where the witness or witnesses to prove the charge shall also attend; and the oath of the complainant or informer alone shall be sufficient to convict, where other evidence cannot be had, and in all cases of necessity, to be determined and allowed by the Justice before whom the complaint shall be made; and if on conviction, the offender shall not immediately, or within such time as the Justice shall think proper, pay the fine and costs, the said Justice is hereby authorized and required to issue his warrant to levy the amount thereof on the goods and chattels of the offender; and for want of goods and chattels, to commit such offender to the common Jail at Charlottetown, for a period not exceeding thirty days.

For want of goods, offenders may be committed.

Application of penalties.

III. And be it enacted, That one half of all penalties which shall be imposed and recovered under and by virtue of this Act shall be paid to the person or persons prosecuting for the same, and the other half shall be paid into the public Treasury of the Island, for the use of His Majesty's Government.

## CAP. III.

An Act to enable certain persons to put their marriages upon record.

WHEREAS in the years one thousand eight hundred and twenty-three, one thousand eight hundred and twenty-four, one thousand eight hundred and twenty five, and one thousand eight hundred and twenty-six, the Reverend Thomas Adin, Clerk, now deceased, was Rector of Charlotte Parish, and in that capacity of Rector and Priest solemnized several marriages under the license of the Lieutenant Governor, or Administrator of the Government of this Island for the time being; and whereas the said Thomas Adin hath not caused several of the said marriages to be duly registered in the Book of the registry of marriages for the Parish of Charlotte, and took with him, when he left this Island, the original letters of license for celebrating such marriages: and whereas it may be productive of much injury in time to come to the issue of such marriages so unregistered as aforesaid, by reason of not being able to prove the lawful marriage of their parents: For remedy whereof—Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication of this Act, it shall and may be lawful for any person or persons so married by the late Thomas Adin, on obtaining a certificate under the hand and seal of the Secretary, or other officer having charge of the Books containing a record of the issuing of marriage licenses, that a license in the usual form appears to have been issued under the hand and seal of the Lieutenant Governor, or Administrator of the Government for the time being, and directed to the parties married, and on obtaining the affidavit or affidavits of one or more of the parties who were present at the solemnization of the said marriage, to cause the same to be filed with the present or any future Rector of Charlotte Parish, who, on such affidavits being presented to him, shall cause the same to be copied into the usual book of registry of marriages solemnized by him, and shall register the said marriages, stating that such have been registered in pursuance of and by virtue of this Act; which registry shall be as good, effectual, and valid in the law, to all intents and purposes whatever, as if the same had been registered by the said Thomas Adin in his life time.

Persons married by Thomas Adin, Clerk, on obtaining a certificate of the issue of license, and an affidavit of any person present at the marriage, may have the same registered.

II. And be it further enacted, That the Rector so registering such marriage shall have and receive for so doing, the following fees: (that is to say)—

Rector's fees.

For filing each affidavit, one shilling.

For copying the same into the registry, for every hundred words, the sum of two shillings.

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For registering each marriage, three shillings and fourpence.

For granting certificate of such registry, two shillings and sixpence.

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#### CAP. IV.

Expired. An Act authorizing the removal of nuisances from the streets of Charlottetown.

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#### CAP. V.

Repealed by 7 Vic. c. 2. An Act to authorize Justices of the Peace and Commissioners under the small debt Act to issue writs of summary capias against persons about to leave this Island.

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#### CAP. VI.

Continued by 5 W. 4, (2d session) c. 1. Expired. An Act to alter and amend an Act made in the forty-eighth year of the reign of His late Majesty King George the Third, intituled "An Act for repealing an Act intituled 'An Act to prevent the throwing of ballast into rivers and creeks on this Island,' and for the empowering the Governor, Lieutenant Governor, or Commander-in-chief for the time being, to appoint ballast masters, and to regulate their duty."

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#### CAP. VII.

Executed. An Act for building a Court House and Jail in Prince County, and for appointing Commissioners to superintend the same.

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#### CAP. VIII.

Expired. An Act to prevent the running at large of swine within the town and royalty of Princetown.

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#### CAP. IX.

Repealed by 11 Vic. c. 21. An Act for limiting the time for holding the poll for the election of members to serve in General Assembly.

## CAP. X.

An Act for the relief of Solomon Desbrisay, a prisoner in confinement for debt within the limits of the jail in Charlotte-town. Executed.

## CAP. XI.

An Act to prevent tavernkeepers, innkeepers, or other persons, from harboring or entertaining soldiers at improper hours. See 50 G. 3. c. 3, and 1 Vic, c. 18.

WHEREAS it is found necessary to prevent tavernkeepers, innkeepers, or any other person or persons, from harboring or entertaining soldiers at improper hours—Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, if any tavernkeeper, innkeeper, or any other person or persons in this Island, shall knowingly suffer or permit any noncommissioned officer, drummer, or private soldier or soldiers, in His Majesty's service, to be and remain in his, her or their house or houses, under any pretence whatsoever, after the hour of eight of the clock in the evening, from the first day of October to the thirtieth day of April, or after the hour of nine in the evening, from the first day of May to the thirtieth day of September, in each and every year, without a written pass or permission from his or their commanding officer, he, she or they shall be liable to pay a fine of twenty shillings, together with the costs of recovering the same, for each and every offence—to be recovered before any one of His Majesty's Justices of the Peace for the said Island, on the oath of one credible witness—the same to be levied by warrant of distress on the goods and chattels of the offender or offenders; and if no goods and chattels can be found whereon to levy the same, it shall and may be lawful for the said Justice to commit the party so offending to the County jail, for a period not exceeding ten days.

Any tavern-keeper, or other person suffering a soldier to remain in his house after a certain hour in the evening without a written pass from his officer, to forfeit £1 and costs.

Mode of recovery.

II. And be it enacted, That one moiety of the said fine, if recovered, shall be paid to the person who shall inform and sue for the same; and the other moiety shall be paid into the Treasury of this Island, to and for the use of His Majesty's Government. Application of fine.

## CAP. XII.

An Act to require landlords, or claimants of rents, to put the titles by which they claim upon record, in the proper offices of record in this Island. Disallowed.

## CAP. XIII.

Sec 11 Vic., c.  
12

An Act to prevent the importation and spreading of infectious diseases within this Island.

Regulations for vessels having on board emigrant passengers, or contagious distempers, or coming from infected places, or on board of which any person had died or been sick of such distemper, on entering Charlottetown harbor.

Their inspection and place of anchorage.

Health officer may permit vessel to proceed, or may direct the master to hoist a yellow flag, and to remain at anchor for 3 days.

Lt. Governor, &c., may direct a quarantine of 40 days, and appoint a station.

Master permitting any intercourse with the shore, or with other vessels;

**W**HEREAS it has become expedient and necessary to make regulations for preventing the importation of infectious disorders into this Island: Be it enacted, by the Lieutenant Governor, Council and Assembly, That no vessel arriving in the harbor of Charlottetown with emigrant passengers, or having on board the small pox, yellow fever, or other pestilential or contagious distemper, or coming from any place infected with any such distempers, or at which any such distempers at the time of her departure were known or supposed to prevail, or on board of which said vessel, any person during the voyage had died or been sick of any such distemper, shall come, proceed, or be navigated or conducted further or higher up into the harbor of Charlottetown, or into the several rivers connected therewith, than Canso Point, or the confluence of the York, Elliot, and Hillsborough Rivers, until such vessel shall have been duly inspected and examined by one competent medical person, to be for that purpose, as hereinafter mentioned, appointed, nor until the said medical person shall signify his consent and permission, in writing, that such vessel may proceed without danger to the inhabitants of this Island; and if on such inspection and examination as aforesaid it shall be judged expedient, the said medical person be, and he is hereby authorized to direct the master or commander of the said vessel forthwith to hoist, or cause to be hoisted, a yellow flag, to be provided by the said medical person, at the maintopmast head of the said vessel, and which flag shall be kept flying, and to direct that the said vessel shall be brought to anchor at the place aforesaid, and remain there for a space of time not exceeding three days, unless the Lieutenant Governor, or Commander-in-chief for the time being, shall ordain and direct that such vessel shall perform quarantine, in which case the master or commander of such vessel for the time being, shall forthwith cause the said vessel, with all the persons, goods and cargo on board thereof, to be removed to and to anchor at such place, and for such length of time, not exceeding forty days, as the said Lieutenant Governor, or Commander-in-chief for the time being, may think proper to direct and appoint; and during the time such vessel shall be performing such quarantine, the master or commander thereof shall not permit or suffer any intercourse between the persons on board the said vessel and the shores of this Island, nor between the said vessel and any other vessel or boat, except under the direction of the said medical person; and the master or commander of any such vessel, and all and every other



person or persons belonging to and being on board such vessel, who shall disobey any such orders and directions as aforesaid, or shall neglect to execute and perform the same, or who shall come on shore, or go on board of any other vessel or boat contrary thereto, or shall presume to bring or put, or aid and assist in bringing or putting on shore, or on board any other vessel or boat as aforesaid, any person or any goods from any such vessel so having come to anchor, or which shall be ordered to perform quarantine as aforesaid, without the license and permission of the said medical person being for that purpose first obtained, shall for each and every offence severally forfeit and pay a sum not exceeding two hundred pounds of current money of this Island, or be imprisoned for a time not exceeding twelve months.

or any other person coming on shore or going on board of any other vessel, &c., without license from health officer, to forfeit £200, or be imprisoned for twelve months.

II. And be it further enacted, That the master or commander of every vessel with emigrant passengers, or having on board the small pox, yellow fever, or other pestilential or contagious distemper, or coming from any place infected with any such distempers, or at which any such distempers, at the time of her departure, were known or supposed to prevail, or on board of which said vessel any person during the voyage had died or been sick of any such distempers, immediately on coming abreast of the Block House at the entrance of the harbour of Charlottetown, shall cause the said vessel's ensign (or such other colour as shall be on board) to be hoisted in the starboard main rigging, and shall continue the said signal so hoisted, until the said vessel shall have been inspected and examined by the said medical person, and a license be had from him to remove the same, under the penalty of twenty pounds for each and every offence.

Master of such vessel, on coming abreast of Block House, to hoist an Ensign or other flag in the starboard main rigging, to be kept flying until the vessel is inspected, and license given to remove the same, under penalty of £20.

III. And be it further enacted, That the several branch pilots belonging to the harbour of Charlottetown shall be furnished with printed instructions containing a notice to the following effect, viz: —“That no vessel with emigrant passengers, or having the small pox, yellow fever, or other pestilential or contagious distemper on board, or having come from any place infected with any such distemper, or at which any such distempers were known or supposed to prevail at the time of her departure, or on board of which any person had died or been sick of any such distempers during the voyage, shall proceed or be navigated further or higher up into the harbour than Canso Point, or the confluence of the York, Elliot, and Hillsborough Rivers; and that the master or commander of any such vessel shall not go or put on shore, or on board any other vessel or boat, or suffer any other person to go or put on shore or on board any other vessel or boat, any person or goods out of the said vessel, until such vessel shall have been inspected by the medical person, and his license

Branch pilots to be furnished with printed instructions.

Tenor of notice.

**Duty of pilot before boarding vessels.**

**In what cases pilots shall not board vessels.**

**Their duty in such cases.**

**Penalty on pilots offending against this Act.**

**Justices of Peace to cause persons landing from any such vessel to be reconveyed on board.**

**Constables may command assistance to enable them to execute warrants against such persons.**

‘ for that purpose obtained, under the penalty of two hundred pounds; and further, that the said master or commander shall cause the said vessel’s ensign (or such other colour as shall be on board) to be hoisted in the starboard main rigging, so soon as the said vessel shall come abreast of the Block House, and shall continue the same so hoisted until leave be granted by the said medical person to remove the same, under the penalty of twenty pounds.” And every pilot, before he shall board any vessel coming into the said port or harbour, shall ascertain whether such vessels have on board any such infectious distempers, or have last come from any place known to be infected therewith at the time of the departure of any such vessels, and whether any person has during the voyage died or been sick of any such pestilential disease as aforesaid; and if his questions to the effect aforesaid, or any of them, shall be answered in the affirmative, he shall refrain from boarding such vessel, but shall nevertheless inform those on board by the best means in his power of the provisions of this Act, as contained in his instructions on that subject hereinbefore mentioned, and if permitted, shall point out the course for such vessels to steer by, going before them with his boat to the place where such vessels ought to anchor, and shall forthwith give the proper notice or information to the medical officer who may be appointed to visit such vessels under and by virtue of this Act; and it shall nevertheless be the duty of the said pilot, on first boarding every vessel coming into the harbour of Charlottetown, to read such notice to the master or commander of such vessel, or communicate to him the purport and effect of such notice; and any branch pilot who shall neglect his duty in this respect, shall for the first offence forfeit and pay the sum of ten pounds, and for the second offence, in addition to the penalty of ten pounds, be prevented for ever after from holding a branch: and if any person or persons shall be found to have been landed, or attempting to land, from any such vessel with emigrant passengers, or so coming from any infected place as aforesaid, or having any person on board so infected as aforesaid, or on board of which said vessel any person during the voyage had died or been sick of any such infection, it shall and may be lawful for any Justice of the Peace, by warrant under his hand and seal, directed to any constable, to cause such person to be taken and reconveyed on board such vessel; and the said constable having such warrant is hereby authorized and empowered to command the necessary assistance to enable him to force back and convey on board the said vessel any and all persons so landed, or attempting to land, as aforesaid; and it shall be lawful for the persons so called upon by the said constable or officer to assist or use such force as may be necessary to carry the said order into effect, by forcing such persons landed, or attempting to

land, back to and on board such vessel; and the master or person having command or charge of such vessel from which such person shall have landed, or attempted to land, shall, on request of the constable or officer having the execution of such warrant, receive, take and detain on board his said vessel such person or persons, under the penalty of fifty pounds for each and every person that he shall refuse to receive, or neglect to detain and keep on board after being so returned.

V. And be it further enacted, That no person or persons whatsoever, other than the medical person appointed as aforesaid, shall go on board any vessel so arriving as aforesaid, which shall have such signal so hoisted in the starboard main rigging as aforesaid, or which, having come to anchor, shall continue to have such signal so hoisted as aforesaid, under a penalty not exceeding twenty pounds for each and every offence; and if any person or persons, other than the medical person aforesaid, shall go on board any such vessel, or any other vessel on board of which the attendance of the said medical person shall or may be required under and by virtue of this Act, then and in such case, the master or commander of such vessel for the time being, is hereby authorized and required, to keep and detain such person or persons on board the said vessel, until such license as aforesaid be given for the said vessel to proceed, or until the expiration of such time as shall be directed and appointed for the said vessel to perform quarantine as aforesaid, or permission in writing be had from the said medical person for him or them to depart; and if any such person or persons so having unlawfully gone on board any such vessel as aforesaid, shall go on shore or depart from the said vessel, before such license as aforesaid shall be given, or before the expiration of the time appointed for the said vessel to perform quarantine, or permission be given for him or them to depart as aforesaid, then and in such case every such person or persons so offending as aforesaid, and the master or commander of any such vessel so permitting such person or persons to go on shore or to depart from the said vessel, and every other person or persons aiding and assisting therein, shall, for each and every offence severally forfeit and pay the sum of fifty pounds: and it shall and may be lawful for any Justice of the Peace, by warrant under his hand and seal directed to any constable, to cause such person or persons to be taken and reconveyed on board such vessel: and the said constable having such warrant is hereby authorized and empowered to command the necessary assistance to enable him to force back and convey on board the said vessel any and all persons so landed, or attempting to land, as aforesaid; and that it shall and may be lawful for the person or persons so called upon by the said constable to assist or use such force as may be necessary to carry the said order into effect, by forcing

Masters of vessels to receive and keep such persons on board, under a penalty of £50.

No person other than health officer, to go on board any vessel, after signal hoisted, under penalty of £20.

All persons going on board, to be detained.

Master permitting the return of any such person, and all others aiding, respectively to forfeit £50 for each offence.

Justices to direct a constable to reconvey such persons on board.

Constable authorized to command assistance.

Persons so called, on refusing to assist, to forfeit £5.

Penalty of £50 on master, for refusing to receive any such person on board.

Lt. Governor with advice of Council to direct where sick persons shall be landed,

there to remain, until they are restored to health.

When health officer certifies, Lt. Governor may give license for such vessel to depart from quarantine.

Persons departing from quarantine ground, without permission of health officer, may be apprehended by warrant from a Justice, and carried back.

Masters of vessels not liable for penalties,

any and all such persons landed, or attempting to land, back to and on board such vessel; and any person or persons neglecting or refusing, when called on, to assist such constable in forcing back to and on board such vessel any or all such persons landed, or attempting to land, shall incur and forfeit and pay a sum not exceeding five pounds: and the master or person having command or charge of such vessel from which such person or persons shall have landed, or attempted to land, shall, on request of the constable having the execution of such warrant, receive, take and detain on board his said vessel such person or persons, under the penalty of fifty pounds for each and every person that he shall refuse to receive, or neglect to detain and keep on board, after being so returned.

VI. And be it further enacted, That during the time any such vessel shall be ordered to perform quarantine as aforesaid, it shall and may be lawful for the Lieutenant Governor, or Commander-in-chief for the time being, by and with the advice of His Majesty's Council (if on the report of the medical person aforesaid, it shall be judged expedient), to order and direct that the passengers and others on board such vessel infected with any disease, may be landed therefrom, and conveyed to such place as he may appoint, in order to facilitate their recovery, and to prevent the spreading of the disease; and the person so landed as aforesaid shall remain at such place or places as shall be appointed therefor until they are restored to health, their clothes thoroughly cleansed, under the direction of the said medical person, and his certificate be obtained that they may proceed to the town or country, without danger to the inhabitants thereof; and the said vessel from which the said passengers shall be so landed shall be thoroughly cleansed and purified, under the direction of the said medical person, and when so cleansed and purified, the said medical person shall report the same to the Lieutenant Governor, or Commander-in-chief for the time being, who shall thereupon give a license for the said vessel to depart from such quarantine as aforesaid; and in case any person or persons shall depart from the place to which he, she or they may have been conveyed from the said vessel, without the permission of the said medical person being for that purpose first obtained, it shall and may be lawful for any Justice of the Peace, by warrant under his hand and seal to direct any constable to cause such person or persons to be apprehended and carried back to the place from whence he, she or they may have so departed, or to be otherwise disposed of, so as to prevent the spreading of the infection.

VII. And be it further enacted, That no penalty whatsoever shall be inflicted on the master or commander of any ship or vessel, or any other person, for any breach of the provisions

of this Act, unless such breach shall be committed wilfully or negligently, after such master or commander, or other person, shall have received notice of the provisions of this Act, any thing hereinbefore or hereinafter contained to the contrary notwithstanding.

under this Act, unless they have received notice of its provisions.

VIII. And be it further enacted, That all vessels as aforesaid which shall arrive at any of the other harbors within this Island shall hoist the said vessel's ensign, or such other colour as may be on board, in the starboard main-rigging as aforesaid, and shall not proceed further or higher up into any of the said harbors than may be absolutely necessary for the safety of such vessel, until such vessel shall have been visited, inspected, and examined by the medical person appointed for that purpose, and his permission in writing first obtained for the said vessel to proceed: and the master or commander of any vessel which shall proceed further or higher up into the several harbors than is hereinafter directed, until such permission shall be obtained as aforesaid, shall, for each and every such offence, forfeit and pay the sum of twenty pounds.

Vessels arriving at any of the other harbors of this Island, to hoist ensign, &c., and not to proceed further than safety of vessel warrants until inspected and licensed by health officer, under penalty, on masters, of £20.

IX.\* And be it further enacted, That the Lieutenant Governor, or Commander-in-chief for the time being, by and with the advice and consent of His Majesty's Council, is hereby authorized to appoint fit and proper persons in the several out-harbors of this Island, who shall have full power and authority within their respective districts to order and direct any vessel or vessels having on board the small pox, yellow fever, or other pestilential or contagious distemper, or coming from any place infected with such distempers, immediately upon her arrival at or within any such harbor as aforesaid, to come to an anchor at such place as to them, or the major part of them, shall be deemed most advisable to protect the inhabitants from contracting any such fever or contagious distemper as aforesaid; and such vessel or vessels shall there remain, and shall not proceed further into the said harbor, until the master or commander of such vessel shall have obtained a license for that purpose from the persons so appointed as aforesaid, or the major part of them; and in case such license shall be denied, and it shall be judged expedient by such persons, or the major part of them, that the said vessel with its cargo and all persons on board should ride or perform quarantine, then the said vessel or vessels shall be liable to the same rules and regulations, and all persons on board thereof shall be subject to the same penalties in every instance as are hereinbefore prescribed respecting vessels, goods and passengers arriving at or within the harbor of Charlottetown, and the several rivers

Lt. Governor, &c., may appoint persons in the out-harbors to direct where such vessels shall anchor.

Vessel there to remain until licensed to depart.

Such persons may order quarantine to be performed under the rules prescribed for vessels arriving at Charlottetown.

\* So much of this section as relates to the appointment of health officers, is repealed by 11 Vic., c. 12, s. 13.

Vessels arriving at south side of the Island, to perform quarantine at same place as vessels arriving at Charlottetown.

Vessels arriving at any other outport may be ordered to Richmond Bay.

Such persons authorized to nominate a health officer; who is to proceed as directed by the 4th section of this Act.

On oath made of the escape of any person from such vessels or assigned limits, Justices of the Peace may issue a search warrant.

Persons aiding or assisting any such person in landing or escaping, or harboring, or concealing any such person, to forfeit not more than £20, nor less than £5.

connected therewith: and all vessels liable to perform quarantine, and arriving at any outport on the south side of this Island, situated anywhere between the East Point and West Cape of the Island, shall and may, by such persons, or the major part of them, be ordered and compelled to proceed to such place to perform quarantine as vessels arriving at Charlottetown harbor shall be appointed to perform the same duty; and all such vessels as may arrive at any other of the outports of this Island shall in like manner be ordered and compelled to perform quarantine in such part of Richmond Bay as shall be fixed and determined on by those persons who shall be so appointed as aforesaid for that bay, or the major part of them: and such persons so appointed in the several out-harbors as aforesaid, are authorized and required to nominate and appoint one competent medical person, who shall have the same powers and authorities in every respect within the district for which he may be appointed as are herein given to the medical person to be appointed as aforesaid for the harbor of Charlottetown; and such medical person shall make report in writing to the person or persons so requesting him to go on board and make examination as aforesaid, of the result of such examination and inquiry, with his opinion and advice thereon, in the same manner as is hereinbefore prescribed by the fourth section of this Act.

X. And be it further enacted, That if at any time it shall be made to appear to the satisfaction of any Justice of the Peace, on oath, that any person has escaped from any such vessel, or from the limits assigned, or to be assigned, as aforesaid, and is kept or concealed in any house or other building; or if oath be made by some credible person or persons, that there is good reason to suspect, and that such person or persons do verily believe, that any person so escaping as aforesaid is so kept or concealed, it shall and may be lawful for such Justice to issue his warrant to any of the constables, authorizing and requiring him or them to enter and search such house or other building: and if such person so escaping as aforesaid shall be found therein, to arrest, take, and convey him or her on board of such vessel, or to such place as shall be appointed or assigned as aforesaid for such persons to be kept in.

XI. And be it further enacted, That if any person whatsoever shall aid, assist, or procure any person to aid, abet or assist any person in landing from such vessel, or in escaping from such place appointed as aforesaid, previous to a license for that purpose obtained as aforesaid, or shall keep, secrete or conceal, or shall procure any person to keep, secrete or conceal any such person landing or leaving as aforesaid, or in any manner assist in preventing the detection and apprehen-

sion of such person so landing, without a license as aforesaid, every such person so offending shall for every such offence forfeit and pay a sum not less than five pounds nor more than twenty pounds.

XII. And be it further enacted, That all the penalties and forfeitures in this Act mentioned may be prosecuted, sued for and recovered in the Supreme Court, by action of debt, bill, plaint, or information, by any person who shall prosecute for the same, within twenty days after the commission of the offence; and when recovered, shall be paid, one moiety to the person so suing and prosecuting, and the other moiety to be paid into the Treasury of the Island for the use and support of the Government thereof; and if no person shall so sue or prosecute within twenty days, then that the same penalties and forfeitures shall be sued for and recovered by information of His Majesty's Attorney General in the said Supreme Court, and when recovered, to be paid, after deducting the costs and charges of prosecution, into the said Treasury, for the uses as aforesaid.

Mode of recovery of penalties; to be prosecuted for within 20 days after the offence committed.

Application of penalties.

Attorney General to prosecute if no other person does so.

XIII. And be it further enacted, That upon application from the master or other commanding officer of any vessel having any infectious disorder on board as aforesaid, made to the Lieutenant Governor, or other Administrator of the Government for the time being, for further medical assistance, it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government, to direct such other medical person or persons as he may select, to visit such vessel so infected in conjunction with the Health Officer, which said medical person shall be entitled to receive the same remuneration as is given to the said Health Officer for each and every visit he may make as before directed, any thing in this Act to the contrary notwithstanding.

On application, Lt. Governor may appoint additional medical persons to visit vessels.

Fees of persons so appointed.

XIV. And be it further enacted, That it shall and may be lawful for the Lieutenant Governor, or Commander-in-chief for the time being, by and with the advice and consent of His Majesty's Council, from time to time, to suspend the operation of this Act as regards vessels arriving from any port, place or country.

Power to suspend operation of Act.

\* \* \* The fourth section of this Act having been repealed by 11 Vic. c. 12, s. 13, is omitted.

## CAP. XIV.

Amended by  
6 Vic. c. 8.

For other Acts  
relating to mar-  
riages, see 11  
G. 4, c. 5; 2 W.  
4, c. 3.

Confirms all  
marriages here-  
tofore solemn-  
ized within this  
Island where  
the parties have  
cohabited.

Issue of such  
marriages de-  
clared legiti-  
mate.  
Proviso.

Clergyman of  
any denomina-  
tion having spi-  
ritual charge of  
a congregation,  
on receiving a  
certificate from  
the Lt. Govern-  
or, and all  
others whom he  
may authorize,  
may solemnize  
matrimony ei-  
ther by license  
or publication  
of banns.

An Act to confirm and render valid certain Marriages heretofore solemnized within this Island; and also to declare by whom and in what manner marriages shall be celebrated in future, and to provide for the public registry of the same.

**W**HEREAS it is deemed expedient to confirm and render valid certain marriages heretofore solemnized within this Island, and also to declare by whom and in what manner marriages shall be celebrated in future, and to provide for the keeping of a public registry of the same: Be it therefore enacted by the Lieutenant Governor, Council and Assembly; That all marriages which have been heretofore solemnized within this Island by any Clergyman, or Minister of the Gospel officiating as such, or by any Justice of the Peace, or other lay person, either by virtue of license from any Governor, Lieutenant Governor, or other Commander-in-chief of this Island, or by publication of banns, or otherwise, where the parties so married have cohabited together, shall be, and the same are hereby declared lawful and valid; and the issue of all such marriages are hereby made legitimate, to all intents and purposes whatsoever: provided always, that nothing herein contained shall extend, or be construed to extend, to the rendering valid any marriage where either of the persons is so married a second time, the former husband or wife being then alive; nor where the persons married are within the degrees of kindred prohibited in an Act made and passed in the thirty-second year of King Henry the Eighth, intituled "An Act concerning precontracts, and touching degrees of consanguinity."

II. And be it further enacted, That every Clergyman or Minister of any sect or denomination of Christians, having spiritual charge of a congregation within this Island, upon producing to the Lieutenant Governor, or other Commander-in-chief for the time being, satisfactory proof of his ordination, constitution or appointment, and that he is actually employed by the denomination of which he professes to be a minister within this Colony, and receiving a certificate to that effect under the hand and seal of the Lieutenant Governor or Commander-in-Chief for the time being, and all others whom the Lieutenant Governor or Commander-in-chief for the time being may thereto authorize, shall hereafter have power and authority to solemnize marriage, either by license from the Lieutenant Governor, or after publication of banns in their respective church, chapel, or other place of public worship, on three successive Sundays, during divine service: provided always, that nothing in this Act contained shall extend, or be



construed to extend, to prevent any Clergyman regularly ordained according to the rites of the Church of England, Kirk of Scotland, or Church of Rome, Presbyterians being Dissenters from the Kirk of Scotland, the Wesleyan Methodists and Baptists respectively, and having respectively within this Island spiritual charge of a congregation, from solemnizing marriage according to the forms of their own respective churches, without having obtained such certificate as is hereinbefore mentioned.

Such certificate not required from clergymen of the Churches of England, Scotland, or Rome, Presbyterian Dissenters, Wesleyan Methodists or Baptists.

III. And be it further enacted, That any such Clergyman, Minister of the Gospel, or other person, who shall, after the passing of this Act, solemnize any marriage without such license or publication of banns as aforesaid, or who shall knowingly solemnize any marriage between parties of whom one or both are under the age of twenty-one years, having parents or guardians living and resident within this Island, without the consent of such parents or guardians, shall forfeit and pay for every such offence the sum of five hundred pounds; and the marriage of any such person or persons under the age of twenty-one years, without such consent, shall be null and void.

Persons solemnizing marriages without license or publication of banns, or marrying minors, without consent of parents or guardians, (if living) to forfeit £500.

Marriage of such minors to be void.

IV. And be it further enacted, That all marriages shall be solemnized in the presence of two or more credible witnesses besides the Minister, Clergyman, Justice of the Peace, or other person authorized to solemnize matrimony, who shall solemnize the same; and that after the solemnization thereof such parties so authorized to solemnize marriage contracts shall, and they are hereby required to transmit, within the period of six months, a certificate of the celebration of each marriage by them performed, together with the names of the parties witnessing the same, to the Surrogate of the Island; which certificate shall be in the manner and form following:

All marriages to be solemnized in the presence of at least two witnesses, besides the officiating clergyman, &c. Clergymen, &c. to transmit, within six months, to the Surrogate, a certificate of the celebration of each marriage.

Names of Parties.	Whether Bachelor or Widower, Spinster or Widow.	Date of Celebration.	By License or Banns.	Names of Witnesses.

Form of certificate.

‘ I hereby certify that the above named parties were married by me this day under license from the Lieutenant Governor, [or by publication of banns, as the case may be,] in the presence of the above named witnesses.’

See also 11 G. 4, c. 5.

‘ Dated at this day of 18

A. B.

Surrogate to record the same, and his certificate to be good evidence of such marriage, where testimony of the witnesses cannot be procured.

Surrogate's fee for recording certificate, to be collected by the person who celebrates the marriage.

Fee for certified copy of record.

Clergymen, &c. neglecting to transmit such certificate to Surrogate, to forfeit £5.

Mode of recovery.

In certain cases minors may contract matrimony.

Any clergyman &c. celebrating marriage contrary to this Act, to forfeit £50.

Mode of recovery.

And the said Surrogate is hereby required, on receiving the fee hereinafter mentioned, to record the said certificate in a book to be kept for that purpose, a certified copy of which record, under his hand and seal, shall be deemed due and sufficient evidence in any Court of law or equity, to establish the proof of such marriage, in all cases where the testimony of none of the witnesses to such marriage can be obtained.

V. And be it further enacted, That any person authorized to celebrate marriage contracts shall be entitled (in addition to his usual fee) to demand and receive from the parties married by him the sum of One shilling and sixpence, which sum he is hereby required to pay to the Surrogate as a fee for recording such certificate; and every person desirous of a certified copy thereof from the record, shall be entitled to the same on paying to the said Surrogate the sum of One shilling and sixpence.

VI. And be it further enacted, That each and every Clergyman, Minister of the Gospel, Justice of the Peace, or other person celebrating matrimony, who shall either refuse or neglect to transmit such return or certificate to the Surrogate, as aforesaid, shall, for each and every neglect or refusal, forfeit and pay into the Treasury of this Island the sum of five pounds, for the use of His Majesty — to be recovered before any one of His Majesty's Justices of the Peace, by warrant of distress and sale of the offender's goods and chattels.

VII. And whereas it may happen that some person or persons within age, whose parent or parents are either deceased or absent, may be desirous to contract matrimony, but by reason of his or her having no parent or guardian living or present to consent thereto, no license can be obtained: be it therefore enacted, that in each and every such case, and in all other cases not hereby especially provided for, it shall and may be lawful for any person authorized to solemnize marriages, when required, to inquire into the propriety of any such marriage being contracted, by examining the said parties, or such other persons as he may deem necessary, and if he shall be satisfied of the propriety thereof, he shall certify his consent thereto, whereupon a license may be issued in like manner as upon the consent of parents and guardians; or the marriage may be celebrated after proclamation by banns, as may be required by the parties.

VIII. And be it further enacted, That if any Minister, Clergyman, or other person, shall presume to celebrate marriage contrary to the provisions of this Act, in any case not hereinbefore provided against, he shall, for every such offence, forfeit and pay to His Majesty, the sum of fifty pounds — the same to be recovered in His Majesty's Supreme Court of Judi-

capture, together with costs of prosecution — the said fine to be paid into the Treasury of this Island, to and for the use of His Majesty's Government.

Application of fine.

IX. And be it further enacted, That from and after the passing of this Act, all licenses to be granted under and by virtue of the same, shall be directed to such person who may be authorized to solemnize matrimony as the person or persons applying for such license shall or may request or desire, and to no other person or persons whomsoever, any usage or custom to the contrary notwithstanding.

Marriage licenses to be directed to such Clergymen, &c. as the parties may desire.

X. Provided always, That nothing in this Act contained shall have any force or effect until His Majesty's pleasure therein shall be known.

Act not to have effect until His Majesty's pleasure be signified.

\*.\* This Act received the Royal allowance, 20th December, 1834, and the notification thereof was published in the Royal Gazette, 21st April, 1835.

## C A P . X V .

An Act establishing the mode of recovering Penalties and Costs before Justices of the Peace, where the same are imposed by certain Acts of the General Assembly of this Island, and no provision is made for the enforcing thereof.

See 12 Vic. c. 28

WHEREAS there are several Acts of this Island which impose Penalties and Costs, without providing any mode of recovering the same: For remedy whereof — Be it enacted, by the Lieutenant Governor, Council and Assembly, That in all such cases, it shall and may be lawful to and for the Justice or Justices by whom such penalties and costs are or may be inflicted, in default of payment, to issue his or their warrant of distress against the goods and chattels of such person or persons so convicted, authorizing and requiring the constable or other officer to whom such warrant is directed, to levy the amount of such penalty and costs from and out of the goods and chattels of the person or persons so convicted; and in default of goods and chattels, that the said Justice or Justices shall and may commit the person or persons so convicted to the common Jail of Charlottetown, for the respective periods hereinafter mentioned (that is to say) — where the penalty shall not exceed the sum of five shillings, for a space not exceeding ten days,— and where the penalty shall be above five shillings, and shall not exceed the sum of twenty shillings, for a period not exceeding fourteen days,— and where the penalty shall be above twenty shillings, and shall not exceed the sum of forty shillings, for a period not exceeding twenty-one days,— and where the penalty shall be above forty shillings, and shall not exceed five pounds, for a period not exceeding sixty days.

In all cases where Justices of the Peace are empowered to impose penalties, in default of payment, warrant of distress may be issued against goods of party convicted; and in the event of no goods being found, Justice may commit person so convicted to Jail.

Periods of imprisonment defined.

If no goods of delinquent can be found, and he is committed to jail, Constable's fees to be paid from Treasury.

II. And be it further enacted, That in all cases where goods and chattels cannot be found whereon to levy the penalty and costs, or any part thereof, and the delinquent party or parties shall in consequence thereof be committed to prison, it shall and may be lawful for the Justice or Justices granting such commitment, to certify the amount and particulars of the constable's costs remaining unpaid to the Clerk of His Majesty's Council, and the same, after being approved of by the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, shall be paid out of the Treasury of the Island to the constable or constables entitled to receive the same.

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### CAP. XVI.

Expired.

An Act to amend and render more effectual an Act made and passed in the eleventh year of the reign of his late Majesty, intituled "An Act to authorize the conviction and punishment, in a summary way, of persons committing common assaults and batteries.

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### CAP. XVII.

Amended by 25 Vic. c. 16, and 19 Vic. c. 24.

An Act to incorporate the minister and trustees of Saint James's Church, in the town of Charlottetown.

☞ This Act remains in force, but has been printed in the volume of private and local Acts pursuant to Act 24 Vic. c. 3.

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### CAP. XVIII.

Altered and amended by 19 Vic. c. 16.

An Act to incorporate the minister and elders of Saint John's Church, in the district of Belfast.

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

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### CAP. XIX.

Disallowed by His Majesty.

An Act to encourage the settlement and improvement of lands in this Island, and to regulate the proceedings of a Court of Escheats therein.

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### CAP. XX.

Expired.

An Act to increase the revenue, by levying a duty of impost on all goods, wares and merchandise imported into this Island, with certain exceptions.

## CAP. XXI.

An Act to continue an Act made and passed in the first year of the reign of his present Majesty, imposing a duty on wines, gin, brandy, rum, and other distilled spirituous liquors, imported into this Island. Expired.

## CAP. XXII.

An Act to continue an Act made and passed in the first year of his present Majesty's reign, imposing a duty of impost on tobacco and tea. Expired.

## CAP. XXIII.

An Act to regulate the salary of the Collector of Impost and Excise for the district of Charlottetown. Repealed by  
14 Vic. c. 26.

## CAP. XXIV.

An Act to provide salaries for Sub-collectors of Customs. Expired.

## CAP. XXV.

An Act to provide for the better preservation of public and private property at Georgetown against accidents by fire. Expired.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic. c. 23.

## CAP. XXVI.

An Act to provide for the conveyance of the Mails between Charlottetown and Pictou by a steam vessel. Repealed by  
6 W. 4, c. 11.

## CAP. XXVII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-two. Executed.

## CAP. XXVIII.

An Act to provide for the contingent expenses of the present session. Executed.



ANNO TERTIO

# GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Third day of February, *Anno Domini*, 1831, in the first year of the Reign of our Sovereign Lord WILLIAM the Fourth by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1833.

A. W. YOUNG,  
Lt. Governor.

E. J. JARVIS,  
President.

W. MACNEILL,  
Speaker.

And from thence continued, by several prorogations, to the second day of January, 1833, and in the third year of His said Majesty's Reign; being the third Session of the thirteenth General Assembly convened in the said Island.

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## CAP. I.

An Act to repeal two certain Acts therein mentioned, for the regulation of statute labor.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the thirty-fifth year of the reign of His late Majesty King George the Third, intituled "An Act to alter and amend the high road laws"—and an Act made and passed in the first year of His

Repeal of 35 G.  
3, c. 3,

- 1 W. 4, c. 2. present Majesty's reign, intituled "An Act for the further regulation of statute labor, and to amend and continue two certain Acts therein mentioned"—be, and the same are hereby respectively repealed.

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CAP. II.

- Repealed by 6  
Vic., c. 1. An Act to regulate the performance of statute labor on the highways, and for other purposes therein mentioned.

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CAP. III.

- 5 G. 4, c. 15. An Act to revive and continue an Act to prevent the running  
Expired. at large of sheep in the town of Charlottetown.

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CAP. IV.

- Expired. An Act to continue an Act authorizing the formation of a fire engine company for the town of Charlottetown.

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CAP. V.

- Expired. An Act to continue an Act for regulating the driving of carts, carriages, sleighs and carioles on the highways.

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CAP. VI.

- Expired. An Act to continue an Act made and passed in the sixth year of the reign of His late Majesty King George the Fourth, for regulating the measurement of ton timber, boards, and all other kinds of lumber.

See note to 1  
G. 4, c. 3.

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CAP. VII.

- Executed. An Act for ascertaining the population of this Island, and for obtaining certain statistical information therein mentioned.

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CAP. VIII.

- See further Act  
20 Vic., c. 7;  
and for Act relating to Charlottetown ferry, see  
11 Vic., c. 13. An Act to repeal two certain Acts therein mentioned, for licensing and regulating ferries, and to make other provisions in lieu thereof.

**WHEREAS** it is deemed necessary to afford every convenience to travellers, and make such alterations in the manner of licensing ferrymen, as well as to enable the public



to cross the different ferries, with their baggage and cattle, at the lowest possible rate of ferriage: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That so much of an Act made and passed in the twenty-first year of the reign of His late Majesty King George the Third, intituled "An Act for amending and rendering perpetual several laws near expiring," as relates to an Act made and passed in the fourteenth year of the same reign, intituled "An Act for licensing and regulating ferries;" and an Act made and passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An Act to alter and amend an Act intituled 'An Act for licensing and regulating ferries,'" be, and the same are hereby respectively repealed.

Repeals so much of 21 G. 3, c. 11, as relates to regulating ferries, and

9 G. 4, c. 5.

II. And be it further enacted, That from and after the publication hereof, it shall and may be lawful to and for the Lieutenant Governor, or other Administrator of the Government for the time being, by and with the advice and consent of His Majesty's Council, from time to time, to let, by tender or otherwise, as hereinafter mentioned, the several ferries within this Island, and to appoint such and so many persons as he, with the advice aforesaid, shall or may judge proper and sufficient, to act as ferrymen for the several and respective ferries as aforesaid.

Lt. Governor to let ferries and appoint ferrymen.

III. And be it further enacted, That it shall and may be lawful for the said Lieutenant Governor, or other Administrator of the Government for the time being, from time to time, to cause the said several ferries to be advertised, calling for tenders for the conveyance of passengers, their luggage and cattle, over the ferry or ferries so advertised; and in such tender or tenders shall be expressed, by the person or persons so tendering, the rate at which he or they will convey passengers, their luggage and cattle, over the respective ferries so tendered for, subject to such rules, regulations and requisitions as may be fixed and determined by the said Lieutenant Governor or other Administrator of the Government, with the advice as aforesaid—which said rules, regulations and requisitions shall be stated in the advertisement so made; and the said Lieutenant Governor or other Administrator of the Government as aforesaid, is hereby authorized to let any such ferry to the person or persons who will convey passengers, their luggage and cattle, at the lowest rate, over the respective ferries so tendered for, and shall grant licenses for the same, for the term of three years—the person or persons so licensed to be always subject to be suspended or displaced by order of the said Lieutenant Governor or other Administrator of the Government for the time being, for neglect of duty or for misbehaviour: and the said person or persons so licensed shall enter into good and sufficient security for the fulfilment of his

Tenders to be advertised for.

What tenders are to express.

Lt. Governor, &c., to make rules for the regulation of such ferries.

Advertisement to state rules, &c.

Ferries to be let to the persons tendering lowest.

Licenses to be granted for three years.

Ferrymen may be displaced for misbehaviour, &c.

Persons licensed to give security.

Duty of licensed ferrymen.

Penalty on ferrymen of £1 for every offence committed against this Act.

If no tender is made, Lt. Governor, &c., to fix rates of ferriage.

Purport of license.

Rules, &c., to be posted up in ferry-house, under penalty of 5s. for each day's neglect.

Persons not licensed, acting as ferrymen, to forfeit £1 for each offence.

or their duties, and shall provide such boats and other conveniences for the accommodation of passengers, as the said Lieutenant Governor or other Administrator of the Government, with the advice as aforesaid, shall specify and set forth in the respective licenses: and every person so licensed as aforesaid shall, for neglect of duty or nonfulfilment of the requisitions as stated in such license, be subject, for every offence so committed, and for every day he may be deficient of any article as stated in such license, a sum not exceeding twenty shillings.

IV. And be it further enacted, That in case no tender or tenders shall be made as above mentioned, after such advertisement, then it shall and may be lawful to and for the said Lieutenant Governor, or other Administrator of the Government, with the advice aforesaid, to fix the rate of ferriage, under and subject to such rules and regulations as are hereinafter mentioned, or shall from time to time be made by him and them, by virtue of this Act, for the benefit and advantage of the public.

V. And be it further enacted, That the said Lieutenant Governor or other Administrator of the Government, with the advice aforesaid, shall, in the respective licenses so to be granted, state and set forth how each and every licensed ferry shall be conducted, the number and size of the boats to be provided, and also the rate at which passengers, cattle, carriages, goods and baggage shall be ferried or conveyed at the respective ferries which shall be so licensed as aforesaid, together with any regulations for the upholding and keeping in repair the houses, slips and hards, and other buildings erected by the Government of this Island, for the convenience of the respective ferries within the same, and other any regulations for the convenience of the public that may be deemed necessary: and every such licensed ferryman, so to be licensed under this Act, is hereby directed and required to cause a copy of the requisitions and regulations of the ferry for which he is so licensed as aforesaid, to be posted up, and kept so posted during the continuance of such license, in some conspicuous place in the house occupied by him or them for a ferry-house, under penalty of a sum not exceeding five shillings for each day's neglect.

VI. And be it further enacted, That if any person or persons, not being duly licensed, shall from henceforth carry or ferry over any river, bay or creek within this Island, at the place, where a ferry is or may be hereafter established, any man or beast, except by the desire and consent of the person or persons licensed to keep such ferry or ferries, or except the same be done gratuitously, such person or persons shall forfeit

and pay for each offence a sum not exceeding twenty shillings.

VII. And be it further enacted, That no person or persons so to be licensed in pursuance of this Act, nor his or their servant or servants, nor any other person or persons acting for or under him or them respectively, shall take or receive as a reward for his or their ferriage, any greater sum or sums of money than is or shall be mentioned and specified in the license so to be obtained as aforesaid: and if any person or persons so to be licensed as aforesaid, or his or their servant or servants, or any other person or persons acting for or under him or them respectively, shall use unnecessary delay therein, or give abusive language to, or treat with rudeness, any person or persons whomsoever applying to be ferried over, or during the time he, she or they may be actually ferrying over any of the places or bays so to be licensed as aforesaid, then such person or persons so offending, shall, for each offence, upon proof made by the oath of one or more credible witness or witnesses, before any one of His Majesty's Justices of the Peace, forfeit a sum not exceeding five pounds, and shall be also ordered to satisfy in damages all those who shall or may sustain loss by means of such unnecessary delay—the said forfeiture and damages to be levied by warrant of distress and sale of the offender's goods and chattels, and paid to the person or persons who may be injured thereby; and for want of goods and chattels whereon to levy, then the said offender or offenders shall be committed to the common jail, for a term not exceeding three months, nor less than one month.

No higher ferriage to be charged than stated in license.

Licensed ferry-men or their servants guilty of delay or misconduct, to forfeit not exceeding £5 for each offence.

Mode of recovery.

VIII. And be it further enacted, That it shall and may be lawful for the person or persons so to be licensed as aforesaid, or his or their servant or servants, to demand and receive pay of all passengers, before he, she or they shall have entered on board such boat or boats; and in default of such payment, to accept of a pawn or pledge for the same; nor shall such person or persons be required or obliged to change a greater sum than one shilling, when the fare amounts to no more than two-pence, nor to change a greater sum than five shillings, when the fare amounts to one shilling or upwards; but in no case shall it be lawful for any ferryman to detain any passenger or passengers, after he, she or they are admitted into the ferry boat.

Licensed ferry-men may demand payment from passengers before they embark; and accept a pawn or pledge;

but in no case to detain passengers after admitted into ferry boat.

IX. And be it further enacted, That all fines, penalties or forfeitures, not hereinbefore provided for, shall be recovered before any one of His Majesty's Justices of the Peace, upon the oath of one or more witness or witnesses, and applied, one half to the person who shall inform and sue for the same, and the other half to be paid into the Treasury of this Island, for the benefit of the Government thereof.

Mode of recovery of fines.

Act not to authorize the collection of any revenue for rent, &c.

Not to extend to Ferry opposite Charlotetown, until the expiration of the present lease.

X. And be it further enacted, That nothing herein contained shall authorize the collection of any revenue for rent or otherwise, under or by virtue of this Act.

XI. And be it further enacted, That this Act, so far as regards the Ferry on the Hillsborough river between Charlotetown and the opposite side of the said river, shall not go into operation until the expiration or other sooner determination of the term thereof granted by the Government of this Island to the present lessee, any thing herein contained to the contrary thereof notwithstanding.

### CAP. IX.

An Act to explain and amend an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled "An Act to regulate the laying out and altering of Highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation."

See 10 G. 4, c. 10, and note thereto, for other Acts in amendment.

Repealed by 34 Vic. c. 1.

\* \* \* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

### CAP. X.

An Act to regulate the registry of Deeds and instruments relating to the title to land, and to repeal the laws heretofore passed for that purpose.

Amended by 14 Vic. c. 31, and 23 Vic. c. 4.

All Deeds, &c., relating to lands, &c., may be registered in the office of the Colonial Registrar.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That all persons now having or claiming, or who shall or may hereafter have or claim any right, title or interest in or to any messuages, lands, tenements or hereditaments within this Island or its dependencies, may register all deeds or writings of whatsoever nature or kind relating to, or concerning the same, in the office of the Colonial Registrar of this Island.

Registrar to keep a Book for registering deeds.

II. And be it further enacted, That the Colonial Registrar for the time being shall keep, for the purpose of registering all such deeds and writings therein, a folio Book, with patent back, strongly bound in leather, and lettered with the words "Register of Deeds, No. " and containing at least seven quires of paper, which shall be of a good quality, and proper for records, with an index and alphabet thereto, which shall be kept in the form prescribed in the Schedule No. 1, hereto annexed: and the Registrar shall also make and keep two



## FORM OF CERTIFICATE OF ACKNOWLEDGMENT.

' On the                    day of                    personally appeared before  
' me *A. B.*, of                    and acknowledged that he did freely  
' and voluntarily execute the within written deed or writing,  
' to and for the uses and purposes therein mentioned.  
' *E. F.*, Commissioner.'

Deeds, &c., executed in Great Britain, Ireland, &c., to be registered on proof of the execution thereof.

Nature of proof required.

IV. And be it further enacted, That the Registrar of this Island shall and may register all such deeds and writings as aforesaid, as shall have been made and executed in Great Britain or Ireland, or in any of His Majesty's Colonies or Plantations, or other his dominions distant from this Island, although none of the witnesses thereto should come before him to prove the same; provided the execution thereof shall appear to such Registrar either to have been acknowledged in due form of law, by the grantor himself, named in any such deed or writing as aforesaid, or to have been proved by the oath\* of one of the subscribing witnesses thereto, before some or one of His Majesty's Justices of the Peace where any such deed or writing shall have been executed, and to be duly attested by such Justice; and such attestation, being also authenticated (if in the plantations) under the hand and seal of the Governor, Lieutenant Governor, or Commander-in-chief of the Province or Government where the same shall or may have been executed, or of a Notary Public there residing; and if in Great Britain, Ireland, or elsewhere under the dominions of His Majesty, then under the public seal of some corporation there, or by the attestation and certificate of some Notary Public, lawfully constituted and resident there, certifying that such person so subscribing as a Justice of the Peace is really and truly so, and that faith and credit is and ought to be given to all such his attestations: and if any such deeds or writings as aforesaid shall be executed in any other place or places out of his said Majesty's dominions, then the certificate, attestation, or proof of such execution shall be according to the forms generally used in such place or places as last aforesaid, on the like occasions.

All deeds, &c., to be certified on the back by the Registrar.

V. And be it further enacted, That all such deeds and writings as aforesaid shall, immediately upon receipt by the Registrar, be certified by him on the back thereof, (and in presence of the person presenting the same, if required,) with the name of the witness (if any) sworn before him, and the year, month, day of the month, and hour of the day, when the same were presented for registry, and proved or acknowledged as aforesaid; and shall also enter the same in the margin of

\* By Act 6 Will 4, c. 15, a declaration in this case made in Great Britain or Ireland, or elsewhere out of this Island, where the same shall by law have the same force or effect as an oath, is declared to be equivalent to such oath.

the Register Book, opposite to the commencement of the record; and a copy of which certificate, and of the deed or other writing relating thereto, and duly registered, being extracted from the Book of Registry, and authenticated by the Registrar's signature (in case of the original deed or writing being lost, and none of the witnesses thereto to be found, so as to be examined either *viva voce* or by commission,) shall be admitted and allowed as legal evidence of the due execution of such lost deed or writing in any Court of Record in this Island, wheresoever such deed or writing may have been executed: and the Registrar shall duly record every such deed or writing as aforesaid, in the same manner and order in which they shall come to his hands, and be proved or acknowledged as aforesaid, and without favor or partiality, on pain of answering the party aggrieved in such damages as he may sustain.

Registrar to enter dates in margin of Registry Book.

If deed be lost, copy thereof, authenticated by Registrar, to be admitted as legal evidence.

Registrar to record all deeds, &c., in the order in which they come to his hands.

VI. And be it further enacted, That in case the grantors and witnesses to any such deed or writing as aforesaid shall die before the registry thereof,\* or cannot be found, so as to obtain the acknowledgment or proof of the due execution thereof before the Registrar as aforesaid, it shall be lawful to and for the executor or administrator of any one or more such deceased grantors, to execute a memorial of such deed or writing, and require the same to be registered with the original deed therein referred to, which shall be done accordingly, upon the said memorial being acknowledged or proved before the Registrar, or otherwise, if executed abroad, in manner aforesaid.

If grantors and witnesses die before registry of deeds, &c., executors may execute a memorial thereof, which may be registered with the original deed, &c.,

VII. And be it further enacted, That if any person shall forswear him or herself before the said Registrar, or before any such Commissioner as aforesaid, or any deputy Registrar, and be thereof duly convicted, such person shall be liable to the same penalties as if the said oath had been voluntarily and corruptly made in a cause depending in any of the Courts of Record that now are, or hereafter shall or may be established in this Island.

Perjury before Registrar or Commissioner, how punished.

VIII. And be it further enacted, That no person shall be compelled to attend before the Registrar as a witness, to prove the due execution of any such deed or writing as aforesaid, unless there shall have been previously tendered to him or her a reasonable compensation for his or her time and trouble, at and after the rate of fourpence per mile, for travelling expenses, for every mile to be travelled, in coming to and returning from such register office; and in case the witness shall refuse to attend before the Registrar, or one of the Commissioners as aforesaid, within six days next after such tender as aforesaid, the person or persons requiring the attendance of such witness

Witnesses not compelled to attend before Registrar, &c., unless tendered travelling expenses.

On refusal to attend after such tender, how punished.

\* See 23 Vic., c. 4.

may make oath before any one of His Majesty's Justices of the Peace, and therein set forth the necessity of such witness's attendance before the Registrar or Commissioner, the making of such tender, and the amount thereof, and refusal to attend; and thereupon the witness so refusing to attend as aforesaid shall be forthwith committed, by warrant under the hand and seal of such Justice, to prison, there to remain, without bail or mainprize, until he or she shall comply with the requisition of this Act, and shall also pay the reasonable costs that may have been incurred in consequence of such his or her neglect or refusal to attend and give evidence before the Registrar or Commissioner as aforesaid.

When mortgages are paid, a certificate to be delivered to the Registrar, who shall record the same.

IX. And be it further enacted, That when any mortgager or mortgagers, or their assigns, shall have paid and satisfied the sum or sums of money secured upon his, her, or their lands, tenements, or hereditaments, then instead of a reconveyance or reassignment of the mortgaged premises being required, there shall be delivered into the Registrar's office a certificate to the effect hereinafter mentioned, which shall be entered upon record, and the same shall have the like force and effect as if the party had actually executed and registered such re-conveyance or reassignment, as aforesaid.

Form of certificate.

' To the Registrar of Deeds for Prince Edward Island.

' I, *A. B.*, of           do hereby certify, that *C. D.*, of   hath  
' paid and satisfied all such sum or sums of money as were due  
' and owing upon a mortgage made by the said *C. D.* to me,  
' bearing date the       day of       and which was granted  
' in consideration of the sum of £       in full discharge of the  
' same: and I do hereby require an entry of such payment and  
' satisfaction to be made, pursuant to an Act of Assembly in  
' that case made and provided.

' As witness my hand, this       day of

' *A. B.*

' Signed in the presence of

FORM OF ENTRY OF THE SAID CERTIFICATE, TO BE MADE BY  
THE REGISTRAR.

Form of entry of certificate.

' Memorandum:—That upon the certificate of the within  
' named *A. B.*, dated the       day of       proved by the  
' oath of *G. H.*, of       that all moneys due on the within  
' mentioned mortgage are fully paid and satisfied in discharge  
' of the same, this entry in discharge thereof is made pursuant  
' to the said Act, this       day of

*L. M.*, Registrar.

Which said certificate shall be filed with and kept by the Registrar, and he shall make the foregoing entry in the



margin of the register book where the mortgage therein referred to may have been registered, and opposite to the commencement of the registry of such mortgage.

X. And be it further enacted, That after this Act shall be in force, no constructive or other notice of any unregistered deed, writing or instrument relating to the title to lands, tenements or hereditaments within this Island, or its dependencies, shall, in any manner, either in law or equity, defeat, impeach, or affect, or be construed to affect, any deed, writing or instrument relating to all or any part of the same lands, tenements or hereditaments, and which shall have been duly registered, according to the provisions of this Act: provided always, that nothing in this Act contained shall affect, or be construed to impeach any of the following records or instruments, which do by law, or hereafter may relate to, or in any manner concern the titles to lands, tenements or hereditaments, within this Island—that is to say, decrees or judgments at law or in equity, executions or attachments levied, or to be levied on real estate, wills, or securities for debts due, or to become due, to the Crown, although the same, or a memorial or entry thereof, may not be recorded in the said office of the Colonial Registrar of Deeds,—but that such records, writs, or instruments, and every of them, shall have the same force and effect, to all intents and purposes whatsoever, as if this Act had not been made.

No unregistered deed, &c., to affect any deed &c. which shall be duly registered.

This Act not to affect certain records, &c.

(Sec. 11, repeated by 14 Vic. c. 31, sec. 11.)

XII. And be it further enacted, That the Registrar now appointed, or hereafter to be appointed, shall and may, and he is hereby authorized, from time to time, to nominate and appoint any fit and proper person to act as his deputy, who shall, on receiving such appointment, be invested with all such and the same powers and authorities as the registrar now hath, as to taking proofs, entering records, giving certificates, authenticating copies, and administering oaths; such deputy to be appointed by commission, under the hand and seal of the registrar, and which shall be duly registered; and the said deputy shall be sworn faithfully to discharge the duties of his office, before he shall act therein, and the oath shall be recorded with his commission.

Registrar authorized to appoint a deputy, who shall be sworn.

XIII. And be it further enacted, That all deeds which shall hereafter be duly executed, shall in all cases be deemed to be valid as against the grantor or grantors, and his, her or their heirs, any want of registry notwithstanding, unless there shall be therein contained a covenant or condition to the contrary.

All deeds, &c., duly executed, to be valid against the grantor, notwithstanding want of registry.

XIV. And be it further enacted, That from and after the

All Powers of Attorney under which Deeds, &c. are executed, to be recorded. No Deed so executed to be valid until such power is recorded.

passing of this Act, all powers and letters of attorney, under and by virtue of which any such deeds or writings as aforesaid, shall be made and executed, shall be duly recorded at length in the register office; and that no deed or instrument purporting to be executed in such manner as is last before mentioned shall have any force or effect until such power or letter of attorney shall have been first duly registered.

Repeals 20 G. 3, c. 8.

25 G. 3, c. 1.

41 G. 3, c. 5,

and 49 G. 3, c. 4.

XV. And be it further enacted, That from and after the respective periods when this Act shall become in force, as hereinafter mentioned, an Act made and passed in the twentieth year of the reign of his late Majesty King George the Third, intituled "An Act appointing the recording of all deeds of sale, conveyances, and mortgages;" also an Act made and passed in the twenty-fifth year of the reign of his said late Majesty, intituled "An Act to explain, alter and amend an Act made and passed in the twentieth year of his present Majesty's reign, intituled 'An Act appointing the recording of all deeds of sale, conveyances and mortgages;'" and an Act made and passed in the forty-first year of the reign of his said late Majesty, intituled "An Act to explain and amend the laws of this Island appointing and directing the recording of deeds of sale, conveyances and mortgages;" and an Act made and passed in the forty-ninth year of the reign of his said late Majesty, intituled "An Act appointing the recording of letters or powers of attorney, in such cases as are therein mentioned"—shall be and become respectively repealed.

Commencement of Act.

XVI. And be it further enacted, That this Act shall commence and come into operation at the following times, (that is to say)—with respect to such deeds and writings as aforesaid as may have been executed within this Island, within three calendar months after the passing thereof—the day of passing, and the last day of the said term, both inclusive; and as to all other deeds and writings which may be registered as aforesaid, within twelve calendar months after such passing—the day of the passing of this Act, and the last day of the said term, both inclusive.

[Passed April 6th, 1833.]

SCHEDULE (No. 1.) to which this Act refers.

FORM OF ALPHABET AND INDEX.

From	To	Nature of Record.	When Registered.	Book.	Page.	Description of Premises.
B. A.	D. C.	Conveyance.	1st August, 1833.	36.	100.	500 acres on Township No. 32.

SCHEDULE (No. 2) to which this Act refers.

To	From	Nature of Record.	When registered.	Book.	Page	Description of Premises.
D. C.	B. A.	Conveyance.	1st August, 1833.	36.	100.	500 acres on Township No. 32.

## CAP. XI.

Repealed by  
7 Vic. c. 2.

An Act to amend an Act made and passed in the second year of his present Majesty's reign, intituled "An Act to consolidate and amend the several Acts of the General Assembly therein mentioned, relating to the recovery of small debts, and to repeal two other Acts hereinafter mentioned.

## CAP. XII.

Repealed by  
12 Vic. c. 9.

An Act to regulate and establish the stated times and places for holding the Supreme Court in King's and Prince Counties; and to constitute the Michaelmas term of the said Court, in Queen's County, a term for the trial of issues, for a limited period.

## CAP. XIII.

For Acts which  
relate to Treasury  
Notes, see  
5 G. 4, c. 18.  
6 G. 4, c. 12.  
9 G. 4, c. 1.  
11 G. 4, c. 16.  
1 W. 4, c. 15.  
4 W. 4, c. 17.  
5 W. 4, c. 11.  
8 Vic. c. 11.  
10 Vic. c. 12.

An Act to authorize a further issue of Treasury Notes, to the amount of Five Thousand Pounds, and to repeal an Act therein mentioned.

10 G. 4, c. 19.

Repealed Act  
repealed.

**WHEREAS** it is deemed expedient to repeal the Act hereinafter mentioned, and to authorize the Lieutenant Governor or other Administrator of the Government for the time being, to order a further issue of Treasury Notes, to the amount of five thousand pounds: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the tenth year of the late King, intituled "An Act to authorize the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to negotiate a loan, for the purpose of erecting a Government House and a Building for an Academy," and every matter, clause and thing therein, be, and the same are hereby repealed.

Further issue of  
Treasury Notes  
to the amount  
of £5000.

Description of  
Notes.

II. And be it further enacted, That it shall and may be lawful for the Lieutenant Governor, or Administrator of the Government for the time being, to order a further issue of Treasury Notes to the amount of five thousand pounds—of which one thousand pounds thereof shall be in Notes of the value of five pounds each; and two thousand pounds shall be in Notes of the value of two pounds each; and one thousand pounds shall be in Notes of the value of twenty shillings each; and five hundred pounds shall be in Notes of the value of ten

shillings each; and five hundred pounds in Notes of the value of five shillings each,—which further issue shall be in the form and subject to the enactments and provisions of an Act made and passed in the fifth year of the late King, intituled “An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,”—and an Act made and passed in the sixth year of the late King, intituled “An Act to authorize the Commissioners named and appointed under an Act made and passed in the fifth year of the reign of His present Majesty, intituled “An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes, to issue Notes to the value of Ten Shillings each”—and an Act made and passed in the first year of his present Majesty’s reign, intituled “An Act to authorize a further issue of Treasury Notes.”

Subject to the provisions of 5 G. 4, c. 18.

6 G. 4, c. 12.

1 W. 4, c. 15.

III. And be it further enacted, That the Treasurer of this Island is hereby required and directed, at the expiration of one year after the date of the Notes so to be issued under and by virtue of this Act, to pay off, out of the moneys arising under and by virtue of an Act made and passed in the eleventh year of his late Majesty’s reign, intituled “An Act for raising a fund, by an assessment on land, for erecting a Government House and other public buildings within this Island; the sum of one thousand pounds of the notes now in circulation, or to be hereafter circulated, and deliver the same to the Commissioners aforesaid, who are hereby directed and required to cancel and destroy the same; and the said Treasurer is hereby directed and required, at the expiration of every succeeding twelve months from the date of the Notes so to be issued, and under and by virtue of this Act, to pay off as aforesaid, and deliver to the said Commissioners, the sum of one thousand pounds, until the Notes so paid off and cancelled shall amount to the sum of five thousand pounds.

£1000 of Notes to be cancelled yearly, for five years.

Mode of cancelling Notes so paid off.

IV. And be it further enacted, That the Commissioners shall keep a specific account of the Notes so received, and lay an account of the number and description of the different Notes so cancelled and destroyed before His Excellency the Lieutenant Governor in Council; and that the Notes so cancelled shall be destroyed in presence of the Commissioners aforesaid and the Treasurer of the Island.

Cancelled notes laid before Governor.

Notes to be destroyed in presence of Commissioners and Treasurer.

V. And be it further enacted, That the receipts of the Commissioners for the sums so to be cancelled shall be deemed a sufficient discharge to the Treasurer, for the respective amounts which shall be therein expressed.

Commissioners to grant receipts to Treasurer for Notes cancelled.

## CAP. XIV.

An Act appointing the registration of His Majesty's Orders in Council, and proclamations signifying the Royal allowance or disallowance of Acts of this Island.

Colonial Secretary and Registrar to register proclamations now in his custody, with His Majesty's Orders in Council, relating to any laws of this Colony.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, the Colonial Secretary and Registrar of this Island is hereby required to register, in a book to be kept for that purpose, all proclamations which may now be in his custody, possession or power, relating to any laws heretofore passed by the Legislature of this Island, together with the Orders of His Majesty in Council signifying His Majesty's allowance or disallowance of the same—which said proclamation and Orders in Council shall be registered within six months from the publication hereof.

All future Orders in Council, and proclamations respecting laws of this Colony, to be registered within 30 days after they are received.

II. And be it further enacted, That the said Colonial Secretary and Registrar shall, within thirty days after the same may come into his custody, possession or power, register in the same book all Orders of His Majesty in Council signifying His Majesty's Royal allowance or disallowance of any Act or Acts which may have passed the said Legislature, but on which the Royal pleasure has not yet been signified, and all such Orders of His Majesty in Council as may relate to the allowance or disallowance of any Acts which may hereafter pass the same, together with the proclamations notifying the said Royal allowance or disallowance.

Allowance to Secretary and Registrar for this duty.

See 3 Vic., c. 27.

III. And be it further enacted, That the said Registrar shall be paid by the Government of this Island the customary fees for registering all such despatches or documents contemplated by this Act, as are allowed and paid for registering deeds and papers in the said office of Registry.

Certified copies of such proclamations and orders to be deemed good evidence.

IV. And be it further enacted, That in all cases where it may be necessary to give such proclamations or Orders in Council in evidence, a certified copy of the same, under the hand of the said Registrar, or his deputy, shall be taken and deemed to be as good, as if the original had been produced and duly proved.

## CAP. XV.

Repealed by 11 Vic. c. 21.

An Act for shortening the duration of Colonial Parliaments, from the space of seven years to that of four.

## CAP. XVI.

An Act to authorize the appointment of Commissioners to superintend the extending and completing of the public wharf of Charlottetown.

Executed.

## CAP. XVII.

An Act to incorporate the Trustees of Saint Andrew's College, in King's County.

Repealed by G.  
W. 4, c. 23.

## CAP. XVIII.

An Act for the preservation and improvement of the herring and alewives' fisheries of this Island.

Expired.

## CAP. XIX.


An Act to repeal an Act made and passed in the thirty-fifth year of the reign of His late Majesty King George the Third, intituled "An Act for ascertaining the standard of weights and measures in this Island," and to make other provisions in lieu thereof.

Amended by G.  
Vic., c. 7; G.  
Vic., c. 8; 14  
Vic., c. 17, and  
17 Vic., c. 9.Repealed by  
19 Vic. c. 3.

## CAP. XX.

An Act to enable the several congregations of the Church of England in this Island to choose Churchwardens and Vestries, and for incorporating the same; and to repeal the former Act for appointing Vestries.

Amended by  
23 Vic., c. 3.

 This Act remains in force, but has been printed in the volume of private and local Acts pursuant to Act 24 Vic. c. 3.

## CAP. XXI.

An Act to regulate the weight and quality of bread within the town and royalty of Charlottetown.

Continued by G.  
W. 4, c. 26, 2  
Vic., c. 3, and  
9 Vic., c. 19.

\*.\* This Act has been repealed by a law of the City Council of Charlottetown, passed under the powers vested in said Council by the Act of Incorporation, 18 Vic., c. 34, s. 37.

## CAP. XXII.

Repealed by  
5 W. 4, c. 10.

An Act for establishing a Court of Divorce, and for preventing and punishing incest, adultery and fornication.

## CAP. XXIII.

Revived and  
continued by 2  
Vic., (2d session)  
c. 7.  
Repealed by 18  
Vic., c. 26.

An Act to empower the Administrator of the Government to shut up such roads, or parts of roads, as are no longer required.

## CAP. XXIV.

Executed.

An Act appointing Commissioners to superintend the reprinting of the laws of this Island.

## CAP. XXV.

Expired.

An Act to make more effectual provision for preventing the spreading of infectious distempers within this Island, by establishing Boards of Health.

## CAP. XXVI.

35 G. 3, c. 4.

An Act for repealing an Act of the thirty-fifth year of the reign of King George the Third, intituled "An Act for regulating servants," and for substituting other provisions in lieu thereof.

35 G. 3, c. 4,  
repealed.

WHEREAS the hereinafter mentioned Act has been found insufficient for the purposes intended: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the thirty-fifth year of the reign of His late Majesty King George the Third, intituled "An Act for regulating servants," be, and the same is hereby repealed.

Contracts for  
the hire of ser-  
vants, to be  
in writing, or  
verbally in the  
presence of one  
witness.

II. And be it further enacted, That from and after the passing hereof, all contracts that shall be entered into relative to the hire of servants, if for the term of one month, or for any longer period, shall be made in writing, and signed by the parties thereto, or shall be made verbally in presence of one or more credible witness or witnesses.



III. And be it further enacted, That every servant who shall or may engage to serve for the term of one calendar month, or for any longer period, in manner aforesaid, and who shall neglect or refuse to perform the full time for which he or she hath so contracted to serve, or be wilfully absent from his or her said employment, contrary to the true intent and meaning of his or her said agreement, or shall be absent from his or her said master's or mistress's house, without permission first had and obtained, or shall otherwise misconduct himself or herself, every such servant shall be subject to the loss of his or her wages, and be liable, on conviction, upon complaint made on oath before any two of His Majesty's Justices of the Peace of such neglect or misconduct as aforesaid, to be confined for a period not exceeding one calendar month in the common jail.

Servants how punished for breach of agreement, or improper conduct.

IV. And be it further enacted, That all masters and mistresses who shall hereafter hire any servant or servants in manner aforesaid, and who shall ill use or ill treat any such servant so hired, or shall neglect to perform all the conditions on their parts in every such agreement so made or entered into, every such servant may, and they are hereby authorized to make complaint thereof on oath before any two of His Majesty's Justices of the Peace for the County wherein such servant or servants has or have been employed; and such Justices shall have power, and they are hereby directed, to inquire into every complaint so made, and to make such order thereon, either by cancelling the agreement so entered into, or by directing its fulfilment, as to the said Justices shall seem meet; and every servant so discharged by any Justices as aforesaid, shall be entitled to his or her full wages for the term so served, to be recovered as hereinafter mentioned; and the Justices are hereby authorized and required to grant a certificate to every servant so discharged by them certifying the same, which certificate shall be considered a sufficient authority for such servant to be legally hired by any other master or mistress; and in case any servant shall be discharged for ill treatment, the Justices before whom complaint thereof shall be made may order the offending master or mistress to pay a fine to the servant so ill treated, not exceeding five pounds.

Masters, &c., ill treating any servant, or refusing to perform contract, how punished.

V. And be it further enacted, That every servant who shall or may hereafter be hired as aforesaid, and who shall fulfil the term contracted to be performed, or who shall be discharged as aforesaid, shall be entitled to receive his or her full wages for the time served; and if the same shall not be paid agreeably to contract so made as aforesaid, or according to the order made by the Justices as aforesaid, every such servant shall have power to recover the same in a summary way—if under the sum of five pounds, before any two of the Commis-

Servants performing contract, or duly discharged, to receive full wages for time served.

Wages how to be recovered.

See also 7 Vic.,  
c. 2, s. 17.

sioners appointed to adjudicate in matters of small debt; or if above that sum, in His Majesty's Supreme Court of Judicature—in which action no imparlance or dilatory plea shall be allowed, unless the Court shall especially direct the same, on affidavit shewing the absolute necessity thereof, in order justly to decide the case on its merits.

Penalty for  
hiring servants  
without a writ-  
ten discharge.

VI. And be it further enacted, That if any person whosoever shall, after the passing of this Act, hire the servant of another, knowing him or her to be such, or shall hire any servant without a written discharge from his or her last master or mistress, if resident within this Island, being produced, shall, for every such offence forfeit and pay to the injured party or informer, as the case may be, a sum not exceeding five pounds; and every master or mistress refusing to give a written discharge to any servant or servants, after the term contracted to be performed is fulfilled, shall, on conviction, upon complaint made to any two of His Majesty's Justices of the Peace on oath, forfeit, for every offence, a sum not exceeding five pounds, to be paid to such servant—all which fines shall be recovered, with costs, on the oath of one or more credible witness or witnesses, before any two of His Majesty's Justices of the Peace, by warrant of distress and sale of the offender's goods and chattels; and for want thereof, the offender shall be committed to prison for a period not exceeding two calendar months.

Penalty for re-  
fusing a written  
discharge to  
servants.

Recovery of  
penalties.

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### CAP. XXVII.

Amended by  
5 W. 4, c. 3,  
5 Vic., c. 9,  
8 Vic., c. 10.  
Repealed by 12  
Vic., c. 16.

An Act to consolidate, amend, and reduce into one Act the several Acts of the General Assembly relating to trespasses, and for other purposes therein mentioned.

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### CAP. XXVIII.

Expired.  
8 G. 4, c. 9.

An Act to continue for one year an Act regulating the practice of the Supreme Court in cases of replevin.

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### CAP. XXIX.

Further ex-  
plained and  
amended by 7  
W. 4, c. 15.  
Expired.  
11 G. 4, c. 17.

An Act to explain and amend an Act made and passed in the eleventh year of the late King, for raising a fund by an assessment on land.

\* \* \* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

## CAP. XXX.

An Act for repealing certain parts of the Act intituled "An Act for the establishing and regulating a Militia," and for substituting other provisions in lieu thereof.

For Acts relating to Militia, see 20 G. 3, c. 1, 9 Vic, c. 6.

**WHEREAS** it is deemed expedient for the better regulation of the Militia of this Island, that certain parts of the above mentioned Act be repealed, and other provisions substituted in lieu thereof: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That the second, fifth, sixth, tenth, eleventh, fifteenth, twentieth and twenty-eighth sections of an Act made and passed in the twentieth year of the reign of His late Majesty King George the Third, intituled "An Act for the establishing and regulating a Militia," be, and the same are hereby repealed.

Repeals 2d, 5th, 6th, 10th, 11th, 15th, 20th, and 28th sections of 20 G. 3, c. 1.

II. And be it further enacted, That the Militia of this Island shall be formed into battalions, regiments, companies, and such smaller divisions, and shall be called out for the purpose of training and other military exercises, at such times, places, and in such proportions as to the Lieutenant Governor or Commander-in-chief for the time being shall appear best adapted to the conveniency of the inhabitants enrolled therein, not exceeding once in each year, except in time of war or other emergency; and that no commissioned officer shall reside more than ten miles distant from the place of training; and that no noncommissioned officer or private in attending musters or drills, shall have to march more than five miles from his place of abode, except in case of war or other emergency as aforesaid; and in such last mentioned cases, it shall and may be lawful for the Lieutenant Governor or other Commander-in-chief for the time being to issue such further orders to the commanding officers of regiments, battalions or companies, as he may deem requisite, and the safety of the Island may require.

Militia to be formed into battalions, &c., and to be trained at such times as Lieut. Governor shall appoint, not to exceed once in each year.

Commissioned officers to reside within 10 miles of place of training.

Non-commissioned officers or privates not to march more than 5 miles to train, except in cases of emergency.

III. And be it further enacted, That the clerk of each company, once in every year, shall take a list of all persons liable to be enrolled in the Militia, living within the precinct of such company, and present the same to his captain or commanding officer of the company to which he belongs—the said return to be given in, on or before the last Tuesday in October in each year, under pain of forfeiting the sum of forty shillings for each default, to be paid to the captain or commanding officer of the company; and in case of nonpayment, the same to be levied by distress and sale of the offender's goods and chattels, by virtue of a warrant from any Justice of the Peace in this Island, who is hereby empowered to grant the same; and in case of no goods or chattels whereon to levy the same fine,

Duty of clerks of companies.

Fine on clerk for neglect of duty.

Mode of recovery.

Captains to transmit returns of their companies, within one month, or forfeit £5.

then the said Justice is hereby authorized and empowered to commit the said offender to the jail of Charlottetown, for a period not exceeding twenty-one days: and the said captains or commanding officers of companies are hereby required to transmit such returns, within one month next thereafter, to the commanding officer of the regiment or battalion to which they belong, under the penalty of five pounds; and the said commanding officers of regiments or battalions are hereby required, on or before the first day of January in each year, to transmit the same to such officer as the Lieutenant Governor shall appoint to receive such returns.

Mode of intimating musters.

Penalty on commanding officers of battalions or companies neglecting to draw forth the same—or for disobedience of orders.

Mode of recovery.

IV. And be it further enacted, That the commanding officer of each company shall order and direct the clerk thereof to put up notices in three of the most public places within his precinct, therein warning the Militiamen of the said company of the time and place appointed for each muster; and every commanding officer of a regiment, battalion or company, neglecting to draw forth the regiment, battalion or company under his command, or to cause the same to be done, or refusing in any way to obey the orders or commands of his superior officer, shall, for every such neglect or refusal, forfeit and pay the sum of fifty shillings, and shall also be liable to be dismissed from his situation in such Militia—the said fine to be levied by distress and sale of the offender's goods and chattels, by virtue of a warrant from the said superior officer, directed to the clerk of the regiment, battalion or company to which such offender belongs, in manner as directed by the said Act of which this is an amendment; and in case such neglect or refusal should originate with the commanding officer of any regiment, corps or battalion, that then and in such case the warrant shall issue from the person who shall be appointed as aforesaid by the Lieutenant Governor to receive returns under this Act.

Noncommissioned officer or private to forfeit 5s. for not appearing at muster.

V. And be it further enacted, That every noncommissioned officer and private who shall neglect to appear at any battalion or company muster, agreeably to the provisions of this Act, shall be liable to a fine of five shillings for each and every neglect as aforesaid—to be recovered and levied by warrant of distress, to be issued by the captain or other officer commanding the company.

Officers commanding battalions or companies, to be furnished with copy of Militia laws.

VI. And be it further enacted, That all officers commanding battalions and companies shall, upon their appointment, be furnished with a copy of the Militia laws, and shall produce the same, together with a roll of their battalion or company, upon all musters or inspections.

Men above forty-five years

VII. And be it further enacted, That all Militiamen above forty-five years of age, being privates, shall be enrolled as

reserved battalions or corps, and shall not be called out for training or otherwise, unless when specially ordered and required.

of age to be formed into reserved battalions.

VIII. And be it further enacted, That the person so appointed by the Lieutenant Governor, or other Commander-in-chief for the time being, to receive the returns as aforesaid from the officers commanding regiments or battalions, shall, when directed, inspect the respective regiments, battalions or companies of militia, at such times and places as the Lieutenant Governor or Commander-in-chief for the time being, may appoint, under the provisions of this Act—which said person so appointed as aforesaid shall be paid out of the Treasury of this Island the sum of seventy-five pounds *per annum*, in lieu of the salary now attached to the office of Adjutant General; and in place of all fees, charges or expenses for travelling to inspect the militia.

Duty of Inspector of militia.

Salary of Inspector.

IX. And be it further enacted, That the persons hereinafter described be exempted from all trainings, watches and warding, except such as shall voluntarily receive commissions in the militia, (that is to say)—the members and officers of His Majesty's Council, the members and officers of the Assembly, the Chief Justice and other Justices of Courts, Justices of the Peace, Attorney General, Treasurer of the Island, Secretary and Registrar, Chief Surveyor of Lands, Ministers of the Gospel, Field Officers, the Collector and Comptroller of His Majesty's Customs, licensed Schoolmasters, constant Ferry-men, one Miller to each grist mill, and lame persons producing certificates thereof from a Surgeon or Justice of the Peace.

Persons exempted from serving in the militia.

X. And be it further enacted, That all fines, penalties and forfeitures arising by operation of this Act, or of the Act intituled "An Act for the establishing and regulating a Militia" (where the same are not otherwise disposed of), shall be paid to the Commanding officer of the regiment or battalion, to be applied to the contingent expenses of such regiment or battalion, to be accounted for, annually, to the Commander-in-chief for the time being.

Appropriation of fines.

### CAP. XXXI.

An Act to regulate the salary of the Treasurer of this Island.

See 9 Vic. c. 21, and 18 Vic. c. 19.

WHEREAS it is deemed expedient to establish and fix the salary to be paid to the person who may hold the office of Treasurer of this Island: Be it enacted, by the Lieutenant Governor, Council and Assembly, That there shall be allowed and paid to the person who now holds, or shall hereafter hold,

Treasurer to be paid £500 *per annum*, in lieu of all other emoluments.

the office of Treasurer of this Island, the sum of five hundred Pounds\* *per annum*, currency of this Island, in lieu of all *percentage*, fees or emoluments whatsoever—which said yearly allowance or salary shall be deemed to have commenced and shall be computed from the fifth day of January last past, from and after which period no other emolument or allowance shall be paid to the said Treasurer, other than the salary provided by this Act.

\* By the 9th Vic. cap. 21, this allowance is reduced to £400 *per annum*, and by 18th Vic. cap. 19, it is subject to a further reduction of £100.

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CAP. XXXII.

Continued by 2  
Vic. (1st sess.)  
c. 4.  
Repealed by  
8 Vic. c. 16.

An Act for the regulation of the public Wharf of Charlottetown.

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CAP. XXXIII.

Repealed by  
10 Vic. c. 11.

An Act to repeal the several Acts relating to licenses for retailing strong and spirituous liquors, and to make other provisions in lieu thereof.

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CAP. XXXIV.

Continued for  
another year  
by 4 W. 4, c. 21.  
Expired.

An Act to continue for one year an additional duty imposed on wines and spirituous liquors imported into this Island.

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CAP. XXXV.

Continued for  
another year by  
4 W. 4, c. 19.  
Expired.

An Act for continuing for one year an *ad valorem* duty on all goods, wares and merchandise, imported into this Island, with certain exceptions.

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CAP. XXXVI.

Continued for  
another year  
by 4 W. 4, c. 20.  
Expired.

An Act for levying a duty on tobacco and tea.

## CAP. XXXVII.

An Act to make and keep in repair the pumps and wells of Charlottetown, and for other purposes, and to repeal a certain Act therein mentioned.

Amended by 6  
Vic. c. 4.  
Continued by 2  
Vic. c. 3, and 9  
Vic. c. 23.  
Expired.

\*.\* This Act affects titles to lands, but is omitted pursuant to directions of 12 Vic., c. 23.

For other Acts which have reference to the same subject, see note to 26 Geo. 3, c. 1.

## CAP. XXXVIII.

An Act for appropriating certain Moneys for the service of the year One thousand eight hundred and thirty-three.

Executed.

## CAP. XXXIX.

An Act to provide for the civil establishment of the colony, and to repeal two certain Acts therein mentioned.

Passed with a  
suspending  
clause, and not  
assented to by  
His Majesty.





ANNO QUARTO

## GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the third day of February, *Anno Domini*, 1831, in the first year of the reign of our Sovereign Lord WILLIAM the Fourth by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith :

1834.

A. W. YOUNG,  
Lt. Governor.

E. J. JARVIS,  
President.

W. MACNEILL,  
Speaker.

And from thence continued, by several prorogations, to the fourth day of February, 1834, and in the fourth year of His said Majesty's reign ; being the fourth session of the thirteenth General Assembly convened in the said Island.

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### CAP. I.

An Act for the encouragement of Education.

Amended by  
6 W. 4, c. 6;  
continued by 3  
Vic., c. 17, and  
9 Vic., c. 25.  
Expired.

## CAP. II.

An Act for the summary trial of common assaults and batteries.

## CAP. III.

Repealed by 1  
Vic., c. 10.

An Act for regulating the toll for the manufacture of oatmeal and pearl barley, and to amend an Act ascertaining the toll to be taken at grist mills.

## CAP. IV.

Continued by 4  
Vic., c. 4.

Expired.

An Act for establishing the size and quality of fish barrels and tierces, and for regulating the weight of fish the same shall contain.

## CAP. V.

An Act for the appointment of sheep reeves, and to restrain rams from being at large at improper seasons; and to repeal the Acts formerly passed for that purpose.

Commissioners  
of highways to  
appoint yearly  
on or before 1st  
July, as many  
sheep reeves in  
their respective  
districts as they  
think neces-  
sary.

Sheep reeves  
to seize and  
take rams  
going at large  
between 15th  
August and  
10th December.

May call upon  
inhabitants to  
assist.

To give notice  
of appoint-  
ment.

**W**HEREAS the rearing of sheep and improving the breed thereof is of great importance to the inhabitants of this Colony: Be it therefore enacted, That from and after the passing hereof, it shall and may be lawful for the commissioners of Highways for the time being, in their respective districts, and they are hereby required and directed, to nominate and appoint yearly, on or before the first day of July, as many fit and proper persons as they may conceive necessary, to act as sheep reeves in the several settlements for which they are appointed; and whose duty it shall be, to take up and seize any ram or rams going at large beyond the enclosures of the owner or owners' farm or farms within such settlement or district, between the fifteenth day of August and the tenth day of December in each year; and on receiving information of any ram or rams being at large as aforesaid, and on the same being shewn to the sheep reeve of such settlement or district, shall seize and take, or cause to be seized and taken, any such ram or rams going at large; and the said sheep reeve is hereby authorized to call on such of the inhabitants of such settlement or district as he may deem necessary, to assist him to effect the same: and such reeve shall give notice of his appointment, by posting at least two notices in writing, in the most public places within his district, in ten days after he shall receive such appointment.

II. And be it further enacted, That if any such sheep reeve so appointed shall refuse to serve when appointed, or neglect or refuse to perform the duties required of him by this Act, immediately on his receiving the information as aforesaid, he shall forfeit and pay to His Majesty, for each and every refusal or neglect, the sum of forty shillings—and each and every person refusing or neglecting to assist in seizing and taking any ram or rams at large as aforesaid, within the district or settlement where such person may reside, when requested by the sheep reeve of such district or settlement, shall, for each neglect or refusal, forfeit and pay to the said sheep reeve the sum of five shillings.

Refusing to serve or neglecting or refusing to act when appointed, to forfeit 40s.

Persons neglecting or refusing to assist reeve when required, to forfeit 5s.

III. And be it further enacted, That for every ram so found at large as aforesaid, the owner or owners shall forfeit and pay to the sheep reeve of such settlement or district the sum of fifteen shillings; and if no owner can be found to claim such ram or rams so found at large as aforesaid, within three days after the seizure thereof, it shall and may be lawful for the said sheep reeve to sell, or cause to be sold, at public auction, (at least three days' notice of such auction having been previously given, by posting written notices at two of the most public places in such settlement or district wherein such ram or rams was or were taken,) and the proceeds of such sale shall be paid as a recompense to the sheep reeve for his trouble.

For every ram so found at large, owner to pay the reeve 15s.

If no owner appear within 3 days, ram to be sold.

Three days' notice to be given.

Reeve to keep the proceeds of sale.

IV. And be it further enacted, That if any person or persons shall obstruct any of the sheep Reeves in the execution of their duty, such person or persons shall severally forfeit and pay to the sheep reeve so obstructed, a fine not exceeding twenty shillings, to be recovered as is hereinafter directed.

Penalty on persons obstructing Reeves not to exceed 20s.

V. And be it further enacted, That no person shall be compelled to serve as a sheep reeve under and by virtue of this Act, oftener than once in three years.

No one compelled to serve as reeve oftener than once in three years.

VI. And be it further enacted, That all fines and forfeitures arising under and by virtue of this Act, shall be sued for within thirty days after the commission of the offence for which the same shall have been incurred, and be recovered before any one of His Majesty's Justices of the Peace within the County where such offence shall have been committed; and the same shall be levied by warrant of distress on the goods and chattels of the offender or offenders; and if no goods and chattels can be found whereon to levy, the said Justice is hereby authorized and empowered to commit the offender or offenders to prison, for a period not exceeding one month.

Fines and forfeitures to be sued for within 30 days.

before any Justice of the Peace for the County.

How levied.

For want of goods, offender may be committed.

VII. And be it further enacted, That an Act made and passed in the thirty-first year of the reign of His Majesty King George the Third, intituled "An Act to prevent the running at large of rams at improper seasons;" and an Act made and passed in the forty-third year of His said Majesty's reign, intituled "An Act to amend an Act made and passed in the thirty-first year of His present Majesty's reign, intituled 'An Act to prevent the running at large of rams at improper seasons;'" and an Act made and passed in the first year of His present Majesty's reign, intituled "An Act to prevent the running at large of rams at improper seasons, and to regulate the appointment of sheep reeves, and to suspend two certain Acts therein mentioned," be, and the same are hereby respectively repealed.

31 G. 3, c. 6.

43 G. 3, c. 5.

1 W. 4, c. 10.

Repealed Acts repealed.

## CAP. VI.

Repealed by 12 Vic. c. 28.

An Act relating to costs in cases of penalties recoverable before Justices of the Peace.

## CAP. VII.

See 8 Vic., c. 10.

An Act to enable the Supreme Court to give costs in cases of *certiorari*.

In cases of *certiorari* Supreme Court may give costs as well to plaintiff as defendant.

WHEREAS doubts have arisen whether the Supreme Court can award costs to plaintiffs in cases of *certiorari*—for remedy whereof, be it enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful to and for the Justices of the Supreme Court, (and they are hereby empowered so to do,) to give reasonable costs in cases of *certiorari*, as well to the plaintiff as to the defendant; any rule of Court, law, usage or custom to the contrary thereof in any wise notwithstanding.

Proviso as to Acts by which an appeal to Supreme Court is granted.

II. Provided always, and be it further enacted, That in all cases where an appeal is given by any Act to the Supreme Court, no such writ of *certiorari* shall be issued, unless special cause on affidavit be shewn to the Chief Justice or other Justices of the said Court; and unless notice of such motion for a writ of *certiorari* shall have been served upon the party against whom such writ of *certiorari* is prayed, at least ten days before such motion shall be intended to be made.

Writ to be applied for within one month.

III. And be it further enacted, That no writ of *certiorari* shall be issued unless, the same shall have been applied for within one month from the time of judgment having been given in the Court below.

## CAP. VIII.

An Act for the more effectual punishment of offenders, by enabling the Supreme Court to add hard labor to the sentence of imprisonment. Passed for one year only.

## CAP. IX.

An Act for the regulation of the jails in King's and Prince Counties. Repealed by 7 W. 4, c. 9.

## CAP. X.

An Act for the better preventing accidents by fire within the town of Charlottetown. Continued by 2 Vic., c. 5.  
Repealed by 7 Vic. c. 6.

## CAP. XI.

An Act to repeal certain Acts therein mentioned.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the twentieth year of the reign of His late Majesty King George the Third, intituled "An Act to regulate the salmon, salmon trout and eel fishery;" and an Act made and passed in the twenty-first year of the reign of His late Majesty King George the Third, intituled "An Act to explain and amend an Act passed in the twentieth year of His present Majesty's reign, intituled 'An Act to regulate the salmon, salmon trout and eel fishery;'" and an Act made and passed in the tenth year of the reign of His late Majesty King George the Fourth, intituled "An Act to continue an Act made and passed in the eighth year of His present Majesty's reign, intituled 'An Act to continue an Act made and passed in the sixth year of His present Majesty's reign, intituled 'An Act to revive, alter and continue an Act made and passed in the fifty-second year of His late Majesty, intituled 'An Act for raising a fund to make and keep in repair the pumps, wells and streets of Charlottetown, and for other purposes therein mentioned,'" and each and every of the said Acts, and each and every clause, matter and thing therein contained, be and the same are hereby respectively repealed. 20 G. 3, c. 5.  
21 G. 3, c. 1.  
10 G. 4, c. 17.  
Recited Acts: repealed.

## CAP. XII.

An Act for continuing the General Assembly in case of the death or demise of His Majesty, his heirs and successors.

**W**HEREAS the peace, welfare and security of this Island might be exposed to great dangers, if the General Assembly of this Island should be dissolved by the death or demise of the King our Sovereign Lord (whom God long preserve), or by the death or demise of any of His Majesty's heirs and successors: for remedy thereof—Be it enacted, by the Lieutenant Governor, Council and Assembly, That this General Assembly, or any other General Assembly, of this Island, which shall have been summoned and called by our present Sovereign Lord King William the Fourth, or his heirs and successors, shall not determine or be dissolved by the death or demise of His said Majesty, his heirs and successors; but such General Assembly shall, and it is hereby enacted, to continue, and may meet, convene and sit, proceed and act, notwithstanding such death or demise, in the same manner as if such death or demise had not happened.

General Assembly not to be dissolved by the death or demise of the King.

Not to prevent the King from proroguing or dissolving the General Assembly.

II. Provided always, and it is hereby enacted, That nothing in this Act contained shall extend, or be construed to extend, to alter or abridge the power of the King, his heirs and successors, to prorogue or dissolve the General Assembly of this Island.

Act not to have effect until His Majesty's pleasure be signified.

III. Provided, That nothing in this Act contained shall be of any force or effect until His Majesty's pleasure thereon shall be known.

\* \* \* This Act received the Royal allowance 7th February, 1835, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 21st April, 1835.

## CAP. XIII.

Repealed by W. 4, c. 14.

An Act to regulate the conveyance of the mails by a steam vessel, and to repeal an Act formerly passed for that purpose.

## CAP. XIV.

Repealed by 19 Vic. c. 1.

An Act authorizing Collectors of Impost to appoint deputies.

## CAP. XV.

An Act for ascertaining and establishing the Boundary Lines of Counties and Townships, and parts of Townships, and for regulating the duty of Surveyors, and to repeal a certain Act therein mentioned.

**WHEREAS** the Lines and Boundaries of the different Counties and Townships into which this Island is divided, although laid down and marked on the general survey thereof, have not generally been ascertained and settled by actual survey, nor have any known rules and principles yet been provided by statute for ascertaining and establishing the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the commencement of the several County and Township Boundaries shall be ascertained by admeasurement from such natural or other marks on each side thereof as are of the most certain or unchangeable nature, connected with such other evidence as can be best obtained of the real and true commencement of such County and Township Boundaries; and that all County and Township Boundary Lines shall be run from the point of commencement, in such manner ascertained and fixed, according to the magnetic position of the year one thousand seven hundred and sixty-four, by which it appears that the whole of the several boundaries were laid down on the original survey of this Island—being north, fifteen degrees thirty minutes west—and from which the descriptions in the several grants from the Crown of the respective Townships were taken.

II. And be it enacted, That it shall and may be lawful for the Lieutenant Governor or other Administrator of the Government, by and with the advice of His Majesty's Council, to appoint three Commissioners, one of whom shall be the Surveyor General of this Island for the time being, who, together with two other persons duly qualified to carry into effect the provisions of this Act, but who shall not be practising Land Surveyors, which said Commissioners shall be duly sworn before the Lieutenant Governor in Council to perform the duties of such office faithfully and honestly, according to the best of their skill and abilities, and strictly according to the directions of this Act; and such Commissioners shall have full power and authority to summon witnesses and examine them on oath, when they shall deem it necessary; and it shall be their duty to ascertain and fix the points of commencement of each County or Township Boundary, which point of commencement so fixed by them shall be binding on all parties interested therein; and all lines shall be run from such points of commencement by the Surveyor General or other Surveyor

Explained and amended by 7 W. 4, c. 10; and temporarily suspended in part by 3 Vic. c. 14; 6 Vic. c. 17; 7 Vic. c. 22; 8 Vic. c. 15; 9 Vic. c. 15; 10 Vic. c. 20; 11 Vic. c. 25; Altered and extended by 10 Vic. c. 13; and 23 Vic. c. 5.

Commencement of County and Township Boundaries, how ascertained.

County and Township Boundary lines to be run from the point of commencement according to magnetic of 1764, being N. 15 deg. 30 m. W.

Governor and Council to appoint three Commissioners, Surveyor General to be one.

The other Commissioners not to be practising land Surveyors, who shall be sworn, &c.

Power to summon witnesses, &c.

Their duty.

In case of death  
 &c., vacancy  
 how filled up.

duly qualified by this Act as hereinafter mentioned; and in case of the death or absence, or other removal of any of the said Commissioners, it shall and may be lawful for the Lieutenant Governor, by and with the advice of His Majesty's Council, to appoint another or others duly qualified as aforesaid, in the place of such Commissioner or Commissioners removed by death or otherwise, so as there shall be at all times three effectual Commissioners to act during the continuance of this Act: provided nevertheless, that the authority so vested in the said Commissioners shall not extend, or be construed to extend, to interfere with the Surveyor General in the discharge of his duty in any thing relating to Crown lands.

Not to interfere  
 with Surveyor  
 General's duty  
 as respects  
 Crown lands.

Boundary line  
 between King's  
 County and  
 Queen's County,  
 how to be run.

III. And whereas it is highly expedient and necessary that the two County Lines should be run, marked and staked; be it therefore enacted, that the Commissioners appointed by virtue of this Act, after having ascertained the commencement of the line between King's County and Queen's County, on the south side of this Island, under the direction and in pursuance of this Act, shall run, or cause the same to be run, according to its true course, from said point of commencement to the southern boundary of Townships numbers thirty-seven or thirty-eight, where it shall be connected, either east or west, as the case may be, with the division line of Townships numbers thirty-seven and thirty-eight, which division line, after being ascertained, shall be the remainder of said County Line, and which said Boundary of Townships numbers thirty-seven and thirty-eight, after ascertaining the correct point of commencement on the north side of the Island, shall be run, according to its true course, to the extent of said Townships.

Boundary line  
 between  
 Queen's County  
 and Prince  
 County, how  
 to be run.

IV. And be it enacted, That the Commissioners aforesaid shall in like manner ascertain the commencement of the line between Queen's County and Prince County on the north and south sides of the Island, and run, or cause the same to be run, respectively, according to their true courses, to the southern boundary of Township number twenty-five, which said boundary of Township number twenty-five shall connect the said County line.

Commissioners  
 to cause County  
 lines to be run,  
 on Royal assent  
 having been  
 signified to this  
 Act.

V. And be it enacted, That immediately after His Majesty's Royal allowance of this Act shall be signified, the Commissioners appointed under and by virtue of the same, shall cause the County lines to be run as hereinbefore directed, the expense of which shall be paid by the Government of this Island; but before the Commissioners so to be appointed as aforesaid shall proceed to ascertain the commencement of either of the said County lines, they shall give public notice in the Royal Gazette of the time and place of holding the survey for that purpose, at least thirty days previous to holding such survey.

Commissioners  
 to give 30 days'  
 notice of time  
 and place of  
 holding survey,  
 &c.



VI. And be it enacted, That any proprietor who shall be desirous of having the Boundary Lines ascertained and established between his Township and the adjoining Township, may apply to the Commissioners aforesaid for that purpose, who are hereby required and directed, on such application, to give thirty days' notice to the proprietor of the adjoining township, or to his agent, that he may be present at such survey, if he think fit: and should it so happen that there be no proprietor or agent for such Township resident within the Island, then and in that case the Commissioners aforesaid shall signify the same to the Lieutenant Governor in Council, who is hereby authorized to appoint a person for such absent proprietor, to attend the said Commissioners: and any township boundary lines, of which the points of commencement shall be proved to the said Commissioners to have been ascertained and fixed agreeably to the descriptions in the original grants, and run according to the magnetic position of the year one thousand seven hundred and sixty-four, by the Surveyor General, or any other person, which the proprietors interested therein have acknowledged and acted upon, are hereby declared to be good and valid and binding upon all parties concerned, any thing in this Act contained to the contrary notwithstanding.

Proprietor may apply to Commissioners to have boundary ascertained.

30 days' notice to be given.

Lt. Governor, &c. to appoint a person to act for absent proprietor.

What Township boundary lines to be good and valid.

VII. And be it enacted, That all Township Boundary Lines which run through this Island shall be run from the points of commencement on each side thereof, duly fixed and ascertained under the directions of this Act, to the centre or mid-way between such points of commencement; and in all cases where lines do not meet or correspond with the original survey of the Island, the boundary shall be settled and connected by a line perpendicular to the said lines, either north or south, east or west, as the case may be; and the expense attending the establishing and running of Township Boundary Lines shall be paid in equal proportions by the proprietors of the lands bounding on such lines.

Township boundary lines running through the Island, how to be run.

Explained by 7 W. 4, c. 10, and 23 Vic. c. 5.

Expense to be borne by nearest proprietors.

VIII. And be it enacted, That if on accurately settling any County or Township Boundary Line, under the directions of this Act, it shall appear that the said line intersects or divides any land in the *bona fide* possession or occupation of any person whomsoever, such person shall not, in consequence thereof, be disturbed in his said possession or occupation; and in case he shall be a tenant or lessee, he shall continue to pay his rent to his lessor, as heretofore; and nothing in this Act contained shall extend, or be construed to extend, to enable the Commissioners so to be appointed under and by virtue of this Act, to adjudicate upon the title to any lands within this Island, but that their jurisdiction shall be

No person to be disturbed in the *bona fide* possession, &c. of land by reason of any line intersecting it; if a tenant, to pay his rent as heretofore.

Commissioners not to adjudicate upon titles to land.

confined in the strictest manner to the settling of Boundary Lines, or the commencement of such boundary lines.

Supposed proprietor of intersected land having leased the same, shall pay to true proprietor the future rent reserved;

and if sold, the purchase money.

Tenants, &c., at the expiration of lease or tenancy, to give quiet possession to true proprietor.

Surveyors to obtain certificate from Commissioners of their competency;

and from Surveyor General annually, that the instruments used by them are good.

Variation of instruments to be expressed in certificate.

Surveyors to administer oath to chainmen.

Form of oath.

Surveyors to cause accurate plans of lines surveyed

IX. And be it enacted, That the supposed proprietor of such intersected or divided land, who hath leased or sold the same, shall, if leased, pay to the true proprietor of any part thereof, or his agent, the future rent reserved for the said land, yearly and every year, during the continuance of the said lease; and if the same hath been sold, shall account for and pay to the true proprietor thereof, or his agent, the sum or purchase money for which the same hath been so sold—the said yearly rent and purchase money to be recoverable by the true proprietor, his heirs, executors or administrators, against the said supposed proprietor,\* his heirs, executors or administrators, in His Majesty's Supreme Court of Judicature of the said Island; and in all cases where such lands are held under lease for any term of years, the tenant or tenants, occupier or occupiers thereof, shall, at the expiration of his, her or their term therein, peaceably and quietly yield, surrender and deliver up the same to the true proprietor, his heirs, executors or assignees.

X. And be it enacted, That no person shall be deemed a competent Surveyor to run any County or Township line under the authority of this Act, who shall not previously have obtained from the Commissioners appointed under and by virtue of this Act, a certificate that he is duly qualified for such office: and every Surveyor of lands so qualified is hereby required, annually, to demand and obtain from the said Surveyor General a certificate that the several instruments of such Surveyor to be used by him in surveying are good and sufficient; and in the certificate so to be granted shall be set down and expressed the variation of said instruments at the period of making such certificate, which certificate the said Surveyor General is hereby required and authorized to grant: and each and every Surveyor, being duly qualified as aforesaid, is hereby authorized and required to administer an oath to each of the chainmen employed by him, in the words following, *videlicet*:

‘ You do swear, that you will justly and truly admeasure, according to the best of your skill and judgment, and conformable to such instructions as you shall from time to time receive from me in the premises, and render a correct account thereof.

‘ So help you God.’

And each and every Surveyor shall cause accurate plans of the different boundaries, as surveyed or ascertained by him or

\* By Act 10 Vic., c. 13, in proceedings under this section, service of process, &c., may be made on agent or attorney of absent proprietor.

them, to be drawn, delineating thereon the adjacent parts of the different Townships which the respective boundary lines divide; and they shall also annex to the said plans in every case a particular description of the point where the boundary line commences, its distance from any headland, river, creek, or other natural mark on either side thereof, and shall also cause a square post or stone to be fixed at each corner of such Township, with the words "Boundary of the Township number" (as the case may be,) engraved on each side thereof; and the said plans and descriptions of the different boundaries hereby directed to be made shall be lodged in the office of His Majesty's Surveyor General of lands for this Island for the time being, and shall be given in evidence at all times to come in any dispute or question as to the said boundaries respectively: and any persons interested in said boundary shall be furnished from the said office with a copy of any such plan and description, on paying the usual fee: and any Surveyor neglecting to comply with the directions of this Act shall, for each and every offence, forfeit and pay a sum not exceeding twenty pounds, to be recovered by suit in His Majesty's Supreme Court of Judicature in this Island, to be applied to the use of His Majesty's Government.

to be made, and annex description of the point of commencement; and cause a square post or stone to be fixed at the corners of Townships.

Plans and descriptions to be lodged in the Surveyor General's office.

Surveyor General to furnish copies when demanded.

Penalty on Surveyor not complying with directions of this Act.

XI. And be it enacted, That no action or suit at law shall or may be sustained on account of any trespass alleged to have been committed in consequence of any Township division line having been run according to the then meridian, but now altered by this Act.

No action to be sustained for trespass, in consequence of lines being altered by this Act.

XII. And be it enacted, That the provisions of this Act shall extend, and be construed to extend, to settling and ascertaining the subdivision lines of Townships which shall have been divided into not more than four parts; and such subdivision lines shall be adjusted and settled in the same mode and manner as is hereinbefore prescribed for the adjusting and settling the lines and boundaries of Townships.\*

This Act to extend to subdivision lines of Townships where not divided into more than 4 parts.

XIII. And be it enacted, That an Act passed in the eleventh year of His late Majesty's reign, intituled "An Act to ascertain and establish the boundary lines of the several Counties and Townships of this Island, and to regulate the duty of Surveyors," be, and the same is hereby repealed.

Repeals 11 G. 4, c. 10.

XIV. Provided nevertheless, that nothing herein contained shall have any force or effect until His Majesty's pleasure therein shall be known.

Act not to have effect until His Majesty's pleasure be signified.

\* \* \* This Act received the Royal allowance 7th February, 1835, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 21st April, 1835.

\* This section is repealed by 7 W. 4, c. 10, and the provisions of this Act are thereby extended to subdivisions of Townships of not less than 1000 acres.

## CAP. XVI.

See note to 10  
G. 4, c. 10, for  
other Acts in  
amendment.

Repealed by 14  
Vic., c. 1.

An Act in further amendment of an Act passed in the tenth year of His late Majesty's reign, intituled "An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation."

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic., c. 23.

## CAP. XVII.

This Act disal-  
lowed by His  
Majesty.

An Act to suspend for one year a certain part of an Act passed in the third year of His present Majesty's reign, authorizing a further issue of Treasury Notes, to the amount of five thousand pounds.

\*.\* This Act was intended to suspend operation of 3d, 4th and 5th sections of 3 W. 4, c. 18.

## CAP. XVIII.

An Act for the better conveyance of the mails in the winter season.

Description of  
ice-boat to be  
built by Gov-  
ernment.

**W**HEREAS it is necessary for the safe conveyance of the mails and passengers between this Island and Nova Scotia during the winter season, that a sufficient ice-boat be provided by Government, and proper regulations made for the management of the same: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That from and immediately after the passing of this Act, a good and sufficient ice-boat, of not less than the length of sixteen feet, and breadth of four feet eight inches, shall be built at the public expense, under the direction of two competent mechanics or persons to be appointed by the Administrator of the Government for the time being; which boat, when built, shall be provided by the said mechanics or persons appointed as aforesaid, at the expense of the Government, with not less than three oars, plated at the end of the blade with iron or steel, two boathooks, two grapnels, thirty fathoms of line or rope, a compass, four light boards and two beetles, and an oil cloth sufficient to cover the boat in case of need—and which boat, when so built and provided, shall afterwards be used for

To be used for  
carrying mails  
and passengers  
between this  
Island and Cape  
Tormentinae.

the purpose of carrying the mails and passengers between this Island and Cape Tormentine, and for no other use or purpose whatsoever.

II. And be it further enacted, That when and so soon as the said boat shall be built and provided as aforesaid, it shall and may be lawful for the Lieutenant Governor or other Administrator of the Government for the time being, by and with the advice and consent of His Majesty's Council, to contract with two fit and proper persons to take charge of the said boat and the said articles so to be provided as aforesaid, and to carry the winter mails between this Island and Cape Tormentine, for the term of five years—which persons when so engaged shall enter into good and sufficient security for the faithful performance of the contract so made.

*Lt. Governor to contract with 2 persons to take care of boat and materials, and to carry the winter mails for 5 years.*

*Contractors to give security.*

III. And be it further enacted, That the persons so contracting to carry the mails as aforesaid shall, during the winter of every year of the term of their contract, provide and keep at their own proper cost and expense, two other active and able-bodied men, who shall at all times be in attendance at the time and place that may be fixed and specified in the contract so made as aforesaid, and shall assist in carrying the said mails between this Island and Cape Tormentine.

*Contractors to employ 2 other active men.*

IV. And be it further enacted, That the persons so contracting, together with their two assistants, shall be required to attend at a specified day in each and every week for the term of their contract, at Cape Traverse, and there remain until a fit and proper time offers for crossing from this Island to the opposite coast; and after crossing from this Island to Cape Tormentine, shall there receive any mail or mails that may be ready, and shall thereafter take the first safe opportunity to return to this Island.

*Contractors to cross with the mails weekly.*

V. And be it further enacted, That the persons so contracting shall give good and sufficient security for the safe keeping of the said boat and articles to be provided as aforesaid; and shall at all times during their said contract keep the said boat and other articles, at their own proper cost and expense, in good and sufficient repair; and shall, when required by the Lieutenant Governor or other Administrator of the Government, return the said boat and other articles to any person or persons appointed to receive the same, under a penalty of fifty pounds.

*Contractors to give security for keeping boat in good repair;*

*and shall return the same when ordered, under a penalty of £50.*

VI. And be it further enacted, That it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government, to cancel any such agreement as aforesaid, in case either of the said contractors shall be guilty of any breach thereof, or shall at any time neglect or refuse to perform the

*Lt. Governor may cancel agreement for breach thereof, or for neglect of duty, or in-*

toxication while crossing.

In case of vacancy by death or removal, Lt. Governor to contract with other persons, (of whom survivor may be one.)

Lt. Governor may cancel agreement on giving one month's notice.

Contractors to have with them while crossing all the articles provided, under a penalty not to exceed £2.

No more than 4 passengers to cross at any one time, under a penalty not exceeding £5.

Rates of passage.

Persons first entering name and paying passage money, to have priority.

Contractors to receive £6 per trip.

Fines and penalties how recovered and applied.

duties imposed thereby; or if either of them shall at any time while crossing the strait be intoxicated; and the said Lieutenant Governor, or other Administrator of the Government, is hereby authorized, in case of neglect as aforesaid, or in case of the death of either of the contractors, to contract with other persons (but of whom the survivor may be one,) under the directions of this Act, for the carriage of the winter mails as aforesaid: provided always, that a condition shall be inserted in such contract so to be made as aforesaid, by which the Lieutenant Governor, or other Administrator of the Government, if it shall be considered for the benefit of this Government, shall, on giving one month's notice to the contractors as aforesaid, be able to cancel the same at the end of such month.

VII. And be it further enacted, That the persons so contracting shall at all times be provided with good and sufficient clothing, and shall at all times have with them while crossing all and every of the articles provided as aforesaid, under a penalty, for every article deficient, not exceeding two pounds.

VIII. And be it further enacted, That no greater number of persons shall be taken at any one time, over and above the persons required by this Act to manage the boat, than four, under a penalty for every offence not exceeding the sum of five pounds.

IX. And be it further enacted, That the rates of passage shall be, for each and every person, the sum of twelve shillings, and no more; who shall be entitled to carry twenty pounds of baggage, and no more; and that, at the respective places specified in the contract, there shall be kept a book wherein the persons wishing to cross may enter their names, and that person whose name stands first on the said book shall be entitled to priority of passage—provided, at the time he shall have so entered his name, he shall have paid to the person keeping the book, the passage money hereinbefore directed.

X. And be it further enacted, That there shall be paid out of the moneys that may hereafter be in the Treasury of this Island, the sum of six pounds for every time such contractors shall cross to Cape Tormentine and return to the Island with the mails as aforesaid.

XI. And be it further enacted, That all fines and penalties arising under and by virtue of this Act, shall be recovered, with costs of prosecution, before any two of His Majesty's Justices of the Peace, if the same shall not exceed the sum of ten pounds, by warrant of distress and sale of the offender's goods and chattels, which fines and penalties shall be paid into His Majesty's Treasury, to and for the use of His Majesty's

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Government; and if no goods and chattels can be found whereon to levy, then the said offender shall be imprisoned for a term not exceeding sixty days.

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CAP. XIX.

An Act to continue an *ad valorem* duty on all goods, wares and merchandise imported into this Island, with certain exceptions. Expired.

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CAP. XX.

An Act to continue for one year an Act levying a duty on tobacco and tea. Expired.

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CAP. XXI.

An Act for continuing for one year an Act imposing an additional duty on wines and spirituous liquors. Expired.

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CAP. XXII.

An Act for levying a light duty on all vessels clearing out at any of the custom houses in this Island. Expired.

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CAP. XXIII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-four. Executed.





ANNO QUINTO

# GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini* 1835, in the fifth year of the Reign of our Sovereign Lord WILLIAM the Fourth, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith:

Being the first session of the fourteenth General Assembly convened in the said Island.

1835.

A. W. YOUNG,  
Lt. Governor.

E. J. JARVIS,  
President.

G. DALRYMPLE,  
Speaker.

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## CAP. I.

An Act for vacating the seats of Members of the Assembly, in certain cases therein mentioned.

Repealed by  
7 W. 4, c. 12.

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## CAP. II.

An Act for the more effectual punishment of offenders, by enabling the Supreme Court to add hard labor to the sentence of imprisonment.

Continued by 4  
Vic. c. 13, and  
9 Vic. c. 24.  
Repealed by 12  
Vic. c. 12.

## CAP. III.

Repealed by  
12 Vic. c. 16.

An Act to explain and amend the Act relating to trespasses.

## CAP. IV.

See 59 G. 3, c. 4,  
and 9 G. 4, c. 6.

An Act authorizing Commissions to be issued for taking the depositions of witnesses out of this Island, in cases where judgment hath been marked by default.

10 G. 4, c. 14.

**W**HEREAS an Act made and passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend an Act intituled 'An Act to render perpetual an Act intituled 'An Act to enable the Justices of the Supreme Court of Judicature to issue commissions for examining witnesses out of this Island;'" will expire at the end of the present session of the General Assembly: and whereas it is necessary to authorize the issue of commissions to take the depositions of witnesses residing out of this Island, in cases wherein judgment hath been marked by default—

In civil causes  
in Supreme  
Court wherein  
judgment shall  
have been  
marked by de-  
fault, the Court  
in vacation,  
may authorize  
a Commission  
to issue.


Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in all civil causes which may hereafter be depending in the Supreme Court of Judicature, and in which Judgment shall have been marked by default, it shall and may be lawful for the said Court, or for any one of the Justices of the said Court in vacation, upon application, and upon sufficient cause being shown, by affidavit made by or on behalf of the party desiring the same, to authorize the issuing of a commission under the seal of the said Court, for the examination of any witness or witnesses residing out of this Island; and the depositions of such witness or witnesses to be taken under such commission, shall have the same force and effect, and the proceedings under such commissions shall be regulated in like manner, as if issue had been joined in any of such causes.

Effect of  
depositions of  
witnesses.

## CAP. V.

Amended by 17  
Vic. c. 16 and  
22 Vic. c. 16.

An Act concerning the property of the Methodist Society at Charlottetown.

 This Act remains in force, but has been printed in the volume of private and local Acts pursuant to Act 24 Vic. c. 3.

## CAP. VI.

Amended by 6  
Vic. c. 19, 8 Vic.  
c. 6, and 14 Vic.  
c. 13.

An Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That in all cases of distress that may be here-

after made for any rent in arrear, no goods or chattels so distrained shall be sold towards satisfaction of the rent in arrear within a less period or time than twenty days from the day of distraining, including the day of distress and the day of sale — any law, usage or custom to the contrary thereof notwithstanding: provided always, that the owner or owners of any goods or chattels so distrained, or some person on his or their behalf, do and shall, within two days \* after any such distress shall be made, enter into a warrant of attorney, with two responsible sureties, payable to the lessor or landlord who shall cause such distress to be made, and in double the value of the goods and chattels so distrained, (such value to be ascertained in like manner as is hereinafter prescribed for taking replevin bonds); and which warrant of attorney shall be with a defeasance for the due return and forthcoming of the goods and chattels distrained, or the appraised value thereof, on the day of sale; and the goods and chattels so distrained shall be forthwith returned to the owner or owners thereof.

II. And be it further enacted, That if the goods and chattels so distrained and delivered back to the owner or owners as aforesaid, or the appraised value thereof, or of such part thereof as may have been sold by the tenant, with the chattels unsold, shall not be forthcoming and paid on the day appointed for the sale thereof; or that such tenant shall not have replevied the distress at the day appointed for the sale thereof; in any such case, it shall and may be lawful for the lessor or landlord afterwards to enter up judgment on such warrant of attorney, and sue out execution thereon to the amount of the appraised value of the distress (if not exceeding the rent or balance of rent due), with costs; and the goods and chattels distrained shall be first sold under the said execution, or such part thereof as may be forthcoming to be levied on, before any execution shall be executed on the persons or property of the sureties, or either of them; and the person who makes the distress may take such warrant of attorney, and shall be entitled to a fee of five shillings for the same, and no more.

III. And be it further enacted, That in case any tenant or tenants, lessee or lessees, for life or lives, term of years, at will, sufferance or otherwise, of any messuage, lands, tenements or hereditaments, upon the demise or holding whereof any rent is or shall be reserved, due or made payable, shall fraudulently or clandestinely convey away or carry off from such premises, his, her or their goods or chattels, to prevent the landlord or lessor, landlords or lessors, from distraining the same for arrears of rent so reserved, due and made payable, it shall and may be lawful to and for every such landlord or lessor, landlords or

Goods or chattels distrained for rent, not to be sold within a less period than 20 days.

Proviso.

Owner may have goods returned on executing a warrant of attorney.

Requisites of warrant of attorney.

Defeasance of warrant of attorney.

If goods, &c., or appraised value thereof, shall not be forthcoming or paid at the day of sale, or if the same be not replevied, lessor or landlord may enter up judgment on warrant of attorney, &c.

Amount to be levied.

Mode of proceeding under execution.

Fee for taking warrant of attorney.

Tenant or lessee fraudulently or clandestinely conveying away goods, &c. — Landlord or lessor may, within 30 days thereafter, distrain the same wherever found, and tenant or lessee to forfeit 1 year's

\* Extended to four days by 14 Vic., c. 13, s. 11.

rent, over and above the amount distrained for, and to be recovered in the same way.

lessors, or any person or persons by him, her or them for that purpose lawfully empowered, within the space of thirty days next ensuing such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels wherever the same shall be found, as a distress for the said arrears of rent, and the same to sell or otherwise dispose of in such manner, as if the said goods and chattels had actually been distrained by such lessor or landlord, lessors or landlords, in and upon such premises for such arrears of rent: and the tenant or tenants, lessee or lessees, conveying away or carrying off, or who shall cause to be conveyed away or carried off, any goods or chattels, in the manner and for the purposes aforesaid, shall be chargeable for and forfeit one full year's rent of his, her or their premises, over and above and to be added to and deemed as part of the rent distrained for or due, and to be recovered along with the same, and in the like manner—any law, custom or usage to the contrary in any wise notwithstanding: provided always, that no landlord or lessor, or other person, entitled to such arrears of rent, shall take any such goods or chattels as a distress for the same, which shall be sold *bona fide*, and for valuable consideration, before such seizure made, to any person or persons not privy to such fraud as aforesaid.

**Proviso.**

Goods, &c., sold *bona fide*, not liable to distraint.

If goods, &c., fraudulently conveyed away by tenant or lessee are secured in any house, &c.

IV. And be it further enacted, That when any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or tenants, lessee or lessees, his, her or their servant or servants, agent or agents, or other person or persons aiding or assisting therein, shall be put, placed or kept in any house, barn, stable, outhouse, yard, close or place locked up, fastened or otherwise secured, so as to prevent such goods and chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her or their bailiff, receiver, or other person or persons empowered to take and seize as a distress for rent such goods and chattels, (first calling to his, her or their assistance a constable, or other peace officer of the parish, district or place where the same shall be suspected to be concealed, who are hereby required to aid and assist therein;) and in case of a dwelling house, (oath being also first made before some Justice of the Peace, of a reasonable ground to suspect that such goods and chattels are therein,) in the day time to break open and enter into such house, barn, stable, outhouse, yard, close and place, and to take and seize such goods and chattels for the said arrears of rent, as he, she or they might have done by virtue of this Act, if such goods and chattels had been put in any open field or place.

Bailiff, &c., with a constable or peace officer, (if in a dwellinghouse, oath having first been made before a Justice of the Peace of the fact) may break open such house, &c., in the day time and distraint the same.

Sheriff within 21 days after appointment,

V. And be it further enacted, That every Sheriff hereafter to be appointed, shall, within twenty-one days after he has re-

ceived his patent of office, and from time to time afterwards, as occasion may require, depute, appoint and proclaim the number of deputies following (that is to say)—one deputy residing at Saint Peter's, one other residing at Saint Margaret's, on Lot forty-four, one other residing at Murray Harbor, and one other residing at Georgetown, in and for King's County; and also one deputy residing at Cascumpec, one other residing at Saint Eleanor's, and one other residing at Tryon, in and for Prince County; and also one deputy residing at Campbeltown, on Lot twenty-one, and one other residing at Pinette, in and for Queen's County, or as near to such places respectively within the said several Counties, as qualified persons can conveniently be found—and which said deputies, so appointed and proclaimed, shall have authority, in the name of the Sheriff so appointing him, to make replevins and deliverance of distresses, in such manner and form as the said Sheriff, or his under Sheriff, may and ought to do, upon pain that every Sheriff, for every month that he shall lack all or any of such deputies, shall forfeit, for every such offence, five pounds.

to depute 9 deputies.

Power of deputies.

Penalty on Sheriff for not making such appointment.

VI. And be it further enacted, That each and every Sheriff, or his and their deputies respectively, shall, before he, they or any of them shall make such replevin and deliverance, cause the person demanding or requiring such replevin to enter into a bond with two responsible sureties, payable to the Sheriff to whom or to whose deputy application shall be made, which bond shall be in double the value of the goods distrained, (such value to be ascertained by the oath of one or more credible witness or witnesses, not interested in the said goods or distress, which oath the person granting such replevin is hereby authorized and required to administer,) and with a condition thereunder, that the party so replevying shall and will appear at the sitting of the Supreme Court of Judicature then next to be holden for the County in which such distress shall be made, and then and there prosecute his suit with effect and without delay, or answer the defendant or defendants in replevin to the amount of the appraised value of the distress, with single costs only, if it shall be so adjudged; and the said Sheriff, or any of his deputies as aforesaid, shall thereupon, on such security being entered into, issue a warrant or precept in the name of the said Sheriff, to such person or persons as he or they shall appoint, commanding them, that without delay they replevy the said cattle, goods or chattels, and immediately summon the party distraining or detaining the same to appear at the sitting of the said Supreme Court of Judicature then next to be holden in the County wherein such distress was made, to answer the party so replevying upon his plaint, and to certify the same to the Sheriff of the said County, under the peril attending the neglect thereof: and the person to

Persons demanding replevin, to execute replevin bond in double the value of goods distrained.

Mode of ascertaining such value.

Condition of bond.

Sheriff to issue precept to replevy, and to summon party distraining to appear at next sitting of Supreme Court.

whom such precept shall be issued shall, on receipt thereof, make replevin, and summon the said person so distraining or detaining the said cattle, goods or chattels, and certify the same according to the tenor and command of the said warrant or precept; and shall also, with all due diligence, deliver to the said Sheriff, or his under Sheriff, the said replevin bond, who shall forthwith lodge the said bond in the Clerk's office of the said Court, together with a plaint in writing, according to the following form:—

Sheriff to lodge replevin bond in Clerk of the Court's office, together with a plaint in writing.

County, to wit.

Form of plaint.

' *A. B. Yeoman*, complains of *C. D.*, of \_\_\_\_\_ of a plea of taking and unjustly detaining his cattle, goods, and chattels, to wit, &c., and also found pledges as well to prosecute his suit with effect as to answer the said *C. D.* to the amount of the appraised value of the said goods and chattels, with costs, if it shall be so adjudged by law, to wit, *G. H.* of \_\_\_\_\_ and *J. K.* of \_\_\_\_\_ *L. M. Sheriff.*'

Penalty on Sheriff making default in the premises.

And every or any Sheriff, or any of his deputies to be appointed as aforesaid, who shall make default in performing the duties respectively by this clause enacted, shall, for each and every offence, forfeit and pay the sum of five pounds.

On entry of plaint, &c., Court may proceed, and if bond be forfeited, it may be assigned by Sheriff to avowant on request, who may sue for the same.

VII. And be it further enacted, That immediately upon the entry of any plaint and lodging of the replevin bond, in manner hereinbefore directed, the said Court shall and may duly entertain and proceed upon the said plaint, and cause the said bond afterwards, if the same shall be forfeited, to be assigned by the Sheriff to the avowant or person making cognizance in such replevin on his request, who may sue for the same in like manner as bail bonds are now sued for; and all writs, which may afterwards be issued in such replevin suit, shall issue out of and under the seal of the said Court, which shall direct and regulate the proceedings in such suit or suits respectively, according to such rules and practice as the said Court shall or may appoint, and give final judgment in such suit or suits respectively, if necessary.

Forfeitures under this Act, how to be recovered and applied.

VIII. And be it further enacted, That all fines and forfeitures which may hereafter be incurred under this Act, shall and may be recovered, with costs, in the said Supreme Court of Judicature, by bill, plaint, or information— one half whereof shall be paid to the Treasurer of this Island, to and for the use of His Majesty's Government thereof, and the other half to such person as may sue for the same.

Mode of proceeding in Supreme Court in replevin by plaintiff.

IX. And be it further enacted, That it shall and may be lawful for the plaintiff to declare in replevin, within one month previous to the sitting of the said Court next after the

date of the said plaint hereinbefore mentioned, and to proceed to issue and to trial according to the usual and accustomed practice of the said Supreme Court in other cases; and that in the like manner, it shall and may be lawful for the defendant, within a like period previous to the then next sitting of the said Court, after the date of the said plaint, to file his avowry, and to demand of the plaintiff that he should plead thereto, within the time and in the manner usually practised in the said Supreme Court; and that the said avowant shall be held and deemed in that case, as if he were a plaintiff in the cause, and his avowry a declaration, and subject to such rules as the Court hath already made, as to the mode and time of pleading in other causes, or may hereafter make, under the authority of this Act, in cases of replevin.

Mode of proceeding by defendant.

1. W. 4, c. 13, s. 2.

### CAP. VII.

An Act to make more effectual provision for preventing the spreading of infectious distempers within this Island.

Continued by 7. W. 4, c. 5, and 4 Vic. c. 3. Repealed by 11. Vic. c. 12.

### CAP. VIII.

An Act for further explaining and amending the Act for regulating the laying out and altering of Highways, and for providing a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation.

See note to 10 G. 4, c. 10 for other Acts in amendment.

Repealed by 14 Vic. c. 1.

\* \* \* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic., c. 23.

### CAP. IX.

An Act relating to marriages.

Disallowed by His Majesty.

### CAP. X.

An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned.

**WHEREAS** it is necessary, in order to the keeping up of a decent and regular society, that the matrimonial union be protected, and that a Court be constituted for cases of Divorce and Alimony: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication hereof, all causes, suits, controversies, matters

All suits concerning marriage and divorce.

to be determined by Lt. Governor & Council, who are constituted a Court for that purpose.

**Proviso.**

Nothing in this Act to control the rights of any other Court and no sentence of Court of Lt. Governor and Council to affect the right of action of any person.

and questions touching and concerning marriage and contracts of marriage and divorce, as well from the bond of matrimony as divorce and separation from bed and board, and alimony, shall and may be heard and determined by and before the Lieutenant Governor or other Administrator of the Government, and His Majesty's Council; and that the Lieutenant Governor, or other Administrator of the Government, and Council aforesaid, or any five or more of the said Council, together with the Lieutenant Governor, or other Administrator of the Government, as President, be, and they are hereby constituted, appointed and established a Court of Judicature in the matters and premises aforesaid, with full authority, power and jurisdiction in the same: provided, and it is hereby declared, that nothing herein contained shall deprive, diminish, control, obstruct or abridge, or be construed, deemed, or extended to deprive, diminish, control, obstruct or abridge, in any manner, the rights, powers, authority, judicature or jurisdiction of the Court of Chancery, or of the Supreme Court of Judicature, or of any inferior Court of this Island, in and touching the matters and premises aforesaid, or of any of them; and that no sentence, decree, judgment or proceeding of the said Court of Lieutenant Governor or other Administrator of the Government and Council, in any information, prosecution, suit or process, touching and concerning any marriage, or contract of marriage, or divorce, or alimony, shall take away, annul, bar, suspend, or in anywise alter or affect the right of action of any person or persons for any injury or damage sustained for or by reason of any breach of any covenant or contract of marriage.

**Times of holding Court of Lt. Governor and Council.**

II. And be it further enacted, That the said Court of the Lieutenant Governor, or other Administrator of the Government, and Council, for the purposes and causes herein mentioned, shall commence and be held on the second Monday in May, in each and every year, with power to adjourn from time to time.

**Lt. Governor may appoint Chief Justice to preside in his stead.**

III. And whereas the arduous affairs of Government may render it impossible for the Lieutenant Governor, or other Administrator of the Government, at all times to preside in person in the said Court: Be it therefore enacted, that it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government, by warrant or commission, under his hand and seal of this Island, to depute, constitute and appoint the Chief Justice of the Supreme Court of Judicature to preside in his place and stead in the said Court of the Lieutenant Governor, or other Administrator of the Government, and Council, and to have, hold and exercise all the powers, privileges, authority and jurisdiction as are hereby given and granted to the Lieutenant Governor, or other Ad-



ministrator of the Government, in the same Court, in all causes, matters and things therein cognizable by this Act.

IV. And be it further enacted, That the causes of divorce from the bond of matrimony, and of dissolving and annulling marriage, are and shall be frigidity or impotency, adultery, and consanguinity within the degrees prohibited in and by an Act of Parliament made in the thirty-second year of the reign of King Henry the Eighth, intituled "An Act for marriages to stand, notwithstanding precontracts," and no other causes whatsoever.

Causes of divorce.

V. Provided always, and be it further enacted, That in case of a sentence of divorce from the bond of matrimony as aforesaid, the issue of such marriage shall not in any case be bastardized, or in any way prejudiced or affected with any disability thereby: provided also, that the wife in such case shall not be thereby barred of her dower, or the husband be deprived of any tenancy by the courtesy of England, unless it shall be so expressly adjudged and determined in and by such sentence of divorce.

Proviso.

In case of divorce, the issue not to be bastardized, nor the wife barred of dower, nor husband deprived of tenancy, unless by sentence.

VI. And be it further enacted, That an Act of the General Assembly of this Island, made and passed in the third year of the reign of His present Majesty, intituled "An Act for establishing a Court of Divorce, and for preventing and punishing incest, adultery and fornication," and every matter, clause and thing therein contained, shall be, and the same is hereby repealed.

Repeals 3 W. 4, c. 22, for establishing Court of Divorce.

VII. Provided always, That nothing in this Act contained shall have any force or effect until His Majesty's pleasure therein shall be known.

Suspending clause.

\* \* \* This Act received the Royal allowance on the 28th April, 1836, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 7th June, 1836.

## CAP. XI.

An Act to amend and render perpetual certain laws now in force relating to Treasury Notes.

For Acts relating to Treasury Notes, see note to 5 G. 4, c. 18.

WHEREAS an Act was passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes;" and another Act was passed in the sixth year of the reign of His said late Majesty King George the Fourth, intituled "An Act to authorize the Commissioners named and appointed under an Act

made and passed in the fifth year of the reign of His present Majesty, intituled 'An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,' to issue notes of the value of ten shillings each"—and which Acts, by an Act passed in the ninth year of His said late Majesty's reign, were continued for three years, and by another Act passed in the eleventh year of His said late Majesty's reign were further continued, and are in force until the twenty-eighth day of April, one thousand eight hundred and thirty-five; and whereas an Act was also passed in the eleventh year of His said late Majesty's reign, intituled "An Act to authorize a further issue of Treasury Notes, and to continue an Act intituled "An Act to revive and continue two certain Acts therein mentioned;" and another Act was passed in the first year of the reign of His present Majesty, intituled "An Act to authorize a further issue of Treasury Notes"—and which two last mentioned Acts are also in force to the twenty-eighth day of April one thousand eight hundred and thirty-five: and whereas it is deemed expedient that the said recited Acts should be rendered perpetual—Be it enacted, by the Lieutenant Governor, Council and Assembly, That the said Act intituled "An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes;" and the said Act intituled "An Act to authorize the Commissioners named and appointed under an Act made and passed in the fifth year of the reign of His present Majesty, intituled 'An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue Treasury Notes,' to issue notes of the value of ten shillings each;" and the said Act intituled "An Act to authorize a further issue of Treasury Notes, and to continue an Act intituled 'An Act to revive and continue two certain Acts therein mentioned;'" and the said Act intituled "An Act to authorize a further issue of Treasury Notes," be, and the same are hereby respectively made and rendered perpetual.

Treasury Note  
Acts of G. 4,  
c. 18.

6 G. 4, c. 12.

11 G. 4, c. 16.  
and  
1 W. 4, c. 15.

rendered per-  
petual.

Torn and de-  
faced notes re-  
ceived at the  
Treasury may  
be cancelled,  
and replaced  
with others of  
the same de-  
scription.

II. And be it further enacted, That when and so often as any Treasury Notes already received by the public Treasurer of this Island, or which may hereafter be paid in and received by him, shall appear to be so much worn out or defaced as to be unfit for further circulation, it shall and may be lawful for the said Treasurer, and the Commissioners, to cancel and destroy such notes, and to replace the same by new notes of the same description and value as those destroyed.

## CAP. XII.

An Act to prevent hawkers and pedlars travelling and selling within this Colony without license.

Continued by 3  
Vic., c. 13, and  
8 Vic. c. 8.  
Expired.

## CAP. XIII.

An Act to authorize the sale of lands in this Island, reserved as sites for churches and for glebe and school lands.

WHEREAS in each of the sixty-seven Townships into which this Island was originally divided and granted, a tract of one hundred acres of land was reserved to His Majesty, his heirs and successors, for the site of a church, and as a glebe for a minister of the gospel, and thirty acres of land for a schoolmaster: and whereas, by a despatch from the Right Honorable Thomas Spring Rice, his Majesty's Principal Secretary of State for the Colonial Department, to the Lieutenant Governor of this Island, His Majesty has been pleased to direct the sale of such reserves: and whereas such sale will tend much to the benefit and improvement of this Colony, and it is deemed necessary to make Legislative provision as to the mode of conducting such sales, and giving titles to the lands: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That within one calendar month after notice shall be received in this Island of the Royal assent having been given to this Act, the Lieutenant Governor of this Island, or other Administrator of the Government thereof, shall, and he is hereby authorized and required, to appoint three Commissioners, one residing in each County within this Island, whose duty it shall be to sell and dispose of the said glebe and school lands, and give titles thereto in manner hereinafter mentioned (that is to say): the said Commissioners shall, and they are hereby required, within one calendar month after having accepted of their appointments, to cause an advertisement to be inserted in any newspaper or newspapers that may at the time be printed in this Island, setting forth the times and places when and where the said reserved lands will be sold, and shall also post handbills to the same effect in as many public places within this Island as to the said Commissioners shall appear proper; and the said lands shall be sold at public auction to the highest bidder, in such quantities in each Lot, not exceeding one plot of one hundred and thirty acres, as to the said Commissioners shall appear most advantageous, and likely to bring the highest and best price; and such sales shall take place at the Court House in the County wherein the lands lie or are situate; and shall be so advertised as aforesaid, a time not exceeding six calendar months,

Within one month after His Majesty's assent to this Act shall be received, Lt. Governor, &c., to appoint 3 Commissioners in each County, to sell glebe and school lands.

Duty of Commissioners.

Places of sale of lands.

Notice to be given of such sale.

nor less than three calendar months, at the discretion of the said Commissioners.

Reserves the rights of persons legally in possession of Glebe and School Lands.

II. And be it further enacted, That where any such reserved Lands shall be in the possession or occupation of any person or persons under or by virtue of any written agreement or indenture of lease or other title lawfully obtained from a conservator of Glebe Lands within this Island, duly appointed, such tenant or occupier shall not be disturbed in his possession, but shall attorn to the purchaser or purchasers of such lands, from the time when such purchaser's title shall accrue, on pain of being treated as a trespasser by such purchaser after he shall have refused so to do, and shall have received notice in writing of such purchaser's title being registered in the office for registry of deeds in this Island.

Commissioners to execute deeds to purchasers.

III. And be it further enacted, That the said Commissioners shall, upon receiving the price of the land sold to any purchaser or purchasers, execute to him or them a deed of conveyance of the same, in the form set forth in the Schedule annexed to this Act, which deed shall be good and valid, to vest in such purchaser a title in fee simple to the land thereby conveyed; and the Commissioners shall charge ten shillings, and no more, for such deed; and if any purchaser shall have bought several lots or parcels of such reserved lands, he shall have the same conveyed to him in one deed, if he shall so desire, and the sum of two shillings, and no more, shall be added to the charge for the deed for each lot inserted therein after the first; and such Commissioners shall be jointly entitled to receive out of the proceeds of such sales three *per centum* on all moneys received and paid over by them under and by virtue of this Act; and before they enter upon the duties of their office, each commissioner shall give security to His Majesty, his heirs and successors, in the sum of five hundred pounds, for the faithful discharge of the duties of his office; and such Commissioners shall also be entitled to receive four pence *per mile* for every mile they shall necessarily have to travel in the performance of their duties under this Act.

Fee for deeds.

Remuneration to Commissioners.

Commissioners to give security in £500 for faithful discharge of their duty.

Commissioners, within 14 days after receiving moneys, to hand the same to Treasurer.

Appropriation of such moneys.

IV. And be it further enacted, That within fourteen days after such Commissioners shall have received any moneys arising from such sales, they shall pay the same over to the public Treasurer of this Island, who shall give a receipt for the same, if required; and all such moneys as may arise by or from such sales, shall be appropriated for the purpose of promoting general Education within this Island, in such manner and under such regulations as His Majesty, his heirs or successors, may hereafter be pleased to prescribe or command.

Major part of Commissioners may act.

V. And be it further enacted, That in all places in this Act where the Commissioners are mentioned, the major part

or the whole may act; and the Administrator of the Government for the time being is hereby authorized to appoint one or more Commissioners as often as vacancies may occur, so as to keep the number of three Commissioners in being, until the objects to be accomplished by this Act are executed.

Vacancies, how filled up.

VI. And be it further enacted, That nothing in this Act contained shall have any force or effect, until His Majesty's pleasure thereon shall be known.

Suspending clause.

\* \* \* This Act received the Royal allowance on the 28th of April, 1836, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 7th June, 1836.

### SCHEDULE to which this Act refers.

To all to whom these presents shall come, greeting :

KNOW ye, that we *A. B., C. D.* and *E. F.* of Esquires, Commissioners named in and appointed by an Act of the General Assembly of Prince Edward Island, passed in the fifth year of the reign of His Majesty King William the Fourth, intituled "An Act to authorize the sale of Lands in this Island, reserved as sites for Churches and for Glebe and School Lands," by virtue of the power and authority given unto us by the said Act, and in consideration of the sum of

Form of conveyance from Commissioners.

of lawful money of the currency of the said Island, in hand paid to us before the execution of these presents, by *G. H.* of the receipt whereof is hereby acknowledged, have granted, bargained, sold and confirmed, and by these presents do grant, bargain, sell and confirm unto the said *G. H.* all, &c. [*here describe the premises*] together with all hereditaments and appurtenances thereunto belonging or appertaining—which said Land hath been sold by us at public auction to the said *G. H.*, pursuant to the said Act of Assembly—to have and to hold the said land, hereditaments and premises hereby intended to be conveyed unto the said *G. H.*, his heirs and assigns for ever [*if the land, or any part of it is let, as mentioned in the Act, here insert that it is sold subject to such lease*]. In witness whereof, we have hereunto set our hands and seals, this            day of            in the year of our Lord 183

*A. B.,* (L. S.)  
*C. D.,* (L. S.)  
*E. F.* (L. S.)

Sealed and delivered in the presence of

*J. K.*  
*L. M.*

### CAP. XIV.

An Act to provide for the payment of interest on Warrants which are not paid at the Treasury on demand.

Continued by 7  
W. 4, c. 17, and  
1 V. c. 3.  
Expired.



ANNO QUINTO

# GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Twenty-sixth day of January, *Anno Domini*, 1835, in the fifth year of the Reign of our Sovereign Lord WILLIAM the Fourth by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith :

And from thence continued, by prorogation, to the twenty-ninth day of April, 1835, and in the said fifth year of His Majesty's Reign ; being the second Session of the fourteenth General Assembly convened in the said Island.

1835.

Sir  
A. W. YOUNG,  
Knight,  
Lt. Governor.

E. J. JARVIS,  
President.

G. DALRYMPLE,  
Speaker.

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## CAP. I.

An Act to continue four several Acts therein mentioned.

\* \* \* This Act continued 9 G. 4, c. 3; 10 G. 4, c. 3; 11 G. 4, c. 11, and 2 W. 4, c. 6, for one year, and to the end of the then next session.

## CAP. II.

Continued by  
6 W. 4, c. 1.  
Expired.

An Act for the increase of the revenue in this Island.

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## CAP. III.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-five.



ANNO SEXTO

## GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini*, 1835, in the fifth year of the reign of our Sovereign Lord WILLIAM the Fourth, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith: 1836.

GEO. WRIGHT,  
President.

E. J. JARVIS,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-sixth day of January, 1836, and in the sixth year of His said Majesty's reign; being the third session of the fourteenth General Assembly convened in the said Island.

G. DALRYMPLE,  
Speaker.

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### CAP. I.

An Act to continue for one year, and to amend an Act of the fifth year of his present Majesty, for the increase of the revenue in this Island. Expired.

CAP. II.

Expired.

An Act to provide against accidents by fire, and for the improvement of property at Georgetown.

\* \* \* This Act may affect titles to lands, but is omitted pursuant to directions of 12 Vic., c. 23.

CAP. III.

An Act to restrain the issue of certain Promissory Notes.

WHEREAS divers undertakings in writing, purporting to be Promissory Notes, for the payment of small sums of money, on demand, to the bearer thereof, and declared or intended to be negotiable and transferable by delivery only, or with or without indorsement thereof, and made payable in Treasury Notes, have been issued and put in circulation in this Island by certain individuals: and whereas much public embarrassment and inconvenience is likely to arise in consequence thereof: Be it therefore enacted, by the President, Council and Assembly, That from henceforth, every such undertaking in writing, already issued, or which may hereafter be issued, by any person or persons, shall be, and is hereby made and declared to be, negotiable and transferable; and the money therein mentioned shall vest in and be payable to the indorsee, holder or bearer thereof; and if the same shall not be paid to such indorsee, holder or bearer, by the issuer or issuers thereof, when payment thereof shall be demanded, according to the tenor of such undertaking in writing, every such indorsee, holder or bearer of any such undertaking in writing shall and may sue for and recover the amount therein expressed, as if the same were a promissory note, and were made absolutely payable in gold or silver money—any law or usage to the contrary notwithstanding.

Notes payable to bearer, to be transferable, & indorsee, holder or bearer may recover the amount therein expressed.

Any person issuing or reissuing any promissory note, payable on demand &c., for less than £5, to forfeit £10.

II. And be it enacted, That from and after the passing hereof, if any person or persons whatsoever shall make, sign and issue, or reissue, any promissory note in writing, payable on demand, or at sight, or at a future day, to any real or fictitious person, or to the indorsee, holder or bearer thereof, for any sum of money less than five pounds, every such person or persons shall, for each and every such undertaking in writing, or promissory note so made, signed and issued, or reissued, forfeit and pay a penalty of ten pounds: provided, that nothing herein contained shall extend, or be construed to extend, to prevent any person or persons actually indebted to another in any sum of money less than five pounds, from making and

Not to prevent any person actually indebted to another, from making to such creditor a pro-

signing to such creditor a promissory note or undertaking in writing for the amount of such debt, so being under five pounds. missory note for less than £5.

III. And be it enacted, That the penalty hereby imposed shall and may be sued for and recovered by any person who shall prosecute therefor, and in the same manner as if the same were a debt due to himself, and shall be adjudged to him, with costs of suit; and one moiety of the said penalty, when recovered, shall be to the use of the prosecutor, and the other moiety shall be paid into the Treasury of this Island, to and for the use of His Majesty's Government. Mode of recovery of penalties. Appropriation of penalties.

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#### CAP. IV.

An Act in further amendment of an Act of the second year of his present Majesty, for consolidating and amending the Acts relating to small debts. Repealed by 7 Vic. c. 2.

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#### CAP. V.

An Act to amend the Act for the summary trial of common Assaults and Batteries. Continued for 5 years by 3 Vic. c. 17. Expired.

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#### CAP. VI.

An Act to authorize the closing of a certain Road within the Royalty of Princetown. Executed.

\* \* \* This Act may affect titles to real estate, but is omitted pursuant to directions of Act 23 Vic. cap. 10, s. 4.

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#### CAP. VII.

An Act to prevent persons indecently bathing in the waters contiguous to Charlottetown.

**W**HEREAS many persons are in the habit of bathing, in a state of nudity, in places adjacent to the town and wharfs of Charlottetown, in the open day, and which practice is repugnant to the rules of morality and decorum:

Persons bathing in an unclothed state, within certain bounds, may be apprehended by order of Justice of the Peace.

Penalty against persons so offending.

Constables may apprehend any person so offending without a warrant, and carry offenders before a Justice.

Not to prevent children under 8 years of age from bathing within said limits.

Appropriation of fines.

Be it therefore enacted by the President, Council and Assembly, That it shall and may be lawful to and for any Justice of the Peace, upon view of the fact, or on complaint thereof to him made, on oath, by one or more credible witness or witnesses, of any person or persons bathing, in an unclothed state, and exposed to public view, in the open day, in those parts of the rivers between the Four Gun Battery, on the west, and the creek known as the Big Marsh Creek, adjoining Charlottetown, on the east, to order any constable or constables to apprehend and bring such person before him; and such Justice shall hear such charge summarily; and if the offence shall be proved to the satisfaction of said Justice, shall fine such offender, for the first offence, in a sum not exceeding five shillings, together with costs superadded; and for a second or subsequent offence, in a sum not exceeding ten shillings, with costs as aforesaid; and in default of payment of either of said fines and costs, to commit such offender to the public jail of Charlottetown, for a period not exceeding ten days, as to the said Justice shall seem meet—and every constable of Charlottetown is hereby authorized and required to apprehend every person whom they shall see offending against this Act, without any warrant for that purpose, and to take such persons before any Justice of the Peace, to be dealt with in manner aforesaid: provided always, that nothing herein contained shall prevent children, under the age of eight years, from bathing as heretofore within the aforesaid limits.

II. And be it further enacted, That all fines recovered under this Act shall be paid into His Majesty's Treasury, and appropriated to such general purposes as may be hereafter enacted.

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## CAP. VIII.

Expired.

Act Act to prevent the running at large of sheep in the town of Charlottetown.

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## CAP. IX.

Repealed by 7 Vic., c. 3.

An Act to suspend an Act made and passed in the twenty-sixth year of the reign of His late Majesty King George the Third, intituled "An Act for the relief of insolvent debtors," and to make other provisions in lieu thereof.

## CAP. X.

An Act to impose a tax on dogs, with certain exceptions, and relating to other matters connected with them.

Continued by 3  
Vic., c. 4.  
Expired.

## CAP. XI.

An Act to provide for the conveyance of the mails by means of steam navigation, and to repeal the Acts heretofore passed for that purpose.

Expired.

## CAP. XII.

An Act for the appointment of a Commissioner, to ascertain and determine the amount to be paid by this Island towards the support and maintenance of Light-houses.

For Acts relating to Light-houses, see 8 Vic., c. 3, and 11 Vic. c. 11.

**WHEREAS** it is expedient to accept the liberal offer of His Majesty's Government, contained in the despatch from the Right Honorable the Secretary of State for the Colonial Department, dated Downing Street, the fourth day of November, one thousand eight hundred and thirty-five, to erect Light-houses on the Islands of Scatari and St. Paul, provided the Colonies, whose trade is to be benefited by the measure, will engage to provide for the future maintenance of the same: Be it therefore enacted, by the President, Council and Assembly, That such person as may be appointed by the Administrator of the Government for the time being, shall be a Commissioner on the part of this Island, for the purpose of determining and deciding, jointly with the Commissioners who shall be appointed for the same purpose by the Provinces of Lower Canada, Nova Scotia and New Brunswick, with respect to the fittest sites on the said Islands for the proposed Light-houses, and the sums of money required for the erection of the same, as well as for their future support after they shall have been erected; and also to determine under what management and control the yearly expenses of the said Light-houses ought to be placed, and to apportion the sums of money which this Island ought to contribute annually towards the maintenance of the said Light-houses, according to the tonnage of vessels trading to or from this Province as compared to the tonnage of vessels trading to or from the other Provinces above mentioned, and to the benefit which each of the said Provinces respectively may be expected to derive from the said Light-houses.

Administrator of Government may appoint Commissioner for this Island to determine with Commissioners of Lower Canada, Nova Scotia & New Brunswick, the sites of Light-houses on St. Paul's and Scatari Islands.

Duty of Commissioner.

II. And be it enacted, That the reasonable disbursements made by the said Commissioner in performing the duties

Allowance to Commissioner.

Mode of pay-  
ment of Com-  
missioner.

hereby assigned to him, provided the same do not exceed fifty pounds, may be paid to the said Commissioner by warrant issued under the hand of the Administrator of the Government, by and with the advice of His Majesty's Council, out of any moneys which now are or hereafter may be in the Treasury of this Island.

Duty of Com-  
missioner.

III. And be it enacted, That the said Commissioner shall lay a report of his doings and proceedings under the authority of this Act before the Legislature of this Island, within the first fifteen days of the session next after the time when the business hereby assigned to him shall be brought to a close.

### CAP. XIII.

Repealed by 11  
Vic., c. 31.

An Act to amend the law relating to the admission of barristers, attorneys and solicitors; and to regulate the admission of advocates and proctors in the Courts of Vice Admiralty and Court of Probate in this Island.

### CAP. XIV.

Executed.

An Act to authorize the sale of a building heretofore used as an Episcopal Church in Charlottetown.

Authorizes the  
sale of a build-  
ing heretofore  
used as an Epis-  
copal Church  
in Charlotte-  
town.

Mode of sale.

Condition of  
sale.

Appropriation  
of proceeds of  
sale.

WHEREAS a new church hath been erected in Charlottetown by the members of the Episcopal congregation, and the pew owners of the building heretofore used as an Episcopal Church have prayed, that an Act may be passed authorizing the sale of the said building: Be it therefore enacted, by the President, Council and Assembly, That it shall and may be lawful for the trustees named in the grant of the site of the said building heretofore used as a church, or the major part of them, to sell and dispose of the said building, by public auction, to the highest bidder, (giving at least thirty days' notice of such sale in the *Royal Gazette* newspaper, published in Charlottetown,) and one condition of which sale shall be, that the purchaser or purchasers shall, at his or their own expense, pull down, remove, take and carry away the same, and every part thereof, and fill up and level any inequalities that may be on the site thereof—and the said trustees, after deducting all reasonable charges incurred by them in such sale, shall divide the proceeds of the sale of the said building among the persons owning pews therein at the time of such sale, according to their several and respective interests therein.

Vests the site,  
in the Crown.

II. And be it further enacted, That from and after such sale, and removal of the said building, the site, ground and

soil whereon the same is situate, together with the residue of the ground and soil described in the said original grant, shall belong to, remain and be vested in His Majesty, his heirs and successors, in as full and ample a manner as if the said grant had not been made.

### CAP. XV.

An Act relating to the abolition of oaths in the United Kingdom of Great Britain and Ireland, and other places out of this Island.

**W**HEREAS by the Laws of this Island it is required that proof of the execution of all deeds, powers of attorney, and other writings relating to lands, tenements or hereditaments situate in this Island, if executed out of the same, shall be made on the oath of some witness to the execution thereof, or on acknowledgment of an executing party, before the same shall be registered in this Island; and also, that arrests for debt must in all cases be grounded on an affidavit of the cause of action—except that in every case, where an affidavit is required as above mentioned, the affirmation of a Quaker shall have the same effect: And whereas by an Act of the Imperial Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the sixth year of the reign of his present Majesty, intituled “An Act to repeal an Act of the then present session of Parliament, intituled ‘An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the state, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths,’ the declaration substituted in the said Act is made equivalent to an oath in certain cases within the said United Kingdom, and it is necessary that such declaration or any other substitution for an oath, should have the effect of an oath in the cases hereinbefore recited, with respect to the registry of deeds and other writings, and arrests for debt, when made in any place out of this Island, where the same shall, in such place at the time they are made, have by law the force and effect of an oath—Be it therefore declared and enacted, by the President, Council and Assembly, that the declaration in lieu of an oath mentioned in the said recited Act, or any other substitution for an oath, shall, for the purpose of proving deeds and writings at the offices for registry thereof in this Island, or for authorizing an arrest for debt within the same, or for any other purpose, where an oath was heretofore required to be made out of this Island, before the same could be lawfully

3 W. 4, c. 10,  
sec. 4.

Declaration in lieu of oath made in Great Britain or Ireland, to be as effectual for the purpose of registering deeds,

Ac. as if oath had been made as heretofore in such cases.

done, and when the same shall be made in any place out of this Colony, where such declaration or substitution shall at the time it is made, have the force and effect of an oath, then and in every such case, such declaration or other substitution for an oath shall, in this Island, be equivalent to an oath or affidavit duly made and sworn in any such place out of this Island — anything contained in the Laws of this Island to the contrary notwithstanding.

### CAP. XVI.

3 W. 4, c. 10.

An Act concerning the registration of certain original Grants or Patents of Lots or Townships of Land in this Island.

**WHEREAS** many of the original grants or patents of the different Lots or Townships of Land within this Island are enregistered in the books of the office of Secretary and Registrar in the Province of Nova Scotia, of which Province this Island at the time of such registration formed a part; and whereas a bound volume containing authenticated copies of such registration, together with an index to the same, has been furnished to the office of Secretary and Registrar of this Island, from that of the Province of Nova Scotia, which authenticated copies it is desirable should be made to form part of the Registry of this Island: Be it therefore enacted, by the President, Council and Assembly, that the authenticated copies of the original grants or letters patent of the several Lots or Townships of Land in this Island, furnished by the Secretary and Registrar of the Province of Nova Scotia, and certified by him, and now in the custody and possession of the Secretary and Registrar of this Island, shall be deemed and taken as part of the Registry of this Island.

Copies of grants registered in Nova Scotia, now in possession of Registrar of this Colony, to be deemed part of the registry thereof.

Such copies to be received in evidence in all cases wherein authenticated copies can be read.

II. And be it further enacted, That copies of such grants or letters patent, duly certified by the Secretary and Registrar of this Island, shall be received and read in evidence in all Courts of law or equity in this Island, in all cases wherein authenticated copies can or may be read, and shall have the same force and effect, as if the said original grants or letters patent had been from the first enregistered in the books of the Registry kept by the Secretary and Registrar of this Island — any law, usage, or custom to the contrary notwithstanding.

### CAP. XVII.

An Act relating to the office of Administrator of the Government for the time being.

**WHEREAS** doubts have arisen whether the power and authority vested in the Lieutenant Governor, under and



by virtue of various Acts of the General Assembly of this Island, extend to any other person who may be in the Administration of the Government for the time being: Be it therefore enacted, by the President, Council and Assembly, That in all cases where any power or authority is or may be given to the Lieutenant Governor by any Act or Acts of the General Assembly of this Island, the same shall be construed to extend to the person, who may be in the Administration of the Government for the time being.

Any power given to Lieut. Governor in any Act of this Island, to be construed to extend to officer administering the Government for the time being.

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### CAP. XVIII.

An Act to continue for a limited period an Act passed in the first year of the reign of his present Majesty, intituled "An Act to establish a reward for the destruction of Bears and Loupcerviers."

Expired.

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### CAP. XIX.

An Act to alter and amend the Act relating to Licenses for retailing strong and spirituous Liquors.

Repealed by 30 Vic. c. 11.

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### CAP. XX.

An Act to regulate the manner of proceeding upon contested Elections of Members to serve in the General Assembly.

Continued by 3 Vic. c. 25.

Expired.

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### CAP. XXI.

An Act to improve the administration of Justice in criminal cases.

See 6 W. 4, c. 22, and 16 Vic. c. 8.

**WHEREAS** it is deemed expedient to improve the administration of justice in criminal cases in this Island: Be it enacted, by the President, Council and Assembly, That where any person shall be taken on a charge of felony, or suspicion of felony, before one or more Justice or Justices of the Peace, and the charge shall be supported by positive and credible evidence of the fact, or by such evidence as, if not explained or contradicted, shall, in the opinion of the Justice or Justices, raise a strong presumption of the guilt of the person charged, such person shall be committed to prison by such Justice or Justices, in the manner hereinafter mentioned; but where the evidence given in support of the charge shall, in the opinion of such Justice or Justices, not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal, or such evidence shall be adduced

Who may be admitted to bail on a charge of felony, and who may not.

on behalf of the person charged, as shall, in his or their opinion, weaken the presumption of his or her guilt, but there shall, notwithstanding, appear to him or them, in either of such cases, to be sufficient ground for judicial inquiry into his or her guilt, the person charged shall be admitted to bail by such Justice or Justices, in the manner hereinafter mentioned: provided always, that nothing herein contained shall be construed to require any such Justice or Justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to him or them to be meet, and conducive to the ends of justice to hear the same.

Before any person charged with felony, &c., shall be bailed or committed, the Justices shall take down in writing the examination, &c., and bind witness to appear at the trial.

Examination, &c., to be delivered to the Court.

II. And be it further enacted, That such Justice or Justices, before he or they shall commit to prison, or admit to bail, any person arrested for felony, or on suspicion of felony, misdemeanor, or suspicion thereof, shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same or so much thereof as shall be material, into writing, and shall certify such bailment in writing; and every such Justice shall have authority to bind, by recognizance, all such persons as know or declare any thing material touching any such felony, or suspicion of felony, misdemeanor, or suspicion thereof, to appear at the next Supreme Court, or Court of Oyer and Terminer and Jail Delivery, or sessions of the Peace, at which the trial thereof is intended to be, then and there to prosecute or give evidence against the party accused; and such Justice or Justices respectively shall subscribe all such examinations, informations, bailments and recognizances, and deliver or transmit the same to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

Supreme Court, or any Judge thereof, may admit to bail any person charged with felony, &c., without bringing the body before Court or Judge.

III. Provided always, and be it enacted, That any person charged with felony, or suspicion of felony, misdemeanor, or suspicion thereof, may be admitted to bail by order of the Supreme Court, or any one of the Judges of the same Court, without bringing the body of the person charged before such Court or Judge; and such Court or Judge may order to be transmitted to them or him the evidence taken before the Justice or Justices of the Peace against the person charged, for the purpose of considering an application for bail, without a writ of *certiorari* being issued for that purpose; and any order for bailment to be made by such Court or Judge, shall specify the number of sureties and the amount in which security is to be taken; and bailment by virtue of such order may be made by any Justice or Justices of the Peace of the County or place where the person charged may be in custody, which Justice or Justices shall require good and sufficient bail, to the number and amount specified in the order, and shall certify the

bailment in writing and subscribe the same, and deliver or transmit the same, together with the order for bailment, to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

IV. And be it enacted, That every Coroner, upon any inquisition taken before him, whereby any person shall be indicted for manslaughter or murder, or as an accessory to murder, before the fact shall put in writing, the evidence given to the Jury before him, or as much thereof as shall be material; and shall have authority to bind by recognizance all such persons as know or declare any thing material touching the said manslaughter or murder, or the said offence of being accessory to murder, to appear at the next Supreme Court, or Court of Oyer and Terminer and Jail Delivery, at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such Coroner shall certify and subscribe the same evidence and all such recognizances, and also the inquisition before him taken, and shall deliver or transmit the same to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

Duty of Coroner.

V. And be it enacted, That if any Justice or Coroner shall offend in any thing, contrary to the true intent and meaning of these provisions, the Court, to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, set such fine upon every such Justice or Coroner, as the Court shall think meet.

Penalty on Justices and Coroners.

VI. And be it enacted, That every felony shall be tried and determined in the Supreme Court, or Court of Oyer and Terminer and Jail Delivery, except in cases where power may be specially given by Act or statute to any other Court to try and determine any felony.

Felony to be tried in Supreme Court, &c.,

VII. And for the more effectual prosecution of accessories before the fact of felony, be it further enacted, that if any person shall counsel, procure or command any other person to commit any felony, whether the same be a felony at common law, or by virtue of any statute or statutes, Act or Acts of Assembly, made or to be made, the person so counselling, procuring or commanding shall be deemed guilty of felony, and may be indicted and convicted, either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner, as any accessory before the fact to the same felony, if convicted as an

Accessory before the fact may be tried as such, or as a substantive felon, by any Court which has jurisdiction to try the principal felon, although the offence be committed on the seas or abroad.

If offences be committed in different Counties, accessory may be tried in either.

accessory, may be punished ; and the offence of the person so counselling, procuring or commanding, howsoever indicted, may be inquired of, tried, determined and punished by any Court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas, or at any place on land, whether within His Majesty's dominions or without ; and that in case the principal felony shall have been committed within the body of any County, and the offence of counselling, procuring or commanding, shall have been committed within the body of any other County, the last mentioned offence may be inquired of, tried, determined and punished in either of such Counties : provided always, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact, or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.

Accessory after the fact may be tried by any Court which has jurisdiction to try the principal felon.

VIII. And for the more effectual prosecution of accessories after the fact to felony, be it further enacted, that if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes, Act or Acts of Assembly, made or to be made, the offence of such person shall be deemed felony, and may be inquired of, tried, determined and punished by any Court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the high seas, or at any place on land, whether within His Majesty's dominions or without ; and that in case the principal felony shall have been committed within the body of any County, and the act by reason whereof any person shall have become accessory shall have been committed within the body of any other County, the offence of such accessory may be inquired of, tried, determined and punished in either of such Counties : provided always, that no person who shall be once duly tried for any offence of being an accessory, shall be liable to be again indicted or tried for the same offence.

If the offence be committed in different Counties, accessory may be tried in either.

Accessory may be prosecuted ; after conviction of the principal, though the principal be not attainted.

IX. And in order that all accessories may be convicted and punished, in cases where the principal felon is not attainted, be it enacted, that if any principal offender shall be in any wise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner, as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder ; and every

such accessory shall suffer the same punishment, if he or she be in any wise convicted, as he or she should have suffered, if the principal had been attainted.

X. And for the more effectual prosecution of offences committed near the boundaries of Counties, or partly in one County and partly in another, or in places, in respect to which it may be uncertain within which of two counties they are situate — Be it enacted, that where any felony or misdemeanor shall be committed on the boundary or boundaries of two Counties, or within the distance of one mile from any such boundary or boundaries, or in any place or places with respect to which it may be uncertain within which of two Counties they may be situate, or where any felony or misdemeanor shall be begun in one County and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished in either of the said Counties, in the same manner as if it had been actually and wholly committed therein.

Offences committed on the boundaries of Counties may be tried in either County.

XI. And for the more effectual prosecution of offences committed during journies from place to place: Be it enacted, that where any felony or misdemeanor shall be committed on any person, or on or in respect of any property in or upon any coach, waggon, cart, sleigh, sled, or other carriage whatever, employed in any journey, or shall be committed on any person, or on or in respect of any property on board any vessel, lighter, boat or canoe whatever, employed on any voyage or journey upon any navigable river, canal or inland navigation, or on or in respect of any property in, upon, or forming part of any raft whatever, passing in or upon any such navigable river, canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished in any County through any part whereof such coach, waggon, cart, sleigh, sled, carriage, vessel, lighter, boat, canoe or raft shall have passed in the course of the journey, voyage or passage, during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such County; and in all cases, where the side, centre, or other part of any highway, or the side, bank, centre, or other part of any such river, canal or navigation shall constitute the boundary of any two Counties, such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished in either of the said Counties, through or adjoining to or by the boundary of any part whereof, such coach, waggon, cart, sleigh, sled, carriage, vessel, lighter, boat, canoe or raft shall have passed in the course of the journey, voyage or passage during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such County.

Offences committed during a journey or voyage may be tried in any County through which the coach &c. passed.

In indictments for offenses committed on the property of partners, it may be laid in any one partner, by name, and others.

XII. And in order to remove the difficulty of stating the names of all the owners of property in the case of partners, and other joint owners: Be it enacted, that in any indictment or information for any felony or misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named, and another, or others, as the case may be; and whenever, in any indictment or information for any felony or misdemeanor, it shall be necessary to mention for any purpose whatsoever any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid — and this provision shall be construed to extend to all joint stock companies and trustees.

Property belonging to the Government, or to Counties, &c. may be laid in the Government or inhabitants of the County.

XIII. And with respect to the property of the Government of this Island or of Counties, Be it enacted, that in any indictment or information for any felony or misdemeanor committed in, upon, or with respect to any bridge, wharf, court house, jail, house of correction, infirmary, asylum or other building, erected, or hereafter to be erected, or maintained in whole or in part at the expense of the said government, or of any County, or on or with respect to any goods or chattels whatsoever, provided for, or at the expense of the said government, or of any County, to be used for building, altering or repairing any bridge, wharf, court house, or other such building as aforesaid, or to be used in or with any such bridge, wharf, court house or other building, it shall be sufficient to state any such property, real or personal, to belong to the said Government, or to the inhabitants of any such County, as the case may be; and it shall not be necessary to specify the names of any of such inhabitants.

Property under the management of public officers may be laid in the name of such officers.

XIV. And with respect to property under the management of public officers, Be it enacted, that in any indictment or information for any felony or misdemeanor committed on or with respect to any building, or any goods and chattels, or any other property, real or personal, whatsoever, in the occupation of or under the superintendence, charge or management of any public officer or commissioner whatsoever, or of any county or parish officer or commissioner whatsoever, it shall be sufficient to state any such property to belong to the officer or officers, commissioner or commissioners, in whose occupation or within or under whose superintendence, charge or management such property shall be; and it shall not be necessary to specify the names of any of such officers or commissioners.

XV. And for preventing abuses from dilatory pleas, Be it enacted, that no indictment or information shall be abated by reason of any dilatory plea of misnomer or want of addition, or of wrong addition, of the party offering such plea, if the Court shall be satisfied, by affidavit or otherwise, of the truth of such plea; but in such case, the Court shall forthwith cause the indictment or information to be amended, according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

Indictment not to abate by dilatory plea of misnomer, &c.

XVI. And that the punishment of offenders may be less frequently intercepted in consequence of technical niceties, Be it enacted, that no judgment upon any indictment or information for any felony or misdemeanor, whether upon demurrer or after verdict or outlawry, or by confession, default or otherwise, shall be given in favor of any prisoner or defendant, or stayed or reversed, for want of the averment of any matter unnecessary to be proved; nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the Statute or Act of Assembly," instead of the words "against the form of the Statutes or Acts of Assembly," or *vice versa*; nor for that any person or persons mentioned in the indictment or information is or are designated by a name of office or other descriptive appellation, instead of his, her or their proper name or names; nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence; nor for stating the time imperfectly; nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened; nor for want of a proper or perfect venue, where the Court shall appear by the indictment or information to have had jurisdiction over the offence.

What defects shall not vitiate an indictment after verdict or otherwise.

XVII. And be it enacted, That no judgment after verdict upon any indictment or information for any felony or misdemeanor, shall be stayed or reversed for want of a *similitur*, nor by reason that the Jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the sheriff or other officer; and that where the offence charged has been created by any Act or statute, or subjected to a greater degree of punishment by any Act or statute, the indictment or information shall, after verdict, be held sufficient to warrant the punishment prescribed by the Act or statute, if it describe the offence in the words of the Act or statute.

What shall not be sufficient to stay or reverse judgment after the verdict.

A plea of "not guilty," without more, shall put the prisoner on his trial by jury.

XVIII. And be it enacted, That if any person being arraigned upon any indictment for treason or felony, shall plead thereto a plea of "not guilty," he shall by such plea, without any further form, be deemed to have put himself upon the country for trial; and the Court shall in the usual manner order a jury for the trial of such person accordingly.

Prisoner may make full defence by counsel.

XIX. And be it enacted, That all persons who shall be tried for any offence whatsoever, before any Court of Record in this Island having criminal jurisdiction, shall be allowed to make full defence by counsel, the same as in all civil causes or trials.

If he refuse to plead, the Court may order a plea of "not guilty," to be entered.

XX. And be it enacted, That if any person being arraigned upon or charged with any indictment or information for treason, felony or misdemeanor, shall stand mute, of malice, or will not answer directly to the indictment or information— in every such case, it shall be lawful for the Court, if it shall so think fit, to order the proper officer to enter a plea of "not guilty" on behalf of such person; and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Attainder for another crime, not pleadable.

XXI. And be it enacted, That no plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder be for the same offence as that charged in the indictment.

Jury shall not inquire of prisoner's lands, &c., nor whether he fled.

XXII. And be it enacted, That where any person shall be indicted for treason or felony, the jury empannelled to try such person shall not be charged to enquire concerning his lands, tenements or goods, nor whether he fled for such treason or felony.

Every challenge beyond the legal number shall be void.

XXIII. And be it enacted, That no person arraigned for any felony shall be admitted to any peremptory challenge above the number of twenty; and if any person indicted for any treason or felony shall challenge peremptorily a greater number of the men returned to be of the jury than such person is entitled to by law so to challenge, every peremptory challenge beyond the number allowed by law in the case then on trial, shall be entirely void, and the trial of such person shall proceed, as if no such challenge had been made.

Benefit of clergy abolished.

XXIV. And be it enacted, That benefit of clergy with respect to persons convicted of felony, shall be abolished; but that nothing herein contained shall prevent the joinder in any indictment of any counts might have been joined before the passing of this Act.

What felonies shall be capital.

XXV. And be it enacted, That no person convicted of felony shall suffer death, unless it be for some felony which



was excluded from the benefit of clergy before or on the first day of the present session of the General Assembly, or which hath been or shall be made punishable with death by some Act or statute passed after that day.

XXVI. And be it enacted, That every person convicted of any felony not punishable with death, shall be punished in the manner prescribed by the Act or Acts, statute or statutes, specially relating to such felony; and that every person convicted of any felony for which no punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years; and in addition to such imprisonment, if the Court shall so think fit, to be either fined in such sum as the Court shall award, or (if a male) to be once, twice or thrice publicly whipped.

*Felonies not capital, punishable under the Acts (if any) relating thereto, otherwise under this Act.*

XXVII. And with regard to the place and mode of imprisonment for all felonies: Be it enacted, that where any person shall be convicted of any felony, for which imprisonment may be awarded as a punishment, it shall be lawful for the Court to sentence the offender to be imprisoned in the common jail, and also to be kept to hard labor for the whole or any portion or portions of such imprisonment; and also to direct that the offender shall be kept in solitary confinement for the whole, or any portion or portions of such imprisonment; or of such imprisonment with hard labor, as to the Court in its discretion shall seem meet.

*The Court may order hard labor or solitary confinement, as part of the sentence of imprisonment.*

XXVIII. And be it enacted, That wherever sentence shall be passed for any offence on a person already under sentence of imprisonment for another offence, it shall be lawful for the Court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced, although the aggregate term of imprisonment may exceed the term for which either of those punishments could be otherwise awarded.

*If a person be under sentence for any crime, the Court may pass a second sentence, to commence after the expiration of the first.*

XXIX. And whereas it is expedient to provide for the more exemplary punishment of offenders who commit felony, after a previous conviction for felony, whether such conviction shall have taken place before or after the commencement of this Act: Be it therefore enacted, that if any person shall be convicted of any felony, not punishable with death, committed after a previous conviction for felony, such person shall, on such subsequent conviction, be liable to be imprisoned for any term not exceeding four years, and (if a male) to be once, twice or thrice publicly whipped (if the Court shall so think

*Punishment for a subsequent felony.*

**Form of indictment for the subsequent felony.**

**What shall be sufficient proof of the first conviction.**

**Uttering false certificate of conviction, felony.**

**Effect of a conditional pardon.**

fit), in addition to such imprisonment; and in an indictment for any such felony committed after a previous conviction for felony, it shall be sufficient to state, that the offender was at a certain time and place convicted of felony, without otherwise describing the previous felony; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony, purporting to be signed by the Clerk of the Court, or other officer having the custody of the records of the Court, where the offender was first convicted, or by the deputy of such clerk or officer (for which certificate a fee of two shillings and six-pence shall be taken, and no more), shall upon proof of the identity of the person of the offender, be sufficient evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed the same; and if any such clerk, officer or deputy shall utter a false certificate of any indictment and conviction for a previous felony, or if any person other than such clerk, officer or deputy, shall sign any such certificate, as such clerk, officer or deputy, or shall utter any such certificate, with a false or counterfeit signature thereto, every such offender shall be guilty of felony.

XXX. And be it enacted, That if His Majesty shall be pleased to extend mercy to any offender convicted of any crime punishable with death, upon condition of transportation to any place without the limits of this Island, either for the term of life, or for any number of years, and such intention of mercy shall be signified by the Governor or Commander-in-chief of the Island to the Court before which such offender hath been or shall be convicted, or any subsequent Court with the like authority, such Court shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender; and in case such intention of mercy shall be so signified to any Judge of the Supreme Court, such Judge shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender, in the same manner, as if such intention of mercy had been signified to any such Court as aforesaid; and such allowance and order shall be considered as an allowance and order made by the Court before which such offender was convicted, and shall be entered on the records of the same Court by the proper officer thereof, and shall be as effectual, to all intents and purposes, and have the same consequences, as if such allowance and order had been made by the same Court during the continuance thereof; and every such order shall subject the offender to be conveyed to the place or places, without the limits of this Island therein mentioned, and to be liable to all the regulations and provisions of any statute or statutes of the Imperial Parliament relating to offenders transported to such place or places.

XXXI. And be it enacted, That wherever this or any other Act or Statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence, or the subject matter on or with respect to which it shall be committed, or the offender, or the party affected, or intended to be affected, by the offence, hath used or shall use words importing the singular number, or the masculine gender only, yet the Act or Statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate, in every case where such body shall be the party aggrieved.

Rule for interpretation of all criminal Statutes.

XXXII. And whereas it is expedient to prevent all doubts respecting the civil rights of persons convicted of felonies not capital, who have undergone the punishment to which they were adjudged: Be it therefore enacted, that where any offender hath been or shall be convicted of any felony, not punishable with death, and hath endured, or shall endure, the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects and consequences as a pardon under the great seal, as to the felony whereof the offender was so convicted: provided always, that nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other felony.

Civil rights of persons convicted of felonies, not capital, who have undergone punishment adjudged.

XXXIII. And whereas there are certain misdemeanors which render the parties convicted thereof incompetent witnesses, and it is expedient to restore the competency of such parties after they have undergone their punishment: Be it therefore enacted, that where any offender hath been or shall be convicted of such misdemeanor (except perjury, or subornation of perjury), and hath endured, or shall endure the punishment to which such offender hath been or shall be adjudged for the same, such offender shall not, after the punishment so endured, be deemed to be, by reason of such misdemeanor, an incompetent witness in any court or proceeding, civil or criminal.

Every punishment, for felony after it shall be endured, (except perjury, &c.,) restores the competency of offender as a witness.

XXXIV. And be it enacted, That every person who shall be produced or appear as a witness on behalf of the prisoner upon any trial for murder or felony, before he or she be admitted to give evidence, shall first take an oath to depose the truth, in such manner as the witnesses for the King are by law

Witnesses produced for prisoner, to be sworn in the same manner as witnesses for the Crown.

obliged to do ; and if any witness be convicted of wilful perjury in such evidence, he or she shall suffer all the penalties, forfeitures and disabilities which by law may be inflicted on persons convicted of wilful perjury.

Form of indictment, &c. under this or any other Act.

XXXV. And be it enacted, That all indictments, process, pleadings and trials, and the rules of evidence upon any trials for any felonies and misdemeanors, either by the common law of England, or by virtue of this Act, or any other Act hereafter to be passed, shall be according to the usage, practice and laws of England, and of this Island.

This Act to be in force from 1st August 1836 except as to offences committed before or upon 31st July, 1836.

XXXVI. And be it enacted, That this Act shall commence and take effect on the first day of August in the present year; except as to offences and other matters committed or done before or upon the last day of July next, which shall be dealt with and punished as if this Act had not been passed.

## CAP. XXII.

Amended as to punishment of certain offences by 24 Vic. c. 27.

An Act to provide for the punishment of offences against the person and property, and to repeal the Act relating to treasons and felonies.\*

What shall be treason.

WHEREAS it is expedient to provide for the punishment of offences against the person and property, and to repeal the Act relating to treasons and felonies: Be it therefore enacted, by the President, Council and Assembly, That if any person or persons shall compass or imagine the death of the King, or shall levy war against him, or adhere to his enemies, or shall give them aid or comfort, or shall forge or counterfeit the King's money, being gold or silver coin of England, or of Great Britain or Ireland, or of this Island, or shall counterfeit the King's great seal or privy seal, or the seal of this Island, and shall thereof be duly convicted, the person or persons so offending are hereby declared and adjudged to be traitors, and shall suffer as in cases of high treason; and that all treasons declared by the Acts of Parliament of England or of Great Britain, shall be deemed and adjudged to be treasons within this Island; and that such Acts of Parliament as direct the proceedings and evidence against, and trials of such traitors, shall have their full force and effect, and be observed as the rule in all trials for treason in this Island.

All treasons by Acts of Imperial Parliament to be deemed treasons in this Colony.

Petit treason to be treated in all respects as murder.

II. And be it enacted, That every offence which before the commencement of this Act would have amounted to petit treason, shall be deemed to be murder only, and no greater

\* See Act 9 Vic. cap. 14, by which the Court is authorized, in certain cases, to abstain from pronouncing sentence of death.

offence; and all persons guilty in respect thereof, whether as principals or as accessaries, shall be dealt with, indicted, tried and punished, as principals and accessaries in murder.

III. And be it further enacted, That every person convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a felon; and every accessory after the fact to murder shall be liable to be punished by fine and imprisonment, or either—such imprisonment to be with or without hard labor, in the common jail or house of correction, at the discretion of the Court, for any term not exceeding four years.

**Punishment of principals and accessaries to murder.**

IV. And be it further enacted, That every person convicted of manslaughter shall be liable to be imprisoned with or without hard labor, in the common jail or house of correction, for any term not exceeding three years, or to pay such fine as the Court shall award, or to be both fined and imprisoned, if the Court shall so award.

**Punishment for manslaughter.**

V. And be it further enacted, That no punishment or forfeiture shall be incurred by any person who shall kill another by misfortune, or in his own defence, or in any other manner, without felony.

**As to homicide not felonious.**

VI. And be it further enacted, That if any person unlawfully and maliciously shall administer, or attempt to administer to any person, or shall cause to be taken by any person, any poison, or other destructive thing, or shall unlawfully and maliciously attempt to drown, suffocate or strangle any person, or shall unlawfully and maliciously shoot at any person, or shall, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut or wound any person, with intent, in any of the cases aforesaid, to kill such person, or to maim, disfigure or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of the party so offending, or of any of his accomplices, for any offence for which he or they may respectively be liable by law to be apprehended or detained, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of felony—and being convicted thereof, shall be liable to the punishment prescribed for felony in an Act of the present session, for improving the administration of justice in criminal cases.

**Attempts to murder, when evidenced by certain acts, shall be capital.**

VII. And be it enacted, That if any woman shall be delivered of a child, and shall, by secret burying or otherwise disposing of the dead body of the said child, endeavor to conceal the birth thereof, every such offender shall be guilty of a

**A woman secreting the dead body of her child, to conceal the fact of its birth,**

gully of mis- misdemeanor ; and being convicted thereof, shall be liable to be  
 demeanor. imprisoned, with or without hard labor, for any term not ex-  
 ceeding two years ; and it shall not be necessary to prove  
 Proviso. whether the child died before, at, or after its birth : provided  
 always, that if any woman tried for the murder of her child  
 shall be acquitted thereof, it shall be lawful for the jury by  
 whose verdict she shall be acquitted, to find, in case it shall so  
 appear in evidence, that she was delivered of a child, and that  
 she did, by secret burying, or otherwise disposing of the dead  
 body of such child, endeavor to conceal the birth thereof ; and  
 thereupon the Court may pass such sentence, as if she had been  
 convicted upon an indictment for the concealment of the birth.

Administering  
 poison, or using  
 any means to  
 procure the  
 miscarriage of  
 a woman quick  
 with child.

VIII. And be it enacted, That if any person, with intent  
 to procure the miscarriage of any woman, then being quick  
 with child, unlawfully and maliciously shall administer to her,  
 or cause to be taken by her, any poison, or other noxious thing,  
 or shall use any instrument, or other means whatever with the  
 like intent, every such offender, and every person counselling,  
 aiding or abetting such offender, shall be guilty of felony, and  
 being thereof convicted, shall suffer death as a felon ; and if any  
 person, with intent to procure the miscarriage of any woman not  
 being, or not being proved to be, then quick with child, un-  
 lawfully and maliciously shall administer to her, or cause to  
 be taken by her, any medicine or other thing, or shall use any  
 instrument, or other means whatever, with the like intent,  
 every such offender, and every person counselling, aiding or  
 abetting such offender, shall be guilty of felony ; and being  
 convicted thereof, shall be liable to be imprisoned,  
 with or without hard labor, in the common jail or house of  
 correction, for any term not exceeding two years ; and (if a  
 male) to be once, twice or thrice publicly whipped, if the  
 Court shall so think fit, in addition to such imprisonment.

The like as to  
 woman not  
 quick with  
 child.

Sodomy.

IX. And be it enacted, That every person convicted of the  
 abominable crime of buggery, committed either with mankind  
 or with any animal, shall suffer death as a felon.

Rape.

X. And be it enacted, That every convicted of the crime  
 of rape, shall suffer death as a felon.\*

Carnal know-  
 ledge of a girl  
 under 10 years  
 of age.

XI. And be it enacted, That if any person shall unlaw-  
 fully and carnally know and abuse any girl under the age of  
 ten years, every such offender shall be guilty of felony, and  
 being convicted thereof, shall suffer death as a felon ; and if  
 any person shall unlawfully and carnally know and abuse any  
 girl being above the age of ten years, and under the age of  
 twelve years, every such person shall be guilty of a misde-  
 meanor ; and being convicted thereof, shall be liable to be im-

The like of a  
 girl above 10  
 and below 12.

\* The punishment for the crime of rape is altered by Act 24 Vic., c. 27.

prisoned, with or without hard labor, for such term as the Court shall award.

XII. And whereas upon trials for the crimes of buggery and rape, and of carnally abusing girls under the respective ages hereinbefore mentioned, offenders sometimes escape by reason of the difficulty of the proof, which has been required, of the completion of these several crimes—for remedy thereof, be it enacted, that it shall not be necessary, in any of those cases, to prove the actual emission of seed, in order to constitute carnal knowledge, but that the carnal knowledge shall be deemed complete upon the proof of penetration only: provided always, that if complaint shall not be made of the ravishment of any woman or infant above ten years of age, within ten days after the commission of the crime (unless in cases where the female shall be unable to make such complaint,) before one of His Majesty's Justices of the Peace, or other magistrate, then such fact shall be adjudged to have been committed by and with the consent of such woman or infant.

What shall be sufficient proof of carnal knowledge in the four preceding cases.

Complaint of rape to be made within 10 days.

XIII. And be it enacted, That every assault and battery committed on the body of any man, woman or infant, with the intent to commit the abominable crime of buggery, and every assault and battery committed on the body of any woman or infant, with intent to ravish, shall be punished by adjudging the offender or offenders, upon due conviction thereof, to stand in the pillory, and to suffer imprisonment, with or without hard labor, for any term not exceeding two years: and also to be fined, if the Court shall so award.

Assault with intent to commit sodomy and rape.

XIV. And be it enacted, That if any person shall take, or cause to be taken, any unmarried girl, under the age of sixteen years, either with or without her consent, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, every such offender shall be guilty of a misdemeanor; and being convicted thereof, shall be liable to suffer such punishment, by fine and imprisonment, or by imprisonment in solitary confinement, with or without hard labor, as the Court shall award: provided always, that no imprisonment, in any such case, shall exceed the term of one year; and that no prosecution shall take place, unless complaint of such abduction shall be made before some magistrate within one calendar month after the same shall have occurred.

Unlawful abduction of a girl from her parents or guardians.

Prosecution to be commenced within one calendar month.

XV. And be it enacted, That if any person, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in this Island or elsewhere, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to be imprisoned, with or without hard labor, for any term not

Bigamy.

**Place of trial.** exceeding two years, and also fined, if the Court should so award; and any such offence may be dealt with, inquired of, tried, determined and punished in the County where the offender shall be apprehended or be in custody, as if the offence had been actually committed in that County: provided always,

**Exceptions.** that nothing herein contained shall extend to any second marriage contracted out of this Island by any other than a subject of His Majesty; or to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time; or shall extend to any person, who at the time of such second marriage shall have been divorced from the bond of the first marriage; or to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

**Distinction between grand and petit larceny abolished.**

**Punishment for larceny.**

XVI. And be it enacted, That the distinction between grand larceny and petit larceny shall be abolished, and every larceny, whatever be the value of property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents, in all respects, as grand larceny was before the commencement of this Act; and every person convicted of larceny shall be liable to the punishment prescribed for felony in the said recited Act of the present session, for improving the administration of justice in criminal cases.

**Stealing public or private securities for money, or warrants for goods, shall be felony, and punishable according to the circumstances like stealing goods.**

XVII. And be it enacted, That if any person shall steal any certificate, order, or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom, or of Great Britain or Ireland, or of this or any other British Province, or of any foreign State, or in any fund of any body corporate, company or society, or to any deposit in any savings' bank, or shall steal any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money, or for payment of money, whether of the United Kingdom, or of Great Britain or of Ireland, or of this or of any other British Province, or of any foreign State, or shall steal any warrant or order for the delivery or transfer of any goods or valuable thing, every such offender shall be deemed guilty of felony of the same nature, and in the same degree, and punishable in the same manner, as if he had stolen any chattel of like value with the share, interest or deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in the warrant or order; and each of the several documents hereinbefore enumerated shall throughout this Act be deemed for every purpose to be included under and denoted by the words "valuable security."

**Rule of interpretation.**



XVIII. And be it enacted, That if any person shall rob any other person of any chattel, money or valuable security, every such offender being convicted thereof, shall suffer death as a felon,\* and if any person shall, with menaces, or by force, demand any such property of any other person, with intent to steal the same, or shall assault any other person with intent to rob him, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to the punishment prescribed for felony in the said recited Act, for improving the administration of justice in criminal cases.

Robbery from the person.

Assault with intent to rob, and demand with menaces or force.

XIX. And be it declared and enacted, That if any person shall accuse, or threaten to accuse, any other person of any infamous crime as hereinafter defined, with a view or intent to extort or gain from him, and shall, by intimidating him by such accusation or threat, extort or gain from him any chattel, money, or valuable security, every such offender shall be guilty of robbery, and shall be indicted and punished accordingly.

Obtaining money, &c., by threatening to accuse a party of an infamous crime.

XX. And be it enacted, That if any person shall knowingly send or deliver any letter or writing, demanding of any person, with menaces, and without any reasonable or probable cause, any chattel, money, or valuable security; or if any person shall accuse, or threaten to accuse, or shall knowingly send or deliver any letter or writing, accusing, or threatening to accuse, any person of any crime punishable by law with death, imprisonment with hard labor, or pillory, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as hereinafter defined, with a view or intent to extort or gain from such person any chattel, money, or valuable security, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to be punished in the manner prescribed for felony in the above mentioned Act, for improving the administration of justice in criminal cases.

Sending letters containing menacing demands, or threatening to accuse a party of an infamous crime, to extort money, &c.

XXI. And for defining what shall be an infamous crime within the meaning of this Act, be it enacted, that the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise or threat, offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

What shall be deemed an infamous crime.

XXII. And be it enacted, That every person convicted of burglary shall suffer death as a felon; and it is hereby declared,

Burglary capital.

\* The punishment for robbery is altered by 24 Vic. c. 27.

that if any person shall enter the dwelling house of another, with the intent to commit felony, on being in such dwelling house, shall commit any felony, and shall, in either case, break out of the said dwelling house in the night time, such person shall be deemed guilty of burglary.

What buildings only are part of a house, for capital punishment.

XXIII. Provided always, and be it enacted, That no building, although within the same curtilage with the dwelling house, and occupied therewith, shall be deemed to be part of such dwelling house, for the purpose of burglary, unless there shall be a communication between such building and dwelling house, either immediate or by means of a covered and inclosed passage leading from one to the other.

Robbery in any building within the same curtilage as the house, but not privileged as part of the house.

XXIV. And be it enacted, That if any person in the night time shall break and enter any building, being within the curtilage of a dwelling house, and occupied therewith, but not being part thereof according to the proviso hereinbefore mentioned, or any public office, or other public building, or any mill, shop, warehouse, counting-house, bank, office, or other building used or occupied for carrying on any trade or business, such public office, public building, mill, shop, warehouse, counting-house, bank, office, or other building, not being a dwelling house, for the purpose of burglary, with intent, in any such case, to commit felony, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to the punishment prescribed for felony in the said recited Act, for improving the administration of justice in criminal cases.

Robbery of public office, shop, &c.

Stealing any goods from a vessel, &c., in a port, river, or canal, &c.

XXV. And be it enacted, That if any person shall steal any goods or merchandise in any vessel, lighter, barge, boat, raft or canoe, or shall steal any part of the rigging, sails, materials or other appurtenances belonging to any such vessel, lighter, barge, boat, raft or canoe, in any port of entry or discharge, or upon any navigable river or canal within this Island, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to be punished in the manner prescribed for felony in the before mentioned Act, for improving the administration of justice in criminal cases.

The stealing, &c., of records, and other proceedings of Courts of justice.

XXVI. And be it enacted, That if any person shall steal, or shall, for any fraudulent purpose, take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or any original document whatsoever, of or belonging to any Court of Record, or relating to any matter, civil or criminal, begun, depending or terminated in any such Court; or any bill, answer, interrogatory, deposition, affidavit,

order or decree, or any original document whatsoever, of or belonging to any Court of equity, or relating to any cause or matter begun, depending or terminated in any such Court, every such offender shall be guilty of a misdemeanor; and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or by both, as the Court shall award—the imprisonment to be either with or without hard labor, and with or without solitary confinement, as the Court shall think fit, and in no case to exceed the term of two years; and it shall not, in any indictment for such offence, be necessary to allege that the article in respect of which the offence was committed, is the property of any person, or that the same is of any value.

XXVII. And be it enacted, That if any person shall, during the life of the testator or testatrix, or after his or her death, steal, or for any fraudulent purpose destroy or conceal any will, codicil or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to suffer such punishment as is hereinbefore last mentioned; and it shall not in any indictment for such offence, be necessary to allege that such will, codicil, or other instrument, is the property of any person, or that the same is of any value.

The stealing,  
&c. of wills.

XXVIII. And be it enacted, That if any person shall steal any paper or parchment, written or printed, or partly written and partly printed, being evidence of the title, or of any part of the title, to any real estate, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment as is hereinbefore last mentioned; and in any indictment for such offence, it shall be sufficient to allege the thing stolen to be evidence of the title, or of part of the title, of the person, or of some one of the persons, having a present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate, or some part thereof; and it shall not be necessary to allege the thing stolen to be of any value.

The stealing of  
writings rela-  
ting to real es-  
tate.

XXIX. Provided always, and be it enacted, That nothing in this Act contained, relating to either of the misdemeanors aforesaid, nor any proceeding, conviction or judgment to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity, which any party aggrieved by any such offence might or would have had, if this Act had not been passed; but nevertheless, the conviction of any such offender shall not be received in evidence, in any action at law, or suit in equity, against him; and no person shall be liable to be convicted of either of the misdemeanors aforesaid

These provi-  
sions as to wills  
and writings  
shall not lessen  
any remedy  
which the par-  
ty aggrieved  
now has.

by any evidence whatever, in respect of any act done by him, if he shall, at any time previously to his being indicted for such offence, have disclosed such act on oath, in consequence of any compulsory process of any Court of Law or Equity, in any action, suit or proceeding, which shall have been, *bona fide*, instituted by any party aggrieved.

**Killing horses, cows, &c., with intent to steal skin or carcase.**

XXX. And be it enacted, That if any person shall wilfully kill any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, or any boar, sow or pig, with intent to steal the carcase or skin, or any part of the cattle so killed, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to be punished in the manner prescribed for felony in the above mentioned Act, for improving the administration of justice in criminal cases.

**Tenants and lodgers stealing any property from houses or apartments let to them.**

XXXI. And for the punishment of depredations committed by tenants and lodgers—be it enacted, that if any person shall steal any chattel or fixture, let to be used by him or her, in or with any house or lodging, whether the contract shall have been entered into by him or her, or by her husband, or by any person on behalf of him or her, or her husband, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to be punished in the manner hereinbefore last mentioned, as in the case of larceny; and in every such case of stealing any chattel, it shall be lawful to prefer an indictment in the common form, as for larceny; and in every such case of stealing any fixture, to prefer an indictment in the same form as if the offender were not a tenant or lodger; and in either case to lay the property in the owner or person letting to hire.

**Clerks or servants receiving any money, &c. on their masters' account, and embezzling it, shall be deemed to have feloniously stolen it.**

XXXII. And for the punishment of embezzlements committed by clerks and servants—be it declared and enacted, that if any clerk or servant, or any person employed for the purpose, or in the capacity of a clerk or servant, shall, by virtue of such employment, receive or take into his possession any chattel, money, or valuable security, for or in the name or on the account of his master, and shall fraudulently embezzle the same, or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master, although such chattel, money or security was not received into the possession of such master, otherwise than by the actual possession of his clerk, servant, or other person so employed; and every such offender being convicted thereof, shall be liable to be punished in the manner hereinbefore last mentioned.

**Distinct acts of embezzlement may be charged**

XXXIII. And for preventing the difficulties that have been experienced in the prosecution of the last mentioned offenders—be it enacted, that it shall be lawful to charge in

the indictment and proceed against the offender for any number of distinct acts of embezzlement, not exceeding three, which may have been committed by him against the same master within the space of six calendar months from the first to the last of such acts; and in every such indictment, except where the offence shall relate to any chattel, it shall be sufficient to allege the embezzlement to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if he shall be proved to have embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

in the same indictment.

As to allegation and proof of the property embezzled.

XXXIV. And whereas a failure of justice frequently arises from the subtle distinction between larceny and fraud—for remedy thereof, be it enacted, that if any person shall, by any false pretence, obtain from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or both, as the Court shall award—the imprisonment to be either with or without hard labor, and with or without solitary confinement, as the Court shall see fit, and not in any case to exceed the term of two years: provided always, that if upon the trial of any person indicted for such misdemeanor, it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not, by reason thereof, be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

Obtaining money, &c., by false pretences, a misdemeanor.

No acquittal on the ground that the case proved amounts to larceny.

XXXV. And with regard to receivers of stolen property—Be it enacted, that if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing or taking whereof shall amount to a felony, either at common law or by virtue of this Act, (such person knowing the same to have been feloniously stolen or taken,) every such receiver shall be guilty of felony, and may be indicted and convicted, either as an accessory after the fact, or for a substantive felony; and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any Court that has power to try the principal felon may also try the receiver,

Where the original offence is felony, the receivers of stolen property may be tried either as accessories after the fact, or for a substantive felony.

howsoever indicted; and every such receiver, howsoever convicted, shall be liable to be punished in the manner prescribed for felony in the said Act for improving the administration of justice in criminal cases: provided always, that no person, howsoever tried, for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Where original offence is a misdemeanor, receivers may be prosecuted for a misdemeanor.

XXXVI. And be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining or converting whereof is made an indictable misdemeanor by this Act, such person knowing the same to have been unlawfully stolen, taken, obtained or converted, every such receiver shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall, on conviction, be liable to be punished in the manner provided for the person guilty of the principal misdemeanor.

All receivers may be tried where the principal is triable, or where the property is found in their possession, as well as where the receiving takes place.

XXXVII. And be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained or converted, every such person, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, tried and punished in any County or place in which he shall have or shall have had any such property in his possession, or in any County or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the County or place where he actually received such property.

The owner of stolen property prosecuting thief or receiver, shall have restitution of his property.

XXXVIII. And to encourage the prosecution of offenders — Be it enacted, that if any person guilty of any such felony or misdemeanor as aforesaid, in stealing, taking, obtaining or converting, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, shall be indicted for any such offence, by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and the Court before whom any such person shall be so convicted shall have power to award, from time to time, writs of restitution for the said property, or to order the restitution thereof in a summary manner; and the Court may, in like manner, if it shall see fit, order the restitution of property in cases where the party so indicted as aforesaid may not be convicted, if it shall clearly appear, that the property had been stolen, or taken, or obtained from the

owner by felony or misdemeanor, as aforesaid: provided always, that if it shall appear, before any award or order made, that any valuable security shall have been, *bona fide*, paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument, shall have been, *bona fide*, taken or received by transfer or delivery by some person or body corporate, for a just and valuable consideration, without any notice, or without any reasonable cause to suspect, that the same had by any felony or misdemeanor been stolen, taken, obtained or converted as aforesaid, in such case the Court shall not award or order the restitution of such security.

Exception.

XXXIX. And be it enacted, That every person who shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever, which shall by any felony or misdemeanor have been stolen, taken, obtained or converted as aforesaid, shall (unless he cause the offender to be apprehended and brought to trial for the same,) be guilty of felony; and being convicted thereof, shall be liable to be punished in manner prescribed for felony, in the said Act for improving the administration of justice in criminal cases.

Taking reward for helping to the recovery of stolen property, without bringing the offender to trial

XL. And be it enacted, That if any person shall unlawfully and maliciously set fire to any church or chapel, or to any chapel or other building set apart and solely used for the religious worship of persons dissenting from the United Church of England and Ireland, or shall unlawfully and maliciously set fire to any house, stable, coach-house, outhouse, warehouse, office, shop, mill, barn or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively, shall then be in the possession of the offender, or in the possession of any other person, with intent thereby to injure or defraud any person, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Setting fire to church, chapel, &c.

or any house, stable, &c.

XLI. And be it enacted, That if any person shall unlawfully and maliciously set fire to, or in any wise destroy, any ship or vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in any wise destroy, any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, every such offender shall

Setting fire to, or destroying a ship, &c.

be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Damaging a ship otherwise than by fire.

**XLII.** And be it enacted, That if any person shall unlawfully and maliciously damage, otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to the punishment prescribed for felony in the said above recited Act of the present session, for improving the administration of justice in criminal cases.

Destroying any dike, &c. or mill dam.

**XLIII.** And be it enacted, That if any person shall unlawfully and maliciously cut down, break down, or otherwise destroy any dike or aboiteau, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously cut down, break down, or otherwise destroy any mill dam, or shall unlawfully and maliciously pull down, or in any wise destroy, any public bridge or wharf, or do any injury with intent and so as thereby to render such bridge or wharf, or any part thereof, dangerous or impassable, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to the punishment hereinbefore last mentioned.

Setting fire to a public school-house, or stack of hay, &c.

**XLIV.** And be it enacted, That if any person shall unlawfully and maliciously set fire to any public school-house, or any stack of corn, grain, pulse, straw or hay, every such offender shall be guilty of felony; and being convicted thereof, shall be liable to the punishment hereinbefore last mentioned.

Malice against the owner not essential to any offence under this Act.

**XLV.** And be it enacted, That every punishment by this Act imposed on any person maliciously committing any offence against property, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

Principals in the second degree and accessories.

**XLVI.** And be it enacted, That in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except only a receiver of stolen property), shall, on conviction, be liable to be punished by fine or imprisonment, or both, as the Court shall award—such imprisonment to be either with or without hard labor, and with or without solitary confinement, as the Court shall see fit; and not to exceed the term of two years; and every person who shall aid, abet, counsel or procure the commission of any misdemeanor pun-

Abettors in misdemeanors.



ishable under this Act, shall be liable to be indicted and punished as a principal offender.

**XLVII.** And for the more effectual apprehension and discovery of all offenders punishable under this Act—Be it enacted, that any person found committing any offence punishable under this Act, may be immediately apprehended, without a warrant, by any peace officer, or by the owner of the property upon or with respect to which the offence shall be committed, or by his servant, or any person authorized by him, and forthwith taken before a Justice of the Peace, to be dealt with according to law; and if any credible witness shall prove upon oath, before a Justice of the Peace, a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any offence against this Act shall have been committed, the Justice may grant a warrant to search for such property, as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required, to apprehend and forthwith to carry before a Justice of the Peace the party offering the same, together with such property, to be dealt with according to law.

Persons in the act of committing any offence may be apprehended without a warrant.

**XLVIII.** And for the protection of persons acting in the execution of this Act—Be it enacted, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month, at least, before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action, after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the

Venue in proceedings against persons acting under this Act.

Notice of action.

General issue, &c.

defendant, unless the judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

33 G. 3, c. 1,  
repealed.

XLIX. And be it enacted, That an Act made and passed in the thirty-third year of the reign of King George the Third, intituled "An Act relating to treasons and felonies," be, and the same is hereby repealed, except as to offences committed or done before or upon the last day of July next, which shall be dealt with and punished, as if this Act had not been passed.


Commencement  
of this Act.

L. And be it enacted, That this Act shall commence and take effect on the first day of August in the present year.

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### CAP. XXIII.

An Act to incorporate the trustees of Saint Andrew's College, and to repeal a certain Act therein mentioned.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

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### CAP. XXIV.

Repealed by 11  
Vic. c. 21.

An Act to consolidate and amend the election laws.

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### CAP. XXV.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-six.

ANNO SEPTIMO

## GULIELMI IV. REGIS.

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At the General Assembly of His Majesty's Island of PRINCE ELWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini*, 1835, in the fifth year of the reign of our Sovereign Lord WILLIAM the Fourth, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith :

1837.  
Sir J. HARVEY,  
Lt. Governor.

E. J. JARVIS,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-fourth day of January, 1837, and in the seventh year of His said Majesty's reign; being the fourth session of the fourteenth General Assembly convened in the said Island.

G. DALRYMPLE,  
Speaker.

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### CAP. I.

An Act to provide seed grain and potatoes for certain settlers, and to regulate the distribution thereof and mode of repayment. Executed.

## CAP. II.

Repealed by 18 An Act to authorize the appointment of a Sheriff for each of  
Vic. c. 7. the counties in this Island.

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## CAP. III.

Repealed by An Act relating to merchant seamen of this Island.  
9 Vic. c. 27.

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## CAP. IV.

Continued by An Act to establish an additional term of the Supreme Court,  
4 Vic. c. 1. and to extend the Hilary and Trinity terms for Queen's  
Expired. County.

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## CAP. V.

Continued by An Act to continue and amend the Act for more effectually  
4 Vic. c. 3. preventing the spreading of infectious distempers within  
Repealed by 11 this Island.  
Vic. c. 12.

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## CAP. VI.

Continued by An Act to empower the inhabitants of Charlottetown to assess  
1 V. c. 4. themselves, for the purpose of purchasing or renting sites  
Expired. for engine houses, and for erecting such buildings thereon.

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## CAP. VII.

Repealed by An Act for regulating the Herring and Alewives fisheries'.  
3 Vic. c. 6.

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## CAP. VIII.

An Act to incorporate the Steam Mill Company of Charlotte-  
town.

\*.\* The company incorporated by this Act having been dissolved, the Act is  
omitted.

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## CAP. IX.

Continued and An Act for consolidating and amending the Act for the  
amended by 6 appointment of limits and rules for the Jail in Charlotte-  
Vic. c. 11. town, and the Act for regulating the Jails of King's and  
Expired. Prince Counties.

## CAP. X.

An Act to explain and amend an Act passed in the fourth year of his present Majesty's reign, intituled "An Act for ascertaining and establishing the boundary lines of Counties and Townships, and parts of Townships, and for regulating the duty of surveyors, and to repeal a certain Act therein mentioned."

See 4 W. 4, c. 15, and note thereto.

**W**HEREAS it is oftentimes found difficult for the Commissioners named and appointed in and by an Act of the General Assembly of this Island, intituled "An Act for ascertaining and establishing the boundary lines of Counties and Townships, and parts of Townships, and for regulating the duty of surveyors, and to repeal a certain Act therein mentioned," to ascertain who is or are the proprietor or proprietors of Lots or Townships, or parts or shares of Lots or Townships, adjoining Lots or Townships, or parts or shares of Lots or Townships, the proprietors of which have applied to them to establish and fix the boundary lines between such lands, for the purpose of giving him, her or them, the notice required in and by the said recited Act: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall and may be lawful for the Commissioners aforesaid, and they are hereby required and directed, to give at least thirty days' notice in the Royal Gazette newspaper, published in this Island, of all applications made to them by any proprietor or proprietors desirous of having his, her or their boundary line or lines ascertained, in which notice shall be stated the time and place when and where the said Commissioners shall commence their survey, and which shall be inserted each time the said newspaper shall be published during that period; and such publication shall be deemed and taken to be a sufficient notice to the proprietor or proprietors of the adjoining Township or parts or shares of such adjoining Township.

Notice to be given by Commissioners under boundary Act.

II. And whereas the above recited Act hath been found beneficial in its operation, as far as respects the owners of large tracts of land, and it is desirable that the provisions of the said Act should be extended to subdivisions of Lots or Townships, being not less than one thousand acres in one block; and that the twelfth section of the said Act should for that purpose be repealed: Be it therefore enacted, that from and after the passing of this Act, the twelfth section of the said hereinbefore recited Act shall be and the same is hereby repealed; and that the provisions of the said Act, and of this Act, shall extend to the ascertaining and settling of the boundaries and division lines of all single tracts or parcels of Town-

Repeals 12th sec. of Act relating to boundaries, and extends provisions of that Act.

ship Lands in this Island, not being of less quantity than one thousand acres each.

III. And whereas doubts have arisen whether the directions contained in the seventh section of the hereinbefore recited Act for running Township Boundaries, should be construed to apply to such Boundaries, as may at one point commence on any part of the sea shore or coast of this Island, and terminate at a river, but not intersect the Island by running from coast to coast: Be it therefore enacted, That the said seventh section of the hereinbefore recited Act shall not extend, or be applied, to any such boundaries as are last above mentioned; but the same shall in all cases be run and ascertained by commencing at the real and true place of beginning of such Township Boundaries on the sea-coast, and from thence running the same to the extremity of every such Township Boundary, as directed in and by the first section of the said recited Act.

Explains 7th sec. of Boundary Act of 4 W. 4 c. 15.

IV. And whereas the hereinbefore recited Act does not define the fees or allowances to be made to the several persons employed to carry into effect the provisions of the said Act: Be it enacted, that no persons so employed shall, either directly or indirectly, demand, take or receive any other or greater fee or fees for the services hereinafter mentioned than are hereunder specified; (that is say,)

Rate of fees to be taken under Boundary Act or this Act.

## TABLE OF FEES.

### COMMISSIONERS.

Table of fees.

Thirty shillings *per diem* each, to be computed from the time each shall leave his own residence to the day of his return—no unnecessary time to be allowed.

### SURVEYORS.

Twelve shillings and sixpence *per diem*.

Plan of each survey, ten chains to an inch, eleven shillings and eight pence.

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## CAP XI.

Repealed by 7 Vic., c. 2.

An Act to amend the several Acts of this Island relating to small debts.

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## CAP. XII.

Amended by 7 Vic. c. 10.  
Repealed by 12 Vic. c. 18.

An Act for the appointment of Harbour and Ballast Masters, and for more effectually preventing the throwing of ballast into harbours and navigable rivers.

## CAP. XIII.

An Act for vacating the seats of members of the Assembly, in certain cases therein mentioned, and to repeal a certain Act heretofore passed for that purpose.

Repealed by 11  
Vic. c. 29.

## CAP. XIV.

An Act relating to the titles to Lands acquired under Deed from Sheriffs or Coroners.

WHEREAS it is found necessary to define what shall be proof of title to real estate sold by the Sheriff or Coroner, under the Act of the General Assembly of this Island making lands and tenements liable to the payment of debts: Be it enacted, by the Lieutenant Governor, Council and Assembly, That in all cases where lands and tenements have heretofore been sold by any Sheriff or Coroner, or other officer authorized to sell the same, under any Act or Acts of the Legislature of this Island, making lands and tenements liable to the payment of debts, and where the purchaser or purchasers have been in the quiet and undisturbed possession thereof for the term of two years, the deed or conveyance of any such Sheriff or Coroner or other officer authorized to execute the same, duly executed, acknowledged and recorded, as the law directs, and the exemplification of the judgment and the execution upon which the same is founded, shall in all cases be *prima facie* evidence of all matters and things therein set forth, so far as the obtaining the judgment, issuing execution, levying upon the property sold for the want of goods and chattels of the defendant from whom the property is taken, the appraising and advertising the same by the Sheriff or Coroner, as by law required, and the sale thereof under the execution recited in the said deed of conveyance, and exemplified as aforesaid, and that the *onus* of proving any defect in the appraising, advertising or selling the property conveyed, or any neglect or malpractice whatsoever, in any way concerning the same, on the part of any Sheriff or Coroner, or of the officers of either of them, shall henceforth lie on the party or parties disputing the same, any law, usage or custom to the contrary thereof notwithstanding: provided always, that nothing in this Act contained shall extend, or be construed to extend, to affect the rights of the parties, or either of them, in any cause of action, in any suit which may have already been commenced, and now pending, in any way relating to lands and tenements so sold as aforesaid.

26 G. 3, c. 9.  
35 G. 3, c. 8.  
7 Vic. c. 13.

When lands have been sold for the payment of debts, and the purchaser has been 2 years in quiet possession, the burthen of proof in certain cases to fall upon parties seeking to avoid such sales.

Not to extend to affect any suit already commenced.

In cases of sales hereafter made, like burthen to fall upon parties seeking to avoid such sales;

if Sheriff or Coroner making such sales, shall have made an affidavit in the form set forth in the schedule to this Act.

II. And be it further enacted, That all deeds to be made in future by the said Sheriff or Coroner, or other officer authorized to execute the same under any Act or Acts of the Legislature of this Island making lands and tenements liable to the payment of debts, duly executed, acknowledged and recorded, as the law directs, and the exemplification of the judgment and execution upon which the same is founded, shall, in all such cases, be *prima facie* evidence of all the matters and things therein set forth, so far as the obtaining the judgment, issuing the execution, levying upon the property sold for the want of goods and chattels of the defendant from whom the property is taken, the appraising and advertising the same by the Sheriff or Coroner, as by law required, and the sale thereof under the execution, recited in the said deed, and exemplified as aforesaid, and that the *onus* of proving any defect in the appraising, advertising or selling the property conveyed, or any neglect or malpractice whatsoever in any way concerning the same, on the part of any Sheriff or Coroner, or of the officers of either of them, shall henceforth lie on the party or parties disputing the same, any law, usage or custom to the contrary notwithstanding: provided always, that such Sheriff, Coroner, or other officer, by whom the deed was executed, under and by virtue of which, the party or parties in any action or actions claim title, or some one of the under Sheriffs or deputies of such Sheriff, regularly appointed, shall, at the time of the execution of the said deed, make and subscribe an affidavit in the form set forth in the schedule to this Act annexed, before the officer authorized by law to take acknowledgment and proof of the execution of deeds and other instruments, who shall and is hereby required to take the same affidavit, and endorse the same thereon; and which said affidavit shall be registered with the said deed in the register office of this Island.

FORM OF AFFIDAVIT.

Form of affidavit.

Prince Edward Island, }  
County, ss. }

A. B., of \_\_\_\_\_ in the said Island, (Sheriff, under Sheriff, or Coroner, for \_\_\_\_\_ as the case may be,) maketh oath and saith, that the lands and premises conveyed by the within deed were regularly seized, appraised, advertised and sold, in every respect as by law directed.

Sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 183 \_\_\_\_\_ }

C. D., Commissioner or Registrar.



## CAP. XV.

An Act to explain and amend two several Acts of the General Assembly therein mentioned, for raising a fund by an assessment on land. Expired.

\*.\* This Act may affect titles to lands, but is omitted pursuant to directions of 12 Vic., c. 23.

## CAP. XVI.

An Act to prevent the running at large of horses within the streets and squares of Charlottetown, in the winter season. Repealed by  
12 Vic., c. 26.

## CAP. XVII.

An Act to continue for one year an Act passed in the fifth year of His present Majesty's reign, providing for the payment of interest on warrants. Expired.  
See 5 W. 4, c.  
14.

## CAP. XVIII.

An Act relating to a certain road in the royalty of Charlottetown.

**W**HEREAS a survey of all the roads which ought to run through the royalty of Charlottetown hath lately been made, by His Majesty's Surveyor General of lands for this Colony, by order of the Government thereof, and the plan of such survey hath been made, and is kept in the office of the said Surveyor General, at Charlottetown; and it appears by the said plan, that the road which leads from Great George Street in Charlottetown, through the common and pasture lots towards Princetown and Saint Eleanor's, has been erroneously laid off from the southern boundary line of pasture lot number two hundred and forty-eight, to the southern boundary line of Township number thirty-three: and whereas since such survey, part of the said erroneous line of road, viz: from the southern boundary line of said pasture lot number two hundred and forty-eight, to the northern boundary line of pasture lot number three hundred and ninety-four, hath been altered by order of the said Government of this Island, to its original and proper position, as defined and marked on the original map or plan of the said royalty, kept in the office of the said Surveyor General, and public money and statute labor expended and employed thereon: and whereas it is deemed necessary that the said part of the said road, so altered as

Confirms new  
Princetown  
road as a pub-  
lic road.

Commissioner  
of Highways  
within one  
month to con-  
tinue such  
road until it  
joins the pre-  
sent road on  
Township No.  
33.

The same to re-  
main a public  
road.

aforesaid, should be confirmed and established as a public road, and provision be made for the continuance thereof, from the said northern boundary of pasture lot number three hundred and ninety-four, to the old road leading to Princetown and Saint Eleanor's, as aforesaid: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the said new line of road leading from the southern boundary line of pasture lot number two hundred and forty-eight, to the northern boundary line of pasture lot number three hundred and ninety-four, as the same is now used, shall be, and the same is hereby established and confirmed as a public road; and it shall and may be lawful for the commissioner of highways for the district wherein the same is situate, and he is hereby authorized, at the expiration of one calendar month after the passing of this Act, to lay off and continue the said road sixty feet in breadth from the said northern boundary line of pasture lot number three hundred and ninety-four, to the southern boundary line of Township number thirty-three, and from thence through the said Township, until it shall join the present road, being a distance from the said boundary line of ten chains, or thereabouts, as by reference to the said plan will more fully appear—and the same when so laid off shall be, and for ever remain and continue a public road, to and for the use and benefit of the people of this Island.

### CAP. XIX.

Amended by  
11 Vic., c. 1.

An Act to regulate the duties and charges of pilots, and to repeal the Acts formerly passed for that purpose.

**WHEREAS** it is deemed necessary to repeal the existing law relating to the duties and charges of pilots, and to make further provision for their encouragement, and the protection of shipping: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Administrator of the Government, for the time being, on the recommendation of the resident magistrates and merchants, to appoint one or more fit and proper person or persons to act as pilot or pilots for the harbour or harbours, from whence such person or person shall or may be recommended.

Administrator  
of Government,  
on recommenda-  
tion of magis-  
trates, &c., to  
appoint pilots.

Pilots to pro-  
vide sufficient  
boats for board-  
ing vessels at  
sea.

II. And be it further enacted, That every pilot so appointed, shall provide himself with a good and sufficient boat, and that the same shall be kept always in readiness, and fit to board a vessel at sea; and that from and after the first day of May next, no pilot for the harbours on the south side of the Island, shall be entitled to demand more than the following rates of pilotage, (that is to say)—for every ship or vessel.

boarded at sea, or without the harbour, the sum of four shillings *per* foot for each and every foot of water the said ship or vessel shall draw; and for every ship or vessel boarded within the bar or harbour, in case a pilot be required, one third the said pilotage; and for every ship or vessel outwards, the sum of three shillings and six-pence *per* foot, for each and every foot of water which the said ship or vessel may draw; and for all harbours on the north side of the Island, the sum of five shillings *per* foot to the place of destination—provided such ship or vessel shall be boarded without the bar of any such harbour; and in case such ship or vessel shall be boarded within the bar of such harbour, and a pilot shall be required at the time of boarding, then one third part of the said pilotage; and a further sum of five shillings *per* foot outwards from the place of loading: provided always, that nothing herein contained shall extend, or be construed to extend, to the compelling masters or owners of coasting vessels to pay pilotage, unless a signal be made for a pilot, or a pilot be requested to take charge of any such vessel.

Rates of pilotage.

Coasters not compelled to employ pilots.

III. And be it declared and enacted, That the limit of the harbour of Charlottetown, according to which pilots shall be entitled to receive pilotage, shall be the southernmost extremity of the eastern shoal of Saint Peter's Island; and any vessel taking a pilot inside of the said limit, and outside of the Block House, shall be liable to pay only one half the full pilotage, any thing in this Act contained to the contrary notwithstanding.

Defines limits of Harbour of Charlottetown.

Rates of pilotage within such harbour.

IV. And be it further enacted, That from and after the first day of May one thousand eight hundred and thirty-seven, no foreign vessels (except such as are hereinafter particularly excepted), shall sail into or out of any of the harbours of this Island, without being liable to pay the rate of pilotage applicable to the case, as hereinbefore stated, if a pilot shall duly offer to board such vessel outside of the harbour, and shall be refused or shall offer his services within three hours after notice that any such vessel is ready to proceed to sea, and that a pilot is required for her, and shall be refused to perform his duty on board—but this clause shall not apply to any vessel owned, or partly owned, in any of the British North American Colonies, not exceeding fifty register tons burthen, unless a pilot be employed, nor to vessels owned either in whole, or to the extent of at least one half, in this Island, unless a pilot be employed.

All foreign vessels to pay pilotage, if a pilot offers his services.

Not to extend to vessels under 50 tons, belonging to British Colonies.

V. And be it further enacted, That any licensed pilot declining or refusing to take charge of any ship or vessel, when duly required so to do, by the master of such ship or vessel, or by any owner, or by any agent acting for the owner or

Duty of pilots.

owners, or exacting or bargaining for more than the rates hereinbefore allowed, or delaying to go on board of, or take in charge, any ship or vessel; or who shall improperly, and contrary to his duty, quit such ship or vessel, after going on board or alongside thereof, or decline the piloting of any vessel after he has engaged so to do, or gone alongside thereof, without leave of the owner or person having the chief command of such vessel, or before the service for which he was hired shall be performed; or who shall, by drunkenness, render himself incapable of performing the same, or who shall negligently run any ship or vessel on shore, or cause the loss thereof, or any injury to her tackle or furniture, or who shall lend his license to any other person, shall, for every such offence, forfeit a sum not exceeding fifty pounds, nor less than five pounds, and also be liable to dismissal or suspension from his office; and such penalty shall be recoverable, with costs, in His Majesty's Supreme Court of Judicature of this Island, and applied to and for the use of His Majesty's Government.

Penalty on pilots; how to be recovered and appropriated.

Repeals Act of the 5th G. 4, c. 11, regulating the duties of pilots, and Act of the 11th G. 4, c. 1, continuing said Act.

VI. And be it further enacted, That an Act passed in the fifth year of the reign of his late Majesty King George the Fourth, intituled "An Act to regulate the duties and charges of pilots within this Island;" and an Act passed in the eleventh year of the reign of his late Majesty, intituled "An Act to continue an Act made and passed in the fifth year of his present Majesty's Reign, intituled 'An Act to regulate the duties and charges of pilots within this Island,'" be, and the same are hereby respectively repealed.

#### CAP. XX.

An Act for the encouragement and support of District and other Schools, and to repeal the Act formerly passed for that purpose.

Expired.

#### CAP. XXI.

An Act for granting patents for useful inventions.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, whenever any person or persons who shall then be an inhabitant or inhabitants of this Island, or who shall have resided therein for one year previous thereto, shall apply to the Lieutenant Governor or Commander-in-chief for the time being, and shall allege that he, she or they have invented or discovered any new or useful art, machine, manufacture, or composition of matter, or any new or useful improvement on any

Lt. Governor may issue letters patent in manner herein specified, for useful inventions or discoveries.

art, machine, manufacture, or composition of matter, not before known and used, and shall, by petition to the Lieutenant Governor, or Commander-in-chief for the time being, signify his, her or their desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent may be granted for the same, it shall and may be lawful for the Lieutenant Governor or Commander-in-chief for the time being, to cause and direct letters patent, under the great seal of this Island to be issued, which said letters patent shall recite the allegations and suggestions of the said petition so to be preferred as aforesaid, and shall therein give a short description of the said invention and discovery; and thereupon shall grant to the said person or persons so applying for the same, his, her or their executors, administrators and assigns, for a term not exceeding ten years, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said new invention or discovery— which Letters Patent shall be good and available to the grantee or grantees therein named, by force of this Act, and shall be recorded in the office of the Secretary of this Island, in a book to be kept for that purpose, and shall be delivered to the patentee or patentees: provided always, that before the great seal of this Island shall be affixed to any such letters patent, or the same shall be issued and signed as aforesaid, such letters patent shall be delivered to his Majesty's Attorney General of this Island, who shall examine the same, and shall, if he finds the same conformable to this Act, certify accordingly, and return the same within thirty days into the office of the Secretary for the Island, to be issued and signed.

II. And be it enacted, That when any letters patent shall be obtained by any person or persons in manner aforesaid, for any new and useful invention and discovery in any art, machine, or composition of matter, and thereafter any other person or persons shall discover any improvement in the principle or process of any such art, machine, or composition of matter, for which such patent hath been granted, and shall make application for and obtain letters patent under this Act for the exclusive right of such improvement, it shall not be lawful for the person or persons who shall obtain and procure letters patent for any such improvement, to make, use or vend the original invention or discovery, nor for the person or persons who shall have procured letters patent for the original invention or discovery, to make, use or vend any such improvement.

III. Provided always, and it is hereby declared and enacted, That simply changing the form or the proportions of any machine or composition of matter in any degree, shall not be deemed a discovery or improvement within the meaning of this Act.

Patentee of an original invention or discovery, or patentee of improvement thereon, not to use or vend other than his own inventions or improvements.

Changing the form, &c. not to be deemed an improvement.

Copies of patents, petitions, &c., may be obtained from the Secretary's office.

IV. And be it enacted, That it shall and may be lawful for any person or persons to obtain and receive from the office of the Secretary of this Island any copy or copies of any such letters patent, or of the petition whereon the same were granted and issued, or of any paper connected therewith, or any drawing relating to the same.

Applicants for patents to make oath as to their being the true inventor, &c.,

V. And be it enacted, That before any person or persons shall obtain or receive any letters patent under this Act, such person or persons, or some or one of them, shall make oath (or if a Quaker, shall make solemn affirmation in writing,) before some one of His Majesty's Justices of the Supreme Court of this Island, or some Commissioner for taking affidavits in the said Court, that he, she or they do verily believe that he, she or they is or are the true inventor or inventors, discoverer or discoverers of the art, machine, composition of matter, or improvement, for which he, she or they solicit letters patent, and that such invention or discovery hath not, to the best of his, her or their knowledge or belief, been known or used in this Island, or in any other country; which oath or affirmation shall be delivered in with the petition for such letters patent.

A full description of inventions, accompanied with drawings, specimens of ingredients, &c., to be filed in Secretary's office, with petition for patents.

VI. And be it enacted, That together with such petition and oath, or affirmation, before any person or persons shall receive or obtain any letters patent as aforesaid, such person or persons shall also deliver in to the office of the Secretary of the Island a written description of his invention, and of the manner of using, or process of compounding the same, in such full, clear and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science, of which it is a branch, or with which it is most closely connected, to make, compound and use the same; and shall explain the principle, and the several modes in which such person or persons have or hath contemplated the application of that principle, or character, by which it may be distinguished from other inventions; and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings; or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, when the invention is a composition of matter—which description, signed by such person or persons so applying for such letters patent, and attested by two witnesses, shall be filed in the office of the Secretary of the Island; and copies thereof, certified under the hand of the Secretary, or deputy Secretary of the Island, shall be competent evidence in all Courts where any matter or thing touching or concerning the said letters patent shall or may come in question.

Certified copies to be sufficient evidence touching the patents.

VII. And be it enacted, That any patentee, his executors or administrators, may assign and transfer all his right, title and interest in the said invention and discovery in the letters patent to him granted, to any person or persons whomsoever; and the assignee or assignees thereof, having recorded the said assignment in the office of the Secretary of the Island, shall thereafter stand in the place or stead of the original patentee, as well as to all right, privilege and advantage, as also in respect of all liability and responsibility, as to the said letters patent, and the invention and discovery thereby secured; and in like manner shall the assignee or assignees of any such assignee or assignees stand and be considered to be in the place and stead of the original patentee or inventor.

Patentees may assign their rights in patents.

VIII. And be it enacted, That whenever in any case any letters patent shall be, or shall or may have been, granted to any person or persons under and by virtue of this Act, and any person or persons, without the consent of the patentee or patentees, his, her or their executors, administrators or assigns, first had and obtained in writing, shall make, devise, use or sell the things, invention or discovery, whereof the exclusive right is secured to the said patentee or patentees by such letters patent, such person or persons so offending shall forfeit and pay to the said patentee or patentees, his, her, or their executors, administrators or assigns, a sum equal to three times the actual damage sustained by such patentee or patentees, his, her or their executors, administrators or assigns, for or by reason of such offence; which sum shall and may be recoverable, together with costs of suit, by action on the case founded on this Act, in the Supreme Court of this Island.

Persons making, using or selling patent articles, without consent of patentee, to be liable in damages to three times the actual damage.

IX. Provided always, and be it enacted, that the defendant or defendants in such action shall be permitted to plead the general issue, and give this Act, and any special matter in evidence, tending to prove that the specification filed by the patentee or patentees does not contain the whole truth relative to the invention or discovery therein alleged to have been made by the said patentee or patentees; or that it contains more than is necessary to produce the described effect (which concealment in addition shall fully appear to have been made for the purpose of deceiving the public;) or that the thing, invention or discovery thus secured by letters patent as aforesaid, was not originally discovered by the patentee or patentees, but had been in use, or had been described in some public work anterior to the supposed invention or discovery of the said patentee or patentees; or that the said patentee or patentees had surreptitiously obtained letters patent as aforesaid, for the invention or discovery of some other person or persons—in either of which cases, upon sufficient and legal proof thereof, a verdict shall be returned, and judgment shall be entered

Defendant may plead the general issue, and give this Act and any special matter in evidence.

for the said defendant or defendants, with costs; and the said letters patent shall thereupon be and become, and shall by the said Court be adjudged void, and of no effect.

Actions to be commenced within six months after discovery of offence.

X. Provided also, and be it enacted, that no action shall be brought against any person or persons whomsoever, for any offence committed against the provisions of this Act, unless the same be commenced within the space of six calendar months next after the discovery of every such offence committed.

## CAP. XXII.

An Act for establishing the standard weight of grain and pulse, and for the appointment of officers for measuring and weighing the same.

Continued for 10 years by 11 Vic. c. 24. Expired.

## CAP. XXIII.

An Act to repeal the laws now in force for regulating pounds, and to make more effectual provision in lieu thereof.

Amended by 2 Vic., (2d session) c. 9.

11 G. 4, c. 11.

5 W. 4, (2d session) c. 1.

31 G. 3, c. 3.

Lt. Governor may cause pounds to be erected in the several towns and royalties.

WHEREAS an Act passed in the eleventh year of the reign of His late Majesty King George the Fourth, intituled "An Act for providing ponnds within this Island, and to suspend an Act made and passed in the thirty-first year of the reign of His late Majesty, intituled 'An Act for providing pounds in the several royalties in this Province,'" and continued by an Act passed in the second session of the fifth year of His present Majesty's reign, intituled "An Act to continue four several Acts therein mentioned," will expire on the last day of the present session, whereby the Act passed in the thirty-first year of the reign of His late Majesty King George the Third, intituled "An Act for providing pounds in the several royalties in this Province," the operation of which was suspended by the first above recited Act, will revive, unless provision to the contrary be made: and whereas it is deemed necessary to repeal the said last recited Act, and to make further provisions in lieu thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that it shall and may be lawful for the Lieutenant Governor, by and with the advice of His Majesty's Council, to cause to be erected a common pound or pounds in each of the town plots or royalties of Charlottetown, Princetown and Georgetown, in such places or parts thereof, and of such extent and dimensions, as may be judged necessary.

II. And whereas inconvenience hath been felt from the want of pounds in the different settlements and districts of this



Island: Be it therefore enacted, That as often as it shall appear to the Lieutenant Governor for the time being, on the petition of the inhabitants of any district, township or settlement, that a common pound is requisite in such district, township or settlement, (the petitioners offering a good and proper site for the erection of the said pound) it shall and may be lawful for the Lieutenant Governor, by and with the advice of His Majesty's Council, to cause a pound to be erected, of such extent and dimensions as may appear necessary, for such district, township or settlement.

And also in any district, &c., on petition of inhabitants offering a site.

IV. And be it further enacted, That if any person or persons shall rescue any horses, neat cattle, sheep, goats or swine, from any hog reeve, or other person driving such horses, neat cattle, sheep, goats or swine, found trespassing as aforesaid, to any common pound within the Town or Royalty, district, township or settlement, where such trespass is alleged to have been committed, the offender shall forfeit and pay for such offence, the sum of one pound, together with reasonable costs of recovering the same, over and above all damages that may be sustained by the trespass of such horses, neat cattle, sheep, goats or swine; which penalty and damages shall be recovered on the oath of one or more credible witness or witnesses, before any one of His Majesty's Justices of the Peace for the County where the offence shall have been committed, and shall be levied by warrant of distress and sale of the offender's goods and chattels; and if any person or persons shall make any breach of the said pound or pounds, or shall by any other indirect means rescue any horses, neat cattle, sheep, goats or swine, out of the same, the person so offending, on being duly convicted thereof, before any two of His Majesty's Justices of the Peace, shall forfeit and pay the sum of five pounds, to be levied as aforesaid; and the said penalties for every such rescue and pound-breach shall, after deducting the expense of repairing the breach or breaches of said pound, to be paid into the treasury of this Island, to be applied as hereinbefore directed; and if in either of the said cases the person or persons so offending shall have no goods or chattels whereon to levy for the said fines, the said Justice or Justices is or are hereby authorized and empowered to commit the person or persons so offending to the jail of the County in which the offence shall have been committed, for a period not exceeding two months.

Persons rescuing any horses, &c., to forfeit £1.

Mode of recovery.

Persons breaking pounds, or rescuing horses &c., out of the same, to forfeit £5.

Application of penalty.

Mode of punishment where offenders have no goods, &c.

V. And be it further enacted, That the above recited Act, intituled "An Act for providing pounds in the several Royalties in this Province" be, and the same, and every part and clause thereof, is hereby repealed.

Repeals 31 G. 3, c. 3.

\* \* \* Section 3 of this Act having been repealed by 2d Vic. (2d session) cap. 9, is not herein inserted.

## CAP. XXIV.

20 G. 3, c. 9.

An Act to confirm certain sales of Lands and Tenements made under the Act of the Legislature of this Island, enabling creditors to recover their just debts out of the effects of their absent or absconding debtors.

WHEREAS it appears to have been the practice of the Supreme Court of this Island, from the passing of the said Act, in the year of our Lord one thousand seven hundred and eighty, until the twenty-second day of June in the year of our Lord one thousand eight hundred and fourteen, to permit and suffer execution to be sued out against the lands and tenements of absent or absconding debtors, upon a verbal award of judgment by the Court, entered on the minutes by the Prothonotary, but without any judgment having been entered up and docketed against the said absent or absconding debtors, and divers sales of such lands and tenements have been made by the Sheriff of this Island under such executions, to *bona fide* purchasers, who, in several instances, have resold the lands so purchased, to third parties, and in other instances they, or their heirs have remained in the quiet and undisturbed possession of the same ever since; and whereas such purchases were made at public sale, under the presumption that all previous proceedings had been regularly conducted on the part of the said Supreme Court and its officers; and it is therefore equitable and proper that all such purchasers, and those claiming under them, should be quieted in their respective possessions, any want of any such judgment notwithstanding: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that in all cases against absent or absconding debtors, under the Act of the General Assembly of this Island, intituled "An Act to enable creditors to recover their just debts out of the effects of their absent or absconding debtors," had and prosecuted in the Supreme Court of this Island, from and after the passing of the said Act, in the year of our Lord one thousand seven hundred and eighty, to the twenty-second day of June, in the year of our Lord one thousand eight hundred and fourteen, and wherein execution has been sued out agreeably to the then practice of the said Supreme Court, and lands and tenements sold thereunder, the *bona fide* purchasers at such sales, and all persons legally claiming under them, shall be, and they are hereby declared to be, quieted in their respective possessions under and by virtue of such sales, notwithstanding the want of any record or docket of any such judgments—any law, usage or custom to the contrary thereof in any wise notwithstanding: provided always, that this Act shall not extend, or be construed to extend, to affect the right of any parties in any

Confirms sales of lands under absent debtor Act, made under executions sued out previous to the 22d June, 1814, to *bona fide* purchasers, &c.

Not to affect the rights of parties in any ac-

action or suit already commenced, and now pending, in any way relating to lands or tenements so sold as aforesaid. tion pending at the passing of this Act.

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CAP. XXV.

An Act to authorize the appointment of a Coal meter for Charlottetown. Expired.

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CAP. XXVI.

An Act to continue an Act for regulating the weight and quality of Bread within the Town and Royalty of Charlottetown. Expired.

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CAP. XXVII.

An Act to enable the proprietors or shareholders of a Company called "The Bank of British North America," to sue and be sued in the name of any one of the Local Directors, or of the manager or agent for the time being of the said Company in this Island. Repealed by 12 Vic. c. 29.

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CAP. XXVIII.

An Act to prohibit the exportation of grain, meal and potatoes, and for other purposes therein mentioned. Expired.

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CAP. XXIX.

An Act for vesting all estates and property in this Island belonging to, or occupied for the Ordnance service, in the principal officers of His Majesty's Ordnance, and for granting certain powers to the said principal officers. Altered by 19 Vic. c. 19.  
See note at foot.

**W**HEREAS divers lands, tenements, estates, and other hereditaments in this Island, have been reserved in many of the grants of land from the Government of this Island, and otherwise set apart for the use of the department of his Majesty's Ordnance, and have been placed under the charge of the said department, or of the Administrator of the Government, or commander of his Majesty's forces, in the said Island: and whereas it may be expedient that such parts of the said lands, tenements, estates and hereditaments, with the messuages thereunto belonging, as may not be wanted for the service of the said department, should from time to time be sold and disposed of: and whereas for effectuating such sales it is

Lands reserved or set apart for the service of the ordnance, and all buildings thereon, vested in the principal officers of that department.

necessary that all and every the said messuages, lands, tenements, estates and other hereditaments so reserved or set apart for the service of the said Ordnance department, and any other messuages, lands, tenements, estates and other hereditaments, that may be hereafter purchased for the service of the said department, should be vested in the principal officers of His Majesty's Ordnance for the time being: Be it therefore enacted, by the Licutenant Governor, Council and Assembly, That immediately from and after the passing of this Act, all messuages, lands, tenements, estates and other hereditaments, which have been heretofore reserved or set apart for His Majesty, or his royal predecessors, and his or their heirs and successors, for the use or service of the said Ordnance department, and all erections and buildings which now are or which shall or may be hereafter erected and built thereon, together with the rights, members, easements and appurtenances to the same respectively belonging, shall be and become, and remain and continue vested in the principal officers of His Majesty's Ordnance in Great Britain for the time being, and their successors in the said office, according to the respective nature and quality of the said messuages, lands, tenements, estates and other hereditaments, and the several estates and interests of and in the same hereditaments respectively, in trust for His Majesty, his heirs and successors, for the service of the said Ordnance department, or for such other public service or services as the said principal officers, or their successors in the said office, shall from time to time order and direct.

Lands to be hereafter purchased, and also the buildings thereon, shall be vested in like manner.

II. And be it further enacted, That from and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements, estates, and other hereditaments, which shall at any time or times hereafter be purchased by the principal officers of His Majesty's Ordnance for the time being, or by any other person or persons by their order for the service of the said Ordnance department, and all erections and buildings which shall then or which may thereafter be erected and built thereon, with the rights, members, easements and appurtenances to the same respectively belonging, by whatever mode of conveyance, either unto or in the name of His Majesty, his heirs and successors, or otherwise the same shall be purchased or taken, shall in like manner be and become, and remain and continue vested in the said principal officers of His Majesty's Ordnance for the time being, and their successors in the said office, according to the nature and quality of the said messuages, lands, tenements, estates and other hereditaments, and the several and respective estates and interests of and in the same respectively, in trust as aforesaid.

In case of death or removal of

III. And be it further enacted, That upon the death, resignation or removal of the present principal officers of the

Ordnance in Great Britain, or of any of them, or of any future principal officers, or principal officer in Great Britain, all such messuages, lands, tenements, estates and other hereditaments respectively, shall become vested in and be held by the succeeding principal officers in Great Britain, according to the respective nature and quality of the said messuages, lands, tenements, estates and other hereditaments, and the several estates and interests of and in the same respectively, in trust as aforesaid.

principal officers, such premises shall vest in their successors.

IV. And be it further enacted, That it shall and may be lawful for the said principal officers for the time being, or any two or more of them, to sell, exchange, or in any manner dispose of, or to let or demise as well any of the messuages, lands, tenements, estates and other hereditaments respectively, which shall be vested in them under and by virtue of this present Act, with their respective appurtenances, either by public auction or private contract, in due form of law to convey, surrender, assign or make over, or to grant or demise the same respectively (as the case may require) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively; and also to do any other act, matter or thing in relation to any such messuages, lands, tenements, estates and other hereditaments, which shall by the said principal officers be deemed beneficial to the public service in relation thereto, or for the better management thereof, which might be done by any person having a like interest in any such like messuages, lands, tenements, estates or other hereditaments.

Lands may be sold, exchanged or let.

V. And be it further enacted, That the moneys to arise and be produced by the sale or exchange of any of the said messuages, lands, tenements, estates or other hereditaments which shall be so sold or exchanged under the provisions of this present Act, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange, unto the respective or other chief officers or officer of the Ordnance in this Island for the time being, or to such other person or persons as the said principal officers for the time being, or any two or more of them, shall direct or appoint to receive the same, for the use of His Majesty, his heirs and successors, and that the receipt of the said principal officers, or of any two of them, or of the said respective or other chief officers or officer, for such moneys—such receipt to be endorsed on every such conveyance, surrender or assignment as aforesaid—shall effectually discharge the purchaser or purchasers, or person or persons by whom, or on whose account, the same shall be paid.

Purchase moneys shall be paid to the person appointed to receive the same by the principal officers of Ordnance.

VI. And be it further enacted, That immediately from and after the payment of such purchase money, and the exe-

After payment of purchase

money, &c.,  
the purchaser  
to have full  
right and pos-  
session.

cution of every such conveyance, surrender and assignment as aforesaid, the purchaser or purchasers therein named, or the person or persons making such exchange as aforesaid, shall be deemed and adjudged to stand seised and possessed of the messuages, lands, tenements, estates and other hereditaments, which shall be so purchased or taken in exchange by, and conveyed, surrendered, assigned or made over to him, her or them respectively, freed and absolutely discharged of and from all and all manner of prior estates, leases, rights, titles, interests, charges, incumbrances, claims and demands whatsoever, which can or may be had, made, set up, in, to, out of or upon or in respect of the same messuages, lands, tenements, estates or other hereditaments, by any person or persons whomsoever, on any account whatever, (save and except such estates, leases, rights, titles, interests, charges, incumbrances, claims and demands, as in any such conveyance, surrender, deed of exchange or assignment shall be excepted.)

Actions of eject-  
ment may be  
brought in the  
name of His  
Majesty to re-  
cover possession  
of lands  
vested in the  
Ordnance de-  
partment.

VII. And be it further enacted, That it shall be lawful for the said principal officers for the time being, and for the said respective or other chief officers or officer for the time being, and they are respectively hereby authorized and empowered, to bring, prosecute and maintain in the name of His Majesty, his heirs or successors, any action or actions of ejectment or other proceeding at law or in equity, in the Supreme Court of Judicature or Court of Chancery of this Island (as the case may require), for recovering possession of any messuages, lands, tenements, estates or other hereditaments, by this Act vested in them as aforesaid; and to distrain or sue for any arrears of rent which shall have become or shall become due for or in respect thereof, under any parol or other demise from the said principal officers, or respective or other chief officers or officer for the time being, as aforesaid; and also to bring, prosecute and maintain, in the name of His Majesty, his heirs or successors, any other action or suit in respect of or in relation to the said messuages, lands, tenements, estates or other hereditaments, or of any trespass or encroachment committed thereon, or damage or injury done thereto.

Power given to  
bodies politic  
and others to  
treat for sale,  
exchange or  
lease of lands.

VIII. And be it further enacted, That it shall be lawful for all bodies politic or corporate, ecclesiastical or civil, and all feoffees or trustees for charitable or other public purposes, and for all tenants for life and tenants in tail, and for the husbands, guardians, trustees, committees, curators or attorneys of such of the owners or proprietors of, or persons interested in any messuages, lands, tenements, estates and other hereditaments in the said Island, which have been or may be hereafter agreed to be purchased or taken for the use of the said Ordnance department, as shall be *femes-covert*, infants, lunatics, idiots, or persons beyond the seas, or otherwise inca-

pable of acting for themselves, to contract or agree with the said principal officers for the time being, either for the absolute sale or exchange of any such messuages, lands, tenements, estates or other hereditaments, or sale of any reversion after any estate or estates for lives or years, or for the grant of any lease, either for life or lives, or for any term of years certain therein, or for such period as the exigency of the public service shall require, and to convey, surrender, demise or grant the same accordingly; and all contracts, conveyances, surrenders, leases and agreements, which shall be made in pursuance hereof, shall be valid and effectual in law to all intents and purposes whatsoever, and shall be a complete bar to all dower, and claims of dower, estates tail and other estates, rights, titles, trusts and interests whatsoever.

IX. And be it further enacted, That in every such case of purchase or exchange of any lands or hereditaments, or of any such reversion as aforesaid, or purchase of any other interest belonging to any such body or other person or persons under any disability or incapacity, or not having the absolute interest therein, the purchase money of the same, shall amount to or exceed the sum of two hundred pounds, shall be paid into the hands or into the name of the accountant general or other proper officer of His Majesty's Court of Chancery of the said Island respectively for the time being, for the use and benefit of the owners and proprietors of such lands and hereditaments, and such accountant general or other proper officer respectively, is hereby authorized and required to receive or accept and to give a discharge for the same, and upon the acceptation or receipt thereof, to sign a certificate to the Chancellor of the said Court of Chancery, under his hand, purporting and signifying that such money or other consideration was received and accepted by and paid to him, in pursuance of this Act, for the use and benefit of such owners or proprietors as shall be named in such certificate; and the said certificate shall be filed or deposited in the said Court of Chancery, and a true copy thereof, signed by the said accountant general, or other proper officer respectively of such Court, shall and may be read and allowed as evidence for the purposes hereinafter mentioned; and immediately upon the filing or depositing of such certificate, the said lands and hereditaments shall be and become vested in the said principal officers of the Ordnance for the time being, for the public service, in trust for His Majesty, his heirs and successors.

Investment of  
purchase  
money.

X. And be it further enacted, That the Chancellor of this Island for the time being is hereby authorized and empowered in a summary way, upon motion or petition for and on behalf of any person or persons interested in, or entitled to the benefit of the money so paid to and received by the said account-

Chancellor may  
make order for  
the investment  
of such purchase  
money.

ant general or other proper officer, or the interest or produce thereof, and upon reading the certificate directed to be signed by the accountant general or other proper officer respectively, concerning the same as aforesaid, and receiving such further satisfaction as he shall think necessary, to make and pronounce such orders and directions for paying the said money, or any part of the same, or for placing out such part thereof as shall be principal in or upon the public or government or real securities, either in this Island or Great Britain, and for payment of the dividends or interests thereof, or any part thereof, to the respective persons entitled to receive the same, or for laying out the principal, or any part thereof, in the purchase of other lands, estates or hereditaments, to be conveyed and settled to, for and upon the same uses, trusts, intents or purposes, as the said lands, estates and hereditaments so purchased or taken stood settled at the time of the payment of such money as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said money, or any part thereof, and the interest of the same, or any part thereof, for the benefit of the person and persons entitled to and interested in the same respectively, or for appointing any person or persons to be a trustee or trustees for all or any of such purposes, as the said Court shall think just and reasonable.

Investment of  
purchase mo-  
ney when less  
than £200.

XI. Provided always, and be it further enacted, That in case such purchase money as is lastly hereinbefore mentioned shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the lands and hereditaments so purchased, or of his, her or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the hands of the said accountant general or other proper officer respectively of the said Court of Chancery, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to three trustees, to be nominated by the person or persons making such option, and approved of by the said principal officers, or any two or more of them, or by the said respective or other chief officer of the Ordnance for the time being, as aforesaid—such nomination or approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money may be invested in the purchase of public or government or real securities, either in this Island or Great Britain, and that such stock when purchased, and the dividends arising therefrom, may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining, or being required to obtain the order, direction, or approbation of the said Court of Chancery.



XII. Provided always, and be it further enacted, That in case such purchase money shall be less than twenty pounds, then, in all such cases, the same shall be applied to the use of the person or persons who would, for the time being, be entitled to the rents and profits of the lands and hereditaments so purchased, in such manner, as the said principal officers, or any two or more of them, or as the said respective or other chief officers or officer for the time being as aforesaid shall think fit; or in case of any infancy or lunacy, then to his, her or their guardian or guardians, committee or committees, for the use and benefit of such person or persons entitled respectively.

Investment of purchase money when less than £20.

XIII. And be it further enacted, That upon the death or removal of any such accountant general or other proper officer respectively, all public or government and real securities vested in him by virtue of this Act, shall vest in the succeeding accountant general or other proper officer respectively, for the purpose hereinbefore mentioned, without any assignment or transfer, and all moneys remaining in the hands of any accountant general or other proper officer respectively, at his death or removal, and not vested in the funds, or placed out on public or government or real securities as aforesaid, shall be paid over to the succeeding accountant general or other proper officer respectively for the time being.

Securities vested in Accountant General, &c. shall, in case of death or removal, vest in his successor.

XIV. And be it further enacted, That in all contracts, conveyances, surrenders, leases and other deeds and instruments whatsoever, relating to the public service, which shall hereafter be made or entered into by, to or with the principal officers of the Ordnance for the time being, or by, to or with the respective or other chief officers or officer of the Ordnance, for the time being, in this Island, or whereunto they or any of them shall be parties or a party, it shall be sufficient to call or describe the said principal or other officers or officer as aforesaid, by the style or title of "The Officers or chief acting officer (as the case may be), of His Majesty's Ordnance," without naming them, or any or either of them: and that all such contracts, conveyances, surrenders, leases and other deeds and instruments wherein the said principal officers or the said respective or other chief officers or officer as aforesaid shall be called or described by their style or title as aforesaid, and the execution thereof respectively, by the said principal officers, or any two or more of them, or by the said respective or other chief officer as aforesaid, and be as valid and effectual and have the like force and operation, to all intents and purposes whatsoever, as if the said principal officers, or any two or more of them, or the said respective or other chief officers or officer as aforesaid, had been respectively named therein.

Description of principal Officers of Ordnance in this Island in all contracts, conveyances, &c.

\* \* \* All the powers and estates by this Act vested in the principal officers of the Ordnance are by the Act 19 Vic. c. 19 transferred to and vested in Her Majesty's Principal Secretary of State for the War Department.

## CAP. XXX.

Amended by 4  
Vic. c. 10, and  
19 Vic. c. 8.

An Act to repeal certain parts of an Act intituled "An Act for the limitation of actions and for avoiding lawsuits" so far as the same relate to actions concerning real estate, and to make other provisions in lieu thereof.

Meaning of the  
words in this  
Act.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say,) the word "land" shall extend to messuages, and all other corporeal hereditaments whatsoever, and also to any share, estate or interest in them or any of them, whether the same shall be a freehold or chattel interest; and the person through whom another person is said to claim, shall mean any person by, through or under, or by the act of whom the person so claiming became entitled to the estate or interest claimed as heir, issue in tail, tenant by the courtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee or otherwise; and the word "person" shall extend to a body politic, corporate or collegiate, and to a class of creditors or other persons as well as an individual; and every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the masculine gender only, shall extend and be applied to a female, as well as a male.

"Land."

Person  
through whom  
another claims.

"Person."

Number and  
gender.

No land to be  
recovered but  
within 20 years  
after the right  
of action ac-  
crued.

II. And be it further enacted, That no person shall make an entry, or bring an action to recover any land, but within twenty years next after the time at which the right to make such entry or to bring such action, shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or to bring such action shall have first accrued to the person making or bringing the same.

When the right  
shall be deemed  
to have accrued  
in the case of  
an estate in  
possession.

III. And be it further enacted, That in the construction of this Act, the right to make an entry or bring an action to recover any land shall be deemed to have first accrued at such time as hereinafter is mentioned; (that is to say,) when the person claiming such land or some person through whom he claims, shall in respect of the estate or interest claimed, have been in possession or in receipt of the profits of such land, and shall, while entitled thereto, have been dispossessed or

On disposses-  
sion.

have discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dis- possession or discontinuance of possession, or at the last time at which any such profits were or was so received ; and when the person claiming such land, shall claim the estate or interest of some deceased person who shall have continued in such pos- session or receipt, in respect of the same estate or interest, un- til the time of his death, and shall have been the last person entitled to such estate or interest, who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death ; and when the person claiming such land shall claim in respect of an estate or in- terest in possession granted, appointed, or otherwise assured by any instrument (other than a will), to him or some person through whom he claims, by a person being in respect of the same estate or interest, in the possession or receipt of the pro- fits of the land, and no person entitled under such instrument shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument ; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have ob- tained the possession or receipt of the profits of such land in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession ; and when the person claiming such land, or the person through whom he claims, shall have become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred, or such condition was broken : provided always, that when any right to make an entry or to bring an action to recover any land, by reason of any forfeiture or breach of condition, shall have first accrued in respect of any estate or interest in rever- sion or remainder, and the land shall not have been recovered by virtue of such right, the right to make an entry or bring an action to recover such land shall be deemed to have first accrued in respect of such estate or interest, at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened : provided also, that a right to make an entry or to bring an action to recover any land, shall be deemed to have first accrued in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in pos- session, by the determination of any estate or estates in res- pect of which such land shall have been held, or the profits thereof shall have been received, notwithstanding the person

On abatement  
or death.

On alienation.

In cases of  
future estates.

In case of for-  
feiture or  
breach of con-  
ditions.

If advantage  
of forfeiture is  
not taken by  
remainder man,  
he shall have a  
new right when  
estate comes in-  
to possession.

Reversioner to  
have a new  
right.

claiming such land, or some person through whom he claims, shall at any time previously to the creation of the estate or estates which shall have determined, have been in possession or receipt of the profits of such land.

An administrator to claim, as if he obtained estate without interval.

IV. And be it further enacted, That for the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose chattels he shall be appointed administrator, shall be deemed to claim, as if there had been no interval of time between the death of such deceased person and the granting of the letters of administration.

In the case of a tenant at will, the right to be deemed to have accrued at the expiration of one year.

V. And be it further enacted, That when any person shall be in possession or in the receipt of the profits of any land as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims to make an entry or bring an action to recover such land, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined: provided always, that no mortgage or *cestuique* trust shall be deemed to be a tenant at will within the meaning of this clause, to his mortgagee or trustee.

No person after a tenancy from year to year to have any right but from the expiration of the first year or last payment.

VI. And be it further enacted, That when any person shall be in possession or in receipt of the profits of any land, as tenant from year to year, or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims to make an entry or bring an action to recover such land, shall be deemed to have first accrued at the determination of the first of such years or other period, or at the last time when any rent payable in respect of such tenancy shall have been received, (which shall last happen.)

When rent amounting to 20s. reserved by a lease in writing, shall have been wrongfully received, no right to accrue on the determination of the lease.

VII. And be it further enacted, That when any person shall be in possession or in receipt of the profits of any land, by virtue of a lease in writing, by which a rent amounting to the yearly sum of twenty shillings or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land in reversion, immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land subject to such lease, or of the person through whom he claims to make an entry or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and no such right shall be deemed to have first accrued, upon the determination of such lease to the person rightfully entitled.

VIII. And be it further enacted, That no person shall be deemed to have been in possession of any land, within the meaning of this Act, merely by reason of having made an entry thereon.

A mere entry not to be deemed possession.

IX. And be it further enacted, That no continual or other claim upon or near any land shall preserve any right of making an entry or of bringing an action.

No right to be preserved by continued claim.

X. And be it further enacted, That when any one or more of several persons entitled to any land as coparceners, joint tenants, or tenants in common, shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, for his or their own benefit, or for the benefit of any person or persons, other than the person or persons entitled to the other share or shares of the same land, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them.

Possession of one coparcener, &c., not to be the possession of others.

XI. Provided always, and be it further enacted, That when any acknowledgment of the title of the person entitled to any land shall have been given to him or his agent in writing, signed by the person in possession or in receipt of the profits of such land, then such possession or receipt of or by the person by whom such acknowledgment shall have been given, shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same; and the right of such last mentioned person, or any person claiming through him, to make an entry or to bring an action to recover such land, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given.

Acknowledgment in writing equivalent to possession or receipt of rent.

XII. Provided also, and be it further enacted, That when no such acknowledgment as aforesaid shall have been given before the time appointed for this Act to take effect, and the possession or receipt of the profits of the land shall not at the time of this Act taking effect have been adverse to the right or title of the person claiming to be entitled thereto, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry or bring an action to recover such land, at any time within five years next after the time appointed for this Act to take effect.

Where possession is not adverse at the time of passing the Act, the right shall not be barred until after 5 years.

XIII. Provided always, and be it further enacted, That if at the time at which the right of any person to make an entry or bring an action to recover any land shall have first accrued

Persons under disability to be allowed ten years.

as aforesaid, such person shall have been under any of the disabilities hereinafter mentioned; (that is to say,) infancy, coverture, idiocy, lunacy, unsoundness of mind, or absence beyond seas, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry or bring an action to recover such land, at any time within ten years next after the time at which the person, to whom such right shall first have accrued as aforesaid, shall have ceased to be under any such disability, or shall have died, (which shall have first happened.)

But no action shall be brought beyond 40 years after the right accrued.

XIV. Provided nevertheless, and be it further enacted, That no entry or action shall be made or brought by any person, who, at the time at which his right to make an entry or to bring an action to recover any land shall have first accrued, shall be under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within forty years next after the time at which such right shall have first accrued, although the person under disability at such time, may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the date at which he shall have ceased to be under any such disability, or have died, shall not have expired.

No further time to be allowed for a succession of disabilities.

XV. Provided always, and be it further enacted, That when any person shall be under any of the disabilities hereinbefore mentioned at the time at which his right to make an entry or to bring an action to recover any land shall have first accrued, and shall depart this life without having ceased to be under any such disability, no time to make an entry or to bring an action to recover such land, beyond the said period of twenty years next after the right of such person to make an entry or to bring an action to recover such land, shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person.

What parts shall not be deemed beyond seas.

XVI. And be it further enacted, That no part of the British Provinces of Nova Scotia (including Cape Breton,) Lower Canada, Upper Canada, nor the Province of New Brunswick, nor Newfoundland, shall be deemed to be beyond seas, within the meaning of this Act.

When the right to an estate in possession is barred, the right of the same person to future estates shall also be barred.

XVII. And be it further enacted, That when the right of any person to make an entry or bring an action to recover any land to which he may have been entitled for an estate or interest in possession, shall have been barred by the determination of the period hereinbefore limited, which shall be applicable in such case, and such person shall at any time during the said period have been entitled to any other estate, interest,

right or possibility, in reversion, remainder or otherwise, in or to the same land, no entry or action shall be made or brought by such person, or any person claiming through him, to recover such land, in respect of such other estate, interest, right or possibility, unless in the meantime such land shall have been recovered by some person entitled to an estate, interest or right, which shall have been limited or taken effect after or in defeasance of such estate or interest in possession.

XVIII. And be it further enacted, That when the right of a tenant in tail of any land to make an entry, or to bring an action to recover the same, shall have been barred by reason of the same not having been made or brought within the period hereinbefore limited, which shall be applicable in such case, no such entry or action shall be made or brought by any person claiming any estate, interest or right which such tenant in tail might lawfully have barred.

When tenant in tail is barred, remainder man shall not recover.

XIX. And be it further enacted, That when a tenant in tail of any land, entitled to recover the same, shall have died before the expiration of the period hereinbefore limited, which shall be applicable in such case for making an entry or bringing an action to recover such land, no person claiming any estate, interest or right which such tenant in tail might lawfully have barred, shall make an entry or bring an action to recover such land, but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or brought such action.

Possession adverse to a tenant in tail shall run on against the remainder man.

XX. And be it further enacted, That no person claiming any land in equity shall bring any suit to recover the same but within the period during which, by virtue of the provisions hereinbefore contained, he might have made an entry or brought an action to recover the same respectively, if he had been entitled at law to such estate, interest or right in or to the same as he shall claim therein in equity.

Limitation as to suits in equity.

XXI. Provided always, and be it further enacted, That when any land shall be vested in a trustee upon any express trust, the right of the *cestuique* trust, or any person claiming through him, to bring a suit against the trustee, or any person claiming through him, to recover such land, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser, and any person claiming through him.

In cases of express trust, the right not to accrue until conveyance.

XXII. And be it further enacted, That in every case of a concealed fraud, the right of any person to bring a suit in equity for the recovery of any land, of which he, or any person

As to cases of fraud.

through whom he claims, may have been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud shall, or with reasonable diligence might have been first known or discovered: provided, that nothing in this clause contained shall enable any owner of lands to have a suit in equity for the recovery of such lands, or for setting aside any conveyance of such lands, on account of fraud against any *bona fide* purchaser for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase, did not know, and had no reason to believe, that any such fraud had been committed.

Saving the jurisdiction of Courts of Equity.

XXIII. Provided always, and be it further enacted, That nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of Courts of Equity, in refusing relief on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Mortgager to be barred at the end of 20 years from the time when the mortgagee took possession, or from the last written acknowledgment.

XXIV. And be it further enacted, That when a mortgagee shall have obtained the possession or receipt of the profits of any land comprised in his mortgage, the mortgager, or any person claiming through him, shall not bring a suit to redeem the mortgage, but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgager, or of his right of redemption, shall have been given to the mortgager, or some person claiming his estate, or to the agent of such mortgager or person in writing, signed by the mortgagee, or the person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given; and when there shall be more than one mortgager, or more than one person claiming through the mortgager or mortgagers, such acknowledgment, if given to any of such mortgagers or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagers or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land, by, from or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgager or mortgagers a right to re-



deem the mortgage, as against the person or persons entitled to any other undivided or divided part of the money or land; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgager or mortgagees shall be entitled to redeem the same divided part of the land, on payment with interest of the part of the mortgage money, which shall bear the same proportion to the whole of the mortgage money, as the value of such divided part of the land shall bear to the value of the whole of the land comprised in the mortgage.

XXV. And be it further enacted, That at the determination of the period limited by this Act to any person for making an entry or bringing any action or suit, the right and title of such person to the land for the recovery whereof such entry, action or suit respectively might have been made or brought within such period, shall be extinguished.

At the end of the period of limitation the right to be extinguished.

XXVI. And be it further enacted, That the receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him, (but subject to the lease) be deemed to be the receipt of the profits of the land, for the purposes of this Act.

Receipt of rent deemed receipt of profits.

XXVII. And be it further enacted, That no writ of right, or writ in nature of a writ of right, and no other action, real or mixed, (except a writ of right of dower, or writ of dower, *unde nihil habet*, or an ejectment) shall be brought after the first day of January one thousand eight hundred and thirty-eight.

Real and mixed actions abolished after 1st January, 1838.

XXVIII. And be it further enacted, That no action or suit or other proceeding, shall be brought to recover any sum of money, secured by any mortgage, judgment or lien, or otherwise charged upon or payable out of any land at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto shall have been given in writing, signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto, or his agent, and in such case, no such action or suit or proceeding shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one, was given.

Money charged upon land and legacies to be deemed satisfied at the end of 20 years, if there shall be no interest paid or acknowledgment in the meantime.

XXIX. And be it further enacted, That no arrears of dower, nor any damages on account of such arrears, shall be

No arrears of dower to be

recovered for more than six years.

recovered or obtained by any action or suit, for a longer period than six years next before the commencement of such action or suit.

So much of Act of the 21 G. 3, as relates to limitation of actions of or for real estate repealed, &c.

XXX. And be it further enacted, That so much of an Act made and passed in the twenty-first year of the reign of King George the Third, intituled "An Act for the limitation of actions, and for avoiding lawsuits," as relates to the limitation of actions of or for real estate, be, and the same is hereby repealed, except as the same may affect any action now depending in any of His Majesty's Courts in this Island.

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CAP. XXXI.

Sec 3 Vic, c. 23.  
Repeated by 11  
Vic. c. 7.

An Act for levying an assessment on all lands in this Island.

\* \* \* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

Continued by  
1 V. c. 17, 2 V.  
(2d ses.) c. 1, 3  
Vic., c. 3, and  
4 Vic., c. 2.  
Expired.

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CAP. XXXII.

An Act for the increase of the Revenue of this Island.

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CAP. XXXIII.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-seven.

ANNO PRIMO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini*, 1835, in the fifth year of the reign of our late Sovereign Lord WILLIAM the Fourth, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, King, Defender of the Faith:

1838.

SIR CHARLES  
A. FITZROY,  
Lt. Governor.

E. J. JARVIS,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-third day of January, 1838, and in the first year of Her present Majesty's reign; being the fifth session of the fourteenth General Assembly convened in the said Island.

G. DALRYMPLE,  
Speaker.

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## CAP. I.

An Act to amend an Act passed in the third year of His late Majesty's reign, intituled "An Act to regulate the performance of statute labor on the highways, and for other purposes therein mentioned."

Repealed by  
6 Vic., c. 1.

## CAP. II.

Repealed by 12  
Vic. c. 26. An Act to provide for the management of the Charlottetown  
ferry, by the use of a team-boat.

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## CAP. III.

Expired.  
5 W. 4, c. 14. An Act for further continuing an Act passed in the fifth  
year of the reign of His late Majesty King William the  
Fourth, intituled "An Act to provide for the payment of  
interest on warrants, which are not paid at the Treasury  
on demand."

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## CAP. IV.

Expired. An Act to continue an Act passed in the seventh year of His  
late Majesty's reign, empowering the inhabitants of Char-  
lottetown to assess themselves for the purpose of purchasing  
or renting sites for engine houses, and for erecting such  
buildings thereon.

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## CAP. V.

Expired. An Act to continue an Act passed in the fourth year of His  
late Majesty's reign, for the better preventing accidents by  
fire within the town of Charlottetown.

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## CAP. VI.

Expired. An Act for the regulation of the public wharf of George-  
town.

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## CAP. VII.

Expired. An Act to provide salaries for subcollectors of customs at  
the several outports therein mentioned.

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## CAP. VIII.

Repealed by  
8 Vic. c. 3. An Act to make provision for the payment of a portion of  
the expense of maintaining lighthouses, and for the erec-  
tion and maintenance of buoys and beacons.

## CAP. IX.

An Act to alter and amend an Act passed in the sixth year of the reign of His late Majesty, intituled "An Act to consolidate and amend the election laws." Repealed by 11 Vic., c. 21.

## CAP. X.

An Act for the regulation of grist mills in this Island, and to repeal the Acts formerly passed for that purpose.

WHEREAS it is expedient that the statutes now in force, relating to grist mills, should be repealed, and that the provisions thereof should be consolidated and amended: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing hereof, no greater toll shall be taken by any miller within this Island, for grinding wheat, rye, barley, oats, buckwheat or Indian corn, than one fourteenth part; and for kiln-drying, shelling and grinding oats into meal, the toll shall be one sixth part, and no more.

Rate of toll for grinding wheat, &c.

II. And be it enacted, That no greater toll shall be taken by any miller as aforesaid, for pearling barley, than eight pounds for every bushel delivered to any such miller to be manufactured into pearl barley.

Rate of toll for pearling barley.

III. And be it enacted, That if oats shall be brought to any mill, dried and ready for grinding, the toll to be taken for shelling and grinding such grain, shall be equal to one sixteenth part, and no more.

Rate of toll for grinding oats.

IV. And be it enacted, That every miller who keeps, or may in time coming keep a bolting mill, shall be obliged to bolt the meal of all wheat, rye, barley or buckwheat, ground at his mill, when required, and that the toll to be taken for the same shall not exceed one pint of that grain per bushel, to be taken in addition to the former toll; and that every miller who keeps, or may hereafter keep, an oatmeal sifter, shall be obliged to sift the meal of all oats ground at his mill when so required, without taking away toll for so doing: provided, that the quantity of any one grist of such grain shall amount to twenty-five bushels; but for any meal sifted when the grist at one time shall be less than that number of bushels, then the toll to be taken for such less quantity shall not exceed one quart of that grain per bushel, to be also taken in addition to the former toll of the said grain; and all tolls allowed under this Act shall be taken from the grist in the state in which it is brought to the mill; and every miller re-

Miller keeping a bolt, to bolt all flour of wheat, &c., if required.

Rate of toll for bolting.

Miller to sift oatmeal, if the quantity be 25 bushels, gratis.

Rate of toll for less quantity.

Tolls how to be taken.

Penalty on miller.

Miller not obliged to grind unclean corn, &c.

Miller to return bran, &c.

Imposes a penalty on miller taking greater toll, or neglecting or refusing to deliver grain or changing the same.

Penalty for either of those offences.

Grain to be ground in the order in which it is delivered at the mill.

Miller to be provided with scales, &c.

No penalty unless grist is weighed before leaving mill.

All prosecutions to be commenced within 10 days after receipt of flour by owner.

Copy of this Act to be hung

fusing to comply herewith, shall be subject to and incur a penalty of forty shillings for every transgression; but no miller shall be obliged to receive and grind any Indian corn, wheat, rye, barley, or buckwheat, which shall not be clean, dry, and in good order.

V. And be it enacted, That no miller shall be entitled to keep any bran or other offal that may be made from any grain manufactured as aforesaid, but that the same shall belong to the owner of such manufactured article; provided the same shall be removed with the flour, meal, or pearl barley, but not otherwise, except with the consent of the miller; but no miller shall be liable to any penalty, if the owner of any grist shall not send a bag or bags at the time of sending such grist to the mill, sufficient to contain such bran or offal.

VI. And be it enacted, That if any miller within this Island shall demand, take or receive any greater toll than is herein directed to be taken, or who shall change any grain so delivered as aforesaid to be ground or manufactured (except with the consent of the owner thereof), or who shall neglect or refuse to deliver any such grain as aforesaid, when ground or manufactured, shall for every such offence, neglect or refusal, forfeit and pay a fine not exceeding two pounds, over and above any damage the owner of the same may thereby sustain.

VII. And be it enacted, That all millers within this Island shall be obliged, and they are hereby required, in all time coming, to grind all grain brought to their respective mills regularly, so as that whoever brings grain first shall be first served, without the said millers, or any of them, giving undue preference to one man beyond another in point of time or priority, under a penalty of two pounds for every transgression.

VIII. And be it enacted, That every miller shall be provided with scales and weights, and that each grist, at being brought into the mill, shall be weighed by the miller, if required, under a penalty of two pounds, and an entire weight of the flour or meal of such grist be returned, excepting the deduction for toll allowed by this Act; but no conviction shall take place on any prosecution that may be made against any miller for any deficiency on the grist received from the mill, unless such grist shall have been weighed as aforesaid, and unless such prosecution shall be commenced within ten days after the owner shall have received the flour or meal as aforesaid.

IX. And be it enacted, That each miller shall be provided with a copy of this Act within two calendar months after the

publication hereof, or within three calendar months after his mill shall be erected, which copy he shall keep posted up in some conspicuous part on the inside of his mill, on pain of forfeiting five shillings for each offence.

up in mill, under penalty of 5s.

X. And be it enacted, That all fines arising under and by virtue of this Act, shall be recovered, over and above the costs of prosecution, before any one or more of Her Majesty's Justices of the Peace, upon the oath of one or more credible witness or witnessess and be levied, upon due conviction, by warrant of distress, and sale of the offender's goods and chattels, under the hand and seal, or hands and seals, of such Justice or Justices; and for want of sufficient distress whereon to levy, the offender to suffer imprisonment for such time as the Justice or Justices, before whom he may be prosecuted, may in his or their discretion think just and adequate to the offence, so as the said imprisonment shall not exceed two calendar months; and one half of every such fine imposed by this Act shall be paid into the Treasury of this Island, to and for the use of Her Majesty's Government, and the other half to the person who shall prosecute for and recover the same.

Mode of recovery of fines imposed by this Act.

Appropriation of fines.

XI. And be it enacted, That so much of an Act passed in the forty-third year of His late Majesty King George the Third, intituled "An Act for making perpetual certain laws therein mentioned, and for continuing sundry other laws that are near expiring," as relates to an Act passed in the thirtieth year of His said late Majesty's reign, intituled "An Act ascertaining the toll to be taken at the different grist mills in this Province;" and also an Act passed in the fourth year of His late Majesty King William the Fourth, intituled "An Act for regulating the toll for the manufacture of oatmeal and pearl barley, and to amend an Act ascertaining the toll to be taken at grist mills," shall be, and the same are hereby repealed.

Repeals Act of the 43 G. 3, c. 1, so far as relates to Act of the 30th year of the same King, c. 1.

Also Act of 4 W. 4, c. 3.

## CAP XI.

An Act to amend an Act, intituled "An Act to regulate and establish the stated times and places for holding the Supreme Court in King's and Prince Counties; and to constitute the Michaelmas Term of the said Court in Queen's County, a term for the trial of issues for a limited period."

Repealed by 12 Vic., c. 9.

## CAP. XII.

An Act for regulating the several jails within this Island, and establishing prison discipline therein.

Amended by 2 Vic., (2d ses.) c. 6.  
Repealed by 12 Vic. c. 12.

## CAP. XIII.

**Expired.** An Act to prevent the streets and squares of Charlottetown, being encumbered with nuisances.

## CAP. XIV.

An Act to prevent disorderly riding, and to regulate the driving of carriages on the streets and public roads.\*

**Persons not to ride at full speed on any street of any town in this Island.**

**BE** it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the publication of this Act, it shall not be lawful for any person to ride at full speed, or gallop any horse, mare, gelding, mule or ass, on any street in any of the towns within this Island.

**Regulates the driving of trucks, &c.**

**II.** And be it enacted, That each and every person who shall hereafter drive any truck, sled or wheel carriage, used for the carriage of goods, within the town of Charlottetown, or any other town within this Island, shall not, on any pretence whatever, drive swifter than a slow or easy trot; and shall at all times take care to lead his, her or their horse or horses, with a halter, or to guide them with proper reins.

**Regulates the driving of sleighs, &c.**

**III.** And be enacted, That all and every person or persons who shall hereafter drive any sleigh, or any truck, cart or chaise, or other wheel carriage whatsoever, within any town, or on any of the highways in this Island, shall drive the same in a moderate and careful manner.

**Pointed stakes not to remain on empty sleds.**

**IV.** And be it further enacted, That it shall not be lawful for any person or persons, travelling with empty sleds, to suffer pointed stakes to remain standing, or carry frames, or projecting pieces, outside of the said sled.

**Persons riding or driving, have to pass others coming in opposite direction.**

**V.** And be it further enacted, That every person who shall ride any horse, or drive any gig, chaise, carriage, waggon, cart, truck, sleigh or sled, on any street in any town within this Island, or on any public road or highway within the same, every such person or persons shall always hereafter in meeting any other horse, gig, chaise, carriage, waggon, cart, truck, sleigh or sled, leave the same on his right hand side in passing.

**Loaded waggon &c., not to be**

**VI.** And be it further enacted, That whenever any carriage, waggon, cart, truck, sleigh or sled, shall at any time hereafter

\* This Act in so far as relates to Charlottetown has been repealed by a law of the City Council of said town passed under the powers vested in said Council by the Act of Incorporation, 18 Vic., c. 34, s. 37.



stop, or be suffered to stand, loaded or unloaded, on any of the said streets or highways, every such carriage, waggon, cart, truck, sleigh or sled, shall not be placed nearer to the centre of such street or highway than two feet.

placed nearer centre of highway than two feet.

VII. And be it further enacted, That every person offending against any of the foregoing regulations of this Act, shall, upon conviction, on the oath of one credible witness, before any one of Her Majesty's Justices of the Peace for the County wherein the offence shall have been committed, or on the view of any one of such Justices, forfeit and pay for each and every offence a sum not exceeding ten shillings, together with costs, over and above the amount of damages sustained, if the same be under five pounds; and in case of refusal or neglect to pay the same, shall be levied by warrant of distress on the goods and chattels of such offender; and for the want thereof, such offender shall be committed by such Justice to the County Jail, for a period not exceeding three months.

Imposes a fine on persons offending against the provisions of this Act, and points out mode of recovery.

Damages also to be recovered, if under £5, in same manner as fine.

VIII. And be it further enacted, That all and every person and persons who shall hereafter drive any sleigh or sled, in any of the streets or highways within this Island, shall have affixed to the harness used for the purpose of drawing such sleigh or sled, at least one good and sufficient bell, under the penalty of five shillings for each and every offence: provided, that no person shall be liable to more than one penalty in one and the same day—to be recovered, with costs, in manner hereinbefore mentioned.

Persons driving sleighs to have at least 1 bell affixed to harness, under penalty of 5s.

IX. And be it further enacted, That all prosecutions under this Act shall be commenced within six days after the committing of the offence.

Commencement of prosecutions under this Act.

X. And be it further enacted, That all moneys arising from fines under the provisions of this Act, shall be paid into the public Treasury of this Island.

Appropriation of fines.

XI. And be it further enacted, That an Act made and passed in the twenty-first year of the reign of His late Majesty King George the Third, intituled "An Act to prevent disorderly riding of horses, and driving of carts, trucks and sleds, or any other carriage whatsoever, within Charlottetown," shall be, and the same is hereby repealed.

Repeals Act of 21 G. 3, c. 14.

### CAP. XV.

An Act relating to the office of Surrogate and Judge of Probate of Wills, and for granting letters of administration.

See 6 Vic., c. 26, and 18 Vic. c. 22.

WHEREAS it hath become necessary to invest the Surrogate and Judge of Probate of Wills, and for granting

Surrogate or Judge of Probate may issue process of contempt.

By whom to be executed.

Persons guilty of contempt may be committed to prison.

Surrogate or Judge of Probate to appoint guardians to minors.

Mode of appointment.

Powers of guardians.

letters of administration, with sufficient power to enable him to carry his orders and decisions into effect: Be it enacted, by the Lieutenant Governor, Council and Assembly, that when the said Surrogate or Judge shall have issued any citation, monition, precept, or order, commanding any executor or administrator, executor *de son tort*, or any other person or persons who are or may be within his legitimate jurisdiction, to be or appear before him, or to do, or abstain from doing, any act, matter or thing, which by the rules of the said Court, or the laws of Great Britain, or of this Island, he, she or they would have been bound to have done, or to have abstained from, in case the person upon whom such summons, citation, monition, precept, or order, shall have been duly served, shall refuse or neglect to appear, or shall refuse or neglect to obey the lawful order of the said Surrogate or Judge, it shall and may be lawful for the said Surrogate or Judge, to issue process of contempt against the person or persons so offending— which said process shall be executed by the Sheriff of the County in which the person or persons, guilty of such contempt, shall reside—or in case such Sheriff shall be of kin to the parties, or interested in the event of the matter pending before the said Surrogate or Judge, by the Coroner—and the parties against whom the same shall have issued shall be committed to prison, till they shall have purged their said contempt, to the satisfaction of the said Surrogate or Judge, agreeably to the rules of the said Court.

II. And be it further enacted, That when the said Surrogate or Judge shall have been applied to, by or on behalf of any minor or minors entitled to real or personal estate within his jurisdiction, to assign him, her or them a guardian or guardians, it shall and may be lawful to and for the said Surrogate or Judge, and he is hereby empowered and required, to assign such minor or minors a guardian or guardians, by warrant for that purpose under his hand and seal of office: provided, that there be no legal objection to the said guardians, in consequence of either the laws of Great Britain or this Island; and such guardians when so appointed, shall be vested with the like powers and authority as guardians are in England and this Island, or as if they had been appointed by the Chancellor of this Island.

## CAP. XVI.

An Act to further amend an Act of the tenth year of the reign of His late Majesty King George the Fourth, intituled  
 “ An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for

See note to 10 G. 4, c. 10, for other Acts in amendment.

those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation." Repealed by 14 Vic., c. 1.

\* \* The provisions of this Act may affect titles to lands but are omitted pursuant to Act 12 Vic., cap. 23.

### CAP. XVII.

An Act to continue for one year, and to amend an Act passed in the seventh year of His late Majesty's reign, intituled "An Act for the increase of the revenue of this Island." Expired.

### CAP. XVIII.

An Act to reduce the penalty imposed on certain offences by an Act of the Imperial Parliament, passed in the seventh year of the reign of His late Majesty, intituled "An Act for punishing mutiny and desertion, and for the better payment of the army and their quarters." See 50 G. 3, c. 3, and 2 W. 4, c. 11.

**W**HEREAS by an Act of the Imperial Parliament of the United Kingdom, made and passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act for punishing mutiny and desertion, and for the better payment of the army and their quarters," it is enacted, that any person who shall unlawfully have in his or her possession or keeping, or who shall knowingly detain, buy, exchange or receive from any soldier or deserter, or any other person, on any pretence whatsoever, or shall solicit or entice any soldier, or shall be employed by any soldier, knowing him to be such, to sell any arms, ammunition, clothes, or military furniture, or any provisions, or any sheets or other articles used in barracks, provided under barrack regulations, or regimental necessaries, or any article of forage provided for any horses belonging to Her Majesty's service, or shall change the color of any clothes as aforesaid, shall forfeit, for every such offence any sum not exceeding twenty pounds, nor less than five pounds, together with treble value of all or any of the several articles of which such offender shall so become possessed: and it is in the said recited Act provided, that it shall be lawful for the Legislatures of each or any of Her Majesty's Colonies, on the recommendation of the officer for the time being administering the Government of any such Colony, but not otherwise, to make provision by law for reducing such pecuniary penalty, if not exceeding twenty pounds, nor less than five pounds, to such amount as may to any such Legislature appear to be better adapted to the ability and pecuniary means

In prosecutions under Mutiny Act, magistrates may mitigate the penalty imposed by that Act, on persons purchasing soldiers' necessaries, &c. to any sum less than £5, but not less than 5s.

of Her Majesty's subjects, and others inhabiting the same: and whereas the lesser amount of the said penalty is deemed too high, comparatively with the ability and pecuniary means of the people of this Colony, and His Excellency the Lieutenant Governor and Commander-in-chief of this Island has recommended that the same be lowered: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing hereof, it shall be lawful for the magistrates before whom any person shall or may be convicted for any offence against the provisions as hereinbefore set forth of the said recited Act, to fine each and every person so convicted, any sum less than the said penalty of five pounds, but not less than five shillings; and that it shall not be lawful for any magistrate or magistrates to fine any person, although convicted for any such offence as aforesaid, any greater sum than a penalty of five pounds, over and above the treble value of any such clothes—any thing in the said recited Act to the contrary thereof notwithstanding.

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#### CAP. XIX.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and thirty-eight.

ANNO SECUNDO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-second day of January, *Anno Domini* 1839, in the second year of the Reign of our Sovereign Lady VICTORIA by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith: 1839.

Sir CHARLES A. FITZROY,  
Lt. Governor.

E. J. JARVIS,  
President.

W. COOPER,  
Speaker.

Being the first session of the fifteenth General Assembly convened in the said Island.

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## CAP. I.

An Act to further continue for a limited period an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled "An Act for regulating juries, and further declaring the qualifications of jurors." Expired.

## CAP. II.

See 15 Vic. c. 1. An Act for further continuing an Act intituled "An Act to regulate the fisheries of this Island."

Continues Act of 5 G. 4 c. 12, regulating fisheries for 10 years, and to the end of the then next session of the General Assembly.

9 G. 4, c. 2.

WHEREAS it is deemed necessary to protect the fisheries of this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that an Act passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act to regulate the fisheries of this Island," and continued for ten years by an Act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An Act for continuing several laws near expiring," be, and the same is hereby continued for the space of ten years, and from thence until the end of the then next session of the General Assembly.

## CAP. III.

Expired. An Act to continue for a limited period three several Acts therein mentioned.

\* \* This Act continued for six years 3 W. 4, c. 37, and also 3 W. 4, c. 21, and 3 G. 4, c. 8.

## CAP. IV.

Repealed by 8 Vic. c. 16. An Act to continue and amend the Act regulating the public wharf of Charlottetown.

## CAP. V.

Repealed by 11 Vic. c. 16. An Act to authorize the appointment of coal meters for Charlottetown.

## CAP. VI.

Continued by 3 Vic. c. 11, and 4 Vic. c. 12. Expired. An Act for granting a bounty on vessels engaged in the fisheries of this Island.

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 CAP. VII.

An Act for the improvement of property at Georgetown, and to provide against accidents by fire.

Amended by  
3 Vic., c. 2, and  
repealed by 5  
Vic., c. 8.

\*\* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

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 CAP. VIII.

An Act for the protection of sheep against vicious dogs.

Expired.

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 CAP. IX.

An Act to provide against the running at large of hogs in the streets and squares of Charlottetown.

Expired.





ANNO SECUNDO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Twenty-second day of January, *Anno Domini*, 1839, in the second year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

1839

Sir CHARLES A.  
FITZROY,  
Lt. Governor.

T. H. HAVILAND,  
President of  
Council.

And from thence continued, by prorogation, to the twelfth day of March, 1839, and in the second year of Her said Majesty's Reign; being the second Session of the fifteenth General Assesly convened in the said Island.

W. COOPER,  
Speaker.

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## CAP. I.

An Act to further continue for one year, and to amend an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, for raising a revenue in this Island.

Expired.

## CAP. II.

Expired.

An Act relating to Treasury Warrants.

## CAP. III.

Repealed by 10  
Vic., c. 11.

An Act for rendering more effectual the laws now in force, for regulating the retail of strong and spirituous liquors.

## CAP. IV.

8 G. 4, c. 7.

An Act to revive and continue an Act, for regulating the sale of the interest of leaseholders when taken in execution.

\*\*\* This Act revived and continued for 10 years the Act 8 G. 4, c. 7, but the last mentioned Act has been repealed by 15 Vic., c. 5; this Act is therefore omitted. Its provisions may affect titles to lands, but see 23 Vic., c. 10, s. 4.

## CAP. V.

Repealed by 8  
Vic., c. 3.

An Act for providing buoys and beacons for the harbors therein mentioned, and for a nautical survey of the harbors of Charlottetown and Three Rivers.

## CAP. VI.

Repealed by 12  
Vic., c. 12.

An Act to amend an Act for regulating the several jails within this Island, and establishing prison discipline therein.

## CAP. VII.

3 W. 4, c. 23.

An Act to revive and continue an Act therein mentioned, relating to the shutting up of old roads.

\*\*\* The Act 3 W. 4, c. 23, which this Act revived and continued, has been repealed by 18 Vic., c. 26.

## CAP. VIII.

Disallowed by  
Her Majesty.

An Act for the relief of certain of the American loyalists and disbanded provincial troops, and their representatives.

## CAP. IX.

An Act to amend a certain Act therein mentioned, relating to pounds. 7 W. 4, c. 23.

WHEREAS an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act to repeal the laws now in force for regulating pounds, and to make more effectual provision in lieu thereof," has been found insufficient, inasmuch as the third section of the said Act requires, that before any trespassing beasts shall be impounded, the damage committed by them shall be viewed by one or more housekeepers, and a certificate under their respective hands, stating the time when, the place where, and the cattle (if known) by which such damage may have been committed, delivered to the pound-keeper; and in consequence of the delay occasioned in procuring the attendance of such housekeeper or housekeepers, much increased damage and injury have been sustained: for remedy whereof, be it enacted, by the Lieutenant Governor, Council and Assembly, that if any damage shall be done or occasioned by any horses, sheep, goats, swine, or neat cattle, by breaking into any inclosure, the fence whereof shall not be less than four feet and a half in height, and otherwise a lawful fence, it shall and may be lawful for the person or persons whose fence or fences shall have been broken, and whose inclosure shall have received such damage, to cause such horses, sheep, goats, swine, or neat cattle, to be taken to the nearest pound; and the keeper of such pound shall, and he is hereby required to receive such horses, sheep, goats, swine, or neat cattle, and to impound the same, until they shall be claimed by their respective owners — provided, that within twenty-four hours after such trespassing beasts shall have been impounded, the owner or occupier of such inclosure shall deliver or cause to be delivered, to the keeper of the pound, or leave, or cause to be left, at his dwelling house, or other place of residence, his affidavit, or the affidavit of one or more credible person or persons, sworn before and attested by a Justice of the Peace, or a true copy thereof, certified by said magistrate, stating the time when, and the place where such horses, sheep, goats, swine, or neat cattle, so impounded, committed such damage; and the said pound-keeper shall cause such impounded beast to be advertised, by posting up written notices in three of the most public places of the town, royalty, district, township or settlement, in which such pound is situate, within twenty-four hours after they shall have been impounded; and the person or persons injured may proceed against the owner or owners of such horses, sheep, goats, swine, or neat cattle, refusing to pay for the damage done by such horses, sheep, goats, swine, or neat

If horses, &c., break into inclosures, the fences of which are not less than 4½ feet in height, owners of inclosure may impound such horses, &c.

Keeper of pound to receive them.

Owner of inclosure to deliver to pound-keeper within 24 hours an affidavit of damage, &c.

Duty of pound-keeper.

Persons injured may proceed against owners of horses, &c.

cattle, as is directed by an Act made and passed in the third year of his said late Majesty's reign, intituled "An Act to consolidate, amend, and reduce into one Act the several Acts of the General Assembly relating to trespasses, and for other purposes therein mentioned;" and it shall be the duty of the pound-keeper to provide for and sustain all such horses, sheep, goats, swine or neat cattle impounded, with necessary and wholesome provender and water; and the owner or owners of such horses, sheep, goats, swine or neat cattle shall pay to the keeper of the pound, over and above the amount of damages which shall be adjudged to have been done by the said horses, sheep, goats, swine, or neat cattle, for each and every day the same shall be impounded, for every horse and head of neat cattle so provided and sustained, the sum of one shilling and three pence, and for every sheep, goat or swine, the sum of six pence; and if the owner or owners of such horses, sheep, goats, swine, or neat cattle shall refuse to pay the same to the keeper of the pound, together with the charges of advertising, within fourteen days after the trespassing beasts shall be impounded, then the said keeper of the pound shall cause the horses, sheep, goats, swine or neat cattle, so impounded as aforesaid, to be publicly sold, and the money arising therefrom, after deducting the charge of the said keeper for his fees, and for supporting the said horses, sheep, goats, swine or neat cattle, whilst so impounded, and the damages adjudged to the person or persons injured as aforesaid, shall be paid to the owner or owners of the horses, sheep, goats, swine, or neat cattle so impounded and sold as aforesaid; and if no owner or owners shall appear within six months, the money so remaining shall be paid into the Treasury of this Island, to and for the purpose of erecting and maintaining such pounds.

II. And be it further enacted, That if any person or persons who shall have impounded, or caused to have been impounded, any horses, sheep, goats, swine, or neat cattle as aforesaid, shall fail or neglect to deliver, or cause to be delivered, to the keeper of the pound, or to leave, or cause to be left, at his dwelling house or place of residence, such affidavit as aforesaid, within the time hereinbefore limited for that purpose, the said pound-keeper shall not in such case exact or take from the owner or owners of such impounded beasts, any fees, or any sum whatever for his charge in supporting such horses, sheep, goats, swine, or neat cattle; but the person or persons so failing and neglecting shall be liable to pay to the said pound-keeper, over and above his other fees by this Act allowed, the sum of one shilling and three pence for every horse and head of neat cattle, and the sum of sixpence for every sheep, goat or swine, for each and every day the same shall be provided and sustained by him, before being claimed by the owner or owners thereof respectively; and in default of pay-

**Further duty of pound-keeper.**

**Owner of horses &c. to pay to pound-keeper cost of feeding same.**

**Remedy of pound-keeper on owners refusing to pay the same.**

**Appropriation of proceeds of sale.**

**If owner of inclosure neglect to furnish the affidavit required by this Act, pound-keeper not entitled to demand costs of feeding horses, &c., from the owners thereof.**

**Remedy of pound-keeper in such case.**

ment, the same to be recovered on the oath of such pound-keeper, or other credible witness or witnesses, before any one of Her Majesty's Justices of the Peace for the County in which such pound is situated, and levied, with reasonable costs, by warrant of distress and sale of the offender's goods and chattels.

Mode of recovery thereof.

III. And be it further enacted, That the following fees shall be allowed to pound-keepers for the following services:

For receiving and impounding, for every horse and head of neat cattle	£0	1	6	Fees of pound-keeper for receiving and impounding horses, &c.
For sheep, goats, and swine, per head	0	0	6	
And an equal sum for every twenty-four hours the same may be detained.				
Advertising,		0	3	0

IV. And be it further enacted, That the third clause of the above recited Act, intituled "An Act to repeal the Laws now in force for regulating pounds, and to make more effectual provision in lieu thereof," be, and the same is hereby repealed.

Repeals 3d clause of Act of the 7th W. 4, c. 23.

#### CAP. X.

An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and thirty-nine. Executed.



ANNO TERTIO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-second day of January, *Anno Domini* 1839, in the second year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith: 1840.

Sir CHARLES  
A. FITZ ROY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-eighth day of January, 1840, and in the third year of Her said Majesty's reign; being the third session of the fifteenth General Assembly convened in the said Island.

W. COOPER,  
Speaker.

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## CAP. I.

An Act to amend an Act intituled "An Act to regulate the performance of statute labour on the highways, and for other purposes therein mentioned." Repealed by 6 Vic. c. 1.

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## CAP. II.

An Act to explain and amend an Act intituled "An Act for the improvement of property at Georgetown, and to provide against accidents by fire." Repealed by 5 Vic. c. 8.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

## CAP. III.

Expired.

An Act further to continue for one year, and to further amend an Act passed in the seventh year of his late Majesty's reign, for raising a revenue in this Island.

## CAP. IV.

Repealed by  
9 Vic. c. 3.

An Act to continue and amend an Act, intituled "An Act to impose a tax on dogs, with certain exceptions, and relating to other matters connected with them.

## CAP. V.

Amended by  
5 Vic. c. 10 and  
6 Vic. c. 13.  
Expired.

An Act to prohibit the exportation of oysters from this Island, for a limited period.

## CAP. VI.

This Act re-  
pealed by 7 W.  
4, c. 7.

An Act to repeal "An Act for regulating the herring and alewives' fisheries.

## CAP. VII.

Repealed by  
12 Vic. c. 26.

An Act to make further provision for the management of the Charlottetown ferry.

## CAP. VIII.

Executed.

An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and forty.

## CAP. IX.

Repealed by  
8 Vic. c. 14.

An Act to amend the Act now in force regulating apprentices.

## CAP. X.

Made perpetual  
by 11 Vic. c. 26.

An Act to prevent the running at large of sheep and goats in the town of Charlottetown.

\*\* This Act has been repealed by the City Council of Charlottetown, under the powers vested in the said Corporation by the Act 18 Vic. cap. 34, sec. 37.

## CAP. XI.

Expired.

An Act to continue for one year, the Act intituled "An Act for granting a bounty on vessels engaged in the fisheries of this Island."



## CAP. XII.

An Act to regulate the floating of logs, scantling, deals, and other kinds of wood, down the rivers and lesser streams in this Island.

Continued by 5 Vic. c. 37; amended by 6 Vic. c. 9, and further continued by 15 Vic. c. 2.

WHEREAS in floating timber, logs, deals, scantling, and other kinds of wood, down the rivers and lesser streams in this Island, and on the arrival thereof at a mill dam, the owner or owners refuse to allow such timber, logs, deals, scantling, or other kinds of wood, to pass through the waste gate thereof, whereby the party or parties owning the said timber, logs, deals, scantling, or other kinds of wood, are subjected to unnecessary labour in carrying the same over such dam: and whereas it is not just that parties should be so inconvenienced, delayed and put to unnecessary expense: Be it enacted, by the Lieutenant Governor, Council and Assembly, That at the expiration of three months from the passing of this Act, every person having a dam across any of the rivers or streams as aforesaid, shall, within one calendar month next after request in writing of any person or persons who shall or may have timber, logs, deals, scantling, or other kinds of wood, to float down any river or stream as aforesaid, cause a waste gate to be constructed (if not already so done), suitable and convenient to float through such timber, logs, scantling, deals, or other kinds of wood, as is or are usually floated down such river or stream: provided always, that no owner of any mill dam shall be obliged to make or open a waste gate as aforesaid, unless there be one or more saw mill or mills in operation above such mill dam, or unless the person or persons requiring such waste gate to be made and opened, shall make oath, according to the form in the schedule to this Act annexed, that he or they hath, or have at least sixty tons of timber, logs, deals, scantling, or other kinds of wood, to be floated through the said waste gate.

Time allowed owners of dams to make a waste gate suitable for floating timber, &c. through.

Owner of mill dam not obliged to make waste gate unless there be a saw mill above dam &c.

II. And be it further enacted, That such waste gate, when so made and constructed, shall remain and be kept up at the expense of the owner or owners of such mill dam, and be for the use of any party or parties who shall or may have timber, logs, deals, scantling or other kinds of wood, to float down such river or stream; and that such party or parties shall have the exclusive use of such waste gate and water for three hours in any one day, if required.

How waste gate is to be kept up when made.

Time allowed to parties for use of waste gate.

III. And be it further enacted, That should any damage be done to any waste gate, so made and constructed, by the passage of any timber, logs, scantling, deals, or other kinds of wood, through the same, and the party or parties by whom such damage shall have been so done, shall refuse to make

Where damage is done to waste gate, the mode of proceeding for recovery of damages by owner.

good the said damage without any unnecessary delay, after application therefor in writing shall have been made to the said party or parties, it shall any may be lawful for any Justice of the Peace, residing in the County wherein such damage shall or may have been done, to proceed as in a case of trespass; and should the damages be found to exceed the jurisdiction of such Justice, the party or parties, plaintiff or plaintiffs, may then proceed at discretion in the Supreme Court.

**Proof required before judgment be given for plaintiff.**

IV. And be it further enacted, That before any judgment shall be given for the plaintiff or plaintiffs in any suit or action so brought or commenced either before a Justice of the Peace or in the Supreme Court, the said plaintiff or plaintiffs shall be required to prove, on the oaths of at least two credible witnesses, that such waste gate was properly constructed, and of sufficient strength to admit of the floating through it of any timber, logs, deals, scantling, or other kinds of wood; and such action or proceedings shall be commenced within thirty days after such damage shall have been alleged to be done.

**£5 penalty on owners of dams not making waste gate, or of proper size, &c.**

V. And be it further enacted, That should any person or persons owning a mill dam, neglect or refuse to construct, or cause to be made and constructed, a good and sufficient waste gate, and of the proper size, for the purposes herein contemplated, on application as aforesaid, such person or persons, for every neglect or refusal, shall be subject and liable to a fine not exceeding five pounds, over and above any damage that may be sustained by the party or parties so making application as aforesaid — to be recovered before any one of Her Majesty's Justices of the Peace in the County wherein the mill dam unprovided with a waste gate as aforesaid shall be; one half of which fine shall be paid to the informant, and the other half into the treasury of this Island, to and for the use of Her Majesty's Government.

**Mode of recovery and appropriation of penalty.**

**Any river, &c., diverted from its natural course may be followed and used by owners of timber, logs, &c.**

**And owner of dam thereon to be liable to provisions of this Act.**

VI. And be it further enacted, That should any river or stream as aforesaid be diverted from its natural course, at any particular part thereof, and be carried through the lands of any individual, it shall and may be lawful for any person or persons floating timber, logs, deals, scantling, or other kinds of wood, down such river or stream, to follow and use the diverted course of such river or stream; and the owner or occupier of any mill dam, on any such diverted stream, shall be liable to all the provisions and enactments hereinbefore mentioned, and shall likewise be entitled to all the remedies hereinbefore mentioned, to owners or occupiers of other mill dams.

**Continuance of Act.**

VII. And be it enacted, That this Act shall continue and be in force for and during the space of two years, and no longer.

SCHEDULE to which this Act refers.

Prince Edward Island, }  
County: }

WE, *A. B.*, of (Township or settlement,) Farmers, (or as the case may be,) *C. D.*, of                      and *E. F.*, of  
do swear, that we are now jointly, or in severalty, legally possessed of, or well entitled to [here set forth the description of timber,] amounting to        tons, now lying in        creek (or stream,) or that we *bona fide* intend and really expect to have the said quantity of timber at the said creek (or stream,) and are desirous to convey, or cause the said        to be conveyed down the said creek (or stream,) to or near        but that the mill dam belonging to        will intercept the passage of the said        down the said creek (or stream,) and that we are desirous, that a proper passage or waste gate be provided through the said mill dam for the conveyance of the said

Oath to be made by owner, &c., of timber, logs, &c.

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CAP. XIII.

An Act to continue for a limited period an Act to prevent hawkers and pedlars travelling and selling in this Colony, without license.

This Act continued 5 W. 4, c. 12.  
Expired.

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CAP. XIV.

An Act to suspend for a limited period, certain parts of an Act made and passed in the fourth year of His late Majesty's reign, intituled "An Act for ascertaining and establishing the boundary lines of Counties and Townships, and parts of Townships, and for regulating the duty of Surveyors, and to repeal a certain Act therein mentioned." Expired.

\* \* \* This Act suspended the operation of Act of 4 W. 4, c. 15, so far as regarded Townships Nos. 10, 9, 8, 7, 6, 5, 4, 3, 2 and 1, to the end of the then next session of the General Assembly, and also empowered the Executive Government to suspend same in regard to any other Townships in this Island for a like period.

## CAP. XV.

For other Acts for prevention of illicit trade, &c., see 6 Vic., c. 14, and 10 Vic., c. 8.

An Act to authorize the sale in certain cases of vessels, boats, goods, wares and merchandise, and other things seized as forfeited, under any revenue law of this Colony.

All vessels, goods, &c., seized by any Excise officer under any Act of this Colony, may be sold, unless where they shall be claimed within one month after the passing of it.

Mode of making claim.

No claim to be admitted until security be first given.

**W**HEREAS it is deemed necessary to give the officers of Excise appointed to enforce the revenue laws of this Colony, a like authority to sell and dispose of vessels, boats, goods, wares and merchandise, and other things, seized as forfeited, as is given to the officers of Her Majesty's Customs in certain cases: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That all vessels, boats, goods, wares and merchandise, and other things, which shall have been or shall be hereafter seized as forfeited, in or near this Island, under any law of the same relating to the revenue thereof, shall be deemed and be taken to be condemned, and may be dealt with in the manner directed by law, in respect to vessels, boats, goods, wares and merchandise, or other things, seized and condemned for breach of any such laws, unless the person from whom such vessel, boat, goods, wares and merchandise, and other things, shall have been seized, or the owner of them, or some person authorized by him, shall, when such seizure shall have been made prior to the passing of this Act, within one calendar month from the passing hereof, and in all seizures hereafter to be made, within one calendar month from the day of seizing the same, give notice in writing to the person or persons seizing the same, or to the Collector of Excise for the district within which or nearest to which, the same have been seized, that he claims the vessel, boat, goods, wares, merchandise, or other things, so seized, or intends to claim them.

II. And be it further enacted, That no person shall be admitted to enter a claim to any thing seized in pursuance of this Act, until sufficient security shall be given in the Court wherein such seizure is prosecuted, in a penalty not exceeding thirty pounds, current money of this Island, to answer and pay the costs occasioned by such claim: and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

## CAP. XVI.

An Act to prevent the bringing persons convicted of felonies and misdemeanors to this Island, from the Island of Newfoundland, or elsewhere in America.

**W**HEREAS under and by virtue of some law or usage, the Courts in the Island of Newfoundland sentence per-

sons convicted of felonies and misdemeanors to banishment from the said Island, and the Sheriffs of the said Island, under such law or usage as aforesaid, are in the practice of issuing warrants under their hands and seals, directed to the masters of vessels, reciting such convictions and sentences, and authorizing the masters of said vessels to take into custody, and retain the bodies of persons so convicted and sentenced, and such masters of vessels have, for hire and reward, acted under such warrants, and brought such convicts to this Colony, thereby letting loose upon society persons of infamous characters, and to a certain extent making this Colony a Convict Colony, for the reception of persons convicted of felonies and misdemeanors in the Island of Newfoundland: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, if the master of any vessel, or other person whosoever, shall bring to or land in this Island, any person or persons so convicted of felony, or of a misdemeanor, and sentenced to banishment by any Court in the Island of Newfoundland, or in any other British Colony in America, under a warrant or authority from any Judge, Sheriff, or other officer, such master of vessel, or other person, shall, for such offence, be liable to, and pay a penalty of twenty pounds and costs, for each person so brought to, or landed in this Island—to be recovered by bill, plaint or information, in Her Majesty's Supreme Court of this Island, by any person prosecuting for the same; one half of said penalty to go to, and be paid to the person who shall prosecute for the same, and the other moiety to be paid into the hands of the Treasurer of this Island, to and for the use of Her Majesty's Government.

Masters of vessels, &c., bringing convicts to this Island in certain cases,

to be liable to a penalty of £20, and costs.

Mode of recovery.

Appropriation of penalty.

### CAP XVII.

An Act to continue for a limited period, the several Acts providing for the summary trial of common assaults and batteries.

Expired.

\* \* This Act continued 4 W. 4, c. 2, and 6 W. 4, c. 5, for 5 years.

### CAP. XVIII.

An Act to enable Commissioners under small debt Act, and Justices of the Peace throughout the Island, to appoint clerks.

Repealed by 7 Vic. c. 2.

### CAP. XIX.

An Act to authorize the appointment of Coroners in King's and Prince Counties.

This Act was disallowed by Her Majesty.

## CAP. XX.

Continued and amended by 6 Vic. c. 5. Expired.

An Act to facilitate the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick.

## CAP. XXI.

Amended by 5 Vic. c. 15, 7 Vic. c. 20, and 18 Vic. c. 20.

An Act to authorize the erection of a building near Charlottetown, as an Asylum for insane persons, and other objects of charity, and to provide for the future maintenance of the same.

**W**HEREAS by a despatch from the Right Honorable the Marquis of Normanby, Her Majesty's late Principal Secretary of State for the Colonies, bearing date the seventh day of August one thousand eight hundred and thirty-nine, in answer to an application from His Excellency Sir Charles Augustus Fitz Roy, Lieutenant Governor of this Island, made at the request of the House of Assembly, his Lordship has been pleased to state, that my Lords Commissioners of Her Majesty's Treasury have no objections to the appropriation of the sum of fifteen hundred pounds out of the accruing produce of the sales of Crown Lands in this Colony, to the erection in Charlottetown of a Building, required as an Asylum for insane persons, and other objects of charity, on condition of the House of Assembly making suitable provision for the future maintenance thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Administrator of the Government of this Island for the time being, by and with the advice and consent of Her Majesty's Council, to purchase a convenient tract or parcel of ground, comprising an area of from twenty to fifty acres,\* within or near to the Common of Charlottetown, for a site whereon to erect a Building for an Asylum for insane persons, and other objects of charity, and to draw warrants on the Treasury of this Island for the payment of the same: provided, that the sum so to be paid for the said tract of land shall not exceed five hundred pounds.

Lieut. Governor, with advice of Council, to purchase a site for a Lunatic Asylum.

Sum appropriated for purchase.

Lieut. Governor, &c., to appoint five Commissioners to superintend the erection of such building.

II. And be it enacted, That the Administrator of the Government, with the advice of Her Majesty's Council, is hereby empowered to nominate and appoint five Commissioners to superintend the erection of a Building suitable for an Asylum for insane persons, and other objects of charity, agreeably to a plan and specification submitted by the Legislature of this Island to Her Majesty's Government—a copy of which is de-

\* Altered to not less than ten acres, by Act 7th Vic. cap. 20.

posited in the office of the Colonial Secretary of this Colony ; and which said Commissioners, when so appointed, are hereby authorized to make such contract or contracts, for the purchase of materials for erecting and finishing the said Building, and for workmanship, as they, or the major part of them, may think proper : provided always, that the expense of erecting and completing the said Building shall not in the whole exceed the sum of fifteen hundred pounds.

Duty of Commissioners.

Limits the expense of building to £1500.

III. And be it enacted, That the Administrator of the Government for the time being, by and with the advice of Her Majesty's Council, be, and he is hereby empowered to draw warrants on the treasurer of this Island, requiring him to pay out of the moneys arising from the produce of the sales of Crown Lands, and which now are or hereafter may be in his hands, at the requisition of the said Commissioners, the sum authorized by Her Majesty's Government to be appropriated for the said Building, or any part thereof, at such times and in such proportions as they may deem necessary.

Mode of payment for the building of Asylum.

VI. And be it enacted, That the said trustees shall cause a correct account of all moneys expended in and about the said Asylum and House of Industry, together with a report, containing the names of all persons admitted as inmates thereof, and of those discharged therefrom, to be laid before the Legislature annually, on or before the first day of March in each year.

Duty of trustees.

VII. And be it enacted, That six of the said trustees shall constitute a quorum, to be competent to transact business.

Six of trustees to be a quorum.

VIII. And be it enacted, That His Excellency the Lieutenant Governor, or other Administrator of the Government for the time being, shall be Visiter of the said Lunatic Asylum and House of Industry.

Lt. Governor, &c., to be visiter of Asylum.

IX. And be it enacted, That from and out of the moneys which shall from time to time be and remain in the Treasury of this Island, there shall be granted and paid towards the support and maintenance of the said Lunatic Asylum, Infirmary and House of Industry, the annual sum of three hundred and fifty pounds, or as much thereof as shall from time to time be required—the said sum to be drawn by warrant, under the hand and seal of the Administrator of the Government, with the advice of Her Majesty's Council, on application of the trustees for the time being ; and that the sum of one hundred and fifty pounds be granted and placed at the disposal of the said trustees, for the purpose of providing the necessary bedding and furniture for the said institution.

Grants £350 annually for the support of Asylum.

Grants £150 for bedding and furniture for Asylum.

Suspending  
clause.

X. And be it enacted, That nothing in this Act contained shall have any force or effect, until Her Majesty's pleasure thereon shall be signified.

\* \* Sections 4 and 5 of this Act having been repealed by 5 Vic. cap. 15, are not herein inserted.

This Act received the Royal allowance on the 11th of August, 1842, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 6th September, 1842.

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CAP. XXII.

Expired.

An Act to amend the Act relating to merchant seamen.

\* \* This Act amended 7 Will 4, cap. 3.

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CAP. XXIII.

An Act to explain a certain part of an Act, intituled "An Act for levying an Assessment on all lands in this Island."

\* \* The Act 7 Will. 4, cap. 31, which this Act explains, has been repealed by 11 Vic. cap. 7.

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CAP. XXIV.

Repealed by 21  
Vic. c. 18.

An Act to amend the Act enabling married women to convey real estate during their coverture.

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CAP. XXV.

Expired.

An Act to continue the Act for regulating the manner of proceeding on controverted elections.

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CAP. XXVI.

Repealed by 11  
Vic., c. 21.

An Act to amend an Act made and passed in the first year of Her present Majesty's reign, intituled "An Act to alter and amend an Act passed in the sixth year of the reign of his late Majesty, intituled 'An Act to consolidate and amend the Election Laws.'"

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CAP. XXVII.

Repealed in  
part by 14 Vic.  
c. 3. See also 15  
Vic. c. 20, and  
18 Vic. c. 19, in  
amendment.

An Act to establish the salary payable by this Island to the Colonial Secretary and Registrar and Clerk of the Executive Council.

**W**HEREAS the offices of Registrar of Deeds and Clerk of the Executive Council are now combined with that of Colonial Secretary, and the salary payable by the Imperial



Government to that Officer is one hundred and fifty pounds, sterling, and the amount received by him from this Island, for his services in the before named departments, is at present derived from certain fees payable by the laws of this Island: and whereas it is deemed expedient to establish and fix a certain amount to be paid annually to that officer, in lieu and full of all fees and emoluments hitherto payable to him, for the various duties heretofore and henceforth devolving on him, in respect of the aforesaid offices: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That there shall be allowed and paid to the person holding, for the time being, the office of Colonial Secretary and Registrar and Clerk of the Executive Council, the sum of four hundred pounds *per annum*, currency of this Island, over and above any sum he may receive from the Imperial Government, in lieu of all fees, emoluments and allowances whatsoever, now by the Laws of this Island payable to that officer, in respect of any service or duty to be performed by him, and heretofore paid or payable by, or on behalf of the Government of this Island, and by all other persons whomsoever and appertaining to any of the offices aforesaid—which said salary shall commence and be computed from the first day of July next, payable by warrant, to be issued quarterly by the Lieutenant Governor in Council.

£400 currency per annum to be paid to Colonial Secretary, &c. over and above sum by him received from Imperial Government in lieu of all fees, &c.

Commencement of salary.

II. And be it enacted, That the said Colonial Secretary shall keep an exact and correct account of all fees and emoluments whatsoever to him paid or payable, from and after the first day of July aforesaid, and shall account to the Government of this Island for the same, and pay the amount thereof into the hands of the Treasurer of this Island, quarterly, in every year—the first payment thereof to be made on the first day of October next ensuing, and to be applied to and for the use of Her Majesty's Government of this Island, in such manner as shall be appropriated by any Act or Acts of the Legislature of this Island.

Colonial Secretary to keep an account of all fees received by him, and pay over the same to Treasurer quarterly.

Appropriation of such fees.

III. And be it further enacted, That in case the person holding the said office of Colonial Secretary and Registrar as aforesaid, shall refuse or wilfully neglect to account to the Treasurer, as required and prescribed in the preceding section, each and every such person shall forfeit and pay, for each and every refusal or neglect, the sum of fifty pounds, over and above any deficiency or defalcation in the said moneys so to him payable—the said penalty to be recovered by bill, plaint or information, in the Supreme Court of Judicature of this Island, to and for the use of Her Majesty's Government.

Penalty on Colonial Secretary for refusal or neglect in this respect.

Mode of recovery of penalty and appropriation.

\* \* \* So much of this Act as relates to salary of Colonial Secretary is repealed by 14 Vic. c. 3, sec. 16.



ANNO QUARTO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-second day of January, *Anno Domini*, 1839, in the second year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith :

1841.

SIR CHARLES  
A. FITZROY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-sixth day of January, 1841, and in the fourth year of Her said Majesty's reign ; being the fourth session of the fifteenth General Assembly convened in the said Island.

W. COOPER,  
Speaker.

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## CAP. I.

An Act to continue and amend an Act made and passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act to establish an additional Term of the Supreme Court, and to extend the Hilary and Trinity Terms for Queen's County." **Expired.**

## CAP. II.

**Expired.** An Act further to continue for one year, and further amend an Act passed in the seventh year of His late Majesty's reign, for raising a revenue in this Island.

## CAP. III.

**Expired.** An Act to continue for a limited period, an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act to continue and amend the Act for more effectually preventing the spreading of infectious distempers within this Island."

## CAP. IV.

**Amended by 5 Vic., c. 11, and 6 V., c. 10.**  
**Expired.** An Act for the appointment of fish inspectors, and to continue and extend the provisions of the Act now in force regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein.

## CAP. V.

**Executed.** An Act to enable the Government to ascertain the population of this Colony, and to obtain other statistical information therein mentioned.

## CAP. VI.

**Expired.** An Act relating to schools, and for the encouragement of education.

## CAP. VII.

This Act and 3 W. 4, c. 19, of which it is an amendment, repealed by 19 Vic. c. 3.

An Act to amend the Act relating to weights and measures.

## CAP. VIII.

An Act to authorize the appointment of Coroners in Prince and King's Counties.

**W**HEREAS from the increase of population in this Island, it is deemed necessary that a Coroner be appointed for each of the Counties of King's and Prince Counties respectively: Be it enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for Her Majesty, or the Administrator of the Government for the time being, to appoint a Coroner in and for each of the Counties of King's and Prince Counties respectively, and which Coroners when so appointed, shall reside within their respective Counties, and shall be entitled to all and singular the fees, perquisites and emoluments of right belonging to the said office of Coroner.

Her Majesty or Lt. Governor may appoint Coroners for King's & Prince Counties.

II. And be it enacted, That there shall be paid to Daniel Hodgson, Esquire, the officer now holding the office of Coroner for the whole Island, the sum of thirty pounds, as a compensation in full for the loss of the emoluments of his office by the appointment of Coroners for Prince and King's Counties.

Compensation to Coroner for the whole Island.

III. And be it enacted, That when and so soon as Coroners shall be appointed for the Counties of Prince County and King's County respectively, as aforesaid, the authority and jurisdiction of the officer holding the office of Coroner of this Island shall be confined to the County of Queen's County—any law, usage, custom or patent of office to the contrary notwithstanding.

When Coroners are appointed for King's and Prince Counties authority of other officer to cease.

IV. And be it further enacted, That nothing herein contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

Suspending clause.

\* \* This Act received the Royal allowance on the 21st August, 1841, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 21st September of the same year.

## CAP. IX.

An Act to prohibit the interment of human bodies within the limits of the town of Georgetown, and to establish burial grounds in the common thereof.

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

## CAP. X.

7 W. 4, c. 30.

An Act to amend an Act of the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act to repeal certain parts of an Act, intituled 'An Act for the limitation of actions, and for avoiding lawsuits, so far as the same relate to actions concerning real estate, and to make other provisions in lieu thereof.'"

Persons claiming under any mortgage with- in the defini- tion of the first section of 7 W. 4, c. 30, may bring action to recover land within 20 years after last pay- ment of any princioal or interest.

WHEREAS doubts have been entertained as to the effect of a certain Act of the General Assembly of this Island, made in the seventh year of the reign of the late King Wil- liam the Fourth, intituled "An Act to repeal certain parts of an Act, intituled 'An Act for the limitation of actions, and for avoiding lawsuits, so far as the same relate to actions con- cerning real estate, and to make other provisions in lieu there- of,'" so far as the same relates to mortgages, and it is ex- pedient that such doubts should be removed: Be it declared and enacted, that it shall and may be lawful for any person entitled to or claiming under any mortgage of land, being land within the definition contained in the first section of the said Act, to make an entry, or bring an action at law or suit in equity to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than twenty years may have elapsed since the time at which the right to make such entry, or bring such action at law, or suit in equity, shall have first accrued, any thing in the said Act notwithstanding.

## CAP. XI.

Expired.

An Act to further continue and to amend the Act for regula- ting the measurement of ton timber, boards, and all other kinds of lumber, and declaring what shall be deemed mer- chantable, and for appointing officers to survey the same.

## CAP. XII.

2 Vic. (1st ses.)  
c. 6.  
Expired.

An Act further to continue for one year, the Act for granting a bounty on vessels engaged in the fisheries of this Island.

## CAP. XIII.

**An Act to continue an Act for the more effectual punishment of offenders, by enabling the Supreme Court to add hard labor to the sentence of imprisonment.**

Expired.  
See note to 5  
W. 4, (1st ses.)  
c. 2.

## CAP. XIV.

**An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty-one.**

Executed.





ANNO QUINTO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the Twenty-second day of January, *Anno Domini*, 1839, in the second year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith :

1842

Sir HENRY  
V. HUNTLEY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-fifth day of January, 1842, and in the fifth year of Her said Majesty's Reign ; being the fifth session of the fifteenth General Assembly convened in the said Island.

W. COOPER,  
Speaker.

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## CAP. I.

An Act to confirm and render valid certain proceedings of the Executive Government of this Island.

**W**HEREAS by Her Majesty's Royal Commission, in the absence of the Governor, Lieutenant Governor, or other officer specially appointed to administer the Government of this Island, the Government thereof vests in the senior Military Office for the time being, within the said Island: and whereas

in consequence of the smallness of the military force quartered in the said Island, the commandant thereof is not a Field Officer, and therefore not of sufficient rank to be allowed to hold temporarily that high office: and whereas on the departure of the late Lieutenant Governor of this Island, His Excellency Sir Charles Augustus Fitz Roy, K. H., therefrom, and before the arrival of the present Lieutenant Governor, His Excellency Sir Henry Vere Huntley, the Government thereof was assumed by the Honorable George Wright, as senior Member of Her Majesty's Executive Council, on the faith, and in the expectation that a Warrant under Her Majesty's royal sign manual, had been made to him for that purpose, and was then on its way to this Island: and whereas the said Warrant, although prepared, was not sent to the Island by the then Secretary of State for the Colonies, under the impression that Sir Charles Augustus Fitz Roy would not relinquish the Government, until the arrival of Sir Henry Vere Huntley: and whereas in consequence of such assumption of the Government by the Honorable George Wright, and the exercise of the duties of the Administrator of the Government thereof by him, without the possession of such Warrant under the royal sign manual, the acts of him the said George Wright, as Administrator of the Government as aforesaid, and of his subordinate officers, are illegal, null and void: for remedy whereof, Be it enacted, by the Lieutenant Governor, Council and Assembly, that all orders, acts, matters and things, made, done and performed by the said George Wright, as Administrator of the Government of this Island, in the Executive Council thereof; and all orders, acts, matters and things, made, done and performed by the Executive Council of the said Island, and the acts of all and every person and persons whomsoever, under or by virtue of any order of the said George Wright, as Administrator of the Government of the said Island, in the said Executive Council of the said Island, and of the said Executive Council, and usually and legally appertaining to the duties of Administrator of the said Government in the said Executive Council, and usually and legally appertaining to the duties of the said Executive Council, and every other act, matter and thing done and performed by him the said George Wright, as Administrator of the Government of the said Island, and usually and legally appertaining to the duties of the Administrator of the Government of the said Island, from the period of the said George Wright's assumption of the Government thereof, at the departure of Sir Charles Augustus Fitz Roy, until the assumption of the Government by Sir Henry Vere Huntley, and all acts, matters and things whatsoever, done and performed by any subordinate officer or officers of the Government of the said Island, and usually and legally appertaining to the duties or place of such officer or officers, under

Confirms certain proceedings of Executive during administration of the Government by Hon. George Wright, in 1841.

or by the command, procurement, or consent of him the said George Wright, as said Administrator of the Government as aforesaid, be, and the same, and each and every, and all of them, are hereby confirmed, and shall be deemed and taken to be as valid, effectual and binding, to all intents and purposes whatsoever, as if a Warrant under the royal sign manual, especially authorizing him to administer the Government of this Island, for the period aforesaid, had been held by him the said George Wright.

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### CAP. II.

An Act for the incorporation of the Prince Edward Island Steam Navigation Company.

Altered and amended by 6 Vic. c. 6, and 7 V. c. 9.

\*\* The P. E. Island Steam Navigation Company having been dissolved, it is unnecessary to insert this Act.

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### CAP. III.

An Act to authorize the appointment of Commissioners to manage certain shares and property in the Prince Edward Island Steam Boat Company, on behalf of the Government of this Colony.

Altered and amended by 6 Vic. c. 6, and 7 Vic. c. 9.

\*\* The above mentioned Company having been dissolved, this Act has been omitted.

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### CAP. IV.

An Act for the increase of the revenue of this Island.

Continued by 6 Vic. c. 7, and 7 Vic. c. 8.  
Expired.

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### CAP. V.

An Act to create a fund for defraying the expense of providing medical assistance for sick emigrants, and of enabling indigent persons of that description to proceed to the place of their destination.

Repealed by 11 Vic., c. 3.

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### CAP. VI.

An Act to consolidate, amend, and reduce into one Act, the several Acts, and parts of Acts, relating to the qualifications and mode of summoning grand and petit jurors.

Continued by 8 Vic. c. 19, and 12 Vic. c. 33.  
Repealed by 16 Vic. c. 6.

## CAP. VII.

Repealed by 8  
Vic. c. 16.      An Act to amend and continue for a limited period the Act intituled "An Act for the regulation of the public wharf of Charlottetown."

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## CAP. VIII.

Expired.      An Act to consolidate and amend the two several Acts now in force, relative to accidents by fire, and the improvement of property in Georgetown.

\*\*\* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

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## CAP. IX.

Repealed by  
12 Vic. c. 16.      An Act further to explain and amend an Act passed in the third year of the reign of His late Majesty King William the Fourth, intituled "An Act to consolidate, amend, and reduce into one Act, the several Acts of the General Assembly relating to trespasses, and for other purposes therein mentioned."

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## CAP. X.

Expired.      An Act to amend an Act made and passed in the third year of the reign of Her present Majesty, intituled "An Act to prohibit the exportation of oysters from this Island, for a limited period."

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## CAP. XI.

Repealed by 6  
Vic., c. 10.      An Act to amend an Act for the appointment of fish inspectors, and to continue and extend the provisions of the Act now in force regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein.

## CAP. XII.

An Act to prevent the taking and carrying away of boats, canoes or flats, without the consent of the owners thereof, and to repeal an Act formerly passed for that purpose.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, that the Act passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act to prevent the using or taking away boats, flats or canoes without the consent of the owners," be, and the same is hereby repealed.

Repeals Act of 5 G. 4, c. 9.

II. And be it enacted, That any person or persons who shall, after the passing of this Act, use or take away any flat, canoe or boat, fastened or moored at any place within this Island, without a felonious intent, and without the consent of the owner or owners of the same, shall, upon proof of such using or taking away before any one of Her Majesty's Justices of the Peace for the County wherein the offence shall have been committed, forfeit and pay to the owner or owners, for each and every such offence, a sum of not less than five shillings, nor more than forty shillings, over and above any damage or loss sustained by the owner or owners; to be recovered before the said Justice of the Peace, if laid at five pounds, or under, with reasonable costs; and if above five pounds, to be recovered in the Supreme Court of Judicature.

Persons taking away any flat, canoe or boat without permission of owner, to forfeit a sum not exceeding 40s., nor less than 5s.

Mode of recovery of fine, &c.

III. And be it enacted, That should any person or persons consider himself, herself, or themselves, aggrieved by the decision of any Justice of the Peace, under the operation of this Act, every such person or persons shall and may be entitled to appeal to Her Majesty's Supreme Court of Judicature, in manner and under the regulations prescribed for appeals by the several Acts of the General Assembly of this Island for the recovery of small debts.

Persons convicted may appeal from decision of Justices to Supreme Court.

## CAP. XIII.

An Act to authorize the Treasurer of this Island to pay off Treasury Warrants to the amount of four thousand pounds, out of the land assessment moneys now in the Treasury.

Executed.

## CAP. XIV.

An Act to regulate the letting of stalls in Charlottetown market-house, and for other purposes therein mentioned.

Revived and continued with additions for 3 years, by 10 Vic., c. 16.

\* \* This Act has been repealed by the City Council of Charlottetown under the powers vested in said Corporation by the Act of 18 Vic., c. 34, s. 37.

## CAP. XV.

See 3 Vic. c. 21,  
7 Vic., c. 20,  
& 18 Vic. c. 20.

An Act to repeal part of an Act, made and passed in the third year of Her present Majesty's reign, to authorize the erection of a building near Charlottetown, as an asylum for insane persons, and other objects of charity, and to provide for the future maintenance of the same, and to substitute other provisions in lieu thereof.

WHEREAS by a despatch from the Right Honorable Lord John Russell, Her Majesty's late Secretary of State for the Colonies, and bearing date the thirteenth day of October, *Anno Domini* one thousand eight hundred and forty, the appointment of trustees of the said asylum by the House of Assembly, has been held, by Her Majesty's Government, to be an encroachment on the rules which should separate from each other the functions of the Executive Government, and those of the Legislative bodies; for remedy whereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, that the fourth and fifth clauses of the said Act, intituled "An Act to authorize the erection of a building near Charlottetown, as an asylum for insane persons, and other objects of charity, and to provide for the future maintenance of the same," be, and the same are hereby repealed.

Repeals 4th  
and 5th clauses  
of Act of 3  
Vic., c. 21.

Administrator  
of Government  
with advice of  
Council to ap-  
point trustees  
of lunatic  
asylum.

Power of such  
trustees.

II. And be it enacted, That when and so soon as the said building for a lunatic asylum shall be completed, it shall lawful for the Administrator of the Government, by and with the advice and consent of Her Majesty's Council, to nominate and appoint, and as often as the same shall become necessary, to re-appoint seven trustees,\* two of whom shall be members of the House of Assembly, who, together with the Chief Justice, the President of the Legislative Council, and the Speaker of the House of Assembly, and their successors in office shall be trustees, and which trustees shall have power, from time to time, to make and ordain such rules and regulations, for the management of the said asylum and house of industry, and to appoint the several officers required, and to fix and determine the amount of salaries to be paid to such officers, as to them, or the majority of them, shall seem needful and necessary.

## CAP. XVI.

Expired.

An Act to authorize the appointment of coal meters, where deemed necessary.

\* By the 18 Vic., c. 20, this number is increased to ten—the 3 additional trustees appointed under that Act to be taken exclusively from the Executive.

## CAP XVII.

An Act to continue an Act intituled "An Act to regulate the floating of logs, scantling, deals and other kinds of wood, down the rivers and lesser streams in this Island." 3 Vic. c. 12.

\* \* This Act continued the 3 Vic., c. 12, until 1st day of May, 1850.

## CAP. XVIII.

An Act to amend the Acts now in force relating to a fire-engine company, and accidents by fire, within Charlottetown. Repealed by 7 Vic. c. 14.

## CAP. XIX.

An Act to amend an Act now in force relating to apprentices, and to repeal a certain Act therein mentioned. Repealed by 8 Vic. c. 14.

## CAP. XX.

An Act to authorize the issue of a copper coinage in this Colony, and to prohibit the circulation of base coppers. Disallowed by Her Majesty.

## CAP. XXI.

An Act to amend an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled "An Act to amend the law relating to the admission of barristers, attorneys and solicitors, and to regulate the admission of advocates and proctors in the Courts of Vice Admiralty, and Court of Probate in this Island." Repealed by 11 Vic., c. 31.

## CAP. XXII.

An Act to alter, and in addition to an Act made and passed in the tenth year of the reign of His late Majesty King George the Fourth, relating to the laying out and altering of highways, and for other purposes therein mentioned. Continued by 8 Vic. c. 5. Repealed by 14 Vic., c. 1. See note to 10 G. 4, c. 10, for other Acts in amendment.

\* \* The provisions of this Act may affect titles to lands but are omitted pursuant to Act 12 Vic., cap. 23.

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CAP. XXIII.

**Expired.** An Act to repeal and amend a certain portion of the nineteenth section of an Act relating to schools, and for the encouragement of education.

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CAP. XXIV.

**Repealed by  
11 Vic. c. 21.** An Act to explain certain parts of the Act to consolidate and amend the election laws.

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CAP. XXV.

**Executed.** An Act to authorize the appointment of Commissioners to superintend the erection of a Colonial Building in Charlottetown, and to repeal certain parts of an Act therein mentioned.

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CAP. XXVI.

**Executed.** An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and forty-two.



ANNO SEXTO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-fourth day of January, *Anno Domini* 1843, in the sixth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith:

Being the first session of the sixteenth General Assembly convened in the said Island.

1843.

Sir HENRY V.  
HUNTLEY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

JOSEPH POPE,  
Speaker.

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## CAP. I.

An Act to consolidate and amend the laws relating to statute labor, and the expenditure of public moneys on the highways.

Amended by  
6 Vic., c. 15, 7  
V., c. 1, 8 V.,  
c. 13, 11 V. c. 2,  
and 12 V. c. 11.  
Repealed by 14  
Vic., c. 16.

## CAP. II.

See 16 Vic., c. 11.

An Act to compel persons appointed to the office of constable, to serve as such.

**W**HEREAS much difficulty and inconvenience have frequently arisen from persons having refused to serve as constables, who have been nominated as such by the Justices of the Supreme Court of Judicature for this Island, for remedy whereof:

Justice of the Peace may fine a person refusing to serve as constable in any sum not exceeding £2.

I. Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall and may be lawful to and for any one of Her Majesty's Justices of the Peace, to fine any person or persons who may have been nominated by the Justices of the said Supreme Court to the office of constable, and who have been duly notified thereof by the said Justice or other Justice of the Peace of the County, wherein such person or persons may reside, at least eight days previously, and refuse to be sworn in, a sum for such refusal, not exceeding two pounds, and upon the oath of one or more credible witness or witnesses, being made, before such Justice of the Peace, it shall and may be lawful to and for such Justice to fine such person or persons, who may have been sworn in as aforesaid, and may refuse to act as such constable or constables, in a sum for each refusal not exceeding two pounds, the same to be recovered by warrant of distress, upon the offender or offenders' goods and chattels, and when received, to be paid into the Treasury of this Island, to and for the use of Her Majesty's Government; and if the said offender or offenders shall not have any goods or chattels, whereon such warrant of distress can be levied, then, and in such case, it shall and may be lawful to and for the said Justice of the Peace, to commit the said offender or offenders who have so refused to be sworn in as aforesaid, to the jail of the County wherein such Justice may reside, for a period not exceeding ten days, and also to commit such offender or offenders, who being so sworn in as aforesaid refused to act as aforesaid, to the jail aforesaid for a period not exceeding five days.

Mode of recovery and appropriation of fine.

For want of goods and chattels whereon to levy, offender to be committed to jail.

Mode of appointment of constable in room of person refusing to serve.

II. And be it further enacted, That in cases where any constable, appointed under and by virtue of this Act, shall neglect or refuse to serve, it shall and may be lawful to and for the Chief Justice, or any of the Justices of the said Court, out of the list returned by the grand jury as now by law prescribed, to appoint other persons in the place of such person or persons as may so refuse or neglect to serve as aforesaid, and so often as similar cases may arise, and such persons so appointed shall be subject to the like penalties for refusal or neglect to serve as are provided in and by this Act.

III. Provided always, and be it further enacted, That no person or persons shall be compelled to serve as such constables more than once in every three years. Proviso.

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CAP. III.

An Act in addition to the several Acts relating to licenses for the retailing of spirituous and fermented liquors. Repealed by 10 Vic., c. 11.

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CAP. IV.

An Act to amend the Act relating to the pumps and wells of Charlottetown. Expired.

\* \* \* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23. For other Acts relating to the same subject, see note to 26 G. 3, c. 1.

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CAP. V.

An Act to continue and amend the Act for facilitating the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick, by means of sailing packets. Expired.

\* \* \* This Act continued 3 V., c. 20, for three years.

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CAP. VI.

An Act to alter and amend the several Acts therein mentioned relating to the Prince Edward Island steam navigation company. Amended by 7 Vic. c. 9.

\* \* \* The above mentioned company having been dissolved, this Act is omitted.

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CAP. VII.

An Act for the increase of the revenue of this Island. Expired.

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CAP. VIII.

An Act to amend the marriage law.

**W**HEREAS it has been found that improper marriages have been celebrated, under licenses granted in pursuance of the Act now in force, authorizing the celebration of marriages, in consequence of misrepresentation or concealment of facts, by the parties obtaining such licenses: Be it therefore enacted, by the Lieutenant Governor, Council and As- 2 W. 4, c. 14.

Relates to marriages where the parties, or either of them, shall be under 21 years of age.

sembly, That from and after the passing of this Act, no license shall be granted for the celebration of marriage, where the parties contracting such marriage, or either of them, shall be under the age of twenty-one years, unless the consent of the parents or guardians of such contracting party or parties, so under age, shall be first signified in writing, under the hand or hands of such parent or guardian, parents or guardians, and signed in the presence of one or more witness or witnesses.

No license to be granted, unless a bond be given.

II. And be it enacted, That no license for marriage shall be granted without a bond being previously given by the applicant, and one sufficient security (according to the form set forth in the schedule to this Act annexed.)

Authorizes deputy Prothonotaries in Prince and King's Counties to issue marriage licenses.

III. And be it enacted, That the deputy prothonotaries in Prince and King's Counties be empowered to issue marriage licenses, and to take the bonds required in such cases, under such regulations, as the Governor, or the Administrator of the Government for the time being, may think proper to prescribe; and all such bonds shall, on or before the first day of January, in each and every year, be transmitted to the office of the Colonial Secretary of this Island, and there deposited; such deputy prothonotary receiving the fees due to the Lieutenant Governor and Private Secretary for such license, and be responsible therefor, together with the fee of five shillings and six pence to himself, for the issuing such license and taking such bond.

Bonds to be taken by them.

Fees.

Lt. Governor, &c. may assign Bond to party aggrieved.

IV. And be it enacted, That it shall and may be lawful to and for the Lieutenant Governor, or for any of his successors in office, on application to him made by any person or persons aggrieved, to assign the said bond to him or them, by endorsement thereon, and which said endorsement shall, to all intents and purposes, operate as an assignment thereof, and the penalty in said bond may be recovered, together with costs, by suit, in the name of the said assignee, in Her Majesty's Supreme Court of Judicature, for this Island.

Mode of assignment.

Mode of recovery of penalty.

#### SCHEDULE.—FORM OF BOND.

Form of Bond. Prince Edward Island:

Know all men by these presents, that we are held and firmly bound to His Excellency Lieutenant Governor and Commander-in-chief in and over Her Majesty's Island Prince Edward, and its Dependencies, &c., &c., &c., and to his successors in office, in the sum of one hundred pounds lawful money of Great Britain, to be paid

to the said \_\_\_\_\_ or his certain Attorney, executors, administrators or assigns, for the true payment whereof, we bind ourselves and each of us by himself, for the whole and every part thereof, and the heirs, executors and administrators of us, and each of us, firmly by these presents, sealed with our seals, dated the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the reign of our sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and \_\_\_\_\_

The condition of this obligation is such, that if hereafter there shall appear any lawful let or impediment, by reason of consanguinity, affinity or any other lawful means whatever, why the said \_\_\_\_\_ may not lawfully solemnize marriage together, and in the same afterwards to remain and continue for man and wife, according to the law in that behalf provided, [if the licence be directed to a Magistrate, insert, and if the same marriage shall be openly solemnized, according to the form of the book of common prayer now established,] and if the above bounden \_\_\_\_\_ do save harmless the said \_\_\_\_\_ and other his officers whatsoever by reason of the premises, then this obligation to be void, or else to remain in full force and virtue.

Signed, sealed and delivered  
in the presence of

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### C A P . I X .

An Act to amend the Act regulating the floating of logs, scantling, deals and other kinds of wood, down the rivers and lesser streams in this Island, and for other purposes therein mentioned.

Continued by  
15 Vic. c. 2;  
see 3 Vic. c. 12.

**W**HEREAS the Act passed in the third year of Her present Majesty's Reign, intituled "An Act to regulate the floating of logs, scantling, deals, and other kinds of wood down the rivers and lesser streams in this Island," and continued by an Act passed in the fifth year of Her Majesty's reign, only entitles persons having timber or other kinds of wood to float down rivers or lesser streams in this Island, to pass the same through the waste gate of mill dams, but it frequently happens that saw logs, timber and other obstructions are boomed in below such mill, or placed in the course of such river or stream, so as to prevent the owners of such floating wood from taking the same through such booms and obstructions, and down the course of such river and stream, whereby the benefit intended to be conferred by the said recited Act is lost, and in such cases; for remedy whereof: Be it

3 Vic. c. 12.

5 Vic. c. .

enacted, by the Lieutenant Governor, Council and Assembly, That when and so often as any person or persons requiring to float wood, as aforesaid, and entitled to the benefit of the provisions of the hereinbefore recited Act, shall be hindered or obstructed in doing so, by means of any boom, logs, timber, deals or other obstructions, so placed in the river or stream of any mill dam, through which it may be necessary to float such timber or wood, then and in every such case, the person or persons causing such hindrance or obstruction, and continuing the same after forty-eight hours' notice to remove such obstruction, shall be liable to the same penalty, and to be proceeded against, as provided and directed in the fifth section of the said recited Act, of which this is an amendment.

Imposes penalty on persons obstructing the course of any river or stream, so as to prevent the floating of timber, &c. down the same.

Gives power to party aggrieved to remove such obstructions.

Expense of removal, and mode of recovery.

II. And be it enacted, That the person or persons so hindered or obstructed, after the expiration of notice given as aforesaid, shall have liberty to remove such boom, logs, timber, or other obstructions, so as to enable him or them to float his or their timber, logs, or other kinds of wood, down the rivers and lesser streams in this Island, and the expense of such removal shall be paid by the owner or owners of such boom, logs, timber or other kinds of wood, or the person or persons causing such obstructions as aforesaid, and may be recovered, with costs, in the same way and manner as fines and penalties are recoverable under the Act of which this is an amendment.

Imposes a penalty on persons guilty of cutting timber adrift, or defacing marks, &c.

Amount of penalty, and how recoverable.

Appropriation of penalty.

III. And whereas much loss and damage has heretofore been sustained in consequence of rafts of timber, deals, and other lumber being cut adrift in the several harbors, rivers and streams in this Island, and by defacing the marks and numbers on such timber deals and other lumber: Be it therefore enacted, that if any person or persons shall, wilfully and unlawfully, with the intention to set adrift or unmoor, by cutting adrift or otherwise, any timber, deals or other lumber, or shall wilfully or unlawfully conceal any timber, deals, or other lumber found adrift in any of the harbors, rivers or streams in this Island, or on the shores thereof, or shall deface any marks or numbers of such timber, deals or other lumber, such person or persons convicted thereof, shall, for each and every offence, forfeit and pay a sum not exceeding five pounds, to be recovered, with costs, on the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, before any one of Her Majesty's Justices of the Peace, or a Commissioner of Small Debts, for the County wherein such offence shall be committed; one half of the said fine to be paid to the person who shall sue for the same, and the other half to the person who may give such information as may lead to the conviction of the party so offending; and if such conviction shall take place on the sole evidence of the owner or

owners of such timber, deals or other lumber, then, and in such case, the penalty shall be paid into Her Majesty's Treasury, towards the support of the Government of this Island.

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CAP. X.

An Act to alter, amend and repeal certain parts of the Acts Expired.  
now in force, regulating the inspection of pickled fish.

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CAP. XI.

An Act to continue and amend the Act relating to the limits Expired.  
and rules of jails in the several Counties in this Island.

\*.\* This Act amended and continued for 5 years Act 7 Will. 4, cap 9.

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CAP. XII.

An Act to prevent the running at large of hogs within the Expired.  
common and royalty of Charlottetown.

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CAP. XIII.

An Act to further amend an Act intituled "An Act to pro- Expired.  
hibit the exportation of oysters from this Island for a 3 Vic., c. 5.  
limited period."

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CAP. XIV.

An Act relating to the fisheries, and for the prevention of For Acts for  
prevention of  
illicit trade,  
&c., see 3 Vic.  
c. 15, and 10  
Vic. c. 8.  
illicit trade in Prince Edward Island, and the coasts and  
harbors thereof.

**WHEREAS** by the convention made between His late Majesty King George the Third, and the United States of America, signed at London, on the twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen, and the statute made and passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of His late Majesty King George the Third, all foreign ships, vessels or boats, or any ship, vessel or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks or harbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first article of the said convention, are liable to seizure:

and whereas the United States did, by the said convention, renounce for ever, any liberty enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish on, or within three marine miles of any of the coasts, bays, creeks or harbors of His Britannic Majesty's dominions in America, not included within the above mentioned limits: provided however, that the American fishermen should be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them: and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this Island are materially impaired: and whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens, that persons found within the distances of the coasts aforesaid, infringing the articles of the convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of profess to have come within said limits for the purpose of shelter, and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this Island, and the fishery carried on, contrary to the said convention and statute: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall be lawful for the officers of Her Majesty's Customs, the officers of Impost and Excise, the Sheriffs and Magistrates throughout this Island, and any person holding a commission for that purpose from His Excellency the Lieutenant Governor, for the time being, to go on board any ship, vessel or boat within any port, bay, creek or harbor in this Island, and also to go on board any ship, vessel or boat hovering within three marine miles of any of the coasts, bays, creeks or harbors thereof, and in either case freely to stay on board such ship, vessel or boat, as long as she shall remain within such port or distance, and if any such ship, vessel or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel or boat into port, and to search and examine her cargo, and to examine the master upon oath, touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this Island, such ship, vessel or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel or boat shall be foreign, and not navigated according to the law of Great Bri-

Officers of Customs, &c., authorized to board vessels, &c., within 3 marine miles of this Island.

Power of such officers, &c.

Prohibited goods on board such vessel to be forfeited, and vessel, &c., if foreign,



tain and Ireland, and shall have been found fishing or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creeks or harbors of this Island, such ship, vessel or boat, and their respective cargoes shall be forfeited; and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

found fishing within limits, to be forfeited.

II. And be it further enacted, That all goods, ships, vessels and boats, liable to forfeiture under this Act, shall and may be seized and secured by any such officer of Her Majesty's Customs, officer of Impost and Excise, Sheriffs, magistrates, or other person holding such commission as aforesaid, and every person who shall in any way oppose, molest, or obstruct any officer of the Customs, officer of Impost and Excise, Sheriff, Magistrate, or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall, in any way oppose, molest, or obstruct any person acting in aid or assistance of such officer of Customs, officer of Impost and Excise, Sheriff, Magistrate, or other person so commissioned and employed as aforesaid, shall, for every such offence, forfeit the sum of two hundred pounds.

Further powers of officers of Customs, &c.

Penalty on persons molesting or obstructing officers, &c.

III. And be it further enacted, That all goods, ships, vessels and boats, which shall be seized, as being liable to forfeiture under this Act, shall be taken forthwith and delivered into the custody of the Collector of the Customs, at the Custom-house next to the place where the same were seized, who shall secure and keep the same, in such manner as other vessels and goods seized are directed to be secured by the commissioners of Her Majesty's Customs.

Goods, vessels, &c., seized to be delivered to nearest Collector of Customs, who shall secure same, &c.

IV. And be it further enacted, That all goods, ships, vessels, boats or other things, which shall have been condemned, as forfeited under this Act, shall, under the direction of the principal officer of the Customs or Excise, where such seizure shall have been secured, be sold by public auction, to the best bidder, and the produce of such sale to be applied as follows, that is to say: the amount chargeable for the custody of said goods, ship, vessel, boat, or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties—one of which shall be paid to the officer or other person or persons legally seizing the same, without deduction, and the other moiety to the Government, and paid into the Treasury of this Island—all costs incurred having been first deducted therefrom: provided always, that it shall be lawful for the Lieutenant Governor, in Council, to direct, that any of such things shall be destroyed, or reserved for the public service.

Goods, vessels, &c., condemned to be sold at public auction.

Appropriation of proceeds of such sale.

Proviso.

Mode of recovery of penalties

V. And be it further enacted, That all penalties and forfeitures, which may be hereafter incurred under this Act, shall and may be prosecuted, sued for and recovered, in the Court of Vice Admiralty, having jurisdiction in this Island.

Judge of Court having jurisdiction in case of goods, vessels, &c. seized, may release the same on security being given therefor.

VI. And be it further enacted, That if any goods, or any ship, vessel or boat shall be seized, as forfeited under this Act, it shall be lawful for the Judge or Judges of any Court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security, by bond, with two sufficient sureties, to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation, and such bond shall be taken to the use of Her Majesty, in the name of the Collector of the Customs, in whose custody the goods, or ship, vessel or boat may be lodged, and such bond shall be delivered and kept in the custody of such Collector; and in case the goods, or ship, vessel, or boat shall be condemned, the value thereof shall be paid into the hands of such collector, who shall cancel such bond, and distribute the money paid in such manner as is above directed.

Bond to be taken for same.

Collectors to distribute amount of bond if goods, vessels &c., be condemned.

Regulates the mode of prosecuting suits for penalties under this Act.

VII. And be it further enacted, That no suit shall be commenced for the recovery of any penalty or forfeiture under this Act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's Advocate or Attorney General, or, in his absence, by the Solicitor General, for this Island; and if any question shall arise, whether any person is an officer of the Customs, Excise, Sheriff, Magistrate, or other person authorized to seize as aforesaid, *visa voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

Onus of proof of illegality of seizure to be on claimant.

VIII. And be it further enacted, That if any goods, ship, vessel or boat shall be seized for any cause or forfeiture under this Act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof shall be on the owner or claimant of such goods, ship, vessel, or boat, and not on the officer or person who shall seize and stop the same.

No claim to any thing seized under this Act to be admitted until certain requisites be complied with.

IX. And be it further enacted, That no claim to any thing seized under this Act and returned into Her Majesty's Court of Vice Admiralty for adjudication, shall be admitted, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, and every person making a false oath thereto, shall be deemed guilty of a misdemeanor, and shall be liable to the pains and penalties to which persons are liable for a misdemeanor.

X. And be it further enacted, That no person shall be admitted to enter a claim to any thing seized in pursuance of this Act, and prosecuted in this Island, until sufficient security shall have been given, in the Court where such seizure is prosecuted, in a penalty not exceeding sixty pounds, to answer and pay the costs occasioned by such claim, and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

No claim to be admitted until security be given.

Amount of security and condition thereof.

XI. And be it further enacted, That no writ shall be sued out against, nor a copy of any process served upon any officer of the Customs, Excise, Sheriff, Magistrate, or other person authorized to seize as aforesaid, for any thing done in the exercise of this office, until one calendar month after notice, in writing, shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained, the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff, unless he shall prove on the trial that such notice was given, and, in default of such proof, the defendant shall receive in such action a verdict and costs, or judgment of nonsuit shall be awarded against the plaintiff, as the Court shall direct.

Defines mode of proceeding against any officer of Customs, Excise, Magistrate, &c. for any thing done under this Act.

XII. And be it further enacted, That every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in Her Majesty's Supreme Court of Judicature for this Island, and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become nonsuited, or shall discontinue the action, or if upon a verdict or demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have, in other cases where costs are given by law.

Limits time for bringing any action against any officer of Customs, &c. for any thing done under this Act.

Mode of proceeding in such actions.

XIII. And be it further enacted, That in case any information or suit shall be brought to trial, on account of any seizure made under this Act, and a verdict shall be found for the claimant thereof, and the Judge or Court before whom the cause shall have been tried, shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure, be liable to any action, indictment, or other suit or prosecution, on account of any such seizure; and if any such action, indictment or other suit or prosecution shall be brought

If verdict be found for any claimant on certificate of Judge or Court, &c. no costs to be allowed to claimant, nor seizing officer liable to any action, &c.

to trial, against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized or the value thereof, shall be entitled to no more than two pence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

Seizing officer, &c. may tender amends within 1 month after notice of action, and plead such tender, &c.

Officer, &c., may pay money into Court.

XIV. And be it further enacted, That it shall be lawful for any such officer of the Customs, Excise, or Sheriff, or Magistrate, or other person authorized to seize as aforesaid, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas, and if the Jury shall find the amends sufficient, they shall give a verdict for the defendant, and in such case, or in case the plaintiff shall become nonsuit, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs, as he would have been entitled to, in case he had pleaded the general issue only; provided always, that it shall be lawful for such defendant, by leave of the Court, where such action shall be brought, at any time before or after issue joined, to pay money into Court as in other actions.

If Judge or Court certifies probable cause of seizure, plaintiff only to be entitled to 2d. damages and to no costs.

XV. And be it further enacted, That in any such action, if the Judge or Court, before whom such action shall be tried, shall certify upon the record, that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action, shall not be entitled to more than two pence damages, nor to any costs of suit.

All penalties or forfeitures under this Act may be recovered within three years after the offence committed or forfeiture incurred.

XVI. And be it further enacted, That all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, may be commenced or prosecuted at any time within three years after the offence was committed by reason whereof such penalties or forfeitures shall be incurred, any law, usage, or custom to the contrary notwithstanding.

No appeal allowed from sentence of any Court under this Act, unless applied for within twelve months after.

XVII. And be it further enacted, That no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's Courts in this Island, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

Suspending clause.

XVIII. And be it further enacted, That this Act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto, and an order made by Her Majesty in Council, that the clauses and provisions of this Act shall be the rules, regulations and restrictions respecting the fishes-

ries on the coasts, bays, creeks or harbors of the Island of Prince Edward.

\*.\* This Act received the Royal allowance on the 3d day of September, 1844, and an order was on the same day made by Her Majesty in Council, declaring that its clauses and provisions should be the rules, regulations and restrictions respecting the fisheries on the coasts, bays, creeks or harbors of the Island of Prince Edward; and notification of said Royal assent, and of the said order, was published in the *Royal Gazette* newspaper of this Island, on the 8th day of October, 1844.

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CAP. XV.

An Act to amend and explain an Act, passed in this present session of the General Assembly, intituled "An Act to consolidate and amend the laws relating to statute labor and the expenditure of public moneys on the highways." See note to  
6 Vic., c. 1.  
Repealed by 14  
Vic., c. 16.

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CAP. XVI.

An Act to continue and amend an Act therein mentioned, for the relief of insolvent debtors. Expired.

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CAP. XVII.

An Act for suspending for a limited period, certain parts of an Act passed in the fourth year of His late Majesty's reign, intituled "An Act for ascertaining and establishing the boundary lines of Counties and Townships, and parts of Townships, and for regulating the duty of surveyors, and to repeal a certain Act therein mentioned." Expired.

\*.\* This Act suspended operation of Act of 4 W. 4, c. 15, so far as regards Townships Nos. 10, 9, 8, 7, 6, 5, 4, 3, 2 and 1, to the end of the then next session of the General Assembly; and also empowered the Executive Government to suspend same, in regard to any other Townships in this Island, for a like period.

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CAP. XVIII.

An Act to prevent the going at large of swine and geese at all seasons, and of horses at certain seasons, in the square and streets of Georgetown. Expired.

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CAP. XIX.

An Act to amend the Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin. Amended by  
8 Vic., c. 6, &  
14 V., c. 13.

**W**HEREAS under the peculiar circumstances of this Colony, it is deemed expedient to amend an Act passed

5 W. 4, c. 6.

No horses or cattle distrained for rent between 1st December and 1st June, to be sold within that time.

All hay and straw on premises to be left for fodder.

Owners to give warrant of attorney.

in the fifth year of the reign of His late Majesty King William the Fourth, intituled "An Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin:" Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That in all cases of distress that may be hereafter made between the first day of December, in any year, and the first day of June in the next ensuing year, for rent of land in arrear, no horse, horses or cattle, so distrained, shall be sold, towards satisfaction of the rent in arrear, until after the first day of June ensuing the time of distraint, provided the same shall have been distrained on between the hereinbefore mentioned periods of time—any law, usage or custom to the contrary notwithstanding: and provided also, that in the event of any horse, horses or cattle being distrained for arrears, all hay and straw threshed and unthreshed, shall be left on the premises, for the foddering of such horse, horses or cattle, but persons giving the usual warrant of attorney, in cases of replevin, shall be bound and obliged to produce such horses or cattle on the said first day of June, or at the time legally appointed for the sale thereof, and also, not to convert such fodder to any other use, than as herein directed.

(Sec. II. repeated by 14 Vic., c. 13.)

## CAP. XX.

### An Act relating to landlord and tenant.

Continued by 9 Vic. c. 10, and 15 Vic. c. 3.

If tenant of any messuage where the land held therewith does not exceed one acre, holds over, lessor may apply to 2 Justices of the Peace, to make oath before such Justices.

**W**HEREAS the present mode of proceeding by action of ejectment, in order to dispossess tenants wilfully holding over tenements or premises after the expiration of their lease, or other demises, is attended with great inconvenience, delay and expense, and it is considered expedient to give, in certain cases, a more summary and less expensive remedy: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that when any tenant of any messuage, tenements or premises situate within this Island, where any lands held therewith shall not exceed one acre, under a lease for years, or less period, or any other demise, shall, after the expiration of such tenancy, and on due notice to quit having been given, refuse to deliver up such possession to the lessor, or person entitled thereunto, it shall be lawful for such lessor or person to apply to any two of Her Majesty's Justices of the Peace for the County within which such tenements or premises are situate, and having made oath before such Justices that such tenant has held and occupied such tenements or premises, [particularly designating in the affidavit, whether a tenement, messuage or other premises, and where situate,] for a certain period, then last past, as tenant to such person, under a demise

which had then expired, and that due notice to quit has been given, such Justices shall and may thereupon summon such tenant, giving at least six days' notice, to be served either personally on the tenant, or in case he cannot be found, by leaving the same with his wife, servant, or other adult member of the family on the premises, to show cause at a place and time in such summons to be specified, before such Justices, why such tenant holds over such tenements or premises; and in case such tenant shall neglect or refuse to attend such summons, or attending, shall not show sufficient cause to the satisfaction of such Justices for so holding over, they shall issue their warrant in the nature of a writ of possession and execution, directed to the Sheriff of the County, within which such tenements or premises may be situate, requiring him forthwith to put such person claiming such premises in possession, and to levy the costs of such proceedings, under and by virtue of an execution to be issued by such Justices, and to be levied upon the goods and chattels of the person so holding over as aforesaid, or in default of such goods and chattels, to arrest his body, and imprison him for a period of time not exceeding three months, as such Justices may direct; and it shall be the duty of such Sheriff to execute such writ agreeably to the direction therein contained: provided, that where such tenant shall give to such Justices sufficient security for the payment of such costs, within thirty days from the time of judgment, then no execution shall issue against the body or goods and chattels of such person during the said period of thirty days.

Duty of Justices thereupon.

Further duty of Justices when tenant neglects to appear, &c.

Duty of Sheriff upon execution to be issued by Justices.

Execution not to issue, if tenant gives security for payment of costs within 30 days.

II. And be it enacted, That if such tenant or other person, having an interest in such tenements or premises, should consider himself aggrieved by the judgment of such Justices, it shall be lawful for any one of the Justices of the Supreme Court of Judicature of this Island, on the application of such tenant or other person, and upon sufficient cause shown therefor by affidavit, to award a *certiorari* for the removal of such proceeding before such Court, and upon the return of such proceedings, such Court shall examine into the matter, and may admit affidavits on either side, and may, in case that the opinion of such Court may require it, direct an issue for trial of facts, and shall order and determine in the matter, either by confirming or quashing the proceedings, as to justice shall appertain, and such Court may make such orders and rules as may be necessary, to carry their proceedings and determination into effect: provided always, that no such *certiorari* shall in the meantime stay or suspend the execution of the judgment of such Justices.

Any Justice of Supreme Court to award *certiorari* in case of tenant aggrieved by judgment of Justices of the Peace.

Court may direct an issue, to find facts.

Power of Supreme Court in such cases.

Proviso.

III. And be it enacted, That in all proceedings had under the provision of this Act, the party prevailing shall recover his costs, and have process therefor, that is to say, for proceed-

Who entitled to costs & amount, and how recoverable.

ings had before such Justices, the like costs to be by them taxed and allowed, as are recoverable for similar services by the Act to regulate proceedings before Commissioners of small debts, except the Sheriff's fees on the execution of such writ of possession, which shall be the same as for executing a writ of *habere facias possessionem* issuing out of the Supreme Court, and all proceedings upon *certiorari* in the Supreme Court, costs to be levied and recovered in the usual manner.

When proceedings of Justices are quashed, Supreme Court may award a writ of restitution.

IV. And be it further enacted, That when such proceedings are quashed by the Supreme Court, the said Court may award a writ of restitution, and such tenant or other person may recover, against the adverse party in such proceedings, any damage which such person may have sustained by reason of such proceedings, with costs, in an action on the case.

Construction of words of this Act.

V. And be it enacted, That in the construction of this Act, words importing the singular number, or masculine gender only, shall be understood to include several matters as well as one matter, and several persons as well as one person, and female as well as male, and bodies corporate as well as individuals.

Summons, &c., to be in form in schedule.

VI. And be it enacted, That the summons and writ of possession and execution shall be in form given by the schedule to this Act annexed, or in words to the like effect.

Continuance of Act.

VII. And be it enacted, That this Act shall continue and be in force for two years, from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

#### SCHEDULE.—FORM OF SUMMONS.

SS.

To *I. J.*

Form of summons.

WHEREAS *G. H.* of hath this day on oath made it appear to us, that you have, as his tenant, occupied (here describe the premises,) (for last past, under a demise which has expired, and that after being duly notified to quit, you hold over and refuse to give up the possession of said premises: we do therefore, agreeably to the directions of the Act of Assembly, in such case made and provided, summon you to appear before us (here describe day, hour and place,) to show cause, if any you have, why you should not deliver up to said the possession of the said tenements (or premises).

Given under our hands, this day of 18

*A. B.*  
*C. D.*



## FORM OF WRIT OF POSSESSION AND EXECUTION.

By *A. B.* and *C. D.*, two of Her Majesty's Justices of the Peace, in and for the County of

Form of writ  
of possession.

To the Sheriff of

WHEREAS *G. H.*, claiming as lessor of certain premises, situate (here describe the tenement or premises) now in the occupation of *I. J.*, hath on oath made it appear to us, that the said *I. J.* holds over and refuses to give up possession of the said premises after his demise thereof has expired, and due notice to quit given, and the said *I. J.* having been duly summoned to appear before us, agreeably to the directions of the Act of Assembly in such case made and provided, to show cause why, &c. ; we have adjudged that the said *G. H.* shall be forthwith put in possession of the said premises, and shall also recover his costs of proceeding, being

besides your fees, on executing this writ: and we do hereby command you, that without delay, you cause the said *G. H.* to have possession of said premises: we also command you, that you levy of the goods and chattels of the said *I. J.* the sum of \_\_\_\_\_ adjudged to him for his costs, besides your fees; and for want of goods and chattels whereon to levy, you are required to take the body of the said *I. J.* and deliver him to the keeper of the jail of the said County, and the said keeper shall take the said *I. J.* into his custody, and him safely keep for \_\_\_\_\_ days, unless the said \_\_\_\_\_ and your own fees, be sooner paid; and how you shall have executed this writ, return to us within \_\_\_\_\_ days from the date hereof.

Given under our hands, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18

*A. B.*

*C. D.*

## CAP. XXI.

An Act to alter and amend the Act for the establishment of an Academy in Charlottetown.

See 10 G. 4, c.  
9—10 Vic. c. 14.  
Repealed by  
23 Vic. c. 17.

## CAP. XXII.

An Act in further amendment of an Act, passed in the tenth year of the reign of King George the Fourth, intituled "An Act to regulate the laying out and altering of high-ways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation."

See 10 G. 4, c.  
10, and note  
thereto, for  
other Acts in  
amendment.

Repealed by  
14 Vic., c. 1.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to Act 12 Vic., cap. 23.

## CAP. XXIII.

Disallowed by Her Majesty. An Act to authorize the issue *de novo* of certain writs, under the road compensation Acts, in certain cases.

## CAP. XXIV.

Disallowed by Her Majesty, 13th Dec. 1843. An Act to provide for the summary trial of small debts, and to regulate proceedings in cases of summary *capias*.

## CAP. XXV.

Repealed by 24 Vic. c. 18. An Act to enable married women to convey freehold property to which they may be entitled in their own right.

## CAP. XXVI.

21 G. 3, c. 2. An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the third, intituled "An Act relating to wills, legacies, and executors, and for the settlement and distribution of the estates of intestates," and to make other provisions in lieu thereof.

Meaning of certain words in his Act.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That the words and expressions hereinafter mentioned, which, in their ordinary signification, have a more confined or different meaning, shall, in this Act—except where the nature of the provision, in the context of this Act, shall exclude such construction—be interpreted as follows, (that is to say,) the word "will," shall extend to a testament and to a codicil, and to an appointment by will, or by writing, in the nature of a will, in exercise of a power; and the words "real estate," shall extend to lands, rents and hereditaments, whether freehold or any other tenure, and whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right or interest, (other than a chattel interest) therein; and the words "personal estate," shall extend to leasehold estate, and other chattels real, and also to moneys, shares of government and other funds, securities for money, (not being real estate,) debts, choses in action, rights, credits, goods, and all other property whatsoever, which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the masculine gender only, shall extend, and be applied to a female as well as a male.

"Will."

"Real Estate."

"Personal Estate."

Number.

Gender.

II. And be it further enacted, That an Act passed in the twenty-first year of the reign of King George the Third, intituled "An Act relating to wills, legacies, and executors, and for the settlement and distribution of the estates of intestates," shall be, and the same is hereby repealed.

Repeals Act of the 21st G. 3, c. 2.

III. And be it further enacted, That it shall be lawful for every person to devise, bequeath, or dispose of by his will, executed in manner hereinafter required, all real estate, and all personal estate, which he shall be entitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon the heir at law of him, or if he became entitled by descent, of his ancestor, or upon his executor or administrator; and also to estates *per autre vie*, whether there shall, or shall not be any special occupant thereof, and whether the same shall be freehold, or of any other tenure, and whether the same shall be a corporeal or incorporeal hereditament; and also, to all contingent, executory, or other future interests in any real or personal estate, whether the testator may or may not be ascertained, as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by deed or will; and also to all rights of entry for conditions broken, and other rights of entry; and also to such of the same estates, interests and rights respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will.

All property may be disposed of by will.

Estates *per autre vie*.

Contingent interests.

Rights of entry, and property acquired after execution of the will.

IV. And be it further enacted, That if no disposition by will shall be made of any estate *per autre vie*, of a freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of special occupancy, as assets by descent, as in the case of freehold land in fee simple; and in case there shall be no special occupant of any estate *per autre vie*, whether freehold or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the executor or administrator of the party that had the estate thereof by virtue of the grant; and if the same shall come to the executor or administrator, either by reason of a special occupancy, or by virtue of this Act, it shall be assets in his hands, and shall go and be applied and distributed in the same manner as the personal estate of the testator or intestate.

Estates *per autre vie*.

V. And be it further enacted, That no will made by any person under the age of twenty-one years shall be valid.

No will of person under age valid.

VI. Provided also, and be it further enacted, That no will made by any married woman shall be valid, except such a will

Nor a *feme covert*, &c.

as might have been made by a married woman before the passing of this Act.

Every will to be in writing, and signed by the testator.

VII. And be it further enacted, That no will shall be valid, unless it shall be in writing, and executed in manner herein-after mentioned, (that is to say), it shall be signed at the foot or end thereof, by the testator, or by some other person in his presence, and by his direction, and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

Appointment by will to be executed like other wills.

VIII. And be it further enacted, That no appointment made by will, in exercise of any power, shall be valid, unless the same shall be executed in manner hereinbefore required, and every will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power, should be executed with some additional or other form of execution or solemnity.

Soldiers and mariners' wills excepted.

IX. Provided always, and be it further enacted, That any soldier, being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate, as he might have done before the passing of this Act.

Publication not requisite.

X. And be it further enacted, That every will executed in manner hereinbefore required shall be valid without any other publication thereof.

Will not to be void on account of incompetency of attesting witness.

XI. And be it further enacted, That if any person who shall attest the execution of a will, shall of the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

Gifts to an attesting witness to be void.

XII. And be it further enacted, That if any person shall attest the execution of any will, to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift or appointment, of, or affecting any real or personal estate, (other than, except charges and directions for the payment of any debt or debts,) shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting, shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will.

XIII. And be it further enacted, That in case by any will, any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged, shall attest the execution of such will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof.

Creditor attesting to be admitted a witness.

XIV. And be it further enacted, That no person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

Executor to be admitted a witness.

XV. And be it further enacted, That every will made by a man or woman shall be revoked by his or her marriage, (except a will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not, in default of such appointment, pass to his or her heir, executor or administrator, or the person entitled as his or her next of kin, under this Act.)

Will to be revoked by marriage.

XVI. And be it further enacted, That no will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

No will to be revoked by presumption.

XVII. And be it further enacted, That no will or codicil, or any part thereof, shall be revoked, otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator or by some person in his presence and by his direction, with the intention of revoking the same.

No will to be revoked but by another will, or codicil, &c., or by destruction thereof.

XVIII. And be it further enacted, That no obliteration, interlineation, or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will, before such alteration, shall not be apparent, unless such alteration shall be executed in like manner, as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator, and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

No alteration in a will shall have any effect unless executed as a will.

XIX. And be it further enacted, That no will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived, otherwise than by the re-execution thereof,

No wills revoked to be revived otherwise

than by a re-execution or a codicil to revive it.

or by a codicil executed in manner hereinbefore required, and shewing an intention to revive the same, and when any will or codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shewn.

A devise not to be rendered inoperative by any subsequent conveyance or act.

XX. And be it further enacted, That no conveyance or other act made or done subsequently to the execution of a will, of or relating to any real or personal estate therein comprised, except an act by which such will shall be revoked as aforesaid, shall prevent the operation of the will with respect to such estate or interest in such real or personal estate, as the testator shall have power to dispose of by will at the time of his death.

A will shall be construed to speak and take effect from the death of the testator.

XXI. And be it further enacted, That every will shall be construed with reference to the real and personal estate comprised in it, to speak and take effect, as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will.

A residuary devise shall include estates comprised in lapsed and void devises.

XXII. And be it further enacted, That unless a contrary intention shall appear by the will, such real estate or interest therein as shall be comprised or intended to be comprised, in any devise in such will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any,) contained in such will.

A general devise of the testator's lands shall include leasehold as well as freehold estates.

XXIII. And be it further enacted, That a devise of the land of the testator, or of the land of the testator in any place, or in the occupation of any person mentioned in his will, or otherwise described in a general manner, and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include the leasehold estates of the testator, to which such description shall extend, as the case may be, as well as freehold estates, unless a contrary intention shall appear by the will.

A general gift shall include estates over which testator has a general power of appointment.

XXIV. And be it further enacted, That a general devise of the real estate of the testator, or of the real estate of the testator in any place, or in the occupation of any person, mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend, (as the case may be,) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power,

unless a contrary intention shall appear by the will; and in like manner, a bequest of the personal estate of the testator, or any bequest of personal property described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description shall extend, (as the case may be,) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will.

XXV. And be it further enacted, That where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a contrary intention shall appear by the will.

A devise, without any words of limitation, shall be construed to pass the fee.

XXVI. And be it further enacted, That in any devise or bequest of real or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which may import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime, or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will, by reason of such person having a prior estate tail, or of a preceding gift, being without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; provided that this Act shall not extend to cases where such words, as aforesaid, import, if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age, or otherwise answer the description required for obtaining a vested estate, by a preceding gift to such issue.

The words "die without issue," &c., shall be construed to mean die without issue living at the death.

XXVII. And be it further enacted, That where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, in such real estate, unless a definite term of years, absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication.

No devise to trustees or executors, except for a term, shall pass a chattel interest.

XXVIII. And be it further enacted, That where any real estate shall be devised to a trustee, without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or such beneficial interest shall be given to any person for life,

Trustees, under an unlimited devise, where the trust may endure beyond

the life of a person beneficially entitled for life to take the fee.

but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such trustee the fee simple, or other, the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust shall be satisfied.

Devises of estates tail shall not lapse.

XXIX. And be it further enacted, That where any person, to whom any real estate shall be devised for an estate tail, or an estate in *quasi* entail, shall die in the lifetime of the testator, leaving issue, who would be inheritable under such entail, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect, as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Gifts to children or other issue, who leave issue living at the testator's death, shall not lapse.

XXX. And be it further enacted, That where any person being a child, or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator, leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Executor resident in this Colony knowing of his being appointed, within 30 days, and Executor not resident therein, within six months, to prove will, on penalty of £5 for every month's delay.

XXXI. And be it further enacted, That if any executor or executors, resident within this Island, of the will of any person deceased, knowing of their being so named and appointed, shall not within thirty days, or if resident out of this Island, within six months next after the death of the testator, on his appointment being made known to him, cause such will to be proved and recorded in the office of the Register of Wills and Probates of this Island, or present the will and give in a written declaration of his refusal of the executorship, every executor so neglecting his duty in that behalf (without just excuse for such delay made to and accepted by the Surrogate and Judge of Probates, before any suit or action commenced for the penalty next hereinafter mentioned), shall forfeit the sum of five pounds every month from and after the expiration of the said thirty days, or six months, as the case may be, until he shall have caused probate of such will to be made, or have presented the same in the manner above appointed: each and every such forfeiture to be had and recovered by action of debt in the Supreme Court of Judicature of this Island, at the suit of any heir, legatee, or creditor, who shall or may prove to the satisfaction of the said Court, that any injury has accrued to him by the said delay, and to and

Mode of recovery & application of penalty.



for the proper use of the person who shall inform and sue for the same: and upon any such refusal of the said executor, the Surrogate shall order and commit administration of the estate of the deceased, with the will annexed, unto the widow or next of kin to the deceased; and in case of their refusal, to one or more of the principal creditors, as he shall or may think fit.

Surrogate may order administration in such case to widow, &c.

XXXII. And be it further enacted, That if objection should be made by any creditor of a testator, or any legatee, relative, or other person interested in his estate, against granting letters testamentary, to one or more of the persons named in the will as executors, the Surrogate shall enquire into such objection, and if it appear, that the circumstances of any person named as such executor are such, that, in the opinion of the Surrogate, they would not afford adequate security to the creditor, legatee, or relative of the testator, for the due administration of his estate, he may refuse letters testamentary to any such person until he shall give the like bond, as is hereinafter required of administrators, in case of intestacy.

On objection made by any legatee, &c., Surrogate may refuse testamentary letters until executor gives bond, as in case of intestacy.

XXXIII. And be it further enacted, That if any person or persons shall be found guilty of suppressing any will or testament, such person or persons shall be subject and liable to the same penalty as is directed in and by this Act, for persons neglecting to prove any last will and testament.

Penalty on person suppressing a will.

XXXIV. And be it further enacted, That where any certain legacy is or shall be bequeathed and given by any person in his last will and testament, as also where any residuary or uncertain legacy, is, or shall by the account of any executor, be reduced to a certainty; in those cases, every such legacy and legacies may be sued for, and recovered at common law, any law, custom, or usage to the contrary notwithstanding.

Legacies ascertained recoverable at common law.

XXXV. And be it further enacted, That when and so often as it shall happen, that any person dies intestate, upon the application of the widow or next of kin, within thirty days after the death of such intestate, the said Surrogate shall grant letters of administration to such widow, or next of kin; and in case they neglect applying within the said thirty days, upon first citing such widow or next of kin, and their refusing to accept the same, such Surrogate shall grant administration to such person or persons, as he shall or may judge fit, creditors being always considered as having a preferable right to persons in nowise interested in the affairs of the deceased, and to whomsoever the said Surrogate shall grant administration according to the regulations and directions contained in this Act, he shall oblige him to give a bond to him the said Surrogate, with two or more sufficient sureties, to be approved of by the Surrogate; and such bond shall be according to the

Administration in cases of intestacy.

Who entitled to administration in such cases.

Bond to be given with two sureties by administrator.

Form of bond. Surrogate may call administrator to account—and make distribution of intestates. Mode of distribution. Appointment of guardians. Children previously advanced by settlement.

form and with the condition prescribed in the schedule to this Act annexed, or in words to the like effect, and shall be filed in the registry of the Surrogate Court before the letters of administration are issued, and shall and may proceed to call such administrators to account for and touching the goods of the intestate; and upon due hearing and consideration thereof (all just debts and funeral expenses being first allowed) the said Surrogate shall, and he is hereby fully empowered to order and make a just distribution of the surplusage or remaining goods and estate, as well real as personal, in manner following, that is to say; one third part of the personal estate, to belong to and vest in the wife of the intestate for ever, besides her dower in the houses and lands, during life, where such wife shall not be otherwise endowed before marriage; and the said Surrogate having appointed guardians in manner as is now or hereafter shall and may be by law directed, shall then out of all the residue of such real and personal estate, distribute two shares, or a double portion to the eldest son then surviving (when there is no issue of the firstborn or of any other eldest son): and the remainder of such residue equally to and amongst his other children, and such as shall or may legally represent them: provided, that children advanced by settlement or portions, not equal to the other shares, shall have so much of the surplusage as may make the estate of all to be equal, except the eldest son then surviving (where there is no issue of the firstborn or of any elder son), who shall have two shares, or a double portion of the whole.\*

Children advanced in lifetime of intestate, to account therefor upon oath.

XXXVI. And be it further enacted, That each estate, wherewith such child shall have been advanced in the lifetime of the intestate, shall be accounted for upon the oath of such child before such Surrogate, or by other evidence, to the satisfaction of such Surrogate; and in case of refusal to account upon oath, such child so refusing shall be debarred of any share in the estate of the intestate.

Division of real estate of intestates, how to be made.

XXXVII. And be it further enacted, That the division of the real estate of such intestates shall be made by five capable persons upon oath, or by any three of them, to be for that purpose appointed and sworn by the Surrogate: provided always, that if all the parties interested in such lands or tenements, being of lawful age, shall by deed agree to a division, such agreement, the same being acknowledged by the parties thereto, or by their attorney for that purpose lawfully constituted, before the Surrogate, and being entered on record in the Registry Office of the Surrogate Court, shall be deemed a legal and valid partition and settlement of such estate, as ef-

\* The Act 1 Vic., c. 15, empowers the Surrogate to enforce his orders and decisions—and also to appoint guardians to minors.

fectually, to all intents and purposes whatsoever, as if the same had been divided and settled by writ of partition, and shall be received and allowed in evidence on any trial respecting such lands and tenements: provided nevertheless, that where any estate, in houses and lands, cannot be divided among all the children, without great prejudice to the whole, the said Surrogate may, on sufficient evidence of the same, order the whole to the oldest son, or upon his refusal to any other of the sons successively, he paying unto the other children of the deceased, their equal and proportionable parts or shares of the real value of such houses and lands, upon a just appraisement thereof, to be made by three sufficient unexceptionable persons upon oath, to be appointed and sworn as aforesaid, on giving good security to pay the same in such convenient time as the Surrogate shall or may limit, making reasonable allowance in the meantime, at the rate of six pounds on the hundred in the year, and if any of the children should happen to die under age, or before marriage, then the portion of such deceased child shall be equally divided among the survivors; and in case there be no children, nor any legal representatives of them, then one moiety of the personal estate shall be allotted to the wife of the intestate for ever, as also one third of the real estate for her term of life, and the residue, both of the real and personal estate, shall be allotted equally to every of the next of kin of the intestate, in equal degree, and those who shall or may legally represent them: no representatives to be admitted among collaterals, after brothers' and sisters' children, and if there be no wife, then the whole shall be distributed among the children; and in case of no child, then to the next of kin to the intestate in equal degree, and their legal representatives as aforesaid, and in no other manner whatsoever; and every one to whom any share shall be allotted, shall give bond, with sufficient sureties, to the satisfaction of the said Surrogate, if debts afterwards be made to appear, conditioned to refund and pay back to the administrator, his rateable part thereof, and of the administrator's charges.

XXXVIII. And it is hereby enacted, That the lands and tenements wherewith any widow shall be endowed as aforesaid, shall, after the decease of such widow, be divided in like manner as by this Act is directed, saving to any person aggrieved at any order, sentence, or decree made for the settlement and distribution of the estate of any intestate, their right of appeal to the Governor in Council; every person so appealing giving security to prosecute such appeal with effect: provided, that such appeal be made within forty days after sentence of the said Surrogate.

XXXIX. And be it further enacted, That all such estates, whether real or personal, which shall or may not be comprised

Of estates of intestates in houses and lands which cannot be divided without prejudice to the whole.

Intestates' children dying under age or before marriage.

Distribution of intestates' estates.

No representatives among collaterals, after brothers' and sisters' children.

Persons to whom shares are allotted, to give bond, &c.

Widow's dower how to be divided after her death.

Estates, real or personal, not

comprised in any last will, to be distributed as intestate estates.

in any last will and testament, or which shall or may not be devised or given by the same, shall be distributed in the same manner, as the estates of intestates are directed to be distributed by this Act.

Time of filing inventory, by executor or administrator.

**XL.** And be it further enacted; That every executor or administrator taking upon himself that charge by proving the will of his testator, or receiving letters of administration of the estate of any intestate, shall within three months from the time of granting probate or letters of administration thereof, (unless a further time be given by the Surrogate) file with the Register of probates, an inventory, which shall contain a true and perfect description and estimate of all the real estate, goods, chattels and credits of the deceased person, as well in possession as in action, and shall also specify the names of all the debtors of the deceased known to the executor or administrator, together with the nature of the debt, and the security therefor, whether by judgment, bond, mortgage, promissory note, book debt, or otherwise; and the date of each security, the sum originally payable, and the payments, if any, which have been made thereon; and shall distinguish those debts, which, in the opinion of such executor or administrator, are doubtful or desperate; and shall also contain an account of all moneys, whether in specie, or bank bills, belonging to the deceased, which shall have come to the hands or knowledge of the executor or administrator, and if no such moneys shall have come to his hands or knowledge, the facts shall be so stated in such inventory, and such inventory shall be verified by the oath of the executor or administrator before the Surrogate.

Where to be filed.

Inventory to be verified on oath

Mode of compelling executor or administrator to file inventory.

**XLI.** And be it further enacted, That in case of an executor or administrator failing to return an inventory within the time limited for that purpose, he may be required so to do by a citation from the Surrogate, such citation to be issued on the application of some person having an interest in the estate of the deceased, as creditor, legatee, or next of kin, or of some person on behalf of a minor having such interest, or of any surety upon an administration bond.

When second inventory may be filed.

**XLII.** And be it further enacted, That whenever property of any kind, not mentioned in any inventory that shall have been filed as aforesaid, shall come to the possession or knowledge of an executor or administrator, he shall make and file an inventory thereof, within three months after the discovery thereof, verified in the same manner as such first inventory, and the making of such further inventory may be required in the same manner, as in the case of the first inventory.

Executor, a residuary legatee,

**XLIII.** And be it enacted, That every executor, being a residuary legatee, may bring his action of account against his

coexecutor, of the estate of the testator in his hands, and may also sue for and recover his equal and ratable part thereof, and any other residuary legatee may have the like remedy against the executor.

may bring action of account against his co-executor.

XLIV. And be it enacted, That every executor or administrator shall proceed with diligence to pay the debts of the deceased, according to their legal priority in the order of classes; and all debts of the same class shall be paid in equal proportion, and no preference\* shall be given in the payment of any debt over debts of the same class, nor shall a debt due and payable be entitled to a preference over debts not due; nor shall the commencement of a suit for the recovery of any debt, or the obtaining of a judgment therein, entitle such debt to any preference over others of the same class, nor shall any debt of an executor or administrator be entitled to any preference over others of the same class: provided always, that all allowances made by the Surrogate to any executor or administrator for expenses and services, shall have priority in payment to any debts of what class soever.

Debts to be paid according to legal priority.

Allowance made by Surrogate to executor, &c., to have priority over all debts.

XLV. And be it further enacted, That in case the personal estate of any deceased person shall not be sufficient to pay his debts, and it be found necessary to apply the real estate of such person in payment of such debts, the Surrogate Court shall have cognizance of the matter, and shall be authorized and empowered to grant a license to the executors or administrators for the application of the real estate for that purpose, as hereinafter mentioned.

Surrogate authorized to grant license for sale of real estate to pay debts.

XLVI. And be it enacted, That in order to obtain such license, the executor or administrator shall, at any time within three years† after the granting of the letters testamentary, or of administration, apply to the Surrogate Court by petition, setting forth in such petition the amount of personal property which has come to the hands of such executor or administrator, the debts so far as they can then be ascertained against the estate of the deceased person, a description of the real estate of the deceased, with the value of the respective lots or parts thereof, and whether occupied or not; and if occupied, the names of such occupants, so far as they may have come to his knowledge, and the names and ages of the heirs and devisees (if any) of the deceased; which petition shall be verified by the oath of the petitioner, taken and certified thereon by the Surrogate, and there shall also be annexed to such petition, a certified copy of the inventory on file, and in case he died testate a copy of the will.

Executor or administrator to apply for such license within three years.

Petition to be verified on oath

\* By the Act 12 Vic. cap. 2, this section is amended as far as relates to judgment debts; those debts being thereby made payable in the order of their priority.

† This period is extended to six years by 23 Vic. cap. 3, sec. 4.

Surrogate, after notice, &c., to hear and examine allegations of petition.

XLVII. And be it enacted, That the said Surrogate Court shall thereupon have cognizance of the matter of such petition, and after notice to the parties interested, either personally, or by advertisement in any public newspaper of this Island, as such Court may order and direct, shall proceed to hear and examine the allegations and proofs of the petitioner, or any person interested in such real estate, who may think proper to oppose such application; and also the validity or legality of any debt or demand which may be represented as existing against the testator or intestate.

If satisfied of the insufficiency of personal estate of intestate to pay debts, surrogate may grant license to sell real estate.

XLVIII. And be it enacted, That when in any case after due examination, the said Surrogate Court shall be satisfied that the personal estate of the testator or intestate is insufficient for the payment of debts, it shall be lawful for such Court to grant a license in general terms for the sale of such real estate, or such part thereof as may be sufficient to pay the said debts, or to specify in such license the particular parts or portions of the real estate so to be sold, and in cases, where license is given to sell only a specified part of the real estate, such Court may, from time to time, proceed to grant further license to sell a further part, or all such real estate, if necessary, for the payment of such debts.

Surrogate may, from time to time, grant further license to sell.

On application of a creditor, Surrogate may grant license for sale of real estate.

XLIX. And be it enacted, That the said Surrogate Court upon the application of any creditor, made after the expiration of one year, and before the expiration of three years, from the time of granting letters testamentary or of administration, and shewing probable cause for believing, that there will not be sufficient personal assets to pay the debts of the testator or intestate, may proceed to examine into the matter, as in the case of such application on the part of an executor or administrator, due notice thereof having been given to the parties interested, as prescribed in the forty-seventh section of this Act; and if after due examination, such Court shall be satisfied, that the personal estate of such testator or intestate is insufficient for payment of the debts, it shall be lawful for such Court to grant license to sell all or part of the real estate, in the same manner, as if the application had been made therefor by such executor or administrator.

Surrogate, (if it shall be for the advantage of the heirs and not injurious to creditors,) may direct real estate to be leased for 21 years.

L. And be it enacted, That if it shall appear to the said Surrogate Court, that it will be for the advantage of the heirs or devisees of any testator or intestate, and will not be injurious to creditors, to lease the real estate, or any part thereof, for any time not exceeding twenty-one years, (in possession and not by way of future interest,) in lieu of selling the same for the purpose of raising money to pay debts, the said Court may so direct in such license, and any lease executed by such executor or administrator in pursuance thereof, shall have the

like force and effect, as if executed by the testator or intestate immediately before his death.

LI. Provided always, and be it enacted, That in case any person interested shall contest the granting of such license to sell or lease the real estate of any testator or intestate, and shall not be satisfied with the decree of said Surrogate in regard thereto, such person may appeal therefrom to the Governor and Council; provided that the appeal be filed in the registry of such Surrogate Court, within thirty days after the making of the decree, and that the party appealing do, at the same time with the appeal, file in the registry of such Surrogate Court, a bond to the said Surrogate, with two sufficient sureties, in the penal sum of thirty pounds conditioned for the payment of such costs as shall be awarded against him by the Governor and Council, upon such appeal, and such appeal when so perfected by the filing of such bond therewith, shall suspend all proceedings upon the decision appealed from, until the appeal be determined.

Any person dissatisfied with decree of Surrogate, may appeal to Governor & Council.

Proviso.

Amount of bond, and condition thereof.

Appeal to suspend all proceedings before Surrogate.

LII. And be it enacted, That upon such appeal being perfected, and upon the legal fees being paid, the Surrogate shall immediately transmit to the Governor in Council a copy of such appeal, and of all papers, documents, and testimony produced before him, in relation to the subject of such appeal, duly certified under the seal of the Surrogate Court, with a statement of the decision made by him, and the reasons of such decision, and in case the decision of the said Surrogate shall be reversed or altered, the said Governor in Council shall make such order, touching the subject of such appeal, as under the circumstances of the case shall seem fit, but in case the decision of the said Surrogate Court shall be affirmed, the proceedings shall be remitted back thereto, and the said Surrogate Court shall proceed thereon pursuant to the first decree.

Surrogate to transmit copy of appeal, and all papers, &c., to Governor and Council.

Power of Governor & Council on reversal of decree of Surrogate.

LIII. And be it enacted, That every license to sell real estate as aforesaid, shall be made in such form as the Surrogate (or in case of the decision of the said Surrogate Court being altered by the Governor and Council) may prescribe, and shall be registered by the Register of the Court granting the same, in a book to be kept for that purpose, and a copy of such record, certified under the hand of any such Register, shall be evidence of such license, in all Courts, without further proof.

If decree of Surrogate be affirmed, the proceedings to be remitted back to him.

Form of license, &c.

LIV. And be it further enacted, That upon a license to sell or lease any real estate as aforesaid, being granted, the executor or administrator, shall be deemed entitled to all the rents and profits of the real estate of the testator, or intestate accruing from the time of his death, and shall and may have and maintain all actions and other lawful means for recover-

On license granted to sell or lease real estate, executor or administrator entitled to rents, &c.

Proceeds to be assets in their hands for payment of debts.

Proviso.

30 days' notice of sale or lease of real estate to be given.

Mode of giving such notice.

Requisites of such notice.

Before selling or leasing real estate, executor or administrator to give bond, &c.  
Penalty of bond.

Form of bond.

Where to be filed.

Executor or administrator may execute deed or lease of real estate sold or let.

Deed or lease of real estate sold or let by executor or administrator duly proved, &c., may be registered and given in evidence in any Court.

ing the same; and all the proceeds of such real estate shall be legal assets in the hands of such executor or administrator for the payment of such debts: provided always, that any rent becoming due after the death of the testator or intestate, and paid in good faith by any tenant to any heir or devisee, before notice of such license, shall not be recoverable from such tenant by an executor or administrator.

LV. And be it enacted, That before any sale or lease be made of any real estate by virtue of such license, the executor or administrator shall give thirty days' public notice of such sale or letting by posting up notifications in three, at least, of the most public places in the County where the land lies, and by publishing such notification once in each week, for four successive weeks, in a newspaper printed on the Island, in which notification, the several parcels of the lands and tenements to be sold or leased shall be particularly and appropriately designated, and whoever will give the most, shall have the preference in such sale or letting, and such sale or letting shall be by public auction.

LVI. And be it enacted, That before any executor or administrator do proceed to sell or lease any such real estate, they shall first give bond to the Surrogate, with two sufficient sureties, to be approved of by such Surrogate, in such penalty, not exceeding double the amount to be raised by such sale or letting, as the said Surrogate may think fit to direct, which bond shall be agreeable to the form, and with the condition prescribed in the schedule to this Act annexed, or in words to the like effect, and shall be filed with the Registrar of the said Surrogate Court before such sale or letting.

LVII. And be it enacted, That on sale or letting of any such real estate under such license, the executor or administrator shall and may execute a deed or lease of the premises so sold or leased, in which the substance of such license shall be recited; which deed or lease shall have the like force and effect (except as to rents or profits up to the date thereof,) as if made and executed by such testator or intestate immediately before his death.

LVIII. And be it further enacted, That every deed or lease made by any executor or administrator, under the provisions of this Act, having been first duly acknowledged or proved according to the laws relating to the registry of deeds, and an affidavit having been made by such executor or administrator before any officer or Court duly authorized to take acknowledgments in proof of the execution of conveyances, and endorsed on the said deed or lease, that the said premises, mentioned in such deed or lease, have been duly advertised and sold, according to law, may be registered in the office of the Registrar of



Deeds for this Island, and such deed or lease so registered, or a copy thereof, (in case the original be lost), may be given in evidence in any Court of law or equity in this Island, in like manner with and under the same rules and restrictions as any other registered deed, and when so given in evidence, together with proof, as hereinbefore mentioned of such license, shall be deemed and taken to be evidence, that all proceedings, on which such conveyance is founded, were rightly had and done.

LIX. And be it further enacted, That no bond given under the provisions of this Act, shall be put in suit without an order of the Surrogate Court for that purpose to be made, on the application of some person interested in such estate, either as creditor, legatee, heir, or next of kin, which order may be proved by a copy thereof, certified under the hand of the Registrar of such Court, and shall have the effect, of an assignment of such bond, *pro hac vice*, to the party so interested and suing, and entitle him to proceed thereon, in his own name as assignee thereof, in any Court of competent jurisdiction in this Island, and the party so suing shall be entitled to recover, and also be liable to pay costs, to be taxed in such suit as in ordinary cases, and such Surrogate Court may make such order, for the delivery of any such bond, for the purpose of being read in evidence in any such Court, and being again returned to the office where it is filed, as the ends of justice may require: and whenever any such bond shall be so put in suit, recovery may be had thereon, to the full extent of any injury sustained by the estate of the deceased person, by the acts or omissions of such executor or administrator, within the purview of such bond, and to the full value of all property of the deceased person, within the purview of such bond received, and not duly administered by such executor or administrator, and the amount recovered on such bond (after deducting all legal and other necessary expenses attending the recovery, to be allowed by the said Surrogate Court,) shall be deemed assets, and shall be applied and distributed, under the order and direction of the said Surrogate Court for that purpose to be made; and the said Surrogate Court may, from time to time, order such bond to be put in suit as occasion may require: provided always, that the whole amount to be recovered in any such suit or suits, shall never exceed the penalty of the bond.

LX. And be it further enacted, That where letters testamentary, or of administration of the estate, of any testator or intestate have been already granted, it shall and may be lawful for the Surrogate to grant license, to sell the real estate of such testator or intestate, on application to him made therefor, in the manner hereinbefore pointed out; provided such application, if made by an executor or administrator, be made to

No bond given under this Act to be sued for without order of Surrogate.

Surrogate may order delivery of bond for the purpose of its being read in evidence in any Court.

Extent recovery may be had on such bond.

Amount recovered to be deemed assets, and to be distributed by Surrogate.

No greater sum to be recovered than penalty in bond.

Where letters testamentary or of administration have already been granted, Surrogate may grant license to sell real estate.

him within three years next after the passing of this Act, or if by a creditor, after the expiration of one year and before the expiration of three years, from the passing of this Act.

Act not to extend to wills made before 1st January, 1844, nor to estates *per autre vie* of persons who die before 1st January, 1844.

LXI. And be it further enacted, That this Act, so far as the same extends to the making and construction of wills, shall not extend to any will made before the first day of January, one thousand eight hundred and forty-four; and that every will re-executed, republished or revived by any codicil, shall, for the purposes of this Act, be deemed to have been made at the time at which the same shall be so re-executed, republished or revived, and that this Act shall not extend to any estate *per autre vie* of any person who shall die before the first day of January, one thousand eight hundred and forty-four; but with respect to all matters and things, and provisions in this Act contained, the same shall take effect from the passing thereof, save and except that all proceedings heretofore had under and by virtue of the Act hereby repealed, and all licenses granted to any executor or administrator for the sale of lands made before the passing of this Act, and all proceedings to be had thereunder, and all suits brought for any penalty, or any other matter or thing under and by virtue of the Act hereby repealed, shall not be discontinued, but shall be and remain valid and effectual, to all intents and purposes, in the same manner and to the same extent, as if this Act had not been made and passed.

Confirms all proceedings under Act repealed, &c.

Form of bond.

LXII. And be it further enacted, That the form of bonds shall be according to the form in the schedule to this Act annexed, or in words to the like effect.

Probate of will concerning real estate proved out of this Colony, made *prima facie* evidence of devise, &c.

LXIII. And whereas it frequently becomes necessary to give in evidence wills and codicils in proof of real estate situate within this Island, but which have been proved and remain deposited in the Courts of other countries, whereby great expense and inconvenience have ensued to individuals: for remedy whereof, be it enacted, that the probate of every will concerning real estate duly proved in any Court of competent jurisdiction out of this Island, shall and may be given and received as evidence *prima facie* of any devise or matter affecting real estate therein mentioned, in all cases where such probate might heretofore have been used as evidence of, or relating to any matter concerning personal estate therein mentioned.

Suspending clauses.

LXIV. Provided always nevertheless, That nothing herein contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

\* \* This Act received the Royal allowance on the 13th December, 1843, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 13th February, 1844.

The seventh section of this Act is explained by 23 Vic., c. 3.

## SCHEDULE.—No. 1.

## ADMINISTRATION BOND.

Know all men by these presents, that we are held and firmly bound unto the Surrogate Judge of Probates, in and for the Island of Prince Edward, in the sum of \_\_\_\_\_ pounds, of lawful money of the said Island, to be paid to the said Surrogate Judge of Probates for the time being; for which payment to be well and truly made, we bind ourselves, and each of us by himself, for and in the whole, our and each of our heirs, executors and administrators, firmly by these presents. Scaled with our seals, dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year our Lord one thousand eight hundred and \_\_\_\_\_

Form of administration bond.

The condition of this obligation is such, that if the above bounden \_\_\_\_\_ administrator of all and singular the goods and chattels, and credits of \_\_\_\_\_ the deceased, do make, or cause to be made, a true and perfect inventory of all and singular, the real estate, goods chattels, and credits, of the said deceased, which have, or shall come to the hands, or possession, or knowledge of the said \_\_\_\_\_ or into the hands or possession of any other person or persons, for \_\_\_\_\_ and the same so made, do exhibit, or cause to be exhibited into the Registry of the Surrogate Court for the said Island, on or before the \_\_\_\_\_ day of \_\_\_\_\_ next ensuing; and the same goods, chattels and credits, and all other the goods, chattels and credits of the said deceased, at the time of his death, which at any time after shall come to the hands or possession of the said \_\_\_\_\_ or into the hands or possession of any other person or persons, for \_\_\_\_\_ do well and truly administer, according to law; and further do make, or cause to be made, a true and just account of the said administration, at or before the \_\_\_\_\_ day of \_\_\_\_\_ and all the rest and residue of the goods, chattels and credits, which shall be found remaining, upon the said administrator's account, the same being first examined and allowed of by the said Surrogate Court, or other Court of competent authority in that behalf, do deliver and pay over, to such person or persons respectively, as the said Surrogate Court, or other Court of competent authority in that behalf, by decree or sentence pursuant to the true intent and meaning of this Act, shall limit and appoint: [And if it shall hereafter appear, that any last will and testament was made by the said deceased, and the executor or executors therein named, do exhibit the same into the said Surrogate Court, making request to have it allowed, and approved accordingly, if the said \_\_\_\_\_ above bounden being thereto required, do render and deliver the letters of administration, (probate of such testament being first had and made,) unto the said Surrogate Court,] then this obligation to be void and of no effect, or to remain in full force and virtue.

Scaled and delivered in the presence of \_\_\_\_\_

[The bond when given by any executor to be in like form, substituting executor, &c., for administrator, &c., and omitting the words between the brackets.]

No. 2.—BOND ON APPEAL.

Form of bond  
on appeal from  
decree of Sur-  
rogate.

[The bond to be taken for (£30.) thirty pounds, payable to the Surrogate in the same manner as administration bond, and conditioned as follows:]

WHEREAS the above bounden                      hath appealed from the decision of the said Surrogate Judge of Probates, made in a certain matter pending before him.

Now the condition of this obligation is such, that if the said                      shall well and truly pay such costs arising from such appeal, and to such person as the Governor and Council may order and direct, then this obligation shall be void, otherwise to remain in full force.

Sealed and delivered in the presence of

No. 3.—BOND ON SALE OF REAL ESTATE.

Form of bond  
to be given by  
executor or ad-  
ministrator on  
order for sale  
of real estate.

KNOW all men by these presents, that we                      [as in administration bond.] Whereas license has been granted by the Governor and Council, or Surrogate Court, [as the case may be] to the above bounden                      executor of the last will and testament, [or administrator of all and singular the goods and chattels, and credits, as the case may be,] of                      deceased, to sell or lease, [as the case may be,] real estate of the said deceased, for payment of debts.

Now the condition of this obligation is such, that if the said                      executor or administrator as aforesaid, do, and shall, well and faithfully apply all moneys arising from the sale (or lease) of any of the real estate of the said deceased, or otherwise from the rents and profits thereof in payment of the debts of the said deceased, agreeably to law, and shall well and truly account for the same in                      administration account before the Surrogate Court, or other Court of competent authority in that behalf, and shall pay any surplus of such moneys which shall be found remaining in his hands upon such accounting unto such person or persons, as the said Surrogate Court, or other Court of competent authority in that behalf, shall by decree or sentence pursuant to the true intent and meaning of this Act, in such case made and provided, limit and appoint, then this obligation to be void and of no effect, otherwise to remain in full force and virtue.

Sealed and delivered in the presence of

## CAP. XXVII.

An Act to prevent trespassing on the common of Georgetown.

\* \* \* This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

## CAP. XXVIII.

An Act for appropriating certain moneys therein mentioned  
for the service of the year of our Lord one thousand eight  
hundred and forty-three. Executed.



ANNO SEPTIMO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-fourth day of January, *Anno Domini* 1843, in the sixth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith : 1844.

Sir HENRY V.  
HUNTLEY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-first day of December, 1844, and in the seventh year of Her said Majesty's reign ; being the second session of the sixteenth General Assembly convened in the said Island.

JOSEPH POPE,  
Speaker.

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## CAP. I.

An Act to amend certain errors in two several Acts therein mentioned, relating to commissioners of highways and commissioners for recovery of small debts. 6 Vic. c. 1.  
6 V., c. 24.

\*.\* This Act was passed to amend certain errors in the Acts 6 Vic. c. 1 and Vic. c. 24, the former of which has since been repealed by the 14 Vic. c. the latter was disallowed by Her Majesty.

## CAP. II.

Repealed by <sup>23</sup> 11 Vic., c. 16. An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned.

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## CAP. III.

Amended by 11 Vic., c. 27. Repealed by 14 Vic., c. 2. An Act to repeal certain Acts therein mentioned, and to consolidate and amend the laws for the relief of insolvent debtors.

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## CAP. IV.

An Act to incorporate certain persons therein mentioned, and others, to carry on a fishery.

\*\*\* This Act never having been acted upon, it is considered unnecessary to reprint it.

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## CAP. V.

Repealed by 12 Vic., c. 11. An Act to alter the Act relating to statute labor.

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## CAP. VI.

Amended by 11 Vic., c. 15. Repealed by 12 Vic. c. 8. An Act for the better preventing accidents by fire within Charlottetown.

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## CAP. VII.

Repealed by 12 Vic. c. 15. An Act for regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein, and for the appointment of fish inspectors; also to regulate the inspection of pickled fish.

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## CAP. VIII.

Expired. An Act imposing duties for raising a revenue.

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## CAP. IX.

5 Vic., c. 2. 5 Vic. c. 3. 6 Vic. c. 6. An Act to alter three several Acts relating to the Prince Edward Island steamboat company.

\*\*\* This Company having been dissolved, unnecessary to reprint this Act.



## CAP. X.

An Act to alter and amend an Act passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled "An Act for the appointment of harbor and ballast masters, and for more effectually preventing the throwing of ballast into harbors and navigable rivers.

Repealed by  
12 Vic., c. 18.

## CAP. XI.

An Act relating to treasury warrants.

Expired.

## CAP. XII.

An Act concerning bail in civil cases, and to amend an Act made and passed in the twenty-sixth year of the reign of king George the Third, intituled "An Act to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning bail, and to prevent frivolous and vexatious arrests.

Repealed by  
12 Vic. c. 17.

## CAP. XIII.

An Act in further amendment of the laws for making lands and tenements liable for the payment of debts, and for other purposes.

26 G. 3, c. 9, &  
35 G. 3, c. 8.

WHEREAS it is necessary to explain and amend the fourth section of the Act, made and passed in the twenty-sixth year of the reign of his late Majesty King George the Third, intituled "An Act for more especially making lands and tenements liable for the payment of debts, also to enable the holders of mortgages to sell the premises mortgaged to them, more speedily and at less expense than heretofore; as also to repeal an Act made in the twenty-first year of his present Majesty's reign, intituled 'An Act making lands and tenements liable for the payment of debts, so far as the same relates to the appraisement of real estate, before sale thereof under execution, and also to further explain the manner of advertising for sale, all property, whether real or personal, taken in execution, or levied on by Sheriffs, Coroners, or other officers in this Island, as hereinafter mentioned.

26 G. 3, c. 9,

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of

Appraisement  
of real estate,

to be made by two appraisers, instead of three as heretofore.

this Act, all Sheriffs, Coroners, and other officers, who shall levy any execution on real estate in this Island, shall, before the sale thereof, cause such estate to be appraised by two proper and disinterested appraisers, instead of three, as mentioned and required in the fourth section of the said recited Act, and who shall be nominated, appointed and sworn by such sheriff or other officer.

Notice of sale of real estate under execution, how to be given.

II. And whereas the posting of advertisements in Charlottetown, for the sale of real estate, when the same shall be situated in Prince or King's County, as required by the said first recited Act, has been found inconvenient and expensive: Be it therefore enacted, that a notice published for three weeks successively in the *Royal Gazette*, and one advertisement posted on the land seized, also three other, one at each of the three public places within the county, wherein such land may be situate, shall be sufficient notice of such seizure, and intended sale, any thing in the said recited Act to the contrary notwithstanding: provided always, that nothing herein contained, shall limit, or be construed to limit, the time prescribed for the sale of lands and tenements or leasehold estates, in and by any of the Acts of the General Assembly of this Island, of which this Act is an amendment.

Not to limit the time prescribed for sale of lands or leasehold estates.

Advertisements for sale, to specify the amount of levy.

III. And be it enacted, That from and after the passing of this Act, in all advertisements for sale, under execution, of any property, real or personal, by sheriffs or other officers of Courts of record in this Island, the amount of the levy or levies made thereon shall be plainly inserted.

CAP. XIV.

Further extended by 11 Vic. c. 23.

An Act to consolidate and extend the provisions of the laws now in force, relating to the fire engine companies of Charlottetown.

\* \* This Act has been repealed by the City Council of Charlottetown, under the powers vested in said Corporation by the Act 18 Vic. cap. 34, sec. 37.

CAP. XV.

Repealed by 18 Vic. c. 13.

An Act for the regulation of the public wharf of Georgetown, and other wharfs.

CAP. XVI.

Repealed by 9 Vic. c. 3.

An Act for the protection of sheep against vicious dogs.

## CAP. XVII.

An Act for raising a fund for the encouragement of agriculture, to be expended in the erection of lime kilns, and the burning of lime.

\* \* This Act was disallowed by Her Majesty.

## CAP. XVIII.

An Act to consolidate, amend, and continue the Acts relating to merchant seamen. Repealed by  
9 Vic. c. 27.

## CAP. XIX.

An Act to establish a reward for the destruction of bears and loupceviers. Expired.

## CAP. XX.

An Act to alter the Act authorizing the erection of an Asylum for insane persons.

WHEREAS by an Act made and passed in the third year of the reign of her present Majesty, intituled "An Act to authorize the erection of a building near Charlottetown, as an Asylum for insane persons, and other objects of charity, and to provide for the future maintenance of the same," it is enacted, that it shall and may be lawful for the Administrator of the Government of this Island, for the time being, by and with the advice and consent of Her Majesty's Council, to purchase a convenient tract or parcel of ground comprising an area of from twenty to fifty acres, within or near to the Common of Charlottetown, for a site whereon to erect a building for an Asylum for insane persons, and other objects of charity: and whereas an eligible and convenient site for the said building and grounds hath not yet been found or provided, and it is deemed proper and expedient to alter the said Act in respect of the quantity of land to be purchased for the purpose aforesaid: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Administrator of the Government of this Island, for the time being, by and with the advice and consent of Her Majesty's Council, to purchase a convenient tract or parcel of

3 Vic. c. 21.

Authorizes the purchase of a tract of land, to comprise ten acres, for a site for a Lunatic Asylum.

Price of said  
land not to ex-  
ceed sum already  
appropriated,  
&c.

ground, comprising an area of not less than ten acres, within or near to the Common of Charlottetown aforesaid, for a site whereupon to erect a building for an Asylum for insane persons, and other objects of charity, and to draw warrants on the Treasury of this Island, for the payment of the same: provided, that the sum so to be paid for the said tract of land, shall not exceed the sum which has already, or may hereafter be, appropriated for that purpose.

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### CAP. XXI.

Repealed by 14  
Vic. c. 32. **An Act to provide salaries for subcollectors of customs at the several outports therein mentioned.**

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### CAP. XXII.

Expired. **An Act to continue for a limited period, an Act passed in the sixth year of Her present Majesty's reign, intituled "An Act for suspending for a limited period, certain parts of an Act passed in the fourth year of his late Majesty's reign, intituled 'An Act for ascertaining and establishing the boundary lines of counties and townships, and parts of townships, and for regulating the duty of surveyors, and to repeal a certain Act therein mentioned.'"**

\*.\* This Act continued Act of the 6th Vic. c. 17, until the end of the then next session of the General Assembly.

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### CAP. XXIII.

Amended by 11  
Vic. c. 17.  
Repealed by 18  
Vic. c. 17. **An Act to regulate the manner of proceeding upon controverted elections of members to serve in the General Assembly.**

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### CAP. XXIV.

Expired. **An Act to regulate the publishing of notices and advertisements relating to the public service.**

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### CAP. XXV.

Executed. **An Act for the encouragement of the seal and cod fisheries.**

## CAP. XXVI.

An Act to prevent the going at large, within the town of Charlottetown, of horses, bulls, cows, and other neat cattle.

\* \* \* This Act has been repealed by a law of the City Council of Charlottetown passed under the powers vested in said Corporation by the Act of 18 Vic., c. 34, s. 37.

## CAP. XXVII.

An Act to establish an additional term of the Supreme Court, and to extend the Hilary and Trinity Terms for Queen's County. Repealed by 12  
Vic., c. 9.

## CAP. XXVIII.

An Act relating to schools and education. Expired.

## CAP. XXIX.

An Act for the preservation of the herring and alewives Fisheries, in this Island. Repealed by 24  
Vic., c. 7.

## CAP. XXX.

An Act relating to entire horses.

\* \* \* The operation of this Act being confined to Charlottetown, it is printed in the volume of private and local Acts, pursuant to 24th Vic. cap. 3.

## CAP. XXXI.

An Act to incorporate a marine insurance company. Executed.

\* \* \* This Act never went into operation.

## CAP. XXXII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty-four.



ANNO OCTAVO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-fourth day of January, *Anno Domini*, 1843, in the sixth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith:

1845.

SIR HENRY V.  
HUNTLEY, Lt.  
Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the fourth day of March, 1845, and in the eighth year of Her said Majesty's reign; being the third session of the sixteenth General Assembly convened in the said Island.

JOSEPH POPE,  
Speaker.

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## CAP. I.

An Act for the increase of the revenue of this Island.

Expired.

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## CAP. II.

An Act for the better prevention of smuggling.

Expired.

## CAP. III.

Explained and amended by 11 Vic. c. 11, and in part repealed by 19 Vic. c. 14.

6 W. 4, c. 12.

An Act to make new provisions for the support of lighthouses, buoys and beacons.\*

WHEREAS in pursuance of an Act of the General Assembly of this Island, made and passed in the sixth year of the reign of his late Majesty, intituled "An Act for the appointment of a Commissioner to ascertain and determine the amount to be paid by this Island towards the support and maintenance of lighthouses—His Honor the President, then administering the Government of this Island, by his Commission, under his hand and the seal of the said Island, bearing date the twentieth day of May, *anno Domini*, one thousand eight hundred and thirty-six, did constitute and appoint Thomas Owen, of Three Rivers, Esquire, a Commissioner for the purpose of determining and deciding jointly with the Commissioners who should be appointed for the same purpose, by the Provinces of Lower Canada, Nova Scotia, and New Brunswick, with respect to the fittest sites for certain lighthouses proposed to be built on the Islands of Saint Paul and Scatari, off the coast of Cape Breton, together with necessary humane establishments; and the sums of money required for the erection of the same, as well as for their future support after they should have been erected, and also, to determine under what management and control the yearly expenses of the said lighthouses ought to be placed, and to apportion the sums of money which this Island ought to contribute annually towards the maintenance of the said lighthouses, to be estimated in manner in the said recited Act mentioned: and whereas the said Thomas Owen having taken upon himself the said office, did, in conjunction with certain other Commissioners, authorized and appointed for like purposes, by the respective Provinces of Lower Canada, New Brunswick and Nova Scotia, make a final award pursuant to the duties of their office respectively assigned to them, which said award bears date the sixteenth day of August, *anno Domini* one thousand eight hundred and thirty-six, and one part thereof hath been duly laid before the Legislature of this Island, agreeably to the directions of the said recited Act, whereby and wherein it is awarded and determined, amongst other particulars, that the superintendence of building the said lighthouse shall be vested in the Board of Commissioners appointed by the Government of Nova Scotia, that two good and sufficient lighthouses, with bells and guns, shall be erected on Saint Paul's Island, at the extreme point, so as to

\* So much of this Act as relates to and establishes the rates of light duties to be paid on account of vessels clearing from or entering at any port or place in this Island, is repealed by 19 Vic. c. 14, sec. 9.



be conspicuous on entering and leaving the Gulf of Saint Lawrence; that the light-house on the Island of Scatari, shall be erected on the east point of the said Island, and so forth; and as to the maintenance of the said lights and humane establishments, the said Commissioners did award and determine that New Brunswick shall pay to the Government of Nova Scotia, into the treasury thereof, two hundred and fifty pounds, Halifax currency, on the first day of July, in each and every year after the said light-houses and humane establishments shall be in operation, and as long as they continue to be so in conformity with the provisions of the said award; that Lower Canada shall annually pay five hundred pounds; Prince Edward Island, thirty pounds; and Nova Scotia, two hundred and fifty pounds; making the whole annual amount one thousand and thirty pounds; and that with the amount so contributed, the Government of Nova Scotia shall support, uphold and maintain the said Light Houses and humane establishments; it being well understood, that in case the said amount shall prove insufficient in any one year, the deficiency ought to be provided by the respective Legislatures of Lower Canada, Nova Scotia, and Prince Edward Island, in such manner as shall appear to them most eligible, and in the same ratio as settled in the said award; but as to New Brunswick, the sum of two hundred and fifty pounds aforesaid shall be a settled and permanent contribution, the overplus (if any) going to Nova Scotia, and the proportionate deficiency being borne altogether by the said last mentioned Province; provided however, that should Her Majesty's Government contribute, at a future period, to the support of the said establishments by an annual grant, a ratable deduction shall be made from the amount of each provincial contribution; and it was also by the said award expressed, that if the said light-houses and establishments are destroyed by fire, tempest, or other causes, the expense of rebuilding the same shall not devolve upon Nova Scotia; and also, that the Board of Commissioners of Nova Scotia shall render accounts in each and every year to the House of Assembly of Nova Scotia, duplicates of which shall be transmitted annually to the Legislatures of Lower Canada, New Brunswick, and Prince Edward Island, respectively: and whereas the said light-houses and humane establishments have been duly erected and completed, and the said light-houses are now in operation, and the contribution thereto from this Colony hath been hitherto paid as fixed by the said recited award, and in order to raise and provide a fund out of which to continue such payment, and for other the purposes hereinafter mentioned: Be it enacted, That from the passing of this Act until the period at which the light-house to be erected on Point Prim, as hereinafter mentioned, shall be complete and in operation, and the same announced, by

Until a light-house is erected on Point Prim,

1d per ton to be paid on all vessels clearing for other Colonies or ports.

Payable on register tonnage.

Compensation to collector of light duty.

After erection of lighthouse on Point Prim, 3d per ton to be paid for all vessels clearing from certain ports.

2d per ton to be paid for all vessels clearing from other ports in this Colony, not enumerated herein; and 1d additional on such vessels entering other ports in this Colony on same voyage.

By whom, and when payable, and to whom.

Mode of recovery.

Proviso.

£30 to be paid to Lieut. Gov.

order of the Government of this Island in some public newspaper or newspapers published therein, the light duty to be paid and collected on all vessels clearing out at any of the custom houses of this Island, for any other port or Colony whatsoever, shall be only one penny per ton, for each and every ton, which each and every such vessel shall admeasure, agreeably to their registers, which said duty shall be paid at the time and recoverable in the manner hereinafter mentioned; and the collector of the duties in this section mentioned, shall receive for his services fifteen *per centum* on the amount he shall collect and pay over thereunder, and from and immediately after the time when the said intended lighthouse to be erected at Point Prim, shall be completed and in operation, and announced as in this section is mentioned and provided for, the light duty to be paid and collected on all vessels clearing out from any of the following ports or places in this Island, *videlicet*: Charlottetown, Pownal Bay, Orwell Bay and Pinette; for any other port, place, or Colony whatsoever, shall be three pence per ton for each and every ton which each and every such vessel shall admeasure, agreeably to their registers; and from all other ports and places in this Island such light duty shall be two pence per like register ton; and when any of the last mentioned vessels shall on any voyage, have paid two pence per ton for light duty as aforesaid, and shall afterwards on the same voyage, enter any of the aforesaid ports of Charlottetown, Pownal Bay, Orwell Bay, and Pinette; then such vessels shall pay one penny per ton more, and in addition to the said sum of two pence so paid by them as aforesaid; which said respective duties shall be paid in all cases by the masters of such vessels as aforesaid, before the clearing of any such vessels at the custom house, to such person or persons as are now or may hereafter be appointed by the Administrator of the Government of this Island for the time being, to receive the same; and upon refusal of payment, the person so appointed as aforesaid is hereby authorized and directed to sue for and recover such duty before any one of Her Majesty's Justices of the Peace, which Justice is hereby directed and required, on oath being made by such collector, of the amount being due, to cause a *capias* to be issued for the recovery of the same, and immediately to proceed and adjudicate thereon: provided always, and be it enacted, that all vessels belonging to this Island, while actually and exclusively engaged in the fishery, and also the steamer Saint George, or any other vessel carrying the mails, shall be exempted from paying any light duty—anything in this Act to the contrary notwithstanding.

II. And be it enacted, That from and out of the duties to be raised and levied by this Act, there be, and is hereby

granted to the Lieutenant Governor, or the Administrator of the Government for the time being, of the Province of Nova Scotia, to be paid into the Treasury of the said Province, the sum of thirty pounds, of the currency of Nova Scotia; and on the first day of July in every year, as long as the said lighthouses and humane establishments are in operation, in conformity with the provisions of the said award, there shall be paid in like manner a proportionate part of a sum, which added to the unexpended balance of the aforesaid one thousand and thirty pounds, if any remaining from the preceding year, would amount to the said sum of one thousand and thirty pounds, the said proportionate part bearing such proportion to the sum so required to be added, as thirty pounds doth bear to the said sum of one thousand and thirty pounds, such annual amount to be drawn out of the Treasury of this Island, by warrant of the Administrator of the Government, with the advice and consent of Her Majesty's Executive Council: provided always, and be it enacted, that no second or subsequent payment of the said yearly sum of thirty pounds shall be made, nor shall any warrant be issued for the same, until full accounts, duly certified, of the expenses incurred in the maintenance of the said lighthouses and establishments during the preceding year, shall have been transmitted to, and received by the Administrator of the Government of this Island for the time being, nor shall any such payment be made, or warrant issued, until and unless it shall be made to appear by certificates from the respective commissioners and superintendents of the said lighthouses and establishments, that the same have been in continued and uninterrupted operation, provided and furnished with men, provisions, and other necessaries, according to the terms of the said award.

III. And be it enacted, That if Her Majesty's Government shall at any time hereafter contribute to the support of the said lighthouses and establishments, by an annual grant or other pecuniary assistance, a ratable deduction from the amount of the grant hereinbefore given shall be made, and the balance only, after making such deduction, shall be drawn out of the Treasury of this Island, and paid to the Province of Nova Scotia.

IV. And whereas it is intended to grant and appropriate, by an Act of the present session, a sum to defray the expense of constructing a lighthouse at Point Prim, in this Island; and it is necessary to provide for the keeping up of that establishment, by having proper lights, payment of attendants, and other necessary contingencies: Be it therefore enacted, that from and out of the duties to be raised and levied as aforesaid, after paying the annual sum as fixed by the award hereinbefore recited, there shall be paid a sum sufficient to

ernor of Nova Scotia annually towards support of lighthouses, &c., in Nova Scotia;

to be drawn for by warrant on Treasurer of this Island.

No second payment to be made, until accounts are furnished, &c.

If Imperial Government contributes to support of said lighthouse, &c. a ratable deduction to be made from said sum of £30.

After deducting said sum

of £30, appropriate sum for lighthouse to be erected at Point Prim.

defray the necessary cost of keeping lights in the said lighthouse at Point Prim, and paying the salaries of attendants, and for all other requisite purposes and services connected with the due maintenance of that establishment.

After payment of said sum of £30, &c., balance to be appropriated for buoys and beacons

V. And whereas it hath been deemed necessary for the encouragement of navigation, and the safety and preservation of shipping, that buoys should be laid down, and beacons erected in and at the principal ports and harbors of this Island, and the same hath been already done in and at the following ports or harbors (that is to say): Charlottetown and New London, in Queen's County; Three Rivers, Murray Harbor, St. Peter's and Grand River, in King's County; and at Bedeque, Richmond Bay, and Cascumpec, in Prince County; and it is not only necessary to provide for the future maintenance of such buoys and beacons as are already established, but also to authorize others to be placed where it may be deemed necessary: therefore, Be it enacted, that after payment of the annual sum appointed to be paid under and by the before recited award; and the necessary annual amount hereinbefore appropriated for the maintenance of the lighthouse at Point Prim; the surplus money to be raised by this Act shall be applied by the Administrator of the Government and Her Majesty's Council, in maintaining the buoys and beacons already placed as aforesaid, and in defraying the expenses and costs of constructing, laying down, and erecting buoys and beacons in and at any of the other harbors of this Island, not hereinbefore named, and in maintaining them afterwards.

Collector of light duty to pay and account for the same.

Payments to be drawn for by warrant.

Compensation to collector.

VI. And be it enacted, That the collector to be appointed as aforesaid, shall pay all moneys received by him under and by virtue of this Act, into the hands of the public Treasurer of this Island, to and for the purposes specified in this Act; and all payments to be made as by this Act directed, shall be drawn for by warrant under the hand of the Administrator of the Government of this Island, in Council, and such collector shall, for his services, be paid seven and one half *per centum*, on all moneys so received, and paid over by him as aforesaid.

Repeals Act of 1 Vic., c. 8.

VII. And be it enacted, That an Act made and passed in the first year of the reign of Her present Majesty, intituled "An Act to make provision for the payment of a portion of the expense of maintaining lighthouses, and for the erection and maintenance of buoys and beacons;" and an Act made and passed in the second year of Her said Majesty's reign, intituled "An Act for providing buoys and beacons for the harbors therein mentioned; and for a nautical survey of the harbors of Charlottetown and Three Rivers," be, and the same are hereby respectively repealed.

Also Act of 2 Vic., c. 5.

## CAP. IV.

An Act to authorize the commissioners of small debts, in their respective Courts, to appoint bailiffs to execute the processes of the said Courts, and to take security from such bailiffs for the due execution of the same.

Repealed by 11 Vic., c. 30, save and except for the purpose of enforcing all bonds given thereunder.

## CAP. V.

An Act to continue an Act intituled "An Act to alter, and in addition to an Act made and passed in the tenth year of the reign of His late Majesty King George the Fourth, relating to the laying out and altering of highways, and for other purposes therein mentioned."

Repealed by 14 Vic. c. 1.

See 10 G. 4, c. 10, and note.

\* \* This Act was passed for ten years.

## CAP. VI.

An Act to explain and amend two Acts therein mentioned, relating to distress for rent and replevins.

Amended by 14 Vic., c. 13:—*quod vide.*

WHEREAS by an Act of Assembly passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled "An Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin," it is enacted, that no goods or chattels to be hereafter distrained for rent in arrear, should be sold towards satisfaction of such rent within a less time than twenty days from the day of distraining, including the day of distress and the day of sale; provided, that the owner or owners of such goods and chattels, or some person on his or their behalf, shall, within two days \* after such distress made, enter into a warrant of attorney, with two responsible sureties, payable to the lessor or landlord, in double the appraised value of the goods, with a defeasance for the due return and forthcoming of the goods so distrained, or the appraised value thereof, on the day of sale: but no directions are given in the said Act, how the distrainer shall proceed in cases where such warrant of attorney is not granted, and doubts having arisen concerning the same; therefore, be it enacted and declared, by the Lieutenant Governor, Council and Assembly, that in all cases where any distress as aforesaid shall be made after the passing of this Act, except as hereinafter mentioned, and where no warrant of attorney shall be given and executed, as in and by the said recited Act is permitted, the person distraining shall duly advertise the goods and chattels distrained on, upon the third day after distress

5 W. 4, c. 6.

Goods, &c., distrained for rent, may be advertised on 3d day after distress made, and sold on the

\* Altered to four days by 14 Vic., c. 13, sec. 11.

5th day there-  
after, unless  
warrant of at-  
torney be given  
for return, &c.

made, to be sold on the fifth day after such advertising, unless in the meantime, the same shall be replevied in due course of law, or further time for sale shall be agreed on between the parties interested.

6 Vic. c. 19.

II. And whereas, by an Act of Assembly passed in the sixth year of the reign of her present Majesty, intituled "An Act to amend the Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin, it is enacted, that in all cases of distress that may be thereafter made, between the first day of December, in any year, and the first day of June in the next ensuing year, for rent of land in arrear, no horse, horses or cattle so distrained, shall be sold towards satisfaction of the rent in arrear, until the first day of June ensuing the time of distraint; but no provision appears to be made in or by this and the last mentioned Act, for the forthcoming of such live stock, at the day of sale, or otherwise, except in cases of the same being replevied: For remedy whereof, Be it enacted, that where any such live stock, as last aforesaid, shall be taken as a distress for rent, between the times aforesaid, then if a warrant of attorney, a mentioned in the said first herein recited Act, with a defeasance for the due return and forthcoming of the stock so distrained, or the appraised value thereof, on the day of sale, be not granted within two days\* from the time of taking such last-mentioned distress, the same may be advertised and sold within five days after advertising, as directed under the said first recited Act, and the person making the distress may take the warrants of attorney mentioned in this Act, and shall be entitled to five shillings for the same, and no more; but shall not in any case be authorized to receive the amount thereby secured, unless he shall be in possession of the warrant of attorney at the time of such receipt, and produce the same to the party paying; and it is hereby declared, that in all cases of live stock being taken as a distress for rent within the period of twenty days before the first day of June or afterwards, and before the first day of December in any year, if such warrant of attorney as aforesaid shall be duly given, then such stock shall not be sold within twenty days from the time of distraining, as is hereinbefore mentioned.

Time allowed  
for sale of live  
stock.

Fee for taking  
warrant of at-  
torney.

Live stock dis-  
trained be-  
tween certain  
dates not to be  
sold within 20  
days, &c.

\* Altered to four days by 14 Vic. c. 13, sec. 11.

## C A P . V I I .

An Act to render valid certain proceedings heretofore had before the Court of Commissioners for the recovery of small debts, for the district of De Sable, in Queen's County.

\* \* This Act is not reprinted, the purposes for which it was passed, having been answered.

## CAP. VIII.

An Act to continue an Act to prevent hawkers and peddlers travelling and selling in this Island without license. Expired.

\* \* This Act continued 5 W. 4, c. 12, for three years, and to the end of the then next session of the General Assembly.

## CAP. IX.

An Act to continue and amend an Act relating to sick and indigent emigrants. Repealed by 11 Vic. c. 3.

\* \* This Act continued 5 Vic. cap. 6, for three years.

## CAP. X.

An Act to dispense with convictions in form as now required, in certain cases, heard before Justices of the Peace.

WHEREAS by divers Acts of the General Assembly of this Island, jurisdiction is allowed to Justices of the Peace and Commissioners for the recovery of small debts, to hear and determine, in a summary way, cases of assault, trespass, and also suits for the recovery of fines and penalties: and whereas such causes are frequently carried into the Supreme Court of Judicature, by appeal, or *certiorari*, to be heard upon errors of fact, as well as in law, but the judgments rendered therein by such Justices of the Peace or Commissioners, are oftentimes reversed or set aside by the said Supreme Court, by reason of some defect or informality in the convictions, as drawn up by such Justices or Commissioners, and without the said causes being heard at large upon the matters of fact therein, although the party appellant may have removed such cause, intending to have the same heard wholly upon the merits thereof; for remedy whereof, Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing hereof, in all cases tried before any Justice of the Peace or Commissioner for the recovery of small debts, and which shall be removed by appeal or *certiorari* into the Supreme Court of Judicature, whether the right of action shall be given by any Act of Assembly, now or hereafter to be passed, it shall be lawful for the said Supreme Court of Judicature, upon motion of either party, to proceed to hear and determine such cause, by due course of law, upon the full merits thereof, in matters of fact as well as in matters of law, although the conviction in the said cause, as adjudged by the said Justices of the Peace, or Commissioners for the recovery of small debts, be not produced to the

As to *certiorari*, see 4 W. 4, c. 7.

Dispenses with form in convictions, when removed to Supreme Court, and such Court authorized to hear the same on the merits.

said Supreme Court of Judicature, or be not drawn up in form—any law or practice heretofore to the contrary notwithstanding.

Justices of the Peace, &c. to send up recognizances, &c. to Supreme Court.

II. Provided always, and be it enacted, That nothing in this Act contained shall be deemed to dispense with any law or established rule, by which Justices of the Peace or Commissioners for the recovery of small debts, or their Clerks, are now required, to send up to the said Supreme Court of Judicature, or to the Clerk thereof, recognizances, affidavits, appeal papers, or any other paper or document, other than the before mentioned convictions, pertaining to any cause or suit heard or determined before them.

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### CAP. XI.

An Act to suspend a certain clause in the Land Assessment Act, relating to the cancelling of treasury notes.

\*.\* This Act was disallowed by Her Majesty, as appears by a Despatch from Lord Stanley, Her Majesty's Principal Secretary of State for the Colonies, bearing date the 18th day of August, 1845.

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### CAP. XII.

Executed.

An Act to authorize the sale of the Government shares in the steamboat Saint George.

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### CAP. XIII.

¶ Vic. c. 1.

An Act further to alter a certain part of the laws now in force regulating the performance of statute labor on the highways, as relates to Charlottetown, its Common and Royalty.

\*.\* The Act to which this is an amendment has been repealed by 14 Vic. c. 16.

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### CAP. XIV.

Explained by  
9 Vic. c. 11.

An Act to repeal the several Acts now in force regarding apprentices, and to substitute other provisions in lieu thereof.

Repeals Act of  
the 8th G. 4,  
c. 1.

**WHEREAS** the Acts now in force regarding apprentices, contain no sufficient enactments for their security, and are in other respects defective: Be it enacted, by the Lieutenant Governor, Council and Assembly, That the Act of the



eighth year of the reign of His late Majesty King George the Fourth, intituled "An Act for regulating apprentices," and the Act of the fifth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to amend the Act now in force relating to apprentices, and to repeal a certain Act therein mentioned," and also the Act of the third year of the reign of Her present Majesty, intituled "An Act to amend the Act now in force regulating apprentices," repealed by the last hereinbefore mentioned Act, be, and they are hereby repealed.

and Act of 5  
Vic., c. 19,

and also Act of  
3 Vic. c. 9.

II. And be it further enacted, That it shall be lawful for any parent or parents, guardian or guardians, to bind out as an apprentice, any child of any age as an indented servant, to any tradesman, artisan, or farmer, for a period not exceeding the time when such child shall attain the age of twenty-one years.

Parent or guardian may bind children as apprentices, &c.

III. And be it further enacted, That any infant of the age of twelve years may be lawfully indented to any tradesman, farmer, or other, by his or her own consent, if such infant have no parent or guardian within the Island, until such infant attain the age of twenty-one years; provided that every such indenture shall be entered into by the respective parties, in the presence of and with the consent of two Justices of the Peace, each of whom shall sign the said indentures, which shall be equally binding, as if they had been signed by the parent or guardian of the said infant: provided, that any two Justices acting in this behalf, may, if they think fit, and in like manner, indent such infant for a shorter period than his or her attaining the age of twenty-one years.

Infant 12 years of age, without parent or guardian, may be indented with their own consent until 21 years of age.

Proviso.

IV. And be it enacted, That all infants of the age of sixteen and upwards, having no parents or guardians within the Island, may lawfully indent themselves to service to any tradesman, farmer, or other, until he or she shall attain the age of twenty-one years, by indenture under seal, and shall be fully bound thereby.

Minors may indent themselves until the age of 21 years.

V. And be it further enacted, That every indenture, entered into as aforesaid, shall contain a stipulation on the part of the master or mistress, his or her executors, administrators or assigns, to cause the indented child to be taught reading, writing, and the common rules of arithmetic.

Child to be taught reading, writing, &c.

VI. And be it further enacted, That whenever it shall be made to appear to any two of Her Majesty's Justices of the Peace, either upon the oath of any one or more credible witness or witnesses, or from a certificate under the hands of any eight or more respectable housekeepers residing in any town, or royalty, or township, within this Island, that any mendicant child

In certain cases mendicant children may be bound as apprentices by two Justices of the Peace.

between the ages of two and twelve years, being an orphan, or whose parent or parents shall have abandoned the care of such child, and shall have left this Island under such circumstances as to such Justices shall be deemed a final departure therefrom, and that such child hath been in the habit of soliciting alms, or receiving charitable contributions or allowances regulated by any charitable association, or being supported by any sums voted by the Legislature of this Island, and hath not otherwise means for his or her necessary permanent support, that then and in every such case, it shall be lawful for such Justices to indent any such child as aforesaid, until the age of twenty-one years, or for any less term in the discretion of such Justices, and upon such terms as may be agreed upon between the master or mistress and the said Justices, to any tradesman, farmer, or any other person in manner hereinbefore described: provided, that every indenture so to be made, shall contain a covenant or stipulation on the part of the master or mistress, his or her executors, administrators or assigns, to cause the indented child to be taught reading, writing, and the common rules of arithmetic.

Apprentice to be instructed in reading, writing, &c.

Suits for breach of master's covenant in such indenture how to be brought.

Action to be *in forma pauperis*.

VII. And be it further enacted, That in all actions at law or suits in equity arising out of any breach of the conditions of any indenture entered into in manner aforesaid in behalf of any pauper, orphan, or abandoned child, such actions or suits shall be brought in the name of the two Justices, their executors or administrators, who have been parties to the indenture as aforesaid, and such apprentice, with the permission of the Court in which such suit or action shall be brought, shall be allowed to sue *in forma pauperis*.

Mode of proceeding against apprentice deserting, &c.

VIII. And be it further enacted, That if any apprentice, indented by virtue of this Act, shall desert, or without leave absent himself or herself from the service of his or her said master or mistress, or otherwise misconduct himself or herself, then it shall and may be lawful for any Justice of the Peace to issue his warrant on the application, on oath, of the master or mistress of such apprentice, for his or her apprehension, which warrant so issued, it shall be lawful for any constable or constables to whom it may be addressed to execute in any County of this Island, notwithstanding it may have been issued by one of Her Majesty's Justices of the Peace not qualified in the County where its execution may be required; and on such apprentice being brought before such Justice, he shall, upon the evidence on oath of the said master or mistress, or of any other person, either order him, or her, to return to the service of such master or mistress immediately, or commit the said apprentice to the common jail of the County wherein such master or mistress resides, there to remain for any term not exceeding two calendar months, with or without hard

Justice may order apprentice to return to service, or commit him or her to jail.

labor, (if a male), for any part of such time, and to require such apprentice thereafter to return to the service of such master or mistress, as he may in his discretion adjudge, and to continue to fulfil the conditions of the indenture; and the Justice's and officer's fees of proceeding in every such case against any apprentice, shall be paid by the parent or guardian of such apprentice, and shall and may be recovered by warrant of distress, or such other usual process as the case may require.

IX. And be it further enacted, That any person or persons wilfully harboring an apprentice deserting, or being absent without leave from his or her master's or mistress's service, or shall, in his or their house, suffer or permit any apprentice to play at cards, dice, or any other unlawful game, or therein to be engaged in any unlawful employment, or who, not being licensed to retail spirituous liquors, shall suffer any such apprentice to sit drinking in his or her house, or give him or her, or suffer to be given to him or her, any intoxicating liquors, each and every person so offending shall forfeit and pay for every such offence any sum not exceeding five pounds, to be recovered with costs before any one of Her Majesty's Justices of the Peace for the County wherein the offence may have been committed, on the oath of any one or more credible witness or witnesses.

Imposes a penalty on persons harboring apprentice, &c.

Amount of penalty and how recoverable.

X. And be it further enacted, That if any parent or guardian, becoming bound for any apprentice, shall wilfully represent, that such apprentice is younger than his real or true age, every such parent or guardian shall forfeit and pay for every such offence, any sum not exceeding twenty pounds, the said sum of twenty pounds to be recovered in Her Majesty's Supreme Court of Judicature, by bill, plaint, or information; and if not more than eight pounds, before any Court of Commissioners for the recovery of small debts, for the County where such parent or guardian shall reside, or before any two of Her Majesty's Justices of the Peace for the same County, in the like manner as small debts are now recovered, on the oath of one or more credible witness or witnesses.

Penalty on parent or guardian representing any apprentice to be younger than he or she really is.

Amount of penalty and how recoverable.

XI. And be it further enacted, That it shall be lawful in all cases of complaint against a master or mistress, by an apprentice, or his or her parent or guardian, on the ground of ill usage, neglect or inability to instruct, or lawfully to maintain, lodge or clothe any such apprentice, for any one of Her Majesty's Justices of the Peace, having jurisdiction, to summon the master or mistress of such apprentice, to appear before any three of Her Majesty's Justices of the Peace, in order that such complaint may be investigated, who shall (if the master or mistress being lawfully summoned, do not appear,)

Mode of proceeding against master, &c., on complaint of ill usage, &c.

Justices may cancel indenture in certain cases.

proceed to adjudicate thereon in his or her absence, and it shall and may be lawful for the said three Justices to cancel any indentures between any such apprentice and their master or mistress, proof being made on oath of continued ill usage on the part of such master or mistress, or of his or her neglect or inability to instruct or duly and lawfully to maintain, lodge or clothe any such apprentice, as the case may be.

Power of Justices of the Peace when premium has been paid to master, &c.

XII. And be it further enacted, That if it shall be made to appear to such three Justices, that any premium has been paid with any such apprentice, or any wages be due, or clothing unprovided, according to covenants contained in any indenture entered into and produced before such Justices, together with sufficient evidence, on oath, respecting any matters of account, or provision which may be in dispute, it shall and may be lawful for such Justices to include, in any order for the cancelling any such indentures, an order for the equitable restitution of the whole or part of any such premium or payment of any sum that shall appear a just equivalent for any clothing, provision, or any other necessary, to which the said apprentice shall appear, by the covenants of the said indenture, to be entitled, and not to have received.

Power of Justices in allowing a maintenance to apprentice when master or mistress may not receive apprentice when ordered by them.

XIII. And whereas it may seem just to the three Justices acting under the authority of this Act, to order, in certain cases, the person to whom any complainant may be indented, to receive such indented person back into their houses, if such person has been compelled by any master or mistress to leave the same: Be it enacted, that it shall be lawful for such Justices to insert in such order, a clause directing such amount *per diem*, to be paid to such apprentice, his or her parent or guardian, as shall seem reasonable for the maintenance, as well during the time such apprentice shall have been compelled to be absent from the house of such master or mistress, previous to the hearing of any complaint before such Justices, as subsequent to the making such order; and such order shall set forth the amount *per diem* which shall accrue in case of a continued refusal to admit such apprentice.

Orders of Justices how to be made & where to be returned.

XIV. And be it further enacted, That all orders so made shall be returned under the hands and seals of the two Justices so adjudicating as aforesaid, into the Prothonotary's Office of the Supreme Court of this Island, for the County where such Justices reside, there to be filed, and such orders so made shall not be quashed for want of form; but only, if they contain any thing repugnant to the plain meaning of this Act, or the indentures on which they are founded; and the said Supreme Court is hereby authorized and empowered to hear the said appeal, and to quash or vary the said order of the said Justices, with or without costs, as it shall seem just and equit-

Power of Supreme Court to hear, &c.

able, and to award judgment, and grant execution, in the usual and customary manner, to the party or parties in whose favor the same shall be determined by the said Court.

XV. And be it further enacted, That if any master or mistress against whom any such order as aforesaid shall be made, shall be dissatisfied therewith, it shall be lawful for such master or mistress to give notice of his or her intention to appeal against such order to the next sitting of Her Majesty's Supreme Court of Judicature; and provided that such notice be given in writing to either of the two Justices, whose hands and seals are set to such order, within four days after the delivery thereof; and provided also, that security be entered into within such period, to the satisfaction of such Justices, by the appellant, and one other sufficient surety, by recognizance, in such amount as they may deem necessary for the due prosecution of the said appeal; then and in such case, the operation of such order shall be suspended.

*Master, &c. may appeal against order made by Justices.*

*Security to be first given before appeal allowed, to satisfaction of Justices.*

XVI. And be it further enacted, That either one of such Justices aforesaid, shall return the recognizances so entered, into the Prothonotary's Office of the Supreme Court for the County, who shall file the same, together with the order of the said Justices as aforesaid, and in case the conditions thereof be not complied with, then the said recognizances shall be forfeited by the order of the Court, without further proof or application, and the said Court shall, as it is hereby authorized to, grant execution against the said parties so bound in the said recognizance for the amount of such sum as shall have been ordered to be paid by the said Justices, together with reasonable costs, to be taxed in the usual and customary manner.

*Justices to return recognizances on appeal to Supreme Court.*

*Forfeited recognizances, how recoverable.*

XVII. And be it further enacted, That in case the order remain uncomplied with, it shall be lawful for the Justices aforesaid to issue a warrant of distress for the amount so ordered to be paid as aforesaid, from time to time, against the goods and chattels of the party against whom such order shall have been made; and if no goods and chattels can be found whereon to levy, then it shall be lawful for the said Justices to commit the party or parties to the jail of the County, for a period (if the sum ordered to be paid shall not exceed forty shillings) of one month; and if above forty shillings, and not exceeding three pounds, for the space of three months; and if for any sum above three pounds, and not exceeding five pounds, for the space of five months; and if for any sum above five pounds, and not exceeding eight pounds, for the space of six months.

*Mode of proceeding to enforce Justices' order, when not appealed from.*

*Period for which parties may be imprisoned, when no goods, &c. can be found to levy upon.*

## CAP. XV.

Expired.

An Act for suspending for a limited period certain parts of an Act passed in the fourth year of his late Majesty's reign, intituled "An Act for ascertaining and establishing the boundary lines of counties and townships, and parts of townships, and for regulating the duties of surveyors, and to repeal a certain Act therein mentioned.

\*.\* This Act suspended operation of Act 4 Will 4, cap. 15, so far as regards Townships Nos. 10, 9, 8, 7, 6, 5, 4, 3, 2 and 1, to the end of the then next session of the General Assembly, and also empowered the Executive Government to suspend the same in regard to any other Townships in the Island for a like period.

## CAP. XVI.

Expired.

An Act relating to the appointment of harbor masters, and for the better regulation of the public wharfs of the port of Charlottetown.

## CAP. XVII.

An Act to confirm the titles to lands purchased under the several Acts for levying an assessment on lands in this Island.

11 G. 4, c. 17.

7 W. 4, c. 31.

3 W. 4, c. 29.

7 W. 4, c. 15.

**W**HEREAS divers tracts of land have been sold by the Sheriffs, and also by the Coroner of this Island, for non-payment of Assessment, in pursuance of an Act passed in the eleventh year of the reign of his late Majesty King George the Fourth, intituled "An Act for raising a fund by an assessment on land, for erecting a Government House and other public buildings within this Island," and of an Act passed in the seventh year of the reign of his late Majesty King William the fourth, intituled "An Act for levying an assessment on all lands in this island," and also as well in pursuance of the said Acts, together with the Acts of the Assembly passed in amendment of the said two recited Acts respectively; and whereas in many instances it is uncertain, whether an actual levy of the writ of *Fieri Facias* hath been made by the Sheriff or Coroner, on the identical lands so sold before the sale thereof, and in most instances it has happened that the locality of such tracts of land was uncertain at the time of sale, and the metes and bounds thereof certain only by, and made subject to, the election of the purchaser after such sale, whence doubts have arisen as to the validity of the titles of the purchasers and their heirs and assigns, in and to such

lands; for remedy whereof: Be it declared and enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, all deeds of conveyance, executed by the Sheriff or Coroner, or which shall within six calendar months after the passing of this Act, be so executed for sales already made, under and by virtue of the said recited Acts, or of any, or of either of them, to the purchaser or purchasers of any lands whatsoever sold by him, for nonpayment of the assessment charged thereon by the said recited Acts, or either, or any of them, shall, and they are hereby declared to pass effectually and completely to the purchaser or purchasers, his, her, or their heirs and assigns, a good and valid title of and in the lands therein, or to be therein mentioned and described, and intended to be thereby conveyed, notwithstanding such Sheriff or Coroner may not have actually levied the execution on the identical lands described in such deed or deeds of conveyance, and notwithstanding the locality of such lands may not have been certain, or described, or known, by metes and bounds previous to the time of the sale thereof: provided always, that this Act shall not be deemed to give validity or effect to any deed or conveyance of land, purporting to have been sold for nonpayment of the land assessment, and which, before the passing hereof, might have been shewn to be invalid, by reason of the assessment on the land purporting to be therein conveyed, having been actually paid in conformity with the said Acts, and that the persons so claiming on the ground of having paid the assessment, had actually paid for all the land on such township then claimed by him.

Renders valid all deeds heretofore made of lands sold under land assessment Acts.

Not to render valid deeds of land so sold, if assessment had really been paid.

II. And be it enacted, That no omission of any direction contained in the Act hereinbefore first recited, or in any Act in amendment thereof, relative to the notices or forms of proceeding previous to, or at any sale made under such mentioned Acts, shall extend to render such sale invalid, but the person guilty of any such omission or neglect shall be liable to punishment therefor, and shall answer the party for any damage occasioned thereby in any legal proceeding that may be properly instituted for that purpose.

No omission of form of notices, &c., to render sale invalid.

III. Provided also, and be it further enacted, in case of any deeds confirmed by the authority of this Act, that an equity of redemption shall nevertheless be open to the former owner or owners, proprietor or proprietors, his, her or their heirs or assigns, for the space of two years, next after the period at which the purchaser or his assigns shall have taken actual possession in terms of his, her or their deed of the land, under and by virtue of his deed, whether such deed shall be executed before or after the passing of this Act, the former owner or owners, proprietor or proprietors, his, her or their agents, heirs or assigns repaying the purchase money, with the

Reserves an equity of redemption to former owner, &c.,

Former owner to repay purchase money.

lawful interest thereon, and also all expenses attending the same, and a fair allowance for such improvements, as shall or may be made thereon, the same, in case of a dispute, to be ascertained by the Supreme Court.

Deed of sale to be executed within six months.

Proviso.

IV. And provided also, That no deed of any sale heretofore made shall be deemed valid, unless such deed be executed within six months after the passing of this Act, nor shall any such deed as aforesaid be valid, before the same be duly registered: provided further, that nothing herein contained shall extend, or be construed to extend, to any lands with respect to which any action or actions are now pending, anything herein contained to the contrary thereof notwithstanding.

### CAP. XVIII.

An Act to incorporate the trustees of the Baptist Church in Charlottetown.

\*.\* This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to Act 24 Vic. c. 3.

### CAP. XIX.

Expired.

An Act to continue an Act intituled "An Act to consolidate, amend, and reduce into one Act the several Acts and parts of Acts relating to the qualifications and mode of summoning grand and petit jurors."

\*.\* This Act continued 5 V., c. 6, for three years.

### CAP. XX.

Continued by 19 Vic. c. 4.

An Act for the regulation of the mackerel fishery.

Nets not to be set in day time for purpose of catching mackerel.

Mode of proceeding to obtain removal of nets in such cases.

Penalty.

WHEREAS it is expedient to make provisions for the regulation of the mackerel fishery: Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, no person or persons shall set any net or nets in the day time, for the purpose of catching mackerel, or shall leave any such net or nets set in or on any part of the bays, shores, harbors or rivers of this Island, between sunrise and sunset; and any person or persons who may feel aggrieved thereby, may, and they are hereby required to give notice to the owner or owners thereof, or to any other person or persons intrusted with or concerned in such net or nets, to remove the same forthwith, and on refusal or neglect to proceed immediately to take up all such nets, they shall be subject and liable to a penalty not exceeding twenty shillings for the



first offence, and for the second and every future offence shall be liable to a fine not exceeding five pounds; the said fines to be recovered and disposed of as hereinafter mentioned: provided always, that this Act shall not subject any person to a penalty, when gales of wind or stress of weather shall render it impracticable or endanger the life of any person or persons to remove such net or nets in the day time, as may have been previously set.

*Proviso.*

II. And be it enacted, That any person or person who shall wilfully or designedly injure or destroy any net or nets set or placed for the purposes aforesaid, and properly buoyed or secured, shall, for every such offence, forfeit and pay to the party injured, a sum not exceeding five pounds, together with reasonable costs, to be recovered as hereinafter mentioned.

*Penalty on persons wilfully destroying or injuring nets.*

III. And be it enacted, That no person or persons shall hereafter set or place either one or more nets, the length of which shall exceed forty-five fathoms, affixed or joined together on any part of the bays, shores, harbors or rivers of this Island; and every person who may set or place one or more nets therein, of the length aforesaid, shall leave a space of at least sixty fathoms between each and every net or length of nets, when connected as aforesaid, that the course or passage of mackerel or other fish may not be hindered or obstructed thereby.

*Regulates the setting of mackerel nets and the distances at which they may be set.*

IV. And be it enacted, That no person or persons shall hereafter set or place any net moorings nearer than sixty fathoms to any other net moorings that may be set or placed on any part of the shores, harbors, bays or rivers of this Island, nor shall any person or persons suffer or permit his, her, or their net mooring or net moorings to remain so set and placed, unless such person or persons shall set and affix a net or nets, or cause a net or nets to be affixed or set thereto at least twelve hours in every forty-eight hours during the fishing season; provided such person or persons be not necessarily prevented from setting and affixing any net or nets to his, her or their net moorings by sickness, stress of weather, or other unavoidable cause; and any person or persons offending against the provisions of this, or the last preceding clause, shall be liable to a penalty not exceeding twenty shillings for each offence.

*Distances at which such nets are to be set from each other.*

*Penalty on persons offending.*

V. And be it enacted, That no person or persons shall hereafter set or place any net or nets, net mooring or net moorings, within one hundred and fifty fathoms from low water mark, on any or either of the hauling grounds, on the shores, and in the bays, harbors or rivers of this Island during the hauling season, and while there shall be stationed at any such hauling ground or grounds at least one seine, manned and prepared for hauling mackerel thereat, under a penalty not

*Distance at which nets are to be set from low water mark when a seine shall be in use at the same place.*

exceeding fifty shillings for the first offence, nor more than five pounds for every subsequent offence.

**No person to use seine without consent of owner.**

VI. And be it enacted, That no person or persons, other than the seine men, shall presume to lay hold of, tie or fasten, his or their boat or boats to any seine or seines, enclosing, encircling or containing any mackerel or other fish on the hauling grounds of this Island, or presume to dip any fish from and out of any seine or seines that may be there hauled, until the owner or owners of such seine, or other person having the charge and management thereof, shall publicly declare his assent thereto, or give his permission to such person or persons to dip and take fish thereout, under a penalty not exceeding twenty shillings for the first offence, nor exceeding fifty shillings for every subsequent offence.

**Penalty for offending herein.**

**Mode of recovery of penalties imposed by this Act.**

VII. And be it enacted, That all fines and penalties arising under or by virtue of this Act, shall be recovered, with costs, on the oath of (at least) one credible witness, before any one of Her Majesty's Justices of the Peace or Commissioner for the recovery of small debts, being a Justice or Commissioner for the County or district wherein (or off the shores of which) the offence shall have been committed, and shall be paid to the party who may sue for and recover the same; and if goods and chattels cannot be found, whereon to levy such fines and costs, then the offender shall be committed to the jail of the County wherein the offence, as before stated, was committed, for a period not exceeding sixty days, there to remain, without being entitled to the benefit of any Act made for the relief of insolvent debtors, or for granting the limits of jails in this Island.

**Offender to be imprisoned, if no chattels can be found whereon to levy.**

**Continuance of Act.**

VIII. And be it enacted, That this Act shall continue and be in force for ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

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### CAP. XXI.

**Expired, but re-enacted by 12 Vic., c. 34.**

An Act for the appointment of clerks to Justices of the Peace, and to regulate proceedings had before them.

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### CAP. XXII.

**Executed.**

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty-five.

ANNO NONO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-fourth day of January, *Anno Domini* 1843, in the sixth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith: 1846.

Sir HENRY V.  
HUNTLEY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the seventeenth day of February, 1846, and in the ninth year of Her said Majesty's reign; being the fourth session of the sixteenth General Assembly convened in the said Island.

JOSEPH FORK,  
Speaker.

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## CAP. I.

An Act to provide seed and food for certain settlers, and to regulate the distribution thereof and mode of repayment. Executed.

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## CAP. II.

An Act for raising a revenue.

Expired.

## CAP. III.

**Continued by**<sup>13</sup> An Act to consolidate and amend the several Acts relating to  
**Vic. c. 1, and**  
**15 Vic. c. 25.** dogs, and the taxation thereon.

**Repeals Act of**  
**the 3d Vic. c. 4.** **BE** it enacted, by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the third year of the reign of her present Majesty, intituled "An Act to continue and amend an Act intituled 'An Act to impose a tax on dogs, with certain exceptions, and relating to other matters connected with them,'" and an Act made and passed in the seventh year of the reign of her present Majesty, intituled "An Act for the protection of sheep against vicious dogs," be, and the same are hereby respectively repealed.

**Also, Act of 7th**  
**Vic. c. 16.**

**Arrear of dog**  
**tax under for-**  
**mer Acts to be**  
**recovered.**

III. And be it enacted, That the several amounts of tax which shall be in arrear and unpaid for the year ending on the first day of May next ensuing the passing of this Act, shall and may be recovered in like manner in all respects as if this Act had not been passed, but shall be appropriated in manner by this Act directed.

**Imposes a tax**  
**on dogs kept in**  
**all other parts**  
**of this Island.**

IV. And be it enacted, That in all other parts of this Island, except Charlottetown, as aforesaid, every occupier of one entire or whole house, shall be entitled to keep one dog, free of duty, but for every other dog kept or owned by any such occupier, and for every dog kept or owned by all other persons in such other parts of this Island, there shall be paid by the respective owners or keepers of such dogs the sum of five shillings, at the respective times, and subject to the condition in the preceding clause mentioned, and which sums shall be paid annually to such persons as shall be appointed by the Commissioners of roads of the several districts throughout the Island, except as aforesaid, to collect the same, and such Commissioners are hereby authorized and required to appoint as many persons within their several districts as by them shall be deemed necessary.

**Amount of tax,**  
**and to whom**  
**payable.**

**Road Commis-**  
**sioners to ap-**  
**point persons**  
**to collect tax.**

**Collector to pay**  
**over tax to road**  
**commissioners.**

V. And be it enacted, That the collectors, appointed by the said Commissioners as aforesaid, shall annually pay the amount of taxes respectively by them collected, into the hands of the respective Road Commissioners of the several districts; and such Road Commissioners are hereby authorized and required to receive the respective amounts of such tax, and appropriate them to the repairs of the roads in the several districts in which they shall respectively reside; and every such Collector duly complying with the terms of this Act shall be allowed to retain for his trouble the sum of twenty *per centum* on all moneys so by him collected, besides being exempted from performing his statute labor.

**Appropriation**  
**of tax.**

**Allowance to**  
**Collector.**

VI. And be it enacted, That each and every person keeping one or more dogs, shall, on requisition duly made by the said collectors or overseers as aforesaid, respectively give and subscribe a just and true account and return of each and every dog kept by him, or them, for the aforesaid number of days, under a penalty of twenty shillings, on proof being duly given by any such collector or overseer, respectively, that such requisition has been duly made, and that no return hath within fourteen days from the period of such requisition been given by the owner or owners of such dog or dogs.

Owners of dogs to give and subscribe a true return of all dogs kept by them to Collector.

VII. And be it enacted, That every collector so appointed in manner aforesaid, shall subscribe a certificate in form following, and return the same to the Commissioner of roads in whose district he may have been appointed, which certificate shall be made and returned on or before the first day of July in each year :

Collectors to subscribe certificate to Road Commissioners.

“ I *A. B.* do hereby certify, that I have called on the several householders and other persons liable to pay the tax on dogs, within my district, who have respectively complied with my requisition, and signed a just and true account of all dogs kept within the period for which they are liable to pay for dog tax, and which account is as follows [here insert the names of persons with the number of dogs for which each is liable, opposite to each name.]”

Form of such certificate.

VIII. And be it enacted, That if any collector or overseer appointed under this Act, shall refuse to collect such tax, or shall not duly account for the same in manner enjoined and required by this Act, every such collector and overseer shall forfeit and pay for every such offence, the sum of two pounds, besides being liable to be prosecuted at the suit of Her Majesty for all such sums as he may have collected, and ought to have collected, with costs of recovery ; the same, if not exceeding eight pounds, to be recovered in the manner as small debts, with costs, before any Justice of the Peace or Commissioner for the county or place wherein such default shall have happened, and if above the sum of eight pounds, then to be recovered with costs, in the Supreme Court of Judicature.

Penalty on Collector, &c. for neglect of duty.

How to be recovered.

IX. And be it enacted, That from and after the passing of this Act, if any person quietly passing through or along the streets, squares, roads, or other parts of this Island, shall have been attacked and bitten by any dog, on complaint made before any two Justices of the Peace appointed for the County where such person shall have been so attacked and bitten, accompanied by sufficient proof of the injury sustained, the said Justices shall forthwith order the owner or keeper of the said dog to destroy him, and if he shall refuse or neglect to do so, within twenty-four hours after such order has been served

Two Justices of the Peace may order the owner of any dog that shall bite any person, to destroy such dog within 24 hours

Penalty on owner neglecting or refusing to destroy such dog.

How damages,  
&c., are to be  
recovered.

Appropriation  
of damages, &c.

Penalty on  
owner or keep-  
er of bitch at  
large during  
the season of  
heat.

Owner of any  
dog killing or  
injuring any  
sheep, &c.,  
liable to make  
compensation  
therefor.

Full value of  
sheep, &c., kil-  
led, how to be  
recovered.

Limits amount.

Penalty of  
owner of such

upon him, the said owner or keeper of such dog shall forfeit and pay the sum of two shillings for each and every day such dog shall be allowed to remain undestroyed, and besides shall be compelled to pay all damages and expenses the injured party may have sustained, which damages and expenses may be sued for and recovered, if not exceeding eight pounds, before any two of Her Majesty's Justices of the Peace appointed for the County in which the owner of such dog may reside, but if the said damages and expenses shall exceed the said sum, then, and in such case, to be recovered by action in Her Majesty's Supreme Court of Judicature, and all damages, fines or penalties that shall or may be recovered by any person who may have been so attacked and bitten by any such dog, shall be paid over to him or her as a compensation for the injury sustained, and every person so injured shall be a competent witness to prove such injury, and the conviction thereupon shall be allowed as evidence of the fact of the injury having been sustained in any action for damages as aforesaid.

X. And be it enacted, That every person owning or keeping a bitch, who shall suffer such bitch to run at large during the season of her being in heat, thereby collecting a number of dogs, every such person, for each and every such offence, shall forfeit and pay a penalty of twenty shillings.

XI. And be it enacted, That if any dog or dogs shall kill or injure any sheep, lamb or lambs, within this Island, the owner of such dog, upon complaint and conviction thereof, before any two Justices of the Peace, shall make compensation for such injury, to any extent not exceeding eight pounds, in the discretion of the said Justices, and shall cause such dog to be immediately killed, and in case such sheep, lamb or lambs, shall be killed by such dog, then the owner thereof shall be liable to pay the owner of such sheep or lamb so killed, the full value thereof, to be recovered before any two of Her Majesty's Justices of the Peace in the County where such offence shall be committed, who are hereby authorized finally to determine the same, provided the sum so to be recovered does not exceed the sum of eight pounds; and on nonpayment thereof, within such time after judgment as the Justices of the Peace shall deem proper, not exceeding one month, to issue their warrant to a constable to distrain on so much of the offender's goods and chattels as may be sufficient to discharge the same, with the charges arising thereby, and to sell such goods at public auction, returning the overplus (if any there be) to the owner or owners thereof.

XII. And be it enacted, That in every case where the owner of a dog shall neglect or refuse to kill such dog, so having killed or injured any sheep, lamb or lambs as aforesaid,

he shall be liable to a penalty of five pounds, to be recovered before any one of Her Majesty's Justices of the Peace, to be levied by warrant of distress on his goods and chattels, such fine to be paid, one half to the informer, and the other half into the public Treasury of this Island.

dog refusing,  
&c., to kill  
same.

XIII. And be it enacted, That in all cases where no goods and chattels shall be found whereon to levy for the recovery of any penalty imposed by, or damages recoverable under all or any of the three last foregoing sections of this Act, then and in every such case the offender or offenders shall suffer imprisonment for a period not exceeding three months, at the discretion of the Justice of the Peace or Commissioner of small debts who may convict the offender.

If no goods,  
&c., can be  
found to levy  
upon for pen-  
alties, party  
may be impris-  
oned.

XIV. And be it enacted, That all fines and penalties that may be levied and recovered under and by virtue of this Act, if not otherwise appropriated by the foregoing clauses, shall be appropriated to the same purposes as the tax on dogs hereby imposed, and in the respective districts or places where such fines and penalties shall or may respectively be incurred.

Appropriation  
of penalties not  
specifically ap-  
propriated.

XV. And be it enacted, That all sums of money intended to be raised and levied under the authority of this Act, and arising from the tax on dogs, fines and penalties, may be sued for and recovered in a summary way, before any two (except as hereinbefore excepted) of Her Majesty's Justices of the Peace residing in the County in which such tax shall become due, or the fines and penalties shall be incurred respectively, and shall be recovered in the manner prescribed by the Act passed in the seventh year of the reign of Her present Majesty, intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned:" provided always, that no imprisonment under the authority of this Act, except as hereinbefore mentioned, shall be for a less period than ten days, nor more than ninety days, after which the party imprisoned shall be forthwith discharged.

Tax on dogs  
and penalties  
how to be re-  
covered.

7 Vic., c. 2.

XVIII. And be it enacted, That this Act shall continue in force for the space of three years, and from thence to the end of the end of the then next session of the General Assembly, and no longer.

Continuance  
of Act.

\*.\* Sections 2, 16 and 17 of the above Act have been repealed by a law of the City Council of Charlottetown, passed under the powers vested in said corporation by the Act 18 Vic., c. 34, s. 37.

#### CAP. IV.

An Act to prohibit the exportation of potatoes for a limited period.

Expired.

Continued for  
1 year by  
8 Vic. c. 1.  
Expired.

## CAP. V.

An Act relating to stray cattle.

## CAP. VI.

For Acts relating to this subject, see 20 G. 3, c. 1; 3 W. 4, c. 30; 14 Vic., c. 6, 21 Vic., c. 9, 24 V., c. 11, and 25 V., c. 1.

Lt. Governor may authorize the formation of volunteer companies in any regiment of militia.

Term of enrolment.

Days of training.

Subjects volunteers to penalty imposed by 5th section of Act of 3 W. 4, c. 30.

Lt. Governor may direct arms to be issued.

An Act to render the militia more efficient, and to repeal certain parts of an Act therein mentioned.

**WHEREAS** many of the loyal inhabitants of this Island, liable to be enrolled in the militia thereof, desire to become more perfect in their training, and to have the use of arms and accoutrements when under drill, in order that they may be enabled to give speedy and effective service when required: Therefore, to encourage their patriotic spirit, Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall be lawful for the Lieutenant Governor of this Island, or other Administrator of the Government thereof for the time being, and he is hereby authorized, in such cases as he may deem it expedient, to order and direct the officer in command of any regiment of militia within this Island, to receive volunteers from the several companies in his regiment, to the number of fifty at least, for the purpose of training; and such commanding officer shall then enrol such volunteers for any term not exceeding two years, appoint the officers to each volunteer company respectively, and require them to assemble for muster and training, not exceeding twenty days in any one year.

II. And be it enacted, That every enrolled militiaman, who shall have so volunteered and be enrolled on a muster roll to be kept for this purpose, and being duly called and ordered to assemble for training as aforesaid, and shall make default therein, shall be liable to be fined under the provisions contained in the fifth section of an Act passed in the third year of the reign of His late Majesty King William the Fourth, intituled "An Act for repealing certain parts of the Act intituled 'An Act for the establishing and regulating a militia, and for substituting other provisions in lieu thereof.'"

III. And be it enacted, That it shall be lawful for the Lieutenant Governor, or other Administrator of the Government, to direct arms and accoutrements, in such numbers as may be deemed necessary, to be issued from Her Majesty's magazines, under the direction of the Adjutant General of militia, or other officer, to be placed in charge of the officer commanding such regiment of militia, and under such regulations as shall be deemed necessary by the Commander-in-chief.



IV. And be it enacted, That such arms and accoutrements, in order to their due preservation, shall only be given out to such volunteers during the period of training, and each commanding officer, at the close of each period of training, shall receive such arms and accoutrements into his custody, if he shall deem it fit to do so.

Arms, &c., to be given out to volunteers during period of training.

V. And be it enacted, That any enrolled volunteer neglecting to return such arms and accoutrements as may have been delivered into his possession, or any of them, to the place ordered by his commanding officer, shall be subject for every day's neglect, to the fine imposed by the said fifth section of the before mentioned Act.

Penalty for neglecting to return arms, &c.

VI. And be it enacted, That the ninth and twenty-sixth sections of an Act made and passed in the twentieth year of the reign of his late Majesty King George the Third, intituled "An Act for the establishing and regulating a Militia," be and the same are hereby repealed.

Repeals 9th and 26th sections of Act of the 20th G. 3, c. 1.

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## CAP. VII.

An Act to amend an Act passed in the seventh year of her present Majesty's reign, relating to the recovery of small debts.

7 Vic. c. 2, repealed by 23 V. c. 16.

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## CAP. VIII.

An Act in addition to two several Acts therein mentioned, relating to weights and measures.

3 Will. 4, c. 19;  
4 Vic. c. 7.  
Repealed by  
19 Vic., c. 3.

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## CAP. IX.

An Act to oblige husbands and other natural relatives of indigent and impotent persons, unable to maintain themselves, to contribute to their support.

Continued by  
13 Vic. c. 1.  
Repealed by  
14 Vic. c. 7.

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## CAP. X.

An Act to continue an Act relating to landlord and tenant.

6 Vic. c. 20, further continued by 15 Vic. c. 3.

\*.\* This Act continued the Act 6 Vic. c. 20 for five years from the passing thereof and from thence to the end of the then next session of the General Assembly.

## CAP. XI.

8 Vic. c. 14.

An Act to amend and explain an Act made and passed in the eighth year of the reign of her present Majesty, intituled "An Act to repeal the several Acts now in force, regarding apprentices, and to substitute other provisions in lieu thereof.

All indentures of apprenticeship entered into previous to the passing of the Act of the 8th Vic. c. 14, declared to be valid and binding.

**W**HEREAS doubts have arisen whether the said Act, which repeals all former Acts relating to apprentices, does not make void all indentures of apprenticeship previously entered into, before the passing of the said Act: Be it therefore declared and enacted, by the Lieutenant Governor, Council and Assembly, That nothing in the said Act intituled "An Act to repeal the several Acts now in force regarding apprentices, and to substitute other provisions in lieu thereof," contained, shall be construed in any way or manner whatsoever, to make void any indenture of apprenticeship duly entered into previous to the passing of the same, under any Act or Acts of the General Assembly of this Island, previously in force in this Island; and all masters and apprentices, parties to any such indenture of apprenticeship, are hereby declared to be, and shall be liable to all the provisions and enactments in the said recited Act contained, any thing in the said recited Act contained to the contrary thereof notwithstanding.

## CAP. XII.

Repealed by 12 Vic. c. 17.

An Act to authorize the appointment of Commissioners, in King's and Prince Counties, to accept and take the render of principals by their bail.

## CAP. XIII.

For the different Acts relating to Land Assessment, see note to 11 Vic. c. 7.

An Act relating to certain surplus moneys arising from the sales of land, proceeded against for land tax, and to provide for the repayment of the same, when legally claimed by the owners thereof.

**W**HEREAS by a return made by the Treasurer of this Island, there appears to be now remaining in the Treasury of this Island, the sum of five hundred and forty-nine pounds eight shillings and two pence, arising from the sales of lands proceeded against for land tax, which have not been claimed by the owners thereof; and whereas it is expedient

that such moneys should be applied to the public service, until the owners thereof shall claim the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That immediately upon the passing of this Act, it shall and may be lawful for the Treasurer of this Island, and he is hereby required to call in and pay off, so many of the outstanding warrants upon the treasury of this Island bearing interest, as shall amount to the sum of five hundred and forty-nine pounds eight shillings and two pence, now in his hands as surplus moneys, under and by virtue of any Act or Acts of the General Assembly of this Island, imposing an assessment upon land, and such warrants so to be called in and paid off as aforesaid, shall be the next in rotation in point of numbers and dates to the last warrant previously called in and paid off by the said Treasurer, under the Act of the General Assembly of the said Island now in force, regulating the paying off treasury warrants: provided always, nevertheless, that whenever the persons duly entitled to the said surplus moneys, or any of them, shall establish their or his right to the same, or to any part thereof, in the mode pointed out by the said Acts of the General Assembly of the said Island, under which the same shall have been received, it shall and may be lawful for the Treasurer of the said Island, from time to time, out of any moneys then in his hands, being part of the general revenue of this Island, to pay over to the said persons, or to any of them, the said surplus moneys belonging to them or him, as heretofore used and accustomed, under and by virtue of the said Acts or either of them.

Treasurer to expend surplus moneys in paying off outstanding warrants on treasury.

Persons duly entitled to such surplus moneys on establishing their right, to be paid the same.

#### CAP. XIV.

An Act for enabling Courts to abstain from pronouncing sentence of death in certain cases.

See 6 W. 4, c. 21, and 6 W. 4, c. 22.

**WHEREAS** it is expedient, that in all cases of felony, except murder, the Court before which the offender or offenders shall be convicted, shall be authorized to abstain from pronouncing judgment of death, whenever such Court shall be of opinion that, under the particular circumstances of any case, the offender or offenders is or are a fit and proper subject, or fit and proper subjects to be recommended for the royal mercy: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the passing of this Act, whenever any person shall be convicted of any felony punishable with death, except murder, and the Court before which such offender shall be convicted, shall be of opinion that, under the particular circumstances of the case, such offender is a fit and proper subject to be recommended for the

When Court may abstain from pronouncing sentence of death in case of felony.

royal mercy, it shall and may be lawful for such Court, if it shall think fit so to do, to direct the proper officer, then being present in Court, to require and ask, whereupon such officer shall require and ask, if such offender hath or knoweth anything to say, why judgment of death shall not be recorded against such offender, and in case such offender shall not allege any matter or thing sufficient in law to arrest or bar such judgment, the Court shall and may, and is hereby authorized to abstain from pronouncing judgment of death upon such offender, and instead of pronouncing such judgment to order the same to be entered of record, and thereupon such proper officer as aforesaid, shall and may, and is hereby authorized to enter judgment of death on record against such offender in the usual and accustomed form, and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open Court against such offender, by the Court before which such offender shall have been convicted.

Record of such entry, to have the like effect as if judgment had been pronounced, and offender reprieved.

II. And be it enacted, That a record of every such judgment so entered as aforesaid, shall have the like effect, to all intents and purposes, and be followed by all the same consequences, as if such judgment had actually been pronounced in open Court, and the offender had been reprieved by the Court.

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### CAP. XV.

Expired. An Act for suspending for a limited period certain parts of an Act passed in the fourth year of his late Majesty's reign, intituled "An Act for ascertaining and establishing the boundary lines of counties and townships and parts of townships, and for regulating the duties of surveyors, and to repeal a certain Act therein mentioned.

\* \* This Act suspended operation of Boundary Act, 4 W. 4, c. 15, so far as regards Townships Nos. 10, 9, 8, 7, 6, 5, 4, 3, 2, and 1, to the end of the then next session of the General Assembly.

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### CAP. XVI.

An Act for authorizing the apprehension of persons in any County or place upon warrants granted by Justices of the Peace of any other County.

WHEREAS it frequently happens that persons, against whom warrants are granted by the Justices of the Peace for the several Counties within this Island, escape into other Counties or places out of the jurisdiction of the Justices of the

Peace granting such warrants, and thereby avoid punishment for the offences wherewith they are charged: for remedy whereof, Be it enacted, by the Lieutenant Governor, Council and Assembly, That in case any person, against whom a legal warrant shall be issued by any Justice or Justices of the Peace of any County, shall escape out of the jurisdiction of such Justice or Justices granting such warrant, it shall and may be lawful for any Justice or Justices of the Peace of the County to which such person shall escape, go into, reside, or be, and such Justice or Justices is and are hereby required to endorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute such warrant in such other County out of the jurisdiction of the Justice or Justices granting such warrant as aforesaid, and to apprehend and carry such offender or offenders before the Justice or Justices who endorsed such warrant, or some other Justice or Justices of such other County, where such warrant was endorsed, in case the offence for which such offender shall be so apprehended in such other County as aforesaid, shall be bailable in law, and such offender or offenders shall be willing and ready to give bail for his appearance at the next general jail delivery, to be held in and for the said County where the offence was committed, such Justice or Justices of such other County before whom such offender or offenders shall be brought, shall and may take bail of such offender or offenders for his or their appearance at the next general jail delivery, to be held in and for the County where such offence was committed, in the same manner as the Justices of the Peace of the County should or might have done in such proper County; and the Justice or Justices of such other County, so taking bail as aforesaid, shall deliver the recognizance, together with the examination or confession of such offender or offenders, and all other proceedings relating thereto, to the constable or other person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same, and to deliver over such recognizance, examination, and other proceedings to the Clerk of the Crown where such offender or offenders is or are required to appear by virtue of such recognizance, which examination or confession shall be as good and effectual in law, to all intents and purposes, and of the same force and validity, as if the same had been entered into, taken and acknowledged before any Justice or Justices of the Peace in and for the proper County where the offence was committed; and the same proceedings shall be had thereon, and in case such constable or other person to whom such recognizance, examination, confession, or other proceedings shall be so delivered as aforesaid, shall neglect or refuse to

Where parties escape from one County to another, they may be apprehended in such other County on the warrant being indorsed by a Justice of the Peace.

If apprehended and the offence bailable, to be carried before Justice who indorsed warrant, &c.

Justice to deliver recognizance, &c. to Constable, &c.

Effect of examination, &c., made before Justice of the Peace for the County in which parties are apprehended.

Penalty on Constable, &c., neglecting to deliver recognizance, &c. to Clerk of the Crown.

If offence not bailable, then to be committed to Jail.

Justice of the Peace not liable to any action for indorsing warrant.

Proviso.

deliver the same without delay to the Clerk of the Crown, or Clerk of the Peace of the County, where such offender or offenders is or are required to appear by virtue of such recognizance, such constable or other person shall forfeit the sum of ten pounds, to be recovered against him by bill, plaint, or information in any Court of record proper to try the same, by any person or persons who will prosecute or sue for the same; and in case the offence for which such offender or offenders shall be apprehended and taken in any other County shall not be bailable in law, or such offender or offenders shall not give bail for his appearance at the next general jail delivery, to be held in and for the said County where the offence was committed, to the satisfaction of the Justice before whom such offender or offenders shall be brought in such other County, then and in that case the constable or other persons so apprehending such offender or offenders shall carry and convey such offender or offenders before one of Her Majesty's Justices of the Peace of the proper County where such offence was committed, there to be dealt with according to law.

II. And be it further enacted, That no action of trespass, false imprisonment, information or indictment, or other action, shall be brought, sued, commenced, or prosecuted by any person or persons whatsoever, against the Justice or Justices who shall indorse such warrant, for, or by reason of his or their indorsing such warrant: provided nevertheless, that such person or persons shall be at liberty to bring or prosecute his or their action or suit against the Justice or Justices who originally granted such warrant, in the same manner as such person or persons might or could have done, in case this Act had not been made.

### CAP. XVII.

Expired.

An Act to prevent the going at large of swine and geese at all seasons, and of horses at certain seasons, in the square and streets of Georgetown.

### CAP. XVIII.

Expired.

An Act to continue the Act relating to nuisances on the streets and squares of Charlottetown.

\* \* \* This Act continued the 1st Vic. c. 13, for one year.

### CAP. XIX.

3 W. 4, c. 21.

An Act further to continue the Act regulating the weight and quality of bread.

\* \* \* This Act has been repealed by a law of the City Council of Charlottetown passed under the powers vested in said Corporation by the Act of 18 Vic., c. 34, s. 37.

## CAP. XX.

An Act relating to the meridional line.

See 49 G. 3, c. 1.

WHEREAS by an Act made and passed in the forty-ninth year of the reign of His late Majesty King George the Third, intituled "An Act for establishing a meridional line, to regulate surveyors in this Colony," it was, among other things, enacted, that a meridional line should be properly drawn, ascertained and fixed in a north and south course and direction, pursuant to the said recited Act: and whereas it is found necessary, for the better correction of land surveying instruments, that a line to be run in an easterly and westerly direction, at right angles with the said first mentioned line, and adjoining thereto, should be drawn and fixed: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall be lawful for the Lieutenant Governor, or other Administrator of the Government of this Island for the time being, and he is hereby authorized and required, within three calendar months from the passing of this Act, to issue a commission, in the manner required in and by the said recited Act, for the purpose of causing a line to be run and established at right angles with the said north and south line already ascertained and fixed, in an easterly and westerly direction as aforesaid, and to set up such other mark or marks at such distances as may be necessary to mark the said line, which said line shall be so ascertained and fixed within one month after such commission shall be issued; and all land surveyors using the magnetic needle, shall be made subject to all the forms and regulations in respect to the lines hereby to be established, to which they are now subject, regarding the line now established in a northerly and southerly direction, as laid down in the said Act hereinbefore recited.

Lt. Governor,  
&c., to issue a  
commission to  
authorize a line  
to be run.

Land surveyors  
to be subjected  
to regulations,  
&c.

## CAP. XXI.

An Act for the better regulation of business in the public treasury of this Island.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That from and immediately after the passing of this Act, the books of account containing all entries of debit and credit of the public Treasurer of this Island, as such officer, shall be kept by the method of bookkeeping called double entry, and shall consist of a cash book, journal and ledger, and every transaction shall be therein immediately and correctly recorded, according to the actual nature of such transaction, and all cash transactions shall immediately upon

For other Acts  
relating to du-  
ties, &c., of  
Treasurer, see  
25 G. 3, c. 4, s.  
32; 5 G. 4, c.  
18; 11 G. 4, c.  
9; 3 W. 4, c. 31.  
5 V., c. 13; 8  
Vic. c. 1, s. 35;  
11 Vic. c. 7; 12  
V. c. 7; 14 V.,  
c. 9, s. 7 & 8;  
14 V. c. 20; &  
14 V., c. 25.

Mode in which  
books of ac-  
count, &c., of

public treasury of this Colony are to be kept, &c.

their taking place, be entered in the cash book, from which they shall be journalized and posted into the ledger, at least once a week, and the cash book shall be balanced at the end of every month, and the balance carried to the next month's account; also the Treasurer shall keep a book, in which the name, to whom payable, and for what service, date, number and amount of every warrant, for money drawn upon him as Treasurer, shall be entered in order; and as the same may come in for payment, they shall be duly filed and carefully preserved by the Treasurer; and that on the receipt and payment of any treasury warrant, the Treasurer shall have the same receipted by the person presenting and receiving payment of the same, by writing his name and the date of the transaction across the face of said warrant, and the amount of interest received therewith; and a similar register or entry shall be kept of all bonds for duties of impost and other securities received by the Treasurer as such officer.

Treasurer to keep separate accounts, &c.

II. And be it enacted, That the Treasurer shall open separate accounts with every office of impost, including accounts with every outport of this Island; and also with all persons who have granted or may hereafter grant bonds, and other securities to the treasury of this Island.

Treasurer to strike a trial balance monthly.

III. And be it enacted, That it shall also be the duty of the Treasurer, and he is hereby required to strike a trial balance of all his accounts as Treasurer, on the last day of every month, and submit the same forthwith to the Lieutenant Governor in Council; and it shall and may be lawful for the Lieutenant Governor in Council to appoint one or more fit and proper person or persons, as auditor or auditors, to attend at the office of the Treasurer, on the last day of every quarter, and to examine the accounts, and to assist him in reckoning the cash then in the treasury; and a certificate of the amount of the cash in hand, specifying the different sorts of moneys and amount of each, shall be signed by the Treasurer and such auditor or auditors, and together with the said balance, be forthwith laid by the Treasurer, before the Lieutenant Governor in Council; and it shall be the duty of the Treasurer to lay before the Legislature, during the first week of its sitting, all necessary accounts and statements in writing relating to said office, when and as often as it may meet for the despatch of business.

Lt. Governor in Council to appoint auditors.

Duty of auditors.

Further duty of auditors, and of Treasurer.

Place where Treasurer's office is to be kept, and hours of business.

IV. And be it enacted, That the Treasurer shall keep his office in the new Colonial Building now erecting in Charlotte-town, when such office is finished; and his office hours every day during the year shall be from ten o'clock in the forenoon until three o'clock in the afternoon, (Sundays and holidays excepted.)



V. And be it enacted, That from and after the passing of this Act, it shall be the duty of the collector of impost for Charlottetown, to pay any balance of moneys in his hands arising from duties received at his office, at least once a month, into the office of the Treasurer of this Island, any law, usage or custom to the contrary notwithstanding.

Collector of impost for Charlottetown to pay over to Treasurer monthly balance of moneys in his hands.

VI. And be it enacted, That all collectors and officers of impost in this Island shall, and they are hereby required, within fifteen days after the termination of each quarter, to furnish to the Treasurer at his office, a full account of all business done in their respective offices, as such collectors and officers, up to the end of each quarter.

Periods within which Collectors of impost are required to furnish their accounts.

VII. And be it enacted, That it shall be the duty of the Colonial Secretary and clerk of the Executive Council, and he is required to furnish the Treasurer, immediately after the meeting of the Executive Council, with a copy of the warrant book, containing a list of any warrants that may have been ordered or directed to be issued at such meeting of the said Council, and specifying the service for which such warrants may be ordered.

Colonial Secretary and clerk of the Executive Council to furnish Treasurer with copy of warrant book.

VIII. And be it enacted, That on the resignation, death or removal from office of the present Treasurer, the salary to be paid to his successor in office shall not exceed the sum of four hundred pounds\* currency of this Island, in lieu of all fees, emolument or percentage whatsoever, any law or usage to the contrary notwithstanding.

Future Treasurer to be only allowed £400 per annum.

3 W. 4, c. 31.

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## CAP. XXII.

An Act to facilitate the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick.

Continued by 13 Vic. c. 1; Expired.

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## CAP. XXIII.

An Act to continue an Act to make and keep in repair the pumps and wells of Charlottetown, and for other purposes, and to repeal a certain Act therein mentioned.

Expired.

\* \* This Act continued 3 W. 4, c. 37, for one year.

\* By 18 Vic., c. 19, this allowance is reduced to £300.

## CAP. XXIV.

5 W. 4, c. 2. An Act to add to and further continue the Act authorizing hard labor to be added to the sentence of imprisonment.

\*\*\* This Act continued for ten years and amended the Act 5 W. 4, c. 2, which has since been repealed by 12 V., c. 12.

## CAP. XXV.

Expired. An Act to continue for one year an Act for the summary trial of common assaults and batteries.

\*\*\* This Act continued 4 W. 4, c. 2.

## CAP. XXVI.

Altered and amended by 10 V., c. 11, 16 V. c. 10, & 18 V., c. 33.  
Repealed by 19 Vic., c. 2.

An Act to consolidate the several Acts regulating the sale by license of spirituous and other liquors.

## CAP. XXVII.

Continued by 13 Vic. c. 1, 15 V., c. 4, and 22 Vic., c. 12.

An Act to make provision for the regulation of seamen shipped on board of any ship or vessel owned in or belonging to Prince Edward Island, while such ship or vessel shall be within the precincts of the said Island.

**WHEREAS** by an Act of Parliament, made and passed in the seventh and eighth years of the reign of Her Majesty Queen Victoria, intituled "An Act to amend and consolidate the laws relating to merchant seamen, and for keeping a register of seamen," it is, in and by the sixty-first section thereof, among other things enacted, that the said Act shall not extend or apply to any ship registered in or belonging to any British Colony having a Legislature, or to the crew of any such ship, while such ship shall be within the precincts of such Colony, by reason whereof, the provisions of the said Act, so far as the same relate to ships or vessels registered in or belonging to this Island, or to the crew of any such ship, while such ship shall be within this Island, or its precincts or dependencies, do not extend to the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that so much and such part of an Act of the General Assembly of this Island, made and passed in the fiftieth year of the reign of His late Majesty King George the Third, intituled "An Act to prevent the harboring deserters from His Majesty's navy or army, and for giving a reward for apprehending deserters, and to prevent harboring deserters from ships in the

Repeals so much of Act of 50 G. 3, c. 3, as relates to merchant seamen;

merchant service," as relates to merchant seamen; an Act made and passed in the fifty-ninth year of his said late Majesty's reign, intituled "An Act for the better regulation of merchant seamen, and to repeal part of an Act passed in the fiftieth year of His present Majesty's reign, intituled 'An Act to prevent the harboring deserters from His Majesty's navy or army, and for giving a reward for apprehending deserters, and to prevent harboring deserters from ships in the merchant service;'" an Act made and passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act relating to merchant seamen of this Island;" and an Act made and passed in the seventh year of the reign of Her present Majesty, intituled "An Act to consolidate, amend, and continue the Acts relating to merchant seamen," be, and the same are hereby respectively repealed.

also Act of 59  
G. 3, c. 8;

also Act of  
7 W. 4, c. 3;

and also Act of  
7 Vic. c. 18.

II. And be it enacted, That immediately after the passing of this Act, if any person or persons in this Island shall trust or give credit to any mariner or seaman, belonging to any ship or vessel registered in or belonging to this Island, while such ship shall be within the precincts of this Island, without the knowledge or allowance of the master or commander thereof, no *capias* or other process of arrest of the person of such mariner or seaman, for any debt so contracted, shall be issued against, or secured upon the person of such mariner or seaman, until he shall have performed the voyage which he may be then entered upon and discharged of the same, and every such process so issued shall be deemed and adjudged utterly void in law; and any one Justice of the Court from which such process shall issue, or Justice of the Peace, in case the debt demanded may not exceed eight pounds, to whom it shall be made to appear, that any mariner or seaman is committed or detained upon process granted for any such debt contracted while he was engaged, and actually entered and on pay, on any voyage, shall forthwith order his release.

Relates to  
*capias* for debt  
contracted by  
seaman without  
the allowance  
of master of  
vessel.

III. And be it enacted, That if any mariner or seaman, having shipped himself on board of any such ship or vessel so within this Island, or which hath been launched, or is actually preparing for sea, to proceed on any voyage and upon pay, shall neglect his attendance or refuse to do his duty on board, or shall absent himself without leave from his said service, upon complaint thereof made on oath or affirmation (in the case of persons allowed by law to affirm), by the owner, consignee, or master, or other officer of said ship or vessel, to any Justice of the Peace within the said County, such Justice is hereby empowered to cause such mariner or seaman to be forthwith brought before him by warrant, and upon conviction of his neglecting his attendance, or refusing to do his duty on board, or absenting himself without leave as aforesaid, to

Seamen refusing  
to do duty,  
&c., may be  
committed to  
jail by warrant  
of a Justice of  
the Peace.

Charges of such commitment may be deducted from wages.

To be supplied with bedding and maintenance by owner, &c., and jailer's fees to be paid.

7 Vic., c. 2.

Hiring or concealing articulated seamen knowing them to be deserters.

Penalty.

Appropriation of penalty.

commit such mariner or seaman to prison, that he may be secured and forthcoming to proceed on the voyage he has so agreed for, to be delivered by order of the Justice who committed him, or some other Justice in the same County; and all necessary charges attending his being so secured, and which have been actually paid by the said owner or master, may be deducted from such mariner's or seaman's wages, as the same may become due, and it shall be the duty of the owner, or the master, or the officer, or the consignee of such ship or vessel, complaining as aforesaid, to supply, for the use of the said mariner or seaman, all necessary bedding, provisions and maintenance during the time of his detention in prison as aforesaid, and pay to the jailer of said prison his lawful fees on receiving and discharging such mariner or seaman; and in default thereof, the said jailer may make the supplies aforesaid, and maintain an action therefor, together with the fees aforesaid, against the owner of the said vessel, or the master, or the officer or consignee complaining as aforesaid, in any Court of Record, or if the sum shall not exceed eight pounds, before any Justice of the Peace, according to the provisions of the Act intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned."

IV. And be it enacted, That if any master or commander of any such ship or vessel, or any other person or persons, shall hire or engage, harbor or conceal any mariner or seaman, who shall have signed any former contract or articles, knowing him to have deserted from, or to belong to any other ship or vessel in this Island, registered in and belonging to this Island, every such master, commander, or other person or persons so offending, and being thereof convicted before any two of Her Majesty's Justices of the Peace for the County where the offence is committed, upon the oath or affirmation (in the case of persons allowed by law to affirm), of one or more credible witness or witnesses, or confession of the party charged, shall forfeit and pay such sum as the said Justices shall adjudge, not exceeding ten pounds, and not less than two pounds, to be levied by warrant of distress and sale of the offender's goods, under the hands and seals of such Justices; and when recovered, one moiety to be paid to the person so prosecuting for the same, and the other moiety into the Treasury of this Island, to and for the use of Her Majesty's Government; and if there be no goods or chattels of such offender, whereon the said penalty may be levied, it shall and may be lawful for such Justices by warrant under their hands and seals, to commit such offender to the jail of the County where such offence shall be committed, there to remain for a space of time not exceeding sixty days, and not less than ten days, and such mariner or seaman who shall desert at any time during the

voyage on which he is engaged by written contract or articles, shall, over and above the penalties and forfeitures to which he is now by law subject, forfeit all the wages he may be entitled to, on board the vessel entered by him after such desertion, to be detained by the master or owner of such vessel, to and for the use of the owner of the vessel from which he deserted, or to be sued for and recovered from him by such last mentioned owner, by action of debt, or on the case, in any Court of Record, or before any Justice of the Peace, if the sum claimed do not exceed eight pounds, agreeably to the above recited Act, relating to the recovery of small debts.

Deserting seaman to forfeit wages earned on board of vessel afterwards entered by him in addition to the penalties.

Mode of recovery.

V. And be it enacted, That if proof be made upon oath or affirmation (in the case of persons allowed by law to affirm), by the owner, agent or master of any such ship or vessel, before any of Her Majesty's Justices of the Peace in this Island, that any seaman or mariner belonging to such ship or vessel, and who may have deserted or absented himself from the same, be kept or concealed on board of any other ship or vessel, within any of the harbors of this Island, or in any tavern, pot-house or other house or place within the County, for which such Justice shall be appointed, or if oath or affirmation (in the case of persons allowed by law to affirm), be made, that such owner, agent or master hath good reason to suspect, and doth verily believe, that such seaman or mariner is so concealed as aforesaid, it shall and may be lawful for such Justice to issue his warrant, to any of the constables or peace officers within the said County, to make search on board such ship or vessel, or in such tavern, pot-house or other place, and if such seaman shall be found in such suspected place, that such Justice shall cause such seaman to be delivered over to the owner or master of the ship or vessel to which such seaman shall belong, to be carried on board such ship or vessel, or be committed to prison, as directed in the third section of this Act.

A warrant to search for deserting seamen may be issued by Justice of the Peace on application made on oath.

If apprehended deserting seamen to be delivered over to owner, &c.

VI. And whereas the practice of enticing seamen to desert their ships, is greatly promoted by the encouragement given to the tavernkeepers and others, by giving large sums to them for procuring seamen: Be it enacted, that from and after the passing of this Act, it shall not be lawful for any owner, master or agent of any ship or vessel, registered in or belonging to this Island, or other person, either directly or indirectly, to pay or give any money, hire, or reward, to any innholder, tavernkeeper, shopkeeper, or other person or persons, for the procuring of any seaman or seamen for any ship or vessel, and that it shall not be lawful for any innholder, tavernkeeper, shopkeeper, or other person or persons, to receive any money, hire, or reward, either directly or indirectly, for the procuring such seaman or seamen, and that any money so to

The giving or receiving money for procuring seamen for vessels prohibited.

Money so paid to be deemed

paid without consideration.

be paid, shall be considered as paid without consideration, and may be recovered back by action or suit, in any Court having competent jurisdiction, and that all bonds, notes, bills, agreements, promises or engagements for paying or giving any money, hire or reward, for the above mentioned purposes, shall be absolutely null and void, to all intents and purposes whatsoever.

No seaman to be bound by shipping himself for any vessel of 40 tons burthen or upwards, unless the agreement be in writing.

VII. Provided always, and be it enacted, That no mariner or seaman shall be bound, by entering or shipping himself on board of any ship or vessel belonging to and registered in this Island, and of the burthen of forty tons or upwards, new measurement, unless the agreement shall be in writing, and declare what wages such mariner or seaman is to have, for so long a time as he shall ship himself for, and also shall express the voyage for which such mariner or seaman was shipped, any thing hereinbefore contained to the contrary notwithstanding.

Enticing or aiding seamen to desert.

VIII. And be it enacted, That if any person or persons shall aid, entice or assist any seaman to desert from any such ship or vessel, or shall provide or procure, or cause to be provided or procured, for any seaman, the means or assistance to desert from any such ship or vessel, or shall aid or assist any seaman in the removal of their hammocks, clothing or apparel, from on board of any such ship or vessel, or shall convey any seaman from any such ship or vessel, without the sanction of the master or commander of such ship or vessel, such person or persons so offending, for either of the said causes, shall, upon conviction thereof, be liable to the same penalties and forfeitures contained in the second section of this Act, to be recovered and applied as hereinbefore provided.

Penalty therefor and how to be recovered.

IX. And be it enacted, That if any person shall detain any seaman's or mariner's clothes, chest, hammock or other property, it shall and may be lawful for any two of Her Majesty's Justices of the Peace, upon complaint made to them by any such seaman or mariner, on oath or affirmation (in the case of persons allowed by law to affirm), to issue their warrant, directed to any constable of the county in which such Justices shall have jurisdiction, requiring the said constable to bring such clothes, chest, hammock or other property before them, and to summon the person so detaining the same to appear before them to answer for such detainer, and upon a full hearing of the case on the oath or affirmation (in the case of persons allowed by law to affirm), of the parties and their witnesses, taken *viva voce*, or on proof that the person required to be summoned could not be found, and that a copy of such warrant was left at his last place of abode, the said Justices shall and may make such order touching the articles mentioned in the said warrant, and so brought before them, and the delivery

Proceedings to recover clothes, chest, hammock, &c. of seaman, when detained by any person.

thereof to the party complaining, or the restoration thereof to the party charged with detaining the same, as may be reasonable and just, and in case the articles cannot be found, on proof thereof and on the appearance of the party charged, and hearing all parties as aforesaid, on proof of the service of a copy of the said warrant as aforesaid, then the said Justices shall and may order payment of the value thereof, together with the costs of prosecution, if the same shall to them appear reasonable and just, to be levied by warrant of distress and sale of the goods and chattels of the party upon whom such order shall be made, to the use of the said seaman or mariner; and in default thereof, the said persons so detaining the same to be committed to jail, there to remain until the payment of the sum so ordered and costs aforesaid: provided always, that no proceedings shall be had, unless the value of the articles alleged to be detained shall not exceed ten pounds, and provided also, that no innholder or tavernkeeper or other person shall be allowed to make any claim before the said Justices, for any lien on the said articles mentioned in the said warrant, or any debt due from the said seaman or mariner, if it shall appear, that the said seaman or mariner was, at the time of such application, a deserter from, or belonging to any ship or vessel.

Limits the amount in value for which proceedings may be taken under this section.

X. And be it enacted, That all prosecutions instituted for the recovery of any of the penalties imposed, for the breach or breaches of any of the provisions of this Act, may be brought in the name of the owner or owners, master, agent or consignee of the ship or vessel to which such mariner or mariners at the time of such breach or breaches shall belong, on account of whom such penalty or penalties shall be incurred.

Prosecutions for penalties to be brought in name of master &c., of vessel to which seaman belonged.

XI. And be it enacted, by the Lieutenant Governor, Council and Assembly, That it shall not be lawful for any master of any ship of vessel, registered in and belonging to this Island, of the burthen of forty tons or upwards, new measurement, trading to parts beyond the seas or out of this Island, to carry to sea on any voyage from this Island, any seaman or other person as one of his crew or complement (apprentices excepted), without first entering into an agreement in writing with every such seaman, specifying what monthly or other wages each such seaman is to be paid, the capacity in which he is to act, and the nature of the voyage in which the ship is intended to be employed, so that the seaman may have some means of judging of the probable period for which he is likely to be engaged; and the said agreement shall contain the day of the month and year in which the same shall be made, and shall be signed by the master in the first instance, and by the seamen respectively, at the port or place where such seamen shall be respectively shipped, and the master shall cause the same

Articles of agreement to be entered into between ship-masters and seamen.

Particulars of such agreement

Agreement to be read over previous to execution, &c.

to be, by or in the presence of the party who is to attest their respective signatures thereto, truly and distinctly read over to every such seaman, before he shall be required to sign the same, in order that he may be enabled to understand the purport and meaning of the engagement he enters into, and the terms to which he is bound.

Form of agreement.

XII. And be it enacted, That every such agreement shall be in the form, and shall contain true entries under their respective heads, of the several particulars, as set forth in the schedule to this Act annexed, marked (A), so far as the same can be ascertained, and that the owner and the master of every such ship, or one of them, shall, on reporting his ship's arrival at her port of destination in this Island, deposit, or cause to be deposited with the Collector of the Customs, at such port, a true copy of such agreement attested by the signature of the master, to the intent that every person who may be interested in any such agreement, may at all times have the means of knowing the terms and conditions thereof.

Agreement to be deposited with Collector of Customs at port of arrival.

Penalty for taking seaman to sea without such agreement

XIII. And be it enacted, That if any master of any such ship as aforesaid, shall carry out to sea any seaman (apprentices excepted) without having first entered into such agreement as is hereby required, he shall for every such offence forfeit and pay the sum of five pounds, for or in respect of each and every such seaman he shall so carry out, contrary to this Act; and if any master shall neglect to cause the agreement to be distinctly read over to each such seaman, as by this Act he is enjoined, he shall, for every such neglect, forfeit and pay the sum of five pounds; and if any master shall neglect to deposit with the Collector of the Customs, a copy of the agreement hereby required to be made, and deposited as aforesaid, or shall wilfully deposit a false copy of any such agreement, he shall, for every such neglect or offence, forfeit and pay the sum of five pounds.

Penalty on master for not causing agreement to be read over to seaman before execution, &c.

Times of payment of seaman's wages.

XIV. And be it enacted, That the master or owner of every ship, shall, and he is hereby required to pay to every seaman entering into such contract as aforesaid, his wages, if the same shall be demanded within the respective periods following, (that is to say,) within three days after the cargo shall have been delivered, or within ten days after the seaman's discharge, whichever shall first happen, and in all cases; the seaman shall, at the time of his discharge, be entitled to be paid on account, a sum equal to one fourth part of the estimated balance due to him, and in case any master or owner shall neglect or refuse to make payment in manner aforesaid, he shall, for every neglect or refusal, forfeit and pay to the seaman the amount of two days' pay, for each day not exceeding ten days, during which payment shall without sufficient cause

Forfeiture for nonpayment of wages.



be delayed beyond the period at which such wages or part of wages are hereby required to be paid as aforesaid; for the recovery of which forfeiture, the seaman shall have the same remedies, as he is by law entitled to, for the recovery of his wages: provided always, that nothing in this clause contained shall extend to the cases of ships employed on voyages for which seamen, by the terms of their agreement, are compensated by shares in the profits of the adventure.

XV. And be it enacted and declared, That every such payment of wages to a seaman, shall be valid and effectual in law, notwithstanding any bill of sale or assignment, which may have been made by any such seaman of such wages, or of any attachment or incumbrance thereon, and that no assignment or sale of wages made prior to the earning thereof, nor any power of attorney, expressed to be irrevocable for the receipt of any such wages, shall be valid or binding upon the party making the same.

Security of seaman's wages against bills of sale, &c.

XVI. And be it enacted, That upon the discharge of a seaman from the ship in which he shall have served, he shall be entitled to receive from the master, a certificate of his service and discharge, specifying the period of service, and the time and place of the discharge of such seaman, which certificate shall be signed by the master; and if any master shall refuse to give such certificate to any such seaman, without having reasonable cause for his refusal, he shall, for every such offence, forfeit and pay to him the sum of five pounds.

Seaman entitled to certificate of service on discharge.

Penalty on master refusing certificate.

XVII. And be it enacted, That if after a seaman shall have been discharged three days from any such ship or vessel, when in this Island, he shall be desirous of proceeding to sea on another voyage, and in order thereto shall require immediate payment of the wages due to him, it shall be lawful for any Justice of the Peace, in any part of this Island, on application from such seaman, and on satisfactory proof, that he would be prevented from employment by delay, to summon the master or owner of such ship or vessel before him, and to require cause to be shewn, why immediate payment of such wages should not be made; and if it shall appear to the satisfaction of such Justice, that there is no reasonable cause for delay, he shall order payment to be made forthwith; and in default of compliance with such order, such master or owner shall forfeit and pay the sum of five pounds.

Payment of wages delayed how to be recovered.

Penalty on master, &c., not complying with order of Justice for payment.

XVIII. And whereas seamen, in cases of dispute, may be exposed to great inconvenience, expense, and delay in obtaining payment of their wages: for remedy thereof, Be it enacted, that in all cases of wages not exceeding twenty pounds, which shall be due and payable to a seaman, for his service in any such ship as aforesaid, it shall be lawful for any Justice

Wages claimed by seaman and disputed.

Mode of recovery in such case.

of the Peace, in any part of this Island, near to the place where the ship shall have ended her voyage, entered or cleared at the customhouse, or discharged her cargo, or near to the place where the master or owner, upon whom respectively the claim is made, shall be or reside, upon complaint on oath, to be made to such Justice by any such seaman, or on his behalf, to summon such master or owner to appear before himself and any other Justice having jurisdiction therein, to answer such complaint, and upon the appearance of such master or owner, or in default thereof, on due proof of his having been so summoned, such Justices are hereby empowered to examine upon the oath of the parties and their respective witnesses (if there be any) touching the complaint and the amount of wages due, and to make such order for the payment thereof, as shall to such Justices appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof, it shall be lawful for such Justices to issue their warrant to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale) after deducting thereout all the charges and expenses incurred by the seaman in making and hearing of the complaint, as well as those incurred by the distress and levy, and in the enforcement of the Justices' order, and in case sufficient distress cannot be found, it shall be lawful for the said Justices to cause the amount of the said wages and expenses to be levied on the ship, in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such Justices, then they are hereby empowered to cause the party upon whom the order for payment shall be made, to be apprehended and committed to the common jail of the County, there to remain without bail, until payment shall be made of the amount of the wages so awarded, and of all costs and expenses attending the recovery thereof; and the award and decision of such Justices as aforesaid, shall be final and conclusive, as well on every such seaman as on the owner and master of the ship: provided always, that in case such Justices shall differ in opinion, as to the amount of or nature of the judgment to be given in any such case, then the judgment of either of such Justices, made conjointly with any other Justice of the Peace to be by them named, shall be binding and conclusive between the parties.

Decision of Justice in such case to be final.

Vessels to be provided with medicines.

XIX. And whereas it is necessary, that due provision should be made for the preservation of the health and lives of the seamen employed in the merchant service: Be it further enacted, that every ship belonging to, and sailing from this Island to any place out of the same, shall have and keep con-

stantly on board the same, a sufficient supply of medicines, suitable to accidents and diseases arising on sea voyages, which shall be renewed from time to time, as shall be requisite, and in case any default shall be made in providing or keeping supplied such medicines as aforesaid, or in case any of the seamen shall receive any hurt or injury in the service of the ship, the expenses of providing the necessary surgical and medical advice and attendance and medicines, which the seaman shall stand in need of, until he shall have been cured, or shall have been brought back to some port of this Island, shall be borne and defrayed by the owner and master of the ship, or one of them, without any deduction whatever, on that account, from the seaman's wages.

Expense of surgical and medical advice, attendance, &c., by whom to be defrayed.

XX. And be it enacted, That all penalties and forfeitures imposed by this Act, and for the recovery whereof no specific mode is hereinbefore provided, shall and may be recovered with costs of suit, in manner following, (that is to say,) all penalties and forfeitures not exceeding ten pounds, shall be recoverable at the suit of any person, by information and summary proceedings before any two Justices of the Peace, in any part of this Island, for the County where the offence shall be committed, or where the offender shall be, which Justices shall have power to levy the amount of any such penalty or forfeiture and costs by distress and sale of the offender's goods, or by commitment of the offender for the nonpayment of the amount; and all penalties and forfeitures exceeding ten pounds shall and may be recovered with costs of suit, in any of Her Majesty's Courts of Record in this Island, at the suit of Her Majesty's Attorney General, and that all penalties and forfeitures mentioned in this Act, for which no specific application is hereinbefore provided, shall, when recovered, be paid and applied in manner following (that is to say): one moiety of every such penalty, shall be paid to the informer, or person upon whose discovery or information the same shall be recovered, and the residue shall be paid over to the treasury of this Island, to and for the use of Her Majesty's Government: provided always, that it shall be lawful for the Court before which, or the Justice or Justices before whom any proceeding shall be instituted, for the recovery of any pecuniary penalty imposed by this Act, to mitigate or reduce such penalty, as to such Court or Justice respectively shall appear just and reasonable, in such manner however that no such penalty shall be reduced below one half of its original amount; and provided also, that all proceedings so to be instituted, shall be commenced within two years next after the commission of the offence.

Recovery of penalties, &c., where no specific remedy is given therefor by this Act.

Application of penalties, &c.

Court or Justice, &c., may mitigate penalty.

XXI. And be it enacted, That no seaman, by reason of any agreement, shall forfeit his lien upon the ship, nor be deprived of any remedy for the recovery of his wages, to which he

Wages of seamen in cases of ships lost.

would otherwise be entitled, against any person or persons whatever, and no agreement contrary to or inconsistent with this Act, nor any clause, contract or engagement; whereby any seaman shall consent or promise to forego, or give up any right or claim to wages in the case of freight earned by a ship subsequently lost, or any right or claim to salvage, or reward for salvage services, or such proportion of salvage, or reward for salvage services as shall or may be due to him by decree or award or otherwise, shall be valid or binding on such seaman; and every copy of an agreement so certified and delivered as aforesaid, shall in all cases be received and taken as evidence of the contents of the agreement, for and on behalf of the seaman, and no seaman shall in any case be required to produce such agreement or copy as aforesaid, or to give notice for the production thereof; but in case the agreement shall not be produced and proved, he shall be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence, according to the nature of the case.

Seamen not bound to produce articles of agreement in any case.

Definition of terms in this Act.

XXII. And to avoid doubts in the construction of this Act, be it enacted, That every person having the charge or command of any ship belonging to this Island, shall, within the meaning and for the purposes of this Act, be deemed and taken to be the master of such ship; and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same, shall be deemed and taken to be a seaman within the meaning and for the purposes of this Act; and that the term "ship," shall be taken and understood to comprehend every description of vessel of the burthen of forty tons, new measurement as aforesaid, and belonging to this Island; and the term "owner" shall be taken and understood to comprehend all the several persons, if more than one, to whom the ship shall belong.

Liens, &c. of master mariner in case of insolvency, &c.

XXIII. And be it enacted, That all rights, liens, privileges and remedies (save such remedies as are against a master himself) which, by this Act or by any law, statute, custom or usage, belong to any seaman or mariner, not being a master mariner, in respect of the recovery of his wages, shall, in the case of bankruptcy or insolvency of the owner of the ship, also belong and be extended to masters of ships or master mariners, in respect to the recovery of wages due to them from the owner of any ship belonging to any of Her Majesty's subjects, and that no suit or proceeding for the recovery of wages, shall, unless they exceed twenty pounds, be instituted against the ship or the master or owner thereof, either in any Court of Admiralty or Vice Admiralty Court, unless the owner of the ship shall be bankrupt or insolvent, or the ship shall be under arrest, or sold by the authority of any Admiralty or Vice Admiralty Court.

No suit to be instituted in Admiralty Court for recovery of wages if under £20, unless in certain cases.

XXIV. And be it enacted, That it shall and may be lawful for any Collector or Controller of the Customs, upon complaint made by any three or more of the crew, to survey and examine, or cause to be surveyed and examined, the provisions, water and medicines, put or supplied on board any ship for the use and consumption of the crew, and if on such survey and examination, it shall be found that such provisions, water or medicines are of a bad quality or unfit for use, or not appropriate, or there shall not appear to be a sufficient quantity thereof, the surveying officer shall signify the same in writing to the master of the ship, and if such master shall not thereupon provide other fit and proper provisions, water or medicines, in lieu of any which may be signified by the said surveying officer, to be of bad quality or unfit for use, or not appropriate, or if any such master shall not thereupon procure the requisite quantity of provisions, water, and medicines, or shall use any provisions, water or medicines, which shall have been signified by the surveying officer to be of bad quality, or unfit for use, or not appropriate, he shall, in each and every of such cases, be guilty of a misdemeanor.

On complaint made by three or more of crew, Collector, &c. to cause survey to be held on provisions, &c.

And master to be guilty of misdemeanor, if he shall not procure other provisions, &c.

XXV. Provided always, and be it enacted, That nothing in this Act or in any agreement contained, shall prevent any seaman or person belonging to any ship or vessel whatever, from entering or being received into the naval service of her Majesty, nor shall any such entry be deemed a desertion from the ship or vessel, nor shall such seaman or other person thereby incur any penalty or forfeiture whatever, either of wages, clothes or effects, or other matter or thing; and no master or owner shall insert or introduce, or permit to be inserted or introduced into any articles or agreements, any clause, engagement or stipulation, whereby any seaman or other person shall or may incur any forfeiture, or be exposed to loss, in case he shall enter into her Majesty's naval service; and if inserted, the clause, engagement or stipulation shall be void.

Not to prevent seamen entering Her Majesty's service.

XXVI. And be it enacted, That when any seaman shall quit any such ship or vessel as aforesaid, in order to enter into her Majesty's naval service, and shall thereupon be actually received into such service, not having previously committed any act amounting to and treated by the master as desertion, he shall be entitled, immediately upon such entry, to have all his clothes and effects on board such ship or vessel delivered to him, and to receive from the master the balance of the proportionate amount of his wages up to the period of such entry, after deducting therefrom all charges such seaman may then be liable to, under the provisions of this Act, to be paid either in money, or by a bill on the owner; all which clothes, effects, money, or bill such master is hereby required to deliver and

On entering naval service, seaman to be entitled to wages, clothing, &c.

Penalty on  
master refusing  
to deliver up  
clothes or pay  
wages, &c.

pay to him accordingly, under a penalty of twenty-five pounds for every refusal or neglect; but in case the master shall have no means of ascertaining the balance, he shall make out and deliver to such seaman a certificate of the period of his service and the rate of wages he is entitled to; producing at the same time to the commanding or other officer of Her Majesty's vessel, the agreement with the seaman; and every such master upon the delivery of such clothes and effects, and the settlement of such wages in manner herein mentioned, shall receive from the officer in command of the vessel into which the seaman shall have entered, a certificate of such entry, endorsed on the agreement and signed by the said officer, which such officer is hereby required to give.

Continuance  
of Act.

XXVII. And be it enacted, That this Act shall continue and be in force until the first day of May, which will be in the year of our Lord one thousand eight hundred and fifty.

### SCHEDULES in this Act referred to.

#### SCHEDULE (A.)

Form of sea-  
men's articles.

An Agreement made pursuant to the directions of an Act of the General Assembly of this Island, passed in the ninth year of the reign of her present Majesty Queen Victoria, between the master of the ship of the port of of the burden of tons, and the several persons whose names are subscribed thereto. It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the said ship, in the several capacities against their respective names expressed, on a voyage from the port of to [ here the intended voyage is to be described, as nearly as can be done, and the places at which it is intended the ship shall touch, or if that cannot be done, the nature of the voyage in which she is to be employed ] and back to the port of and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful and sober manner, and be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master in every thing relating to the said ship, and the materials, stores and cargo thereof, whether on board such ship, in boats, or on shore [ here may be inserted any other clause which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to and inconsistent with this Act, ] in consideration of which services to be duly, honestly, carefully and faithfully performed, the said master doth hereby promise

and agree to pay to the said crew, by way of compensation or wages, the amount against their names respectively expressed.

In witness whereof, the said parties have hereunto subscribed their names, on the days against their respective signatures mentioned.

Place and time of entry.			Men's Names.	Age.	Place of Birth.	Quality.	Amount of wages per calendar month, share or voyage.	Witness to execution.	Name of ship in which seaman last served.
Day	Month	Year							

### SCHEDULE (B.)

You [here insert the name of the constable] are hereby authorized to execute the within warrant, within the County of \_\_\_\_\_ Form of endorsement.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

### CAP. XXVIII.

An Act relative to accidents by fire, and for the improvement of property in Georgetown, and for the removal of nuisances from the streets and square thereof. Repealed by 14 Vic., c. 28.

### CAP. XXIX.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty six. Executed.





ANNO DECIMO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini* 1847, in the tenth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith:

Being the first session of the seventeenth General Assembly convened in the said Island.

1847.

Sir HENRY V.  
HUNTLEY,  
Lt. Governor.

R. HODGSON,  
President of  
Council.

JOSEPH POPE,  
Speaker.

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## CAP. I.

An Act to prohibit the exportation of potatoes for a limited period. Expired.

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## CAP. II.

An Act to provide for the summary trial of common assaults and batteries. Continued by 13 Vic. c. 1. Expired.

## CAP. III.

Expired.

An Act for raising a revenue.

## CAP. IV.

An Act to repeal certain duties and customs set forth in a certain Act passed in the session of Parliament, holden in the eighth and ninth years of Her present Majesty's reign, intituled "An Act to regulate the trade of the British possessions abroad," so far as the same relate to this Colony.

WHEREAS the Imperial Parliament of Great Britain did, by an Act passed on the twenty-eight day of August, in the year of our Lord one thousand eight hundred and forty-six, intituled "An Act to enable the Legislatures of certain British possessions, to reduce or repeal certain duties of customs," authorize and empower the several Colonial Legislatures to reduce or repeal all or any of the duties of customs imposed by the Imperial Act passed in the eighth and ninth years of the reign of Her present Majesty, intituled "An Act to regulate the trade of the British possessions abroad: and whereas it would tend to facilitate trade and commerce between this Colony and other countries if the duties imposed by the said Act were repealed: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That on, from, and after the fifth day of July next, or from such time thereafter as the royal assent shall be duly signified to this Act, and proclamation thereof made in the *Royal Gazette* newspaper of this Colony, all duties of customs imposed by the said Imperial Act passed in the eighth and ninth years of the reign of Her present Majesty, intituled "An Act to regulate the trade of the British possessions abroad, in so far as the same relate to this Colony," shall be, and they are hereby wholly repealed.

Repeals duties of customs relating to this Colony, imposed by Imperial Act of the 8th and 9th Vic., c. 33.

Suspending clause.

II. And be it enacted, That nothing in this Act contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

\* \* \* This Act received the royal allowance 10th August, 1847, and the signification thereof was published in the *Royal Gazette* newspaper of this Island, on the 28th day of September following.

## CAP. V.

An Act relating to the pumps and wells of Charlottetown, and to repeal a certain Act therein mentioned.

For expired Acts on this subject, see note to 26 G. 3, c. 1.

\* \* This Act (which has been repealed by a law of the City Council, passed under the powers vested in said Corporation by the Act 18 Vic. cap. 34, sec. 37,) may affect titles to lands, but is omitted pursuant to directions of Act 23 Vic., c. 10.

## CAP. VI.

An Act to provide against nuisances in the streets and squares of Charlottetown.

Repealed by 12 Vic., c. 11.

## CAP. VII.

An Act to prevent the running at large of hogs within the town, common and royalty of Charlottetown.

Continued by 18 Vic., c. 30.

\* \* This Act remains in force so far as it relates to the royalty of Charlottetown, and has been printed in the volume of private and local Acts pursuant to Act 24 Vic., c. 3.

## CAP. VIII.

An Act for the better prevention of smuggling.

Continued by 13 Vic. c. 2. Expired.

## CAP. IX.

An Act for the encouragement of education.

Continued by 13 Vic. c. 2, 14 Vic. c. 10, and 15 Vic. c. 12. Expired.

## CAP. X.

An Act to abolish deodands.

WHEREAS the law respecting the forfeiture of chattels which have moved to or caused the death of man, and respecting deodands, is unreasonable and inconvenient: Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, there shall be no forfeiture of any chattels, for or in respect of the same, having moved to or caused the death of man, and no Coroner's jury sworn to enquire upon the sight of any dead body, how the deceased came by his death, shall find any for-

Deodands and forfeiture of chattels moving to, or causing death, abolished.

feiture of any chattel, which may have moved to, or caused the death of the deceased or any deodand whatsoever, and it shall not be necessary in any inquisition for homicide, to allege the value of the instrument which caused the death of the deceased, or to allege that the same was of no value.

### CAP. XI.

9 Vic., c. 26.  
Repealed by  
19 Vic. c. 2.

An Act to alter and amend the law now in force regulating the sale by license of spirituous liquors, and to repeal certain Acts therein mentioned.

### CAP. XII.

For other Acts relating to treasury notes, see 5 G. 4, c. 18; 6 G. 4, c. 12, 9 G. 4. c. 1, 11 G. 4, c. 16, 1 W. 4, c. 15, 3 W. 4, c. 13, 4 W. 4, c. 17, 5 W. 4, c. 11, 8 Vic. c. 11.

An Act to authorize the calling in of all treasury notes now in circulation, and the reissue of the amount thereof from plates of a new design, and to explain and amend the Acts therein mentioned.

WHEREAS many of the treasury notes of this Island, by reason of the same having been issued upon an inferior description of paper, have become much worn and defaced, whereby the free circulation thereof becomes frequently much impeded, to the inconvenience of private holders of the same, and it is expedient that all treasury notes now in circulation be called in, and that the total amount thereof be reissued upon a superior quality of paper, and from plates of a new design: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, and he is hereby required within one month from the passing hereof, to authorize and require the commissioners appointed for the issuing of treasury notes for the time being, to cause or direct the engraving of plates of a new and improved design, applicable to the different classes or descriptions of notes already issued from the treasury of this Island, under the several Acts now in force relating to the issue of treasury notes, that is to say, notes of the specified value of five pounds, two pounds, one pound, ten shillings, and five shillings, but in the form of words in which such respective notes have heretofore been issued, and also to cause or direct the printing of the said notes according to such improved designs, upon paper of a superior quality and description, and to superintend the completing or filling up of the blanks in the same.

Lt. Governor, within one month to authorize commissioners for issuing treasury notes, to cause new plates to be engraved, &c.

Lt. Governor to direct Treasur-

II. And be it enacted, That it shall and may be lawful for the Lieutenant Governor, or other Administrator of the

Government for the time being, and he is hereby required when and so soon as the said Commissioners shall have procured the requisite blank forms or notes, agreeably to such improved designs, to authorize and direct the Treasurer of this Island to call in all treasury notes then afloat or in circulation, which have from time to time been issued from the treasury of this Island, under and by virtue of the several Acts or laws of this Colony, authorizing the issue of treasury notes.

III. And be it enacted, That from and after the time when such call shall be so made, the said Treasurer and Commissioners shall meet upon the first Friday in each and every month, for the purpose of exchanging such old notes as shall have been paid into or deposited in the hands of the Treasurer, pursuant to the said call for new notes, which new notes shall be signed by the said Commissioners, and shall all bear the same date; and each class or description of notes shall be numbered by the Commissioners, from number one (1) upwards consecutively, and for every old note delivered by the Treasurer to the said Commissioners, the Commissioners shall in exchange deliver a new note of the same value and description, excepting as to the number and date of the old note; and the said Treasurer, upon the delivery of such new notes to him, shall countersign the same, and shall be accountable for such notes so delivered to him.

er to call in old notes when the new are prepared for issue.

Duty of Treasurer and commissioners in exchanging notes.

Treasurer to countersign new notes.

IV. And be it enacted, That the said Commissioners shall, and they are hereby required, from time to time as such old notes shall be delivered into their hands by the Treasurer, in exchange for new notes, after having taken a correct and true account of the value and description of such old notes, immediately thereupon, and in presence of the said Treasurer, to destroy or cancel the whole of such old notes so delivered to them.

Commissioners to destroy old notes exchanged.

V. And be it enacted, That from and after the time of such call, until the whole amount of treasury notes now in circulation shall be paid in, the said Treasurer shall attend two days in each and every week, that is to say, on Monday and Thursday, during office hours, for the especial purpose of receiving or taking delivery of all such treasury notes as shall be deposited with him, pursuant to the said call, and of the value and description of which said notes the said Treasurer shall take a correct and true account, and in case he shall not be prepared, upon presentment thereof to him, to deliver in exchange an equal amount of the same class or description of notes, to be issued by virtue of this Act, and the holder shall then choose to deposit the same with him, then, and in such case, the said Treasurer shall give a receipt to the person or persons so presenting and depositing the old notes; and upon

Treasurer to attend two days in each week for purpose of exchanging notes.

Duty of Treasurer on receipt of such old notes.

production of the said receipt, the said Treasurer shall afterwards, and as soon as he conveniently may, agreeably to the terms of this Act, deliver to the holder thereof an equal amount in notes, to be issued by virtue of this Act, and of the same class and description as the notes so deposited; and until such new notes shall be so delivered, the said receipt shall be a good and sufficient voucher in the hands of the holder, for the amount thereof against the Government.

New notes to be issued to be subject to enactments contained in several treasury note Acts recited.

5 G. 4, c. 18.

6 G. 4, c. 12.

1 W. 4, c. 15.

5 W. 4, c. 11.

VI. And be it enacted, That the treasury notes which shall be reissued under the authority of this Act, shall each and all be subject to the several enactments and provisions contained in an Act, made and passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act to empower His Excellency the Lieutenant Governor or Commander-in-chief for the time being, to appoint Commissioners to issue treasury notes," and an Act made and passed in the sixth year of the reign of His said late Majesty, intituled "An Act to authorize the Commissioners, named and appointed under an Act made and passed in the fifth year of the reign of His present Majesty, intituled 'An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue treasury notes, to issue notes of the value of ten shillings each,'" and the fourth section of an Act made and passed in the first year of the reign of His late Majesty King William the Fourth, intituled "Act to authorize a further issue of treasury notes," and an Act made and passed in the fifth year of the reign of His said late Majesty King William the Fourth, intituled "An Act to amend and render perpetual certain laws now in force relating to treasury notes."

5 G. 4, c. 18.

Confirms previous appointments, and authorizes future appointments and filling up vacancies.

VII. And whereas no Act of the General Assembly of this Island heretofore passed, authorizing the issue, or relating to the issue of treasury notes, contains any provision touching the mode of filling up vacancies, upon the death, resignation or other removal of any Commissioner or Commissioners appointed under and by virtue of an Act made and passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act to empower His Excellency the Lieutenant Governor, or Commander-in-chief for the time being, to appoint Commissioners to issue treasury notes;" it is therefore necessary and expedient to confirm all such appointments as have since been made, and to make provision for such appointments in future: Be it therefore enacted, That the several appointments which have from time to time been made by the Executive Government of this Island, in the room or stead of the several Commissioners appointed under and by virtue of the said recited Act, upon the death, resignation, absence or other removal of them or any of them, or in the room or stead of any person

or persons who may have been appointed in the room or stead of his, their, or any of their successor or successors in office, upon his or their death, resignation, absence or other removal, shall be deemed and held, and they are hereby severally and respectively declared to be good and valid in law, and in all respects as sufficient and effectual as if such appointment or appointments had been respectively made, in conformity with any law or statute of this Island for that purpose expressly enacted and provided; and that in case of the death, resignation, absence from the Island, or other removal of any one or more of the persons now holding such appointments as Commissioners aforesaid, the Administrator of the Government, for the time being shall hereafter have power to appoint another Commissioner or Commissioners in his or their room and stead.

VIII. And whereas the references to or recitals of the Acts contained in the second section of an Act made and passed in the first year of the reign of his late Majesty King William the Fourth, intituled "An Act to authorize a further issue of Treasury notes," are incorrectly stated or set out: Be it therefore enacted and declared, that the word "sixth" in the fifth line of the said second section of the said recited Act, as published by Her Majesty's printer in the volume of the Laws of this Island, printed at Charlottetown in the year 1834, and also the word "sixth" in the thirteenth line of the said section of the said Act as so published, shall in the reading and construction of the said clause be severally omitted, and instead and in lieu thereof, the word "fifth" shall in each of those places be inserted and used, and also that the words "same year," in the tenth line of the said section as so published, shall in the reading and construction of the said clause, be omitted, and instead and in lieu thereof, the words "sixth year of the reign of his said late Majesty" shall be inserted and used, and the said clause shall, in all cases, and for all purposes whatsoever, be held, construed, used and taken as if the word "sixth," in the several lines or places above mentioned, and the said words "same year" in the said line or place above mentioned had never been therein inserted or contained, but that the said word "fifth" in lieu of the said word "sixth" and the said words "sixth year of the reign of his said late Majesty" in lieu of the said words "same year," had respectively always from the time of the passing of the said recited Act, of the first year of the reign of his said late Majesty King William the Fourth, been therein inserted and contained, any thing in the said second section of the said recited Act to the contrary thereof notwithstanding.

Certain incorrect recitals in Act of the 1st Will. 4, c. 15, explained and amended.

IX. And be it enacted, That the Commissioners for the issuing of Treasury Notes for the time being, who shall direct

Remuneration to Commissioners for issue of new notes.

the engraving and superintend the reissuing of the notes, by virtue of this Act, shall be paid at and after the rate of one quarter *per centum* each, as a remuneration for their trouble in directing such engraving and superintending such reissue of Treasury Notes, in manner required by this Act.

### CAP. XIII.

See note to Act 4 W. 4, c. 15.

An Act to extend the provisions of the Act relating to the establishment of township boundary lines.

**WHEREAS** by the Act made and passed in the fourth year of the reign of his late Majesty King William the Fourth, intituled "An Act for ascertaining and establishing the boundary lines of Counties and Townships, and parts of townships, and for regulating the duty of surveyors, and to repeal a certain Act therein mentioned," provision is made by the ninth section thereof for the recovery, by action at law, of such rent or purchase money, as may have been received for land by any proprietor, who, by the establishment of any township line, may be found not to have been entitled to the same, but it frequently happens that the proprietor, his heirs, executors or administrators, being so liable, are resident out of the limits of this Island, by reason whereof delay and great difficulties arise in taking proceedings at law under the said section; for remedy whereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, That in all actions at law, or suits in equity, which may hereafter be had or instituted by virtue of the said recited Act, it shall be lawful for the plaintiff or complainant, in all cases where personal service of process is required, to cause the same to be served on any agent or attorney in this Colony, who at the time of such service shall be authorized by power or letter of attorney, in writing, to bring or defend any action or suit at law, or in equity, of or concerning the township or land, from or out of or concerning which the cause of action of any such first mentioned plaintiff or complainant, shall have arisen.

In cases where personal service of process, &c., is necessary, such service may be made on agent, &c. of absent party.

Requisites of affidavit of service of such process, &c.

Mode of compelling agent &c. to produce power, &c. under which he acts.

II. And be it enacted, That every affidavit, to be made of the service of any such process as aforesaid, shall contain shortly, the fact of the existence and general tenor of such power or letter of attorney, and the name or names of the person or persons therein or thereby authorized; and if such document be not registered, the party in possession thereof shall be liable to produce the same for inspection, before action or suit commenced, upon an order for that purpose made by any Judge or Chancellor, having jurisdiction in any such intended action or suit; and upon such affidavit being duly



made and filed, or upon appearance being otherwise entered by the usual course of practice of the Court, such service shall be deemed good and effectual; unless upon cause shewn in due time, before any Judge or Chancellor, such affidavit shall not appear to be in accordance with the intent and meaning of this Act, and that such service shall thereupon be set aside by such Judge or Chancellor for irregularity.

III. And be it enacted, That this Act shall not be deemed or construed to prevent any person having a right of action by virtue of the aforesaid recited Act, from proceeding therein against any absent defendant or defendants in manner prescribed by the laws of this Island, for proceeding against absent or absconding debtors.

Not to prevent persons from proceeding against absent parties under absent debtor Acts.

IV. And be it enacted, That nothing herein contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

Suspending clause.

\*.\* This Act received the royal allowance on the 30th day of October, 1847, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 23d day of November, 1847.

#### CAP. XIV.

An Act to alter and amend an Act made and passed in the sixth year of the reign of her present Majesty, intituled "An Act to alter and amend an Act for the establishment of an Academy in Charlottetown."

6 Vic. c. 2f.

Continued by  
12 Vic. c. 1.

Repealed by  
23 Vic. c. 17.

#### CAP. XV.

An Act relating to treasury warrants.

Continued by  
13 Vic. c. 31..

Expired.

#### CAP. XVI.

An Act to revive, continue, and add to the Act relating to the Charlottetown market house.

\*.\* This Act has been repealed by a law of the City Council of Charlottetown passed under the powers vested in said Corporation by the Act of 18 Vic., c. 34, s. 37.

This Act and the Act of which it was an amendment (5 Vic. c. 14,) are further continued by 13 Vic. c. 1.

#### CAP. XVII.

An Act to prevent the failure of justice, by reason of variances between records and the evidence produced in support thereof.

See 26 G. 3, c. 4, and 26 G. 3, c. 7.

**WHEREAS** great expense is often incurred and delay or failure of justice takes place at trials, by reason of vari-

Authorizes any Court of Record, &c., to amend pleadings, &c., on information or indictment.

Terms on which amendment may be made.

Court authorized to order pleadings in civil actions to be amended.

Terms on which amendment may be made.

ances between the proof offered in evidence, and the recital or settings forth thereof, upon the record or pleadings on which the trial is had, in matters not material to the merits of the case, and such record or pleadings cannot now in any case be amended at the trial, and in some cases cannot be amended at any time; for remedy thereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, that it shall and may be lawful for every Court of Record, and every Court of Oyer and Terminer and general jail delivery within this Island, if such Court shall see fit so to do, to cause the record or pleading on which any trial may be pending before any such Court, in any indictment or information, for any misdemeanor, when any variance shall appear to have occurred subsequently to the passing of this Act, between any matter in writing or in print produced in evidence, and the recital and setting forth thereof upon the record or pleading whereon the trial is pending, to be forthwith amended in such particular, by some officer of the Court, on payment of such costs (if any) to the other party, in cases where costs are now by law payable, and thereupon the trial shall proceed, as if no such variance had appeared.

II. And be it enacted, That it shall be lawful for any such Court as aforesaid, if such Court shall see fit so to do, to cause the record, writ, or document, on which any trial may be pending before any such Court, in any civil action, or in any information, in the nature of a *quo warranto* or proceedings in a *mandamus*, when any variance shall, after the passing of this Act, be made to appear between the proof and the recital or setting forth on the record, writ, or document on which the said trial is proceeding, of any contract, custom, prescription, name, or other matter in any particular or particulars, in the judgment of such Court, not material to the merits of the case, and by which the opposite party cannot have been prejudiced in the conduct of his action, prosecution or defence, to be forthwith amended by some officer of the Court, or otherwise, both in the part of the pleadings where such variance occurs, and in every other part of the pleadings which it may become necessary to amend, on such terms as to payment of costs to the other party or postponing the trial, to be had before the same, or another jury, or both payment of costs and postponement, as such Court shall think reasonable; and in case such variance shall be in some particular or particulars in the judgment of such Court, not material to the merits of the case, but such as that the opposite party may have been prejudiced thereby, in the conduct of his action, prosecution or defence, then such Court shall have power to cause the same to be amended, upon payment of costs to the other party, and withdrawing the record, or postponing the trial as aforesaid, as such Court shall think

reasonable, and after any such amendment, the trial shall proceed (in case the same shall be proceeded with) in the same manner in all respects, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had appeared; and in case the trial shall be had in any Court of Record, then the order for amendment shall be entered on the roll or other document upon which the trial shall be had: provided, that it shall be lawful for any party who is dissatisfied with the decision of such Court respecting the allowance of any such amendment, to apply for a new trial upon that ground; and in case any such Court shall think such amendment improper, a new trial shall be granted accordingly, on such terms as the Court shall think fit, or the Court shall make such other order as to them may seem meet.

Party dissatisfied with order for amendment not precluded from applying for a new trial.

III. And be it enacted, That every such Court as aforesaid shall and may, if they think fit, in all such cases of variance, instead of causing the record or document to be amended, direct the jury to find the fact or facts according to the evidence, and thereupon such finding shall be stated on such record or document, and notwithstanding the finding on the issue joined, the said Court or the Court from which the record has issued, shall, if they shall think the said variance immaterial to the merits of the case, and the misstatement such as could not have prejudiced the opposite party in the conduct of the action or defence, give judgment according to the very right and justice of the case.

Instead of ordering record, &c., to be amended, Court may require the jury to find the fact, &c.

### CAP. XVIII.

An Act to render valid certain proceedings heretofore had before the Courts of Commissioners for the recovery of small debts.

\* \* \* This Act renders valid certain proceedings had before the Courts of Commissioners for the recovery of small debts, the validity of which was affected by their not having strictly complied with the requirements of the Act 8 Vic., c. 4, authorizing the appointment of bailiffs, &c.—The 8 Vic., c. 4, has been repealed, and as the lapse of time has rendered the provisions of this Act unnecessary, it is therefore considered inexpedient to reprint it.

### CAP. XIX.

An Act for compensating the families of persons killed by accident.

**WHEREAS** no action at law is now maintainable against a person who, by his wrongful act, neglect or default, may have caused the death of another person, and it is oftentimes

An action to be maintainable against any person causing death through neglect, &c.

right and expedient, that the wrongdoer in such case should be answerable in damages for the injury so caused by him: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that whensoever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such, as would (if death had not ensued) have entitled the party injured to maintain an action, and recover damages in respect thereof; then, and in every such case, the person who would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

Action to be for the benefit of certain relations, and to be brought by and in the name of executor or administrator of the deceased.

II. And be it enacted, That every such action shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been cancelled, and shall be brought by and in the name of the executor or administrator of the person deceased, and in every such action, the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively, for whom, and for whose benefit, such action shall be brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before mentioned parties, in such shares as the jury by their verdict shall find and direct.

Only one action shall lie, and to be commenced within twelve months after death of party.

III. Provided always, and be it enacted, That not more than one action shall lie for and in respect of the same subject matter of complaint, and that every such action shall be commenced within twelve calendar months after the death of such deceased person.

Plaintiff to deliver a full particular of the person for whom damages shall be claimed.

IV. And be it enacted, That in every such action, the plaintiff on the record shall be required, together with the declaration, to deliver to the defendant, or his attorney, a full particular of the person or persons for whom, and on whose behalf such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Construction of this Act.

V. And be it enacted, That the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter; that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender: and the word "person" shall apply to bodies, politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother, and stepfather and stepmother;

and the word "child" shall include son and daughter, and grandson and granddaughter, and stepson and stepdaughter.

VI. And be it enacted, That this Act shall come into operation, from and immediately after the passing thereof. Operation of Act.

### CAP. XX.

An Act for suspending, for a limited period, certain parts of an Act passed in the fourth year of His late Majesty's reign, intituled "An Act for ascertaining and establishing the boundary lines of Counties and Townships, and parts of townships, and for regulating the duties of surveyors, and to repeal a certain Act therein mentioned." Expired.  
4 W. 4, c. 15.

\* \* \* This Act suspended operation of Boundary Act, 4 W. 4, c. 15, so far as regards Townships Nos. 10, 9, 8, 7, 6, 5, 4, 3, 2, and 1, to the end of the then next session of the General Assembly.

### CAP. XXI.

An Act for doing away with the oath of abjuration, heretofore imposed on Roman Catholics. 11 G. 4, c. 7.

**WHEREAS** a despatch has been received from the Right Honorable W. E. Gladstone, number fifteen, dated the second of June, one thousand eight hundred and forty-six, stating that he has received Her Majesty's commands to accede to the request of the Legislative Council and House of Assembly of this Island, praying for the royal sanction towards the enactment of a law, rescinding the obligation of a certain oath imposed on Roman Catholics, on their entering on their offices, either as members of the Legislature in this Colony, or as officers of the Government: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same, that from and after the passing of this Act, it shall not be lawful to tender to any of the officers of Government, nor to any of the members of the Legislature, on their receiving their appointments, nor shall they in any way be required to take the oath embodied or engrossed in the second clause of an Act passed in the eleventh year of the reign of His late Majesty King George the Fourth, intituled "An Act for the relief of His Majesty's Roman Catholic subjects."

No officers of Government or members of Legislature in future to be required to take the oath set out in 2d section of Act of 11 G. 4, c. 7.

II. And be it enacted, That the oaths to be taken by any of Her Majesty's subjects, of the Roman Catholic persuasion, on their being sworn in as members of any branch of the Legislature, or as officers of the Government, shall in all parti-

Relates to oaths to be taken by Roman Catholics.

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culars be the same as that taken, or to be taken, by Her Majesty's Protestant subjects in the like cases, any law, usage or custom to the contrary notwithstanding.

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CAP. XXII.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty-seven.

ANNO UNDECIMO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini*, 1847, in the tenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith :

1848.

SIR DONALD CAMPBELL,  
Baronet, Lt.  
Governor.

R. HODGSON,  
President of  
the Council.

And from thence continued, by several prorogations, to the first day of February, 1848, and in the eleventh year of Her said Majesty's reign ; being the second session of the seventeenth General Assembly convened in the said Island.

JOSEPH POPE,  
Speaker.

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## CAP. I.

An Act to prohibit the exportation of grain, meal and potatoes, and for other purposes therein mentioned. Expired.

## CAP. II.

Repealed by 12 Vic. c. 11. An Act to repeal certain parts of the laws now in force regulating the performance of statute labour on the highways, relating to Charlottetown, its common and royalty, and to make other provisions in lieu thereof.

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## CAP. III.

Amended by 12 Vic. c. 27.  
Continued by 13 Vic. 2d sess. c. 2.  
Expired. An Act to repeal the laws now in force relating to emigrants, and to make other provisions in lieu thereof.

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## CAP. IV.

Repealed by 14 Vic., c. 16. An Act to authorize the appointment of a Commissioner of highways for the town and royalty of Georgetown.

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## CAP. V.

Expired. An Act for raising a revenue.

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## CAP. VI.

An Act to authorize the appointment of a Master of the Rolls to the Court of Chancery, and an Assistant Judge of the Supreme Court of Judicature in this Island.

**W**HEREAS it is deemed expedient that a Master of the Rolls should be appointed to the Court of Chancery, and also an Assistant Judge of the Supreme Court of Judicature of this Island, which offices may be combined in one person.

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for Her Majesty the Queen, and her said Majesty is hereby authorized and empowered, from and after the passing of this Act, to appoint, and in case of a vacancy, by death, resignation, or other cause, to appoint anew a fit and competent person to combine and fill the offices of Master of the Rolls to the Court of Chancery, and Assistant Judge of the Supreme Court of Judicature of this Island; provided always, that nothing in this Act contained shall extend or be construed to prevent a provisional appointment being made to the said offices after the passing of this Act, and in cases of vacancy, as aforesaid,

The Queen may appoint a person to fill the offices of Master of the Rolls, &c



by the Lieutenant, Governor or Administrator of the Government for the time being, in like manner, as in the case of other judicial appointments; and provided also, that such person so appointed shall be a Barrister of at least seven years standing.

Person to be appointed to be a Barrister, &c.

II. And be it enacted, That the Master of the Rolls to be appointed under the provisions of this Act, shall have the like powers and authority, in respect to the Court of Chancery in this Island, so far as the common and statute Laws in force in this Island extend, that the Master of the Rolls in England has in respect to the like Court in that country: and the Assistant Judge of the Supreme Court, so to be appointed, shall have the like powers and authority in respect to the Supreme Court in this Island, so far as the common and statute laws in force in this Island extend, as a *Puisne* or Assistant Judge of the Court of Queen's Bench in England, has in respect to the like Court in that country; except in both cases, so far as the same shall or may be altered, enlarged, limited or regulated by virtue of any Act of the Legislature of this Island, now or hereafter to be passed.

Power and authority of Master of the Rolls.

III. And be it enacted, That the Master of the Rolls for the time being, in all cases, except on appeals from his decision and hearings thereon before the Chancellor, shall be and be deemed the responsible adviser and Judge of the said Court of Chancery, and shall sign all rules, orders and decrees made by him therein; and the signature of the Chancellor, except in the cases aforesaid, shall not be necessary to the validity of any such rules and orders in any cause or to any decree made in the absence of the Chancellor from this Island: provided always, that the enrolment of all decrees shall be signed by the Chancellor, to whom the same shall be presented, to be signed for enrolment.

Further powers and duty of Master of the Rolls.

Enrolment of all decrees to be signed by Chancellor.

IV. And be it enacted, That there be granted and there is hereby granted to His Excellency the Lieutenant Governor, or person administering the Government for the time being, the sum of five hundred pounds currency, annually, as a salary to such person being Master of the Rolls in the Court of Chancery, and Assistant Judge of the Supreme Court in this Island, to commence from the time of the appointment of such officer; and such salary shall be paid to such officer, when appointed, by quarterly instalments, by warrant, under the hand and seal of His Excellency the Lieutenant Governor, upon the treasury of this Island, in favor of such officer.

Salary to be paid to Master of the Rolls.

V. And be it enacted, That the Master of the Rolls and Assistant Judge appointed under and by virtue of this Act, shall be deemed ineligible for holding a seat in either the Executive or Legislative Councils, or House of Assembly of this

Person appointed not to hold a seat in either Council or House of

Assembly, nor to practise, &c. in any Court, &c.

Island, nor shall it be lawful for him to practise in any manner as a solicitor, proctor, master in chancery or attorney, or to hold any agency of any kind whatsoever, or to act as an agent, or be concerned in any manner, either directly or indirectly, in the management of lands or collection of rents in this Island, not being *bona fide* the estate and property owned by such Master of the Rolls and assistant Judge.

No fees payable to Master of the Rolls.

VI. And be it enacted, That there shall not in future be any fees in chancery paid to the Master of the Rolls.

Administrator of Government to appoint fit persons to offices of Registrar and masters in Chancery.

VII. And be it enacted, That as soon as Her Majesty shall appoint a fit and proper person to be Master of the Rolls for this Island, it shall and may be lawful for the Administrator of the Government for the time being, to nominate and appoint fit and proper persons to the offices of Registrar and Masters, and also to fill such other offices, as are or may be necessary or required for the due administration of the said Court of Chancery, and for carrying into effect the orders, rules and decrees of the Court of Chancery, according to any laws now existing, until an Act shall be passed by the Legislature of this Colony regulating the procedure of the said Court.

Repeals 8th section of 3 W. 4, c. 12.

VIII. And be it enacted, That from and after the passing of this Act, the eighth section of an Act made and passed in the third year of the reign of King William the Fourth, intituled "An Act to regulate and establish the stated times and places for holding the Supreme Court in King's and Prince Counties," and to constitute the Michaelmas Term of the said Court in Queen's County, a term for the trial of issues for a limited period," shall be, and the same is hereby repealed; and the assistant Judge of the Supreme Court so to be appointed under and by virtue of this Act, shall have and be vested with as full power and authority as is given to the Chief Justice of the said Supreme Court, in and by the said recited Act.\*

Assistant judge appointed under this Act, to have same powers as are given to Chief Justice by Act 3 W. 4, c. 12.

Amended by 12 Vic., c. 7, 15 Vic. c. 13, 16 Vic. c. 14, and 18 Vic., c. 3.

For former Acts relating to land assessment, &c., see 11 G. 4, c. 17, 3 W. 4, c. 29, 7 W. 4, c. 15, 7 W. 4, c. 31, 8 V., c. 17.

## CAP. VII.

An Act for levying further an assessment on all lands in this Colony, and for the encouragement of education.

**WHEREAS** the Act of the Legislature, by which an assessment is levied on all lands in this Island, will shortly expire, and it is just and reasonable, and also necessary, for the maintenance of public credit, that a portion of the public

\* The whole of the statute referred to in this section has been repealed by 12 Vic., c. 9 — which see.

revenue should in future be raised by a tax on all lands in this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that there shall be paid, annually, during the continuance of this Act, into the hands of the Treasurer of this Island, or his deputies, the sum of five shillings lawful money thereof, for every hundred acres of wilderness or unimproved lands contained in the several townships, and the several islands belonging thereto, except as hereinafter is excepted; and the sum of two shillings and six pence for every hundred acres of cultivated or improved land in the said several townships and islands as aforesaid; and the sum of four shillings for each and every uncultivated or unimproved town lot, pasture lot, common lot, and water lot, granted in the town and royalty of Charlottetown; and the sum of two shillings and six pence for each and every cultivated or improved town and water lot in the said town; and the sum of two shillings for each and every cultivated or improved pasture and common lot as aforesaid; and the sum of two shillings and eightpence for each and every town lot, pasture lot and water lot, granted in the towns and royalties of Georgetown and Princetown; and the sum of one shilling and four pence for each and every cultivated or improved town, pasture, and water lot, granted in the said last mentioned towns and royalties; and so in proportion for a less quantity, the first annual payment of the said several sums of money to be paid as aforesaid, by the several and respective owners, proprietors, or occupiers thereof, within three months next after Her Majesty's royal allowance to this Act shall have been published in the *Royal Gazette* newspaper.

Rates of annual  
land assess-  
ment.

When payable.

II. And whereas the owners or occupiers of lands in the royalty of Georgetown, called reserved lands, have hitherto been assessed in proportion to the assessment levied on township lands in this Island; and whereas the elective franchise hath been conferred on persons owning or occupying eight acres of such reserved lands, for the return of members to serve in the General Assembly of this Island, to represent the said town and royalty, in the same manner in which owners or occupiers of pasture lots in the said royalty enjoy the said franchise, and such privilege hath been conferred on such owners or occupiers on their own special application and request; and under such circumstances, it is just and proper that the owners or occupiers of such lands should pay a fair and reasonable assessment for the same: Be it therefore enacted, that the owners or occupiers of at least eight acres of such reserved lands, shall pay the sum of one penny per acre on each and every acre of such lands as may be deemed cultivated or improved lands, according to the provisions of this Act, as regards pasture lots in the royalties of Georgetown and

Rate of assess-  
ment on reser-  
ved land nears  
Georgetown.

Princetown, and the sum of twopence per acre on each and every acre of such lands as may be deemed uncultivated or unimproved lands under such provisions as regard pasture lots in the royalties of the said towns.

Mode of filing information against lands in arrear.

Amount of costs where land in arrear does not exceed 500 acres.

Proceedings to final judgment to follow course of information.

On final judgment, Court to direct a sale at public auction of lands in arrear.

IV. And be it enacted, That all informations which shall or may be filed in the said Supreme Court by Her Majesty's Attorney or Solicitor General, against any lands so in arrear, shall be against the said lands, as they are hereinafter classified, that is to say, one information only shall be filed against all the lands in arrear on each of the several townships in this Island: provided always, that where the lands in arrear on every township do not exceed the quantity of five hundred acres, that then, and in such case, the costs to be taxed by the Attorney or Solicitor General, shall not exceed the sum of three pounds; and one information only against all the lands in arrear on each island, not included in any such township; one information only against all and singular the several lots and parts of lots in arrear in each of the towns in this Island, town lots and water lots inclusive; and one information only against all and singular the several lots and parts of lots in arrear, in each of the royalties in this Island, pasture, common, and all other description of lots inclusive; and that all further proceedings which shall or may be had or taken by virtue of this Act against any lands so in arrear, down to final judgment inclusive, shall follow the course of the said information against the said lands, as they are hereinbefore classified.

V. And be it enacted, That in and by all such judgments as shall be given against any township lands so in arrear, or lands in arrear situated on any island not included on any township, the said Supreme Court shall order and direct that so much of the several lands against which judgment shall be given, as shall be sufficient to pay the sums charged by this Act, together with reasonable costs, be sold at public auction to the highest bidder; and in and by all such judgments as shall be given against any lots and parts of lots so in arrear, situate in any of the said towns, or lots and parts of lots in arrear, situate in any of the said royalties, the said Supreme Court shall order and direct, that the said lots and parts of lots so in arrear, or as much thereof of each class respectively as may be necessary, shall be severally sold at public auction, to the highest bidder, for the payment of the assessment due thereon, together with reasonable expenses; and the said Supreme Court, upon such several judgments, shall issue a *fiery facias* to the Sheriff or Coroner of the County wherein such lands shall be situate for that purpose, who, after having given thirty days' previous notice, shall proceed to the sale of the said lands, pursuant to the said writ.

VI. And be it enacted, That it shall be in the power of the Sheriff or Coroner to adjourn any sale from day to day at his discretion, on giving public notice thereof, and if any purchaser shall not pay the amount declared, on the day of sale, it shall be lawful for the said Sheriff or Coroner to resell the same, on any other day, to which the sale of such lands shall be adjourned.

Sheriff, &c. to have power to adjourn any sale.

VII. And be it enacted, That the said Sheriff or Coroner, before proceeding to sell such lands, shall ascertain, and at the sale publicly declare the metes and bounds thereof, as particularly as the same can or may be described, and shall make and execute to such purchaser or purchasers, at his, her, or their expense, a conveyance thereof, in the form set forth in the schedule to this Act annexed, marked (A), which conveyance, when registered within the time hereinafter limited for that purpose, shall be good and valid in law, to all intents and purposes whatsoever: provided always, that the lands therein described, have been lands in arrear for nonpayment of the assessment charged thereon by this Act, and for which such judgment shall have been given as aforesaid; and the said Sheriff or Coroner shall, on behalf of the purchaser or purchasers of any lot or lots, situate in any Town or Royalty in this Island, sold by the said Sheriff or Coroner as aforesaid, make and execute to such purchaser or purchasers, at his, her, or their expense, a conveyance thereof, in the form last aforesaid, which conveyance, when registered within the time hereinafter limited for that purpose, shall be good and valid in law, to all intents and purposes whatsoever.

Sheriff, &c. to declare at sale metes and bounds.

Form of conveyance.

Conveyance to purchaser of Town or Pasture Lots, &c.

VIII. Provided always and be it enacted, That no deed or conveyance executed under the authority of this Act by such Sheriff or Coroner, to the purchaser or purchasers of any lands whatsoever, in arrear for nonpayment of the assessment charged thereon by this Act, shall have any force or effect, either at law or in equity, unless such deed of conveyance shall have been duly registered in the proper office appointed for the registry of deeds in this Island, within twelve calendar months from the date of such sale, any thing in this Act to the contrary thereof, notwithstanding.

No conveyance under this Act to have effect unless registered.

IX. And be it enacted, That it shall not be necessary for, or incumbent on the Sheriff or Coroner, to whom any *fiery facias* shall be directed under the authority of this Act, to make an actual entry on any lands whatsoever so in arrear, or any part or portion thereof, either for the purpose of levying the said writ of execution thereon, or delivering actual seisin or possession to the purchaser or purchasers thereof, after such sale, it being hereby declared that the execution of the deed of conveyance alone by the Sheriff or Coroner to the

Not necessary for Sheriff, &c. to make entry on lands in arrear, levying execution.

Conveyance to vest legal title in purchaser.

purchaser or purchasers, being first duly registered, shall be sufficient to vest in him, her or them, a legal title and seisin of and in the lands in the said deed described, without any entry or levy having been made thereon, or actual possession given as aforesaid.

Costs, how to be made up.

X. And be it enacted, That in each and every case where judgment shall be given against any lands in arrear as aforesaid, one bill of costs under each information and judgment shall be made up, which bill of costs shall be taxed by some one of the Justices of Her Majesty's Supreme Court of Judicature of this Island, agreeably to the scale of fees contained in the schedule to this Act annexed, marked (B), and that in every bill of costs so to be taxed, the said Justice, at the time of such taxation, is hereby required and directed to divide the amount of such costs proportionably to the quantity of land in arrear, between the several lands, lots, and parts of lots, against which judgment shall be so given, and such division, with the sum apportioned to each parcel of land, lot, or part of a lot, shall be stated in the certificate or allocatur of the said Justice, subscribed or appended to the said bill of costs; and the several sums so expressed in such certificate or allocatur, shall be stated on the record of the said judgment, as the amount of costs awarded against each parcel of land, lot and part of a lot respectively.

Scale of costs.

Duty of Judge on taxation of costs.

Any land of proprietor may be selected and sold for arrears of assessment.

XI. And whereas, without express provision, it may be difficult for a purchaser of township lands sold under the operation of this Act, to obtain possession of such lands from the owner or owners, occupier or occupiers of lands on the same township, who shall have made default in payment of the assessment due on a portion, but not on the whole of the lands so owned or occupied: Be it therefore enacted, that in case the owner or owners, occupier or occupiers of any Township land or lands, or any lands situate on any island not included in any township charged by this Act, shall pay the Assessment for a lesser quantity of land than the quantity *bona fide* owned or occupied by such person or persons respectively, on such township or island, the Sheriff or Coroner may select the quantity of land by him to be sold, upon any part of the land owned or occupied by such person or persons so making default, to the extent of the quantity for which such person or persons shall have so made default, the said Sheriff or Coroner nevertheless having regard to the buildings and improvements of such defaulter, in not selecting the same in case there be remaining sufficient land in default to realize the amount of levy and expenses; and a conveyance thereof from the said Sheriff or Coroner to the said purchaser or purchasers, executed and registered in the manner prescribed by this Act, shall effectually pass a good and valid title therein

Sheriff, &c. not to select lands having buildings or improvements thereon.

to the said purchaser or purchasers, any thing in this Act to the contrary thereof notwithstanding.

XII. Provided always, and be it enacted, That in case of any lands being sold under the authority of this Act, an equity of redemption shall nevertheless be open to the former owner or owners, proprietor or proprietors, his, her, or their heirs or assigns, for the space of two years next after the day on which the same shall have been sold; the former owner or owners, proprietor or proprietors, his, her or their agents, heirs or assigns repaying the purchase money, with lawful interest thereon, and also all reasonable expenses attending the same, and a fair allowance for such improvements as shall or may be made thereon; the same in case of a dispute, to be ascertained by the Supreme Court.

Equity of redemption allowed to former owner.

XIII. And be it enacted and declared, That in case a part only of the lands situate on any township, or any Island not included in any township so in arrear for nonpayment of the assessment charged thereon by this Act, shall be sold for the payment of the whole amount of assessment remaining unpaid on such township or island, the former owner or owners, proprietor or proprietors of such lands as shall be so sold, his or their heirs, executors, or administrators, shall be entitled to receive from the owner or owners, proprietor or proprietors of the remaining lands on the said township or island so in arrear, his, her, or their agents, heirs, executors, or administrators, the amount of assessment remaining unpaid for such lands respectively, and also a ratable proportion of the costs of the judgment and expenses attending such sale, such proportion to be regulated by the quantity of land in arrear on the same township, and in case of dispute, to be ascertained by the Supreme Court.

Provides a remedy for owner of lands in certain cases.

XIV. And be it enacted, That no *feri facias*, issued under the authority of this Act, shall be executed by the Coroner of this Island, or of any County within the same, unless in such cases where the Sheriff or his Deputy shall be personally interested, or otherwise disqualified, anything herein contained to the contrary notwithstanding.

No Coroner to execute *feri facias* unless where Sheriff, &c. is personally interested.

XV. And be it enacted, That it shall and may be lawful to and for the Treasurer of this Island for the time being, by writing, under his hand and seal, to nominate and appoint such and so many deputies, not less than three, for each County, as to the said Treasurer shall seem meet, and for the faithful discharge of whose duties, the said Treasurer shall be responsible, and which deputies shall be appointed for certain districts or sections of the County respectively, to be defined and published by the said Treasurer, and such deputies shall and they are hereby required, to open books of account for the

Treasurer to appoint deputies to receive assessment.

Duty of deputies.

receipt of the said assessment, and shall keep open their books until the fourteenth day next before the first day of the term at which proceedings, by proclamation, are to be taken against the lands of any defaulter or defaulters, agreeably to the provisions of this Act, and shall forthwith forward the assessments received, together with their books, or true copies thereof, to the Treasurer; and each and every deputy shall be allowed for his trouble the *per centage* following, that is to say, the sum of ten pounds *per centum* on the first fifty pounds of assessment, or any less amount in the whole by him received, and upon the residue of the amount by him received, beyond the said sum of fifty pounds, five pounds *per centum*, and no more.

Allowance to deputies for collecting, &c.

Limits assessment.

XVI. And be it enacted, That no assessment for any tract of land exceeding one thousand acres, shall be paid into the hands of the sub-collector of assessment appointed for Charlottetown.

Treasurer and deputies to grant receipts for all moneys received by him or them.

XVII. And be it enacted, That the said Treasurer and deputies shall, and are hereby required, upon receiving any sum or sums of money under and by virtue of this Act, to grant a receipt for the same, specifying thereon the name of the person paying the same, and the quantity of land for which, and on what township the same has been paid, or if situate in any of the towns or royalties, specifying the number of the lot, and whether a town, common, pasture, or water lot, also stating whether improved or unimproved, cultivated or uncultivated, as the case may be.

On sale of lands, overplus of moneys to be paid to Treasurer for benefit of former owner.

XVIII. And be it enacted, That when the Sheriff, Coroner, or other officer who shall have sold any lands under the provisions of this Act for nonpayment of assessment and costs, and that such lands shall have produced more than sufficient for the payment of such assessment and costs, the Sheriff, Coroner, or other officer shall, and he is hereby authorized to pay over into the hands of the Treasurer of this Island for the time being, the overplus of such moneys, for the benefit of the proprietor or proprietors of such lands, and in case of dispute as to the right of any claimant to receive such overplus, the same shall be determined in a summary way by the Justices of Her Majesty's Supreme Court of Judicature, and any costs incurred thereby shall be paid by the person or persons wrongfully claiming the same, or otherwise apportioned, as to such Justices shall seem just and equitable.

All lands to be deemed unimproved unless owner or occupier deliver a

XIX. And be it enacted, That all lands liable to the assessment as aforesaid, shall be taken and deemed to be wilderness or unimproved lands, as well in the townships as in the several towns and royalties aforesaid, and the same shall be charged with assessment as such wilderness or unimproved



land, unless the owner or occupier for the time being of any such land shall at the time such assessment shall be paid, deliver, or cause to be delivered, at the office of the Treasurer of this Island, or to any of his deputies, a true return or account of such land, the same to be entered in the books of the said treasurer or receiver, in the form set forth in the schedule to this Act annexed, marked (C); and if any owner or occupier of any such lands or lots as aforesaid, shall make a false return of such lands or lots, he, she, or they shall, on conviction, forfeit and pay for every such offence, a sum not exceeding fifty pounds; the same to be recovered, with costs, in Her Majesty's Supreme Court of Judicature in this Island, and one half of such fine or penalty shall be paid to the person who shall inform and sue for the same, and the other half shall be paid into the treasury of this Island, for the use of Her Majesty's Government, and the books of original entry of the said Treasurer or receivers shall be deemed and taken as evidence of the said return.

return to  
Treasurer, &c.

XX. And be it enacted, That when, by reference to the said return, it shall appear that any person or persons is or are the owner or owners, lessee or lessees of any single tract or quantity of land containing three hundred acres, or any less quantity, and shall have actually settled thereon, or in case of nonresidence, shall have inclosed and cultivated in the proportion of five acres for each and every hundred acres of land, of which such person or persons shall be the owner or owners, lessee or lessees, for the time being as aforesaid, and in the same proportion for any less quantity thereof, such tract of land shall be deemed cultivated or improved land within the meaning of this Act.

What lands  
shall be deemed  
cultivated or  
improved.

XXI. And be it enacted, That no town lot in the towns of Charlottetown, Georgetown and Princetown respectively, shall be deemed to be cultivated and improved within the meaning of this Act, unless such town lot shall be wholly cleared, or unless such town lot shall have a dwellinghouse, barn or stable, actually used as such, erected thereon, which said clearance and buildings, or any or either of them, shall be a sufficient improvement and cultivation; and no pasture lot or common lot within the royalty and common of Charlottetown, shall be deemed to be so improved and cultivated, unless three acres of such lot shall be cleared and enclosed under fence; and no pasture lot within the royalties of Georgetown and Princetown respectively, shall be deemed to be improved or cultivated, unless two acres of such lot shall be cleared and under fence as aforesaid.

What shall be  
deemed culti-  
vated or im-  
proved lots in  
the several  
towns and  
royalties.

XXII. And be it enacted, That no omission of any direction contained in this Act, relative to notices or forms of pro-

Confirms sales  
notwithstand-

ing any omission of any direction of this Act previous to such sale.

ceeding, previous to any sale made under this Act, shall extend to render such sale invalid; but the person guilty of any such omission or neglect, shall be liable to punishment therefor, and shall answer the party for any damage occasioned thereby, in any legal proceeding that may be properly instituted for that purpose.

Treasurer to keep a separate account of moneys, &c.

XXIII. And be it enacted, That the Treasurer shall keep a separate and specific account of all moneys raised and applied by virtue of this Act, which account shall be annually laid before the House of Assembly within ten days next after the commencement of each session.

Penalty on Treasurer paying money arising from this Act for any other purpose than is specified therein.

XXIV. And be it enacted, That if the Treasurer of this Island shall issue and pay any of the said moneys arising under this Act for any other purpose than is therein mentioned, or than shall be directed by any Act of the Legislature of this Island hereafter to be passed, he shall forfeit and pay the sum of one thousand pounds, and be rendered incapable of holding the office of Treasurer; the said forfeiture to be applied to and for the use of Her Majesty's Government, and to be recovered by bill, plaint, or information, in Her Majesty's Supreme Court of Judicature of this Island.

No other fees to be taken under this Act than as specified in bill of costs annexed.

XXV. And be it enacted, That no further or other fees shall be taken or received by any person or persons whomsoever, under authority of this Act, than such fees as shall be contained in the bill of costs taxed and allowed by one of the Justices of the Supreme Court, agreeably to the scale annexed to this Act as aforesaid, any thing in this Act to the contrary thereof notwithstanding.

This Act to have no force or effect unless Her Majesty shall relinquish her quit rents during its continuance.

XXVI. And whereas this Act has been passed in the confident expectation that Her Majesty, taking into consideration the limited resources of this Colony, and the long retarded state of the settlement and improvement of the principal lands therein, will be graciously pleased to forego Her Majesty's claim to the quit rents, during the continuance of this Act: Be it therefore enacted, that the operation of this Act shall be suspended, and it shall be of no force or effect, until it shall be ascertained that Her Majesty shall have been pleased to relinquish all claim to the said quit rents during the continuance of this Act: provided always, that nothing in this Act contained shall have any force or effect till Her Majesty's pleasure therein shall be known.

Suspending clause.

Relates to moneys to be paid to Lieutenant Govern-  
or.

XXVII. And be it enacted, That so long as this Act shall be in force, and so long as the civil list of this Colony shall continue to be defrayed by the Imperial Government, there shall be granted and paid to the Lieutenant Governor for the time being, administering the Government of this Island, out

of the moneys to be raised by virtue of this Act, the sum of five hundred pounds currency, annually, the same to be payable quarterly, the first quarter's payment thereof to be made at the expiration of three months next after this Act shall come into force; and that the residue of the moneys raised by virtue of this Act shall be appropriated to the purposes of general education, as may be hereafter directed by any Act of the Legislature of this Colony.

Residue of moneys to be appropriated to purposes of general education.

XXVIII. And be it enacted, That an Act made and passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act for levying an assessment on all lands in this Island," and every clause, matter, and thing therein contained, be, and the same is hereby repealed.

Repeals land assessment Act of 7 W. 4, c. 31.

XXIX. And be it enacted, That all proceedings legally had or taken under the aforesaid Act for levying an assessment on all lands in this Island, hereby repealed, be, and the same are hereby confirmed, and all proceedings legally pending thereunder, shall be taken to be good and valid, and shall be prosecuted to the final termination thereof respectively, in way and manner as prescribed and directed by the said Act, as if this Act had not been made and passed.

Such repeal not to prevent any proceeding pending under said Act from being prosecuted to final termination.

XXX. And be it enacted, That this Act shall be and continue in force for the period of fifteen years, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance of Act.

XXXI. And be it enacted, That nothing in this Act contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

Suspending clause.

Section 3 of the above Act is repealed by 12 Vic., c. 7.

\*.\* This Act received the royal allowance 25th August, 1848, and the signification thereof was published in the *Royal Gazette* newspaper of this Island, on the 19th day of September following.

## SCHEDULES to which this Act refers.

### SCHEDULE (A.)

To all to whom these presents shall come :

I High Sheriff of the County of  
in Prince Edward Island, (or Coroner, as the case may be,) send greeting :

Form of conveyance.

WHEREAS, by virtue of Her Majesty's writ of *feri facias* unto me directed, commanding me that I should cause to be

satisfied and paid out of \_\_\_\_\_ as well a certain debt of  
 which \_\_\_\_\_ Treasurer of the said Island  
 had recovered against the said \_\_\_\_\_ in Her Majesty's Su-  
 preme Court of Judicature at Charlottetown in the said Island,  
 as also \_\_\_\_\_ which in Her Majesty's same Court were  
 awarded to the said \_\_\_\_\_ for his costs and charges, by him  
 about his suit in that behalf expended, and that I should have  
 that money at Her Majesty's Supreme Court of Judicature  
 aforesaid on the \_\_\_\_\_ in \_\_\_\_\_ next coming to render to the  
 said \_\_\_\_\_ for the debt and costs aforesaid: and whereas  
 by virtue of the said writ, and by force and according to the  
 form and effect of an Act made and passed in the eleventh  
 year of the reign of Her present Majesty, intituled "An Act  
 for levying further an assessment on all lands in this Colony,  
 and for the encouragement of education," I the said Sheriff,  
 (or Coroner, as the case may be,) took the said \_\_\_\_\_ in  
 execution, and thirty days' previous notice of the sale thereof  
 having been given, in manner and form as is prescribed in and  
 by the said last mentioned Act, sold \_\_\_\_\_ at public  
 auction to \_\_\_\_\_ being the best or highest bidder, at or  
 for the sum of \_\_\_\_\_ lawful money of the said Island:

Now KNOW YE, that I the said \_\_\_\_\_ High Sheriff, (or  
 Coroner, as the case may be,) as aforesaid, by virtue of the  
 said writ, and for and in consideration of the sum of  
 lawful money aforesaid, to me in hand paid by the said  
 at and before the sealing and delivery of these presents, the  
 receipt whereof is hereby acknowledged, have bargained, sold  
 and assigned, and by these presents I the said \_\_\_\_\_ High  
 Sheriff, (or Coroner, as the case may be,) as aforesaid, do bar-  
 gain, sell, and assign the said \_\_\_\_\_ described as follows:  
 being in arrear of the tax imposed upon the  
 said \_\_\_\_\_ by the said Act firstly hereinbefore in part re-  
 cited, to have and to hold all and singular \_\_\_\_\_ and  
 every part and parcel thereof, with the appurtenances unto  
 the said \_\_\_\_\_ his heirs and assigns, to the only proper  
 use and behoof of the said \_\_\_\_\_ his heirs and assigns  
 forever, and to and for no other use, trust, intent, or purpose  
 whatsoever, as fully, amply, and beneficially, as the original  
 grantee or grantees of the said \_\_\_\_\_ heirs or assigns  
 were possessed of or entitled to the same.

In witness whereof, I the said High Sheriff, (or Coroner,  
 as the case may be,) have hereunto set my hand, and affixed  
 my seal of office, this \_\_\_\_\_ day of \_\_\_\_\_ in the  
 year of the reign of our Sovereign Lady Victoria, and in the  
 year of our Lord one thousand eight hundred and \_\_\_\_\_

Signed, sealed, and delivered, }  
 in presence of }



## RETURN FOR TOWN AND WATER LOTS.

Form of return of town and water lots referred to in this Act.

DESCRIPTION.				Where situated.	Owner or occupier.	Improved or unimproved.
No.	Hund.	Range.	Letter.			

## RETURN FOR COMMON AND PASTURE LOTS.

Form of return of common and pasture lots referred to in this Act.

No. of common or pasture lots, (as the case may be.)	Where situated.	Owner or occupier.	Improved or unimproved.

## RETURN FOR RESERVED LANDS IN THE ROYALTY OF GEORGETOWN.

Form of return of reserved lands in Georgetown royalty referred to in this Act.

Owner or occupier.	No. of acres cultivated.	No. of acres un-cultivated.	Total.

## CAP. VIII.

An Act to repeal so much of the land assessment Act now in force as relates to the cancelling of treasury notes. 7 W. 4, c. 31.

\*.\* The whole of the land assessment Act referred to in the title of this Act, having been repealed by 11 Vic., c. 7, this Act is unnecessary, and therefore has not been reprinted.

## CAP. IX.

An Act to incorporate a mutual fire insurance company. Amended by 12 Vic., c. 32.

\*.\* This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

## CAP. X.

An Act to enable the Government to ascertain the population of this Colony, and to obtain other statistical information therein mentioned. Executed.

## CAP. XI.

An Act to explain and amend an Act made and passed in the eighth year of the reign of Her present Majesty, intituled "An Act to make new provisions for the support of light-houses, buoys and beacons." 8 Vic. c. 3. Repealed by 19 Vic., c. 14, s. 9.

## CAP. XII.

An Act to repeal the laws for constituting boards of health, and to make other provisions in lieu thereof. Amended by 12 Vic., c. 30. Expired.

## CAP. XIII.

An Act relating to the Charlottetown ferry. See 20 Vic., c. 7.

\*.\* This Act remains in force, but has been printed in the volume of private and local Acts pursuant to Act 24 Vic., c. 3.

## CAP. XIV.

An Act for the punishment of drunkenness.

Penalty on person drunk and disorderly in any street, &c., of any town or in highway.

*P. 1102. 20.*

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, for the prevention and punishment of drunkenness, That from and after the passing of this Act, any person who shall be found drunk and disorderly in any of the streets or squares of any town in this Island, or in any public highway in this Island, and who shall be convicted thereof before any Justice of the Peace, on view, or by confession, or on the oath of one credible witness, shall forfeit for the first offence the sum of five shillings, and in default of payment of the said fine, the said Justice is hereby authorized and empowered to commit any such person to the common jail of the County wherein such offence shall have been committed, there to remain for a period of forty-eight hours, unless such fine shall be sooner paid.

Penalty for second and subsequent offence.

**II.** And be it further enacted, That if any person or persons shall be convicted of a second offence against the provisions of this Act, he, she, or they shall be liable to a fine of ten shillings for such second offence, and to a like fine for every subsequent offence; to be recovered in way and manner set forth in the first section of this Act; and in default of payment of either or any of such fines, shall and may be committed by the said Justice to the common jail of the County wherein such second or subsequent offence shall be committed, there to remain for a period of ninety-six hours, unless such fine shall be sooner paid.

Appropriation of penalties.

**III.** And be it enacted, That all fines recovered and received under and by virtue of this Act, shall be paid by the said Justice into the treasury of this Island, to and for the use of Her Majesty's Government.

\* \* \* The above Act, in so far as the same relates to Charlottetown, has been repealed by a law of the City Council passed under the powers vested in said Corporation by the Act of 18 Vic., c. 34, s. 37.

## CAP. XV.

An Act to amend the Act for the better preventing accidents by fire within Charlottetown.

Repealed by  
12 Vic. c. 8.



## CAP. XVI.

An Act to consolidate and amend the Laws now in force authorizing the appointment of coal meters, and to repeal a certain Act therein mentioned.\*

Continued by  
22 Vic. c. 5, except in so far as relates to Charlottetown.

WHEREAS the Act made and passed in the fifth year of the reign of her present Majesty, intituled "An Act to authorize the appointment of coal meters where deemed necessary," will expire on the last day of the present session, and the Act made and passed in the second year of the reign of her said Majesty, intituled "An Act to authorize the appointment of coal meters for Charlottetown," will shortly expire, and it is deemed expedient to consolidate, continue, and extend the provisions of the said Acts: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Administrator of the Government for the time being, by and with the advice of Her Majesty's Council, from time to time, as occasion may require, or as he may see fit, in addition to the persons already appointed for that purpose, to appoint any other fit and proper person or persons residing in Charlottetown, whose duties shall be to admeasure, according to the standard coal measure of this Island, all such coals imported into Charlottetown as shall be respectively required of them; and in case any person, having accepted such office, shall refuse or wilfully neglect to perform any of the duties pertaining to his office or appointment, without just cause, each and every person so offending, shall forfeit and pay for every such offence a sum not exceeding twenty shillings, to be recovered, with costs, before any Commissioner of small debts or Justice of the Peace; which fine shall be paid to any person who shall sue for the same.

5 Vic. c. 16.

2 Vic. c. 5.

In addition to present coal meters for Charlottetown, Administrator of Government &c., may appoint others.

Duty of coal meters.

Penalty for neglect of duty, &c.

II. And be it enacted, That it shall and may be lawful for the Administrator of the Government for the time being, by and with the advice of Her Majesty's Council, and on the petition of at least ten householders to him or them presented, to appoint one or more fit and proper persons residing at any other port or place in this Island, besides Charlottetown, to be a coal meter or coal meters, whose duty it shall be to admeasure according to the standard coal measure aforesaid, all such coals imported into such ports or places for which such coal meters shall have been appointed, as shall be respectively required of him or them; and in case any person having accepted said office shall refuse or wilfully neglect to perform any of the duties pertaining to his office or appointment, each

Administrator of Government, &c. may appoint coal meters for other ports, &c.

Duty of such coal meters.

\* This Act, in so far as it relates to Charlottetown, has been repealed by a law of the City Council of Charlottetown, passed under the powers vested in said corporation by Act 18 Vic. cap. 34, sec. 37.

Penalty for neglect of duty, &c.

and every person so offending, shall forfeit and pay for, every such offence, a sum not exceeding twenty shillings, to be recovered, with costs, before any Commissioner of small debts or Justice of the Peace, which fine shall be paid to the person who shall sue for the same.

Coal meters to be sworn.

III. And be it enacted, That each and every coal meter already appointed under the authority of either of the above recited Acts, or who shall or may be hereafter appointed under and by virtue of this Act, before he shall be permitted to act as such coal meter under the provisions of this Act, shall be duly sworn, in the form prescribed in the schedule to this Act annexed, marked (A), to the faithful discharge of the duties enjoined by this Act, before any Justice of the Peace for the County in which the port or place for which he shall have been appointed shall be situate; which Justice, upon administering such oath, shall, and he is hereby required, to grant to such coal meter a certificate in the form prescribed in the schedule to this Act annexed, marked (B), that the said coal meter has been duly sworn by him in the form prescribed by this Act; and the said coal meter shall be bound upon all occasions while employed in the duties of his said office, to produce the said certificate to any person demanding the same; and upon his neglect or refusal so to do, shall be liable to the penalty or fine hereinbefore imposed for neglect of duty on the part of such coal meter.

Form of coal meter's oath.

Coal meter to produce certificate on demand.

Administrator of Government, &c., may displace any coal meter, &c.

IV. And be it enacted, That it shall be lawful to and for the Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Council, from time to time, to remove or displace any coal meter for any fraud or wilful neglect of duty, and to appoint another coal meter in the place of such removed or displaced coal meter.

Penalty on coal meter for ad-measuring without being first sworn.

V. And be it enacted, That any person who shall presume to admeasure any coals as a coal meter, without being first duly sworn as required by this Act, shall forfeit and pay for every such offence the sum of five pounds, to be recovered before any one of Her Majesty's Justices of the Peace for the County wherein such offence shall have been committed, one half of such fine to be paid to the person who shall sue for the same, and the other half to be paid into the Treasury of this Island, to and for the use of Her Majesty's Government.

Justices of the Peace to transmit within ten days record of oath to Clerk of Council.

VI. And be it enacted, That each and every Justice of the Peace before whom any coal meter shall be sworn, as directed by this Act, shall within ten days after administering such oath, transmit the record of such oath (signed by such coal meter, and attested by the said Justice in the form prescribed

by this Act,) to the Clerk of Her Majesty's Council of this Island, who shall file the same in his office.

VII. And be it enacted, That it shall be the duty of each and every coal meter who shall qualify as such under the provisions of this Act, before he shall proceed to act in his said office, to provide himself with at least two measures, one to contain one bushel of coal, (heaped), and the other to contain three heaped bushels of coal level with the brim, and which shall be duly assayed and stamped, according to the standard coal measure of this Island.

Coal meters to provide two measures.

VIII. And be it enacted, That any person in this Island who shall presume to sell or vend any coals after the passing of this Act, by any other measure than the standard coal measure of this Island, shall forfeit and pay for each and every such offence, a sum not exceeding forty shillings, the same to be sued for, recovered, and appropriated in the manner provided for recovery of penalties under the fifth section of this Act.

Penalty on persons selling coals by any other than standard measure.

IX. And be it enacted, That every coal meter who shall have complied with the provisions of this Act, shall be entitled to receive for his services the respective amounts following; that is to say, if appointed for Charlottetown, the sum of six pence; and if appointed for any other port or place in this Island the sum of nine pence, for every chaldron of coal by him measured, and so in proportion for any less quantity, and which sum shall be paid by the seller or vender of such coal.

Remuneration to coal meters.

XI. And be it enacted, That the fees to which any Justice of the Peace shall be entitled under this Act, shall be as follows, that is to say:

Justice of the Peace's fees under this Act.

For every oath administered to coal meter, one shilling.

For transmitting same to Clerk of Council, one shilling.

For every certificate, one shilling.

And no other or greater fees whatsoever.

XII. And be it enacted, That the Act made and passed in the second year of the reign of her present Majesty, intituled "An Act to authorize the appointment of coal meters for Charlottetown," shall be and the same is hereby repealed.

Repeals Act of 2d Vic., c. 5.

XIII. And be it enacted, That this Act shall be and continue in force for the space of ten years, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance of Act.

\* \* Section 10 of the above Act, relating exclusively to Charlottetown, has been omitted, it having been repealed by a law of the City Council of said Town.

SCHEDULES to which this Act refers.

SCHEDULE (A.)—FORM OF COAL METER'S OATH.

Coal meter's  
oath.

I, *A. B.*, do swear, that I will faithfully, and without fear or partiality, execute and perform the duties of coal meter for the harbor or port of \_\_\_\_\_ (as the case may be,) in pursuance of and according to the manner required and prescribed by the Act of the General Assembly of this Island, in such case made and provided, and according to the best of my skill and ability.

So help me God.

*A. B.*

Sworn before me at  
this  
day of 18 }  
}

SCHEDULE (B.)—FORM OF CERTIFICATE.

Form of coal  
meter's certifi-  
cate.

I do hereby certify, that \_\_\_\_\_ of \_\_\_\_\_ was this day duly sworn by me as a coal meter for the port or harbor of \_\_\_\_\_ (as the case may be,) in conformity with the provisions of the Act of the General Assembly of this Island, in such made and provided.

Given under my hand at \_\_\_\_\_ this  
day of 18

*A. B., J. P.*

CAP. XVII.

Repealed by  
18 Vic. c. 17.

An Act to amend the Act relating to the manner of proceeding upon controverted elections of members to serve in General Assembly.

CAP. XVIII.

For further  
duty of pilots  
see 14 Vic. c. 11,  
s. 19; see also  
2 W. 4, c. 13,  
s. 3.

7 W. 4, c. 19.

Regulates the  
charges of  
pilots qualified  
as prescribed

An Act to extend the provisions of the Act relating to pilots.

WHEREAS it is deemed expedient to amend the Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act to regulate the duties and charges of pilots, and to repeal the Acts formerly passed for that purpose:" Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, each and every pilot who shall qualify and be provided with a boat, as directed in and by the second

clause of this Act, and who shall board, at sea, or without the harbor, or offer his services for the purpose of taking into harbor as such pilot, any ship or vessel owned or partly owned in this Colony, exceeding one hundred and thirty tons burthen, and where the master of such vessel shall decline or refuse the services of such pilot, shall be entitled to demand and receive from the master or owner of any such vessel, one half of the rates of pilotage now allowed by the Act to which this is an amendment; the same to be recovered in way and manner provided by the said Act.

in 2d section of this Act.

II. And be it enacted, That no person shall hereafter be licensed as a pilot, nor shall any person now appointed or licensed to that situation be allowed to act in that capacity, without first producing to the Colonial Secretary a certificate of the harbor master of the port in or near which such person shall reside, and in case of there being no harbor master for such port, then of some one of Her Majesty's Justices of the Peace for the County in which such person shall reside, stating that such harbor master or Justice hath examined the boat or boats belonging to such person, and intended to be used by him as a pilot boat or pilot boats, and that such boats are tight, staunch, strong, properly equipped and well suited for the purpose intended, nor shall any such certificate be granted for any boat of less than sixteen feet keel.

Pilots already licensed, or hereafter to be licensed, to own and use certain description of boat.

III. And be it enacted, That to prevent the substitution of any other boat or boats, than those respecting which certificates shall have been obtained, no pilot shall be entitled to claim any remuneration for pilotage or otherwise under this Act, unless the name of the said pilot be painted on the stern of the boat used, and respecting which he has obtained a certificate, in manner following, that is to say, *A. B.* or *C. D.*, pilot, and likewise on the mainsail of any such boat.

Pilot not entitled to pilotage unless his name is painted on the stern of his boat, and also on the mainsail.

IV. And be it enacted, That every pilot who shall by neglect permit or suffer his boat to be out of repair, or deficient in any necessary tackle or equipment, or shall suffer such boat to be out of his possession or control between the fifteenth day of April and the fifteenth day of December in any year, each and every person so offending, shall forfeit and pay for each and every such offence a sum not less than ten shillings, nor more than two pounds, the same to be recovered, with costs of suit, before any one of Her Majesty's Justices of the Peace, or Commissioner of small debts, for the County wherein such pilot shall be resident, on the oath of any one credible witness, and shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

Penalty on pilot suffering his boat to be out of repair or deficient in tackle, &c.

## CAP. XIX.

Repealed by  
12 Vic., c. 16.

An Act to provide for the summary punishment of persons trespassing upon crown lands.

## CAP. XX.

7 W. 4, c. 27.

An Act to repeal a certain clause of the Act incorporating the bank of British North America.

\*\*\* The whole of Act 7 W. 4, c. 27, the sixteenth clause of which is repealed by this Act, has been repealed by 12 Vic., c. 29.

## CAP. XXI.

Repealed by  
19 Vic. c. 21.

An Act to consolidate and improve the laws for the election of members to serve in the General Assembly.

## CAP. XXII.

Executed.

An Act for the encouragement of the seal fishery.

## CAP. XXIII.

7 Vic. c. 14.

An Act in addition to the Act regulating fire engine companies.

\*\*\* This Act has been repealed by virtue of a law of the City Council of Charlottetown, passed under the powers vested in said Corporation by the Act 18 Vic. cap. 34, sec. 37.

## CAP. XXIV.

7 W. 4, c. 22.  
Expired.

An Act to continue the Act for establishing the standard weight of grain and pulse.

## CAP. XXV.

Expired.  
7 W. 4, c. 22.

An Act for suspending, for a limited period, certain parts of an Act passed in the fourth year of His late Majesty's reign, intituled "An Act for ascertaining and establishing the

boundary lines of Counties and Townships, and parts of townships, and for regulating the duties of surveyors, and to repeal a certain Act therein mentioned."

\*.\* This Act suspended operation of Boundary Act, 4 W. 4, c. 15, so far as regards Townships Nos. 10, 9, 8, 7, 6, 5, 4, 3, 2, and 1, to the end of the then next session of the General Assembly.

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### CAP. XXVI.

An Act to render perpetual an Act passed in the third year of the reign of her present Majesty, intituled "An Act to prevent the running at large of sheep and goats in the town of Charlottetown." 3 Vic., c. 10.

\*.\* This Act has been repealed by virtue of a law of the City Council of Charlottetown, passed under the powers vested in said Corporation by the 18 Vic., c. 34, s. 37.

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### CAP. XXVII.

An Act to amend the laws for the relief of insolvent debtors. Repealed by 14 Vic., c. 2.

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### CAP. XXVIII.

An Act to regulate the importation of books, and to protect the British author.

**W**HEREAS in consequence of the passing of the Act of the Imperial Parliament, made in the tenth and eleventh years of the reign of Her present Majesty, intituled "An Act to amend the law relating to the protection in the Colonies, of works entitled to protection in the United Kingdom," it is expedient to legislate on the law of copyright:

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the time when this Act shall go into operation, it shall be lawful to import all books of whatsoever nature or kind, and from whatsoever country the same shall be imported, save and except the reprints of any books first composed, written, or published in Great Britain and Ireland, and protected at the time thereof by the laws of copyright passed by the Imperial Parliament, now in force, and as hereafter provided, and that the said books, save and except the reprints as aforesaid, shall be admitted into this Island, duty free.

All books except reprint of books composed in Great Britain or Ireland, and protected by law there, may be imported duty free.

Such reprints of books may be imported, subject to duty of 20 per cent.

Such duty not payable on newspapers, &c. containing extracts from British works.

II. And be it enacted, That on the importation of any reprint of any book or review bound or in covers of whatsoever nature or kind the same may be, first composed, written, or published in the United Kingdom of Great Britain and Ireland, and protected at the time of importation by the Acts of the Imperial Parliament, to enforce the law of copyright, whether imported from the United States or other foreign countries, there shall be paid an *ad valorem* duty on the *bona fide* price of such reprints of twenty *per cent.* currency of this Island: provided always, that said duty shall not be paid on newspapers or other regular periodicals, containing extracts only from said books or reviews as aforesaid; and after collection by the proper officers, the said duty shall be paid into the treasury, and then remitted by the Lieutenant Governor to the commissioners of customs at London, with a detailed account thereof, at least once a year, in order that the said duty may be duly paid over to the registered proprietor of the copyright of said books or reviews respectively: provided always, that before the reprint of any book or review be made liable to such *ad valorem* duty as aforesaid, the said book or review shall have been duly registered, according to the provisions of the Imperial Act, made in the fifth and sixth years of Her Majesty's reign, intituled "An Act to amend the law of copyright."

Any reprint of any such book, &c., imported contrary to this Act declared to be forfeited.

III. And be it enacted, That after this Act shall go into operation, it shall not be lawful for any person to import or bring, or cause to be imported or brought into this Island for use, sale or hire, any reprint referred to in the said foregoing clause, and therein and thereby made liable to duty, contrary to the true intent and meaning of this Act, or knowingly to sell, publish, or expose to sale, or let to hire, or have in his possession for use, sale or hire, any such reprint; and every such reprint so imported or brought, sold, published, or exposed to sale, shall be forfeited and sold, one half of the proceeds thereof to be applied to the use of the officers of customs or excise seizing the same, and the other half to the registered proprietor of the copyright of the book from which such reprint is made; and further, every person so offending, being duly convicted thereof before any Court of Commissioners for the recovery of small debts, in the County where the seizure is made, which said Courts are hereby empowered to try the same, according to the form of the Acts provided in ordinary cases of small debt, shall for every such offence forfeit the sum of five pounds, and double the value of every copy of such reprint, which he shall so import or cause to be imported into this Island, or shall knowingly sell, publish, or expose to sale, or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act; two



pounds thereof to the use of such officers of customs or excise, and the remainder of such penalty shall be paid into the treasury, and remitted to the use of the proprietor of the copy-right, in the way and manner as in the second foregoing clause of this Act is provided.

IV. And be it enacted, That at the time of the entry of any reprint of any book or review as aforesaid, it shall be lawful for the officers passing such reprint, to stamp the same, and the collector of excise at Charlottetown shall furnish to the several officers who may require the same, the form of stamps necessary for such service.

Every reprint, &c., legally imported, to be stamped by officer.

V. And be it enacted, That this Act shall not go into force or operation, until Her Majesty's assent be signified thereto.

Suspending clause.

\* \* This Act received the royal allowance on the 31st day of August, 1848, and the signification thereof was published in the *Royal Gazette* newspaper of this Island, on the 5th of December of the same year.

## CAP. XXIX.

An Act for vacating the seats of members of the Assembly in certain cases therein mentioned, and to repeal a certain Act formerly passed for that purpose.

7 W. 4, c. 13.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, that an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled "An Act for vacating the seats of members of the Assembly in certain cases therein mentioned, and to repeal a certain Act heretofore passed for that purpose," shall be, and the same is hereby declared to be repealed.

Repeals Act of 7 W. 4, c. 13.

II. And be it enacted, That from and after the passing of this Act, any member of the House of Assembly, who shall accept of any of the offices of profit or emolument under the Crown, as set forth and described in this Act, save and except those mentioned in the fourth clause of this Act, shall be incapable of taking or holding his seat in the General Assembly of this Island, while in such office, unless re-elected after his acceptance thereof.

Vacates seats of members of Assembly accepting any of the offices enumerated in this Act.

III. And be it enacted, That the offices of profit or emolument contemplated by this Act shall be the following offices, or appointments in this Island, and no other, that is to say:

Offices of profit or emolument contemplated by this Act.

The office of Attorney General, or Solicitor General.

The office of Colonial Secretary or Registrar, or Clerk of the Executive Council.

The office of Treasurer, deputy Treasurer, or clerk in the treasury, or any office connected with the treasury.

The office of Clerk of the Crown, or Prothonotary of the Supreme Court.

The office of Surveyor General.

The office of Provost Marshal.

The office of Registrar in the Court of Chancery.

The office of collector, or comptroller of Her Majesty's customs, or any office connected with Her Majesty's customs, or subcollector of such customs, in and for any port, place or district within this Island.

The office of Queen's printer.

The office of collector of impost, or excise, in and for any port, place or district in this Island.

The office of deputy Postmaster General, or of the person who shall have the control, management, direction or superintendence in and over the Post office department in this Island, the office or appointment of clerk, or the office of any person directly or indirectly concerned and employed in and about such Post office department.

The office of Coroner for either of the Counties.

The office of Road Commissioner.

The office of Correspondent for road commissioners.

The office of Commissioner of small debts, for any Court or Courts.

The office of adjutant general of militia.

The office or appointment of visiter of schools for either of the Counties.

The office or appointment of commissioner for establishing the boundary lines of townships, or parts of townships, under any Act or Acts of this Island.

The office or appointment of auditor of the treasury or public accounts, and any other office for which there shall by law be provided an annual salary of the amount of twenty pounds or upwards.

IV. And be it enacted, That nothing herein contained shall extend, or be construed to extend, to vacate the seat of any member of the House of Assembly, who may accept a commission or appointment in Her Majesty's army or navy, or who shall accept of a seat in Her Majesty's Executive Council, or who may accept any office, which is now, or may be hereafter rendered compulsory or obligatory, by the imposition of any fine or penalty by any law of this Island.

V. And be it enacted, That any member of the House of Assembly, who shall hereafter either directly or indirectly enter into any contract for the performance of any public work within this Island, or who shall become surety for the same, shall vacate his seat in the said House of Assembly, in the same manner, and under the same regulations, as are provided for by this Act, in cases where he shall have accepted any office of emolument under the Crown.

Not to vacate seat of member in certain cases.

Member not to contract, &c., for any public work.

VI. And be it enacted, That the Judge, or Assistant Judge of the Supreme Court, or any one who may be appointed to the office of Master of the Rolls in Chancery in this Island, are hereby declared to be incapable of holding or taking a seat in the House of Assembly.

Who are declared incapable of holding a seat in Assembly.

VII. Provided always, and be it enacted, That this Act shall not extend or be construed to extend, to vacate the seat of any member of the present, or any future House of Assembly, who may be reappointed to any office which he may have previously held when chosen or elected a member of such respective House of Assembly, or to vacate the seat of any member of the present or any future House of Assembly, who may be appointed to any office, the duties of which shall be similar, without any increase of salary, to those of any office which he may have previously held when chosen or elected a member of such respective House of Assembly, although the name or designation of such office may have been altered or changed prior to such new appointment.

This Act not to vacate the seat of member in certain cases.

VIII. And be it enacted, That when it shall be declared by the House of Assembly, or when information shall be given to the Speaker, for the time being, under the hands of any two members of the Assembly, that any member thereof hath accepted any one or more of the offices of profit or emolument, as set forth and described in this Act, either during the session or recess of the Legislature, that then, and in every such case, it shall be lawful for the Administrator of the Government for the time being, and he is hereby required, within seven days next after information thereof shall be by him received in writing, under the hand of the Speaker of the House of Assembly, to issue a writ for the election of a member or members to fill the place or places which may be so vacated as aforesaid.

Mode in which vacancies are to be filled up.

IX. And be it enacted, That if any member of the Assembly shall make application for relief under any insolvent Act of this Island, in writing, and signed by such member, addressed to the Supreme Court of this Island, or to any of the Justices thereof, or to any Commissioners appointed for the relief of insolvent debtors, such application shall be deemed to be evidence of such member's insolvency, for the purposes of this Act, and he shall be held to have vacated his seat in the House of Assembly; and the Justice or Justices of the Supreme Court, or any Commissioner receiving such application as aforesaid, shall, and they are hereby required forthwith, to certify the same in writing to the Speaker of the House for the time being, or in case of his death or absence, to the Administrator of the Government for the time being, who is hereby required in such case to proceed as is directed

Vacates the seat of any member of Assembly applying for relief under insolvent Act.

Justices of Supreme Court, &c. to certify such application.

in the eighth clause of this Act, to fill the place or places which shall be so vacated, under the provisions in this clause contained.

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CAP. XXX.

An Act to repeal an Act made and passed in the eighth year of the reign of Her present Majesty, intituled "An Act to authorize the Commissioners of small debts, in their respective Courts, to appoint bailiffs to execute the processes of the said Courts, and to take security from such bailiffs for the due execution of the same," and to make other provisions in lieu thereof.

8 Vic., c. 4.

Repealed by  
23 Vic. c. 16.

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CAP. XXXI.

An Act to repeal the Acts for the admission of Barristers, Attorneys and Solicitors, and to make other provisions in lieu thereof.

Amended by 15  
Vic. c. 22.

Repeals Act of  
57 G. 3, c. 4;

also Act of 6  
W. 4, c. 13;

and also Act of  
5 Vic. c. 21.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled "An Act to regulate the admission of Barristers, Attorneys and Solicitors," also, an Act made and passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled "An Act to amend the Law relating to the admission of Barristers, Attorneys and Solicitors, and to regulate the admission of Advocates and Proctors in the Courts of Vice Admiralty and Courts of Probate in this Island," and also, an Act made and passed in the fifth year of the reign of her present Majesty, intituled "An Act to amend an Act passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled 'An Act to amend the Law relating to the admission of Barristers, Attorneys and Solicitors, and to regulate the admission of Advocates and Proctors in the Courts of Vice Admiralty and Court of Probate in this Island,'" be, and the same are hereby repealed.

Qualifications  
of persons to  
be admitted.

II. And be it enacted, That from and after the passing of this Act, no person who shall study law in this Island, for the purpose of being admitted an Attorney of the Supreme Court thereof, shall be so admitted, unless he shall have so studied with some Barrister of the said Court for the full term of four years, if such person be a graduate of any college with-

in Her Majesty's dominions, or if not such graduate, for the full term of five years.

III. And whereas it is expedient, that there should be an examination of persons who may hereafter desire to enter upon the study of the law, in order to their admission as Attorneys of the said Supreme Court of this Island: Be it therefore enacted, that it shall and may be lawful for the Judges of the said Supreme Court, and they are hereby empowered, from time to time, by rule of the said Court, to nominate and appoint three or more barristers of the said Court, examiners, any two of whom shall be competent to conduct the examination of any person who may have duly applied to be admitted a student; and in order to such examination, application shall be made, by petition, to the said Supreme Court, by such person, stating his age, place of birth, and present residence, name and residence of his father or guardian, and the name of the barrister with whom he proposes studying, which petition shall be subscribed by the applicant, and certified by such barrister as to his character and habits, and that he verily believes him to be a proper person to be admitted as a student at law, and upon such applicant being approved of by the said examiners, so to be appointed as aforesaid, he shall be fully and strictly examined by the said examiners, or any two of them, at Charlottetown; and should such examiners be satisfied as to his moral character, good habits, and fitness to enter upon the study of the law, they shall grant to such applicant a certificate to that effect.

Judges of Supreme Court to appoint Barristers of Court to examine law students.

Requisites of petition for examination, &c.

Examination of student, how to be conducted

IV. And be it enacted, That every barrister who shall hereafter take a student for admission as an Attorney of the said Supreme Court of this Island, shall, and he is hereby required to enter the name of such student forthwith, with the Clerk of the said Court; and no such entry shall in any case, be made in the Clerk's books, of any student, nor shall he be deemed to have commenced his study of the law with any barrister as aforesaid, until he produce the certificate of the examiners, before whom his examination may have been had, touching his fitness and capacity.

Barrister taking student to enter his name with Clerk of Court, &c.

V. And be it enacted, That students applying for examination or admission after four years' study, on the ground of their being graduates of some college, shall, and are hereby required, in addition to the certificates hereinbefore by this Act required, to produce certificates from the president, or some resident professor of such college, stating the particular period during which his or their collegiate studies have been pursued.

Certificates necessary to be produced by students claiming to be graduates of some college, &c.

VI. And be it enacted, That any person who shall have served an apprenticeship of two years with any Attorney of this

Qualification of student for admission as an

attorney and  
barrister.

Island, pursuant to the directions and provisions of this Act, and shall within six months after the expiration thereof, have entered and attended as a student, with some special pleader, or barrister at law, in London, for not less than two years next following, shall, on satisfactory proof being given to the Court of his having so studied with such special pleader, or barrister at law, accompanied with a certificate from the attorney in this Island, with whom he may have so studied, and the necessary certificates of character, be entitled to be admitted an attorney, at the expiration of such service, and also a barrister of the said Court, at the same time.

In case of trans-  
fer of law stu-  
dents from one  
barrister to  
another, what  
necessary.

VII. And be it enacted, That every student who may be transferred from one barrister to another, during the progress of his studies, shall forthwith deliver to the clerk of the Supreme Court a memorandum of such transfer, accompanied by a certificate of the barrister, whose office he may be desirous of leaving; or in case of his death, absence, or refusal to grant such certificate, the certificate of the barrister to whose office he is transferred, of the cause and reason for such transfer; and if any person who may, after his commencing the study of the law, have discontinued the same, shall be desirous of resuming his studies, he shall apply, by petition, to the said Supreme Court, who will make such order thereupon in regard to the time of his previous study as may appear meet; otherwise the time of such former study shall not be allowed to such student.

How study may  
be resumed  
after partial  
discontinuance.

By whom can-  
didates for ad-  
mission as at-  
torneys are to  
be examined.

VIII. And whereas it is expedient, that every person desirous of being admitted an attorney of the Supreme Court of this Island, should previously to such admission, be strictly examined as to his fitness and capacity to act as such attorney: Be it therefore enacted, that it shall and may be lawful for Her Majesty's Attorney General or Solicitor General for this Island, for the time being, together with the senior practising barrister of the said Supreme Court, in presence of two or more of the Judges of the said Supreme Court, whereof the Chief Justice must be one, at such times and places respectively, and under such regulations, as the Chief Justice may from time to time appoint, to conduct the examination of any person who may have made application for admission as an attorney of the said Supreme Court, in the form hereinafter mentioned; and that from and after the passing of this Act, no person shall be admitted to be sworn an attorney of the said Court, without the production of a certificate signed by the said last mentioned examiners, testifying his fitness and capacity to act as an attorney; and any person making application for admission as an attorney of the said Supreme Court, shall undergo a full and strict examination before the said examiners, in presence of the Judges as aforesaid, in the ele-

No person to  
be admitted  
an attorney  
without pro-  
duction of cer-  
tificate of  
examiners.

mentary principles of the law of real and personal property, forms of action, pleading, evidence, and practice.

IX. And be it enacted, That it shall be the duty of any person who may desire to be admitted an Attorney of the said Supreme Court of this Island, and he is hereby required, on or before the first day of the term immediately preceding that at which he shall propose to be admitted, make application, by petition to the said Court, which petition shall be in the form in the schedule to this Act annexed, marked (A), or to the like effect, and shall be accompanied by the before mentioned requisite certificates of the age, moral character and service of the applicant, and the certificate of the moral character shall be full, positive, and explicit, and shall contain particular testimonials as to the sober and temperate habits of the applicant; and the Court, if satisfied with the certificate, is hereby required during such term to make an order for the examination of such applicant; such examination to be conducted in manner and form as hereinbefore by this Act directed and required; which said requirements touching examinations as aforesaid, shall extend, apply, and have reference to persons who may apply for admission upon certificates from any other part of Her Majesty's dominions, as well as to persons who may have pursued their studies in this Island, and every person coming from any other part of Her Majesty's dominions, shall also produce a certificate from the Court in which he may have become a practitioner, or from one of the Judges thereof, to the effect that he has conducted himself with credit and reputation since his admission there.

Regulates mode of application by candidate for admission as an attorney.

This section also to apply to parties applying for admission on certificates from other parts of Her Majesty's dominions.

X. And be it enacted, That no attorney or barrister of the Supreme Court of this Island, who shall have been, or may or shall hereafter be absent from the said Island, or has discontinued the practice of the law, for the space of five years together, shall hereafter be permitted to commence or resume practice as an attorney or barrister thereof, until he be readmitted and resworn; and every such attorney or barrister who shall have been, or may or shall hereafter be absent from the said Island, or have discontinued practice as aforesaid, for the space of five years together, who may desire to be readmitted, every such attorney or barrister is hereby required to apply, by petition, to the said Supreme Court, stating in such petition the place or places in which he may have resided, and the business, profession or employment in which he may have been engaged or concerned since his first admission, which petition shall be verified by the affidavit of petitioner, and shall be presented to the said Court on or before the first day of the term immediately preceding that at which he may desire to be readmitted; and every such applicant for readmission as aforesaid, shall be examined as to his fitness and ca-

Attorneys or barristers absent for five years, &c., required to be readmitted.

Mode of proceeding for readmission in such case.

capacity to act as an attorney or barrister, in the same manner as if applying for first admission; provided nevertheless, that the Judges of the said Supreme Court shall have power, if they shall see fit, in any case, to dispense with such examination, and shall make order accordingly.

**What shall entitle an attorney of any other Province, &c., to admission in this Colony.**

XI.\* And be it enacted, That no person producing a certificate of admission as an attorney of the Supreme Court of any other province, colony, or island in Her Majesty's dominions, in order to obtain his admission as an attorney of the Supreme Court of this Island, shall be so admitted and enrolled, unless he shall have served a regular apprenticeship in such province, colony or island, agreeably to the terms by this Act required for students at law in this Island, nor unless he shall produce an authenticated copy of the certificate of such service, by virtue of which he may have obtained admission as an attorney of the Supreme Court of such province, colony, or island, nor unless such certificate shall also include the qualifications as to age and moral character in that behalf required to be included in certificates of services, as apprentices to the law in this Island, nor unless such attorney shall have entered as a student with one of the attorneys of the Supreme Court of this Island, having the rank of a barrister, and resident and practising in the said Island, and shall have continued as such student for the space of one year, the entry of every such student to be registered with the clerk of the said Supreme Court as in the case of other students, and a certificate of such year's study from the barrister with whom the same may have been performed, shall be one of the testimonials necessary for the admission of such applicant.

**Attorney of one year's standing may be admitted a barrister.**

XII. And be it enacted, That after the expiration of one year from the time of admission as an attorney, it shall and may be lawful for any attorney of the Supreme Court of this Island, to be called to the bar, provided there appears to the Court no just cause to prevent such call.

**Mode of proceeding when attorney desires to be admitted a barrister.**

XIII. And be it enacted, That when any attorney of this Court shall be desirous of being called to the bar as a barrister, he shall make known his wishes by petition to the Court on the first day of the term in which he wishes to be so called to the bar, and during said term the Court shall and is hereby required to determine upon the said petition; provided always, that in case the Supreme Court shall see fit to take time to consider as to the propriety of admitting any person applying for admission as a barrister or attorney, or to make further enquiries as to the propriety of admitting such person, it shall be lawful for the said Court, and it is hereby authorized to

\* The enactments contained in this section have been amended by 15 Vic. c. 22.



postpone the admission of such person to some future term of the said Court.

XIV. And whereas parties in important cases may sometimes be desirous of retaining counsel from some other colonies to advocate such cause: Be it therefore enacted, That the Court, on a petition of the person so wishing to retain such counsel, shall have power to allow and admit such counsel to plead such case, provided there be no objections to the character of such counsel, and he be a barrister of some British colony, or of one of the Courts at Westminster, and of not less than five years' standing; and any attorney who may before his admission as an attorney of the Supreme Court of this Island, have been an attorney of the Supreme Court of any other part of Her Majesty's dominions, and who shall have been a student in this Island for one year, pursuant to the requirements and conditions of this Act, may be called to the bar after the expiration of six months from the time of his admission as an attorney of the said Supreme Court of this Island.

Court on petition in certain cases may admit counsel from other Colonies, &c., to plead, &c.

XV. And be it enacted, That in case any person shall be dissatisfied with the refusal of the examiners, acting under and by virtue of this Act, such person shall be at liberty to apply, by petition, to the Judges of the said Supreme Court of this Island, who are hereby empowered to make such order thereupon, as the case may in their opinion require.

In case of refusal of certificate by examiners, party may appeal to Judges, &c.

XVI. And be it enacted, That no Prothonotary of the said Supreme Court, or clerk in his office, whilst in the execution of the duties of such office, shall be allowed to practise as a barrister, attorney or solicitor in the said Court.

Prothonotary not to practise as an attorney.

XVII. And be it enacted, That all person who now are, or hereafter may be admitted as barristers, attorneys or solicitors of any Court of law or equity in this Island, may practise as advocates and proctors in the Courts of Vice Admiralty and Court of Probate for this Island.

Barristers and attorneys may practise as advocates, &c.

## SCHEDULE (A.)

### FORM OF PETITION FOR ADMISSION AS AN ATTORNEY.

To the Honorable the Chief Justice and Justices of the Supreme Court:

The petition of *A. B.*  
humbly sheweth,  
That your petitioner was born in

on

Form of petition for admission as an attorney.

(state the place, and day of birth,) as by the accompanying certificate or affidavit will appear, that on                    he entered as a student in the office of *C. D.*, Esquire, a barrister of this Court, at                    in this Island, and has continued as such from that hitherto, during which time he has not absented himself without the permission of the said *C. D.*, nor been engaged in any other profession, business, or employment.

[If the applicant has studied part of the time with any other barrister, or been absent without permission, or engaged in any other profession, business or employment, since commencing his studies, he must state fully the reasons therefor, the particular time and length of such other study, or absence or engagements in other pursuits, together with such other particulars, as he may think advisable explanatory of his conduct. If the applicant has not studied in this Island, he must state the particular grounds on which he applies for admission, the place or places in which he may have resided and practised since his admission by any other Court; and if he has been engaged or concerned in any other profession, business, or employment, he must state the particulars of the same, with any other matters explanatory of his conduct and pursuits, as he may deem advisable.]

NOTE.—If the petitioner's full time of study has not expired at the time of application, he must further state his intention to continue a student in the barrister's office, until such time expires, and will be required to produce an additional certificate to that effect, at the ensuing term.

That your petitioner is at present resident at                    and is desirous of being admitted an attorney of this Honorable Court at the ensuing                    term, and prays that your honors will make such order, touching his examination or admission, as by the rules of the Court are required, or as to your honors may seem meet.

Dated the

18

*A. B.*

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CAP. XXXII.

An Act to provide for reprinting the laws of this Island.

Amended by  
12 Vic., c. 23.  
Executed.

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CAP. XXXIII.

An Act further to amend an Act made and passed in the tenth year of the reign of His late Majesty George the Fourth,

See 10 G. 4, c.  
10, and note.

intituled " An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited to contribute towards their formation."

Repealed by  
14 Vic., c. 1.

\*.\* The provisions of this Act may affect titles to lands, but are omitted pursuant to directions of Act 12 Vic., c. 23.

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#### CAP. XXXIV.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty-eight. Executed.



ANNO DUODECIMO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the twenty-sixth day of January, *Anno Domini*, 1847, in the tenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain and Ireland*, Queen, Defender of the Faith :

1849.

Sir DONALD CAMPBELL,  
Baronet, Lt.  
Governor.

R. HODGSON,  
President of  
the Council.

And from thence continued, by several prorogations, to the twentieth day of February, 1849, and in the twelfth year of Her said Majesty's reign ; being the third session of the seventeenth General Assembly convened in the said Island.

JOSEPH POPE,  
Speaker.

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## CAP. I.

An Act relating to the limits and rules of jails in this Island.

Continued by 18  
Vic. c. 21.

WHEREAS the Acts relating to the limits and rules of the jails in the several Counties of this Island have expired, and it is deemed expedient to re-enact and consolidate

Persons confined for debt in any jail to be permitted to go at large within certain boundaries.

the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That when any person shall be in custody, or confined in any jail within this Island, either on *mesne* process or final execution, except under any law for the recovery of small debts, the Sheriff, in whose custody such prisoner may be, is hereby authorized and empowered to permit such prisoner to have his liberty within the boundaries following, that is to say: if such prisoner shall be confined in the jail at Charlottetown, in Queen's County, then he shall have liberty to go about within the boundaries of Charlottetown, including the wharfs and water lots, and within the common lots and royalty of the said town; and if such prisoner shall be confined in the jail at Georgetown, in King's County, then he shall have like liberty within the boundaries of Georgetown, including the wharfs and water lots and within all that tract of land bounded on the west by the eastern boundary of township number fifty-two, and on the east, north and south by Cardigan Bay and River, and Albion Bay and Brudenell River, provided that such limits shall not, in regard to the water lots and streets, be held to extend beyond the edge of the bank, and in the lots and streets wherein there is no bank, then the limits shall not extend beyond the line of ordinary high water mark; and if such prisoner shall be confined in the jail at Saint Eleanor's, on township number seventeen, in Prince County, then he shall have like liberty within the whole of the said township; upon a bond being given, in every case, to the Sheriff in whose custody the prisoner may be, by the name of his office, by such prisoner, with two or more sufficient sureties in double the amount of the sum for which such prisoner shall be in confinement, with a condition thereunder to be written as hereinafter mentioned; and the Sheriff shall be entitled to demand and receive for making such bond, five shillings, and no more, and such bond shall be in the form following, that is to say:—

Bond to be given to Sheriff.

Fee to Sheriff for bond.

Form of bond.

KNOW all men by these presents, that we, *A. B.*, *C. D.*, and *E. F.*, are held and firmly bound to \_\_\_\_\_ Esquire, Sheriff of (Queen's County, King's County, or Prince County, as the case may be,) in the sum of \_\_\_\_\_ of lawful money of the said Island, to be paid to the said Sheriff or his certain attorney, executors, administrators, or assigns, for which payment, to be well and truly made, we bind ourselves, and each of us by himself, for and in the whole, our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

WHEREAS the above named \_\_\_\_\_ Sheriff as aforesaid, hath given permission to the above bounden *A. B.*, a prisoner in custody of the said Sheriff, at the suit of \_\_\_\_\_ to

go about and have his liberty within the boundaries of  
 [Here describe the limits of the prison.]

Now this obligation is such, that if the said *A. B.* shall not go or be at large out of the said boundaries, or escape at any time while he has the liberty of the same as aforesaid, then this obligation shall be void, otherwise the same shall remain in force.

Sealed and delivered }  
 in the presence of }  
                           *G. H.* }

*A. B.*  
*C. D.*  
*E. F.*

Which said bond the Sheriff who may have taken such bond, or his deputy, or the executors or administrators of the Sheriff, at the request of the plaintiff in such action, or his attorney, shall assign to the said plaintiff in such action by endorsing the same under his hand and seal in the presence of two or more credible witnesses; and if the said bond shall happen to be forfeited, the plaintiff in such action, after such assignment made, may bring an action and sue therefor in his own name; and the Court where the action shall be brought may, by rule or rules of the same Court, give such relief to the plaintiff and defendant in the original action, and to the sureties in the said bond, as shall be agreeable to justice and equity, and such rules shall have the effect of a defeasance to such bond; provided that in all cases the sureties entering into such bonds shall justify on oath before one of the Justices of Her Majesty's Supreme Court of Judicature of this Island, or a Commissioner for taking special bail in that Court, in the amount of the penalty of the bond; and notice in writing, that the sureties intend to justify, shall be given by the prisoner to the plaintiff, his attorney or agent, at least fourteen days before the time of justification, or for such other period as the Judge or Commissioner may in his discretion deem sufficient, not exceeding fourteen days; in which notice shall be expressed the names and place or places of residence of the sureties, and the time and place of justification: provided also, that after such bond shall have been duly executed, and before the sureties therein shall have justified, the Sheriff may immediately set any such prisoner at liberty; but the Sheriff shall, nevertheless, be liable for any breach of the bond which may happen, until the sureties shall duly justify as aforesaid; and if the assignment of the said bond shall not be demanded by the plaintiff or plaintiffs in any action as aforesaid at the time of such Sheriff going out of office, or at any other time as prescribed by this Act, then it shall and may be lawful for the said Sheriff, and he is hereby directed, on his going out of office, to cause the said bond to be assigned to the plaintiff, and filed in the office of the Prothonotary of the Supreme Court; and he is hereby authorized to demand from the de-

Sheriff, on request, to assign bond to plaintiff.

Court where action is brought, may give relief to parties, agreeably to equity.

When Sheriff may enlarge prisoner before justification, and his liability thereon.

defendant and sureties in any such action, in addition to the sum of five shillings as aforesaid, the amount of the Prothonotary's charge for filing and entering such bond.

Sheriff, if sued for escape, may plead general issue, &c.

II. And be it enacted, That no Sheriff shall be liable to any action of escape, or other suit or information, for or on account of any liberty that may be granted to any confined debtor under the provisions, and according to the true intent and meaning of this Act; and in case the Sheriff should be sued for anything done by him in pursuance of this Act, he may plead the general issue, and give this Act, and the special matter necessary to his defence, in evidence under that plea.

Sureties may render principal, and to be entitled to have bond delivered up.

III. And be it enacted, That the sureties in any such bond as aforesaid, or either of them, shall be, at any time before the same shall be forfeited, permitted to surrender the defendant or defendants, for whom they are sureties, into the custody of the Sheriff, in like manner as special bail are now by law allowed to do; and after such surrender made, and notice thereof given to the plaintiff or plaintiffs, or his, her, or their attorney, with a certificate of the Sheriff or jailer that the defendant or defendants is, or are in his custody, pursuant to such surrender, the sureties in the bond shall be entitled to have the same delivered up, on request, to be cancelled.

Persons arrested to be confined in the jail of the County where arrest is made.

IV. And be it enacted, That all persons liable to be committed to jail within any County in this Island, shall be sent to the jail of the County in which he was arrested, or in which the offence is alleged to have been committed, and the jailers for King's and Prince Counties shall receive the same fees, and no other, that are taken by the jailer of the jail of Charlottetown, and all laws respecting the conduct of such jailer, are hereby extended to the said jails of King's County and Prince County respectively.

Person arrested out of the County in which he resides, may be conveyed to the jail of his own County.

V. And be it enacted, That when any person shall be arrested either under *mesne* or final process, in any civil action out of the County wherein he generally resides, or seeks a livelihood, and shall desire to be confined in the jail of such County, it shall be lawful for the Sheriff or his deputy making the arrest, and he is hereby required, upon sufficient security against escape being first given by the prisoner, if required, and payment of lawful mileage to convey him to such jail, and to leave with the jailer thereof an entry of the nature of the process against the prisoner, and the amount for which he was arrested, which shall be sufficient to charge the Sheriff of the County, to the jail of which the prisoner shall have been so removed; and his officers, with his safe custody, the same as if the prisoner had been originally arrested by such last mentioned Sheriff; and the Sheriff so removing any prisoner shall endorse a memorandum of such removal on the writ, by



virtue whereof the arrest was made, for the information of the plaintiff, but such removal of a prisoner as aforesaid, shall not of itself affect the venue in any action.

VI. And be it enacted, That this Act shall be and continue in force for and during the space of five years, and from thence to the end of the next session of the General Assembly, and no longer.

Continuance  
of Act.

## CAP. II.

An Act relating to judgments recovered in the Supreme Court of this Island, and to amend an Act therein mentioned.

Amended by 23  
Vic. c. 7.

WHEREAS it is deemed desirable, fully to ascertain and declare the law relating to judgments already entered up, or hereafter to be entered up of record in Her Majesty's Supreme Court of Judicature of this Island, in so far as the same are or shall be a lien upon and affect real property, and also to amend the forty-fourth section of an Act made and passed in the sixth year of the reign of her present Majesty, intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the Third, intituled 'An Act relating to wills, legacies and executors, and for the settlement and distribution of the estates of intestates, and to make other provisions in lieu thereof,'" in so far as the same relates to the payment of judgment debts out of the real estate of a party deceased, testator or intestate: Be it therefore enacted and declared, by the Lieutenant Governor, Council, and Assembly, that a judgment already entered up, remaining unsatisfied, or to be hereafter entered up, against any person in Her Majesty's Supreme Court of Judicature of this Island, shall operate as a charge upon all lands, tenements and hereditaments of or to which such person was or shall be at the time of entering up such judgment, or was or shall be at any time afterwards seised, possessed, or entitled for any estate or interest whatever, at law or in equity, whether in possession, reversion, or remainder, or expectancy, or over which such person at the time of entering up such judgment, or at any time afterwards, had or shall have any disposing power, which he might, without the assent of any other person, exercise for his own benefit, and shall be binding as against the person against whom judgment has been, or shall be so entered up, and against all persons claiming under or against him, after such judgment, and shall also be binding as against the issue of his body, his executors and administrators, and all other persons whom he might, without the assent of any other person, cut off and debar from any remainder, reversion, or other

6 Vic. c. 26.

21 G. 3, c. 2.

Judgments entered in Supreme Court declared a lien upon real estate;

and binding against all heirs, executors, &c.

Extent of creditor's remedy.

interest, in or out of the said lands, tenements and hereditaments; and that every judgment creditor shall have such and the same remedies in a court of equity against the hereditaments so charged by virtue of this Act, or any part thereof, as he would be entitled to in case the person against whom such judgment has or shall have been so entered up had power to charge the same hereditaments, and had by writing under his hand, agreed to charge the same with the amount of such judgment, debt and interest; and an execution issued or levied, or hereafter to be issued or levied upon any judgment already entered up, or hereafter to be entered up as aforesaid, against any person or persons, shall not be construed or held in any way to entitle such judgment to preference over others of an earlier date; but all and every person or persons who shall become purchasers of lands, tenements and hereditaments sold under such execution, shall take and hold the same, subject to, and bound by all prior judgments, or judgments of an earlier date, standing unsatisfied on record in Her Majesty's said Supreme Court, against the person or persons whose lands, tenements and hereditaments, are or shall be so sold under execution, but free and discharged from all judgments entered up subsequently to that on which such execution may have been issued: provided that nothing herein contained, shall be deemed or taken to alter or affect any doctrine of courts of equity, whereby protection is given to purchasers for valuable consideration, without notice.

Preference to depend on priority.

Proviso.

When personal assets are insufficient to pay the debts of a deceased person, Executor, &c. to obtain order to sell real estate.

II. And be it enacted, That if the executor or administrator of a person deceased, against whom any judgments shall at the time of his decease be standing unsatisfied on record in Her Majesty's said Supreme Court, after first applying the personal assets of the deceased towards the payment of his debts in manner as directed in and by an Act of the General Assembly of this Island made and passed in the sixth year of the reign of her present Majesty, intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the third, intituled 'An Act relating to wills, legacies and executors, and for the settlement and distribution of the estates of intestates,' and to make other provisions in lieu thereof," shall on account of the insufficiency of such personal assets, apply for and obtain from the Court of the Surrogate and Judge of the Probate of Wills in this Island, a license to sell the real estate of the deceased towards payment of such debts, in the manner pointed out in and by the above recited Act, it shall and may be lawful for such executor or administrator, and he is hereby required to apply the proceeds arising from any sale made under such license, to the payment of the debts of the deceased, according to their legal priority in the order of classes; but such executor or administrator shall pay off all judgment debts standing unsatisfied

Debts to be paid according to legal priority.

against the deceased at the time of his death, in the order of priority, in which they may stand on record in Her Majesty's said Supreme Court; nor shall it be lawful for such executor or administrator, out of the proceeds arising from any such sale as aforesaid, to pay off all or any part of the amount due on any subsequent judgment, until he shall first have fully paid and satisfied all prior unsatisfied judgments standing on record as aforesaid, against his testator or intestate; any thing in the forty-fourth section of the above recited Act contained, to the contrary thereof, in anywise notwithstanding.

III. And be it enacted, That nothing in this Act contained, shall in any way affect or extend to leasehold interests or terms for years in lands in this Island.

Leasehold interest not affected by this Act.

IV. And be it enacted, That all judgments at law, already or hereafter to be entered up in the said Supreme Court, and not being over ten years' standing, from the day of entry, shall be presumed to be due and unpaid, notwithstanding execution may never have issued thereupon, within a year or otherwise, until satisfaction shall be duly entered of record for the same, and no writ of *scire facias* shall in future be deemed necessary to revive any such last mentioned judgments.

Execution may issue on judgments not over ten years old.

### CAP. III.

An Act to authorize free trade with the United States of America, in certain enumerated articles.

WHEREAS reciprocal free trade in articles the produce or growth of the United States of America, and of this Colony, would be mutually beneficial to the people of both countries: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That when the Lieutenant Governor, or other Administrator of the Government of this Island for the time being, shall issue his proclamation, declaring that the articles hereinafter enumerated, being the growth or production of Prince Edward Island, are admitted into the United States of America by law, free of duty, that on and after that day, the like articles, being the growth or production of the United States of America shall be admitted into Prince Edward Island free of duty, when imported direct from the United States of America, so long as the said enumerated articles are admitted into the United States of America, from Prince Edward Island, free of duty, to wit: grain and breadstuffs of all kinds, vegetables, fruit, animals, hides, wool, tallow, horns, salted and fresh meats, ores of all kinds of metals, timber, staves, wood and lumber of all kinds; also, seeds, butter, cheese, pot and pearl ashes.

Reciprocal free trade in certain articles with the United States of America permitted.

## CAP. IV.

## An Act for improving the Law of Evidence.\*

Amended by 16  
Vic. c. 12; see  
also 19 Vic. c. 7.

In any trial,  
any person may  
be examined as  
a witness, upon  
oath or affirma-  
tion, except  
party to suit,  
&c.

**W**HEREAS the inquiry after truth in Courts of Justice is often obstructed by incapacities created by the present law, and it is desirable that full information as to the facts in issue, both in criminal and in civil cases, should be laid before the persons who are appointed to decide upon them, and that such persons should exercise their judgment on the credit of the witnesses adduced, and on the truth of their testimony: Now therefore, be it enacted, by the Lieutenant Governor, Council and Assembly, That no person offered as a witness shall hereafter be excluded by reason of incapacity from crime or interest, from giving evidence, either in person or by deposition, according to the practice of the Court on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action or proceeding, civil or criminal in any court, or before any judge, jury, sheriff, coroner, magistrate, officer or person having by law, or by consent of parties, authority to hear, receive and examine evidence, but that every person so offered, may and shall be admitted to give evidence on oath or solemn affirmation, in those cases wherein affirmation is by law receivable, notwithstanding that such person may or shall have an interest in the matter in question; or in the event of the trial of any issue, matter, question or inquiry, or of the suit, action or proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence: provided, that this Act shall not render competent any party to any suit, action or proceeding, individually named in the record, or any lessor of the plaintiff, or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance, or any person in whose immediate and individual behalf, any action may be brought or defended, either wholly or in part, or the husband or wife of such persons, respectively: provided also, that this Act shall not repeal any provision in a certain Act, passed in the sixth year of the reign of her present Majesty, intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the Third, intituled 'An Act relating to wills, legacies, and executors, and for the settlement and distribution of the estates of intestates,' and to make other provisions in lieu thereof;" provided, that in courts of equity, any defendant to any cause pending in any such court, may be examined as a witness on the behalf of the plaintiff or of any codefendant, in any such cause pending, saving just exceptions, and that

Provide as to  
proceedings in  
equity.

\* See 16 Vic. c. 12, sec. 11, which repeal part of the first sec. of this Act.

any interest which such defendant so to be examined, may have in the matters, or any of the matters in question in the cause, shall not be deemed a just exception to the testimony of such defendant, but shall only be considered as affecting or tending to affect the credit of such defendant as a witness.

II. And be it enacted, That wherever in any legal proceedings, whatever legal proceedings may be set out, it shall not be necessary to specify, that any particular persons who acted as jurors, had made affirmation instead of oath, but it may be stated, that they served as jurymen in the same manner as if no Act had passed for enabling persons to serve as jurymen without oath.

In setting out legal proceedings, not necessary to state that any jurors had made affirmation instead of oath.

III. And be it enacted, That nothing in this Act shall apply to, or affect any suit, action or proceeding brought or commenced before the passing of this Act.

Not to affect any action commenced before the passing of this Act.

## C A P . V .

An Act for rendering a release as effectual for the conveyance of freehold estates, as a lease and release, by the same parties.

**W**HEREAS it is expedient to lessen the expense of conveying freehold estates: Be it enacted, by the Lieutenant Governor, Council and Assembly, That every deed or instrument of release of a freehold estate or deed or instrument purporting or intended to be a deed or instrument of release of a freehold estate, which shall be executed on or after the first day of June one thousand eight hundred and forty-nine, and shall be expressed to be made in pursuance of this Act, shall be as effectual for the purposes therein expressed, and shall take effect as a conveyance to uses or otherwise, and shall operate in all respects both at law and equity, as if the releasing party or parties who shall have executed the same, had also executed in due form, a deed or instrument of bargain and sale, or lease for a year, for giving effect to such release, although no such deed or instrument of bargain and sale or lease for a year, shall be executed.

In transfer of freehold estate, after 1st June, 1849, lease for a year may be dispensed with.

II. And whereas many deeds or instruments of bargain and sale, or leases for a year, to give effect to deeds or instruments of release of freehold estates heretofore executed, have been lost or mislaid: Be it enacted, That where, in or by any deed, or instrument of release of freehold estates, executed before the first day of June, one thousand eight hundred and forty-nine, any deed or instrument of bargain and sale, or lease for a year, for giving effect to such deed or instrument of release, shall be recited, or by any mention thereof in such deed or instrument of release, appear to have been made or executed,

Recital of lease for a year, to be evidence of its existence in certain cases.

such recital or mention thereof shall be deemed and taken to be conclusive evidence of the deed or instrument of bargain and sale or lease for a year, so recited or mentioned, having been made and executed, and such deed or instrument of release, shall also have the like effect, as if the same had been executed after the first day of June one thousand eight hundred and forty-nine, whether such deed or instrument of bargain and sale, or lease for a year, shall, or shall not, have been lost, or mislaid, or may or may not, be produced: provided always, that this Act shall not prejudice or affect any proceedings at law or in equity pending at the time of the passing of this Act, in which the validity of any bargain and sale, or lease for a year shall be in question, between the party claiming under such bargain and sale, or lease for a year, and the party claiming adversely thereto, and such bargain and sale, or lease for a year, if the result of such proceedings shall invalidate the same, shall not be rendered valid by this Act.

Act not to affect suits pending.

Extent of construction of word "freehold."

III. And be it enacted, That in the construction of this Act the word "freehold" shall have not only its usual signification, but shall extend to all lands and hereditaments for the conveyance of which, if this Act had not been passed, a bargain and sale, or lease for a year, as well as a release, would have been used.

## CAP. VI.

An Act to prevent the constructive revival of Statutes heretofore repealed.

WHEREAS several Statutes of the General Assembly of this Island have been repealed by subsequent Statutes, which have themselves also been repealed by other Acts, without there being contained in such last mentioned Acts, any express clause, preventing the revival of the original Statutes: and whereas such revival of old Acts would produce much confusion and inconvenience: for remedy whereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, That no Statute of the General Assembly of this Island, heretofore repealed, shall be deemed to have been revived by the repeal of the Statute which repealed it, unless some special clause, enacting such revival, shall have been contained in the last repealing or some subsequent statute.

No repealed statute shall be deemed to have been constructively revived.

## CAP. VII.

An Act to explain and amend the present Act for the assessment of land and the encouragement of Education.

WHEREAS by the Act made and passed in the eleventh year of the reign of her present Majesty, intituled "An

11 Vic. c. 7, further amended by 20 Vic. c. 17, sec. 3.

Act for levying further an assessment on all lands in this Colony, and for the encouragement of education," the first annual payment of the assessment thereby levied is expressed to become payable within three months next after Her Majesty's royal allowance to the said Act shall have been published in the *Royal Gazette* newspaper, and it was intended by the said Act, that the said land tax should, thereafter, be paid annually, after a like three months' notice, to be given by the Colonial Treasurer, and in default of such payment, that all lands thereafter annually in arrear for the said land tax, should be proclaimed for such default at the term of Her Majesty's Supreme Court of Judicature, which should be held next after the expiration of three months' notice as aforesaid: and whereas the royal assent was graciously given to the said Act, and the same was duly published in the *Royal Gazette* newspaper on the nineteenth day of September, one thousand eight hundred and forty-eight, and notices thereafter were duly published by the Treasurer, in pursuance of the said Act, calling for payment of the said land assessment to be made within three months next after publication of the said royal assent, namely, on the nineteenth day of December last and then next; but nevertheless, a considerable amount of the said land tax for the said year one thousand eight hundred and forty-eight, up to the present time, remains due and unpaid, and owing to a clerical error, by the words "six months" being used in the third section of the said Act, in place of the words "three months," some doubts exist, whether the said land tax so remaining due and payable, can be recovered by course of law, until the said error is explained and amended: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the Treasurer of this Island, *ex officio*, shall, on the Saturday next before the last day of the next Easter term for Queen's County, personally make proclamation of all such lands as shall then be in arrear for nonpayment of the sums charged thereon, for the year one thousand eight hundred and forty-eight, under and by virtue of an Act of the General Assembly of this Island, made and passed in the eleventh year of the reign of Her present Majesty, intituled "An Act for levying further an assessment on all lands in this Colony, and for the encouragement of education," and immediately thereafter, shall cause notice to be published in Charlottetown, Georgetown, and Saint Eleanor's, and in the *Royal Gazette* newspaper, and some one or more of the Island newspapers, notifying the owners of the said lands so in arrear, that in case the sums charged on them by the said recited Act shall not be paid before the next Trinity term of the Supreme Court for Queen's County, application will be made to the said Supreme Court for judgment against the said lands so in arrear, and the said proclamation having been made, and notices pub-

11 Vic. c. 7.

When land in arrear for assessment under Act of 11 Vic., c. 7, is to be proclaimed.

Notice to be published.

lished in manner as herein directed, the said Supreme Court, in the last mentioned term, shall accordingly give judgment against all such lands as shall then be in arrear as aforesaid, with costs, which judgment, and all future and other proceedings thereupon or thereunder, shall be given and conducted in the manner prescribed in the said hereinbefore recited Act.

Treasurer's duty as to notice and proclamation of lands in arrear after present year and future years.

II. And be it enacted, That the Treasurer of the said Island shall, and he is hereby required and directed, in respect of the assessment imposed and payable upon all lands in this Island, under and by virtue of the said hereinbefore recited Act, for the year one thousand eight hundred and forty-nine, and for all future and other years, during the continuance of the said hereinbefore recited Act, on the first Tuesday in September next, and on the first Tuesday\* in September in all future and other years, during the continuance of the said hereinbefore recited Act, to cause advertisements to be posted in Charlottetown, Georgetown and Saint Eleanor's, and also an advertisement to be published in the *Royal Gazette* newspaper, calling upon the respective owners or occupiers of land charged by the said hereinbefore recited Act, to pay the sums thereby respectively imposed within three months thereafter, and it shall be the duty of the said Treasurer, *ex officio*, and he is hereby directed, at the sitting of the said Supreme Court for Queen's County, next after the expiration of the said three months, during the continuance of the said hereinbefore recited Act, on the Saturday next before the last day of the said term, personally to make proclamation of all such lands as shall then be in arrear for nonpayment of the sums charged thereon, by the said hereinbefore recited Act, and immediately thereafter to cause further notices to be published in Charlottetown, Georgetown and Saint Eleanor's, and in the *Royal Gazette* newspaper, and some one or more of the Island newspapers, notifying the owners of the said lands so in arrear, that in case the sums charged on them by the said hereinbefore recited Act, together with costs, shall not be paid before the next term of the said Supreme Court for Queen's County, application will be made to the said Supreme Court for judgment against the said lands so in arrear; and the said proclamation, having been made, and notices published in manner as herein last before directed, the said Supreme Court in the said last mentioned term, shall accordingly give judgment against all such lands as shall then be in arrear as aforesaid, which judgment, and all future and other proceedings thereupon or thereunder, shall be given and conducted in the manner prescribed in the said hereinbefore recited Act.

Duty of Supreme Court to give judgment, &c.

\* This provision is altered by Act 20 Vic., c. 17, s. 3, and the time for the annual posting and publishing of the advertisements in this clause mentioned is extended from the 1st to the 15th of September inclusive, (Sundays excepted.)



III. And be it enacted, That the third section of the said hereinbefore recited Act shall be, and the same is hereby repealed. Repeals 3d section of Act of 11 Vic., c. 7.

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### CAP. VIII.

An Act for the better preventing accidents by fire within Charlottetown.

\* \* \* This Act has been repealed by virtue of a law of the City Council of Charlottetown, passed under the powers vested in said Corporation by the Act 18 Vic. cap. 34, sec. 37.

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### CAP. IX.

An Act to consolidate, amend and reduce into one Act, all the Acts of the General Assembly of this Island, relating to the establishment of terms of the Supreme Court of Judicature. Amended by 20 Vic., c. 3.

BE it enacted, by the Lieutenant Governor, Council and Assembly, that an Act passed in the thirteenth year of the reign of His Majesty King George the Third, intituled "An Act for establishing the times and places of holding the Supreme Court of Judicature;" and an Act passed in the twenty-sixth year of the reign of His Majesty King George the Third, intituled "An Act in addition to, and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled 'An Act for establishing the times and places of holding the Supreme Court of Judicature;'" and an Act passed in the thirty-fifth year of the reign of His Majesty King George the Third, intituled "An Act to alter and amend an Act made and passed in the twenty-sixth year of His present Majesty's reign, intituled 'An Act in addition to, and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled 'An Act for establishing the times and places of holding the Supreme Court of Judicature;'" and an Act passed in the fifty-ninth year of the reign of His Majesty King George the Third, intituled "An Act to limit the duration of the terms of the Supreme Court of Judicature, and for other purposes therein mentioned;" and an Act passed in the third year of the reign of His late Majesty King William the Fourth, intituled "An Act to regulate and establish the stated times and places for holding the Supreme Court in King's and Prince Counties, and to constitute the Michaelmas Term of the said Court in Queen's County, a term for the trial of issues for a limited Repeals recited Acts.

period ;” and an Act passed in the first year of the reign of Her present Majesty, intituled “ An Act to amend an Act intituled ‘ An Act to regulate and establish the stated times and places for holding the Supreme Court in King’s and Prince Counties, and to constitute the Michaelmas Term of the said Court in Queen’s County, a term for the trial of issues for a limited period ;’ ” and the eighth section of an Act, passed in the fifth year of the reign of her present Majesty, intituled “ An Act to consolidate, amend, and reduce into one Act the several Acts and parts of Acts relating to the qualifications and mode of summoning grand and petit jurors ;” and also an Act passed in the seventh year of the reign of her present Majesty, intituled “ An Act to establish an additional term of the Supreme Court, and to extend the Hilary and Trinity Terms for Queen’s County,” be, and the same are hereby respectively repealed.

Appoints the several periods for holding Supreme Court in Queen’s, Prince & King’s Counties.

II. And be it enacted, That from and after the passing of this Act, the several terms of Her Majesty’s Supreme Court of Judicature now established, and appointed to be held annually in Charlottetown, in Queen’s County, within this Island, and distinguished and known by the respective names of Hilary term, Easter term, Trinity term and Michaelmas term, shall, as heretofore, be, and continue to be, distinguished and known by the said names of Hilary term, Easter term, Trinity term and Michaelmas term, respectively ; and that the several terms of the said Court now established, and appointed to be annually held at Saint Eleanor’s, in Prince County, in this Island, and distinguished and known by the names of June term and October term, shall, as heretofore, be, and continue to be distinguished and known by the said names of June term and October term, respectively ; and that the several terms of the said Court now established, and appointed to be annually held at Georgetown, in King’s County, in this Island, and distinguished and known by the names of March term, and July term, shall, as heretofore, be, and continue to be distinguished and known by the said names of March term and July term, respectively.

Defines the length of each term of Supreme Court in the respective Counties.

III. And be it enacted, That the said several terms of the said Supreme Court so established, and appointed to be holden in the several Counties within this Island, shall commence, be held, and continue upon, and for and during the days and times in the several Counties hereinafter mentioned, in each and every year, that is to say : ‘at Charlottetown, in Queen’s County, Hilary term shall commence and be held on the first Tuesday in January, and continue and endure for the space of fourteen days, and no longer ; Easter term shall commence and be held on the first Tuesday in May, and continue and endure for the space of seven days, and no longer ; Trinity

term shall commence and be held on the last Tuesday in June, and continue and endure for the space of fourteen days, and no longer; Michaelmas term shall commence and be held on the last Tuesday in October, and shall continue and endure for the space of seven days, and no longer; at Georgetown, in King's County, March term shall commence and be held on the second Tuesday in March; and July term shall commence and be held on the third Tuesday in July, and each of the said terms respectively shall continue and endure for the space of seven days, and no longer; at Saint Eleanor's, in Prince County, June term shall commence and be held on the first Tuesday in June; and October term shall commence and be held on the first Tuesday in October, and each of the said terms respectively shall continue and endure for the space of seven days, and no longer.

IV. And be it enacted, That all writs, pleas, processes, actions, suits, declarations, bills, indictments, informations, judgments and decrees, which shall hereafter be sued out, prosecuted, rendered or given, in the said Supreme Court of Judicature, shall be good and valid in law, to all intents and purposes whatsoever; provided always, that this Act shall not be construed to extend to take away or rectify errors in the misusing of process, misleading and erroneous rendering of judgments in point of law, but in all such cases, the parties aggrieved shall and may have their writ or writs of error upon such erroneous judgments.

All writs, pleas, &c., to be valid.

Saving clause to suitors.

V. And be it enacted, That every juridical day, during the said terms, shall be a return day for all writs and processes awarded by the said Court.

Return days for writs, &c.

VI. And be it enacted, That two of the terms hereinbefore established, and directed to be held in Charlottetown, in Queen's County, namely, Hilary and Trinity terms, shall be holden to be the only issuable terms of the said Supreme Court in the said County, and that no Jury shall be summoned, nor any trial by jury, in any record cause whatsoever, take place during any other terms of the said Supreme Court, to be holden in Queen's County aforesaid: provided always, that this Act shall not extend to prevent the trials of actions in a summary way, in any of the said terms, agreeably to the provisions of an Act passed in the twenty-sixth year of the reign of His Majesty King George the Third, intituled "An Act for the trial of actions in a summary way."

Hilary and Trinity terms to be the only issuable terms for Queen's County.

Not to prevent trial of summary actions under Act of 26 G. 3, c. 13.

VII. And be it enacted, That it shall and may be lawful for the said Supreme Court to appoint any day or days, within fourteen days after the end of Hilary and Trinity terms respectively, for Queen's County, for the hearing of arguments,

Court may appoint days after Hilary and Trinity

terms, for Queen's County to hear arguments, &c.

or doing any other matter or thing pertaining to the business of the said Court, in which a jury shall not be required, and the said days so to be appointed shall be deemed and taken as part of, and belonging to, the immediately preceding term; and writs may be made returnable on any of the said last mentioned fourteen days.

Court at certain terms, may hear and determine law points.

VIII. And be it enacted, That it shall be lawful for the said Court, during the terms of Easter and Michaelmas, or during the extension of Hilary and Trinity Terms, to hear and determine any matter or thing upon points of law, reserved or relating to any suit or suits then pending in the Courts held for King's County and Prince County respectively.

No trial by jury to take place after first ten days of Hilary and Trinity terms in Queen's County

IX. And be it enacted, That no trial by jury shall take place in either of the said terms of Hilary and Trinity, after the expiration of the first ten days from the commencement of the said respective terms: provided nevertheless, that in all cases where it shall so happen that jurors shall be empanelled for the trial of a cause during the time herein limited, for the attendance of jurors at the several terms of the said Supreme Court, and the said limited time shall expire before the jury so empanelled can decide upon and return their verdict, the said verdict so given shall, notwithstanding, be deemed to be good and valid in law, in all respects, as fully as if the same had been returned and recorded within the time hereinbefore limited for the attendance of jurors.

Prothonotary, &c. authorized to fill up any vacancy occurring by demise &c. of any of his deputies.

X. And be it enacted, That the Prothonotary and Clerk of the Crown shall be, and he is hereby required, upon the death, absence, or removal from office of any deputy or deputies, now, or hereafter to be by him appointed for King's County or Prince County, respectively, to appoint another or other good and sufficient deputy or deputies for the said Counties respectively, residing within the limits of their respective Counties.

Power of deputy Prothonotary for King's and Prince Counties.

XI. And be it enacted, That the deputy Prothonotaries for the respective Counties of King's County and Prince County for the time being, shall have power to sign and seal such writs as may be purchased out of the said Courts, under and subject to such rules and regulations respecting the issuing and return of such writs as the said Court may, from time to time, make relating thereto.

Return days for writs in King's and Prince Counties after term.

XII. And be it enacted, That at and after each term of the said Supreme Court, to be held at King's and Prince Counties, upon the days and times hereinbefore directed and appointed, there shall be twenty successive days allowed for return of writs solely, including the first day of each term, and exclusive of Sundays, any thing in this Act to the contrary notwithstanding.

XIII. And be it enacted, That the grand jurors who shall be summoned to attend the March term of the said Supreme Court in King's County, and the June term of the said Court in Prince County respectively, shall, and they are hereby authorized to prepare lists of fit and proper persons to fill the offices of constables and fence viewers, for each of the said Counties respectively, and the said Courts are hereby authorized to choose from the said lists fit and proper persons to fill the said offices, in the same way and manner as heretofore used for Queen's County.

Grand Jurors for King's and Prince Counties to prepare lists of constables and fence viewers.

XIV. And be it enacted, That all petit jurors shall be summoned to attend each of the said respective Courts, on the first\* day of each term, and that such petit jurors shall attend in Hilary and Trinity terms for Queen's County, for such time as they may be required, not exceeding nine days in each term; and in each of the respective terms to be held in King's County and Prince County for such time as they may be required, not exceeding six days, exclusive of Sundays, any law, usage, or custom to the contrary notwithstanding.

When petit jurors are to be summoned, and how long to attend.

\* Altered to the second day, as far as relates to Hilary and Trinity terms in Queen's County, by 20 Vic. c. 3, sec. 1.

Repealed by 19 Vic. c. 1.

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### CAP. X.

An Act for raising a revenue.

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### CAP. XI.

An Act relating to statute labor, for Charlottetown, its Common and Royalty, and also to nuisances in and about the same.

\*.\* So much of this Act as relates to the Royalty and Common of Charlottetown is repealed by the 16th Vic. c. 7, and so much thereof as relates to Charlottetown is repealed by virtue of a law passed by the City Council of said City under the powers vested in them by the 18th Vic. c. 34, sec. 37.

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### CAP. XII.

See 17 Vic. c. 13.

An Act to consolidate and amend the several Acts relating to prison discipline and hard labor, and to repeal certain Acts therein mentioned.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act,

Repeals Act of  
1st Vic. c. 12;

also Act of 2d  
Vic. c. 6;

and also Act of  
5th Will. 4, c. 2

the following Acts be, and they are hereby repealed; that is to say: an Act passed in the first year of the reign of her present Majesty, intituled "An Act for regulating the several jails within this Island, and establishing prison discipline therein;" an Act passed in the second year of the reign of her present Majesty, intituled "An Act to amend an Act for regulating the several jails within this Island, and establishing prison discipline therein;" an Act passed in the fifth year of the reign of his late Majesty King William the Fourth, intituled "An Act for the more effectual punishment of offenders, by enabling the Supreme Court to add hard labour to the sentence of imprisonment."

Supreme Court  
may order par-  
ty convicted of  
felony, &c. to  
be kept to hard  
labor.

II. And be it enacted, That from and after the passing of this Act, it shall and may be lawful for the Supreme Court, in cases of conviction for felony or misdemeanor, to order, if it shall see fit, that the person or persons so convicted be kept to hard labor during the time of his or her imprisonment.

Lt. Governor,  
&c. to ap-  
point three  
Justices of the  
Peace in each  
County, for  
carrying Act  
into effect.

III. And be it enacted, That it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government, by and with the advice and consent of Her Majesty's Council, to appoint three or more fit and proper persons, being Her Majesty's Justices of the Peace resident in each of the Counties of this Island, to be Commissioners for carrying into effect the provisions of this Act.

Justices to be  
also visitors of  
Jails in each  
County.

IV. And be it enacted, That such Justices of the Peace shall be likewise Visitors of the jail in each County respectively.

Power of Justi-  
ces as such  
Commissioners.

V. And be it enacted, That such Commissioners shall have power to make such rules, regulations, and orders, and to prescribe the place, time, and mode of performing such labour, whether within or without such jail, as may to the majority of them seem best adapted to the more effectual punishment of offenders so convicted and imprisoned as aforesaid.

Further power  
of Commission-  
ers, as to food  
to prisoners,  
&c.

VI. And be it further enacted, That the Commissioners shall have power to reward such prisoners, by allowing them such coarse, but wholesome provisions, in addition to the allowance now furnished, as they shall from time to time see fit; and such Commissioners shall be allowed to make such rules and regulations, for the more effectually compelling such prisoners to work, as to the majority of such Commissioners may seem meet: provided, that such rules and regulations shall be approved of by the Lieutenant Governor and Council.

Rules to be ap-  
proved of by  
Lt. Governor in  
Council.

Appropriation  
of proceeds of  
labor of prison-  
ers.

VII. And be it further enacted, That the proceeds of the labor of such offenders (if any,) after deducting necessary

charges, shall be paid into the treasury of this Island, for the use of Her Majesty's Government.

VIII. And be it enacted, That such commissioners and visitors shall personally visit and inspect the County jail for which they are appointed, at least three times in each quarter of a year, and oftener if occasion shall require; and shall examine into the state of the buildings; the instruction and employment of the prisoners; the adequacy of the supply of all articles contracted for, for the use of the jail, and the prisoners therein; the conduct of the jailer, or other respective officers; and the treatment, behaviour, and condition of the prisoners, and of all abuses within the prison; and shall make a true report thereof, in writing, to the Lieutenant Governor, or other Administrator of the Government, once in each year, or oftener, if occasion shall require.

Duty of commissioners, as jail visitors.

IX. And be it enacted, That the following rules and regulations shall be adopted and observed in every jail and house of correction within this Island:—When the keeper or other officer shall visit female prisoners, he shall be accompanied by the matron; or, in case of her unavoidable absence, or if none shall have been appointed, by some female officer of the prison, or by such other female as the visiting Justices may name for that purpose.

Duty of keeper of prison, on visiting female prisoners.

The prisoners of each sex shall be divided into distinct classes, care being taken that prisoners of the following classes do not intermix with each other: first, debtors and persons convicted for contempt of Court on civil process; second, prisoners convicted of felony; third, prisoners convicted of misdemeanors; fourth, prisoners committed on charge or suspicion of felony; fifth, prisoners committed on charge or suspicion of misdemeanors, or for want of sureties; such prisoners as are intended as witnesses on behalf of the Crown in any prosecution, shall also be kept separate: provided always, that nothing herein contained shall be construed to extend to prevent the visiting Justices from authorizing, at their discretion, the employment of any prisoner in the performance of any menial office within the prison, or its precincts, or for the purpose of instructing others: and provided also, that if the keeper shall at any time deem it improper or inexpedient for a prisoner, on account of his or her being a juvenile offender, or for any other reason, to associate with the other prisoners of the class to which he or she may belong, it shall be lawful for him to confine such prisoner with any other class or description of prisoners, or in any other part of the prison separately, until he can receive the directions of a visiting Justice thereon, to whom he shall apply with as little delay as possible; and who, in every such instance, shall ascertain whether the reasons assigned by the keeper warrant such de-

Classification of prisoners.

violation from the established rules, and shall give such orders in writing as he shall think fit, under the circumstances of the particular case.

Regulates the admission of food, &c.

Prisoners who shall not receive any allowance from the County or Government, whether confined for debt, or before trial for any supposed crime or offence, shall be allowed to procure for themselves, and to receive at proper hours, any food, bedding, clothing, or other necessaries, subject to a strict examination, and under such limitations and restrictions, to be prescribed by the visiting Justices, as may be reasonable and expedient, to prevent extravagance and luxury within the walls of a prison.

All articles of clothing and bedding shall be examined, in order that it may be ascertained, that such articles are not likely to communicate infection or facilitate escape.

When necessary, a surgeon may examine prisoners.

That, when necessary, a surgeon shall examine any prisoner who shall be brought into the prison, before he or she shall be passed into the proper ward, and no prisoner shall be discharged from prison, if laboring under any acute or dangerous distemper; nor until, in the opinion of a surgeon, such discharge is safe, unless such prisoner shall require to be discharged.

Lodging and classification of prisoners.

Every prisoner shall be provided with suitable bedding, and every male prisoner with a separate bed, hammock, or cot, either in a separate cell, or in a cell with no less than two other male prisoners; convenient places for the prisoners to wash themselves shall also be provided, with an adequate allowance of soap, towels and combs.

Abolishes garnish money.

No money under the name of garnish, shall be taken from any prisoner on his or her entrance into the prison, under any pretence whatever.

Duty of visiting Justices.

The visiting Justices shall, and they are hereby required, from time to time, to cause copies of so much of the rules as relate to the treatment and conduct of prisoners, to be printed in legible characters, and to be fixed up in conspicuous parts of every prison, so that every prisoner may be able to have access thereto.

No keeper or officer of prison to sell any article, &c., to prisoner.

That no keeper or officer of any prison shall sell, or have any benefit or advantage from the sale of any article to any prisoner, nor have any interest in any contract for the supply of the prison, and the keeper of every such prison shall reside therein.

Sheriff of each County to appoint a matron for jail, if required.

The Sheriff of any County, on the recommendation of the visiting magistrates, shall appoint a matron for the jail of the said County, when, and as often as such a person shall be required, whose duty it shall be constantly to superintend the female prisoners; and the said Sheriff and visiting magistrates shall fix and determine the amount of salary or allowance to be paid to such matron.



The keeper shall visit every ward, and see every prisoner, and inspect every cell, at least once in every twenty-four hours, and shall keep a regular journal of every occurrence of importance within the prison, which journal shall be submitted to, and inspected by the visiting magistrates, at their several visitations.

Duty of keeper of prison.

The male and female prisoners shall be confined in separate apartments, so as to prevent them from seeing, conversing, or holding intercourse with each other.

Male & female prisoners to be kept separate.

No prisoner shall be put in irons, except in cases of urgent and absolute necessity, and the particulars of such case, shall be forthwith entered in the keeper's journal, and notice thereof forthwith given to one of the visiting Justices; and the keeper shall not continue the use of irons on any prisoner, after such notice shall have been given, without an order, in writing, from a visiting Justice, specifying the cause thereof, which order shall be preserved by the keeper as his warrant for the same.

No prisoner to be put in irons, unless in case of urgent necessity.

No prisoner, confined under the sentence of any Court, or on any conviction before a Justice or Justices of the Peace, shall receive any food, clothing, or necessaries, other than the jail allowance; except under special circumstances, to be judged of by one of the visiting magistrates.

No prisoner to receive any food beyond jail allowance.

Due provision shall be made by the visiting magistrates for the admission, at proper times, and under proper restrictions, of persons with whom prisoners committed for trial, may wish to communicate; but no person shall be allowed to visit, or have intercourse with convicted prisoners under sentence, without the special permission of one of the visiting magistrates.

Regulates the admission of visitors to prisoners.

The walls and ceilings of the wards, cells, rooms and passages used by the prisoners, shall be scraped and limewashed, at least once in the year; and the rooms and cells shall be washed and cleaned once a week at least.

Prisons to be cleansed.

All prisoners shall be allowed as much air and exercise as may be deemed proper for the preservation of their health; and separate yards shall be assigned to debtors and criminals, respectively.

Prisoners to be allowed air and exercise.

No tap shall be kept in any prison, nor shall any wine, spirituous or fermented liquors be admitted for the use of any of the prisoners therein; unless by a written order of one of the visiting magistrates or surgeon, specifying the quantity, and for whose use.

No tap to be kept in prison, &c.

No gaming shall be permitted in any prison, and the keeper shall seize and destroy all dice, cards, or other instruments of gaming.

No gaming permitted in prison.

Upon the death of a prisoner, notice thereof shall be given by the keeper forthwith, to one of the visiting Justices, as well as to the Coroner, and to the nearest relative of the deceased, when practicable.

Duty of keeper on death of prisoner.

No prisoner before trial shall be compelled to wear a prison

Regulates prison dress.

dress, unless his or her clothes be deemed insufficient or improper, or necessary to be preserved for the purposes of justice; and no prisoner, who has not been convicted of felony, shall be liable to be clothed in a party-coloured dress; but if it be deemed expedient to have a prison dress for prisoners, the same shall be plain.

Power of keeper in certain cases.

The keeper of the prison or house of correction, shall have power to hear and determine all complaints touching the following offences:—

1. Disobedience of any rules of the place.

2. Assaults by one prisoner on another, or on any officer of the establishment, where no dangerous wound or bruise is given.

3. Profane swearing or cursing.

4. Idleness, or neglect of work, or wilful mismanagement of instruments or tools.

Keeper may punish offender against prison rules.

The keeper may examine any person touching such offences, and may punish all such offences, by ordering any offender into close confinement in the solitary cells, and keep such offender there until he shall have reported the same to one of the visiting magistrates; which he (the keeper,) shall be bound to do, within two hours, or as soon after as possible.

Power of visiting Justices.

The visiting magistrates may punish such offender by imprisonment in the solitary cells, for a term not exceeding seven days.

Duty of keeper.

The keeper shall, if required, afford assistance to any prisoner desirous of presenting a petition to the Court, or other competent authority.

Prisoners to attend divine worship, &c.

Prisoners under charge or conviction of any crime shall attend divine service on Sundays and other days, when such service is performed; unless prevented by illness, or by other reasonable cause to be allowed by the keeper, or unless their attendance shall be dispensed with by one of the visiting Justices.

Visiting Justices may order additional food.

X. And be it enacted, That whenever it shall appear to be necessary to the said Commissioners and Visitors, on the representation of the jailer or petition of the prisoners, to make any addition to the usual allowance of food, they shall, if they shall see fit, cause such necessary addition to be supplied.

Duty of keeper when persons bring liquor into prison.

XI. And be it further enacted, That if any person, in contravention of the existing rules, shall carry or bring, or attempt or endeavor to carry or bring into any prison, or house of correction, any spirituous or fermented liquor, it shall be lawful for the jailer, keeper, turnkey, or any other of the assistants to the said jailer or keeper, to apprehend, or cause to be apprehended, such offender, and carry him

or her before a Justice of the Peace (who is hereby empowered to hear and determine such offence in a summary way); and if he shall lawfully convict such person of such offence, he shall forthwith commit such offender to the common jail of the County in which such offender shall be convicted, there to be kept in custody for any time not exceeding two months, nor less than five days, without bail or mainprize; unless such offender shall immediately pay down such sum of money, not exceeding five pounds, and not less than ten shillings, as the Justice shall impose on such offender; to be paid, one moiety to the informer, and the other moiety to the visiting Justices, in aid of the maintenance of such prison; and if any Justice shall receive information upon oath, that any spirituous or fermented liquor is unlawfully kept or disposed of in any prison, he may enter and search, or issue his warrant to enter and search for such liquor; and in case it shall be found, it shall be lawful for the person so finding, to seize the same, and cause it to be disposed of as the Justice shall direct; and if any jailer or keeper of any prison, shall sell, use, lend or give away, or knowingly permit or suffer to be sold, used, lent or given away in such prison, or brought into the same, any spirituous or fermented liquor, in contravention of the existing rules of such prison, he shall, for every such offence, forfeit and pay the sum of five pounds; such penalty to be recovered in a summary way, before any one Justice of the Peace, upon the oath of one or more credible witness or witnesses; and if the said jailer or keeper shall not immediately pay down the said penalty, he shall be dismissed from his office and be rendered incapable of holding the said office again; and in the event of a second conviction of any jailer or keeper, of such offence, he shall forfeit and pay the sum of ten pounds, and shall be dismissed from his said office, and be rendered incapable of holding the same again; and if he shall not immediately pay down the said fine, the said Justice is hereby authorized and empowered to issue his warrant against him, and to cause him to be imprisoned in the common jail of the County, for a period not exceeding two months; the said fine or fines, if recovered from any jailer or keeper as aforesaid, to be applied, one moiety to the informer, and the other moiety to be paid into the treasury, for the use of Her Majesty's Government.

Justice of the Peace to hear and determine case in a summary way.

Duty of Justice on receiving information that spirituous liquors, &c. are kept in prison.

Fine on jailer selling liquor to prisoners.

XII. And be it further enacted, That the visiting Justices of any jail or prison shall have power and they are hereby empowered to procure the services of any clergyman professing the faith of any prisoner or prisoners, imprisoned from time to time, for felony or misdemeanors, or suspicion of felony or misdemeanor, for the performance of divine service, at such time or times, as the said Justices may fix or agree upon; and they are hereby empowered to order the attendance of such

Visiting Justices may procure any clergyman to perform divine service in prison, &c.

prisoner or prisoners during such period of divine service; and should the said prisoner or prisoners refuse or neglect to obey the order of the said Justices in this behalf, or behave improperly or irreverently during divine service, the said visiting Justices are hereby empowered to cause such prisoner or prisoners to be placed in solitary confinement, for a period not exceeding five days.

### CAP. XIII.

Expired.

An Act relating to the duties of the harbor master of the port of Charlottetown, and for the better regulation of the public wharfs therein.

### CAP. XIV.

An Act for the improvement of the practice of the Court of Chancery of this Island.

Chancellor, with advice of Master of the Rolls, to direct forms and proceedings, &c.

**W**HEREAS the practice of the Court of Chancery is in many respects dilatory and expensive, and ill adapted to the state of the Island, and requires extensive alterations and amendments: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the Chancellor, by and with the advice and consent of the Master of the Rolls, shall have full power and authority, from time to time, to direct and declare the forms and proceedings to be observed in all matters of which the Court now has, or hereafter may have cognizance and jurisdiction; such forms and proceedings not being inconsistent with the Laws of Great Britain and this Island, and the practice of Her Majesty's High Court of Chancery in England.

Number and names of terms in Chancery, &c.

II. And be it enacted, That there shall be three terms of the said Court in each year; that is to say, Hilary term, to commence on the first Tuesday in February, and to end on the Saturday then next ensuing; Trinity term, to commence on the last Tuesday in May, and to end on the Saturday then next ensuing; and Michaelmas term, to commence on the third Tuesday in November, and to end on the Saturday then next ensuing; and that causes and other matters to be heard in the said Court, may be brought to hearing, and heard and determined in vacation, as well as in term time, under such regulations, as may be established in that behalf by the rules and orders of the said Court.

Causes, &c. may be heard in vacation.

Queen's County jail to be prison of Court of Chancery.

III. And be it enacted, That the common jail of the County of Queen's, shall be the prison of the said Court: provided always, that in case it shall be expedient, and the ends of jus-

tice be thereby answered, any prisoner of the Court may be committed to the common jail of any County within which he may have been arrested, in case the Court shall so order and direct.

IV. And be it enacted, That it shall be the duty of the Sheriffs in the several Counties, to serve any writs of subpoena, or execute any process of this Court, within their respective Counties, that may be sent to them for that purpose.

Sheriffs to serve subpoenas and process of Court.

V. And be it enacted, That all Sheriffs, deputy Sheriffs, jailers, constables, and other officers, shall be aiding, assisting, and obeying the said Court, in the exercise of its jurisdiction, whenever required so to do.

Sheriffs, &c., to aid Court.

VI. And be it enacted, That in case the plaintiff in any suit, commenced or to be commenced in the Court, shall neglect to proceed in the same in due time, according to the practice of the said Court, the bill may be ordered to be dismissed; and in case the defendant shall neglect to appear in due time, after service of process, or shall neglect to put in his answer, or to take any other necessary step in the cause, within the time in that behalf limited by the practice of the said Court, the bill may be ordered to be taken against him as confessed; subject nevertheless, to such regulations and restrictions as may be established and provided, in that behalf, by the rules and orders of the said Court.

Powers of the Court in suits as respects plaintiff and defendant.

VII. And be it enacted, That the several masters in ordinary in this Court, now appointed, or hereafter to be appointed, shall have power to act as examiners in the said Court; and in any case, where from the remoteness of residence of any examiner from the place of residence of the witness, or other circumstance, it may be deemed expedient, the Chancellor or Master of the Rolls shall have full power and authority, by order of the said Court, especially to appoint some other person or persons, *pro hac vice*, being in no way interested in the event or issue of the suit, who shall have power to administer the oath to the witnesses, and take the examination in such cause: provided always, that no examination be taken before any examiner, until such examiner shall have been first duly sworn, according to the rules and regulations of the said Court to be established in that behalf.

Masters to act as examiners.

VIII. And be it enacted, That the examination of witnesses in matters pending in the said Court to such extent, and subject to such rules and regulations as may on that behalf be prescribed and established, may be conducted on questions suggested and prepared at the time of examination, and be attended by the parties, their solicitors and counsel.

Witnesses may be examined on questions suggested at time of examination.

Moneys subject to control of Court to be paid into treasury.

IX. And be it enacted, That all moneys, which are now, or which hereafter shall become subject to the control and distribution of this Court, shall be paid into the treasury of this Island, or be vested in such securities as the Master of the Rolls shall, from time to time, direct; and all interest and increase accruing thereon, or which shall have accrued thereon, whether from an increase in the value of coins, or otherwise, shall be added to the principal, and distributed therewith to the person entitled to the same, subject to such rules and regulations as may be established in that behalf.

Regulates the mode in which moneys are to be paid into the treasury.

X. And be it enacted, That for every sum of money to be paid into the treasury of this Island, as aforesaid, the Registrar shall give a certificate, mentioning the order or report, under the authority of which the person named in the certificate is to pay the sum therein specified, and directing it to be placed to his account as Registrar; and on receipt of the money specified in such certificate, the Treasurer shall, on the back thereof, endorse a certificate of such payment, and shall also enter, in an account to be kept by him for that purpose, the amount paid to the credit of the Registrar; such entry specifying the particular cause, on account of which such money is paid in; and such certificate, so endorsed, shall thereupon be filed with the Registrar by the party paying in such money; and all moneys so paid into the treasury as aforesaid, may be applied by the Treasurer in paying off treasury warrants, in the same manner as other public moneys.

Regulates the mode by which moneys may be withdrawn from the treasury.

XI. And be it enacted, That whenever any moneys so paid in, shall, by any order or decree of the said Court, be directed to be paid out, the Registrar shall draw an order under his hand on the Treasurer, entitled in the particular cause on account of which the money is to be paid, and directing the Treasurer to charge the same to his account as Registrar; and the Treasurer shall thereupon, on the same being presented for payment, pay the amount of such order; or if not then in funds so to do, shall pay the same out of such moneys as shall first come to his hands after payment of such order shall be demanded, together with the interest thereon, after the rate of six *per centum per annum*, from the time at which payment of such order may have been demanded, until he shall give notice in the *Royal Gazette* of his readiness to pay the same.

Registrar to keep accounts of cash, &c., in causes.

XII. And be it enacted, That it shall be the duty of the Registrar to keep proper accounts of the cash and other effects, standing in the particular causes, in such manner, and under and subject to such rules and regulations as may be prescribed and established by the said Court in that behalf.

XIII. And be it enacted, That where, in any suits pending in the said Court, the cause of action shall survive, such suits shall not abate by reason of the death of one or more of the plaintiffs or defendants; but upon suggestion of such death to the Court, the suit shall be allowed to proceed in favor of, or against the surviving party, as the case may be; and in case of the death of one or more plaintiffs or defendants in any suit where the cause of action shall not survive, it shall only abate, as to the person or persons so dying, and not otherwise.

Practice of Court in case of death of one or more plaintiffs or defendants.

XIV. And be it enacted, That in all causes where it shall be necessary to revive a suit against the representatives of a deceased defendant, no bill of revivor shall be necessary; but the Court may by order direct, that the same stand revived upon the petition of the plaintiff, subject to such rules and regulations as may be made in that behalf.

Practice of Court when necessary to revive a suit.

XV. And be it enacted, That the said Court shall have power to enforce performance of any decree or obedience thereto, by execution against the body of the party against whom such decree is made; or against the goods and chattels, and in default thereof, against the lands and tenements of such party; which execution, so issued, shall have the like effect, as executions issuing out of the Supreme Court of this Island; and every person so imprisoned under any execution issuing out of the said Court of Chancery, shall be entitled to the like benefit of any statute made for the relief of insolvent debtors, as if arrested under process of the said Supreme Court.

Powers of Court in enforcing performance of any decree by execution against the body, &c., of party.

XVI. And whereas it frequently happens, that persons absent or resident out of this Island, are necessary parties, defendants to suits in the Court of Chancery of this Island: Be it enacted, That if any suit which hath been or hereafter shall be commenced in the said Court of Chancery, any defendant or defendants against whom any subpoena or other process may issue, shall not cause his, her, or their appearance to be entered upon such process within such time, and in such manner as, according to the rules of the Court, the same ought to have been entered in case such process had been duly served, and it shall be made to appear upon affidavit to the satisfaction of the said Court, that such defendant or defendants are absent from, or do not reside within the Island, then, and in such case, the said Court may make an order, directing and appointing such defendant or defendants to appear at a certain day therein to be named, and a copy of such order shall, within fourteen days after such order made, be inserted in the *Royal Gazette*, published by the Queen's printer in this Island, and shall continue to be inserted in the same *Gazette* for so long a time as the Court shall direct, not less than three months; or in case the said Court shall see fit so to direct,

Regulates the practice of the Court when necessary parties to suit are absent.

that a copy of such order shall, within one year next after the making of the same, be served on the defendant or defendants either personally, or by leaving the same at the residence of the defendant or defendants with some person belonging to the family, or living in the house of the said defendant or defendants; and if such defendant or defendants do not appear within the time limited in and by such order, or within such further time as the Court shall appoint, then, on proof made of such publication or service of such order, as aforesaid, the Court being satisfied of the truth thereof, may order the plaintiff's bill to be taken *pro confesso*, and make such decree thereon as shall be thought just and proper, and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration or absolute sale of the real and personal estate and effects of such defendant or defendants, if any such can be found, or such part thereof as may be sufficient to satisfy the demand of the plaintiff or plaintiffs in such suit, in the manner hereinafter provided, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff or plaintiffs, or otherwise, as the nature of the case may require; and the said Court may likewise order such plaintiff or plaintiffs to be paid and satisfied his, her or their demand out of the estate or effects so sequestered or sold, according to the true intent and meaning of such decree; such plaintiff or plaintiffs first giving sufficient security, in such sum as the Court shall think proper, to abide such order, touching the restitution of such estate or effects as the Court shall think proper to make concerning the same, upon the defendant or defendants' appearance to defend such suit, and paying such costs to the plaintiff or plaintiffs as the Court shall order: provided always, that in case of a decree for an absolute sale of such real or personal estate as aforesaid, such security be given before such rule be made; but in case the plaintiff or plaintiffs shall refuse or neglect to give such security as aforesaid, then the Court shall order the estate or effects so sequestered, or whereof possession shall be decreed to be delivered, to remain under the direction of the Court, either by appointing a receiver thereof, or otherwise, as to such Court shall seem meet, until the appearance of the defendant or defendants to defend such suit, and his, her, or their paying such costs to the plaintiff or plaintiffs as the said Court shall think reasonable, or until such order shall be made therein as the Court shall think just: provided always, that if any decree shall be made in pursuance of this Act, against any person or persons being out of this Island, in manner aforesaid, at the time such decree is pronounced, and such person or persons shall, within three years after the making of such decree, return, or become publicly visible, then, and in such case, he, she, or they shall be



served with a copy of the decree, within a reasonable time after his, her, or their return or public appearance shall be known to the plaintiff or plaintiffs; and in case any defendant against whom such decree shall be made, shall, within three years after the making of such decree, happen to die before his or her return into this Island, or appearing openly as aforesaid, or before his or her being served with a copy of such decree, then the heir of such defendant; if such defendant shall have had any real estate; which may have been sold as aforesaid, or shall have any real estate sequestrated or sold, or whereof possession shall have been delivered to the plaintiff or plaintiffs as aforesaid, and such heir may be found, or if such heir shall be a *feme covert* or *non compos mentis*, the husband, guardian, or committee of such heir respectively, or if the personal estate of such defendant or defendants be sold, sequestered or possession thereof delivered to the plaintiff or plaintiffs, then his or her executor or administrator (if any such there be) may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff or plaintiffs, that the defendant is dead, and who is his or her heir, executor or administrator, or where he, she, or they respectively may be served therewith: provided always, that if any person or persons, so served with a copy of such decree, shall not, within six months after such service, appear and petition to have the said cause reheard, such decree, so made as aforesaid, shall stand absolutely confirmed against the person or persons so served with a copy thereof, his, her, or their respective heirs, executors, or administrators, and all persons claiming, or to claim, by, from, or under him, her, or them, or any of them, by virtue of any act done or passed subsequent to the commencement of such suit: provided nevertheless, that if any person so served with a copy of such decree shall, within six months after such service, or if any person, not being so served, shall, within three years next after the making of such decree, appear in Court, and petition to be heard with respect to the matter of such decree, and shall pay down, or give security for payment of such costs as the Court shall think reasonable in that behalf, the person so petitioning, his, her, or their respective representatives, or any persons claiming under him, her or them, respectively, by virtue of an act done before the commencement of the suit, may be permitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution may be had thereon as there might have been, in case the same party had originally appeared, and proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

Limits the time wherein absent parties, after service of decree, are allowed to have cause reheard.

Decree to be absolute, if regular application for rehearing be not made within 3 years.

XVII. Provided nevertheless, and be it enacted, That if any person or persons against whom such decree shall be made, his, her, or their heirs, executors, or administrators, shall not, within three years next after the making of such decree, appear and petition to have the cause reheard, and pay down, or give security for payment of such costs as the Court shall think reasonable in that behalf, such decree, made as aforesaid, shall stand absolutely confirmed against the person or persons against whom such decree shall be made, his, her, or their heirs, executors and administrators, and against all persons claiming or to claim by, from or under him, her, or them, or any of them, by virtue of an act done subsequent to the commencement of such suit, and at the end of such three years it shall and may be lawful for the Court to make such further order as shall be just and reasonable, according to the circumstances of the case.

Plaintiff may serve absent defendant with subpoena to appear.

XVIII. Provided always, and be it enacted, That in all cases where any defendant or defendants reside out of this Island, the plaintiff in such suit may, if he find it more convenient so to do, cause such party to be served with a subpoena, to appear in the same manner, as if such defendant resided within the jurisdiction of the said Court, which shall be deemed good service: provided always, that if such defendant resides in the United Kingdom, or any part of Europe, or in the West Indies, such subpoena shall direct such party to appear within three calendar months from the time of the service thereof; and if such defendant resides in any part of the United States of America, or in any of the British North American Colonies, such subpoena shall direct such party to appear within two calendar months from the time of the service thereof; and if the defendant or defendants reside in any other part of the world, such subpoena shall direct such party to appear within six calendar months from the time of the service thereof.

Defines the period within which parties so served may appear.

Proof of service of order, &c., on absent defendant, how to be made.

XIX. And be it enacted, That proof of the service of any order or subpoena of the said Court on any defendant residing out of this Island, may be made by affidavit or affidavits to be taken and attested before any Judge of the Court of Queen's Bench, Common Pleas, or Exchequer, or before the Lord High Chancellor, Master of the Rolls, or Vice Chancellor, or any Master of the High Court of Chancery, or Mayor of any city, borough, or town corporate, in England or Ireland, before any Lord of sessions or other superior Judge, or any provost, or other chief magistrate of any city, borough, or corporate town in Scotland, before any Judge of the Supreme or other superior Court, or Master of the Rolls in any British Colony, or before any superior Court, or any Judge thereof, in the United States of America, or any other foreign country: pro-

vided always, that such affidavit, if taken in any foreign country, be authenticated by a certificate under the hand and seal of the British ambassador, envoy, minister, consul, or vice consul; and if taken in any part of the British dominions, by a certificate under the hand and seal of some public notary, to the satisfaction of the said Court of Chancery.

XX. And be it enacted, That whenever a bill shall be filed in the Court of Chancery, for the foreclosure or satisfaction of a mortgage, the Court shall have power to decree a sale of the mortgaged premises, or such part thereof as may be sufficient to discharge the amount due on the mortgage, and the costs of suit.

In case of bill for foreclosure of mortgage, Court may decree sale.

XXI. And be it enacted, That all sales of mortgaged premises, under the decree of the Court of Chancery, shall be made by a master, under the direction of the said Court, and the conveyance shall be executed by such master, which shall vest in the purchaser, the same estate, and no other or greater than would have vested in the mortgagee, if the equity of redemption had been foreclosed, and such deed shall be as valid, as if the same were executed by the mortgagor and mortgagee, and shall be an entire bar against each of them, and against all parties to the suit in which such decree for sale was made, and against their heirs, respectively, and all claiming under their heirs.

Sale of mortgages premises and conveyances how to be made.

XXII. And be it enacted, That the proceeds of every sale made under the decree of the Court of Chancery as aforesaid, shall be applied to the discharge of the debts adjudged by such Court to be due, and of the costs awarded; and in case there shall be any surplus, it shall be brought into Court for the use of the mortgagor, or of the person who may be entitled thereto, subject to the order of the Court.

Appropriation of proceeds of sale under decree of Court.

XXIII. And be it enacted, That when any bill shall be filed for the foreclosure or satisfaction of any mortgage, upon which there shall be due any interest or portion only of the principal, the bill may be ordered to be dismissed, upon the defendants bringing into Court, at any time before the decree, the principal and interest due, with costs; and in case the same shall be brought into Court after a decree and before a sale, further proceedings thereupon shall be stayed, but the decree shall stand as a security for such further sums as may thereafter fall due on the mortgage, and upon any subsequent default of payment thereof, may be enforced by the further order of the Court for the sale of the mortgaged premises, or of such part thereof as shall be necessary, from time to time, until the amount secured by the mortgage and the costs of the proceedings thereon, shall have been fully paid and satisfied.

Powers of Court, &c., where interest or portion only of principal is due.

Sale of whole mortgaged premises in discretion of Court.

XXIV. And be it enacted, That if, in any of the foregoing cases, it shall appear to the Court that the mortgaged premises are so situated that the sale of the whole will be most beneficial to the parties, the decree shall, in the first instance, be entered for the sale of the whole premises accordingly, and in such case, the proceeds of such sale shall be applied as well to the payment of the amount due, and the costs of suit, as towards the residue of the sum not due at the time of such sale, and if such residue do not bear interest, then the Court may direct the same to be paid, with a deduction of the rebate of legal interest for the time, during which such residue shall not be due and payable.

Proceeds of sale of mortgaged premises subject to claims of subsequent incumbrances.

XXV. And be it enacted, That in case of subsequent incumbrances affecting any mortgaged premises which may be sold under the decree of the said Court by virtue of this Act, the residue of the proceeds, which may remain after the discharge of the first mortgage thereon, shall be subject, under the order and direction of the said Court, to the claims of the holders of such subsequent incumbrances according to their due priority, whether the same be due and payable, or otherwise subject to the like rebate of interest, in case of sums not payable when the same do not bear interest, as is provided in the last preceding section of this Act.

Sales of mortgaged premises to be by public auction.

XXVI. And be it enacted, That all sales of any mortgaged premises made under the authority of this Act, shall be made by public auction, of which not less than three months' notice shall be given.

In all matters not provided for by legislative enactment &c., rules of English Court to be in force.

XXVII. And be it enacted, That in all matters relating to the practice of the Court of Chancery in this Island, not otherwise particularly provided for by legislative enactment, or the rules and orders of this Court, the rules of practice of the High Court of Chancery in England as now established, shall be in force, subject nevertheless to the like exceptions, limitations, restrictions, and rules of construction in the application of the same, as the practice of the High Court of Chancery prevailing and in force at the time of the erection of this Island into a Government have been, and subject to be altered, modified and restricted by such rules of practice as may be hereafter, from time to time, introduced and established in the Court of Chancery in this Island, by any Act or Acts of the General Assembly, or the orders of the said Court.

Repeals so much of Act of 16 G. 3, c. 1, as relates to fees.

XXVIII. And be it enacted, That so much of an Act passed in the sixteenth year of the reign of King George the Third, intituled "An Act for regulating fees," as relates to the fees to be taken in the Court of Chancery of this Island be, and the same is hereby repealed.

XXIX. And be it enacted, That whenever any infant shall shall be seised or possessed of any lands, tenements, or hereditaments by way of mortgage, or in trust only for others, the Chancellor or Master of the Rolls, on the petition of the guardian of such infant, or of any person interested, may enable and compel such infant to convey and assure such lands, tenements and hereditaments to any other person, in such manner as the said Court shall order and direct; and every conveyance or assurance made pursuant to such order shall be as good and effectual in the law as if the same were made by such infant, when of lawful age.

Court may compel infant in certain cases to convey lands, &c.

XXX. And be it enacted, That the Court of Chancery shall have power to decree and compel the specific performance by any infant-heir, or other person, of any bargain, contract or agreement made by any party who may die before the performance thereof, on petition of the executors or administrators of the estate of the deceased, or of any person or persons interested in such bargain, contract or agreement, and on hearing all parties concerned, and being satisfied that the specific performance of such bargain, contract or agreement ought to be decreed or compelled.

Court may decree specific performance by infant heir of any contract made by ancestor.

XXXI. And be it enacted, That any infant seised of any real estate, or entitled to any term for years in any lands, may by his next friend, or by his guardian, apply by petition, to the Chancellor or the Master of the Rolls for an order for the sale or other disposition of the said property, in manner hereinafter mentioned.

Infant may apply by next friend or guardian for order for sale of real estate, &c.

XXXII. And be it enacted, That on such application, the said Court may appoint one or more suitable person or persons to be the guardian or guardians of such infant, in relation to the proceedings on such application, who shall be required to give security, by bond, to the infant, to be filed with the registrar, in such penalty, and with such sureties, and in such form, as the Court shall direct, conditioned for the faithful performance of the trust in him or them reposed, for the paying over, investing and accounting for all moneys which shall be received by such guardian or guardians, according to the order of the Court, and for the observance of the orders and directions of the said Court in relation to the said trust, and in case of the forfeiture of such bond, the said Court may order and direct the same to be prosecuted for the benefit of the party injured.

Powers of Court and mode of proceeding under such application of infant.

XXX. And be it enacted, That upon the filing of such bond by such guardian or guardians as aforesaid, the said Court may proceed in a summary way, by reference to a master, to inquire into the merits of such application, and in case it shall appear satisfactorily, that a disposition of the real

Mode of proceeding under such application of infant.

estate of such infant, or any part thereof, for any term of years, of which he or she may be possessed, or in which he or she may be interested, is necessary or proper, either for the support and maintenance of such infant, or for his or her education, or that the interest of such infant requires or will be substantially promoted by such disposition, on account of any part of his or her said property being exposed to waste and dilapidation, or on account of its being wholly unproductive, or for any other reasons or circumstances, the Court may order the letting for a term of years, or the sale or other disposition of such real estate or interest by such guardian so appointed in such manner, and with such restrictions as shall be deemed expedient: provided always, that nothing herein contained shall be construed to authorize the ordering of the sale, leasing or other disposition of any real estate or term for years, in any manner contrary to the provisions of any last will or any conveyance, by, through or under which such estate or term was devised or conveyed to such infant.

Not to authorize a sale contrary to will or conveyance.

Court may confirm order for sale or lease.

XXXIV. And be it enacted, That upon any agreement for the sale, leasing or other disposition of such property made pursuant to such order, the same shall be reported to the Court upon the oath of the guardian making the same, and if it be confirmed, a conveyance shall be executed under the direction of the said Court.

Confirms sales, &c., made by guardian under agreement confirmed by Court

XXXV. And be it enacted, That all sales, leases, dispositions and conveyances, made in good faith by any guardian, in pursuance of any such agreement so confirmed as aforesaid, shall be valid and effectual, as if made by such infant when of full age.

Infant, whose property may be ordered to be sold, to be deemed a ward of Court.

XXXVI. And be it enacted, That upon any order for the sale of any property being made as aforesaid, the infant to whom the same shall belong, shall be considered, so far as relates to such property, a ward of the Court of Chancery; and the Court shall have power to make such order for the investment, disposition and application of the proceeds of such property, and of the increase and interest arising therefrom, as to secure the same for the benefit of such infant, in such manner as may be deemed most expedient.

No sale to give infant greater interest in proceeds of sale than entitled to previously.

XXXVII. And be it enacted, That no sale, so made as aforesaid, shall give to such infant any other or greater interest or estate in the proceeds of such sale than he had in the estate so sold, but the said proceeds shall be deemed estate of the same nature as the property sold.

Regulates the mode of registering of conveyances.

XXXVIII. And be it enacted, That every conveyance made under the provisions of this Act having been first duly acknowledged or proved, according to the provisions of the

laws relating to the registry of deeds, may be registered in the office of the Registrar of Deeds for this Island; and such conveyance so registered, or a copy thereof, may be given in evidence, in any Court of law or equity in this Island, in like manner with, and under the same rules and restrictions as any other registered deed, and when so given in evidence, shall be deemed and taken to be evidence, that all the proceedings on which such conveyance is founded, were rightly had and done.

XXXIX. And be it enacted, That no person acting under and by virtue of this Act, shall take or receive, directly or indirectly, any greater or other fee or fees for his services than is or are mentioned and allowed in the schedule of fees to this Act annexed, such fees to be paid and received in the same currency or description of money in which payments shall be made at the treasury.

Fees to be taken under this Act.

### SCHEDULE of fees to which this Act refers.

#### MASTER'S FEES.

For every summons,	£0	2	0	Master's fees.
Copies of all writings brought in before the master, for each folio, containing one hundred words,	0	0	6	
For every report or certificate made pursuant to a hearing,	0	10	6	
If report exceed six folios, for every additional folio beyond that number,	0	1	0	
For every recognizance prepared by him, per folio,	0	1	0	
For an examination fee, each person examined,	0	3	0	
For every exhibit signed by the master,	0	1	0	
For every exemplification examined by two masters, for each of the two masters,	0	3	0	
For preparing and executing a conveyance of land,	1	3	4	
For every folio beyond ten, which the conveyance may contain,	0	1	6	
For preparing an advertisement of sale of land,	0	5	0	
For attending a public sale, when conveyance is to be executed by him,	1	3	4	
For examining and settling a conveyance to be executed by another,	0	11	8	
For swearing every witness,	0	1	0	
For every bill of costs taxed, for every page of the same,	0	2	0	
Appointing time and place for examination of each witness,	0	1	6	
Taking down interrogatories and depositions, per folio,	0	1	0	

Certifying the examination,	0	2	6
Swearing a party to an answer or other pleading,	0	2	0
For every attendance on summons to appear before him,	0	9	0
For every recognizance acknowledged before him,	0	3	6

## MASTER EXTRAORDINARY'S FEES.

Master extraordinary's fees. The like fees as the master for the like services.

## REGISTRAR'S FEES.

Registrar's fees.	For entering and drawing all orders and rules, per folio,	£0	2	0
	Filing and entering every bill, answer, or other pleading,	0	2	3
	For filing every report or other paper,	0	1	0
	Copies of all orders and reports, per folio,	0	1	0
	For drawing, engrossing and copying, in cases not otherwise provided for, the same fee as the solicitor, for the like services respectively.			
	For the Registrar's hand to every copy of affidavit,	0	1	0
	For every certificate,	0	2	3
	For entering a cause for hearing, or setting down in motion paper,	0	1	0
	For every decree and dismissal,	0	5	0
	For every search,	0	1	0
	For entering attachments, for each person,	0	0	6
	Entry of all amerciaments,	0	1	0
	Entry of appearances,	0	2	0
Signing and sealing every writ or process,	0	1	6	
For every paper read in evidence,	0	0	6	
For preparing every subpoena, over and above signing and sealing,	0	2	6	

## COUNSEL'S FEES.

Counsel's fees.	Retaining fee in each cause,	£1	0	0
	For perusing and signing every bill, answer, plea, demurrer, or any other special pleading, interrogatories, or exceptions,	1	0	0
	For every motion of course,	0	10	0
	For every special motion,	0	15	0
	For arguing every plea, demurrer, or other special argument, before the Court, and on the hearing of the cause, fee at the discretion of the Court.			
	For attending the examination of, and examining each witness, when examination is oral,	0	5	0
	Counsel fees upon special matters, where their assistance is necessary, and not otherwise provided for, at the discretion of the Court, on master's certificate.			



## SOLICITOR'S FEES.

Retaining fee in each cause,	£0 15 0	Solicitor's fees.
For drawing every bill, answer, plea, demurrer, or any other writing, not otherwise provided for, per folio.	0 1 0	
For every copy thereof. per folio,	0 0 6	
Solicitor's fee for each term, only four allowed.	0 5 0	
Attending in getting every petition answered,	0 6 8	
Attending the Court on every common motion, when actual attendance is given,	0 3 4	
For the like attendance, on every special motion,	0 6 8	
For copy of every order, per folio,	0 0 6	
Serving the same,	0 3 4	
Attending the Court upon every hearing, and upon every argument where actual attendance is given,	0 15 0	
For abbreviating every bill, answer and all other proceedings, per folio,	0 0 4	
Attending the Registrar upon drawing every decretal order,	0 6 8	
Attending the master to file any charge or discharge,	0 3 4	
Attending on summons to proceed,	0 6 8	
Serving all papers not otherwise provided for,	0 1 0	
Postage actually incurred, to be allowed.		

## SERGEANT-AT-ARMS' FEES.

For taking a prisoner into custody,	£0 13 4	Sergeant-at-arms' fees.
Mileage, for each mile,	0 0 3	
For serving every summons to attend a master,	0 1 0	
Serving every subpoena to appear and answer or other process on each defendant, not otherwise provided for,	0 2 6	
Poundage, the same allowance as on process at common law, (except that no poundage be to be allowep, except in cases of moneys levied and paid over, under process of the Court,) the amount to be levied in addition to the sum directed to be paid or levied by such process.		

## SHERIFF'S FEES.

Serving every subpoena to appear and answer or other process, not otherwise provided for,	£0 2 6	Sheriff's fees.
Mileage, for each mile, to be computed as on process at common law,	0 0 4	
Poundage, the same as the sergent-at-arms.		
For every arrest under writ of attachment, or other process,	0 5 0	

NOTE.—In all cases, under the foregoing table, the folio is to be considered as containing one hundred words, and the fraction of a folio is to be reckoned as one folio, and that none of the above fees shall be taxed, unless the services, for which the same are charged, shall have been necessary and actually performed.

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### C A P. X V.

An Act to repeal an Act passed in the seventh year of the reign of Her present Majesty, intituled “An Act for regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein, and for the appointment of fish inspectors; also, to regulate the inspection of pickled fish,” and to make other provisions in lieu thereof.

7 Vic., c. 7.

Repealed by  
22 Vic. c. 8.

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### C A P. X V I.

An Act to consolidate and amend the several Acts relating to summary trespasses, and to repeal certain Acts therein mentioned.

Recited Acts  
repealed.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the several Acts relating to trespasses hereinafter enumerated, shall be, and they are hereby repealed, that is to say: an Act passed in the sixteenth year of the reign of His late Majesty King George the Third, intituled “An Act to prevent trespasses on Crown lands;” an Act passed in the twentieth year of the same reign, intituled “An Act for preventing trespasses by unruly horses, cattle and sheep, and for preventing the running of hogs at large through the town of Charlottetown;” an Act passed in the twentieth year of the same reign, intituled “An Act to prevent the cutting of pine and other trees without permission of the proprietor, and to prevent the cutting down and destroying of fences;” an Act passed in the thirtieth year of the same reign, intituled “An Act to prevent the malicious killing, wounding, or maiming of cattle;” an Act passed in the thirty-fifth year of the same reign, intituled “An Act to amend an Act made and passed in the twentieth year of His present Majesty’s reign, intituled ‘An Act to prevent trespasses by unruly horses, cattle and sheep, and for preventing the running of hogs at large through the town of Charlottetown;’” an Act passed in the thirty-sixth year of the same reign, intituled “An Act to prevent

the robbing of gardens and orchards, potato and turnip fields, and throwing down of fences, and for amending an Act made and passed in the twentieth year of his present Majesty's reign, intituled 'An Act for preventing trespasses by unruly horses, cattle and sheep, and for preventing the running of hogs at large through the town of Charlottetown;' an Act passed in the fiftieth year of the same reign, intituled "An Act to amend an Act intituled 'An Act to prevent the malicious killing, wounding and maiming of cattle,'" and so much of an Act passed in the ninth year of the reign of his late Majesty King George the Fourth, intituled "An Act for continuing several laws near expiring," as relates to an Act passed in the fifth year of the reign of his said late Majesty King George the Fourth, intituled "An Act for summary punishment in certain cases of persons wilfully or maliciously damaging, or committing trespasses on public or private property;" an Act passed in the ninth year of the said last mentioned reign, intituled "An Act to continue and amend an Act of the fifth year of his present Majesty's reign, intituled 'An Act to prevent the running at large of boar pigs, and to restrain swine from going at large without rings,'" an Act passed in the third year of the reign of his late Majesty King William the Fourth, intituled "An Act to consolidate, amend and reduce into one Act, the several Acts of the General Assembly, relating to trespasses, and for other purposes therein mentioned;" an Act passed in the fifth year of the reign of his late Majesty, intituled "An Act to explain and amend the Act relating to trespasses;" an Act passed in the fifth year of the reign of her present Majesty, intituled "An Act to further explain and amend an Act passed in the third year of the reign of his late Majesty King William the Fourth, intituled 'An Act to consolidate, amend, and reduce into one Act, the several Acts of the General Assembly relating to trespasses, and for other purposes therein mentioned,'" an Act passed in the eleventh year of the reign of her present Majesty, intituled "An Act to provide for the summary punishment of persons trespassing upon Crown lands."

II. And be it enacted, That from and after the publication hereof, all persons whosoever, who shall or may locate, settle or place any person or persons whomsoever, on any lands belonging to, or vested in the Crown, whether held in trust for any public purpose or otherwise, or who shall or may occupy any such lands in any manner without having first obtained a grant thereof, or license, or leave in writing for that purpose from the Lieutenant Governor or other person or persons authorized to grant the same, shall or may be prosecuted for the same, and shall forfeit and pay a sum not exceeding twenty pounds, to be recovered in a summary manner in Her Ma-

Penalty for occupying Crown lands without license.

Appropriation and mode of recovery of penalty.

jesty's Supreme Court of Judicature, with costs, and to be applied to and for the use of Her Majesty's Government of this Island.

Penalty on persons cutting or carrying away trees from Crown lands.

III. And be it enacted, That any person or persons who shall hereafter cut down or fell any trees or wood of any kind or description, or bark or box any pine or other tree, standing, growing or being upon any of the lands belonging to or vested in the Crown in this Island, whether held in trust for any public purpose, or otherwise, or take or carry away therefrom, any trees of wood or any kind or description, felled, cut down, lying or being upon any such lands, shall forfeit and pay for every such offence, a penalty not exceeding thirty shillings, for every tree so cut down, barked or boxed, taken or carried away, together with reasonable costs of recovering the same; the said penalty and costs to be recovered by and on the oath of any person or persons who may prosecute and sue for the same, or on the oath of any other credible witness, before any two of Her Majesty's Justices of the Peace, for the County wherein such offence shall be committed, provided the forfeiture sued for before such Justices shall not exceed the sum of ten pounds; but if the amount of penalty sought to be recovered for any such offence shall exceed the said sum of ten pounds, then the same may be sued for and recovered, with reasonable costs, in a summary manner, in Her Majesty's Supreme Court of Judicature, by and on the oath of any person or persons, who may prosecute and sue for the same, or on the oath of any other credible witness, one half of the penalty to be paid to the person or persons who shall prosecute and sue for the same, and the other half to be applied to and for the use of Her Majesty's Government of this Island: provided also, that such penalties shall be sued for within six calendar months next after the offence shall have been committed, and not afterwards.

Limits the time within which penalties are to be sued for.

Penalty on persons cutting down or barking trees, &c., on lands of private parties.

IV. And be it further enacted, That from and after the publication hereof, no person or persons shall cut down or fell any trees or timber, or bark or box any pine or other trees standing or growing upon any lands in this Island, nor carry away the same therefrom, without first obtaining a written license from the owner or owners thereof, or from the agent or attorney, on pain of forfeiting and paying a sum not exceeding thirty shillings for every tree removed, barked or boxed, together with reasonable costs of recovering the same; the said fine to be paid to the owner or owners of such trees, and to be recovered before any two of Her Majesty's Justices of the Peace in this Island, provided the forfeiture shall not exceed the sum of ten pounds; but if the same shall exceed that sum, then to be recovered by due course of law in the Supreme Court of Judicature: provided always, that such penalties as

Limits the time within which

are last mentioned shall be sued for within six calendar months next after the offence shall have been committed, and not afterwards. such penalty shall be sued for.

V. And be it further enacted, That from and after the passing of this Act, no fence shall be deemed sufficient to entitle the owner to sue for trespasses committed by any of the animals hereinafter mentioned, upon the lands thereby enclosed, unless the same shall be at least four and a half feet high, and strong and substantial; and the judgment of the fence viewers for the district, as to its sufficiency, shall be conclusive to entitle the party injured to damages under this Act: provided always, that when the ground enclosed is in part bounded by a cape, or any inaccessible natural boundary, the decision of the fence viewers of the district, as to its being sufficient or otherwise, shall be deemed conclusive; and no person shall be liable to any prosecution for trespass committed as last aforesaid, unless the same shall be commenced within three calendar months next after they shall have taken place. No fence to be deemed lawful unless 4½ feet high & strongly made.

VI. And be it further enacted, That if any horses, neat cattle, hogs, sheep, or other beasts, shall break into any ground (not being pasture land,) enclosed as aforesaid, the owner or owners thereof shall, for every such trespass, make reparation to the party injured to the full amount of the damages he or they shall have sustained, with costs of suit; and in order to ascertain the amount of such damages, the party injured may apply to the next Justice of the Peace, who is hereby empowered and required, (upon the oath of the complainant, or some other credible witness, as to the damage being done, and also stating who is or are the supposed owner or owners of, and the description of the trespassing beasts), to grant a warrant under his hand and seal to three of the nearest neighbors, empowering and requiring them to go to the grounds so trespassed upon, and to view and appraise the damages, also giving notice to the owner or owners of the trespassing beasts, if known, to attend such appraisement, and to cause the said appraisers, or any two of them, to return a certificate to him upon oath, of the amount of the damages; and such Justice of the Peace shall have power, and he is hereby authorized and required to direct and order a reasonable satisfaction to the said appraisers for their trouble, according to the distance they shall have travelled, and other circumstances; which allowance to the said appraisers, it is hereby declared, shall be considered as in addition to the amount awarded for the damages so done to the injured party, and which the owner or owners of the trespassing beasts herebefore mentioned, shall be obliged to pay; and if not paid within one calendar month, the same with the assessed dama- limits the time for prosecutions for trespasses. Owners of horses, cattle, &c., breaking into grounds lawfully fenced liable to damages and costs. Mode of recovery of damages.

ges, as aforesaid, and costs, shall be levied by warrant under the hand and seal of the said Justice, on the goods and chattels of the said owner or owners; and in order that the condition of the fence at the time of the trespass committed as aforesaid may be ascertained, (in case the owner or owners of the trespassing beasts hereinbefore mentioned should allege the same to have been insufficient), the proof thereof shall lie upon such owner or owners; and in case of such fence being proved to be insufficient, then and in such case, the owner or owners of the trespassing beasts shall not be liable to any damages whatsoever.

Proof of condition of fence to be upon owner.

Mode of apportioning damages.

VII. And be it further enacted, That when the damages so assessed shall have been done or committed by cattle belonging to several persons, then the said appraisers shall apportion the damages so assessed amongst the owners of such trespassing cattle, the same to be recovered from each as hereinbefore directed; and in case any appraiser, so appointed as aforesaid, shall neglect or refuse to yield due obedience to such warrant of appraisement, he shall forfeit a sum not exceeding ten shillings, to be recovered on the oath of one credible witness, before the Justice who may have issued the same, and to be levied on the goods and chattels of such appraiser, and another shall be appointed in his stead.

Penalty on appraiser for neglect.

Justice of the Peace may order owner to confine unruly beast.

VIII. And be it further enacted, That from and after the passing hereof, when proof shall be made by two credible witnesses, residing in any settlement or district within this Island, to any one of Her Majesty's Justices of the Peace, that any unruly beast is at large, it shall and may be lawful for such Justice, and he is hereby directed and required to notify the owner of such beast of the proof so made, and to order the said beast to be confined; and, if after such notice, the owner of any such beast shall refuse or neglect to take up and keep the same confined, he or she shall be liable to a fine of five shillings, for every day such beast shall be seen at large, after the notice so given; the said fine to be recovered, as hereinbefore last directed, and paid into the treasury of this Island, for the use of Her Majesty's Government.

Penalty for neglect.

Owner of such beast liable for damages.

IX. And be it further enacted, That the owner of every such unruly beast shall, if he or she neglect to take up and confine the same, after receiving such notice as aforesaid, be liable to all the damages occasioned by other cattle following such unruly beast into any enclosed ground, as aforesaid; the same to be recovered and paid as hereinbefore last directed.

Penalty on owner of horses, &c. breaking into pasture ground.

X. And be it further enacted, That if any horses, neat cattle or sheep shall break into any pasture ground, fenced in manner hereinbefore specified, the owner or owners thereof shall forfeit and pay to the party aggrieved by the same, as

follows, that is to say: for every horse, three shillings; for every head of neat cattle, two shillings; and for every sheep or lamb, sixpence; to be recovered on the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace, together with the costs of recovering the same; and if any person shall enter into or pass through any enclosed field or garden, without the permission of the occupier thereof, or some person duly authorized by him to grant such permission, he or she shall be liable to a penalty of two shillings and six pence for each offence, over and above the amount of all damages occasioned thereby, to be levied, recovered and paid, as last hereinbefore directed.

Penalty for entering enclosed field or garden without permission.

XI. And whereas the running at large of boar pigs is found to be highly prejudicial to the breed of hogs within this Island, and the practice of allowing swine to go at large without rings, has been found injurious: Be it therefore enacted, that from and after the passing hereof, it shall and may be lawful to and for any person or persons, whomsoever, to take up any boar pig of three months old, or upwards, found at large, and upon complaint made by him or them to the nearest Justice of the Peace, within the County or district where the said boar pig shall be so found at large, the said Justice is hereby authorized and empowered to cause the same to be sold by public auction, and to pay to the person or persons who shall take up the same, the proceeds of such sale, after deducting reasonable costs and expenses: provided, that no such pig shall be sold until the person who may have taken the same up shall have given at least three days' public notice, in writing, of such intended sale, by posting the same up at three of the most public places in the district; and if the owner of such pig shall claim the same before sale, he shall be entitled to have the same returned to him, on payment of a fine not exceeding ten shillings, to be determined by the Justice to whom the complaint shall have been made, which fine shall be paid to the person or persons who shall have taken up the said pig.

Any boar pig, &c. found at large may be taken up.

If claimed before sale, to be returned to owner, &c.

XII. And be it further enacted, That it shall and may be lawful for any person whomsoever, to take and seize all swine going at large within any township or settlement, or on any of the highways in this Island, without being ringed in the nose, so as effectually to prevent them from rooting or digging; and upon proof thereof on the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace for the County in which such township or settlement, or highway, shall be situated, the owner thereof shall be, by the said Justice, fined in the sum of two shillings and six pence, and reasonable costs, for every pig so seized, as aforesaid; and if the said fine shall not be paid within three

Swine going at large without being ringed may be taken up.

If no owner appears to claim, swine to be sold.

days, or if no owner shall appear to claim the said swine, after notices having been posted up for three days, at three of the most public places within the district, that then the said Justice shall order the said swine to be sold, and shall pay the proceeds of such sale, or fine, to the person or persons who shall have taken up such swine, after deducting reasonable costs and expenses.

Proprietor, &c. in July in each year, may require owner of lands adjoining to destroy thistles growing thereon.

XIII. And whereas the seeds of thistles growing on the land or ground of one proprietor, are frequently driven by the wind, or otherwise conveyed upon the lands and grounds of the adjoining proprietors: Be it therefore enacted, that it shall be lawful for any proprietor or occupant of land, at any time between the first and thirty-first days of July, in each year, by verbal notice in the presence of one witness, or by notice in writing, left at the dwelling house of the person to whom it may be addressed, or in case of undivided lands, in which several persons are interested, by notice to be posted up in the most conspicuous place near to such undivided lands, to require any proprietor or occupier of any adjoining lands, or piece of ground not sown nor being a meadow in crop, or the persons being interested in such undivided lands as aforesaid, to destroy or cut down all such thistles as may be then growing on such adjoining land or piece of ground, the proprietor or occupier of land giving such notice, having himself first destroyed or cut down all thistles on his own fields or grounds adjoining: and if the thistles so required to be destroyed or cut down, are not entirely destroyed or cut down at the expiration of six days from the date of such notice, then it shall be lawful for any Justice of the Peace, upon complaint duly made before him, on the oath of one credible witness, other than the complainant, or on the confession of the party complained of, to order, in writing, the proprietor or occupier, or other person against whom such complaint shall be made, to destroy or cut down such thistles within a period to be assigned by such Justice of the Peace, under a penalty on such proprietor or occupier, or other person as aforesaid, of five shillings for every day such thistles shall remain standing or growing, after the time allowed by the Justice for destroying or cutting the same down, with the expenses incurred in obtaining such order, and recovering the said fine; the same to be recovered before the Justice of the Peace who may have granted the order last aforesaid, and be levied by warrant of distress against the goods and chattels of such offender or offenders.

Penalty for not destroying thistles.

Mode of recovery thereof.

Penalty for damaging or injuring of any building, fence &c.

XIV. And be it further enacted, That if any person or persons shall do or commit any damage, injury or spoil, to or upon any building, fence, hedge, gate, stile, guide post, mile stone, or post, tree, wood, underwood, orchard, garden, nursery-



ground, crops, vegetables, plants, land, or other matter or think growing or being thereon, or to or upon real or personal property, of any nature or kind soever, whether wilfully and maliciously or otherwise, and shall be thereof convicted within six calendar months next after the committing of such injury, before any Justice of the Peace for the County or place where such offence shall have been committed, either by the confession of the party offending, or by the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, which oath such Justice is hereby empowered to administer, every person so offending, and being thereof convicted as aforesaid, shall forfeit and pay, to the person or persons aggrieved, such a sum of money as shall appear to such Justice to be a reasonable satisfaction or compensation for the damage, or injury, or spoil so committed, not exceeding in any case the sum of five pounds over and above the costs of recovering the same, which said sum of money and costs shall be paid to the person or persons aggrieved; but in case such conviction shall take place on the sole evidence of the party aggrieved, then, and in such case, such satisfaction and compensation shall be paid into Her Majesty's treasury, towards the support of Her Majesty's Government of this Island; and in default of payment of the sum of money in which the offender or offenders shall have been so convicted as aforesaid, immediately, or within such time as the Justice shall appoint at the time of conviction, together with all costs, charges and expenses attending the conviction, such Justice shall and may commit such offender or offenders to the common jail, for any time not exceeding three calendar months, unless such penalty, costs and charges, shall be sooner paid and satisfied: provided always, that if any damages, injury, or spoil, shall have been done or committed as aforesaid, to or upon any church, chapel, bridge, building, common, way, or other property whatsoever, whether real or personal, of a public nature, or wherein any public right is concerned, it shall and may be lawful to or for any such Justice to proceed against and convict the offender or offenders within the time aforesaid, and in manner aforesaid, in any sum not exceeding five pounds, over and above the costs of recovering the same, as to such Justice shall seem just and reasonable, at the instance, and upon the information, of any person prosecuting such offender or offenders, and to order and direct one moiety of the sum forfeited for such offence, to be paid to the person so prosecuting, and the other moiety for the use of Her Majesty's Government as aforesaid; and in default of payment of the sum in which any such offender or offenders shall have been so convicted, as last aforesaid, together with all costs, charges and expenses attending such conviction as aforesaid, such Justice shall and may commit such offender or offenders to the common jail, for any

Conviction to be within six calendar months, and before whom.

Penalty how to be paid.

In default of payment, offender may be committed to jail.

In case of damage committed on any species of public property.



said *A. B.* shall, for his said offence, forfeit and pay the sum of lawful money of this Island, together with costs, and do order that the same shall forthwith be paid by him (here direct the payment according to the above mentioned sections of this Act.)

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

XVIII. Provided always, and be it further enacted, That in case any person or persons shall be convicted of any offence against any of the provisions contained in the said fourteenth and fifteenth sections of this Act, before any Justice of the Peace, on the complaint or information of any person or persons, of public or private property having been so injured, damaged or spoiled, and shall have paid the penalty, costs and charges, under such conviction, or shall have suffered the imprisonment awarded for nonpayment thereof, then, and in every such case, such conviction shall and may be pleaded in bar of any action, suit, or information, that shall afterwards be commenced, instituted, or prosecuted, for such and the same offence in any Court whatsoever.

Conviction and punishment may be pleaded in bar of any suit for same offence.

XIX. And whereas great damage is often occasioned to proprietors or occupants of land under cultivation, by geese, turkeys and ducks, belonging to persons other than such proprietors or occupants: Be it therefore enacted, That it shall and may be lawful for any person, being proprietor or occupant of such lands, where any such damage is occasioned, to make complaint thereof before any one Justice of the Peace, and on proof thereof by one credible witness, other than the informer, the owner of or possessor of such geese, turkeys, and ducks, shall be adjudged to pay a penalty not exceeding one shilling for each goose, turkey, or duck, having been found occasioning such damage, together with costs of recovering the same, the said fine to be paid to the person or persons sustaining such damage as aforesaid, and in case such fine be not paid within such time, not exceeding fourteen days, as such Justice shall see fit, the person adjudged to pay such fine, shall be committed to the common jail of the County wherein such offence is committed, for a period not exceeding fourteen days, unless such sum be sooner paid.

Owner of turkeys, geese, &c., trespassing, liable to a penalty of 1s. each, and costs.

XXI. And be it further enacted, That when any person or persons shall be convicted, on the oath or oaths of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace, of having wilfully and maliciously cut, maimed, or killed any horses, neat cattle, sheep, or swine within this Island, it shall and may be lawful for such Justice, and he is hereby authorized to fine any such offender or offenders in a sum not exceeding five pounds over

Cutting or maiming horses, cattle, &c., how punishable.

and above the costs of recovering the same ; and, as a further punishment, such Justice is hereby required to commit every such offender or offenders to prison, for a period not exceeding thirty days, nor less than ten days, and further for any term not exceeding sixty days, or until such fine and costs shall be paid : provided always, That when the damages shall exceed five pounds, the party aggrieved may proceed to recover the same by action in Her Majesty's Supreme Court of Judicature, and therein full double damages shall be given ; and the offender may also be proceeded against by indictment, and, upon conviction, shall be liable to imprisonment in the common jail, for a period not exceeding six calendar months.

Defines the power of Justices of the Peace in prosecutions for trespasses on lands.

XXII. And be it enacted, That no judgment of nonsuit or judgment for the defendant, shall be given by any Justice or Justices of the Peace under this Act, only in consequence of the defendant suggesting or setting up a claim of title to land in himself, or others than the plaintiff as aforesaid ; but in all such cases the Justices shall, and they are hereby required, to enquire and investigate into the whole complaint and defence made before them, and give judgment on the whole evidence adduced, whether title to land may or may not be part of that evidence, any practice or usage heretofore to the contrary notwithstanding.

Gives the right of appeal to plaintiff or defendant in cases under this Act.

XXIII. And be it enacted, That it shall and may be lawful for either the plaintiff or defendant, in any case which shall be adjudicated under the provisions and by the authority of this Act, to appeal to the Justices of Her Majesty's Supreme Court of Judicature, within forty-eight hours from the time of such adjudication, in the manner permitted to any plaintiff or defendant in and by an Act passed in the seventh year of Her present Majesty's reign, intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned," and upon complying with the provisions of the said Act regarding appeal, and the Justices of the said Court may, and they are hereby authorized and empowered, to allow costs to the appellant or respondent in appeals, as to such Justices, in their discretion, shall appear proper, and to affirm, quash, or otherwise alter or vary the judgment given below, with or without costs, or with such portion of the full costs for or against either party, as to the said Justices shall seem reasonable, according to the nature of the case, as it may appear to them on the hearing of any such appeal, and thereupon to enforce their said judgment in the way and manner prescribed in and by the said last hereinbefore recited Act.

No judgment to be pleaded in bar to sup-

XXIV. And be it further enacted, That no judgment of any Justice or Justices of the Peace given under this Act, or judgment or decision of the Supreme Court, on any appeal

from any judgment of any Justice or Justices of the Peace under this Act, shall be pleaded in bar or justification, or otherwise, in any Court, by the party who may have obtained the same, in order to support or defeat any title to lands, tenements, or hereditaments, within this Island.

port or defeat  
title to lands,  
&c.

XXV. And be it further enacted, That in the construction of this Act, words importing the singular number only, shall include the plural number, and words importing the plural number only shall include also the singular number; words importing the masculine gender, shall include females, except the context excludes such construction.

Construction of  
terms used in  
this Act.

\*.\* The 20th section of the above Act, relating to the running at large of geese within Charlottetown, having been repealed by a bye-law of the City of Charlottetown, passed under the powers vested therein under the Act of Incorporation, has been omitted.

## CAP. XVII.

An Act relating to bail and other practical parts of the law, and to consolidate, amend and reduce into one Act, the laws heretofore passed on the same subjects in this Island.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the twenty-sixth year of the reign of His late Majesty King George the Third, intituled "An Act to amend, render more effectual and reduce into one Act all the Acts made by the General Assembly of this Island concerning bail, and to prevent frivolous and vexatious arrests;" and an Act passed in the thirtieth year of the reign of His late Majesty King George the Third, intituled "An Act for taking special bail in the country, upon actions depending in His Majesty's Supreme Court of this Province;" and an Act passed in the thirty-first year of the reign of His late Majesty King George the Third, intituled "An Act for admitting persons to swear to their own accounts, in certain cases, and for amending certain practical parts of the law, in order to the more easy and speedy attainment of public justice in this Island;" and an Act passed in the seventh year of the reign of her present Majesty, intituled "An Act concerning bail in civil cases, and to amend an Act made and passed in the twenty-sixth year of the reign of King George the Third, intituled 'An Act to amend, render more effectual, and reduce into one Act all the Acts made by the General Assembly of this Island concerning bail, and to prevent frivo-

Recited Acts  
repealed.

lous and vexatious arrests;" and also an Act passed in the ninth year of the reign of her present Majesty, intituled "An Act to authorize the appointment of Commissioners in King's and Prince Counties to accept and take the render of principals by their bail," be, and the same are hereby respectively repealed.

No person to be held to bail out of Supreme Court, unless cause of action amounts to £5.

II. And be it enacted, That no person or persons shall be held to special bail upon any process issuing out of the Supreme Court of Judicature of this Island, where the cause of action shall not amount to the sum of five pounds and upwards, and in all causes where the sum in demand shall exceed five pounds, the sheriff, coroner or their respective deputies, may arrest, imprison, or hold to bail, any debtor or debtors, upon the plaintiff or plaintiffs in such action, his, her or their attorney, agent, clerk, factor or servant, making and subscribing an affidavit in writing before any Justice of the said Court, or before any Commissioner empowered to take and administer affidavits, to be used in the said Court, that the defendant or defendants is or are justly indebted to the plaintiff or plaintiffs in any sum exceeding five pounds,\* which affidavit shall be filed in the office of the Clerk of the Court from whence the writ shall issue, whereupon the sum specified in such affidavit shall, by the Clerk of the said Court, be endorsed on the back of the said writ, in the form following, "By oath, for" [in words at full length], for which sum, so endorsed, the sheriff, coroner, or their respective deputies, shall take bail, and for no more — any law, usage or custom to the contrary notwithstanding.

Amount to be endorsed upon writ.

If plaintiff be absent, attorney, &c. to file affidavit of principal.

III. And be it enacted, That if such action shall be brought by any agent, factor or attorney, in the name of his principal (he being absent), then upon producing an affidavit of the debt of his principal or principals duly authenticated, according to the laws of that part of Great Britain, called England, or the usage or practice of Her Majesty's other Colonies in such cases, and obtaining an order of some Judge of the Supreme Court, directing the amount for which the party shall be held to bail, then upon such affidavit and order being filed as aforesaid, the clerk of the said Court whence any writ in consequence thereof may issue, shall endorse the sum so mentioned in such order, and bail shall be required accordingly.

Defendant not liable to arrest

IV. And be it enacted, That if any writ or process shall issue out of the said Supreme Court of Judicature, for the

\* By the 23 Vic., c. 16, s. 64, no action can be brought in the Supreme Court for any sum not amounting to £10, and which shall be recoverable under that Act.

sum of five pounds\* or upwards, and no affidavit and endorsement shall be made as aforesaid, the plaintiff or plaintiffs named in such writ or process, shall not proceed to arrest or cause to be arrested, the body of the defendant or defendants therein named; but shall serve him, her, or them personally, with a copy of such writ or process; and if such defendant or defendants do not thereupon appear at the return thereof, or within four days next after such return, then, and in such case it shall and may be lawful to and for the said plaintiff or plaintiffs, upon affidavit duly made and filed in the said Supreme Court of Judicature of the personal service of such writ or process as aforesaid, (which said affidavit shall be filed gratis), to enter a common appearance, or to file common bail for the defendant or defendants, and to proceed thereon, as if such defendant or defendants had actually entered his, her, or their appearance, or filed common bail, any law or usage to the contrary notwithstanding.

upon writ issued without affidavit and endorsement.

Regulates proceedings when defendant does not appear, &c.

V. And be it enacted, That when any person shall be arrested by virtue of any writ, bill or process issuing out of the said Court at the suit of any private person, the Sheriff, Coroner, or either of their deputies, (as the case may be), shall be obliged, and they are hereby respectively required, upon sufficient bail being offered, to let the defendant go at large, upon his first executing a bond with two sufficient sureties, to the said Sheriff or Coroner, with a condition thereunder written, for the due appearance of the defendant or defendants, on the first day of the Court to which such writ is or may be returnable; and the Sheriff or Coroner, at the request and costs of the plaintiff or plaintiffs in such action or suit, or his, her, or their lawful attorney, shall assign to the plaintiff or plaintiffs in such action, the bail bond or the security taken from such bail, by endorsing the same, and attesting it under his hand and seal, in the presence of two or more credible witnesses; which assignment shall not prevent the plaintiff from proceeding to final judgment and execution in the same Court, against the defendant in the said action, as in cases where default is made, and if the said bail bond or assignment, or other security taken for bail, be forfeited, the plaintiff in such action, after such assignment made, may bring an action and suit thereupon in his own name, and the Court wherein the action is brought, may, by rule or rules of the same Court, give such relief to the plaintiff and defendant in the original action, and to the bail upon the said bond or other security taken from such bail, as is agreeable to justice and reason, and such rule or rules of the said Court shall have the nature and effect of a defeazance to such bail bond

Upon bail given, sheriff, &c. in other cases, to let defendant go at large.

Sheriff, &c. to assign bond to plaintiff.

\* See note to section 2 of this Act.

or other security for bail; but whenever it shall so happen that the said defendant in the said action do appear, according to the tenor of the condition of the said bond, and give bail at bar to the satisfaction of the Court, to abide by the final issue and determination of the suit, or if the defendant, from some impediment, shall not appear, but nevertheless two sufficient persons, to be approved of by the Court, shall offer to become bail in manner aforesaid, in such case the bail for appearance only shall be discharged.

Supreme Court empowered to appoint Commissioners in each County to take affidavits.

Affidavits, where to be filed, &c.

Fee to Commissioner for taking affidavit.

Supreme Court to appoint Commissioners in each County to take recognizance of bail.

VI. And be it enacted, That the said Supreme Court shall and may, by one or more commission or commissions under the seal of the said Court, from time to time, as need shall require, empower such and so many persons, other than attorneys and solicitors, as to the said Court shall seem fit and necessary, in each of the Counties within this Island, to administer, take and receive all and every such affidavit and affidavits as any person or persons shall be willing and desirous to make, before any of the persons so empowered, in or concerning any cause, matter or thing depending, or hereafter to be depending, or in anywise concerning any of the proceedings to be in the said Supreme Court; which said affidavits, taken as aforesaid, shall be filed in the office of the Clerk of the said Court, and there be read and made use of in the said Court, to all intents and purposes, as other affidavits taken in the said Court now are; and that all and every affidavit and affidavits taken as aforesaid, shall be of the same force and effect as affidavits taken in the said Court now are, and all and every person and persons forswearing him, her, or themselves, in any such affidavit or affidavits, shall incur and be liable to the same penalties, as if such affidavit or affidavits had been made and taken in open Court, and that for the administering and taking the same, the person or persons so empowered shall be entitled to ask, demand, and take, the sum of one shilling, and no more.

VII. And be it enacted, That the said Court shall and may, by one or more commission or commissions under the seal of the said Court, from time to time, as need shall require, empower such and so many persons, other than attorneys and solicitors, as to the said Court shall seem fit and necessary, in each of the Counties within this Island, to take and receive all and every such recognizance or recognizances of bail or bails, as any person or persons shall be willing or desirous to acknowledge or make before any of the persons so empowered, in any action or suit, depending or hereafter to be depending in the said Court, in such manner and form, and by such recognizance or bail piece, as the Justices of the said Court have used to take the same; which said recognizance or recognizances of bail or bail piece, so taken as aforesaid, shall be



transmitted to one of the Judges of the said Court, who, upon affidavit made of the due taking of the recognizance of such bail or bail piece, by some credible person present at the taking thereof, shall receive and file the same, on payment of a fee of two shillings, and no more, which recognizance of bail or bail piece, so taken and transmitted, shall be of the like effect, as if the same were taken *de bene esse* before any of the Justices of the said Supreme Court; and for taking every such recognizance of bail or bail piece, the person or persons so empowered, shall receive the sum or fee of three shillings, and no more.

VIII. And be it enacted, That the said Court shall make such rules and orders for the justifying of such bails, and making the same absolute, as from time to time shall seem meet, so as the cognizor or cognizors of such bail or bails be not compelled to appear in person in the said Court, to justify himself, herself, or themselves; but the same may be, and is hereby directed to be determined by affidavit or affidavits, duly taken before the said Commissioners, who are hereby empowered and required to take the same, and also to examine the sureties upon oath, touching the value of the respective estates, unless the cognizor or cognizors of such bail do live within the town of Charlottetown, or within fifteen miles thereof.

Power and duty of Supreme Court to make rules, &c., for justifying bail.

IX. And be it enacted, That the said Court shall and may, by one or more commission or commissions under the seal of the said Court, from time to time as need shall require, empower such and so many persons, resident within at least one mile of the Court-houses of Georgetown and Saint Eleanor's, in the Counties of King's and Prince Counties respectively, as to the said Court shall seem fit and necessary, to receive and take the render, by bail, of their principals, in any matter or cause, civil or criminal, in which bail are now by law permitted to render their principals, whether such principals shall be on the limits or otherwise; and such person or persons so appointed, shall be allowed to have and take for the duty of receiving and taking such render, the like fees as are now allowed and taken by a Judge of the said Court for similar services.

Supreme Court to appoint commissioners in King's and Prince Counties to take the render of principal by bail.

X. And be it enacted, That any person or persons who shall, before any person or persons empowered by virtue of this Act, to take bail or bails, represent or personate any other person or persons, whereby the person or persons so represented or personated may be liable or subjected to the payment of any sum or sums of money, for debt or damages, to be recovered in the same suit or action wherein such person or persons are represented and personated, as if they had really acknow-

Penalty on person personating another on giving bail, &c.

ledged and entered into the same, being lawfully convicted thereof, shall be liable to be imprisoned for any time not exceeding two years, with or without hard labor, at the discretion of the Court, and in addition to such imprisonment, if the Court shall so think fit, to be fined in such sum as the Court shall award.

Defendant served with nonbailable process, to file common bail.

XI. And be it enacted, That in all cases, where any defendant or defendants shall have been duly served with a copy of any nonbailable writ or process, he, she, or they, shall file common bail in such suit, on or before the return day thereof; and on failure of his, her or their filing such common bail, it shall and may be lawful to and for the said plaintiff or plaintiffs in such suit, upon affidavit being duly made and filed in the said Supreme Court, of the personal service of such writ or process, to file common bail for such defendant or defendants therein, at any time from and after the said return day of such writ or process; and thereupon the plaintiff or plaintiffs in such suit may file his, her, or their declaration with the clerk of the Court wherein such writ or process shall or may be returnable, and give or enter a rule for such defendant or defendants to plead thereto within the time allowed by the practice of the said Court.

Power of Court or Judge in vacation on application for time to plead one or more special pleas.

XII. Provided nevertheless, and it is hereby enacted, That if the defendant or defendants in such suit shall, in term time, suggest to the Court, by motion, to be duly entered with the clerk, or in vacation, upon application for that purpose made to one of the Justices of the said Court, that it is necessary to the defence of him, her or them, in such action, to plead one or more special plea or pleas therein, [being such pleas as are allowable by law, and tending to bring in issue the real matter of right between the parties], that then, and in such case, it shall and may be lawful for the said Court or Justice to give such further time for such defendant or defendants to plead such special plea or pleas in, as to them may appear reasonable and just, under the particular circumstances of the case being duly made to appear to the said Court or Justice; and provided also, that in the vacation time of said Court, the plaintiff or plaintiffs in such suit shall be held and allowed to give or enter a rule for the defendant or defendants therein to plead according to the practice of the said Court.

## CAP. XVIII.

An Act relating to harbor and ballast masters.

**WHEREAS** it has become necessary to consolidate the Acts for preventing the unloading or throwing of stones, ballast, or other rubbish which will not float, into any

of the harbors, rivers or creeks in this Island, and in other respects to regulate and define the duties of harbor and ballast masters: Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the several Acts hereinafter mentioned, that is to say: an Act made and passed in the thirteenth year of the reign of his Majesty King George the Third, intituled "An Act to prevent the throwing of ballast into rivers and creeks on this Island;" also, an Act made and passed in the forty-eighth year of the reign of his said Majesty King George the Third, intituled "An Act for repealing an Act intituled 'An Act to prevent the throwing of ballast into rivers and creeks on this Island,' and for the empowering the Governor, Lieutenant Governor or Commander-in-chief for the time being, to appoint ballast masters, and to regulate their duty;" also, an Act made and passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled "An Act for the appointment of harbor and ballast masters, and for more effectually preventing the throwing of ballast into harbors and navigable rivers;" and also an Act made and passed in the seventh year of the reign of her present Majesty, intituled "An Act to alter and amend an Act passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled 'An Act for the appointment of harbor and ballast masters, and for more effectually preventing the throwing of ballast into harbors and navigable rivers,'" shall be, and the same are hereby respectively repealed.

Recited Acts  
repealed.

II. And be it enacted, That it shall and may be lawful to and for the Lieutenant Governor for the time being, by and with the advice of his Executive Council, from and after the passing of this Act, to nominate and appoint one fit and proper person to act as harbor and ballast master for each of the following harbors and rivers in this Island, viz: Charlottetown, Three Rivers, Richmond Bay, and such other harbors and rivers on this Island as they may think fit, and from time to time to fill up any vacancies occurring in such appointments, whensoever and so often as the same may occur: provided always, that all appointments made in respect thereof under any Act or Acts of this Island prior to the passing of this Act, shall be, and are hereby confirmed, and no such appointment so made shall be superseded by virtue or construction of this Act.

Lt. Governor  
in Council to  
appoint ballast  
masters for cer-  
tain enumer-  
ated harbors.

Proviso.

III. And whereas it is necessary that harbor and ballast masters should be appointed for the lesser harbors, navigable rivers and creeks in this Island: Be it therefore enacted, that it shall and may be lawful to and for the commissioners of highways for the time being, and they are hereby required, within their respective districts, to nominate and appoint har-

Commissioners  
of highways to  
appoint harbor  
masters for  
lesser harbors,  
&c., in their  
respective dis-  
tricts.

bor and ballast masters for each harbor, navigable river or creek within their district; such harbor and ballast masters so to be appointed by the Commissioners of highways, shall be appointed at the time and in the same manner as overseers of statute labor, shall, for the time being, be appointed, and subject to the same fines, penalties and forfeitures for neglect of duty as shall be imposed on overseers of statute labor in and by the Act or Acts relating thereto in force for the time being; and all such harbor and ballast masters, when appointed, shall be exempt from performing statute labor and militia duty during the period they hold such appointments, any thing in any such Act or Acts relating to the performance of statute labor to the contrary, notwithstanding: provided always, that such appointment of harbour and ballast master by the Commissioners of highways may be superseded, at any time, by the Lieutenant Governor, or other Administrator of the Government for the time being, appointing a person to act as harbor and ballast master, for any harbor, river, or creek within this Island.

Lieut. Governor may supersede ballast masters.

Penalty on person appointed ballast master not making known his disinclination to serve.

IV. And be it enacted, That in case any person or persons so to be appointed by the Lieutenant Governor, as aforesaid, by virtue of this Act, shall refuse to accept the said office, any such person shall signify his refusal to the Clerk of Her Majesty's Council within twenty-one days next after he shall have been notified of such appointment, or, in default thereof, shall pay the sum of five pounds; and if any person or persons so to be appointed harbor and ballast masters by the Commissioners of highways, as aforesaid, shall refuse to accept the said office, such person shall signify his refusal to the Commissioner of highways within his district within ten days next after he shall have been notified of his appointment, or in default thereof, shall forfeit and pay the sum of three pounds; and any person, having accepted the office of harbor and ballast master, and who shall fail to do his duty, according to the true intent and meaning of this Act, shall forfeit and pay the sum of twenty pounds for each and every offence.

Ballast masters to be sworn.

V. And be it enacted, That on the appointment of each and every harbor and ballast master according to the provisions of this Act, he shall, within ten days after receiving and accepting such appointment, and before he enters on the duties of his said office, take the following oath before one of Her Majesty's Justices of the Peace in this Island, that is to say:

Form of oath.

“ I *A. B.* do swear, that I will well and truly perform the duty of harbor and ballast master for the district for which I am appointed, to the best of my skill and ability, and without favor, affection, or partiality, according to the directions of the Act of the General Assembly of this Island in such case made and provided. So help me God.”

VI. And be it enacted, That every harbor and ballast master shall, without delay, on the arrival of any ship or vessel in the port, harbor or district to which he shall be appointed, go on board of any such ship or vessel and inform the master, mate, owner, or person having charge or command thereof, of the provisions of this Act, and shall diligently attend to the discharging or delivery of all stones, gravel, or other ballast from on board the same, and shall not knowingly permit stones, gravel, or other ballast, or any part thereof, to be cast, thrown, or let fall into the waters where navigable, but shall direct, and to the utmost of his power cause all such ballast to be carried and laid on shore at some convenient place or places for the improvement of wharfs, hards, or to where it will not obstruct navigation by being washed into the channel; and in case any master, owner, or other person having charge as aforesaid, shall offend against any of the provisions of this Act, the said harbor and ballast master shall, and he is hereby required and commanded, without delay, to prosecute for the forfeiture, fine or penalty imposed on any such offence according to this Act: provided always, that nothing herein contained shall prevent, or be construed to prevent, any master, mate, owner, or other person having charge or command of any ship or vessel, from disposing of any ballast, stones, gravel, or other rubbish, and landing the same above high water mark.

Ballast masters to board vessels, &c.

Ballast masters to prosecute for penalties imposed by this Act.

Proviso.

VII. And be it enacted, That no master, mate, owner or other person belonging to, or having charge or command of any ship, vessel, lighter or boat, shall unload, discharge, or throw overboard, or from any ship, vessel, lighter, or boat cast or let fall stones, gravel, ballast, or other rubbish, which will not float, into any of the harbors, ports, havens, rivers, channels, or creeks in this Island, nor within one league of the bars, headlands, or points which bound the entrances to any of the harbors, ports, rivers, or creeks of this Island, but shall carry and land, above high water mark, all stones, ballast, or other rubbish which will not float, or into such other place, wharf, hard, or ballast bank, as the harbor and ballast master of such harbour, port, or district shall appoint and direct.

Master of vessel, &c. not to unload ballast into any harbor, river, &c.

Ballast, where to be landed, &c.

VIII. And be it enacted, That if any master, owner, or other person having charge of or belonging to any ship, vessel, lighter or boat, shall unload or discharge stones, gravel, or other ballast, contrary to the true intent and meaning of this Act, or permit any person on board such ship, vessel, lighter or boat, to unload, discharge or throw overboard stones, gravel, or other ballast, contrary to the true intent and meaning of this Act, or permit any person on board such ship, vessel, lighter or boat to unload, discharge, or throw overboard,

Penalties on master of vessel, &c. infringing the provisions of this Act, &c.

stones, gravel, or other ballast, in any of the ports, harbors, rivers, channels, creeks, or within one league of their entrances, respectively, as aforesaid, or in any other place within such limit, than that pointed out and directed by the harbor and ballast master, except as is hereinbefore provided, each and every person so offending shall forfeit and pay for each and every offence, the following fines and penalties, that is to say:— when the offence shall be committed on board of or by persons belonging to any ship or vessel of two hundred tons register tonnage and upwards, a fine or penalty not exceeding fifty pounds; and for ships or vessels under two hundred tons and above one hundred tons register tonnage, a fine or penalty not exceeding twenty-five pounds; and for ships or vessels under one hundred tons, and above fifteen tons register tonnage, a fine or penalty not exceeding ten pounds; and for all other vessels, lighters, boats, or flats, a fine or penalty not exceeding five pounds, which forfeitures, fines and penalties shall be recovered and applied in way and manner hereinafter prescribed and directed.

Recovery and appropriation of penalties.

Remuneration to ballast master.

IX. And be it enacted, That the harbor and ballast masters shall be paid by the master, owner, or other person having charge or command of any ship or vessel which shall unlade or discharge ballast as aforesaid, at the rate of ten shillings per day during the time he shall be necessarily employed in attending such ship or vessel and discharging the duty enjoined on him by this Act.

Exempts certain vessels from attendance and fees of ballast master, under certain conditions.

X. And whereas it is necessary to encourage such persons as are employed in the fisheries of this Island, or in its trade with other British American Colonies: Be it enacted, that the masters of all vessels, lighters or boats owned in and belonging to this Island, employed in the fishing and colonial trade, who shall provide themselves with a copy of this Act, and also with the rules and regulations of the harbor and ballast master of the respective ports, harbors or districts into which they may arrive, and of the place or places for unlading ballast, or other rubbish or thing which will not float, and who shall comply with the provisions of this Act, and the rules and directions of the respective harbor and ballast masters in the discharging of any ballast or other rubbish which might obstruct the navigation, shall be free and exempt from the attendance of the harbor and ballast master, and from all fees and daily pay to such harbor and ballast master.

Penalty on master of vessel for throwing overboard rubbish, &c. contrary to this Act, &c.

XI. And be it enacted, That if any master, mate, owner, or other person, having charge or command of or belonging to any ship, vessel, lighter, or boat, whether employed in the foreign, coasting, fishing, or any other trade or business whatever, shall throw overboard, cast, or let fall rubbish, or any

thing that will not float, and which offence might not come under the denomination of unloading or discharging of ballast, but would tend to obstruct the navigation of the small harbors, channels, rivers, or creeks in this Island, contrary to the true intent and meaning of this Act, or contrary to the rules and regulations made by any harbor and ballast master for his respective district, except as is hereinbefore provided, each and every person so offending shall, for every such offence, forfeit and pay a fine not exceeding five pounds, to the ballast and harbor master of the respective district wherein the offence is committed, or to such other person or persons as may sue or prosecute for the same.

Penalty to whom payable.

XII. And be it enacted, That in addition to the duties enjoined upon all harbor and ballast masters under and by virtue of this Act, it shall be the duty of the said harbor and ballast masters to notify the owner or owners of any wrecks or obstructions, or the person or persons by whose default such wrecks or obstructions may be placed or suffered to remain in situations that impede or render dangerous the navigation of any of the said harbors, to remove, or cause to be removed, the same within thirty days, or within such less time as the harbor and ballast master may direct, from the time of the service of such notice; and if the said owner or owners of the said wrecks or obstructions, or the said person or persons, shall refuse or neglect to remove the same within the period aforesaid, then it shall be the duty of the said harbor and ballast master to cause the same to be removed, and to prosecute and sue the said owner or owners, or the said person or persons, before any two of Her Majesty's Justices of the Peace, or before any Court of Commissioners for the recovery of small debts for the County wherein the offence is committed, for the costs and expenses incurred in such removal, together with a penalty not exceeding ten pounds for each offence; and such Justices or Court of Commissioners are hereby authorized to give judgment for the amount of such costs and expenses, and for such penalty, and also for the costs of prosecution, and to proceed for the recovery thereof in way and manner, as small debts shall be authorized to be recovered in and by any Act or Acts for the time being in force in this Island.

Duty of ballast masters as to wrecks, obstructions, &c., impeding navigation, &c.

XIII. And be it enacted, That in the event of the owner or owners of any such wreck or other obstruction not being known, it shall and may be lawful for the said harbor and ballast master, after due public notice shall have been given, to cause the said wreck or other obstruction to be sold at public auction, one condition of which sale shall be, that the said wreck or other obstruction shall be removed at the expense of the purchaser, within such time as the said harbor and ballast master may limit, and if the purchaser shall neglect or refuse

Duty of ballast master as to removing wreck, obstruction, &c. when owner is not known.

to remove the same within the time so limited, the said harbor and ballast masters are hereby required to remove the same, and are hereby authorized to recover from the purchaser thereof the said expense, by action before any one of Her Majesty's Justices of the Peace, or Court of Commissioners of small debts, in the same way as small debts shall or may be recoverable under any Act or Acts relating to the recovery of small debts for the time being in force in this Island; and the proceeds of such sales, after deducting the expenses attendant upon the removal of such wreck or obstruction, shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

Not to bar any right of action, &c.

XIV. Provided always, and be it enacted, That nothing in this Act contained shall prevent any owner or owners of vessels sustaining injury from any wreck or obstruction as aforesaid, from having their remedy by action at law for any damage that such vessels or their cargoes may sustain thereby.

Mode of recovery of penalties imposed by this Act.

XV. And be it enacted, That all fines and forfeitures imposed by this Act shall be recovered with costs, if not exceeding ten pounds, exclusive of costs, before two or more Justices of the Peace, or a Court of Commissioners for the recovery of small debts, in like manner, in all respects, as small debts may, for the time being, be recoverable; and each and every of such fines and forfeitures as shall exceed ten pounds, exclusive of costs, the same shall be sued for and recovered, with costs, by due course of law, in Her Majesty's Supreme Court of Judicature of this Island; and in every case all such fines, as aforesaid shall be recovered by any person suing for the same: provided, that if any suit or action be brought against any person or persons for any penalty by this Act imposed, such suit or action shall be commenced within six calendar months next after the offence shall have been committed, and not afterwards: provided also, that the Courts or Justices, before whom judgment shall be given in any such case, shall have power to remit any portion of such fines, in all cases in their discretion, where any circumstances may be made to appear in mitigation of any such offences, in such manner, however, that any such penalty shall not be reduced below one half the original amount.

Courts or Justices may remit one half of penalties.

Appropriation of all penalties not herein before appropriated.

XVI. And be it enacted, That one half part of all such fines and forfeitures as shall be incurred by any breach of this Act, and which are not hereinbefore appropriated, shall be paid to such person as shall sue or prosecute for the same, and the remainder of such fines or forfeitures shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government: provided, that in all cases where such penalties



shall be recovered solely upon the oath of the party suing for the same, such penalties shall be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

CAP. XIX.

An Act to regulate the survey of timber and lumber.

Continued by 23 Vic. c. 8, for 10 years, &c.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, all hewed timber, commonly called ton timber, which shall be exported from this Island, shall be straight-lined and well squared, and square-butted at both ends, and shall be free from all rots, splits, or worm holes which may be detrimental to the same ; and shall also be squared, and free from all marks of scoring, without wane on the edges; except birch, and other hardwood ton timber, which shall be squared with not more than one perpendicular inch of wane upon any part of such timber.

Ton timber for exportation to be straight lined, well squared, &c.

II. And be it enacted, That no spruce, pine, or hemlock ton timber shall be less than sixteen feet in length, nor any birch or other hardwood ton timber less than twelve feet in length ; nor shall any spruce, pine, or hemlock ton timber be considered merchantable, unless the same shall square at least twelve inches, nor any birch or other hardwood ton timber, unless the same shall square at least thirteen inches ; and in all cases where any ton timber shall not exceed sixteen feet in length, it shall be of equal dimensions at both ends ; and all ton timber shall be measured by the girt, one quarter part thereof to be taken as the side of the square.

What shall be deemed merchantable timber.

III. And be it enacted, That it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, from time to time to appoint as many fit and proper persons to be surveyors of timber and lumber, as he may deem expedient to carry the purposes of this Act into full effect ; and also, from time to time, to dismiss any surveyor so appointed, against whom any complaint for fraudulent or improper conduct in his office of surveyor as aforesaid shall be established, to the satisfaction of the Lieutenant Governor, or other Administrator of the Government for the time being, in Council.

Lt. Governor in Council may appoint surveyors of lumber.

IV. And be it enacted, That every surveyor of lumber shall, before attempting to act as such, take and subscribe the following oath before any one of Her Majesty's Justices of the Peace in this Island, who is hereby authorized and required to administer the same without fee, that is to say :—

Surveyor before acting, to be sworn.

2

3

Form of oath  
to be taken by  
surveyor.

I, *A. B.*, do solemnly swear, that I will faithfully, impartially, truly, and to the best of my skill, knowledge, and ability, execute, do, and perform the office and duty of a surveyor of lumber, according to the true intent and meaning of an Act of the General Assembly of this Island, intituled "An Act to regulate the survey of timber and lumber," and that I will give a true and faithful account of the number, dimensions, and measurement of all such timber or lumber as may be submitted to my inspection and judgment, according to the best of my knowledge.

So help me God.

Duty of surveyor.

V. And be it enacted, That it shall be the duty of all surveyors of lumber appointed, or to be hereafter appointed, personally and diligently to examine, inspect, and survey the four sides of all ton timber and lumber of every kind and description, when called upon so to do, and to see that the same is, and shall be, in all respects, conformable to the several provisions and directions of this Act; and every surveyor shall reject any timber or lumber which shall, in any respect, be contrary to or objectionable under this Act, (of which every surveyor is hereby required to provide himself with, and retain a copy, which he shall be entitled to receive from the Colonial Secretary of this Island, on producing a certificate of his having taken the oath by this Act prescribed, signed by the Justice of the Peace who shall have administered the same,) and shall refuse to pass the same; and after rejecting and refusing such objectionable timber or lumber, the said surveyor shall furnish the buyer and seller, each with a true and faithful account, in writing, in detail, of the number, dimensions, and measurement of the several articles which may remain over and above those he has rejected, which, according to his survey, are found merchantable: provided nevertheless, that no surveyor shall hereby be required to render a detailed account of inch boards by him surveyed, unless the same shall be specially demanded and required by the seller or purchaser.

Further duty  
of surveyor.

VI. And be it enacted, That all merchantable deals shall be at least twelve feet in length, and not less than nine inches in breadth, nor less than two inches in thickness, to be cut in lengths of a certain number of feet, with an allowance of not more than one inch over on the length, nor more than three-eighths of an inch on the breadth, and not more than one quarter of an inch on the thickness, to be square butted with a saw at both ends; contents to be marked in superficial feet; battens to be not less than twelve feet in length, and not more than twelve feet one inch trimmed at both ends, as required for deals, to be seven inches in breadth, and two and one half inches in thickness, and to be of the like description in quality as deals.

What shall be  
deemed merchantable  
deals.

VII. And be it enacted, That deals, commonly called "dimension" deals, shall be such merchantable deals as may be cut to the lengths of twelve, fourteen, sixteen, eighteen, and twenty-one feet respectively, of the breadth of nine inches and eleven inches, and of the thickness of two inches and three inches.

Dimension  
deals.

VIII. And be it enacted, That all deals, battens or plank, save and except such as may be what are commonly called hardwood, shall be sawed smooth and fair, of equal width and thickness throughout, and be square butted at both ends with a saw, and the stubshot be sawn off, and be free from rots, sap stains, large knots, rents, shakes, worm holes and wane; and every deal which shall measure in thickness more than two and one half inches, but less in any part than three inches, shall be deemed and taken to be two and one half inches in thickness; and every deal which shall measure in thickness more than two inches, but less than two and one half inches, shall in like manner be deemed and taken to be two inches in thickness, and the contests thereof estimated accordingly.

Deals, battens,  
or plank, how  
to be manufac-  
tured and  
measured.

IX. And be it enacted, That all merchantable boards shall be square edged, and be of equal thickness throughout, and shall be free from rots, sap stains, knots, rents, shakes and worm holes.

What shall be  
deemed mer-  
chantable  
boards.

X. And be it enacted, That all scantling shall be properly squared, parallel and square butted, and be free from rot, shakes, and worm holes; and that all lathwood shall be square butted, straight, rift free from bark, heart, and large knots.

Scantling, how  
to be manufac-  
tured.

XI. And be it enacted, That all shingles which shall hereafter be exposed for sale in this Island as merchantable shingles shall be of pine or cedar wood, and shall be eighteen inches in length, and not less than four inches in width, and three-eighths of an inch thick at the butt, free from sap and worm holes, to be put up in bundles not less than twenty-five tiers or courses twenty inches wide, four of which bundles shall be reckoned a thousand; and all unmerchantable shingles found in such bundles shall be burnt by and under the direction of the surveyor, and the residue thereof be sold at public auction; and the money arising from such sale shall be paid to the owner, after deducting therefrom the charge of culling, surveying, telling and selling.

What shall be  
deemed mer-  
chantable  
shingles.

XII. And be it enacted, That all wood designed for fuel, commonly called cordwood, which shall hereafter be exposed for sale in this Island, shall be at least four feet long, each stick reckoning half the scarf, and shall be of good sound hardwood.

Cordwood for  
sale, length,  
&c.

Penalty on person selling, &c. cordwood deficient in length.

XIII. And be it enacted, That from and after the passing of this Act any person or persons who shall sell or dispose of, as being merchantable, any cordwood for fuel, which, on being surveyed by a sworn surveyor, shall be found to be deficient in the length prescribed by this Act for merchantable cordwood, shall, for each and every such offence, forfeit and pay a fine not exceeding forty shillings nor less than five shillings, and shall also forfeit the wood which he shall so sell as aforesaid.

Lathwood and cordwood, how to be measured.

XIV. And be it enacted, That all lathwood and cordwood for fuel shall be measured by the cord of four feet high and eight feet long, and piled as close as it can be laid.

What shall be deemed merchantable hogshead staves.

XV. And be it enacted, That all merchantable hogshead staves shall be forty-two inches long, three-fourths of an inch thick on the thinnest edge and not exceeding one inch on the back, and shall also be from three and one half inches to five and one half inches wide; and all barrel staves shall be thirty-two inches long, one half inch thick on the thinnest edge and not exceeding three fourths of an inch on the back, the whole to be of good rift, free from twists, fairly split and free from knot-holes, rotten knots, worm-holes and shakes, and the account shall be taken by the tale of twelve hundred to the thousand.

Penalty on surveyor passing as merchantable, any timber, deals, &c., contrary to provisions of this Act.

XVI. And be it enacted, That from and after the passing of this Act, any surveyor who shall pass, or certify as merchantable, any timber, deals, battens, boards, planks, scantling, staves, shingles, lathwood or cordwood for fuel, contrary to the provisions of this Act, shall forfeit and pay for every forty cubic feet of timber which he shall so pass or certify as merchantable, the sum of fifteen shillings; for every one thousand superficial feet of one inch measure of deals, battens, boards or plank, the sum of forty shillings; for every one hundred lineal feet of scantling, the sum of five shillings; for every one thousand hogshead staves forty shillings; for every thousand barrel staves, the sum of twenty shillings, and for every thousand shingles, the sum of five shillings, and for every cord of lathwood the sum of fifteen shillings, and for every cord of cordwood, for fuel, the sum of five shillings, and a like proportionable sum or sums for any quantity or quantites of timber, deals, battens, boards, plank, scantling, staves, shingles, lathwood or cordwood, being less than forty cubic feet, one thousand superficial feet, one hundred lineal feet, one thousand or one cord respectively.

Penalty on persons shipping ton timber, &c. not surveyed and passed as merchantable.

XVII. And be it enacted, That if any person or persons shall, after the passing of this Act, ship or export, out of this Island, as merchantable, any ton timber, or any article or description of lumber herein mentioned and directed to be sur-

veyed which shall not have been regularly surveyed by a sworn surveyor, and by him certified as merchantable and fit for exportation, he, she, or they shall forfeit, for each and every offence, a sum not exceeding fifty pounds, nor less than five pounds.

XVIII. And be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to the exportation of timber or lumber of other qualities than merchantable; provided always, that such lumber be actually shipped and marked as of its proper denomination.

Not to prohibit exportation in certain cases.

XIX. And be it enacted, That when any contract or bargain shall be made for any quantity of timber or lumber of any description hereinbefore mentioned for exportation, the same shall be understood to be for timber or lumber according to the directions and provisions of this Act; and no person shall be obliged to take or receive any other kind of timber or lumber, unless such person shall have previously made a special agreement for the same, specifying the nature, dimensions and description of timber or lumber agreed to be received.

Construction of contracts for any timber, lumber, &c.

XX. And be it enacted, That every surveyor of lumber who shall be required to survey any timber or lumber, shall, at the time of making the survey, mark with a race knife or scoring iron, on each and every stick of ton timber by him surveyed, the number of cubic feet such stick shall contain; and on all boards, deals, battens and plank, every surveyor shall, on each board, deal, batten and plank, mark with red chalk, in large and legible figures, the superficial contents thereof respectively.

Surveyor to mark lumber or timber surveyed by him.

XXI. And be it enacted, That the persons so appointed surveyors under this Act shall be entitled to ask, demand, and receive for their skill and labor, in surveying and marking, at and after the rates following:—

Allowance to surveyors under this Act.

For every ton of round, flatted or square timber, or sawlogs, two pence.

For every one thousand superficial feet of deals, battens or plank, being of the thickness of two inches and upwards, one hundred and forty-four solid inches being calculated to one foot in such measurement, one shilling.

For every one thousand feet of boards or planks, being less than two inches in thickness, one shilling and six pence.

For lathwood, per cord, six pence.

For cordwood for fuel, per cord, three pence.

For shingles, per thousand, five pence.

For staves, per thousand, two shillings.

For scantling, per hundred lineal feet, four pence.

And, in addition to the above fees, every surveyor shall be entitled to receive three pence per mile for ever mile he shall necessarily travel in going to and returning from the place of performing such duty, one half of all the said fees to be paid by the seller, and the other half by the purchaser.

Surveyors to mark all timber, &c., not corresponding with provisions of this Act, as refuse.

XXII. And be it enacted, That every surveyor shall mark all timber and articles of lumber which do not correspond with the provisions and requirements of this Act, as refuse; and for every survey and marking shall be entitled to the like fees as are by this Act allowed for surveying merchantable timber and lumber, and on all such timber and articles of lumber, shall legibly mark or scribe the letter R, in addition to the contents and other marks by this Act required to be placed upon all merchantable timber and lumber, on the same being surveyed.

What shall be deemed merchantable round timber or logs.

XXIII. And be it enacted, That in all cases, round timber or logs, and logs or timber flatted and hewed on two sides, in order to their being considered or surveyed as merchantable, shall be sound, free from large knots, rots, shakes and worm holes, detrimental to the same, and shall be measured at and after the rates following: all round timber or logs to be measured exclusive of bark, and the contents estimated at the rate of fifty cubic feet to one ton, and all timber or logs flatted or hewed on two sides, to be measured in like manner, and the contents thereof estimated at the rate of forty-five cubic feet to one ton.

Mode of computing measurement of round or flatted or hewed logs.

XXIV. And be it enacted, That in measuring round logs, or logs flatted or hewed on two sides, every surveyor, in order to ascertain the contents of such logs or timber, shall girth or measure the same at the middle of the log, and in case any logs or timber shall be covered with bark, a just and fair deduction shall be made therefor.

Mode of recovery of penalties incurred under this Act.

XXV. And be it enacted, That all fines and forfeitures incurred and imposed by this Act shall be recovered, with costs, if eight pounds, or under, before one or more of Her Majesty's Justices of the Peace, or Commissioner of small debts; and if above eight pounds, by bill, plaint or information in any Court of Record in this Island; the one half for the use of Her Majesty's Government, and the other half to be paid to the person or persons who shall sue for the same; provided, that all offences committed against the provisions of this Act shall be prosecuted within six months after the time the said offence or offences shall have been committed.

Nothing in this Act contained to affect

XXVI. And be it enacted, That nothing in this Act contained shall, in any manner affect any agreement or contract for the delivery or manufacture of any timber or other lumber

which shall have been made and entered into prior to the passing of this Act, nor to any timber or any kind of lumber hereinbefore enumerated, and which shall have been duly surveyed prior to the passing of this Act.

agreements made before passing.

XXVII. And be it enacted, That this Act shall be and continue in force for the space of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly of this Island, and no longer.

Continuance of Act.

### CAP. XX.

An Act to prevent peddlers travelling and selling within this Island without license.

Continued by 23 Vic. c. 8, for 10 years, &c.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, every hawker, peddler, petty chapman, or any other trading person or persons going from town to town, or to other persons' houses, and travelling either on foot or with a beast of burden, or otherwise, within this Island, carrying to sell, or exposing to sale, barter or exchange, any goods, wares or merchandise, shall, before he, she or they sell, expose for sale, barter or exchange, any such goods, wares or merchandise, obtain from the Lieutenant Governor, or other Administrator of the Government of this Island for the time being, under his hand and seal, a license for that purpose; for which license there shall be paid as follows, that is to say: for every person so travelling on foot, the sum of two pounds ten shillings per annum; for every person so travelling with a beast of burden, bearing or drawing a burden, a further sum of five pounds; the said license to be and remain in force for the space of one year following the date upon which the said license shall have been granted, and no longer; and that such license shall particularly specify, whether such person so receiving the same is to travel on foot or with a beast of burden, or with a waggon, cart, sled or other carriage, according to the form contained in the schedule to this Act.

Hawkers and peddlers required to take out licenses.

Rates payable for licenses.

Requisites of such licenses.

II. And be it enacted, That if any hawker, peddler, or petty chapman, or itinerant peddler, as aforesaid, shall, after the passing of this Act, be found trading as aforesaid, without having first obtained a license, as hereinbefore directed, or contrary to such license, such person shall, for each and every offence, forfeit and pay, if on foot, the sum of four pounds; and if with one or more beasts of burden, the sum of seven pounds ten shillings.

Penalty on hawkers and peddlers travelling without license.

Penalty on  
hawker and  
peddler refus-  
ing to produce  
license.

III. And be it enacted, That every person so trading as aforesaid, who, upon demand made by any Justice of the Peace Sheriff or constable, or by any person with whom he shall be so trading, as aforesaid, shall refuse to produce and shew his license for so trading, shall forfeit and pay, for every such offence, the sum of ten shillings.

Hawker, ped-  
dler, &c., con-  
victed of sell-  
ing smuggled  
goods, to for-  
feit license, &c.

IV. And be it enacted, That every hawker, peddler, petty chapman, or other person so trading as aforesaid, who shall, from and after the passing of this Act, be convicted of knowingly dealing, vending or selling any kind of smuggled, contraband or prohibited goods, wares or merchandise, shall, from and after such conviction, forfeit his license, and for ever thereafter be incapable of obtaining or holding any new license, or dealing, trafficking or trading under the same, over and above all such forfeitures and incapacities, fines and penalties to which he, she or they is, are, or shall be by law subject and liable for such illicit and illegal trafficking and dealing.

Persons forging  
licenses or trav-  
elling with  
forged license,  
how punish-  
able.

V. And be it enacted, That if any person or persons whatsoever shall forge or counterfeit any license or licenses by this Act directed to be granted, or travel with, or produce, or shew any forged or counterfeited license or licenses, for any of the purposes aforesaid, every such person shall, upon conviction thereof, be subject to the like pains and penalties as persons guilty of forging or uttering any forged instrument within this Island are now by law liable.

Penalty on  
hawker and  
peddler selling,  
wine, rum, &c.

VI. And be it enacted, That no hawker, peddler, petty chapman, or trading person, as aforesaid, shall, under such license so obtained as aforesaid, sell, expose or offer for sale, barter or exchange any wine, rum, brandy, gin or other distilled spirituous liquors, nor any ale, beer or porter, or cider, on pain of forfeiting, for every offence, the sum of five pounds.

Licenses to be  
numbered in  
margin and  
number to be  
painted on  
pack, waggon,  
&c.

VII. And be it enacted, That all licenses so obtained as aforesaid, shall be numbered in the margin thereof; which number, together with the name of the party obtaining such license, shall be painted or marked in legible figures and characters, of at least two inches in length, on some conspicuous part of the pack, waggon, cart, sled, or other carriage of the person to whom the said license shall have been granted or obtained, on pain of forfeiting, for every neglect, the sum of ten shillings: provided always, and be it enacted, that nothing in this Act contained shall extend, or be construed to extend, to prohibit any person or persons from selling any fruit, fish, victuals or country produce, or to hinder any person or persons, who are the real makers or workers of any goods or wares, from carrying about for sale or selling the goods or wares of his, her, or their own manufacture.

Proviso.



VIII. And be it enacted, That all fines, penalties and forfeitures imposed by this Act, shall be recovered, with costs, before any one of Her Majesty's Justices of the Peace in this Island, upon the oath of one or more credible witness or witnesses, of the violation of this Act, or upon view of any one of Her Majesty's said Justices, or upon the confession of the party offending, and levied by warrant of distress and sale of the offender's goods and chattels, under the hand and seal of such Justice, or of his clerk; and for want thereof, the said Justice is hereby empowered to commit such offender or offenders to jail for such period as he shall see fit: provided always, that when the amount of such fines, forfeitures and penalties shall be less than five pounds, then the offender or offenders shall not be liable to imprisonment for a longer term than two months; and when the said fines, penalties and forfeitures exceed in the whole five pounds, then such offender or offenders shall be imprisoned, at the discretion of such Justice, for a period of not less than two, nor exceeding six months; and all fines or penalties, when recovered, shall be paid and applied as follows, that is to say: one moiety to the person who shall inform and sue for the same, and the other moiety to be paid into the treasury of this Island, for the use of Her Majesty's Government.

Mode of recovery of penalties imposed by this Act.

Appropriation of penalties.

IX. And be it enacted, That all Justices of the Peace, constables, and peace officers, on view or information of any offence committed against the provisions of this Act, are hereby authorized to detain forthwith, the persons guilty of such offence, together with their goods, and if such detention be made by order of any Justice, he shall immediately adjudicate on the case; and if by a constable or other peace officer, he shall forthwith carry the person offending, with his goods, before a Justice of the Peace, that the case may be adjudicated thereon forthwith.

Justices of the Peace, &c., may on view detain offenders and their goods, &c.

X. And be it enacted, That there shall be kept in the office of the Colonial Secretary of this Island, a record of all persons licensed under this Act; which record the said Secretary shall cause to be monthly published in the *Royal Gazette* newspaper, and that there shall also be kept a distinct account of moneys received for license under this Act.

Colonial Secretary to keep a record of licenses.

XI. And be it enacted, That the deputy Prothonotaries in King's and Prince Counties be empowered to issue licenses under this Act, and shall furnish monthly to the Colonial Secretary a list of the names of the persons who have received licenses from them, and shall also account for and pay over, at the end of each month, to the Treasurer of this Island, all moneys received by them respectively for such licenses, and such deputy Prothonotary shall be entitled further to receive

Deputy Prothonotaries in King's & Prince Counties authorized to issue licenses.

the fee of two shillings and six pence to himself for issuing such licenses.

Continuance of Act.

XII. And be it enacted, That this Act shall be and continue in force for and during ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly of this Island.

SCHEDULE to which this Act refers.

No.

Colonial Secretary's Office,  
Prince Edward Island.

Form of hawker and peddler's license.

THIS is to certify, that *A. B.*, a native of \_\_\_\_\_ of the age of \_\_\_\_\_ or thereabouts, having this day paid the sum of \_\_\_\_\_ license and permission are therefore hereby given and granted to the said *A. B.* to use the occupation of a hawker, peddler, or itinerant trader throughout this Island, (here state particularly whether the person is privileged to travel on foot or with a horse, gelding, mare, or other beast of burden, cart, waggon, or sled, as the case may be,) pursuant to the Act of the General Assembly of this Island, made and passed in the twelfth year of the reign of Her Majesty Queen Victoria, intituled "An Act to prevent peddlers travelling and selling within this Island without license." This license to continue in force for one year from the date hereof, and no longer.

Given under my hand and seal this \_\_\_\_\_ day  
of \_\_\_\_\_ 18 \_\_\_\_\_

By command,

Col. Sec.

CAP. XXI.

Amended by  
17 Vic., c. 11.

An Act to incorporate the Royal Agricultural Society of Prince Edward Island.

\*\*\* This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

CAP. XXII.

An Act relating to lighthouses, and buoys and beacons.

Collector of  
Excise nearest  
to any light,  
Lighthouse,

BE it enacted, by the Lieutenant Governor, Council and Assembly, That if any person or persons shall hereafter erect, build, set up, or place any light, lighthouse, buoy or beacon, or

any distinguishing mark of any kind or description whatsoever, or shall continue to exhibit, place or show any light in any lighthouse or other such building heretofore erected on the shores of any of the bays, harbors, creeks, inlets, arms of the sea, or rivers of this Island, or within any of the said bays, harbors, creeks, inlets, arms of the sea, or rivers, or upon any of the shoals, rocks, reefs, sand hills, banks, or sands, within the said bays, harbors, creeks, inlets, arms of the sea, or rivers, or adjacent or near to any part of the shores of the said bays, harbors, creeks, inlets, arms of the sea, or rivers, or upon any part of the shores or coasts of this Island, or upon any of the rocks, shoals, reefs, sand hills, banks or sands adjacent or near to any part of the shores or coasts of the said Island, for the alleged guidance of mariners, without the license or permission of Her Majesty, her heirs and successors, or without the license or permission of the Administrator of the Government of the Island, for the time being, in writing first had and obtained, that then, and in such case, it shall be the duty of the Collector of Excise nearest to the place where such light, lighthouse, buoy, or beacon, or other distinguishing mark, of any kind or description, is erected, built, set up, or placed, and he is hereby required to cause such light, lighthouse, buoy, beacon, or other distinguishing mark, to be pulled down, destroyed, defaced and removed, or otherwise rendered unfit for the purpose of a light, lighthouse, buoy, beacon, or other distinguishing mark, as aforesaid; and any such person or persons who shall hereafter erect, build, set up, or place any such light, lighthouse, buoy, or beacon, or any distinguishing mark as aforesaid, without such license or permission aforesaid, shall forfeit and pay, for every such offence, a sum of fifty pounds, to be sued and prosecuted for, by such Collector of Excise as aforesaid, and to be recovered before any two Justices of the Peace for the County wherein such offender or offenders may be resident, on the oath of one or more credible witness or witnesses, to be levied, by warrant of distress, on the goods and chattels of the offender or offenders; the one half of such penalty, after deducting therefrom the costs of the prosecution, when recovered, to be paid to the said Collector of Excise, and the other half part thereof to be paid into the Treasury of this Island, to and for the use of Her Majesty, her heirs and successors; and in the event of the said offender or offenders not having goods and chattels whereon to levy the said penalty, then the said two Justices are hereby authorized to commit the offender or offenders to the common jail of the County, there to remain for a period not exceeding six months, unless such penalty be sooner paid.

beacon, &c. erected without license from the Crown, &c. to pull down and destroy the same.

Penalty on person erecting such light, beacon, &c. without such license

Appropriation of penalty.

II. And be it further enacted, That if any person or persons shall pull down, destroy, deface, damage, injure, remove, or take away, any light, lighthouse, buoy, beacon, or other

Penalty on person pulling down, defacing

&c., any light, lighthouse, &c. erected by authority of the Crown.

distinguishing mark of any kind of description whatsoever, set up, erected, built, or placed within any of the bays, harbors, creeks, inlets, arms of the sea, or rivers of this Island, or upon any of the shores of the said bays, harbors, creeks, inlets, arms of the sea, or rivers, or upon any of the shoals, reefs, rocks, sand hills, banks, or sands within the same, or upon any of the shores or coasts of the said Island, or upon any of the shoals, reefs, rocks, sand hills, banks, or sands adjacent or near to any of the shores or coasts of this Island, by authority of Her Majesty, or her heirs or successors, or by authority of the Administrator of the Government of this Island for the time being, such offender or offenders shall, on prosecution of such Collector of Excise as aforesaid, and on conviction by the oath of one or more credible witness or witnesses, before any two of her Majesty's Justices of the Peace for the County wherein such offender or offenders shall be resident, forfeit and pay a sum not exceeding twenty pounds, to be recovered and applied as aforesaid; and on failure of payment, or want of goods or chattels whereon to levy, such offender or offenders shall be committed, by such Justices, to the common jail of the County for a period not exceeding three months, unless such fine be sooner paid.

Mode of recovery of penalty

Collector of Excise to be competent witness.

III. And be it further enacted, That for the purpose of recovering the penalties aforesaid, such Collector of Excise as aforesaid, shall be deemed and taken as a competent witness, any law, usage, or custom to the contrary notwithstanding.

Regulates the mode in which actions are to be brought against Collector of Excise for any thing done by him by virtue of this Act.

IV. And be it further enacted, That no writ shall be sued out against, nor any copy of any process served upon any Collector of Excise, as aforesaid, for any thing done by him, or against any other person or persons whomsoever acting under the direction or authority of any Collector of Excise, under the provisions of this Act, until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained, the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of action shall be produced, except of such as shall be contained in such notice; and no verdict shall be given for the plaintiff, unless he shall prove, on the trial, that such notice was given, and in default of such proof, the defendant shall receive, in such action, a verdict and costs.

Special matter may be given in evidence under general issue.

V. And be it further enacted, That every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the County where the acts were committed; and the defendant may plead the gene-

ral issue, and give the special matter in evidence, and if the plaintiff shall become nonsuited, or shall discontinue the action, or if, upon a verdict or demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such a remedy for the same as any defendant can have in other cases, where costs are given by law.

VI. And be it further enacted, That nothing in this Act contained shall have any force or effect, until Her Majesty's pleasure therein shall be known.

Suspending  
clause.

\*.\* This Act received the royal assent, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 30th day of October, 1849.

### CAP. XXIII.

An Act to enlarge the provisions of the Act to provide for reprinting the laws of this Island.

11 Vic. c. 32.

WHEREAS it would tend much to the saving of expense if the Commissioners appointed under the Act to provide for reprinting the laws of this Island, were authorized to leave out of the new edition of the laws all Acts whatsoever which have expired, or have been executed or repealed, provision being made for the safe keeping of all Acts now in print, under which the title to lands may in any manner have been derived: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That it shall be the duty of the Commissioners now or hereafter to be appointed under the Act of the General Assembly of this Island, made and passed in the eleventh year of the reign of her present Majesty, intituled "An Act to provide for reprinting the laws of this Island," to leave out of the several volumes of the laws to be printed under the provisions of the said Act, all Acts whatsoever which have been repealed, or have expired, as well as all Acts the provisions of which have been executed, whether the title to lands, tenements or hereditaments may have been derived under the provisions of any such Acts or not; any thing in the fourth section of the above recited Act to the contrary notwithstanding: provided always, and it shall be the duty of the said Commissioners, besides inserting the titles of all such Acts in their proper order, in all cases where it shall appear to the said Commissioners that the provisions of any such Acts may affect titles to lands, tenements, or hereditaments, to signify the same by way of marginal note thereto.

Enlarges and regulates the power of Commissioners appointed under Act of 11 Vic. c. 32, for reprinting laws.

II. And be it enacted, That all and every Act and Acts of the General Assembly of the said Island heretofore published by the authority of the Government of this Island, that is to say, all the Acts contained in the volume of the laws printed

Certain Acts  
not published  
in full in new

edition of laws to be, nevertheless, legal evidence.

at Charlottetown by the government printer, in the year one thousand eight hundred and thirty-four; and all Acts passed since the year one thousand eight hundred and thirty-four down to the session of one thousand eight hundred and forty-eight, inclusive, and printed annually by the Queen's Printer, at Charlottetown, which shall not be printed in full in the new edition of the laws, and by which the title to lands, tenements or hereditaments, may be affected, shall, and they are hereby declared to be legal evidence in all Courts of law or equity, or Courts of record in this Island, in all cases where the titles to lands, tenements or hereditaments, derived, or supposed to be derived, under any of their provisions, shall be in question or dispute, or where the same, by reason of any such Act or Acts may, in any manner be affected.

**Duty of Commissioners in depositing certain laws in public offices.**

III. And be it enacted, That for the purpose of insuring the preservation of the said laws heretofore published, it shall be a further duty of the said Commissioners, and they are hereby required, within six months after the passing of this Act, to deposit in the office of the Registrar of deeds, and the several offices of the Prothonotary of the Supreme Court, and of his deputies, in the several Counties of this Island, a full copy of the laws of this Island heretofore published as aforesaid, being the volume printed in the year one thousand eight hundred and thirty-four, and the several Acts passed since that year to the session of one thousand eight hundred and forty-eight, inclusive, and published annually by the Queen's Printer, as hereinbefore mentioned; which Acts shall be kept in the said offices as records, and for the purposes of reference in all time to come, so far as relates to such of the said Acts as shall not be published in full in the said new edition of the laws, and by which the title to lands, tenements, or hereditaments may be affected, which said several copies shall contain a memorandum to the following effect, subscribed with the names of the said Commissioners for the time being, in their proper handwriting, that is to say:—

PRINCE EDWARD ISLAND.

**Memorandum to be subscribed thereon by Commissioners.**

Filed in the office of \_\_\_\_\_ in \_\_\_\_\_ County this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ by virtue of an Act passed in the twelfth year of the reign of her present Majesty, intitled [here insert the title of this Act.]

And it shall be the duty of the said Registrar and Prothonotary and their respective deputies and clerks, within office hours, at all times, to exhibit the said Acts to any person or persons who shall or may require access to the same.

## CAP. XXIV.

An Act to regulate the specie currency of Prince Edward Island. See 17 Vic. c. 6.

WHEREAS it is deemed expedient, that certain coins now in circulation in this Island should have their respective values or rates at which they shall pass current and be a legal tender, defined by law; Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That on, and from and after the publication in the *Royal Gazette* of this Island of Her Majesty's assent to this Bill, the British gold coin called a sovereign, being of full weight, and the foreign gold coin called a doubloon, being of not less weight than four hundred and fifteen grains, and the gold coin of the United States of America called an eagle, being of not less weight than two hundred and fifty-eight grains, shall and may, respectively, be received, paid, and legally tendered to the Treasurer of this Island, or other public officers, or by or to any body politic or corporate, person or persons whomsoever, in payment, satisfaction, or discharge of any debts, sums of money, duties, obligations, liabilities, or demands whatsoever, already contracted, or hereafter to be contracted, at and after the rates respectively following, save and except as is hereinafter excepted, that is to say: the sovereign at the rate of thirty shillings, or one pound and ten shillings; the doubloon at the rate of ninety-six shillings, or four pounds and sixteen shillings; and the eagle at the rate of sixty shillings, or three pounds; and the several subdivisions or aliquot parts of these coins, at and after the same rates and in the same proportions as such respective subdivisions bear to the sovereign, doubloon, or eagle, respectively, of which they are such equal parts.

Regulates the rate at which certain gold coins are to be current.

II. And be it enacted, That all British silver coins shall and may, in like manner, be respectively received, paid, and legally tendered in payment, satisfaction, and discharge of any debts, sums of money, duties, obligations, liabilities, or demands whatsoever, except as is hereinafter excepted, at and after the following rates, that is to say: the British silver crown piece, at and after the rate of ninety pence, or seven shillings and six pence; the British silver half crown piece, at and after the rate of forty-five pence, or three shillings and nine pence; the British silver shilling, at and after the rate of eighteen pence, or one shilling and six pence; and the British silver six pence, at and after the rate of nine pence; and any other or smaller subdivisions of the British silver shilling, at and after the same rate, and in the same proportion as such respective subdivisions bear to the British shilling, of which they are such parts.

Regulates the rate at which certain silver coins are to be current.

Further regula-  
tion of rate at  
which other  
silver coins are  
to be current.

III. And be it enacted, That the United States, Peruvian, Mexican, Chilian, and Spanish milled silver dollar, and the dollar of Central America, being of not less weight than four hundred and twelve grains, shall and may, in like manner, be respectively received, paid, and legally tendered in payment, at and after the rate of six shillings and three pence; each and all the subdivisions or aliquot parts of the said respective dollars, shall and may, in like manner, be respectively received, paid, and legally tendered in payment, at and after the respective rates following, that is to say: the half dollar at three shillings, the quarter dollar at one shilling and six pence, and the eighth part of a dollar at nine pence: provided always, that if any nation or state should have issued or may hereafter issue a coinage of dollars, which an assay of Her Majesty's mint, or of the mint of the United States of North America shall have authenticated, or may authenticate to contain less pure silver than three hundred and seventy grains to four hundred and twelve grains of alloyed metal in each dollar, neither any dollars nor their fractional parts issued by such nation or state, shall be a legal tender under this Act.

Further regula-  
tion of rate at  
which other  
silver coins are  
to be current.

IV. And be it enacted, That the French silver coin called a five franc piece, shall and may, in like manner, be respectively received, paid, and legally tendered at and after the rate of five shillings and six pence each, and the subdivisions or aliquot parts at the same rate and proportion which such aliquot parts bear to such five franc piece, of which they are parts.

What copper  
money is to be  
current.

V. And be it enacted, That the pence and halfpence legally current in the United Kingdom and in the adjacent Provinces of Canada, Nova Scotia, and New Brunswick, shall be current, paid and received as penny and halfpenny pieces, currency; provided always, that no person shall be obliged to receive; provided always, that no person shall be obliged to receive, at one time, payment of more than eighteen pence, or one shilling and six pence, currency, in copper money; and provided also, that in payment, no account shall be taken of or payment be required for any fractional part remaining due less than one halfpenny.

Proviso.

Fractional  
parts of gold  
or silver coins.

VI. And be it enacted, That in all payments made with the smaller pieces of gold or silver coins, being subdivisions or aliquot parts of the respective coins mentioned in the preceding clauses of this Act, no smaller fraction than one halfpenny shall be calculated in the proportional value thereof; unless several of these shall be paid together so as to amount to the value of a crown or half crown piece, when the same shall be received for the full intrinsic value which they bear in proportion with the same larger pieces.



VII. And whereas by this Act, one pound of British sterling money is hereafter to be represented by one pound and ten shillings currency, according to the respective rates or value of the several coins hereinbefore mentioned, and at which they are by this Act fixed and determined, and to be hereafter a legal tender; and whereas there exist leases,\* bonds, and other monetary obligations, voluntarily entered into by the parties thereto previous to the passing of this Act, reserving rents payable in and setting forth that the payments therein expressed to be made shall be payable in sterling money of Great Britain, and it therefore becomes necessary to declare that the provisions of this Act are not intended, in any way or manner, to affect such leases, bonds, or other monetary obligations: Be it therefore enacted and declared, that nothing in this Act contained shall extend, or be construed to extend, to affect any lease, bond, or other monetary obligation made and entered into before the passing of this Act, wherein the rent reserved or money payable thereunder, as is expressed to be payable in sterling money of Great Britain, or in other words, which by law bear the construction, that such payment was intended by the parties to be made in sterling money of Great Britain, but the same shall be and remain subject to the same legal interpretation and construction in every respect as the same would by law have been subject to, provided this Act had never been made, anything herein contained to the contrary notwithstanding.

This Act not to affect lease, bond, &c., in which rent or money is expressed to be payable in sterling money.

VIII. And be it enacted, That all accounts, debts and money obligations whatsoever that may hereafter be contracted or payable in the currency of this Island, shall be liquidated at the value of coins specified in this Act; and any debts that shall or may be contracted and payable in the currency of any other British Colony, or in that of any foreign nation, shall be converted into the currency of this Island, and be recoverable in such proportion, that the weight or intrinsic value of gold and silver, or the equivalent of gold and silver in treasury notes, shall be equal, in the currency of this Island, to the aforesaid colonial or foreign currency, in which said money obligation or debt shall be or may have been contracted or payable.

Debts, &c., hereafter contracted payable in currency, how to be liquidated.

IX. And be it enacted, That as in certain cases, the fees in public offices have been defined by statute to be payable in sterling money, and as it has been customary, heretofore, in the payment of the said fees, to convert the sterling into currency by the addition of oneninth part, such fees shall continue to be paid and received at the usual rates, anything in this Act to the contrary notwithstanding.

Fees of public officers, &c.

\* See 17 Vic., c. 6.

Suspending  
clause.

X. And be it enacted, That nothing in this Act contained shall have any force or effect, until Her Majesty's pleasure therein shall be known.

\*.\* This Act received the royal allowance on the 6th day of October, 1849, and the notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 30th of October of the same year.

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CAP. XXV.

Executed.

7 Vic., c. 7.

An Act to provide for the payment of the civil list, and to alter the appropriation of a certain sum of money raised by the present land assessment Act.

\*.\* This Act provided for the payment of the civil list for one year, ending on the 1st of April, 1850, and altered the appropriation of the sum of £500 raised under the Act 7 Vic., c. 7, towards the purposes of this Act, during the same period.

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CAP. XXVI.

An Act to repeal three certain Acts therein mentioned.

Repealed Acts  
repealed.

WHEREAS it expedient to repeal the Acts hereinafter mentioned, there being other laws in force on the same subject: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled "An Act to prevent the running at large of horses within the streets and squares of Charlottetown in the winter season;" also an Act made and passed in the first year of the reign of her present Majesty, intituled "An Act to provide for the management of the Charlottetown ferry by the use of a teamboat;" and also an Act made and passed in the third year of the reign of her present Majesty, intituled "An Act to make further provision for the management of the Charlottetown ferry," be, and the same are hereby respectively repealed.

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CAP. XXVII.

Expired.

An Act to repeal and alter certain parts of the emigrant Act.

\*.\* This Act repealed and altered certain parts of Act 11 Vic., c. 3, which has since expired.

## CAP. XXVIII.

An Act relating to costs in cases of penalties recoverable before Justices of the Peace, and to repeal a certain Act therein mentioned.

See 2 W. 4, c. 15.

WHEREAS there are several Acts of this Island which inflict penalties for certain offences, without ordering costs, whereby such Acts are, in a great measure, rendered nugatory and useless; for remedy whereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, that in all cases of prosecutions, trials or convictions, which hereafter may be had before any Justice or Justices of the Peace, against any person or persons whomsoever, under and by virtue of any Act or Acts of the General Assembly of this Island, now passed, or hereafter to be passed, which do or shall inflict penalties, or order damages, without adding costs thereto, it shall and may be lawful for such Justice or Justices, in their discretion, to tax and award costs to the plaintiff in case of conviction; or to the defendant, in case the plaintiff shall make default, or be nonsuited, agreeably to the scale established by the Act of this Island for the recovery of small debts, which shall or may be in force at the time of such prosecution, trial or conviction had, and to issue a warrant of distress, or execution, for the same, together with the amount of any penalty or damages that may be assessed.

In cases of conviction under certain Acts, Justice may impose costs according to scale in small debt Act.

II. And be it enacted, That an Act made and passed in the fourth year of the reign of his late Majesty King William the Fourth, intituled "An Act relating to costs in cases of penalties recoverable before Justices of the Peace," be, and the same is hereby repealed.

Repeals Act of 4 W. 4, c. 6.

## CAP. XXIX.

An Act to repeal the Act relating to the Bank of British North America.

\* \* This Act repealed the Act 7 W. 4, c. 27.

## CAP. XXX.

An Act to explain and amend the Act relating to boards of health.

11 Vic. c. 12.

\* \* The Act which this Act explains and amends has expired.

## CAP. XXXI.

Expired.

An Act to continue an Act relating to treasury warrants.

\*\* This Act continued 10 Vic., c. 15, for one year, and from thence to the end of the then next session.

## CAP. XXXII.

11 Vic. c. 9.

An Act to amend the Act incorporating a mutual fire insurance company.

\*\* This Act remains in force, but has been printed in the volume of private and local Acts pursuant to directions of Act 24 Vic., c. 3.

## CAP. XXXIII.

Repealed by  
16 Vic., c. 6.

An Act to further continue an Act, intituled "An Act to consolidate, amend and reduce into one Act the several Acts and parts of Acts relating to the qualifications and mode of summoning grand and petit jurors.

## CAP. XXXIV.

Continued by 22  
Vic. c. 9.

An Act for the appointment of clerks to Justices of the Peace, and to regulate proceedings had before them.

Authorizes  
Justices of the  
Peace to ap-  
point clerks.Duties of  
clerks.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall and may be lawful for any Justice or Justices of the Peace, in any district of this Island, if he or they shall deem it necessary, to appoint a clerk, for whose act or acts he or they nevertheless shall be responsible, and who shall assist in the discharge of his or their duties; which clerk shall be sworn to execute his duties faithfully, and being so sworn, shall be authorized to issue, in his own name and style of office, summonses being for civil injuries only, and in all cases, subpoenas; also to enter and complete all recognizances taken before such Justices, and to execute all papers of appeal, and administer the oath on such affidavits as the law requires, for the obtaining an appeal; to draw up and sign convictions, and to prepare any other necessary instrument previous to its execution by such Justices, according to law; and the said clerk shall be remunerated by such Justice or Justices in such manner and on such terms, as shall be agreed upon between such clerk

Clerks how to  
be remuner-  
ated.

and the Justice or Justices who shall have so employed him : provided always, that no fees, in any matter, suit or process, shall be taken, in addition to, or other than such as are regulated and established by any Act of the General Assembly of Island.

Fees to be taken by Clerks.

II. And be it enacted, That it shall be lawful for any Justice or Justices of the Peace, in all cases in which they shall adjudicate, to order and direct that the costs and charges of witnesses shall be paid by either party, or apportioned, as in their discretion they shall deem just and equitable ; any law, usage or custom to the contrary thereof notwithstanding.

Justices of the Peace may apportion costs of witnesses between suitors, &c.

III. And be it enacted, That any Clerk to be appointed under this Act, or any Justice of the Peace, now or hereafter to be appointed, issuing any summons or warrant without the fee thereon being first paid, shall not be entitled to recover the same by any process at law.

No fee to be recovered for any summons, &c. issued before fee paid.

IV. And be it enacted, That any such Clerk so appointed, shall, at the recurrence of every assize to be holden for the County wherein such Clerk may hold his office, make a due return to Her Majesty's Judge of Assize, to be delivered to the Prothonotary of such Court on the first day of its session, of all matters which have come under his office, which returns shall contain a record of all convictions before any Justice or Justices from whom he may hold his appointment, and set forth the amount of any fines which have been legally ordered, and a statement of how they have been paid and levied, and distributed, according to the schedule to this Act annexed ; and such Clerk shall likewise, at such term, make a return of all recognizances entered into, for the appearance of all parties bound to appear at such Court, and likewise copies of all notices of appeal, and such other papers as may be ordered by Her Majesty's Judge of Assize, and in addition to the several proclamations now made upon the opening of any Court of Assize for any County in this Island, it shall be the duty of every such Judge to order a proclamation to be made, calling upon all Justices of the Peace for any such County, and their Clerks, to make due returns into the said Court of Assize, agreeably to the provisions of this Act ; and it shall also be the duty of any such Judge to cause the returns of all convictions so made to be published in the *Royal Gazette* newspaper of this Island.

Clerks of Justices to make return to Courts of Assize, of all matters and convictions, &c.

Form of return.

Court of Assize to cause returns to be published, &c.

V. And be it enacted, That in all cases, where no appointment of a Clerk, in manner aforesaid, has been made, Her Majesty's Justices of the Peace, conjointly or respectively acting in the execution of their legal duties, shall themselves return such papers, records and instruments herein described

Where no Clerk shall be appointed, Justice to make return, &c.

or required, to the said Court of Assize, and transmit the same to the Prothonotary thereof, on or before the first day of its sitting.

Justice, &c. may revoke appointment of clerk.

VI. And be it enacted, That if any Justice or Justices of the Peace shall see fit to revoke such appointment of a clerk, he or they shall be hereby authorized so to do; and all books, papers, records or other instruments in the hands of such clerk, shall, in such case, be handed over by him to such Justice or Justices, at his or their demand; and if such clerk shall neglect or refuse to deliver over such papers and records when so demanded, he shall forfeit and pay, for such offence, a sum not exceeding twenty pounds, to be recovered, with costs, in the Supreme Court of Judicature of this Island, and applied to and for the use of Her Majesty's Government.

Continuance of Act.

VII. And be it enacted, That this Act shall continue and be in force for the space of ten years from the date hereof, and no longer.

SCHEDULE.

Schedule.

NAME OF OFFENDER.	OFFENCE.	FINE.	IF PAID.	HOW DISTRIBUTED.

CAP. XXXV.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and forty-nine.

ANNO DECIMO TERTIO

# VICTORIÆ REGINÆ.

1850.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifth day of March, *Anno Domini* 1850, in the thirteenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith :

Sir DONALD CAMPBELL, Baronet, Lieut. Governor.

R. HODGSON, President of the Council.

Being the first session of the eighteenth General Assembly convened in the said Island.

ALEXANDER RAE, Speaker.

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## CAP. I.

An Act to continue several Acts therein mentioned.

\*.\* This Act continued for one year and from thence to the end of the then next session, the following Acts, namely : 5 G. 4, c. 12; 59 G. 3, c. 7; 8 G. 4, c. 7; 3 W. 4, c. 23; 3 Vic. c. 12; 6 Vic. c. 9; 5 Vic. c. 14; 10 Vic. c. 16; 9 Vic. c. 3; 9 Vic. c. 5; 9 Vic. c. 9; 9 Vic. c. 22; 9 Vic. c. 27; 9 Vic. c. 28; 10 Vic. c. 2; and 10 Vic. c. 14.

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## CAP. II.

An Act to provide for the payment of the civil list, on certain conditions therein mentioned.

\*.\* This Act was disallowed by Her Majesty, as appears from a Despatch from Earl Grey, Her Majesty's principal Secretary of State for the Colonies, dated the 31st January, 1851, and published in the *Royal Gazette* newspaper of this Island, on the 1st day of April, 1851.





ANNO DECIMO TERTIO

# VICTORIÆ REGINÆ.

SECOND SESSION—1850.

At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifth day of March, *Anno Domini*, 1850, in the thirteenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith:

1850.

Sir DONALD CAMPBELL,  
Baronet, Lt.  
Governor.

R. HODGSON,  
President of  
the Council.

And from thence continued, by prorogation, to the twenty-fifth day of April, 1850, and in the thirteenth year of Her said Majesty's reign; being the second session of the eighteenth General Assembly convened in the said Island.

ALEXANDER  
RAE, Speaker.

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## CAP. I.

An Act for raising a revenue and appropriating part of the same. Expired and executed.

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## CAP. II.

An Act to continue several Acts which are near expiring. Expired.



ANNO DECIMO QUARTO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifth day of March, *Anno Domini* 1850, in the thirteenth year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith:

1851.

Sir ALEXANDER  
BANNERMAN,  
Knight, Lieut.  
Governor.

R. HODGSON,  
President of  
Council.

And from thence continued, by several prorogations, to the twenty-fifth day of March, 1851, and in the fourteenth year of her said Majesty's reign; being the third session of the eighteenth General Assembly convened in the said Island.

ALEXANDER  
RAE, Speaker.

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## CAP. I.

An Act to regulate the laying out and altering of highways.

Amended by 18  
Vic. c. 27.  
Continued by  
24 Vic. c. 23.

**W**HEREAS it is deemed expedient to consolidate and reduce into one Act the several Acts of the General Assembly of this Island, relating to the laying out and altering of highways: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the passing of this Act, the several Acts hereinafter mentioned shall be, and the same are hereby respectively repealed, that

- Repeals 10 G. 4, c. 10; is to say: — an Act made and passed in the tenth year of the reign of King George the Fourth, intituled “An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation;” an Act made and passed in the third year of the reign of his late Majesty King William the Fourth, intituled “An Act to explain and amend an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled ‘An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation;’” an Act made and passed in the fourth year of the reign of King William the Fourth, intituled “An Act in further amendment of an Act passed in the tenth year of his late Majesty’s reign, intituled ‘An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation;’” an Act made and passed in the fifth year of the reign of King William the Fourth, intituled “An Act for further explaining and amending the Act for regulating the laying out and altering of highways, and for providing a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation;” an Act made and passed in the first year of the reign of Her Majesty Queen Victoria, intituled “An Act to further amend an Act of the tenth year of the reign of his late Majesty King George the Fourth, intituled ““An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation;” an Act made and passed in the fifth year of the reign of Her Majesty Queen Victoria, intituled “An Act to alter and in addition to an Act made and passed in the tenth year of the reign of his late Majesty King George the Fourth, relating to the laying out and altering of highways, and for other purposes therein mentioned;” an Act made and passed in the sixth year of the reign of her Majesty Queen Victoria, intituled “An Act in further amendment of an Act passed in the tenth year of the reign of King George the Fourth, intituled ‘An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation;’” an Act made and passed in the eighth year of the reign of Her Majesty Queen Victoria, intituled, “An Act to
- also, 3 W. 4, c. 9;
- also, 4 W. 4, c. 16;
- also, 5 W. 4, c. 8;
- also, 1 Vic. c. 16;
- also, 5 Vic. c. 22;
- also, 6 Vic. c. 22;
- also, 8 Vic. c. 5;

continue an Act intituled 'An Act to alter and in addition to an Act made and passed in the tenth year of the reign of his late Majesty King George the Fourth, relating to the laying out and altering of highways, and for other purposes therein mentioned;'" an Act made and passed in the eleventh year of the reign of Her Majesty Queen Victoria, intituled "An Act further to amend an Act made and passed in the tenth year of the reign of his late Majesty George the Fourth, intituled 'An Act to regulate the laying out and altering of highways, and to provide a mode of obtaining compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation.'"

also, 11 Vic.  
c. 33.

II. And whereas in the grants or patents of the different townships of this Island, reservation was made of all such parts of the said townships as had been set apart for public roads, at the time of passing the same; as also all such other parts of the lots or townships as should thereafter be set apart for laying out highways for the communication between one part of the Island and another: and whereas it daily becomes more and more necessary to open roads through different parts of townships, which may and do sometimes interfere with lands under cultivation, and occasion much loss, injury and expense to the person through whose lands the same may run, and no remedy having been provided for the same, nor any law whereby to enable the Lieutenant Governor to alter or change any road, now made, or hereafter to be made, or to make compensation to the parties who might be injured thereby: For remedy whereof, be it enacted, by the Lieutenant Governor, Council and Assembly, That when and so often as it shall be considered necessary by the Lieutenant Governor of this Island for the time being; by and with the advice of Her Majesty's Council, to cause a highway to be made through cultivated lands, or to alter or change the direction of the roads already, by lawful authority, made in this Island, for other roads, the accomplishment of which may be attended with injury and damage to the proprietors and tenants of the soil, through which the same may pass, or which may benefit the lands of the same, it shall and may be lawful for the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Council, or on the application of any party interested in the said lands, to order a writ to be issued out of Her Majesty's Supreme Court of Judicature for this Island, and the said Court is hereby empowered to issue such writ, directed to the Sheriff of the County wherein the said lands shall be situate, (or in case he shall be interested therein, to the Coroner,) commanding him to summon twelve good and lawful men, freeholders or leaseholders, who are nowise interested in the said lands and tenements, from

Preamble.

Empowers Lt. Governor, in Council, to order a writ to issue out of Supreme Court, directed to the Sheriff or Coroner, to summon a jury to appraise damages &c. accruing to persons through whose lands roads may be run.

the County through which the road contemplated is to run, to meet at such time and place as may be appointed by the said writ, and the said jury, so summoned, shall be duly sworn faithfully to appraise the damages, if any, which will accrue to the proprietor or tenant through whose grounds the road is intended to run, which said jury shall not only take into their consideration the loss or damage that the said proprietor or tenant may incur, but also, the advantage, if any, that may accrue to him, by the road or alteration increasing the value of such lands.

Verdict to be returned within 40 days after *teste* of writ.

III. And be it enacted, That the verdict of the said jury, under their hands and seals, and the hand and seal of the Sheriff or Coroner, shall be duly returned into the office of the Prothonotary of the Supreme Court, within forty days after the *teste* of the said writ.

Right of appeal to Supreme Court.

IV. And be it enacted, That it shall and may be lawful either for the Lieutenant Governor for the time being, or the proprietors or tenants of the soil, who may think themselves aggrieved by such verdict, to cause an appeal to be entered against the same to the Supreme Court of Judicature, at the term to be holden in the County wherein the lands are situate, next after the return of the writ under which such verdict shall be found as aforesaid: and it shall and may be lawful for the said Supreme Court, if it shall be of opinion after hearing such appeal, that justice has been done, to dismiss the same, with such costs to be taxed to the appellee as shall seem just and reasonable; which said costs, if the appeal shall have been entered by the Lieutenant Governor, shall be paid to the appellee in the manner prescribed in the seventh section of this Act, as to payment of a verdict; and if by the proprietor or tenant, then the same shall be paid by him to the Government; and in case of neglect or refusal, the same shall be recovered, by and on behalf of the Government, in the same manner in which costs are recovered in the said Supreme Court, on appeals being dismissed in cases of small debts; and if after hearing such appeal, it shall appear to the said Court, that justice hath not been done, it shall and may be lawful for the said Court to order and direct, that an *alias* writ be issued and a new jury summoned, the verdict found by which said second jury shall be final and conclusive, and when returned as aforesaid, shall be entered of record in the said Court: and if, on the coming in of such second verdict, it shall appear that the same is in confirmation of the verdict appealed from, if such verdict shall find the road to be an advantage to the proprietor of the land, then the said Court shall order the same to be entered of record, together with the costs incurred on hearing such appeal, issuing such second writ, and taking such verdict; which said costs, having been duly taxed, shall

Court may order a new jury to be summoned whose verdict shall be final.

Proceedings on a second verdict being taken.

make part of the said second judgment, and be paid and recovered in the manner pointed out by this Act for the recovery of the verdict alone; and if the said second verdict shall find the owner of the land to be entitled to any sum beyond what was found in the first verdict, the appellant shall have his reasonable costs of appeal and subsequent proceedings, taxed and paid in manner pointed out in the seventh section of this Act for the recovery of the verdict alone when given in his favor; but if such second verdict shall find a lesser sum due to the owner for compensation than the first verdict, such owner shall pay costs, to be taxed in manner in this section before mentioned.

V. And be it enacted, That when and so often as it shall be necessary to compel the attendance of any witnesses, to give evidence before any jury to be summoned under the provisions of this Act, the party requiring the testimony may cause a subpoena to be issued for the purpose from the Prothonotary's Office, in the same manner as is now practised in cases of inquiries before the Sheriff; and if any witness, who shall have been duly served with a subpoena, and shall also have been at the same time tendered eight pence currency per mile for every mile he may have to travel from his place of abode to the place where such evidence is to be taken, shall wilfully neglect or refuse to attend, pursuant to the subpoena, or to give evidence after attending, he shall be liable to such damages and punishment, by process of contempt and otherwise, as witnesses now are, who disobey the command of any subpoena requiring them to attend and give evidence before Her Majesty's Supreme Court of Judicature of this Island; and the Sheriff or his Deputy, or the Coroner, (as the case may be,) is hereby authorized, and required to administer an oath to each of the twelve jurors, who shall be chosen to act on any such inquiry, in the following form, swearing three at a time, (that is to say):

Compels the attendance of witnesses.

Sheriff to administer oath to each juror.

“You and each of you shall well and truly inquire what damage, or advantage will be sustained, or will accrue to *A. B.*, by the opening of a public highway, over his (or her), reputed property, and you shall assess the amount in money, of such damage or advantage, according to the evidence, and the best of your judgment, and in case you shall find the same to be an advantage to the said *A. B.*, then you shall say what sum shall be paid by him, and shall view, appraise and value the unsettled land of the said *A. B.*, adjoining the said intended road, and situate in \_\_\_\_\_ County, as directed in the Act of Assembly, in that case made and provided. So help you God.”

Form of oath.

And the Sheriff or his Deputy, or the Coroner, is also hereby authorized and required to administer an oath to each

Sheriff to administer oath to each witness.

witness, who shall attend as aforesaid, in the form following, that is to say:—

**Form of oath.**

“The evidence you shall give before this inquest, shall be the truth, the whole truth, and nothing but the truth.  
“So help you God.”

**No more than one writ shall issue for each County, unless roads be detached.**

VI. And be it enacted, That in no case shall any more than one writ be issued for the same County, under or by virtue of this Act, relating to new roads, after the Administrator of the Government for the time being, in Council, shall have determined upon and ordered the laying out or opening of such roads, although the same may pass over the lands of more than one person, unless such new or intended roads shall be detached from each other, and run in different contrary directions, and the jury shall give as many several verdicts under one writ, as may be required from the number of parties interested.

**On payment or tender of the sum found, the right of highway to be vested in Crown.**

VII. And be it enacted, That upon payment or tender to the tenants, or proprietors of the soil, of the sum so found, made by such person, as may be appointed by the Lieutenant Governor for the time being for that purpose, the right of highway, in and over the said lands, shall be and remain vested in the crown; and the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Council, is hereby authorized to grant his warrant, under his hand and seal, to the Treasurer of this Island, for the payment of all such sums of money as shall be assessed as aforesaid: provided always, that no such payment shall be made to the proprietor or tenant, until the lands shall have been actually taken possession of, for the said highway.

**Lt. Governor, by advice of Council, to issue writ, of which due notice shall be given.**

VIII. And whereas lines of road through wilderness lands, are often of great benefit to the lands, through which the same do pass, and tend to increase greatly the value of such lands, and it is but just and reasonable that the proprietors thereof should contribute to the formation of such roads: Be it therefore enacted by the authority aforesaid, that when and so often as the Lieutenant Governor for the time being, by and with the advice of Her Majesty's Council, shall deem it necessary to cause roads to be opened through unsettled lands, it shall and may be lawful for him to order a writ to be issued; and the said Sheriff, Coroner, or other officer to whom such writ shall be directed, shall, and he is hereby required to give notice thereof to all parties interested, within ten days after he shall receive any such writ, by causing notices to be posted up at three or more of the most public places in or nearest to the district, through which the new road is to pass, and shall also cause the same to be inserted in the *Royal Gazette* newspaper, printed in Charlottetown, for at least four successive



weeks, immediately next before the time of executing the said writ, and which notices shall be respectively in the following form, and shall be deemed and taken to be sufficient notice to all persons interested in the execution of such writ, any thing to the contrary notwithstanding, that is to say:—

ROAD COMPENSATION ACT—PUBLIC NOTICE.

Whereas a writ has been issued, directed to me under and by virtue of an Act passed in the fourteenth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to regulate the laying out and altering of highways;" and of the Acts in amendment thereof, whereby I am commanded to summon a jury to enquire what damage or advantage will accrue to those persons who are interested in the land through which a certain new road is intended to be made, commencing at \_\_\_\_\_ and terminating at \_\_\_\_\_ and which road will run through or over \_\_\_\_\_

Form of notice.

Now I do hereby give public notice to all parties, that I will commence the execution of said writ, by attending with the jury at \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_ at the hour of \_\_\_\_\_ forenoon (or afternoon, as the case may be,) of the same day, and from thence I will proceed with the jury along the said new line of road, and complete the inquest according to law.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 18

A. B.,

(Sheriff, or Coroner, as the case may be.)

And shall, at the expiration of the time mentioned in the said notice, cause a jury to be summoned as aforesaid, who shall be sworn well and truly to ascertain and declare, what advantage it may be to the proprietor, through whose land the said road is intended to be opened or passed, and what sum of money shall be paid by him for the same, which said jury having found such amount, shall then proceed to estimate the value of the land *per acre* adjoining such roads, or through which such roads shall pass, which estimate shall form part of the verdict; and all verdicts under this Act shall be taken in duplicate, one part of which shall be returned into the office of the clerk of Her Majesty's Executive Council of this Island, and the other part into the office of the Prothonotary of the Supreme Court of Judicature, within the period of forty days from the *teste* of such writs; and the sum or sums so assessed by the jury as aforesaid, shall be paid by the proprietor or proprietors into the treasury of this Island, to be applied to the making and repairing the said road, and to no other purpose whatsoever; subject nevertheless to an appeal to the Supreme Court, in manner and under the regulations in all respects as provided and declared in the fourth section of this Act.

Jury to be summoned, who shall declare what advantage the proprietor may derive therefrom, &c.

Subject to appeal.

Proprietor not to pay money, &c., until road and bridges shall be contracted for.

IX. And be it enacted, That before any proprietor shall be called upon to pay his proportion of the sum adjudged by the jury to be paid by him, or to surrender the land in payment, as directed by the provisions of this Act, the road which is intended to pass through and over such proprietor's land, together with the necessary bridges thereon, shall have been contracted for, to be made and completed.

Sheriff having returned inquisition, no road to be contracted for until commissioner shall have advertised for tenders, &c.

X. And be it enacted, That when the Sheriff or Coroner shall have returned the inquisition so directed to be made, no such contemplated roads and bridges shall be contracted for, until the commissioner for the district shall have advertised at least three times in the *Royal Gazette*, that tenders will be received, at a time and place therein specified, and that the lowest tender, on security for the due performance thereof having been given, will be accepted, or that the same will be let at public auction, at the time and place therein specified; and if the contract upon such tender, or the bidding at such auction, shall be for a less sum than that assessed by the jury on the inquisition, the proprietor shall be called upon to pay no greater sum than that specified in the tender or contract, or bid for at such auction, in the proportion that he has been assessed by the jury; and if such proprietor shall be the contractor or bidder, and shall perform the work agreeably to contract and specification, to the satisfaction of the commissioner, he shall not be called upon to pay any sum or sums of money, or to surrender any lands whatever, but shall receive such further or greater sum than that assessed by the jury, as shall be necessary to complete the amount specified in such contract, or bid for at such auction.

Proprietors neglecting or refusing to pay sum assessed, surveyor general to survey land to amount of assessment.

XI. And be it enacted, That in case the proprietors or their agents do neglect or refuse to pay such sum or sums of money so assessed as aforesaid, it shall and may be lawful for the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Council, to issue his warrant under his hand and seal, directed to the Surveyor general or other competent surveyor, commanding him to cause so much of the said lands as will amount to the sum assessed, at the price estimated to be surveyed, and two plans and descriptions thereof made, one of which shall be duly returned into the office of the registrar of deeds and conveyances, in this Island, who shall register the same, and the other shall be kept in the office of the said Surveyor general.

In making survey, surveyor general is to lay off lands in blocks of 100 acres.

XII. And be it enacted, That in making such survey, plans and descriptions, as in the last preceding clause mentioned, it shall be incumbent upon the Surveyor general, or other surveyor appointed for that purpose, to lay off the said lands as near as conveniently may be, in blocks of one hundred acres

each, with the usual front on the road of ten chains, and running back from thence one hundred chains, and so in proportion for any greater or smaller amount of land ordered to be laid off: and if the property of the person, through whose lands the said road may pass, shall not extend for as sufficient distance from the road to admit of a depth of one hundred chains being given to each block, then the said lands shall be laid off as nearly in the above form, and with as nearly the same relative proportion of front and depth, as the circumstances of the case and the position of the lands will permit.

XIII. And be it enacted, That the said lands shall be set up at public auction by the Sheriff or Coroner of the County wherein they shall be situate, at such upset price as the Lieutenant Governor for the time being, by and with the advice and consent of Her Majesty's Council, shall think reasonable, and sold to the highest bidder; and the moneys arising therefrom shall be expended upon making, altering or repairing the said roads, and for no other purposes whatsoever.

Lands to be sold at public auction at upset price.

XIV. And be it enacted, That the Sheriff or Coroner shall, and he is hereby authorized and empowered to make and execute a sufficient deed or conveyance of the said land to the purchaser or purchasers, which shall be held and deemed to be good and effectual in the law for vesting the said lands in the purchaser or purchasers thereof, their heirs and assigns, for ever, or otherwise, according to the nature of the estate or interest in the said land sold; for which deed or conveyance the said Sheriff or Coroner shall be entitled to receive the sum of ten shillings, currency, and no more.

Sheriff to execute a conveyance to purchasers.

XV. And be it enacted, That it shall be at the option of the proprietors to pay the sum so assessed by the said jury, either in money or in land, at the value estimated as aforesaid; and the lands surrendered in payment shall be vested in the Crown, to and for the purposes of this Act, and none other; and the Lieutenant Governor for the time being is hereby authorized and empowered to grant his warrant under his hand and seal to the Treasurer of this Island, for the payment of all such expenses, costs and charges as shall be incurred in carrying into effect the provisions of this Act, as hereinbefore mentioned.

Proprietors may pay in money, or land at the estimated value.

XVI. And whereas it would materially lessen the expense of laying out highways under the provisions of this Act hereinbefore mentioned, if a more summary method was adopted, where the highways sought to be laid out do not exceed five miles in length: Be it therefore enacted, that when and so often as the Lieutenant Governor in Council shall order the opening of a highway or highways, of not more than five miles in length, and which may run either through cultivated or

Lt. Governor in Council may order highways of not more than 5 miles in

length to be opened, &c.

wilderness land, or both cultivated and wilderness land, it shall and may be lawful to and for the Lieutenant Governor in Council, as often as he shall see fit, to nominate and appoint any three fit and proper persons, one of whom shall be a Commissioner of roads, not being interested parties, Commissioners to examine such intended line of road, and if, on finding that the owner or owners of either or both cultivated or wilderness lands, be injured by the opening of such road or roads, to appraise and value the damage that the owner or owners, lessee or lessees of such lands may sustain, in consequence of such road or roads, so ordered as aforesaid, passing through his or their land or lands, as aforesaid; and also to ascertain and declare, what advantage it may be to the owner or owners, lessee or lessees, through whose land the said road or roads is or are intended to be opened or pass, and what sum of money shall be paid by him or them for the same, in case such land shall be in a wilderness state; and the said Commissioners, having previously given, in either case, to the party or parties interested therein, at least thirty days' notice in the same manner as required in other cases by the eighth section of this Act, and the said three persons shall, as soon as conveniently may be, submit to the Lieutenant Governor a statement, in writing, of the appraised value of such damage as the owner or owners, lessee or lessees may sustain as aforesaid, and which has been made and fixed by them as aforesaid, on oath, in the form set forth in the schedule to this Act annexed, marked (A,) which oath shall be made before any one of Her Majesty's Justices of the Peace, in and for the County where such intended road or roads may be situate, and in case such road shall be required to run through wilderness land or lands, or any other land which may thereby be rendered more valuable, the said Commissioners shall, as soon as conveniently may be, submit to the Lieutenant Governor in Council a statement in writing of the sum of money that should, in their opinion, be paid by the owner or owners, lessee or lessees of such lands, assessed and fixed by them as aforesaid, on oath, in the form set forth in the schedule to this Act annexed, marked (B,) which oath shall be made before any one of Her Majesty's Justices of the Peace as aforesaid; and in case the Lieutenant Governor, in Council, shall approve of the said statement, then and in every case where the same shall find compensation to be due or payable to the owner or owners, lessee or lessees of such land, the said Lieutenant Governor in Council shall and may, and he is hereby authorized to direct the sum or sums of money so set forth in the said statement, to be paid to the party or parties entitled to receive the same, by warrant or warrants on the treasury of this Island; and the sum or sums of money so assessed and fixed as aforesaid, to be paid by any owner or owners, lessee or lessees, as aforesaid, shall be paid by such

If wilderness land, &c., be thus made more valuable, Commissioners to submit to Lt. Governor, in Council, a statement of the sum that should be paid by owners, &c.

Sums paid by the proprietors

owner or owners, lessee or lessees of such land or lands into the treasury of this Island, to be applied to the making and repairing of the said roads; and should the owner or owners, lessee or lessees of such land, neglect or refuse to pay the sum (approved of by the Lieutenant Governor as aforesaid to be paid into the treasury of this Island,) and in case no writ should be applied for, in manner as hereinafter directed, by such party or parties so refusing, for the summoning of a jury, the Lieutenant Governor may, and he is hereby authorized to cause as much land as may be of the value of the benefit or advantage the owner or owners, lessee or lessees of such land may derive by the running of any road, to be laid out for the Crown in the same manner and form as regards front and depth, as is directed in and by the twelfth section of this Act in the case of other lands therein mentioned, by the Surveyor General, or other competent surveyor, for that purpose, duly authorized, the same to be valued by the said three Commissioners as aforesaid, either at the time of making their award, or at any other time or times the Lieutenant Governor shall order; and a plan of such land so laid out by the Surveyor General, or other competent surveyor, with descriptions thereof, shall be duly returned into the office of the Registrar of deeds and conveyances in this Island, who shall register the same, and the original shall be deposited in the office of the said Surveyor General, and the land so valued, laid off and surveyed as aforesaid, shall thereupon become vested in fee simple in the Crown, absolutely, to all intents and purposes, to be disposed of in such way and manner as the Lieutenant Governor for the time being, by the advice of Her Majesty's Council, shall think fit.

of land to be paid into the Treasury and applied to the making of roads.

Land to be laid out for Crown, in certain cases.

Plan thereof to be returned into the offices of Surveyor General and Registrar of deeds, there to be registered.

XVII. And be it enacted, That in the event of no owner or owners, lessee or lessees, agent or agents of any owner or owners, lessee or lessees of lands appearing, or being found, to whom such compensation, ascertained as aforesaid, may be tendered or paid, then, and in every such case, the sum or sums so ascertained as compensation or damages as aforesaid, shall remain at the disposal of the Lieutenant Governor in Council, to be paid to the party or parties lawfully claiming the same, at any future time, within three years from the time such appraisement may take place.

Damages may remain in the Treasury for three years from time of appraisement.

XVIII. Provided always, and be it enacted, That in case the owner or owners of any land to whom compensation shall be awarded, or who shall be assessed to pay compensation by such Commissioners, under the authority given them as aforesaid in and by the sixteenth section of this Act, shall be dissatisfied with and refuse to accept such compensation, or pay the sum or sums valued as the benefit such owner or owners, lessee or lessees of land, as aforesaid, shall derive by the running of such roads, every such owner or owners, lessee or

Owner dissatisfied with compensation, may appeal to Supreme Court.

lessees shall be at liberty, notwithstanding such award, to cause an appeal to be entered against the same, at the term of the Supreme Court which shall be holden in the County wherein the lands may be situate, next after the making thereof; and if, after hearing such appeal, it shall appear to the said Court, that justice hath not been done, it shall and may be lawful for the said Court to order and direct that a writ be issued, and a jury summoned, in the way and manner described, and for the purposes directed by this Act, in the case of roads of a greater length than five miles; and the verdict found by such jury shall be final and conclusive, and, when returned, as aforesaid, shall be entered of record in the said Court.

Court, in its discretion, may order a writ to be issued, &c.

When owner receives compensation, &c., the right of way to be vested in the Crown.

XIX. And be it enacted, That immediately upon payment to, and receipt by the party or parties to whom compensation shall be awarded by the commissioners so appointed as aforesaid, or in case such party or parties shall refuse to receive such compensation, or in case no person or persons shall appear to claim such compensation as aforesaid, before the expiration of the time hereinbefore limited for an appeal against such award, then, and in every such case, the right of way over such land, or over so much thereof as shall be owned by such party accepting such compensation, and over so much thereof as shall be owned by such party refusing such compensation, as also over so much of such lands as shall not be claimed by any owner, shall respectively become vested in the Crown, to and for the purposes of such road.

In case of cultivated land, the expense of the jury shall be borne by applicant.

XX. And be it enacted, That should the verdict of a jury that may be summoned as aforesaid, after such appraisalment as aforesaid shall have taken place, in case of cultivated land, or land rendered less valuable, so appraised as aforesaid, not amount to a greater sum than the sum so tendered as aforesaid, then, and in every such case, the expenses of the said jury so ordered shall be borne by the party or parties on whose application the same shall have been granted, and which expense may be levied by warrant of distress, and sale of the goods and chattels of the party or parties who shall have refused to accept of the appraised damages, made and approved of as aforesaid; and in case of no goods or chattels being found whereon to levy, then by attachment and sale, as by law provided, of the interest in the land of the party or parties so refusing to accept of the sum or sums so assessed as damages, as aforesaid; and should the verdict of a jury that may be summoned as aforesaid, after such appraisalment as aforesaid shall have taken place, in the case of wilderness land, or of lands rendered more valuable by the running of such road, be not less in amount than the sum or sums so assessed as aforesaid, then the costs of the said jury shall be

In case of wilderness land, the costs shall be paid by party requiring such jury.

taxed against, and be paid by the party or parties so requiring such jury as aforesaid.

XXI. And be it enacted, That each commissioner, appointed by the Government to value the damages caused by the running of any road or roads as aforesaid, shall be entitled to the following sums, that is to say: for every mile travelled, six pence; for estimating damages, ten shillings; to the party drafting and making the statement or return to the Governor in Council, ten shillings.

Fees of commissioners.

XXII. Provided always, and be it enacted, That no writ, for the summoning of a jury, for and in respect of roads, not more than five miles in length, shall be issued, until, as aforesaid, the provisions of this Act, in relation to such last mentioned roads, shall have been complied with, any thing in this Act to the contrary notwithstanding.

No writ for roads of less than 5 miles, to be issued.

XXIII. And whereas it has sometimes happened, that by reason of errors, omissions, or irregularities in proceedings taken under the laws heretofore in force, regulating the laying out and altering of highways, it has become necessary to issue a writ *de novo*, and it has happened that such errors, omissions, or irregularities have not been discovered or objected to until the proceedings have been carried on to the final return of the writ, and until after the road or roads therein ordered have been opened and completed at great expense: Be it therefore enacted, that in all cases where it may hereafter become necessary, under this Act, to issue an *alias* writ, or a writ *de novo*, the same shall and may issue, and all proceedings thereupon shall and may be had and taken, notwithstanding the said road or roads, so to be ordered, may have been opened, or partly opened, under the first or other preceding writ or writs.

*Alias* writ or writs *de novo* may issue in certain cases.

XXIV. And be it enacted, That the road commissioner or commissioners of the district or districts through which any such road hereafter to be run may pass, shall be bound, on the completion of the contracts for opening such road or roads, to transmit to the Lieutenant Governor in Council, a certificate or certificates, each for such part of said road as shall pass through his district, of the completion of the contract for such road, and that thereupon the Lieutenant Governor in Council shall direct, and they are hereby required forthwith to direct the necessary proceedings for recovering the sum or sums assessed against the proprietor or proprietors of the lands through which such road or roads may pass.

Road commissioner to certify to Lt. Governor in Council, completion of contract.

XXV. And be it enacted, That in the event of any writ, inquisition, or verdict taken under this Act being quashed, it shall and may be lawful to issue a writ or writs *de novo*.

Should proceedings be quashed, a writ *de novo* to issue.

This Act not to interfere with any proceedings prior to the passing thereof;

XXVI. Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to prevent, or in any manner interfere with the completion of any road or roads which shall or may, at the time of the passing of this Act, be opened or partly opened under the authority of any of the above recited Acts hereby repealed, or to affect the validity of any writ or writs, order or orders, issued by the Lieutenant Governor, prior to the passing of this Act, authorizing or directing the laying out of any road or roads, part or parts of any road or roads, under or by virtue of any of the said recited Acts hereby repealed, or to interfere with any proceeding, matter, or thing whatsoever, that may at the time of the passing hereof be incomplete, unfinished, or unperformed in respect to any such road or roads, or part or parts of any such road or roads, or to any proceeding, matter, or thing that may be then pending or incomplete under any such writ or order, and by such writ or order intended to be performed; but that all and every such road or roads, part or parts of such road or roads, opened, partly opened, or intended to be opened, by virtue of any writ or order so issued, prior to the passing of this Act, and all and every matter, proceeding and thing whatsoever, necessary and intended to be done and performed under such writ or order, shall be completed and finished as fully and effectually, to all intents and purposes whatsoever, as if this Act had not been passed: and for the purpose of fully completing and finishing all and every such road or roads, part or parts of such road or roads, that may be opened, partly opened, or intended to be opened, under and by virtue of any such writ or order, issued as aforesaid, prior to the passing of this Act, and for the recovery of all and every sum and sums of money awarded or to be awarded, or due and owing to the Government, in respect to any such road or roads, part or parts of such road or roads, and for the carrying into effect the intention of the Legislature, in all other respects, in relation thereto, as expressed and declared in and by the said several above recited Acts hereby repealed, the said several above recited Acts, being all those several Acts mentioned in and repealed by the first section of this Act, shall be and be held, and taken to be in full force and effect, notwithstanding the passing hereof.

and, with respect to such proceedings, the various Acts repealed by the first section thereof shall be in force.

Continuance of Act.

XXVII. And be it enacted, That this Act shall continue and be in force for and during the space of ten years from the time of the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

XXVIII. And be it enacted, That no person or persons whomsoever shall, either directly or indirectly, demand, take, or receive any other or greater fee or fees, under this Act, for



the respective services hereinafter mentioned, than is hereunder specified, that is to say:

### TABLE OF FEES.

	Currency.	
Warrant of survey, - -	£0 5 0	Surveyor's fees.
Surveyor laying out the road, <i>per diem</i> ,	0 11 0	
Chainmen and laborers, each, <i>per diem</i> ,	0 4 0	
Plan of road, five chains to an inch, -	0 11 8	
Surveyor, for all other requisite attendances as a witness or otherwise, <i>per diem</i> ,	0 11 8	
Retainer to the Attorney General on each writ, exclusive of travelling charges, -	2 6 8	Attorney General's fees.
Instructions, and præcipe for each writ,	0 6 8	
Issuing each writ of subpoena, -	0 2 6	
Each copy to serve, -	0 1 0	
PROTHONOTARY, <i>videlicet</i> :		
Writ and seal, - -	0 6 0	Prothonotary's fees.
Entering the record on every verdict, for every hundred words, - -	0 0 8	
For each writ of subpoena, - -	0 2 6	
Copies of subpoenas to serve, each,	0 1 0	
SHERIFF, <i>videlicet</i> :		
For summoning each jury,	0 2 6	Sheriff's fees.
Mileage to summon jury, and to perform every other service under this Act, except holding the inquisition, for every mile travelled,	0 0 4	
Service of each notice, subpoena, or other paper,	0 2 0	
Holding inquiry, preparing and filing inquisition on each writ, - -	1 3 4	
Mileage to hold inquiry, for every mile actually travelled, - -	0 0 4	
JURORS, <i>videlicet</i> :		
To the foreman, - -	0 10 0	Juror's fees.
To each of the other eleven jurors,	0 5 0	
Mileage to each juror, for every mile necessarily travelled - -	0 0 6	
Commissioners of highways, when required to attend as witnesses under this Act, from the time of leaving home until their return, (no unnecessary time to be allowed,) each <i>per diem</i> , - -	0 10 0	Commissioners' fees.
Mileage, for each mile travelled,	0 0 6	

All other necessary witnesses, <i>per mile</i> ,	0 0 4
For attendance under examination, <i>per diem</i> ,	0 2 0

SCHEDULES to which this Act refers.

SCHEDULE (A.)

*Form of oath to be annexed to the return to be made to Government by the persons appointed to value the damage to be paid to the owner or owners, lessee or lessees of land through which short portions of road may pass.*

Oath to be made by persons appointed to value damage, &c.

WE, *A. B.*, *C. D.*, and *E. F.*, having carefully examined the disadvantage or damage that the owner or owners, lessee or lessees over whose land the line of road from (*G.* to *H.* as the case may be,) will pass according to their several and respective estates and interests therein, do estimate the said damages as follows:—To (*I. K.*, as the case may be,) the sum of \_\_\_\_\_ pounds. To (*L. M.*, as the case may be,) the sum of \_\_\_\_\_ pounds.

	(Signed)	
	“	<i>A. B.</i>
Sworn before me, this _____	“	<i>C. D.</i>
day of _____	“	<i>E. F.</i>

SCHEDULE (B.)

*Form of oath to be annexed to the return to be made to Government by the persons appointed to assess the sum of money to be paid by the owner or owners, lessee or lessees of wilderness land, through which said road or roads do pass.*

Oath to be made by persons appointed to assess sum to be paid by owner of wilderness land, &c.

WE, *A. B.*, *C. D.*, and *E. F.*, having carefully ascertained the advantage that does accrue to the owner or owners, lessee or lessees of such land, declare that \_\_\_\_\_ the owner or owners, lessee or lessees, do and shall pay, within \_\_\_\_\_ days from the date hereof, the sum of \_\_\_\_\_ into the Treasury of this Island, or give to the Crown so much land as may be of the value of the said sum of \_\_\_\_\_ pounds, which said land is of the value of \_\_\_\_\_ pounds *per acre*.

Sworn before me,

CAP. II.

See 23 Vic. cap. 16, sec. 75 to 86, and 25 Vic. cap. 6, sec. 9.

An Act to consolidate and amend the laws now in force, for the relief of insolvent debtors.

**W**HEREAS it is deemed advisable to consolidate the laws now in force, for the relief of insolvent debtors: Be it

enacted by the Lieutenant Governor, Council and Assembly, that an Act passed in the twenty-sixth year of the reign of his Majesty King George the Third, intituled "An Act for the relief of insolvent debtors;" an Act made and passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled "An Act to suspend an Act made and passed in the twenty-sixth year of the reign of his late Majesty King George the Third, intituled 'An Act for the relief of insolvent debtors, and to make other provisions in lieu thereof;'" an Act made and passed in the seventh year of the reign of her present Majesty, intituled "An Act to repeal certain Acts therein mentioned, and to consolidate and amend the laws for the relief of insolvent debtors;" and an Act made and passed in the eleventh year of the reign of her present Majesty, intituled "An Act to amend the laws for the relief of insolvent debtors," be, and the same are hereby respectively repealed.

Repeals 26 G.  
3, c. 2;

6 Will. 4, c. 9;

7 Vic. c. 3;

and 11 Vic. c.  
27.

II. And be it enacted, That from and after the passing of this Act, the Justices of Her Majesty's Supreme Court of Judicature of this Island, or any two of them, of whom the Chief Justice shall be one, shall, and they are hereby empowered and required to commission and appoint four fit and competent persons as Commissioners, two of whom shall be a quorum, in and for each of the Counties of King's County and Prince County, in this Island, to carry into effect the purposes of this Act, as hereinafter mentioned, and who shall reside within the respective Counties for which they shall be appointed, and within twelve miles of the respective Court houses in the said Counties; and in all cases of the death or resignation of any such Commissioner or Commissioners so to be appointed, or his or their nonresidence in, or removal from the respective County for which he or they were appointed, or in case of his or their six months' absence therefrom, or of malfeasance or maladministration in his or their respective duties, or his or their other incapacity in the discretion of the said Justices, or of his or their neglect or refusal to accept office, the said office, with respect to such Commissioner or Commissioners, shall be deemed vacant, and it shall be deemed lawful to and for the said Justices, and they are hereby directed, from time to time, and as often as any such vacancy or vacancies shall occur, to appoint other Commissioner or Commissioners in his or their stead, all which said Commissioners so to be appointed by virtue of this Act, shall have and be vested with the same powers and authorities in every respect, within the Counties in which they shall respectively reside, as are hereinafter by this Act given and conferred to and upon any two of the said Justices of Her Majesty's Supreme Court of Judicature, as aforesaid.

Mode of appointment of Commissioners under Act.

When office shall be vacant, how other appointments are to be made.

III. And be it enacted, That whenever any person may be

Any prisoner for debt not able to support himself, may apply to two Judges in Supreme Court, &c. for a weekly support.

confined within any jail, or the limits thereof, within this Island, for any debt, damages or costs, whether on *mesne* or final process, (\*except such persons as may be so confined by virtue of any *mesne* or final process, issued under any Act or Acts made for the recovery of small debts,) and such person, so confined, shall be unable to provide or obtain his or her necessary support, it shall and may be lawful for such person to make application to any two Judges of the Supreme Court of this Island, or to the said Court in term time, or to any Commissioners, two of whom shall be a *quorum*, to be appointed as aforesaid, for a weekly support or maintenance, and such Judges, Court or Commissioners, (after fourteen days' previous notice to the plaintiff, or person at whose suit such person may be confined, his or her attorney,) shall examine, on oath, such person so confined, as to his or her ability to support him or herself, and if, on examination, to be taken in writing on oath, as aforesaid, to be filed in the office of the Clerk or Prothonotary of the Supreme Court aforesaid, it shall appear, to such Judges, Court, or Commissioners, that such person is utterly unable to support him or herself, and has no property whatever, real or personal, of what nature or kind soever, except necessary bedding, wearing apparel, kitchen utensils, and necessary tools of his or her trade or occupation, not exceeding in value, in the whole, fifteen pounds, and that such confined person hath not at any time since he or she was served with the first or *mesne* process in the suit in which he or she may have been confined, or since he or she had notice of the said suit having been commenced, made over, assigned, transferred, or put out of his or her possession or power, either directly or indirectly, any property whatsoever, whether real or personal, for the purpose of defrauding such plaintiff or creditor, that then it shall be lawful for such Judges, Court, or Commissioners to make an order for the party at whose suit such person may be confined, to pay a weekly sum, to be applied for the support of such person, and the first payment to be made at the time such Judges, Court, or Commissioners may in such order direct, and which sum shall be paid weekly thereafter on such day as such order shall direct; and from the first day of November until the last day of March, shall be five shillings *per* week, and the remainder of the year four shillings *per* week; and after such order made it shall be the duty of such party, without any further notice, to pay such weekly support agreeably to such order, such allowance to be paid to the jailer of the County in which such debtor may be confined, at any time during the day, between sunrise and sunset, on which such allowance becomes due, for the use and support of such

Judges &c. may order detaining creditor to pay a weekly sum for his support.

\* Exception repealed by 24 Vic. c. 16, sec. 75, which see; see also 25 Vic. cap. 6, sec. 9.

confined debtor; and, in case of failure thereof, it shall and may be lawful for such Judges, Court, or Commissioners, on such failure being made known to them, on affidavit of the debtor and the jailer of the County in which such debtor may be confined, to make an order under their hands, directed to the Sheriff or jailer, or by rule of Court, to discharge the said person out of confinement by reason of such suit: provided, that nothing in this Act shall prevent any plaintiff from prosecuting his or her suit, if on *mesne* process, to final judgment, or from taking out *fieri facias* or statute execution against the goods and chattels, lands and tenements of such defendant, or from recovering in any other manner the amount of the judgment obtained in the suit, so always that the person of any debtor so discharged shall be freed from arrest in any proceeding or action upon such judgment: provided also, that when two or more creditors shall detain any debtor in prison, as aforesaid, the said weekly allowance shall be paid in the proportions following, that is to say: when there are only two detaining creditors, then each shall pay half of the said allowance; and when there shall be three or more such creditors, then each shall pay an equal proportion of the weekly allowance ordered; and in case any such detaining creditor or creditors shall not make due payment of his, her or their proportion of such allowance, then the debtor, upon proof thereof made on oath before any Judge, or other person having authority by this Act for such purpose, shall be discharged, on oath being made by the debtor and jailer, as hereinbefore prescribed by this section, by order of such Judge or other person, from further imprisonment, at the suit of such detaining creditor or creditors so making default in payment of the allowance as aforesaid, but such discharge shall not affect the right of any other detaining creditor or creditors to continue such debtor in prison, unless such other creditors shall, after eight days' notice, in writing, to each of them, or their authorized attorneys or agents, of such default having been proved, and order of discharge made thereon as aforesaid, neglect duly to pay their proportion of such allowance, or the whole thereof, as is required by this Act.

In default of payment, debtor to be discharged.

Weekly allowance, how to be paid when there are two or more detaining creditors.

Not to affect the right of other detaining creditors unless they neglect to pay, &c.

IV. And be it enacted, That the application of any person to the said Justices, Court or Commissioners for the relief or benefit afforded by this Act, shall be by petition, which, before any order is made thereon, shall be verified by the oath of the applicant, sworn before either of the said Justices or Commissioners, or any person legally authorized to take affidavits for the said Supreme Court.

Application for relief must be by petition on oath.

V. And be it enacted, That upon the application of any person to the said Judges, Court or Commissioners for such support, such Judges, Court or Commissioners are hereby

On application, Judges, &c., to make an order to Sheriff, &c., to bring debtor before them.

authorized and required to make and order, under their hands, or by rule of Court, directed to the Sheriff or jailer in whose custody such person may be confined, to bring up such person before them, at the time and place in such order or rule of Court to be specified, for the purpose of being examined, as provided in the third section of this Act, and such Sheriff or jailer shall not be liable to any action for escape or other suit for, or on account of obeying such order or rule of Court, according to the true intent and meaning of this Act.

Judges may suspend order for support in certain cases.

VI. And be it enacted, That in any case where it shall be made to appear to the satisfaction of the said Judges, Court, or Commissioners, that such person has the means of providing his or her necessary support, whether from property possessed at the time, or since obtained, or by any other means, upon application made to them, such Judges, Court or Commissioners shall be, and they are hereby authorized and empowered, by order or rule, to suspend the payment of such support for a stated time, or until further order or rule is given in that behalf, by the said Judges, Court, or Commissioners.

Debtor having limits, if able to earn his own support, not to be entitled to support from creditors.

VII. And be it enacted, That if at any time it shall appear, or be made out to the satisfaction of the said Judges, Court, or Commissioners, that the person so applying for, or having support under this Act, and having the benefit of the jail limits, can, either by labor or otherwise, earn or procure his or her necessary support and maintenance within such limits, such Judges, Court, or Commissioners shall and may refuse to make such order for support, as aforesaid; or in case the same be made, to suspend the same.

Debtor who may have received allowance for three months, entitled to discharge at the suit of creditor.

VIII. And be it enacted, That any person confined either under *mesne* or final process as aforesaid, who may have received such weekly allowance for the space of three months, shall immediately thereafter be entitled to his or her discharge from confinement, at the suit of the party who may have paid the same; and in such case, the said Judges, Court or Commissioners, are hereby authorized and required to discharge such person from custody, at the suit of the party who may have paid the support: provided always, that in case of such discharge, the party shall be entitled to the same remedy, by proceeding to final judgment, or taking out execution against goods, chattels, lands and tenements, as is provided in the third section of this Act.

Judges, &c., may issue subpoenas to compel attendance of witnesses before them.

IX. And be it enacted, That when any plaintiff or defendant shall have occasion to compel the attendance of any witness or witnesses to testify or give evidence before the said Judges, Court or Commissioners, to or before whom any application, examination, or other proceedings may be had under this Act, it shall and may be lawful for such plaintiff or defendant, to issue a subpoena, or if need be, a *subpana duces*

*tecum*, out of the said Supreme Court, commanding and requiring the attendance of such witness, and the production of books and papers before the said Judges, Court or Commissioners, at the time and place in such subpoena to be specified, which said subpoena shall be served, and the witness paid or tendered his expenses in the same manner, as if the said subpoena had issued from the said Supreme Court in the ordinary manner; and the witness, or the person served therewith, shall be subject to the same punishment, by such Court, or liable to the like damages, in all respects, to the party injured, for wilfully refusing or neglecting to obey such subpoena, as in any other case he would be liable or subject to.

How served.

X. And be it enacted, That when any person so confined, shall be possessed of money or debts at the time of his or her confinement, or afterwards, and shall have offered to pay or assign the same to the party at whose suit such person may be confined; or in case there be several parties, to them respectively, in part payment, and in proportion to such demand or demands; or when such confined person shall be possessed of either real or personal property, (excepting nevertheless, wearing apparel, bedding and tools, to the value of fifteen pounds, as before excepted,) and shall have offered to convey or assign the same to the party or parties at whose suit or suits such person may be confined, at a fair price to be agreed upon, in part payment, and in proportion as aforesaid; and in case of disagreement as to the price or value of such property, shall have offered to pay, in manner aforesaid, the proceeds arising from the sale of such property, which said property shall be sold at public auction by such confined person, after having first advertised the time and place of the sale thereof for the space of fourteen days, and given the party or parties respectively, or their attorneys, notice of such sale; and if the said party or parties shall have refused to accept and receive the said payment or assignment, or the said proceeds arising from the sale of the said property as aforesaid, that then it shall and may be lawful for the said person so confined to assign or pay over the same to any other *bona fide* creditor or creditors.

Debtor possessed of money, debts, or real or personal property, who shall have offered to pay or assign the same to the creditor, &c., and on creditor not taking same, such property shall be sold at public auction.

After refusal of assignment, &c. debtor may assign or pay over the same to any other *bona fide* creditor.

XI. And be it enacted, That when such party or parties may have received such assignment or payment from such confined person as aforesaid, or when the confined person in case of refusal by such party or parties, may have assigned or paid the same to the other *bona fide* creditors as aforesaid, that then, and in either of such cases, the said confined person shall be entitled to the benefit of this Act, in all respects the same as if such person had no such debt or property at the time of confinement or application.

Debtor in certain cases entitled to benefit of this Act.

Detaining creditor may discharge debtor, without losing benefit of the judgment upon which execution issued.

XII. And whereas it is expedient that creditors should have power to discharge debtors, without losing the benefit of judgments obtained against such debtors: Be it enacted, That it shall and may be lawful for any creditor or creditors, at whose suit any debtor or debtors is, or are, or shall be in prison, and taken or charged in execution for any sum of money, by writing, signed by such creditor or creditors, or by one of them, for or on behalf of himself or herself, and the others of them, (being complainants in the same action,) or by his, her or their attorney, to signify or declare his, her, or their consent to the discharge of such debtor or debtors from the prison in which he, she or they is, are, or shall be confined in execution, at the suit of such creditor or creditors, without losing the benefit of the judgment upon which such execution issued, except as is hereinafter provided; and that notwithstanding the discharge of any debtor or debtors, in pursuance of such consent as aforesaid, the judgment upon which such debtor or debtors was or were taken or charged in execution, shall continue and remain in full force, to all intents and purposes, except as is hereinafter provided; and it shall be lawful for such creditor or creditors, at any time, to take out execution on any such judgment against the lands, tenements, hereditaments, goods and chattels of such debtor or debtors, or any of them, (other than except the necessary apparel and bedding of him, her or them, or his, her or their families, and the necessary tools of his, her, or their trade or occupation, not exceeding the value of fifteen pounds in the whole,) or to bring any action or actions on every such judgment, or to bring any action, or to use any remedy for the recovery of his, her or their demands, against any other person or persons liable to satisfy the same in such and the same manner as such creditor or creditors could or might have had or done, in case such debtor or debtors had never been taken or charged in execution upon such judgment: provided always, that no debtor or debtors who shall be discharged in pursuance of this Act, shall, at any time afterwards, be charged or taken in execution, or convicted upon any judgment hereinbefore declared; to continue and remain in full force, or in any action which may be brought on any such judgment, and that no proceeding by *scire facias* action or otherwise, shall be had against any bail in the action on which such judgment was obtained.

Executors, &c., of creditor may consent to the discharge of debtor with the same advantages.

XIII. And be it enacted, That the executors and administrators of any such creditor as aforesaid, shall and may consent to the discharge of any debtor or debtors to their testator or intestate, in such and the same manner, and with the same advantages and consequences, in all respects, as such creditors, if living, might or could have done in pursuance of this Act; and such executors and administrators respectively



shall not, by reason of any such discharge, in pursuance of this Act, be deemed guilty of *devastavit*, or be chargeable with the debt due from the person or persons so discharged.

XIV. And be it enacted, That every sheriff, jailer or keeper, in whose prison, jail or custody any debtor or debtors is, are, or shall be confined or detained in execution, shall, and every of them is hereby required, within twenty-four hours next after such consent in writing of any creditor or creditors, his, her, or their attorney, or executors, or administrators, as is hereinbefore mentioned, shall have been produced to, and left with such sheriff, jailer, or keeper, or his deputy or agent, at such prison or jail; (the handwriting or mark of such creditor or creditors, his, her, or their executors or administrators, or the handwriting of his, her, or their attorney to such consent in writing, being duly proved by affidavit of some credible person to be thereunto annexed, and to be sworn before one of the Judges or Commissioners aforesaid, or before the said Supreme Court, or a Commissioner duly authorized to take affidavits in the County where such debtor or debtors shall be confined,) to discharge and set at liberty the debtor or debtors, to whose discharge such consent shall be signified or declared as aforesaid, if he, she or they are in custody, only upon the execution issued at the suit of the creditor or creditors signifying such consent.

Sheriff, &c., to discharge debtor within 24 hours after consent in writing of creditor shall be produced.

XV. And be it enacted, That in all cases where a writ of *fiery facias* or statute execution shall be issued upon any judgment obtained, or to be obtained in the said Supreme Court, it shall not be lawful for the Sheriff or other officer executing such writ, to seize or levy upon the necessary apparel and bedding of the debtor or debtors against whom such judgment shall be obtained, or of his, her, or their family or families, or the necessary tools of his, her, or their trade or occupation, in satisfaction of such judgment: provided always, that such apparel, bedding and tools so to be exempted from being seized or levied upon as aforesaid, shall not exceed the value of fifteen pounds in the whole, to any one debtor, which value shall be ascertained by the oath of three disinterested freeholders or leaseholders in the County, to be appointed by such Sheriff or other officer to appraise the same; which oath the said Sheriff or other officer is hereby authorized and empowered to administer.

No writ of *fiery facias* or statute execution to be levied on apparel or bedding of debtor, if the same shall not exceed £15 in value.

XVI. And whereas it is expedient, in certain cases, to authorize and empower the Supreme Court of Judicature of this Island to grant relief to, or discharge confined debtors who, by the strict provisions of the foregoing sections of this Act, may not be entitled to the benefit thereof: Be it therefore enacted, That when any person shall have been confined in any

Any person confined in jail

or limits for three months, may apply to Supreme Court for relief or discharge.

jail or limits thereof in this Island for the space of three months, at the suit of any person, for either debt, costs, or damages, such confined person may apply to the said Supreme Court, in term, on affidavit of the circumstances, for relief or discharge; which said Court, on notice having been given of such application to the adverse party, or his attorney, may enquire into the matter, on affidavit, or otherwise; and if it shall thereupon appear to said Court, that the person so confined has no property whatever, real or personal, within his possession, power, or control, wherewith he can satisfy such demand, or any part thereof, or support himself in custody, such Court may, in its discretion, make an order either for the maintenance or discharge of such person so confined, in the same manner as any Judges of such Court, or any of the Commissioners aforesaid, may now do by virtue of this Act, and which order or discharge shall, in all respects, have the like force and effect, as any order or discharge made by any Judges or Commissioners pursuant to the foregoing directions of this Act.

False oath, under this Act, to be perjury, and punishable accordingly.

XVII. And be it enacted, That every person who shall be convicted of making or taking a false oath to any of the matters hereinbefore described or required to be sworn to, shall be deemed guilty of perjury, and shall be liable to all the pains and penalties to which persons are liable for wilful and corrupt perjury.

Indemnifies all persons against any action, &c.

XVIII. And be it enacted, That in case any confined person may have been discharged, in consequence of the weekly support, ordered agreeably to the provisions of this Act, not having been paid, or after three months' confinement agreeably to this Act, all persons whosever shall be indemnified, and are hereby freed and discharged against and from all suits, actions, prosecutions, informations, or judgments whatsoever, that may be had, moved, prosecuted, or adjudged against them, or any of them, for or by reason, or on account of such person having been discharged as aforesaid.

Commissioners' fees.

XIX. And be it enacted, That there shall be paid to each of the said Commissioners, by the party applying to them for any order, the following fees, and no more, for any matters done under the authority of this Act:—

For each mile necessarily travelled, to attend any hearing, inquiry, or examination required by this Act, six pence.

For every order made, two shillings.

This Act is not to interfere with any proceedings had

XX. Provided always, and be it enacted, That this Act shall not affect, or be construed to affect, any proceedings heretofore had, or now pending in the Supreme Court of this Island, or before any Commissioners appointed under the au-

thority of any of the above recited Acts hereby repealed, in relation to any application or petition for relief under any of the said Acts, at the instance of any person or persons confined within any jail, or the limits thereof, in this Island; and in case any such proceedings shall be now pending, or any order for relief, or a weekly allowance shall have been made under which the confined person or persons shall be receiving the benefit thereof, at the time of the passing of this Act, such order, or other proceedings shall not be abrogated, or in any manner affected by this Act, and the same shall stand, and be continued and maintained until the final end and determination thereof, in accordance with the provisions of the above recited Acts, and the said confined person or persons, as well as the detaining creditor or creditors, and the plaintiff or plaintiffs generally, in all cases in which relief may have been granted under any of the said recited Acts, to the respective defendant or defendants at any time heretofore confined at his, her, or their suit, shall be entitled to the full benefit of all the provisions of the said Acts, in all respects, as if this Act had not been passed.

or pending under the authority of any of the Acts hereby repealed.

### CAP. III.

An Act to commute the Crown revenues of Prince Edward Island and to provide for the civil list thereof, as well as for certain compensations therein mentioned.

Amended by 15 Vic. c. 7, and see 18 Vic., c. 19, and 23 Vic. c. 39.

WHEREAS on the thirty-first day of March, in the year of our Lord one thousand eight hundred and forty-nine, that part of the civil list of Prince Edward Island, which had previously been borne and paid by the Imperial Government, ceased to be so paid, and the House of Assembly of the said Island, by an Act passed on the twenty-sixth day of March, one thousand eight hundred and fifty, agreed to make provision for the payment thereof, provided the quit rents, crown lands, and permanent revenues belonging to the Crown in Prince Edward Island aforesaid, were surrendered and placed at the disposal of the Legislature thereof, and all the moneys arising therefrom paid into the treasury of this Island, and that a system of responsible government, similar to that now in force in the provinces of Canada, New Brunswick, and Nova Scotia, should be granted to, and established in this Island: and whereas, by a despatch from Earl Grey, Her Majesty's principal Secretary of State for the Colonies, to his Excellency Sir Alexander Bannerman, the Lieutenant Governor of this Island, bearing date the thirty-first day of January, one thousand eight hundred and fifty-one, the introduction of responsible government and the surrender of the Crown lands

and permanent revenues belonging to the Crown in this Island, is sanctioned, provided the Legislature thereof agree to and pass a civil list Bill, embodying, among other things, a fair provision for the present Attorney General and Colonial Secretary, on their retirement from office: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That towards making an adequate and permanent provision, according the means and ability of the people of this Island, for the support and maintenance of the principal officers of the civil and judicial establishments necessary to be maintained in this Colony, there shall be granted and paid to Her Majesty, her heirs and successors, out of the public moneys which from time to time shall be raised and levied, and be in the Treasury of this Island, yearly and every year, such sum or sums of money as will suffice to pay unto the several and respective persons who now hold or possess, or hereafter shall hold or possess the several offices and appointments in this Island hereinafter mentioned, or execute the duties thereof, the several salaries and allowances following, that is to say:

Grants Her Majesty a sum sufficient to defray the several salaries and allowances in this Act enumerated.

£700 to the present Chief Justice.

Unto the present Chief Justice of Her Majesty's Supreme Court of Judicature of this Island, the sum of seven hundred pounds, of lawful current money of this Island, *per annum*, for the salary of that office, during his incumbency.

£600 to any future Chief Justice.

Unto any person who shall, after the death, resignation, or removal from office of the present Chief Justice, be appointed Chief Justice, for the time being, of Her Majesty's said Supreme Court of this Island, the sum of six hundred pounds, of lawful current money, as aforesaid, *per annum*, for the salary of that office.

£500 to present Master of the Rolls, &c.

Unto the present Master of the Rolls in the Court of Chancery, and Assistant Judge of the Supreme Court of Judicature of this Island, the sum of five hundred pounds, of lawful current money as aforesaid, *per annum*, as and for the salary of that office.

£400 to any future Master of the Rolls, &c.

Unto the person who, after the resignation, death, or removal from office, of the present Master of the Rolls in Chancery, and Assistant Judge of the Supreme Court of Judicature of this Island, shall be appointed to that office, and to his successors in office, the sum of four hundred pounds, of lawful current money as aforesaid, *per annum*, as and for the salary of that office.

£150 to Attorney General.

Unto the present or any future Attorney General of this Island, as and for the salary of that Office, the sum of one hundred and fifty pounds, of lawful current money as aforesaid, *per annum*, the same to be over and above all fees and allowances now, or at the time of the passing of this Act, allowed by law to the said officer.\*

\* So much of this enactment as relates to fees and allowances over and above the sum of £150, is repealed by 16 Vic. c. 3, sec. 6.

Unto the present or any future Colonial Secretary and Road Correspondent of this Island, the sum of four hundred pounds,\* of lawful current money as aforesaid, *per annum*, as and for the salary of that office, the same to be in lieu of all fees of office, allowances and emoluments payable to the Colonial Secretary, or into his office, or on account of any duties performed by him; such fees of office, allowances and emoluments to be by him paid into the public Treasury of this Island, to and for the use of the Government of this Island, and to be accounted for and paid over in manner, and at the time, as by law in that behalf directed, or to be directed.

£400 to the present or any future Colonial Secretary, &c.

Unto any person who shall hereafter hold or be appointed to the office of Clerk of the Executive and Legislative Councils, the sum of one hundred and twenty pounds, of lawful current money as aforesaid, *per annum*, as and for the salary of that office, the same to be in lieu of all fees of offices, allowances and emoluments, now paid to, and received by, the person performing the duties of those offices.†

£120 to any future Clerk of the Executive and Legislative Councils, &c.

Unto any person who shall hereafter be appointed Registrar of deeds and keeper of plans, and other documents now kept by the Surveyor General, and to his successors in office, the sum of two hundred pounds,‡ of lawful current money as aforesaid, *per annum*, the same to be in lieu of all fees of office, allowances and emoluments payable to the Registrar of deeds and Surveyor General, or into their offices, such fees of office, allowances and emoluments to be paid by him into the treasury of this Island, to and for the use of the Government of this Island, and to be accounted for in manner, and at the time, as by law in that behalf directed or to be directed.

£200 to any future Registrar of deeds, &c.

Fees, &c. to be accounted for and paid into treasury.

II. Provided always, nevertheless, and be it enacted, That the several sums of money or salaries, hereinbefore mentioned and granted, shall always be held and deemed to include and comprehend, and to be in lieu of all salaries or sums voted by any Act of the General Assembly of this Island, to any of the hereinbefore mentioned officers.

Sums now granted to be in lieu of any salary heretofore granted.

III. And be it enacted, That so soon as this Act shall come into operation, there shall be annually paid to the Honorable Robert Hodgson, the present Attorney General of this Island, in case of his retirement from such office, during the

£200 to Hon. R. Hodgson, as a retiring allowance.

\* By the Act 18 Vic. cap. 19, which authorizes the appointment of an Assistant for the office of Colonial Secretary, the sum of £100 is deducted from the salary of the Colonial Secretary.

† By the 23d Vic. c. 39 the office of Clerk of the Executive Council and the office of Clerk of the Legislative Council are separated and cannot be held by one and the same person; and by the same Act, the Lieutenant Governor &c., is empowered to appoint Assistant Clerks to the Executive Council, the salary of the Assistant Clerk being thereby fixed at £200, and that of the second Assistant at £100 per annum, in lieu of all fees, allowances, &c.; and by the same Act, the salary of the Clerk of the Legislative Council is fixed at £75 per annum.

‡ This salary is reduced to £150 by Act 18 Vic. c. 19.

term of his natural life, the sum of two hundred pounds, of lawful current money as aforesaid, as and for a retiring allowance.

£200 to Hon. T. H. Haviland, as a retiring allowance.

Condition and restriction upon which said retiring allowances are granted.

Said condition, &c., not to extend to the office of Surrogate and Judge of probate.

Salaries, allowances, &c., to begin from and after the passing of this Act, and shall be payable quarterly.

Lt. Governor, &c. to draw warrants on Treasurer, quarterly, in favor of officers, &c.

IV. And be it enacted, That so soon as this Act shall come into operation, there shall be annually paid to the Honorable Thomas Heath Haviland, the present Colonial Secretary of this Island, in case of his retirement from such office, during the term of his natural life, the sum of two hundred pounds, of lawful current money as aforesaid, as and for a retiring allowance: provided always, nevertheless, that the retiring allowances hereinbefore enacted, to be paid to the Honorables Robert Hodgson and Thomas Heath Haviland, are granted under the following condition and restriction, that is to say: that if either of them, the said Robert Hodgson or Thomas Heath Haviland shall retain, or at any time hereafter accept, any office of emolument under the Government of this Island, then, during such time as he shall continue in such lastmentioned office, the amount of annual retiring allowance hereinbefore by this Act enacted to be paid to him, shall be reduced by an annual amount equal to the amount of the annual salary, fees or allowance, which he may, for the time being, receive on account of such office of emolument: provided always, nevertheless, that the office of Surrogate and Judge for the probate of wills, now held by the said Robert Hodgson, is expressly excepted from the operation of this proviso, and the fees of such office, whilst held by him, shall not be deducted from his retiring annual allowance aforesaid.

V. And be it enacted, That when this Act shall come into operation, then the said several salaries and allowances, and sums of money hereinbefore fixed, specified and allowed, shall be deemed and taken to begin and commence at that period, and shall be payable from that time to the said several officers and persons aforesaid, in and by quarterly portions or instalments of the said salaries and allowances, respectively, which shall be, and be considered due, on the last day of March, June, September and December—quarters in every year.

VI. And be it enacted, That it shall and may be lawful for the Lieutenant Governor, at or immediately after the expiration of any of the said quarters of the year, to draw warrants on the treasury of this Island, by and with the advice and consent of Her Majesty's Council, for or in favor of the respective officers and persons aforesaid, or such persons as shall be named therein, for their respective quarterly payments of the yearly salaries and allowances to them allowed and granted as aforesaid.

VII. And be it enacted, That in order to make compen-

sation to the present Chief Justice of this Island, for the reduction in the amount of salary from what was formerly paid to him by the imperial Government, there shall, immediately after this Act shall go into operation, be paid unto the said Chief Justice, out of the moneys which shall be in the Treasury of this Island, the sum of five hundred pounds, of lawful current money of this Island: the same to be paid by warrant, under the hand and seal of His Excellency the Lieutenant Governor, drawn upon the Treasurer of this Island, in favor of such officer.

£500 to present Chief Justice, as compensation for reduction of his salary.

VIII. And be it enacted, That after this Act shall come into operation, the proceeds of all the casual and territorial revenues, quit rents, crown land funds, crown lands and permanent revenues, which, at the time of its coming into operation shall have theretofore accrued or be in hand, or which shall thereafter accrue, or be received and collected, shall become payable and be paid into the treasury of this Island, to be thence paid or applied for such public uses and purposes as the public revenue of this Island is now paid and applied, or shall be made applicable to, under or by virtue of any Act of the General Assembly now or hereafter to be in force.

Proceeds of casual and territorial revenues, &c., to be paid into treasury of this Island.

IX. And for the more plainly and distinctly declaring the several casual and territorial revenues of the Crown, and the moneys and funds and other rights, which are by the General Assembly understood and desired to be now severally and respectively surrendered to, and placed at their disposal, for the use of this Island, under and by virtue of this Act: Be it enacted, that all rents, sums of money, returns, profits and emoluments, arising, reserved, due, owing, or in any manner whatsoever, which, at the time when this Act shall come into operation, shall have theretofore accrued, and shall be in hand, or shall be thereafter to be received from, for, or in respect of any lease, demise, sale, license, grant, transfer, or occupation of any of the Crown lands, mines, minerals, reservations, or royalties of Her Majesty, within this Island, of whatsoever nature or description, and also all and singular the fees and payments, at the office of the Colonial Secretary of this Island, received or payable for, or in respect of all or any writings, licenses, instruments, seals, certificates, commissions, or patents, there made or issued, and on which fees were heretofore payable and established for the Lieutenant Governor or Secretary of this Island, or into his office; and lastly, all fines, penalties and forfeitures, by or under any laws or Acts of this Island, imposed and applicable to, or for the use of Her Majesty, shall be, and the said several rents, sums of money, returns, profits and emoluments, fees and payments, fines, penalties and forfeitures, respectively, above mentioned, and all proceeds thereof, or therefrom, respectively, then collected and in hand, are

Casual and territorial revenues, &c., to be surrendered to this Island, defined and set forth.

hereby declared to be the casual and territorial revenues of the Crown, which, from and after the time of this Act coming into operation, be and become surrendered and transferred to this Island, and become and be payable into the treasury thereof, as hereinbefore mentioned.

Repeals 32d &  
36th sections of  
the Act 25 G.  
3, c. 4;

and also the 2d  
section of Act  
35 G. 3, c. 10.

X. And be it enacted, That the thirty-second and thirty-sixth sections of the Act passed in the twenty-fifth year of the reign of His late Majesty King George the Third, intituled "An Act to amend, render more effectual, and to reduce into one Act, the several laws made by the General Assembly of this Island, relative to the duties of impost on wines, rum, brandy and other distilled spirituous liquors, and for allowing a drawback on all wines, rum, brandy, and other distilled spirituous liquors exported from this Island;" and also the second section of an Act passed in the thirty-fifth year of the reign of the same King, intituled "An Act for raising a duty on wine, rum, and other distilled spirituous liquors, and for imposing a duty on porter, ale, and strong beer," and which declare and regulate the mode in which the moneys arising by virtue of the several duties imposed by the said recited Acts, shall respectively be applied, laid out and accounted for, be, and the same are hereby severally repealed.

Moneys arising  
under Acts re-  
cited in preced-  
ing section to  
be paid into  
treasury of this  
Island, &c.

XI. And be it enacted, That after this Act shall come into operation, the moneys arising under the said Acts, in the last preceding section recited, shall thereafter become payable, and be paid into the treasury of this Island, and be placed at the disposal of the General Assembly thereof, and shall and may be applied and paid to and for such public uses and purposes, as in and by any Act of the General Assembly, in force or hereafter to be passed, shall be ordered and directed.

Right of Her  
Majesty to all  
lands, mines,  
&c., to be as-  
signed to this  
Island, &c.

XII.\* And be it enacted, That so soon as this Act shall come into operation, all the right and title of Her Majesty, whether in reversion or otherwise, or reserved of, in and to all and singular the lands, mines of gold, silver, iron, coal, iron stone, lime stone, slate stone, slate, rock, tin, copper, lead, and all other mines, minerals and ores, within this Island, of which the title is now in Her Majesty, shall be, and the said several enumerated premises are hereby respectively assigned, transferred and surrendered to the disposal of the General Assembly of this Island, and shall and may be managed, leased, disposed of, made available, paid and applied in such and the like manner, and to, and by such officers and persons, and to and for such public uses and purposes, as in and by any Act of the General Assembly, for the time being, shall be ordered and directed.

\* The word "lands" in this section is to be omitted in the reading and construction thereof, by the 15th Vic., c. 7.



XIII. And be it enacted, That it shall be lawful, when and so soon as such transfer, surrender and assignment shall take effect as aforesaid, and come into operation, for the General Assembly of this Island, by any Act to be passed for that purpose, to provide for the managing, collecting and receiving of the said revenues, and other matters hereby surrendered and transferred, and to appoint proper officers for the said revenues.

When transfer shall take effect, General Assembly to provide for receiving said revenues, &c.

XIV. And be it enacted, That for the more easy collection and enforcing payment of any such revenue, due or to become due as aforesaid, it shall be lawful for the officers or persons charged with the collection or management of the revenue in the name of Her Majesty, her heirs or successors, but to the use of this Island, to have and take all such lawful ways and means, by information, suit, or proceeding at law, or in equity, as by or on behalf of Her Majesty, her heirs or successors, might or could be adopted for or in respect of the said revenues, or any the lands, moneys, or royalties chargeable therewith, if the surrender, transfer and assignment aforesaid, had never been made to or for the use of this Island.

How revenues, &c., are to be collected.

XV. And whereas it would be for the public advantage, and would greatly facilitate and ensure the proper discharge of the duties of the said several offices hereinbefore provided for, if the same were more generally divided than at present: Be it therefore enacted, That from and after the passing of this Act, the offices of Colonial Secretary, of Registrar of deeds, and keeper of plans, and of Clerk of the Executive and Legislative Councils, shall be separate and distinct offices, nor shall they, or any two of them, be held together as heretofore they have sometimes been, by one and the same individual, save and except the offices of clerk of the Legislative and Executive Councils.\*

Separates offices of Colonial Secretary, Registrar of deeds, and keeper of plans, &c.

XVI. And be it enacted, That from and after the passing of this Act, so much of an Act passed in the third year of Her present Majesty's reign, intituled "An Act to establish the salary payable by this Island to the Colonial Secretary and Registrar and Clerk of the Executive Council," as relates to, and fixes and establishes the amount of annual salary, to be paid to the Colonial Secretary and Registrar and Clerk of the Executive Council; and also, so much of an Act made and passed to the Colonial Secretary and Registrar and Clerk of the Executive Council in the eleventh year of the reign of Her present Majesty, intituled "An Act to authorize the appointment of a Master of the Rolls to the Court of Chancery, and an assistant Judge of the Supreme Court of Judicature in this Island," as relates to, and fixes the amount of annual salary to be paid to the said

Repeals so much of Act 3 Vic., c. 27, as relates to salary of Colonial Secretary, &c.;

also, so much of Act 11 Vic., c. 6, as relates to salary of Master of Rolls, &c.

\* So much of this section as separates the office of Clerk of the Executive Council from that of Colonial Secretary is repealed by 23 Vic., c. 39.

Master of the Rolls in the Court of Chancery, and assistant Judge of the Supreme Court in this Island, be, and the same are hereby respectively repealed.

#### CAP. IV.

An Act for shortening the language used in Acts of the General Assembly.

Acts may be altered, &c., in same session in which they are passed.

**B**E it declared and enacted by the Lieutenant Governor, Council and Assembly, and by the authority of the same, That every Act to be passed after the commencement of this Act, may be altered, amended, or repealed, in the same session of the General Assembly, any law or usage to the contrary notwithstanding.

Acts to be divided into sections.

II. Be it enacted, That all Acts shall be divided into sections, if there be more enactments than one; which sections shall be deemed to be substantive enactments, without any introductory words.

Sufficient to cite year of the reign, statute or session, chapter or section, &c.

III. Be it enacted, That in any Act, when any former Act is referred to, it shall be sufficient to cite the year of the reign; and where there are more statutes or sessions than one in the same year, the statute or the session, (as the case may require,) and where there are more chapters or sections than one, the chapter or section, or chapter and section, (as the case may require,) without reciting the title of such Act, or the provision of such section so referred to; and the reference in all cases shall be made according to the copies of statutes, printed under and by virtue of an Act of the General Assembly of this Island, passed in the eleventh year of the reign of Her present Majesty, intituled "An Act to provide for reprinting the laws of this Island," or under and by virtue of any Act of the General Assembly of this Island, hereafter to be passed, or by the Queen's printer: provided, that where it is only intended to amend or repeal any portion only of such section, it shall be necessary still, either to recite such portion, or to set forth the matter or thing intended to be amended or repealed.

Proviso.

Construction of words.

IV. Be it enacted, That in all Acts, words importing the masculine gender shall be deemed and taken to include females; and the singular to include the plural, and the plural the singular, unless the contrary, as to gender or number, is expressly provided; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended; and "county" shall be held to mean also county of a town, or of a city, unless such extended meaning is expressly excluded

by words; and the word "land," shall include messuages, tenements and hereditaments, houses and buildings of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit" shall include affirmation, declaration, affirming and declaring, in the case of persons by law allowed to declare or affirm, instead of swearing.

V. Be it enacted, That where any Act repealing in whole or in part any former Act, is itself repealed, such last repeal shall not revive the Act or provisions before repealed, unless words be added, reviving such Acts or provisions.

Certain Acts not to be revived.

VI. Be it enacted, That wherever any Act shall be made, repealing in whole or in part any former Act, and substituting some provision or provisions instead of the provision or provisions repealed, such provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation, by force of the last made Act.

Repealed portions of Acts to remain in force until substituted portions come into operation.

VII. And be it enacted, That every Act made after the commencement of this Act, shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such Act.

All Acts deemed public acts, unless the contrary be expressed.

VIII. Provided always, nevertheless, That nothing herein contained shall have any force or effect, until Her Majesty's pleasure therein shall be known.

Suspending clause.

\*.\* This Act received the royal assent on the 23d day of October, 1851, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 5th January, 1852.

## CAP. V.

### An Act for constituting Boards of Health.

Continued by  
24 Vic. c. 23.

WHEREAS the Statutes now in force for constituting Boards of Health will shortly expire, and it is expedient to make provision for the same: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That the Lieutenant Governor, or Administrator of the Government for the time being, in this Island, by and with the advice of Her Majesty's Council, shall have full power and authority, at all times, when he may deem it necessary, of public alarm, from dread of the approach of any infectious or pestilential distemper, or of the actual appearance or prevalence of any of the said diseases within this Island, to make, constitute and establish such and so many boards of health for the several Counties in this Island, or for particular districts in the said Coun-

Lt. Governor &c. to constitute boards of health when deemed necessary.

Boards may be dissolved and new ones constituted, &c.

ties, to consist of such and so many persons, being residents of the said Counties or districts, wherein the said boards of health shall be constituted, as the said Lieutenant Governor, or Administrator of the Government for the time being, by and with the advice aforesaid, may think proper and suitable; and the said boards, or any of them, at any time or times, to dissolve, and new ones to constitute in their room, and to add to the numbers of those established, or displace therefrom such and so many of the members thereof, as he may deem to be necessary.

Chairman of board to be nominated in commission constituting board.

II. And be it enacted, That for the said several Counties or districts in this Island, such person as shall be nominated for that purpose in the commission constituting the board, shall be chairman thereof, and immediately after the appointment thereof, the several members shall be sworn to the faithful discharge of their duty, by and before any Justice of the Peace for the said Counties respectively, and the said boards of health, thus constituted and sworn, shall respectively meet from time to time, and at all times when necessary, for the performance of the duties required by this Act, at such places as they may judge most advisable, and then and there, by a majority of votes of those present at any appointed meeting, decide all questions, and manage all business touching the public health; and any five of the said board, the whole being duly notified, or in any urgent case without notification, shall be a sufficient number of members to proceed to business, and the said boards may nominate a clerk for each of them respectively, and any orders made by the said boards respectively and signed by their chairman, and countersigned by their clerks, shall be sufficient to enforce the power and authority of the said boards.

Boards to nominate clerks.

Boards to enforce quarantine laws.

III. And be it enacted, That during the continuance of the said boards, and until they are respectively dissolved, all the quarantine laws heretofore made from time to time, or hereafter to be made by the General Assembly, for the several Counties within this Island, shall be enforced by the said respective boards of health for the several districts, and not by any persons or persons in the said several and respective quarantine laws, in that behalf mentioned, save and except medical officers, pilots and constables therein specified, who shall execute their duties under the said boards respectively, and under the like pains and penalties, as therein prescribed, in case of disobedience; any thing in the said respective quarantine laws to the contrary notwithstanding.

Medical officers, &c., to execute duties under direction of boards.

Boards to make rules, &c., for

IV. And be it enacted, That the said boards, respectively, shall and may have full power and authority, at any and at all times, to make such rules and regulations, for the preser-

vation of the public health, and the prevention of infectious, contagious, pestilential, and malignant distempers, with such penalties and forfeitures, in case of any breach or breaches thereof, as they may deem necessary for that purpose; but such penalties and forfeitures shall not, in any one case, exceed the sum of one hundred pounds: provided always, that the Lieutenant Governor, or Administrator of the Government for the time being, by and with the advice of Her Majesty's Council, shall have full power and authority, in case any rule or rules, regulation or regulations, so made by any of the said boards of health, shall be deemed inexpedient or improper, to revoke, repeal and annul such rule or rules, regulation or regulations so deemed inexpedient or improper; but every such rule or rules, regulation or regulations shall be deemed good and valid until so revoked, repealed or annulled as aforesaid; and all penalties and forfeitures incurred under any such rule or rules, regulation or regulations, before the same shall have been so revoked, repealed, or annulled, shall and may be sued for and enforced against the person or persons liable thereto, notwithstanding such rule or rules, regulation or regulations may be so revoked, repealed or annulled, before such penalty or penalties, forfeiture or forfeitures may have been sued for or recovered.

the preservation of the public health.

Rules, &c. deemed good and valid, until revoked.

V. And be it enacted, That the said boards respectively, shall and may have full power and authority, either by themselves or their committees, or other persons appointed by the said boards, and any constable or constables and person or persons acting in their aid, to enter into and upon all houses, buildings, yards, enclosures, or lands not enclosed within the bounds of their several and respective jurisdictions, and remove, or cause to be removed therefrom, every thing which may, by the said boards, or their committees, or persons appointed by them as aforesaid, be considered offensive, noxious, or likely to cause the spread of any such diseases or distempers, or injure the public health, and the houses, buildings, goods and enclosures, or lands unenclosed, of the poor, or of persons who will not immediately attend to their directions, to fumigate, cleanse, and use such other means for purifying as they shall deem necessary to preserve the health of the inhabitants; and the said boards of health, respectively, may cause any avenue, street or alley, or other passage whatever, to be fenced up, or otherwise enclosed, if they shall think the public safety requires it, and adopt suitable measures for preventing all persons whomsoever, from going to any part of the town, parish or district so enclosed.

Boards, &c. authorized to enter houses, &c., and remove every thing noxious, &c.

VI. And be it enacted, That the said boards of health, respectively, may, in their discretion, prohibit or regulate the internal intercourse, by land or water, between the Counties

Boards may prohibit or regulate internal intercourse.

Measures to be adopted, to prevent spread of contagious diseases.

or districts for which they are respectively appointed, and any part or place within this Island, and may direct, that all persons who shall come into the said Counties or districts, contrary to their prohibitions or regulations, shall be apprehended and conveyed to the vessel or place whence they last came, or beyond the confines of their respective districts, or, if sick, that they be conveyed to such hospital, or other place, as the several boards may appoint, and may adopt prompt measures to prevent the spread of any contagious or pestilential disease, when it shall appear to their satisfaction, that any person within their districts, is afflicted with a disease of that character, and may forbid and prevent all communication with the house or family so infected, except by means of ministers of the Gospel, physicians, nurses, or messengers to carry the necessary advice, medicines, and provisions to the afflicted, and to exercise all such powers, whenever a contagious or pestilential disease shall appear in their said several districts, as, in their judgment, the circumstances of the case and the public good shall require.

Vessels, &c. may be ordered to quarantine ground.

VII. And be it enacted, That the said boards of health, respectively, whenever in their judgment the public health shall require it, may order any vessel or boat at the wharfs of any of the seaport towns in their districts, or in any part of the waters of such districts, to the quarantine ground, or other place of safety, and may require all persons, articles, or things landed, or introduced into any of such respective districts, from such vessel, to be seized and returned on board, or removed to the quarantine ground, or other place of safe deposit; and in case the master, or owner, or consignee of the vessel cannot be found, or shall refuse or neglect to obey the order of removal, the said boards of health, respectively, shall have power to remove the vessel, at the expense of such master, owner or consignee; and no vessel or person, or any goods or articles so ordered or sent out, shall return or be brought back, to or within any part of the district from which they were sent without a written permit from the said respective boards of health; and if any cargo, or part of a cargo, or matter or thing, within any of the said districts, respectively, shall be found putrid or dangerous to the public health, the same may be destroyed or removed, and such removal, when ordered, shall be to the said quarantine ground, or to such other place as the said Boards for the respective districts may order.

Putrid matter, &c., may be destroyed or removed.

Boards may hire or build houses, and purchase sites for hospitals.

VIII. And be it enacted, That the said several boards of health shall have full power and authority to hire or build one or more suitable house or houses, and, where indispensably necessary, to purchase a parcel of ground for the site of any house so to be built in their respective districts, for which they may be appointed, for a public hospital or hospitals, for the

reception of such diseased persons, as it may be found necessary to send thereto, and to furnish the same with all things necessary for the cure, comfort and convenience of such persons, and to provide a physician or physicians, nurse or nurses, and other persons to attend the sick and diseased therein, and conveyances or means to carry such diseased persons to and from the said hospital or hospitals, and medicines, and all other necessary things for the purposes aforesaid; and also to provide all proper means for the interment of the dead, under such regulations as the public safety may require, and it shall and may be lawful for the said boards of health, respectively, to appoint committees of any three members of each board, whose particular duty it shall be to carry into execution all the orders of the board respecting the matters contained in this section, and who shall and may sue and be sued jointly, or the survivor or survivors of them, for any contract or engagement entered into by them, in fulfilment of their duties hereinbefore in this section specified; and, in order to defray the expenses incurred by the said several boards of health, respectively, or their said committees, in and about the execution of this section, or of any part of this Act, the Lieutenant Governor, or other Administrator of the Government for the time being, is hereby authorized and empowered, by and with the advice of Her Majesty's Council, to grant a warrant on the Treasurer of the Island for the payment thereof, so soon as the same shall be ascertained by the said committees or boards respectively, and duly certified to be correct: provided always, that before any such house or houses, intended as permanent buildings, shall be built by any of the said several boards of health, the Lieutenant Governor, or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Council, shall first consent and approve of the plan or plans, by which such house or houses is or are intended to be built, and of the estimated cost of the erection and building of the same, and of the intended site or sites of such house or houses; and provided also, that the said Lieutenant Governor, or Administrator of the Government for the time being, shall in no case grant a warrant or warrants for a larger sum or sums, in the whole, in any one year, in favor of any one board, than the sum of one hundred pounds, except for the central board, for which any sum, not exceeding two hundred pounds, may be so granted.

Approval of Lt. Governor, &c., requisite, before permanent hospitals shall be built.

IX. And be it enacted, That the said boards of health shall have full power and authority to remove to the said public hospital or hospitals, all persons found within the districts for which they shall severally be appointed, who shall be afflicted with any such contagious or pestilential diseases as

Who may be removed to public hospitals.

aforesaid, and who shall not be of sufficient ability to provide for themselves, or cannot be provided with such necessary advice, medicines, attendance, food, lodging, or clothing, as such diseases may require, and the same persons to keep there, until they are cured, cleansed and purified, and may be safely discharged.

Violation of  
order of boards  
how punished.

X. And be it enacted, That whosoever shall violate the orders or directions of the said boards of health, or either of them, or who shall or may refuse, or wilfully neglect, or omit to act in obedience to, or in conformity with such orders and directions, or shall resist, oppose, or obstruct the lawful execution of any such orders or directions as aforesaid, or the members of the said boards of health, their committees or persons appointed by them, or any constable or constables, or other person or persons acting in their aid in the execution of their duty, shall for every offence be deemed guilty of, and punishable as for a misdemeanor, and shall incur and become liable to a penalty not exceeding one hundred pounds, and not less than two pounds, for every such offence.

Mode of recovery  
of penalties.

XI. And be it enacted, That all the penalties and forfeitures hereinbefore mentioned, or authorized to be ordained and imposed, may be prosecuted, sued for, and recovered in the Supreme Court; or in case of any penalty being for twenty pounds, or under, before any three Justices of the Peace, for the said Counties respectively in this Island, by action of debt, bill, plaint, or information, by any three members of the said boards of health respectively, to be appointed by the said boards for that purpose, who shall prosecute for the same within forty-five days after the commission of the offence; and when recovered shall be paid, after deducting the costs and charges of prosecution, into the treasury of the Island, for the use and support of the Government thereof; and if no person shall so sue and prosecute within the said forty-five days, that then the said penalties and forfeitures shall be sued for and recovered by information of Her Majesty's Attorney General in the said Supreme Court, and, when recovered, to be paid, after deducting the costs and charges of prosecution, into the said treasury for the use aforesaid; and all and every person and persons, who may become liable to pay any such penalty or penalties, forfeiture or forfeitures, shall and may be arrested and held to bail, according to the practice of the said Court, for such penalty or penalties, forfeiture or forfeitures, at the suit of the persons hereinbefore mentioned, and entitled to sue for the same, by virtue of an order for that purpose, to be obtained under the hand of any Judge of the said Court, on proper affidavits being laid before him, satisfactorily establishing the liability to pay the penalty or penalties, forfeiture or forfeitures aforesaid, which order any one of the Judges of the

Appropriation  
of penalties.



said Court is hereby authorized to grant; and in default of giving such bail, such person or persons so as aforesaid, ordered to be held to bail, shall be committed to prison, or to such other place as any of the said boards of health, respectively, for any district where the offender may be taken, may order, for the public safety.

XII. And be it enacted, That the Lieutenant Governor, or Administrator of the Government for the time being, by and with the advice of Her Majesty's Council, is hereby authorized and required to appoint one or more medical person or persons for such districts as he may see fit; who shall have power and authority to go on board, visit and inspect all vessel or vessels arriving at this Island within the district for which he or they shall be health officer or officers, which may be suspected of having on board any infectious, pestilential, or contagious disease or distemper, and who are required, at the instance of the said boards of health, to go on board such respective vessel or vessels, and make full inquiry and examination into the state of the health of all persons on board, or who may have been on board during any part of the voyage; and whether the said vessel or vessels came from, or touched at any place infected with any of such distempers, and into and concerning all circumstances and matters in anywise touching and concerning the prevalence of any such distempers, at any place where the said vessel or vessels may have touched, or from which the said vessel or vessels may have sailed; and the said health officer or health officers are hereby respectively fully authorized and empowered, on going on board any vessel or vessels as aforesaid, to examine the master and any other person on board such vessel or vessels, if he or they may think necessary, on oath, as to the health of all persons on board, or who may have been on board during any part of the voyage, and into and concerning all circumstances and matters in anywise touching or concerning the prevalence of any of the said distempers at any place where the said vessel or vessels may have touched; which oath the said health officers respectively are hereby fully authorized and empowered to administer; and the said health officer and health officers performing such duty, shall make report, in writing, to the boards of health for the district in which such vessel shall be, of the result of such examination and inquiry, with his or their opinion and advice thereon; and no such vessel shall proceed further into the harbor, until the board of health for the district in which such vessel shall be, shall give a license in writing to the master or commander of such vessel for that purpose; any thing in the Act passed in the second year of the reign of his late Majesty King William the Fourth, to the contrary notwithstanding; and such health officer who

Health officers to be appointed by Lt. Governor, &c.

Their powers.

Further powers of health officers.

No vessel to proceed until harbor until licensed to do so by board of health.

shall visit, inspect, and examine any such vessel as aforesaid, and make such report as aforesaid, shall, for each and every such visit, inspection, examination and report, be entitled to demand and receive from the master, owner, or consignee of such vessel so visited, inspected and examined, the rates following, being proportioned according to the size of the vessel; that is to say, for—

Fees of health officer.

All vessels under one hundred tons, five shillings.

Vessels of one hundred tons, and under one hundred and fifty tons, seven shillings and six pence.

Vessels of one hundred and fifty tons, and under two hundred tons, ten shillings.

Vessels of two hundred tons, and under three hundred tons, fifteen shillings.

Vessels of three hundred tons and upwards, twenty shillings.

One half of such fees only allowed for every second or further visit.

Provided always, that in case it shall be found necessary for the said health officer or officers to make more than one visit to any such vessel or vessels, every health officer so visiting shall be entitled to one half only of any of the aforementioned rates, for every second and further visit so made, from the master, owner, consignee, or commander of such vessel, together with a reasonable allowance for medicines furnished and supplied; the said fees for attendance and allowance for such medicines to be recovered before any two Justices of the Peace for the County wherein such services have been performed.

Health officer may refrain from boarding vessels in certain cases, unless specially ordered to do so.

XIII. Provided also, and be it further enacted, That if such health officer or health officers shall not deem it proper in the first instance, or necessary, actually to go on board of any such vessel or vessels, on account of any contagious or malignant disease which may prevail therein, then it shall not be incumbent upon him to do so, but only to go alongside of such vessel or vessels (unless a special order to the contrary shall be first made by the board of health for the district for which such medical officer shall be appointed; but all the powers and authorities by the last preceding section of this Act vested in such health officer or officers, and to be exercised by him or them on going on board of such vessel or vessels, shall be, and the same are hereby given to and vested in such health officer, or health officers, for the purposes of carrying out the provisions of this Act, in cases where he, or they may not deem it proper or necessary to go on board, but only to go alongside of any such vessel or vessels.

Medical officer not to visit

XIV. Provided always, and be it enacted, That it shall not be the duty of any such medical officer as aforesaid to

visit, nor shall he be entitled to any fee for visiting any vessel arriving from any port, unless a general or special order for that purpose shall be first made by the board of health for the district for which such medical officer shall be appointed; anything in this Act to the contrary thereof notwithstanding.

any vessel unless under special or general order of board of health.

XV. And be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to prevent the master of any ship or vessel from consulting or employing any medical man, other than the health officer or health officers, in case of any sickness amongst the crew of, or passengers on board of his ship or vessel.

Any medical man may be employed by master of vessel, in case of sickness.

XVI. And be it enacted, That in case it shall come to the knowledge of any Justice of the Peace or collector of impost, that any vessel has landed, or is about to land, any passengers laboring under any infectious or contagious disorder, or reputed so to be, that then the said Justice or collector of impost, of himself, and without any authority from any board of health, is hereby empowered, directed, and required to act to the best of his knowledge and ability in conformity with the directions hereinbefore prescribed to the boards of health, until the board of health nearest to such Justice or collector, by some resolution or order, signed by their chairman, and delivered to the said Justice or collector of impost, shall thereby supersede any order or proceeding so made or taken by any such Justice or collector; and thereupon such board shall forthwith require from such Justice or collector of impost, an account of any expenses incurred by him, or by his orders, in discharging the duty thereby imposed on him as aforesaid, and shall include such account in their statement of disbursements, and when such disbursements shall be paid, shall then pay to the said Justice or collector of impost, when required by him, the amount of his account, or so much thereof as shall be allowed by the Executive of this Colony.

Justices of the Peace, &c., authorized to act in certain cases.

XVII. And be it enacted, That the fourth section of an Act made and passed in the second year of the reign of King William the Fourth, intituled "An Act to prevent the importation and spreading of infectious diseases within this Island;" and also so much of the ninth section of the said Act as relates to the appointment of health officers, be, and the same are hereby repealed.

Repeals 4th section and part of 9th section of 2 W. 4, c. 13.

XVIII. And be it enacted, That this Act shall continue and be in force for ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance of Act.

## CAP. VI.

For Acts on  
this subject see  
20 G. 3, c. 1.

An Act to alter and amend the laws now in force relating to the militia.

20 G. 3, c. 1.

3 W. 4, c. 30.

**W**HEREAS in and by an Act of the General Assembly of this Island, passed in the twentieth year of the reign of King George the Third, intituled "An Act for the establishing and regulating a militia," and in and by an Act of the said Assembly, passed in the third year of the reign of His late Majesty King William the Fourth, intituled "An Act for repealing certain parts of an Act intituled 'An Act for the establishing and regulating a militia, and for substituting other provisions in lieu thereof;'" the militia of this Island are made liable to be called out, for the purpose of training and other military exercises, by the Lieutenant Governor, or Commander-in-chief for the time being, and by the commanding officer of the regiment, once in every year, and in some cases more frequently, as well in times of peace as of war or emergency: and whereas the custom of annually calling out and mustering the said militia, has prevailed since the passing of the above recited Acts, and has caused much loss of time and expense to the inhabitants of this Colony, and is unnecessary in times, like the present, of peace, and it is therefore deemed expedient that the said recited Acts should be amended: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the militia of this Island shall not be liable to be called out for the purpose of training or muster, by the Lieutenant Governor, or Commander-in-chief for the time being, or by the commanding officers of the regiments, in manner as in the said recited Acts mentioned, except only in times of war, civil commotion, or other sufficient emergency, which, in the opinion of the Lieutenant Governor, or Commander-in-chief, may call for the actual services of the said militia, or any part thereof.

Militia shall not, in future, be called out, except in cases of emergency.

Salary of persons appointed under 3 W. 4, c. 30, to receive returns, &c., reduced to £25 per annum.

II. And be it enacted, That the person or officer appointed by the Lieutenant Governor, or other Commander-in-chief for the time being, under the provisions of the Act passed in the third year of the reign of his late Majesty King William the Fourth, intituled "An Act for repealing certain parts of the Act intituled 'An Act for the establishing and regulating a militia, and for substituting other provisions in lieu thereof,'" to receive the returns from the officers commanding regiments or battalions, and to inspect the respective regiments, companies and battalions of militia, (and to whom the sum of seventy-five pounds per annum is paid, under the eighth section of the last mentioned Act,) shall, from and after the

passing of this Act, be paid out of the treasury of this Island, in the usual manner, the sum of twenty-five pounds *per annum* only, and no more, instead of the said annual allowance of seventy-five pounds; the same to be also in lieu of the salary in the said last recited Act mentioned, 'as being formerly attached to the office of Adjutant General, and of all fees, charges or expenses for travelling to inspect the militia.

## CAP. VII.

An Act to oblige husbands and natural relatives of indigent and impotent persons, unable to maintain themselves, to contribute to their support. Continued by  
24 Vic. c. 23.

**WHEREAS** the laws now in force on the above subject will shortly expire, and it is deemed expedient, preparatory to the reprint of the Statutes, to repeal the same, and to enact provisions in lieu thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the ninth year of the reign of her present Majesty Queen Victoria, intituled "An Act to oblige husbands and other natural relatives of indigent and impotent persons, unable to maintain themselves, to contribute to their support," and also so much of an Act passed in the thirteenth year of her present Majesty's reign, intituled "An Act to continue several Acts therein mentioned," as continues the first above recited Act, be, and the same are severally hereby repealed, save and except, and in so far as the said Acts are declared to be in force, for the purposes hereinafter mentioned.

Repeals 9 Vic.  
c. 9, and part of  
13 Vic. c. 1.

II. And be it enacted, That from and after the passing of this Act, the husband, the father, and the mother, and also the children, being twenty-one years of age, and upwards, of every poor, blind, lame, and impotent person, who shall, upon complaint first duly made, be proved to the satisfaction of any two Justices of the peace for the County where the said person shall reside, to be unable to provide a sufficient maintenance for his, her, or their support, such relations being proved to be of sufficient ability, shall, at their own charges relieve and maintain every such poor person, in such manner, and according to such rate, as by any two Justices of the Peace of any County where such poor shall dwell, shall be assessed and ordered.

Husbands, &c.  
of poor, blind,  
lame or impo-  
tent persons,  
may be compel-  
led to maintain  
such persons.

III. And be it enacted, That if any such poor, destitute, and impotent person shall, through fear or any other cause, be deterred from personally complaining to any such Justices, and decline seeking relief as aforesaid, then, upon sufficient proof thereof, and of the destitute circumstances and situation

Justices may  
order mainten-  
ance on com-  
plaint of third  
parties.

of any such person, it shall be lawful for the Justices to act in the premises, upon the complaint of any stranger or other person, in the same manner as if complaint had been made to them by the party to be relieved.

**Mode of proceeding against relatives, on their neglecting or refusing to comply with order for maintenance.**

IV. And be it enacted, That if the husband, the father, or the mother, or any such children, as aforesaid, of such poor, blind, and impotent person, shall neglect or refuse to relieve and maintain him or her, in such manner as shall be ordered by the said Justices, or pay the amount of the rate specified in the said order for his or her support, at such time or times as shall be therein set forth and mentioned, it shall and may be lawful to and for the said Justices, from time to time, and as often as default shall be so made, to issue a warrant of distress under their hands and seals, for the amount of the said rate, and the costs of issuing such warrant, directed to any constable of the County wherein the party shall reside, who shall levy the same upon the goods and chattels of any of the said persons neglecting or refusing to comply with said order, and shall advertise and sell the same in the same manner as prescribed by the laws now in force, or for the time being hereafter to be in force, for the recovery of small debts, and who shall be entitled to like fees for mileage, levy and sale as are, or shall be allowed by the said Acts for the recovery of small debts, and who shall pay over the rate or sum so allowed and levied for, to the said Justices, to be by them disposed of for the support and maintenance of such poor, blind, lame, and impotent person, as to them shall seem best.

**Children of 14 years, and upwards, precluded from benefit of this Act, unless impotent &c.**

V. And be it enacted, That no males, of the age of fourteen years, or upwards, or females of the age of fourteen years, or upwards, unless impotent, or unable to procure a maintenance from sickness, or other physical or mental disability, shall be deemed as having any claim for support from their parents; any thing in this Act to the contrary, notwithstanding.

**Parties not having visible property, &c., how proceeded against.**

VI. And be it enacted, That any person not having any visible property, and not being prevented by sickness or any physical or mental disability, wilfully neglecting or refusing to support his or her family, on proof thereof before any two of Her Majesty's Justices of the Peace, as aforesaid, shall be liable to be brought before such two Justices, by warrant under their hands and seals, directed to a constable of the County where such party shall have resided or shall be found, and shall be liable to imprisonment and hard labor in the jail of the County where such warrant shall be issued, for any period not exceeding one calendar month; and any person who shall abscond or leave his or her family in a state of destitution, shall, in like manner, be liable to be apprehended on a warrant, to be issued as aforesaid, and on being brought before

such Justices, shall be liable to imprisonment and hard labor in such jail, for any term not exceeding three calendar months.

VII. And be it enacted, That all of Her Majesty's Justices of the Peace, acting under the authority of this Act, shall have power to compel the appearance before them, by summons, of all parties liable, or supposed to be liable, to its operation, as well as to cause the attendance of all necessary witnesses by subpoena; and such witnesses shall, in all respects, be liable to the provisions of the Act of the first year of the reign of his late Majesty King William the Fourth, intituled "An Act to authorize Justices of the Peace to enforce the attendance of witnesses in certain cases.

Witnesses, &c.  
liable to provisions of 1 W. 4, c. 9.

VIII. And be it enacted, That for the purpose of prosecuting, carrying on, enforcing and completing all proceedings, orders and judgments which may have been taken or made, or may be pending, under and by virtue of the said Act, and parts of an Act hereby repealed, the same shall be, and are hereby declared to be and remain in full force and virtue, any thing herein contained to the contrary notwithstanding.

Proceedings commenced under 9 Vic. c. 9, and part of 13 Vic. c. 9, may be prosecuted and completed.

IX. And be it enacted, That this Act shall continue and be in force for ten years from the passing thereof, and from thence to the end of the next session of General Assembly, and no longer.

Continuance of Act.

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### CAP. VIII.

An Act for the better prevention of smuggling.

Repealed by 19 Vic. c. 1.

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### CAP. IX.

An Act for raising a revenue.

Expired.

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### CAP. X.

An Act to continue "An Act for the encouragement of education.

\* \* \* This Act continued 10 Vic. cap. 9, for one year.

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### CAP. XI.

An Act relating to emigrants.

**WHEREAS** the laws now in force relating to emigrants, will shortly expire, and it is deemed expedient to make

Continued and amended by 18 Vic., c. 15.

**Imposes a tax  
on emigrants.**

other provisions in lieu thereof: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the passing of this Act, there shall be levied, paid, collected and raised, in the manner hereinafter prescribed, from the master, owner, or person in charge or command of any vessel hereafter arriving in any of the ports of this Island, with passengers or emigrants, a pecuniary rate or head duty, of twelve shillings, currency, for every emigrant passenger landed between the first day of April and the first day of October in every year, and of eighteen shillings, currency,\* (being the additional sum of six shillings) for every emigrant passenger landed in any year subsequent to the first day of October, such duty to be paid by the said master or owner, to the Collector of Impost of the port at which such vessel shall have first entered, at the time of making her first report and entry, when it shall also be the duty of the said master, or owner or commander, to furnish to the said collector a true and correct list and description of every emigrant and passenger on board such vessel, in the manner and form as is hereinafter directed by this Act, together with the manifest or list of emigrants made out at the time of clearing such vessel from the port from which such vessel sailed; and at the time of delivering such list, produce to, and deposit the register of such ship or vessel with the collector of impost, who shall, and he is hereby authorized to retain the same in his possession, until such master, owner or commander, shall produce a certificate from the chairman of the district board of health, stating that the provisions of this Act have been complied with by such master, owner, or commander, and directing such collector to deliver up the register to him; and no such report or entry shall be deemed to be valid, or shall have any legal effect whatsoever, unless such rates or duties be thereupon paid as aforesaid: provided always, that if upon the arrival of any such emigrant vessel, it shall be deemed necessary by any board of health, or other competent jurisdiction, by virtue of the laws of this Island made for preventing the spreading of infectious distempers, or relating to quarantine, that such vessel be kept at quarantine for a period not less than five days, then, and in such case, the rates of head duty hereinbefore imposed, shall be severally increased, and there shall be levied, paid, and collected, in the manner and form above directed, the additional sum of five shillings currency, for every such passenger or emigrant as aforesaid; and further, that if it be deemed requisite by the said board of health, or other competent jurisdiction, as aforesaid, that such vessel be kept at quarantine for a period not less than ten days, then,

**Register of ves-  
sel to be depo-  
sited with Col-  
lector of impost  
&c.**

**If vessel be kept  
at quarantine  
for 5 days, 5s.  
additional per  
head to be paid.**

\* The Act 18 Vic. c. 15 repeals so much of this section as defines the amount of head duty on emigrants, &c., and in lieu thereof imposes a uniform rate or head duty of 12s. 6d. at all seasons of the year.



and in such case, in addition to the said original rates or head duties, hereinbefore imposed, there shall be levied, paid, and collected in the manner and form hereinafter directed, the further sum of ten shillings, currency, for every such passenger or emigrant.

II. And be it enacted, That upon the refusal or neglect of the master or person having charge of any ship or vessel arriving with passengers and emigrants, as aforesaid, to pay the sum or sums, for each and every passenger and emigrant, as aforesaid, it shall and may be lawful to and for the collector of impost to sue for, and prosecute the same before any two of the Justices of the Peace of the County where the vessel may be; and on conviction, the said Justices shall and may levy the same by warrant of distress, under their hands and seals, directed to the sheriff or constable at or near the place where the said vessel may be, and by sale under the said warrant, of the guns, boats, tackle, apparel and furniture, of such ship or vessel; and the overplus, (if any,) of such distress and sale, after deducting the cost, shall be paid to the master or person having charge of such ship or vessel.

Tax may be sued for before two Justices.

Mode of recovery.

III. Provided always, nevertheless, and be it enacted, That it shall be lawful for the master, owner, or commander of any vessel arriving in any of the ports of this Island, with passengers and emigrants as aforesaid, subsequent to the first day of October in any year, instead of paying the said additional rate or head duty of six shillings, by this Act in such case imposed, over and above the original rate or head duty of twelve shillings, to give and execute to the collector of impost at such port (before permitting any such passengers or emigrants to land) with one good and sufficient surety, to be approved of by such collector, a bond, in substance and effect, according to that in the schedule to this Act annexed, marked (A), in which said bond there shall be set out, a list of the names of all the passengers, and their respective ages, as aforesaid, which list shall mention the heads of families and the children of each, males and females; and the penalty of the bond shall be in the sum double the aggregate amount of rates or duties, by this Act imposed on the passengers named therein, such bond being conditioned as in the said schedule marked (A) is mentioned; and the sum of ten shillings, and no more, shall be paid by the said master, owner or commander, to the said collector of impost, for taking such bond, and the entering into such bond shall obviate the necessity of paying the said additional rate or head duty of six shillings, and shall be taken in lieu thereof, at the option of the master, commander or owner.

Vessels arriving subsequent to 1st October, master, &c., may give bond.

Immigrants not permitted to land, until list of passengers shall have been deposited with collector of impost, &c.

IV. And be it enacted, That before the master, owner, or commander of any such ship or vessel shall permit any passenger to leave such vessel, on her arrival at any port or place in this Island, or on the coast or islands thereof, he shall deliver to the said collector of impost a correct list and return of all the emigrants or passengers on board such vessel at the time of her arrival, which shall contain the name of each passenger, and shall mention therein the heads of families and the children of each, males and females, which said list shall be in the form according to that in the schedule to this Act annexed, marked (B), and which form shall be furnished to the said master, owner or commander, by the said collector, free of charge; and the said master, owner, or commander, having exhibited his said manifest and furnished such correct return of his said passengers, and having deposited his register in the hands of the said collector, as hereinbefore directed, he shall attest to the same on oath, before the said collector, which said oath such collector is hereby empowered to administer; and having paid or secured all the rates and duties by this Act imposed, and having received his receipts and vouchers therefor, and also a permit or authority from the said collector to land his said passengers, it shall and may be lawful for him to allow the said passengers or emigrants to leave the vessel; and should the said master, owner, or commander, land or permit, or attempt to land any of his said passengers without having strictly fulfilled all the conditions required by this Act, he shall forfeit and pay a penalty of five pounds, for every passenger leaving his vessel contrary to the provisions of this Act.

Penalty for neglecting to comply with the conditions of this Act.

Cabin passengers liable to head duty.

V. And be it enacted, That the master, owner or commander of any packet, ship, or vessel, arriving from any part of the world, after payment of the several rates and head duties imposed by this Act, or any of them, shall be entitled to demand and receive from each and every of the cabin passengers on board of such ship or vessel, the sum or amount of rate or head duty paid for him, or her, under the provisions of this Act, or which he, or she, may be liable to pay, in manner as hereinafter mentioned; and if any such cabin passenger shall, after demand, refuse or neglect to pay the same, it shall and may be lawful for the said master, owner or commander, thereupon to sue for and recover the same before any two of the Justices of the Peace of the County where the vessel may be; and on conviction, the said Justices shall and may levy the same, by warrant of distress or execution, under their hands and seals, directed to any sheriff or constable, against the goods and chattels of the party convicted; and in the event of no goods and chattels being found, whereon to levy, then to imprison the party against whom the warrant of distress or

Master may sue for the same before two Justices.

execution shall be issued, for the term of ten days, unless the amount of such execution and costs be sooner paid: and for the purposes of this section, the following shall be the rules of the liability of such passengers, to pay the amounts of the several rates and head duties, paid by the master, owner or commander of any vessel, that is to say: each person above the age of twenty-one years, shall be liable to pay for himself or herself; the husband shall be liable to pay for himself and his wife, and the parent of a family shall be liable to pay for himself, or herself, and also for all his or her children under the age of twenty-one years.

Rules of liability of such passengers.

VI. And be it enacted, That notwithstanding any thing in this Act contained to the contrary, whenever any such vessel shall arrive at any port in this Island, having passengers or emigrants on board, and who are not intended to be landed in this Island, then no rate or duty whatsoever shall be exacted or paid for any such passenger, provided the master or owner of any such vessel, do, and shall, upon reporting and entering his ship with the collector of impost, for the port or district, at which he shall have arrived, and after first having delivered into the hands of such collector, the register of such ship or vessel, in manner aforesaid, give and execute to such collector a bond, according to the form in the schedule to this Act annexed, marked (C), with one or more good and sufficient surety or sureties to be approved of by the said collector, in a penalty of double the amount of the rate or duty, which by this Act would be imposed in case such passengers were landed, with a condition, that if none of the said passengers shall either directly or indirectly, be landed or escape on shore on this Island, before all and every the rates, taxes and duties imposed by this Act, shall be fully paid and satisfied, in the manner and form aforesaid, then that the same shall be void, and the sum of ten shillings, and no more shall be paid by the said master for such bond; which said bond shall afterwards be delivered up to be cancelled, on the said obligors, or any person on their behalf, filing with such collector a certificate properly authenticated by any collector of customs or imposts for any place out of this Island, that such passengers have been landed, and left there by the said master or owner, or his consignee: and provided also, that nothing in this Act contained shall prevent the master, owner, or person having the command of any vessel, so having on board passengers or emigrants as aforesaid, from permitting any passenger to leave the vessel at the request of such passenger, before the arrival of the vessel at this Island, or the coasts thereof; but in every such case, the names of the passengers who may have so left, shall be entered in the manifest or list of emigrants' names, made out at the time of clearing the vessel from the port from

No tax to be paid for immigrants not intended to be landed in this Colony.

Immigrants permitted to land at any port not within this Island.

which she has so sailed, and the same shall be certified, under the signature of the passenger or passengers, so having left the vessel; and if the number of passengers remaining on board, on the arrival of the vessel at this Island, do not correspond with that mentioned in such manifest, after deducting those who shall have so left the vessel, and also any that may have died on the voyage, the master or person having the command, shall forfeit and pay a penalty of five pounds for each and every passenger short of the number not found on board, unless he can account for the same, to the satisfaction of the said board of health; but infants born on the voyage shall not be included in the account for this purpose to be taken.

Penalty on Master, &c., offending herein.

VII. And be it enacted, That all infant emigrants and passengers, who have not attained the age of eighteen calendar months, at the time of their arrival at this Island as aforesaid, shall be free and exempt from all the taxes and duties imposed by this Act.

Infants, under 18 months, exempt from taxes.

VIII. And be it enacted, That every passenger on board any ship or vessel arriving in any harbor of this Island, to which the master or person commanding such vessel shall have engaged to convey him, shall be entitled to remain and keep his baggage on board, during forty-eight hours after the master shall have duly made and completed his entry, and complied with the provisions of this Act, relating thereto, and every such master, who shall compel any passenger to leave his vessel, before the expiration of the said term of forty-eight hours, shall incur a penalty not exceeding two pounds currency, for every passenger he shall so compel to leave his vessel; nor shall any master or person commanding such vessel remove or cause to be removed, before the expiration of the said forty-eight hours, any berthing or accommodation used by his passengers, under a like penalty.

Immigrants may remain on board vessel 48 hours after completion of entry.

Penalty on master compelling immigrants to leave vessel.

IX. And be it enacted, That any pilot who shall have had charge of any vessel having passengers on board, and who shall, know that any passenger has been permitted to leave the vessel, contrary to the provisions of this Act, and shall not within twenty-four hours after the arrival of such vessel in any harbor of this Island to which he may have engaged to pilot her, inform the Collector of impost at such port or place that a passenger or passengers has, or have, so left the vessel, shall incur a penalty not exceeding five pounds, currency, for every passenger with respect to whom he shall have wilfully neglected to give such information.

Duty of pilot in charge of immigrant vessel.

X. And be it enacted, That the moneys levied under the authority of this Act shall be paid by the Collector of impost, by whom they shall have been received, into the treasury of this Island, for the purposes hereinafter mentioned.

Money collected under this Act, how applied.

XI. And be it enacted, That it shall be lawful for the Lieutenant Governor or other Administrator of the Government for the time being, by and with the advice of Her Majesty's Executive Council, by order, under his hand, at any time after the passing of this Act, to advance to the boards of health in the several Counties, such sums of money as may be required, for the purposes of this Act, out of the moneys paid into the treasury, under the authority of this Act, to be applied and expended under the direction of the said boards of health.

Sums of money may be advanced by Lt. Governor, &c. and expended under the direction of boards of health.

XII. Provided always, and be it enacted, That no part of the said money paid and received by the said respective boards of health, shall by them be employed in making advances in money to any emigrant, but shall be expended in forwarding poor and destitute emigrants to the place of their destination, in this or the adjacent provinces: and in no case shall any grown person, in good health, and unincumbered with a family, except unmarried females who may be unable otherwise to join their friends and relatives, receive assistance out of the said moneys: provided nevertheless, that medical aid, house rent, fuel, and other unavoidable expenses, may be paid out of the said moneys so received, by the said boards of health, as aforesaid, together with a reasonable allowance to the Secretaries to the said boards of health, respectively, to be determined by the Lieutenant Governor in Council.

Money advanced by Government, how to be appropriated.

XIII. And be it enacted, That the said boards of health into whose hands the moneys shall be paid, under the authority of this Act, shall, within fifteen days after the meeting of each session of the Legislature, during the continuance of this Act, lay before each of the branches thereof, a faithful and detailed account of the expenditure of such moneys, and a correct list of the emigrants by them respectively relieved, distinguishing the nation and country of each emigrant, the place to which he or they shall have been forwarded, and his or her age, and the amount expended in affording such relief, and in what manner expended, to every grown person, and his or her name and trade.

Boards of health to render an account of their expenditure to the Legislature.

XIV. And be it enacted, That the persons composing the board of health, to whom shall be entrusted the expenditure of any portion of the moneys hereby appropriated, shall make up detailed accounts of such expenditure, shewing the sum advanced to the board of health, the sum actually expended, the balance, if any, remaining in their hands, and every such account shall be supported by vouchers therein distinctly referred to by numbers corresponding to the numbering of the items in such account.

How accounts are to be made up.

XV. And be it enacted, That all the penalties and forfeitures in this Act mentioned or imposed, may be prosecuted,

All penalties, &c. may be sued

for in Supreme Court.

Persons liable to penalties may be arrested, and in default of bail, may be committed to prison.

sued for, and recovered in the Supreme Court of this Island, or in case of any penalty, being for twenty pounds, or under, before any three Justices of the Peace for the Counties respectively in this Island, by action of debt, bill, plaint or information, by the Chairman of any board of health in this Island, who shall prosecute for the same within forty-five days after the offence, and when recovered, shall be paid, after deducting the costs and charges of the prosecution, into the treasury of this Island, for the use and support of the government thereof; and if no person shall so sue and prosecute, within the said forty-five days, then the said penalties and forfeitures may be sued for and recovered by information of Her Majesty's Attorney General, and when recovered, to be paid, after deducting the costs and charges of prosecution, into the treasury of this Island, for the use aforesaid; and all and every person and persons who may become liable to pay any such penalty or penalties, forfeiture or forfeitures, shall and may be arrested and held to bail, according to the practice of the said Court, for such penalty or penalties, forfeiture or forfeitures, at the suit of the persons hereinbefore mentioned, and entitled to sue for the same, by virtue of an order for that purpose, to be obtained under the hand of any Judge of the said Court, on proper affidavits being laid before him, satisfactorily establishing the liability to pay the penalty or penalties, forfeiture or forfeitures aforesaid; which order any one of the Judges of the said Court is hereby authorized to grant; and in default of giving such bail, such person or persons so as aforesaid ordered to be held to bail, shall be committed to prison as in other cases is accustomed: provided always, that any judgment given by the said Justices of the Peace, may be appealed against to the Supreme Court, in like manner, and subject to the like rules and regulations as are prescribed by the laws relating to the recovery of small debts; and where the judgment of the said Justices appealed from shall exceed the sum of ten pounds, no person shall be admissible as sureties on any such appeal, until they shall have duly justified each in double the amount and costs, upon oath, before some one or more of the Justices, before whom such judgment shall be given, in like manner as special bail in the Supreme Court now justify.

Taxes, &c. declared a specific lien on vessels.

XVI. And be it enacted, That for the better effectuating the purposes of this Act, the several taxes, duties and penalties imposed by this Act, shall be, and the same are hereby declared a specific lien on the said ship or vessel, notwithstanding the master or owner's general liability therefor: and the same Supreme Court, in term time, or any two Justices thereof, in vacation, also any three Justices of the Peace, as hereinbefore mentioned, are hereby empowered, on the application of the said board of health, for that purpose, and on affidavit of the Chairman thereof, for the time being, or on

the application and affidavit of any collector of impost for the port at which such vessel shall arrive, that the said master or owner has, in the opinion of the said board, or collector of impost, become liable for any of the said taxes, duties or penalties, to issue a process to arrest the person of the said master or owner or owners, and require bail for his or their appearance, to answer the said suit, or to attach the ship or vessel, by any process of attachment, in their discretion, until security be given to the satisfaction of the said Court or Justices, for the forthcoming of the said vessel, to answer the said suit, or to proceed as above directed, against both master or owner or owners and ship, at the same time, at the discretion of the said board, or collector of impost, with power to the said Courts, to hear and determine said suits, and to enforce their judgments therein, by all lawful and customary means; and no plea or exception taken to the jurisdiction of the said Courts, or either of them, in proceeding as hereinbefore directed, shall be held valid or tenable.

XVII. And be it enacted, That no tax or duty imposed by this Act shall be paid by any master or owner of any ship or vessel, for and on account of any native or inhabitant or person belonging to any of the neighboring British colonies, coming to or returning from this Island, or by any person who shall have previously resided in this Island, on his returning to the same; but all such persons are hereby declared exempt from the duties and taxes aforesaid.

Exempts certain parties from payment of tax.

XVIII. And be it enacted, That for the purposes of this Act, no person shall be deemed an inhabitant of any other Colony, unless such person shall have resided in such Colony for a period of twelve months, or shall have been a house-keeper therein for the space of six months, next before his or her departure from this Island, or unless such person shall have resided or kept house for any periods of time in more than one Colony, which periods of time shall amount together to either of the said terms of twelve months or six months, respectively, as aforesaid.

Who shall be deemed an inhabitant of any other Colony.

XIX. And be it enacted, That printed copies of this Act shall be furnished by the Government of this Colony, to all licensed pilots in the respective harbors of this island; and it shall be the duty of such pilots, on boarding or calling alongside of any vessel having emigrants on board, to deliver to the master or person in command of such vessel, one of the said copies of this Act, free of charge; and any pilot having had such copies duly furnished him, shall be liable to a penalty of two pounds, if he neglect or refuse to deliver a copy as aforesaid.

Printed copies of Act to be furnished to all licensed pilots.

Penalty on pilot for neglect of duty.

XX. And be it enacted, That this Act shall continue and

Continuance of Act. be in force for the space of three years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Bond to be given after 1st October in lieu of paying increased duty.

KNOW all men by these presents, that we, *A. B.* and *C. D.*, at present of            in Prince Edward Island, are held and firmly bound unto *E. F.*, collector of impost for the port of            in the said Island, in the sum of            current money of Prince Edward Island, to be paid to the said *E. F.*, his heirs or successors in office, for which payment, well and truly to be made, we bind ourselves jointly and severally, and our respective heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this            day of            in the year of our Lord one thousand eight hundred and

Whereas the above bounden *A. B.*, the captain (or owner, as the case may be,) of the ship or vessel called the            has received permission from the said collector to land, from the said ship or vessel, the following passengers, (who arrived therein, at the said port of            in the present year, subsequent to the first day of October, and from whom the said *A. B.* is liable to pay an increased rate or head duty, or to enter into the above written bond or obligation, with condition as hereunder stated, by virtue of the provisions of the Act 14 Vic., cap. 11, intituled "An Act relating to emigrants.")

[Here follow the emigrants' names, and whether over or above eighteen calendar months, or fourteen years of age.]

Now, the condition of the above obligation is such, that if the above bounden *A. B.* and *C. D.*, their executors and administrators, do, and shall, well and truly pay, or cause to be paid to the said *E. F.*, or his successors in office, all such sum or sums of money as shall or may, at any time or times within the space of twelve calendar months from the date hereof, be paid, laid out, or expended by the Government of this Island, or any of the competent local authorities, now, or at any time hereafter authorized to afford aid or assistance to the emigrants or persons above named, either for supplying them, or any of them, with food, clothing, house rent, fuel, medical aid, or means to defray their travelling expenses to any place for which, at the time of their embarking in such vessel, they may have been destined, and do and shall further save harmless, and indemnify the said Government or authorities, from and against all other charges, damages, expenses, and outlays,



which may have been incurred by the said Government or authorities, for the space of twelve calendar months, aforesaid, for or in respect of the said emigrants or persons above named, then this obligation to be void, otherwise to be and remain in full force.

Signed, sealed, and delivered } *A. B.*, (L. S.)  
 in the presence of } *C. D.*, (L. S.)

SCHEDULE (B.)

Number of heads of families.	Names of all passengers or emigrants on board.	Trades or occupations.	Ages.	Number of impotent persons.	Total number.	List of passengers.

the captain (or owner, as the case may be,) of the ship or vessel, called the \_\_\_\_\_ maketh oath and saith, that the foregoing is a true and correct list and return of each and every the passengers or emigrants on board the ship or vessel called the \_\_\_\_\_ of which deponent is master, and that no other passenger or passengers hath, or have been landed in this Island, or on the coasts thereof, from the said vessel, with deponent's knowledge and consent.

Sworn before me

SCHEDULE (C.)

Know all men by these presents, that we \_\_\_\_\_ at present of \_\_\_\_\_ in Prince Edward Island, are held and firmly bound unto \_\_\_\_\_ collector of impost for the port of \_\_\_\_\_ in the said Island, in the sum of £ \_\_\_\_\_ current money of Prince Edward Island, to be paid to the said \_\_\_\_\_ his heirs or suc-

Bond to be given when it

is not intended  
to land immi-  
grants in this  
Colony.

cessors in office, for which payment well and truly to be made, we bind ourselves, jointly and severally, and our respective heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this        day of        in the year of the reign of Her Majesty Queen Victoria, and in the year of our Lord one thousand eight hundred and

Whereas the above bounden        the captain (or owner, as the case may be,) of the ship or vessel called the        now arrived from the port of        in        having on board        passengers or emigrants, and now bound for the port of        as appears, has stated, that it is not his intention to land his said passengers, or any of them, on this Island, or the coasts thereof, but intends proceeding with his said vessel and passengers to the said port of

Now the condition of the above obligation is such, that if none of the said passengers or emigrants, on board the said vessel, shall, either directly or indirectly, be landed or escape on shore, in this Island, or the coasts thereof, before the respective rates and duties, imposed by the Act of the 14th Vic., cap. 11, shall have been fully paid and satisfied, then the above obligation shall be void, and of none effect, otherwise it shall be and remain in full force and virtue.

Signed, sealed, and delivered } (L. S.)  
in the presence of } (L. S.)

## CAP. XII.

An Act to provide for the transfer of the management of the inland posts within Prince Edward Island.

**W**HEREAS by an Act of the Imperial Parliament, passed in the twelfth and thirteenth years of the reign of Her present Majesty Queen Victoria, intituled "An Act for enabling Colonial Legislatures to establish inland posts," authority is given to the Legislature of this Island to make such provisions as may be deemed expedient for the establishment, maintenance and regulation of posts or post communication within the same, and for charging rates of postage for the conveyance of letters by such posts or post communications, and for appropriating the revenue to be derived therefrom: Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the time this Act shall go into operation, the exclusive right of establishing posts, and of conveying and delivering letters, and collecting postage within this Island, and the power and authority heretofore vested in the Lords of her Majesty's Treasury, under and by virtue of the Acts of the Imperial Parliament, passed in such behalf, to order and establish rates of postage in this Island, shall be, and they are hereby vested in the Lieutenant Governor in Council.

Amended by  
23 Vic., c. 40,  
24 Vic., c. 9, &  
25 Vic., c. 10.

Right of estab-  
lishing posts,  
&c., vested in  
Lt. Governor  
and Council.

II. And be it enacted, That the Lieutenant Governor in Council may establish, alter, discontinue, or extend any posts or post communication, or post offices within this Island, and may appoint, suspend, or remove, or displace a postmaster general, and all or any postmasters, officers, deputies, servants, and agents connected therewith.

Lt. Governor may establish posts, &c.

III. And be it enacted, That the Lieutenant Governor may, by orders in Council, make such rules and regulations in conformity with this Act, as may be necessary for carrying out the same, and for promoting the objects thereof, and all such orders, rules and regulations so made shall be valid and binding as if in this Act contained: provided always, that no higher penalty than the sum of one hundred pounds, shall be imposed by any such order in Council, for the violation thereof.

Lt. Governor, &c., may make rules for the regulation of all posts within this Island.

IV. And be it enacted, That every such order in Council shall be published in the *Royal Gazette*, and the rates of postage then established shall be demanded and taken immediately after such publication; and every such order, within eight days after it is made, shall be laid before the Legislature, if then sitting, or otherwise within fourteen days after it shall meet.

Order in Council to be published in *Royal Gazette*, &c.

V. And be it enacted, That in conformity with the agreements made between the local Governments of British North America, the colonial postage on letters and packets, not being newspapers or printed pamphlets, magazines or books entitled to pass at the lower rates hereinafter referred to, shall not exceed the rate of three pence currency per half ounce for any distance within this Island; and the increase of charge on letters weighing over half an ounce shall be regulated according to the British rule and scale of weights; \* that no transit postage shall be charged on any letter or packet passing through this Island, or any part thereof, to any other Colony in British North America, unless it be posted in this Island, and the sender choose to prepay it, nor on any letter or packet from any such Colony, if prepaid there; and that two pence sterling the half ounce shall remain in operation as regards letters by British mails, to be extended to countries having postal communication with the United Kingdom, unless Her Majesty's Government in the United Kingdom shall see fit to alter the rate thereon to be charged to three pence currency.

Rates of postage on letters and packets.

VI. And be it enacted, That the prepayment of colonial postage shall be optional to the sender; that all colonial postage received within this Island, shall be retained as belonging to it; and that all colonial postage received within any other

Prepayment of colonial postage optional to sender.

\* This regulation in regard to the mode of rating letters, &c., has been altered by a subsequent agreement made between the different local Governments of the North American Colonies, although no Act of our local Legislature appears to have been passed on the subject.

of the British North American Colonies, may be retained as belonging to such colony.

British packet postage, collected in this Island, how accounted for.

VII. And be it enacted, That the British packet postage collected in this Island, shall be accounted for, and paid over to the proper authorities in the United Kingdom, but the colonial postage, on the same letters or packets, shall belong to the colony collecting it, or, if prepaid to the British post office, it shall be credited and belong to the colony to which such letters or packets are addressed.

Disallows franking privilege.

VIII. And be it enacted, That no privilege of franking shall be allowed, as regards colonial postage.

Newspapers exempt from postage.

IX. And be it enacted, That all newspapers published in this Island, whether addressed to persons resident herein, or to residents in the United Kingdom, or other colonies, shall pass through the post office in this Island free of charge; that printed books, periodical publications and pamphlets may be transmitted by post within this Island, at the rate of two pence currency per ounce, up to six ounces in weight, and three pence for each additional ounce, up to sixteen ounces in weight, beyond which weight no printed book, publication or pamphlet, shall be transmitted by post: provided always, that the Lieutenant Governor in Council may, by orders, alter, modify and reduce the rates of postage on such printed books, periodical publications or pamphlets, as may be deemed fit and necessary.

Rates of postage on printed books, &c.

Packet postage.

X. And be it enacted, That the packet postage for letters shall be one shilling sterling the half ounce, ten pence of which shall belong to the English post office, and two pence sterling to the Prince Edward Island post office.\*

Packet postage to be carried to a separate account, &c.

XI. And be it enacted, That all moneys received on account of packet postage to and from the United Kingdom, be carried to a separate account by the postmaster general of this Island, and paid by him, at the end of every quarter, into the treasury of this Island, and the same shall be remitted by the Lieutenant Governor, not less than once every year, to the postmaster general in England; and that all other moneys received by the postmaster general of this Island, shall be paid by him also, at the end of every such quarter, into the treasury of this Island; and he shall also return to the office of the Colonial Secretary, at the end of every such quarter, a quarterly account of the revenue received by him as aforesaid, the same to be laid before the Lieutenant Governor and Council.

\* The rate of postage defined by this section has been altered under the authority of an imperial regulation, as appears by a despatch from Col. W. Maberly, Secretary to the Post Office department, dated 17th February, 1854, addressed to the Postmaster General of this Island, notice of which alteration was published in the *Royal Gazette* of the 21st day of March, 1854.

XII. And be it enacted, That the rate of remuneration for the transport of British or other mails by express through this Island, or through, to, or from Nova Scotia, New Brunswick, or Canada, shall be paid from time to time, by agreement, to be made between the Government of this Island, and the other Governments or Provinces concerned.

Express mails,  
how paid for.

XIII. And be it enacted, That in no case, shall the rate of postage for the inland conveyance, within this Island, of letters and packets, not being newspapers, printed pamphlets, magazines or books entitled to pass at lower rates as herein mentioned, exceed the rate of two pence currency per half ounce; and the increase of charge on letters weighing over half an ounce, shall be regulated according to the British rule and scale of weights.

Rates of inland  
postage, &c.

XIV. Provided always, and be it enacted, That if it shall appear to the local Governments or proper authorities of the other Colonies, and of the United Kingdom, and to the Governor in Council, that the foregoing conditions and provisions are not in accordance with the said arrangement, so made or agreed upon with the other Colonies, then it shall be lawful for the Governor in Council to alter and modify such conditions and provisions, so as to carry out and complete such arrangement.

Governor in  
Council may  
alter and modify  
foregoing  
conditions, in  
certain cases.

XV. And be it enacted, That all papers ordered to be printed by either House of Parliament, or by Her Majesty's command, or by the Legislative Council or House of Assembly of this Island, or by virtue of an address of the Legislative Council or House of Assembly, shall be transmitted by post within this Island, free of postage.

Parliamentary  
& other papers  
to be transmitted  
free of  
postage.

XVI. And be it enacted, That no printed paper, whether newspaper, book, pamphlet, or other paper, permitted by this Act to be sent by post, shall be transmitted either free or at a reduced rate of postage, unless the following conditions shall be observed: first—it shall be sent without a cover, or in a cover open at the sides or ends; second—there shall be no words or communications printed on the paper after its publication, or upon the cover thereof, nor any writing or marks upon it, or upon the cover of it, except the name and address of the sender and of the person to whom it is sent; third—there shall be no paper or thing enclosed in or with any such paper or publication.

Conditions to  
be observed, to  
secure free  
transmission of  
newspapers, &c.

XVII. And be it enacted, That the postmaster general or any of his officers, may examine any printed paper or packet which shall be sent by the post, either with or without a cover, open at the sides or ends, in order to discover whether it is contrary in any respect to the conditions hereby required to be

Postmaster  
general, &c.,  
may examine  
printed papers,  
&c., sent by  
post.

observed; and in any case, if the required conditions be not fulfilled, the whole of every such paper shall be charged with postage as a letter; and as to every such printed paper going out of the Island, the Postmaster General or his officers, may either detain the same or forward it by post, charged with letter postage as aforesaid.

Decision of Postmaster General to be final in certain cases

XVIII. And be it enacted, That in all cases where a question shall arise—whether a printed paper is entitled to the privileges of a newspaper or other publication, as regards its transmission by post under this Act, the question shall be referred to the Postmaster General of this Island, whose decision, with the concurrence of the Lieutenant Governor in Council, shall be final.

Newspapers, &c., in cases of removal, may be redirected, and forwarded free of charge.

XIX. And be it enacted, That in case any printed newspaper, or other printed paper, privileged to go by post, and brought into this Island, shall be directed to a person who shall have moved from the place to which it is directed, before the delivery thereof at that place, it may, provided it shall not have been opened, be redirected, and forwarded by post to such person, at any other place within this Island, free of charge for such extra conveyance; but if such newspaper or other printed paper shall have been opened, it shall be charged with the rate of a single letter, from the place of redirection, to the place at which it shall be ultimately delivered.

Compensation to masters of vessels for letters delivered to the post office, &c.

XX. And be it enacted, That for encouraging masters of vessels not being post office packets, to undertake the conveyance of letters between places beyond the British North American Colonies and this Island, and for regulating the conveyance and delivering of such letters, the Postmaster General may allow to the masters two pence currency for each letter they shall deliver to the Post Office at the first port they touch or arrive at in this Island, or with which they shall communicate when inward bound, and two pence currency for each letter which they shall deliver to the post office when outward bound; and if from unforeseen circumstances the master cannot, upon delivering his letters at an outport, receive the money to which he is entitled, he shall be paid by means of an order on the Postmaster General at such other place as may be convenient, and every master of a vessel inward bound shall, at the port of place of arrival, sign a declaration in presence of the person authorized to take the same at such port or place, who shall also sign the same, and the declaration shall be in the form or to the effect following:—

Master of vessel inward bound to sign a declaration, &c.

Form of declaration.

“I *A. B.*, commander of [state the name of the ship or vessel] arrived from [state the place,] do, as required by the post office Act, solemnly declare, that I have, to the best of my knowledge and belief, delivered, or cause to be delivered to

the post office, every letter, letter bag, package, or parcel of letters that was on board the [state the name of the ship,] except such letters as are exempted by the said Act."

XXI. And be it enacted, That no officer of the Customs or Excise in this Island shall permit such vessel to enter or report, until such declaration shall be made and produced, and no vessel shall be permitted to break bulk, or make entry in this Island, until all letters on board the same shall be delivered to the post office, where posts are, or may hereafter be established, except such letters as are exempted by this Act; and also, except all such letters as shall be brought by a vessel liable to the performance of quarantine; all which last mentioned letters shall be delivered by the persons having the possession thereof to the persons appointed to superintend the quarantine, that all proper precautions may be by them taken before the delivery thereof, and when due care has been had therein, the said letters shall be by them dispatched in the usual manner by post, and the officers of the impost and excise, at every port or place in this Island, shall search every vessel for letters, which may be on board contrary to this Act, and may seize all such letters and forward them to the nearest post office, and the officer who shall so seize and send them, shall be entitled to a moiety of the penalties which may be recovered for any such offence, and the Postmaster General may appoint agents to demand from the masters of vessels arriving in this Island, all letters on board the same, not exempted by this Act; and the master of any such vessel shall forthwith deliver all letters on board to such person on his demanding the same.

No vessel permitted to enter or report until declaration shall be made, &c.

Postmaster General may appoint agents to demand letters, &c.

XXII. And be it enacted, That the Postmaster General, with the approbation of the Lieutenant Governor and Council, shall establish new way offices and post offices, over and above the regular post offices and way offices now established; and every person employed at such way offices or post offices shall be liable to all the penalties imposed by this Act on Postmasters, and other officers of the post office, and shall be entitled to such remuneration for their services as shall be allowed by the Lieutenant Governor in Council.

Postmaster General to establish new way offices, &c.

XXIII. And be it enacted, That the Postmaster General, with the concurrence of the Lieutenant Governor in Council, may enter into an agreement with, and take security from any person applying to him, to extend the accommodations of the posts to any place, for indemnifying the revenue against the expenses which shall be incurred thereby, beyond the amount of postages received.

Postmaster General may enter into agreements, &c., to extend post accommodation.

XXIV. And be it enacted, That the Lieutenant Governor in Council may enter into arrangements or conventional agree-

Lt. Governor may enter into

arrangements with other N. A. Colonies, &c. for transmission of newspapers, &c.

ments with any other of the North American Colonies, or with any foreign country, for the transmission of Colonial or foreign newspapers, or other printed papers, within, to, or from, or through this Island, upon such terms or conditions as shall be just or reasonable, and shall be empowered to carry out such arrangements or conventional agreements by order in Council duly published as herein directed.

Post marks conclusive evidence of postage payable in respect of any letters brought into this Island, &c.

XXV. And be it enacted, That the postage marks, whether British, Foreign, or Colonial, on any letter brought into this Island, shall, in all Courts of justice and elsewhere, be received as conclusive evidence of the amount of British, Foreign, or Colonial postage, payable in respect of such letter, in addition to any other postage chargeable thereon; and all such postage shall be recoverable in this Island, as postage due to Her Majesty.

Postmaster General, &c. exempt from serving on juries, &c.

XXVI. And be it enacted, That no Postmaster General, nor any officer of the post office throughout this Island, shall be compelled to serve on any jury or inquest, or in the militia, or as town or parish officer.

Persons employed to deliver letter bags, &c. subject to a penalty of £10 for neglect of duty, &c.

XXVII. And be it enacted, That whoever shall be employed to convey or deliver a post letter bag, or a post letter, and who shall, whilst so employed, or whilst the same be in his care, custody, or possession, leave a post letter bag or a post letter, or suffer any person to ride upon a horse used for the conveyance on horseback of a post letter bag, or a post letter; or if any such person shall be guilty of an act of drunkenness, or of carelessness, negligence, or other misconduct, whereby the safety of a post letter bag, or a post letter shall be endangered, or shall collect, receive or convey, or deliver a letter, otherwise than in the ordinary course of the post, or who shall give any false information of an attempt at robbery upon him, or who shall loiter on the road or passage, or wilfully misspend his time, so as to retard or delay the progress or arrival of a post letter bag, or a post letter, or who shall not use due and proper care and diligence safely to convey a post letter bag, or a post letter, at the rate of speed appointed by, and according to the regulations of the post office for the time being, and being thereof convicted, shall forfeit the sum of ten pounds.

Ferrymen to convey over persons travelling with a mail free of expense, under a penalty of £5 for each offence.

XXVIII. And be it enacted, That no person in the employ of the post office, travelling with a mail, shall pay for passing or repassing a ferry within this Island, but the ferryman, at every such ferry, shall forthwith convey over every such person travelling with a mail, without payment for the same, on pain of forfeiting, for every offence, five pounds.

Persons aiding or abetting

XXIX. And be it enacted, That whosoever shall aid, abet, or counsel, or procure the commission of an offence, which is



punishable by this Act, on summary conviction, shall, on conviction, be liable to the same forfeiture or punishment to which a principal offender is by this Act made liable; that, subject always to the provisions and regulations aforesaid, the Postmaster General of this Island shall have the sole and exclusive privilege of conveying, receiving, collecting, sending and delivering letters within this Island; and that any person or persons who shall collect or convey, or undertake to convey such collected letters within this Island, or who shall receive or have in his possession any such collected letters, for the purpose of conveying or delivering the same, shall, for each and every letter so unlawfully collected, conveyed, or undertaken to be conveyed, delivered, or found in his possession, incur a penalty of twenty shillings.

the commission of any offence under this Act, liable to same punishment as principal offender.

XXX. And be it enacted, That it shall be lawful for any person, and it shall be the duty of any officer or person employed in the post office in this Island, or in the collection of the revenue, to seize any letters conveyed, received, collected, sent, or delivered, in contravention of this Act, and to take them to the nearest post office, and to give such information as he may be able to give to the postmaster, and as may be necessary for the effectual prosecution of the offender; and the letters, moreover, shall be chargeable with letter postage.

Letters received or conveyed in contravention of this Act, liable to seizure, &c.

XXXI. And be it enacted, That as well the Colonial, British or foreign, as the inland postage on any letter or packet, shall (if not prepaid) be payable to the Postmaster General of this Island, by the party to whom the same shall be addressed, or who may lawfully receive such letter or packet, which may be detained until the same be paid; and any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or packet, which shall be detained and dealt with accordingly; but if the same be delivered, the postage on it shall be charged against, and paid by the postmaster delivering it, saving his right to recover it from the party by whom it was due, as money paid for such party; and if any letter or packet be refused, or if the party to whom it is addressed cannot be found, then such postage shall be recoverable by the Postmaster General of this Island, from the sender of such letter or packet; and the postage marked on any letter or packet shall be held to be the true postage due thereon; and the party signing or addressing it shall be held to be the sender, until the contrary be shown; and all postage may be recovered, with costs, by civil action, in any Court having jurisdiction to the amount, or in any way in which duties are recoverable.

All postage, not prepaid, to be paid to the Postmaster General of this Island.

Postage, how recovered.

XXXII. And be it enacted, That, subject to the provisions of this Act, and to the regulations to be made there-

Powers of Postmaster General, under certain restrictions.

under, and the instructions he may receive from the Lieutenant Governor, the Postmaster General shall have power to open and close post offices and mail routes—to suspend any postmaster or other officer or servant of the department, until the pleasure of the Lieutenant Governor and Council be known, and to appoint a person to act, in the mean time, in the place and stead of such officer or servant—to enter into and enforce all contracts relating to the conveyance of the mail, the local accommodation of the department, and to other matters connected with the business thereof—and to make rules and orders for the management and conduct of the business and affairs of the department, and for the guidance and government of the officers and servants thereof, in the performance of their duties—to sue for and recover all sums of money due for postage or penalties under this Act, or by any Postmaster, or officer, or servant of the department, or his sureties; and all such powers may be lawfully exercised by him, or by any postmaster, officer, servant, or party whom he shall depute to exercise the same, or whose act in that behalf he shall approve, confirm, or adopt, and such officer, servant, or party, employed in the post office, shall, as regards the duties attached to the office held by him, be deemed the deputy of said Postmaster General; and all suits, proceedings, contracts, and official acts to be brought, had, entered into and done by the Postmaster General shall be so in and by his name of office, and may be continued, enforced and completed by his successor in office, as fully and effectually as by himself, nor shall the appointment or authority of any Postmaster General, or of any postmaster, officer, or servant of the post office of this Island, be liable to be traversed or called in question in any case, except only by those who act for the Crown.

Such powers to be exercised either by himself or by any party whom he may depute to act, &c.

Appointment of Postmaster General not to be traversed, except by those who act for the Crown.

Seamen in H. M. Navy, &c. entitled to receive and send letters free from inland postage, in certain cases.

XXXIII. And be it enacted, That in every case, in which any seaman in Her Majesty's navy, sergeant, corporal, drummer, trumpeter, fifer, or private soldier in Her Majesty's service, or in the service of the East India Company, shall be entitled to receive or send letters, on the payment of a certain sum, and no more, in place of all British postage thereon; the payment of such sum shall likewise free such letter from all inland postage thereon; and the Governor in Council may make such regulations, declaratory and otherwise, as may be necessary for giving effect to this section.

Letter, packet, &c. cease to be the property of the sender from time of deposit, &c.

XXXIV. And be it enacted, That from the time any letter, packet, chattel, money, or thing shall be deposited in the post office, for the purpose of being sent by post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed, or the legal representatives of such party: provided always, that the Postmaster General

of this Island shall not be liable to any party for the loss of any letter or packet sent by post.

XXXV. And be it enacted, That to steal, embezzle, secrete, or destroy any post letter, shall be felony, punishable in the discretion of the Court, by imprisonment in the jail of Queen's County for not less than one, nor more than two years, unless such post letter shall contain any chattel, money, or valuable security, in which case the offence shall be punishable, by imprisonment in the said jail, for a period not less than two years, nor more than four years; and that to steal from or out of a post letter, any chattel, money, or valuable security, shall be felony, punishable by imprisonment in the said jail, for a period not less than two years, nor more than four years; and that to steal a post letter bag, or a post letter from a post letter bag, or a post letter from any post office, or from a mail, or to stop a mail with intent to rob or search the same, shall be felony, punishable by imprisonment in the said jail, for a period not more than four years, nor less than two years; and that to open unlawfully any post letter bag, or unlawfully to take any letter out of such bag, shall be felony, punishable by imprisonment in the said jail, for not more than two years; and that to receive any post letter, or post letter bag, or any chattel, money, or valuable security, the stealing, taking, secreting, or embezzling whereof is hereby made felony, knowing the same to have been feloniously stolen, taken, embezzled, or secreted, shall be felony, punishable by imprisonment in the said jail, for not more than two years; and the offender may be indicted and convicted, either as an accessory after the fact, or for a substantive felony; and in the latter case, whether the principal felon hath or hath not been previously convicted, or shall not be amenable to justice; and however such receiver shall be convicted, the offence shall be punishable as aforesaid; and that to forge, counterfeit, or imitate any postage stamp used under the authority of this Act, or by or under the authority of the Government, or proper authority of the United Kingdom, or of any British North American Province, or of any foreign country, or knowingly to use any such forged, counterfeit, or imitated stamp, or to engrave, cut, sink, or make any plate, die, or other thing whereby to forge, counterfeit, or imitate such stamp, or any part or portion thereof, except by the permission, in writing, of the Postmaster General, or of some officer or person who, under the regulations to be made in that behalf, may lawfully grant such permission, or to have possession of any such plate, die, or other thing as aforesaid, without such permission as aforesaid, or to forge, counterfeit, or unlawfully imitate, use, or affix to or upon any letter or packet, any stamp, signature, initials, or other mark or sign,

What shall be deemed felony, and how punished.

**What shall be deemed a misdemeanor, and how punished.**

purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon, or any part thereof, hath been prepaid, or ought to be paid by, or charged to any person, department, or party whomsoever, shall be felony, punishable by imprisonment in the said jail for a period not exceeding four. nor less than two years; and that to open unlawfully, or wilfully to keep, secrete, delay, or detain, or procure, or suffer to be unlawfully opened, kept, secreted, or detained, any post letter bag, or any post letter, or after payment or tender of the postage thereon, (if payable to the party having the possession of the same,) to neglect or refuse to deliver up any post letter to the person to whom it shall be addressed, or shall be legally entitled to receive the same, shall be a misdemeanor; and that to steal, or for any purpose to embezzle, secrete, destroy, wilfully detain, or delay any printed vote or proceeding, newspaper, printed paper, or book, sent by post, shall be a misdemeanor; and that to obstruct or wilfully delay the passing or progress of any mail, or of any carriage, horse, or animal employed in conveying any mail on any public highway in this Island, shall be a misdemeanor; and that to solicit or endeavor to procure any person to commit any act hereby made or declared a felony or misdemeanor, shall be a misdemeanor: and every such misdemeanor as aforesaid, shall be punishable by fine or imprisonment, or both, in the discretion of the Court before whom the offender shall be convicted: and every principal in the second degree, and every accessory before or after the fact, to any such felony as aforesaid, shall be guilty of felony, and punishable as the principal in the first degree; and every person who shall aid, abet, counsel, or procure the commission of any such misdemeanor as aforesaid, shall be guilty of a misdemeanor, and punishable as a principal offender: and any imprisonment awarded under this Act shall be in the jail of Queen's County, if for a term of or exceeding one year; and if the imprisonment awarded be for a less term, then in the jail of the County where the offence was committed; and it may be with or without hard labor, in the discretion of the Court awarding it.

**Postmaster general, &c., not to open letters, &c.**

XXXVI. And be it enacted, That it shall not be lawful for any postmaster general, or for any keeper of any post office, or for any clerk, or other subordinate connected with the post office in this Colony, on any order, or pretended order, from the Executive Government of this Colony, or any other authority under any allegation to open, or cause to be opened, any letters sent to or by any individual in this Colony, from or to any individual here or elsewhere, but that such person so opening shall be held liable to the same punishment, as if done without the authority of Government, dead and unclaimed letters excepted.

XXXVII. And be it enacted, That any indictable offence against this Act may be dealt with, indicted and tried, and punished, and laid, and charged to have been committed either in the County or place where the offence shall be committed, or in that in which the offender shall be apprehended or be in custody, as if actually committed therein; and where the offence shall be committed in or upon, or in respect of a mail, or upon a person engaged in the conveyance or delivery of a post letter bag or post letter, or chattel or money, or valuable security, sent by post, such offence may be dealt with, and inquired of, tried and punished, and charged to have been committed, as well within the County or place in which the offender shall be apprehended or be in custody, as in any County or place through any part whereof such mail, person, post letter bag, post letter, chattel, money, or valuable security, shall have passed, in the course of conveyance and delivery by the post, in the same manner, as if it had actually been committed in such County or place; and in all cases where the side or centre, or other part of a highway, or the side, bank, centre, or other part of a river, or canal, or navigable water, shall constitute the boundary between two Counties or places, then to pass along the same, shall be held to be a passing through both; and every accessory before or after the fact, if the offence be felony, and every person aiding, or abetting, or counselling, or procuring the commission of any offence, if the same be a misdemeanor, may be dealt with, indicted, tried, and punished as if he were a principal; and his offence may be laid and charged to have been committed in any County or place where the principal offence may be tried.

Indictable offence may be tried in County where offence may have been committed, &c.

XXXVIII. And be it enacted, That in every case where an offence shall be committed, in respect of a post letter bag, or a post letter, packet, chattel, money, or valuable security, sent by post, it shall be lawful to lay, in the indictment to be preferred against the offender, the property of such post letter bag, post letter, packet, chattel, money, or valuable security, sent by post, in the postmaster general; and it shall not be necessary to allege in the indictment, or to prove upon the trial, or otherwise, that the post letter bag, post letter, packet, chattel, or valuable security was of any value; but except in the cases aforesaid, the property of any chattel or thing used or employed in the service of the post office of this Island, or of the moneys arising from duties of postage, shall be laid in Her Majesty, if the same be the property of Her Majesty, or if the loss thereof would be borne by this Island, and not by any party in his private capacity; and in any indictment against any person employed in the post office of this Island, for any offence against this Act, or in any indictment against any person for an offence committed in respect of some person

In indictment for offence committed in respect of post letter bag, &c., property to be laid in postmaster general, &c.

so employed, it shall be sufficient to allege that any such offender or such other person as aforesaid, was employed in the post office of this Island at the time of the commission of such offence, without stating further the nature or particulars of his employment.

Postmaster general, &c., may compromise action for recovery of penalty, &c.

XXXIX. And be it enacted, That the postmaster general (subject always to the orders of the Lieutenant Governor in Council,) may compromise and compound any action, suit, or information, which shall at any time hereafter be commenced by his authority or under his control, against any person, for recovering any penalty incurred under this Act, on such terms and conditions as he shall in his discretion think proper, with full power to him, or any of the officers and persons acting under his orders, to accept the penalty so incurred, or alleged to be incurred, or any part thereof, without action, suit, or information, brought or commenced for the recovery thereof.

Pecuniary penalties recoverable in any Court possessing competent jurisdiction, &c.

XL. And be it enacted, That all mere pecuniary penalties imposed by this Act, or by any regulation of the Lieutenant Governor in Council, to be made under this Act, shall be recoverable, with costs, by the postmaster general, by civil action, in any Court having jurisdiction to the amount, and shall belong to the Crown; saving always the power of the Lieutenant Governor in Council to allow any part or the whole of such penalty to the officer or party, by whose information or intervention the same shall have been recovered; but all such penalties shall be sued for within one year after they are incurred, and not afterwards: provided always, that if the penalty exceed five pounds, the offender may be indicted for a misdemeanor, in contravening the provisions of this Act, or of the regulations made under it, (instead of being sued for such penalty,) and if convicted, shall be punishable by fine or imprisonment, or both, in the discretion of the Court.

Postage, &c. recoverable on the evidence of one credible witness.

XLI. And be it enacted, That in any action or proceeding for the recovery of postage, or of any penalty under this Act, the same may be recovered on the evidence of any one credible witness, and any postmaster or other officer or servant of the post office of this Island, shall be a competent witness, although he may be entitled to or entertain reasonable expectation of receiving some portion or the whole of the sum to be recovered; and the burden of showing that any thing, proved to have been done by the defendant, was done in conformity to or without contravention of this Act, shall be upon the defendant.

Salary of postmaster general, &c.

XLII. And be it enacted, That from and after this Act shall go into operation, the annual salary of the postmaster general of this Island shall be three hundred and fifty pounds currency, the salary of the clerk or clerks included;\* that the

\* See 18 Vic., c. 20; and 20 Vic., c. 6.

deputy postmasters and keepers of way offices, in the different offices in this Island now established, shall, after the passing of this Act, receive and retain in lieu of their services, the proportion of twenty *per centum* of the amount of postage collected in said offices; and in addition thereto, the sum of two pounds a year shall be paid to every such deputy postmaster or keeper of way office, the said allowances to be in lieu of all other charges, fees, or emoluments.

XLIII. And be it enacted, That His Excellency the Lieutenant may, by proclamation, duly published in the *Royal Gazette*, call this Act into operation, and that after such publication (but not before) the said Act shall be in full force and operation.

Lt. Governor, &c., may call this Act into operation.

XLIV. And be it enacted, That every person appointed, or to be appointed, to the office of postmaster general of this Island, or deputy postmaster for any district therein, under the provisions of this Act, shall, immediately after this Act shall go into operation, or previous to his entering upon the duties of such office, give good and approved security, payable to Her Majesty, her heirs and successors, in such amount as the Lieutenant Governor and Council shall from time to time deem sufficient for the faithful performance of the trusts reposed in him, and that he will duly and properly pay over and account, according to law, for all moneys by him received as such postmaster general, or deputy postmaster (as the case may be) as aforesaid.

Postmaster general, &c., to give security to Her Majesty for the faithful performance of the trusts reposed in them.

\* \* \* This Act came into force and operation on the 8th day of July, 1851; proclamation agreeably to the power given to His Excellency the Lieutenant Governor, under the 43d section hereof, having been duly published in the *Royal Gazette* newspaper of this Island, on that day.

### CAP. XIII.

An Act to regulate the costs of distresses levied for payment of rents, and to amend the laws relating to distress.

WHEREAS divers persons acting as brokers, and distraining on the goods and chattels of others, or employed in the course of such distresses, have sometimes made excessive charges, to the great oppression of poor tenants and others, and it is expedient to check such practices: and whereas in and by the second section of an Act of the General Assembly of this Island, made and passed in the sixth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to amend the Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin," the

amount of fees to be taken on distresses is regulated, but no summary mode of redress, in case of extortion, is provided, and it is desirable to provide such a mode, and at the same time to establish a new table of fees, in lieu of those named in the said recited Act: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said second section of the hereinbefore recited Act, be, and the same is hereby repealed.

Repeals 2d section 6 V. c. 19.

No person making distress for rent to take any other or greater costs than those fixed in schedule to this Act.

II. And be it enacted, That from and after the passing of this Act, no person whatsoever, making any distress for rent, nor any bailiff, receiver, or other person or persons whatsoever, employed in any manner in making such distress, or doing any act whatsoever in the course of such distress; or for carrying the same into effect, shall have, take, or receive, out of the produce of the goods, cattle, or chattels distrained upon and sold, or from the tenant distrained on, or from the landlord, or from any other person whatsoever, any other or more costs and charges for, and in respect of such distress, or any matter or thing done therein, than such as are fixed and set forth in the schedule hereunto annexed, and appropriated to each act, which shall have been done in the course of such distress; and no person or persons whatsoever, shall make any charge whatsoever, for any act, matter, or thing, mentioned in the said schedule, unless such act shall have been really done.

Mode of procedure where greater costs, than are allowed by this Act, shall be taken.

III. And be it enacted, That if any person or persons whatsoever, shall in any manner levy, take, or receive, from any person or persons whomsoever, or retain or take from the produce of any goods or personal property sold for the payment of such rent, any other or greater costs and charges than are mentioned and set down in the said schedule, or make any charge whatsoever, for any act, matter, or thing, mentioned in the said schedule, and not really done, it shall be lawful for the party or parties aggrieved by such practices, to apply to any two or more Justices of the Peace for the County wherein such distress shall have been made, or in any manner proceeded in, for the redress of his, her, or their grievance so occasioned; whereupon such Justices shall summon the person or persons complained of, to appear before them at a reasonable time and place, to be fixed in such summons; and such Justices shall examine into the matter of such complaint, by all legal ways and means, and also hear, in like manner, the defence of the person or persons complained of; and if it shall appear to such Justices, that the person or persons complained of shall have levied, taken, received, or had other and greater costs and charges than are mentioned or fixed in the schedule hereunto annexed; or made any charge for any act, matter, or thing mentioned in the said schedule, such act, matter, or thing, not having been really done, such Justices shall order



and adjudge double the amount of the moneys so unlawfully taken, to be paid by the person or persons so having acted, to the party or parties who shall thus have preferred his, her or their complaint thereof, together with full costs attending such application and complaint; and in case of nonpayment of any moneys and costs, so ordered and adjudged to be paid, said Justices shall forthwith issue their warrant to levy the same by distress and sale of the goods and chattels of the party or parties ordered to pay such moneys or costs, rendering the overplus (if any) to the owner or owners, after the payment of the charges of such distress and sale; and in case no sufficient distress can be had, such Justices shall, by warrant under their hands, commit the party or parties to the common jail or prison within the limits of the County within which such Justices shall have jurisdiction, there to remain, if the amount of the judgment and costs shall not exceed forty shillings, for the space of one calendar month; and if above forty shillings, and not exceeding three pounds, for the space of three calendar months; and if above three pounds, and not exceeding five pounds, for the space of five calendar months; and if above five pounds, for the space of six calendar months; and after any of the said imprisonments, the party so imprisoned shall be freed and discharged therefrom, and also from the said judgment and costs, for which such imprisonment had taken place.

Justices to order double the amount of moneys unlawfully taken, to be paid to parties complaining, &c.

IV. And be it enacted, That it shall be lawful for such Justices, at the request of the party complaining, or being complained against, to summon all persons as witnesses, and to administer an oath to them touching the matter of such complaint, or defence against it; and if any person or persons so summoned shall not obey such summons without any reasonable or lawful excuse, or refuse to be examined upon oath, or, if a quaker, upon solemn affirmation, then every such person so offending shall forfeit and pay a sum not exceeding forty shillings, to be ordered, levied and paid, in such manner and by such means, and with such power of commitment as is hereinbefore directed as to such order and judgment, to be given between the party or parties to the original complaint; excepting so far as regards the form of the order, and herein after provided for.

Justices to summon witnesses, administer oath &c.

Penalty on persons refusing to obey summons.

V. And be it enacted, That it shall be lawful for such Justices, if they shall find that the complaint of the party or parties aggrieved is not well founded, to order and adjudge costs, not exceeding forty shillings, to be paid to the party or parties complained against, which order shall be carried into effect and levied and paid in such manner, and with like power of commitment, as is hereinbefore directed, as to the order and judgment founded on such original complaint:

Justices may order costs to parties complained against in certain cases.

No person to be barred from legal remedy had before passing of this Act, &c.

provided always, that no person or persons who shall be aggrieved by any distress for rent, or by any proceedings had in the course thereof, or by any costs and charges levied on them in respect of the same, shall be barred from any legal or other suit or remedy, which he, she, or they might have had before the passing of this Act, excepting in so far as any complaint to be preferred by virtue of this Act shall have been determined by the order and judgment of the Justices before whom it shall have been heard and determined, and which order and judgment shall and may be given in evidence under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

Persons aggrieved may appeal to Supreme Court.

VI. Provided always, and be it enacted, That it shall and may be lawful for any person or persons who shall think himself, herself, or themselves aggrieved by the decision of such two or more Justices, to appeal against the decision of such two or more Justices to the Supreme Court of Judicature, at the next term thereof, for the County wherein the complaint shall have been tried; and such appeal shall be tried and finally determined at such next term accordingly; and the Justices of the Supreme Court may, and they are hereby expressly empowered and required, to try and determine the matter of such appeal, and to give judgment thereon, and to allow such costs to the appellant or respondent as to such Justice or Justices, in their or his discretion, shall seem proper, and to affirm, quash, or otherwise alter or vary the judgment given below, with or without costs, or with such portion of the full costs, for or against either party, as to them or him shall seem reasonable, according to the nature of the case: provided always, that it shall not be lawful to appeal from any such decision or judgment of any such two or more Justices as aforesaid, unless the party intending to appeal shall give security forthwith, or within forty-eight hours next after such decision or judgment shall be given, to the satisfaction of the Justices whose judgment or decision shall be sought to be contravened, duly to prosecute such appeal, and to bring the matter at issue to a final hearing before the Supreme Court of Judicature, at the next term thereof, as aforesaid.

Justices of such Court to try and determine such appeal, &c.

Party appellant to give security, within 48 hours after judgment.

Copy of charges &c., to be furnished to persons distrained upon, within 24 hours after sale, &c.

VII. And be it enacted, That every broker or other person who shall make and levy any distress whatsoever, shall give a copy of his charges, and of all the costs and charges of any distress whatsoever, signed by him to the person or persons on whose goods and chattels any distress shall be levied, within twenty-four hours after the sale of the same; or, in case of settlement without sale, then at the time of such settlement, if demanded, and in default thereof shall, in either case, forfeit and pay to the party on whose property the distress shall have been levied, a penalty of not exceeding five pounds, to

be recovered before any Justice of the Peace, or Court of Commissioners for the recovery of small debts for the County wherein the distress may have been made.

VIII. And be it enacted, That such orders and judgments on such complaints shall be made in the form in the schedule hereunto annexed, and may be proved before any Court, by proof of the signature of the Justices to such order and judgment, and such order as regards persons who may have been summoned as witnesses, shall be made in such form as to such Justices shall seem most fit and convenient.

Orders, &c., to be made in the form of the schedule to this Act.

IX. And be it further enacted, That upon any poundbreach or rescous of goods or chattels distrained for rent, the person or persons aggrieved thereby shall, in a special action upon the case for the wrong thereby sustained, recover his and their treble damages and costs of suit against the offender or offenders, in any such poundbreach or rescous, any or either of them, or against the owner or owners of the goods distrained, in case the same be afterwards found to have come to his use and possession; and further, every person or persons making or aiding or abetting such poundbreach or rescous, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment by fine, (not exceeding, in any case, twenty pounds,) and imprisonment, or by both, as the Court shall award; the imprisonment to be with or without hard labor, as the Court shall think fit, and in no case to exceed the term of six months.

Persons aggrieved by any poundbreach, &c., to recover treble damages, &c.

X. And be it enacted, That no costs in any case of distress for the services of more than one bailiff or other person, shall be chargeable or allowed, further than is limited or specified in the schedule of costs to this Act.

Costs allowed for one bailiff only.

XI. And whereas, by an Act of the General Assembly of this Island passed in the fifth year of the reign of his late Majesty King William the Fourth, intituled "An Act relating to distress for rent, and to regulate the practice of the Supreme Court in cases of replevin," it is enacted, that no goods or chattels distrained for rent should be sold within a less time than twenty days after distraint, including the day of distress and the day of sale, provided a warrant of attorney be given, in manner as in the said Act is specified, within two days after such distress, to secure the forthcoming of the goods so distrained on the day of sale: and whereas by an Act of the Assembly passed in the eighth year of the reign of her present Majesty, intituled "An Act to explain and amend two Acts therein mentioned relating to distress for rent and replevins," it is enacted, that in all cases of distress for rent taken between the first day of December, in any year, and the first day of June in the next ensuing year,

5 W. 4, c. 6

8 Vic. c. 6.

the same may be advertised and sold within five days after advertising, in manner as in the said last recited Act mentioned, unless a warrant of attorney securing the due return and forthcoming of the stock so distrained, or the appraised value thereof, on the day of sale, be granted within two days from the time of taking such last mentioned distress; and it is considered expedient to extend the time limited for giving the warrants of attorney, in all cases hereinbefore referred to: Be it therefore enacted, that the time limited for giving the said warrants of attorney, to secure the return and forthcoming of goods and chattels taken in distress, at the day of sale, or their appraised value, under the provisions of the two several Acts hereinbefore recited, shall, in both cases, be extended from two days to four days; and the said warrants of attorney may be given either in the name of the person or persons at whose suit the distress is made, or in the name of the bailiff making the distraint.

Time for giving warrants of attorney extended.

Goods, &c. not to be removed to a greater distance than five miles, unless at request of tenant.

XII. And be it enacted, That in all cases of distress for rent, where it shall be thought necessary or advantageous to remove the goods, chattels, or cattle from off the premises whereon the distress shall be made, it shall not be lawful to remove the same to any greater distance than five miles, unless at the request of the tenant, from the place where such distress is taken, under a penalty of twenty pounds, to be paid by the party or parties removing the same to the party or parties upon whose property the distress may have been levied.

Distress may be impounded on premises chargeable with the rent.

XIII. And be it enacted, That it shall and may be lawful to and for any person or persons lawfully taking any distress for any kind of rent, to impound or otherwise secure the distress so taken, of what nature and kind soever it may be, in such place or on such part of the premises chargeable with the rent, as shall be most fit and convenient for the impounding and securing such distress, and to appraise, sell and dispose of the same upon the premises in like manner and under the like restraints and directions, to all intents and purposes, as any person taking a distress for rent may by law do off the premises, and that it shall be lawful to and for any person or persons whomsoever, to come and go to and from such place or part of the said premises, whereon any distress for rent shall be impounded and secured as aforesaid, in order to view, appraise, and buy, and also to remove or carry off the same on account of the purchase thereof; and that if any poundbreach or rescous shall be made of any goods, chattels, or stock distrained for rent, and impounded or otherwise secured by virtue of any of the provisions in this Act contained, the person or persons aggrieved thereby shall have the like remedy, and the party or parties

Remedy in case of poundbreach

offending be punishable in the same manner as in other cases of poundbreach and rescous is given by this Act.

SCHEDULES referred to in this Act.

*Form of the order and judgment of the Justices before whom complaint is preferred, where the order and judgment is for the complainant.*

Form of order when order and judgment is for complainant.

In the matter of the complaint of *A. B.* against *C. D.* for a breach of the provisions of an Act of the fourteenth year of Her Majesty Queen Victoria, intituled, [here insert the title of this Act] We, *E. F.* and *G. H.*, Justices of the Peace for County, do order and adjudge that the said *C. D.*, shall pay to *A. B.* the sum of \_\_\_\_\_ as a compensation and satisfaction for unlawful charges and costs levied and taken from the said *C. D.*, under a distress for rent, and a further sum of \_\_\_\_\_ for costs on this complaint.

(Signed)

*E. F.*

*G. H.*

*Form of the order and judgment of the Justices where they dismiss the complaint as unfounded, and with or without costs, as the case may be.*

Form of order, &c. where complaint is dismissed.

In the matter of the complaint of *A. B.* against *C. D.*, for the breach of the provisions of an Act of the fourteenth year of Her Majesty Queen Victoria, [here insert the title of this Act] We, *E. F.* and *G. H.*, Justices of the Peace for County, do order and adjudge that the complaint of the said *A. B.* is unfounded. [If costs are given, then follows:] And we do further order and adjudge, that the said *A. B.* shall pay unto the said *C. D.* the sum of \_\_\_\_\_ for costs.

(Signed)

*E. F.*

*G. H.*

*Schedule of the limitation of costs and charges on distresses for rents.*

Levying distress, - -	£0 2 6	Costs.
Every inventory and notice,	0 2 3	
Every mile actually travelled to make distress, but no mileage allowed except within the County where distress is made, - -	0 0 3	
Man in possession, <i>per day</i> , -	0 3 6	

Appraisement (if required) whether by one broker or more, <i>per</i> day, and no mileage to appraisers,	-	-	0 4 6
Catalogues, advertisements, sales, and commissions, and delivery of goods, five <i>per cent.</i> on the net proceeds of the sale.			

## CAP. XIV.

## An Act relating to stray Cattle.

Continued by  
24 Vic. c. 23.

Stray cattle  
may be sold,  
after a certain  
period, at pub-  
lic sale.

WHEREAS the Act now in force relating to stray cattle will shortly expire, and it is deemed necessary to provide by law for the care and disposition thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That each and every beast which shall have strayed from the owner thereof, and shall not be duly claimed and redeemed within the period of two calendar months from the day of advertising the same, as hereinafter prescribed, shall and may be sold at public sale, and the proceeds thereof, after deducting the costs and charges incurred by the keeping and sale of such beast, shall be paid into the hands of one of Her Majesty's Justices of the Peace or Commissioner of small debts, by whom such beast shall be ordered to be sold, resident in the town, royalty, or township wherein the said beast shall be sold, and which period of two months shall be computed from the day at which the notice shall be first published in the newspaper, as hereinafter mentioned.

Duty of persons  
whose enclosed  
lands cattle  
belonging to  
other persons  
frequent or  
stray upon.

Justices of the  
Peace, &c. may  
make an order  
for the sale of  
such cattle.

II. And be it enacted, That when and so often as any beast shall stray from the possession of its owner, and into or upon the enclosed land or premises of any other person, and shall habitually frequent such land or premises against the will of such person, every such person shall be bound to use due diligence and reasonable efforts to cause said beast to return to its owner; and in case such person, after due and *bona fide* use of such means, shall wholly fail to rid his land or premises of such beast, and which shall appear upon affidavit thereof duly made, according to the substance and effect prescribed in the schedule to this Act annexed, marked (A.), it shall be lawful for any of Her Majesty's Justices of the Peace, or any Commissioner for the recovery of small debts, whichever shall reside nearest to the residence of the party interested as aforesaid and applying therefor, at any time, in his discretion, to make an order for the advertising and sale of such beast, in pursuance of the authority of this Act, which order shall be according to the substance and effect set forth in the schedule to this Act annexed, marked (B.); and in the mean time, and until such sale, or until such beast shall be duly claimed and

redeemed by the owner, the said applicant shall be entitled to the possession thereof, and shall also be bound to find and provide for such beast all necessary food, sustenance and shelter.

III. And be it enacted, That upon such order being made, the party to whom, or on whose behalf the same shall be granted, shall, without delay, and he is hereby required to cause to be inserted in the *Royal Gazette* newspaper, published in Charlottetown, and therein cause to be continued, weekly, until the sale or redemption of such beast as aforesaid, and also to be posted at three of the most public places in the Township or Royalty wherein such party shall reside, a notice, signed by or on behalf of such person, particularly describing such beast by its marks and apparent age, and the time or near about when such beast first appeared upon the land or premises of such person, and that an order, setting forth the date thereof, hath been obtained for the sale of such beast, and also the time and place when and where such sale shall take place, in case such beast shall not be previously redeemed by the owner, and the expenses thereon duly paid.

Persons obtaining order, to advertise same &c.

Particulars of advertisement.

IV. And be it enacted, That at any time previous to the sale of any beast as aforesaid, the owner thereof shall be entitled to recovery and delivery of the same, upon paying or tendering to the party having the care and possession thereof, and the refusal of such party to receive the expenses attending the Justice's order hereinbefore mentioned, and a reasonable amount for the care and sustenance of the said beast; which said amount, in case of dispute respecting the same, shall be ascertained and determined by the aforesaid Justice of the Peace or Commissioner, in the presence of the said parties, upon due notice given by either party, and at a time and place for that purpose to be appointed by the said Justice or Commissioner; and in case the party entitled to receive such amount shall be dissatisfied with such sum as shall be ascertained and determined by such Justice or Commissioner, then upon tender and refusal thereof, the said Justice or Commissioner shall and may make an order, directed to any constable or constables of the County, commanding him or them to take possession of said beast, and deliver the same to the said owner, and also to levy by distress and sale of the goods and chattels of the person so detaining the said beast, the cost of the said last mentioned order, and of the execution thereof: provided always, that the said party entitled to receive the said amount, shall have a right of action or suit therefor, to be prosecuted by due course of law, either in the Supreme Court of Judicature or Court of Commissioners for the recovery of small debts, according to the amount at which the same shall be laid; any law, usage, or custom, heretofore, to

Owner entitled to redeem cattle, &c. previous to sale, upon certain conditions.

Mode of proceeding when person, to whom the amount is payable, refuses to receive the same.

Remedy to person to whom such amount is payable.

the contrary thereof, notwithstanding; and upon every action or suit, it shall be lawful for the owner of such beast to give in evidence under a plea of the general issue the tender so made by him as aforesaid.

No person to deface marks, &c. on stray cattle.

Penalty for so doing.

V. Provided always, and be it declared and enacted, That in regard to any stray beast, it shall not be lawful for any person or persons, on whose land any such stray beast may come, to deface, add to, or in any way alter the marks, either natural or artificial, by which such beast may be recognized or distinguished; but that every person so adding to, defacing, or altering any such marks, or disfiguring such beast, shall forfeit all claim to recompense for the keeping and feeding of such beast, and shall be liable to a penalty not exceeding twenty shillings, for every such beast whereon the marks may be altered, added to, or defaced, or where such beast may be disfigured; which penalty may be sued for and recovered before any of Her Majesty's Justices of the Peace, or Commissioner for the recovery of small debts, at the suit of the owner to whom such beast may belong, from the person or persons guilty of any such offence, and who, in default of payment of such penalty and costs, may be committed to the jail of the County, for any period not exceeding two months.

Owner entitled to surplus moneys, if claimed within a certain period.

VI. And be it enacted, That when and so often as any beast shall be sold, before the same shall be redeemed in manner prescribed by this Act, the owner thereof, shall be entitled at any time, upon demand made, and within ten months after the sale, to receive from the Justice of the Peace or Commissioner into whose hands the same shall have been paid, any surplus money remaining after the payment of the costs and charges aforesaid; and in case such surplus money shall not be duly claimed within such last mentioned period, then the same shall be paid by such Justice of the Peace or Commissioner into the Treasury of this Island, to and for the use of Her Majesty's Government.

Definition of terms used in this Act.

VII. And be it enacted, That the word "beast," wherever used in this Act, shall be deemed to mean and include all horses, neat cattle, sheep and swine.

Proceedings had and pending under Vic. c. 5, to be perfected and completed under this Act.

VIII. And whereas proceedings may have been had and be still pending, relating to stray cattle, under and by virtue of the provisions of a certain Act made and passed in the ninth year of the reign of her present Majesty, intituled "An Act relating to stray cattle," now near expiring: Be it therefore enacted, That for the purpose of ascertaining all such proceedings, and of performing and completing all such matters and things as are authorized by the said Act, in relation to the proceedings had and pending, and necessary to be done and performed thereunder for the carrying on and completion



of the same, and also for the recovery of all penalties incurred thereunder, the said recited Act intituled "An Act relating to stray cattle," shall be and the same is hereby declared to be continued and to be in full force and effect, until all such proceedings as aforesaid are fully executed and determined, any thing in this Act contained to the contrary notwithstanding.

IX. And be it enacted, That the fees to be taken and received under this Act shall be as follows, and no more, viz: Fees to be taken under this Act.

Affidavit to obtain order for sale,	£0 1 0
Mileage to Justice or Commissioner to make same, and obtain order, <i>per</i> mile,	0 0 4
For filing affidavit and drawing order, advertising the same actually paid,	0 1 6
Order for delivery of beast after tender and refusal of expenses,	0 1 6

Constables' fees executing order, levying distress and sale, the same as shall and may be taken for similar services under the Act of the General Assembly for the time being in force for the recovery of small debts.

X. And be it enacted, That this Act shall continue and be in force for the period of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly and no longer. Continuance of Act.

### SCHEDULES to which this Act refers.

#### SCHEDULE (A.)

I *A. B.* of                    in                    County, (farmer) do make oath and say, that a certain [here describe the beast] hath been for                    days last past, or thereabouts, in and upon my farm and premises, and that I verily believe the said                    hath strayed away from the owner thereof, and that I have several times driven (or caused to be driven) the said beast on the highway at its liberty to pursue its course to its owner, but that the said                    hath returned to, and against my will, remains in and upon my said land and premises, and that I do not know the name or residence of the owner thereof (or in case the name of the owner be known or suspected, then insert the said name.) Affidavit to be made by persons applying for order for sale of stray cattle.

#### SCHEDULE (B.)

Upon reading the affidavit of *A. B.*, sworn the day of                    I do order that the stray                    therein                    Order for sale.

mentioned and described be advertised, and if not duly redeemed, that the same be sold, and the proceeds of such sale be disposed of in manner prescribed in and by the Act of the Assembly in that case made and provided.

Dated the            day of

C. D., J. P.

### CAP. XV.

Continued and amended by 17 Vic. c. 14, and 20 Vic. c. 9.

An Act to incorporate certain persons trustees of Princetown Royalty Church.

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic., c. 3.

### CAP. XVI.

Altered and amended by 18 Vic. c. 8, 22 Vic. c. 10, and 23 Vic. c. 43. Repealed by 25 Vic. c. 2.

An Act to consolidate and amend the laws relating to statute labor and the expenditure of public moneys on the highways.

### CAP. XVII.

3 W. 4, c. 19. Repealed by 19 Vic. c. 3.

An Act to extend the provisions of an Act for ascertaining the standard of weights and measures in this Island, to mills therein, and to make other alterations therein.

### CAP. XVIII.

Executed.

An Act for the encouragement of the cod and mackerel fisheries.

\*\*\* This Act granted certain bounties to vessels engaged in the cod and mackerel fisheries, during the years 1851, 1852 and 1853.

### CAP. XIX.

An Act to prohibit the playing of certain games and the use of fireworks in the squares and thoroughfares of Charlottetown.

\*\*\* This Act has been repealed by virtue of a law of the City Council of Charlottetown, passed under the powers vested in said Corporation by the Act 18 Vic. cap. 34, sec. 37.

## CAP. XX.

An Act to authorize a loan for the use of this Island, and also to make provisions respecting the payment of Treasury Bonds and Warrants, and the interest thereon.

See 21 Vic. c. 4.

**W**HEREAS it is deemed advisable to borrow a sum of money for the use of this Island, at the interest of five pounds *per centum, per annum*, in order to decrease the annual charge for interest on treasury warrants: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Lieutenant Governor, by and with the advice of Her Majesty's Executive Council, to order a loan account to be opened in the treasury of this Island, and to borrow and receive from any person or persons, corporations or companies, and in such sums and amounts as may be practicable and convenient, a loan of money, not exceeding in the aggregate, ten thousand pounds, of lawful current money of this Island, at the interest of five pounds *per centum, per annum*.

Lieut. Governor, &c. to order loan account to be opened, &c.

II. And be it enacted, That all sums of money which from time to time shall be raised and borrowed under the provisions of this Act, shall be received by the Treasurer of this Island, and the person or persons lending the same shall in exchange for the amounts lent, receive a debenture or debentures in the form set out in the schedule of this Act, annexed, marked (A.) under the hand and seal of the Lieutenant Governor or Administrator of the Government for the time being, countersigned by the Colonial Secretary, or acting Colonial Secretary of this Island, and also by the Treasurer thereof, as set forth in the said schedule.

Treasurer to receive sums borrowed, and give debentures in exchange.

III. And be it enacted, That the Treasurer of this Island shall apply all sums of money which may from time to time be borrowed under this Act, immediately after the receipt thereof, respectively, towards the payment of any warrants which may have been drawn on the treasury of this Island, in their proper order and succession, according to priority of date; and it shall be lawful for the said Treasurer, and he is hereby authorized and required, out of the moneys which may from time to time be in the said treasury, half yearly, to pay the interest accruing due on any moneys secured by any such debenture or debentures issued under this Act, until twenty days after the same shall have been called in, as hereinafter mentioned, when interest shall cease thereon, and a minute of each payment of annual interest shall, at the time of making the same, be endorsed by the treasurer on the back of the debenture or debentures which shall for that purpose be produced to him by the holder or holders thereof.

Sums borrowed to be applied towards payment of warrants, &c.

Interest to be paid half-yearly.

When Treasurer to commence paying moneys borrowed under this Act, &c.

Notice to be given.

IV. And be it enacted, That the Treasurer of this Island shall, on the first day of June, one thousand eight hundred and fifty-six, commence paying the moneys to be borrowed under this Act, with interest, and for that purpose shall, from time to time, as sufficient moneys come into his hands, call in and pay off the said debentures or securities, in the order of succession in which they were issued, with interest due thereon; and the said Treasurer shall, from time to time, as sufficient moneys come into his hands, as aforesaid, cause a notice to be inserted in the *Royal Gazette* newspaper of this Island, calling in the said debentures; and the said debentures shall bear interest, until the expiration of twenty days after they shall have been so respectively called in, and notice thereof given, (unless sooner paid), at the expiration of which time interest shall cease to be allowed on the debentures so called in; and from and after the said first day of June, one thousand eight hundred and fifty-six, the said Treasurer shall not pay off the then outstanding treasury warrants, until such time as the moneys to be borrowed under this Act shall have been fully paid.

Amount of debenture.

V. And be it enacted, That no greater sum than one hundred pounds shall be granted by any one debenture issued under this Act, nor shall any such debenture be issued for any smaller sum than fifty pounds.

Public funds, &c., rendered liable for repayment of debentures.

VI. And be it enacted, That for the repayment of all moneys to be borrowed, and of all debentures therefor, to be issued under this Act, and for the final payment and discharge thereof, with interest as aforesaid, the public funds, moneys and securities of this Island shall be, and they are hereby pledged and rendered liable.

Treasurer to keep an account of all sums borrowed, &c.

VII. And be it enacted, That an account of all sums borrowed or repaid, and of debentures therefor, issued under this Act, with the respective dates of the loans, repayments, and debentures, respectively, shall be kept by the Treasurer of this Island, and shall by him be once in each month laid before the Lieutenant Governor, in Council, and shall also be by him annually laid before the Legislature of this Island, during the first week of each session, with all vouchers, securities and papers relating to the same.

Warrant not being paid on demand, Treasurer to endorse thereon memorandum of such demand.

VIII. And be it enacted, That after the passing of this Act, when the payment of any warrant on the treasury may be demanded by or on behalf of the person in whose favor the same is payable, and the same cannot be paid by the Treasurer of this Island, then the said Treasurer shall endorse on such warrant a memorandum of such demand, agreeably to the form in the schedule to this Act annexed, marked (B), which said warrant, so endorsed, shall then bear interest, at

five pounds,\* *per centum, per annum*, until ten days after notice published in the *Royal Gazette* newspaper, (unless sooner paid), that the amount of such warrants will be paid by the Treasurer, on demand, with all interest due thereon, and which notice the Treasurer of this Island is hereby required to give, whenever a sufficient amount of money for that purpose (subject always to the enactments hereinbefore contained), shall have come to his hands; and the said Treasurer is hereby empowered and directed, from time to time, to pay in gold or silver, or in treasury notes of this Island, at their specified value, out of the treasury, at the option of the said Treasurer, annually, on all treasury warrants which shall have been or may be issued by the Government of this Island, the interest due on such warrants respectively, (the warrants now outstanding bearing interest at six *per centum, per annum*, and warrants hereafter to be issued, five pounds *per centum, per annum*, as hereinbefore mentioned), on the same being demanded by the holder or holders thereof, until ten days after such notice has been given by the said Treasurer, that unless sooner paid, he is prepared to pay any such warrant, with all interest due thereon; at the expiration of which time, interest shall cease to be allowed on such warrant; and every such payment or payments of interest shall be endorsed on every such warrant, by the Treasurer, at the time of making the same.

IX. And be it enacted, That when and so often as the said Treasurer shall publish the notice in the last preceding clause mentioned, that the money for the payment of any warrants will be paid on demand, and it shall happen, that any of the warrants so advertised for shall not be presented for payment within the period of twenty days after such notice given, then it shall be lawful for the said Treasurer, and he is hereby authorized and required, to publish a notice to the holders of such warrants, that unless their warrants be brought in for payment within the period of seven days from the date of the last mentioned notice, the payment of their claims will be postponed, until after the expiration of three months from the day upon which such last mentioned notice may be published; and after the said seven days shall have expired, the said Treasurer shall proceed to make a fresh call of warrants, and to apply the moneys remaining in his hands, to the payment thereof, and may refuse the payment of any of the warrants so first called in, as stated in this clause; but the said warrants so first called in shall be included in the first call of warrants which the said Treasurer shall make after the end of the said period of three months, and then to be paid, but without any interest thereon being allowed subsequent to the ten days in the last preceding section of this Act mentioned.

Warrants not presented for payment within 20 days after notice, further notice to be given, &c.

\* Increased to six pounds *per centum per annum* by Act 21 Vic., c. 4.

Bonds, &c., 3  
months over  
due, how dealt  
with.

X. And be it enacted, That all bonds, recognizances and other securities which shall hereafter be entered into or taken and deposited with the Treasurer of this Island, and which shall be over due for the period of three months, shall be handed by the said Treasurer to the Attorney General or other Crown officer, and shall immediately thereafter be put in suit or otherwise enforced, with interest due thereon, at six pounds *per centum, per annum*; and the Treasurer, as often as he shall neglect this duty, shall forfeit and pay for every bond, recognizance or other security retained in his hands after the expiration of the said three months, the sum of fifty pounds; the same to be recovered, with costs of suit, in the Supreme Court of Judicature, by action of debt, in the name of Her Majesty, for the use of the Government of this Island.

No warrant to  
exceed £ 100.

XI. And be it enacted, That no warrant hereafter to be issued by the Lieutenant Governor and Council, shall exceed in amount the sum of one hundred pounds, even where the contract or payment to be made shall be beyond the sum of one hundred pounds.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

TREASURER'S OFFICE,  
Prince Edward Island.

No. Debenture.

Debenture.

This debenture is issued by virtue of an Act of the General Assembly of the said Island, intituled "An Act to authorize a loan for the use of this Island, and also to make provisions respecting the payment of treasury warrants and the interest thereon," and is chargeable on the public funds, moneys and credits of the said Island, by virtue of the said Act, for the payment to *A. B.*, or order, the sum of £        of lawful current money of the said Island, with interest at the rate of £5 *per centum, per annum*, to be paid on the same half yearly, until twenty days after the calling in hereof for payment, as in the said Act provided for; and the said principal sum of £        to be paid at such time and in such manner as is also pointed out in the said Act.

Dated the        day of        A. D. 185

*C. D.*, Colonial Secretary.  
*E. F.*, Treasurer.

(L. S.)

*A. B.*, Lieutenant Governor,  
or Administrator of the Government.



Persons released on obtaining certificate, &c.

III. And be it enacted, That any person to whom a certificate shall have been given in manner aforesaid, or who, having been convicted as aforesaid, shall have paid the fine and costs adjudged against him as aforesaid, or undergone, in default thereof, the imprisonment ordered in lieu thereof, shall be released from all further or other criminal proceedings for the same cause.

Costs.

IV. And be it enacted, That such Justices shall and may give costs to either complainant or defendant, or order each to pay his own, as they shall see fit.

Persons entitled to costs, to make affidavit.

V. And be it enacted, That any person entitled to costs by the judgment of any such Justices, shall be obliged in all cases where the same may be deemed necessary by the Justices who shall have given such judgment, to make affidavit of the necessity for the testimony of any witness or witnesses who shall have attended on behalf of such person, before he shall be allowed the costs of their attendance.

When defendant makes default in payment of fine, &c., Justices to certify expenses of witnesses, &c.

VI. And be it enacted, That from and after the passing of this Act, in all cases of conviction, where the defendant shall make default in payment of such fine and costs as shall be adjudged, and in consequence thereof undergo imprisonment, all Justices acting under the authority of this Act, shall, on request, make out a certified statement of the expenses of such witness or witnesses as have been subpoenaed, and deemed by the Justices to have been necessary and material, and the cost of such constable or constables as shall be employed in serving processes, warrants, or executions on the part of the prosecutor, or the reasonable expenses of any other person or persons lawfully employed in the caption of any person charged with having committed an assault, which certified statement shall be delivered to the Clerk of Her Majesty's Council, and the amount so certified, after being approved of by the Administrator of the Government for the time being, in Council, shall be paid to the parties claiming the same, by the treasurer of this Island.

Prosecution to be commenced within 1 month

VII. And be it enacted, That no prosecution under the provisions of this Act shall be adjudicated on, unless it shall have been commenced within one calendar month after the alleged commission of the offence.

How costs are to be recovered, when complainant is ordered to pay them.

VIII. And be it enacted, That if it shall be adjudged by the Justices before whom such offence shall be tried, that the complainant shall pay costs, then in case of nonpayment thereof, within such time as the said Justices may appoint, it shall be lawful for the said Justices to issue warrants of distress or execution for the recovery of such costs; and in the event of no goods or chattels, other than wearing apparel,



beds and bedding, being found whereon to levy, to imprison the party against whom such warrant of distress or execution shall be issued, if they shall deem fit, for any term not exceeding three months, unless such costs be sooner paid.

IX. And be it enacted, That the Justices of any County, wherein any such assault shall have been alleged to have been committed, shall have the power, either before or after conviction, to issue warrants of apprehension commitment, or distress into any other County.

By whom warrants of apprehension, &c. may be issued.

X. And be it enacted, That in case it shall appear to the Justices before whom persons charged with an assault or battery shall be tried, that the offence with which they are charged is deserving of a higher degree of punishment than such Justices are by this Act authorized to inflict, then, and in every such case, they are hereby required to bind over the prosecutor, defendant and necessary witnesses, by recognizance, to appear at the next sitting of Her Majesty's Supreme Court of Judicature, to be held in the County wherein the offence charged is alleged to have been committed.

Justices may bind offenders to appear at Supreme Court, &c.

XI. And be it enacted, That in case any Justice of the Peace to whom complaint shall be made of any assault or battery, or any Justices before whom such complaint shall be brought for adjudication, shall find the assault or battery complained of to have been accompanied with any attempt to commit a felony, he or they, respectively, shall cease to adjudicate thereon, but shall proceed therewith in manner prescribed by law in such cases.

Justices not to adjudicate in cases of felony.

XII. And be it enacted, That the Justices before whom any person shall be summarily convicted of any offence by virtue of this Act, shall cause the conviction to be drawn up, in substance, according to the form in the schedule to this Act annexed, which said conviction, and all other proceedings in the cause, the said Justices are hereby required and enjoined to return into Her Majesty's Supreme Court of Judicature, on or before the first day of the term next ensuing the taking thereof, to be held in the County wherein the offence shall be alleged to have been committed; and the said Justices, neglecting to make such returns, shall forfeit and pay for every such neglect, the sum of five pounds, to be recovered by bill, plaint, or suit in Her Majesty's said Supreme Court.

Form of conviction, to be returned into Supreme Court.

Justices neglecting to make return, to forfeit £5.

XIII. And be it enacted, That no warrant of commitment shall be held void, by reason of any defect therein, provided it be therein alleged, that the party has been convicted, and there be a good and valid conviction to sustain the same.

Warrant of commitment not void by reason of defect therein.

XIV. And whereas at the time of the passing of this Act, prosecutions and other proceedings may be pending, with

respect to assaults and batteries, under and by virtue of an Act made and passed in the tenth year of the reign of her present Majesty, intituled "An Act to provide for the summary trial of common assaults and batteries," which will shortly expire: Be it therefore enacted, that for the purpose of completing such prosecutions and proceedings, and for giving force thereto, and to all proceedings necessary to give effect to any judgments or convictions thereon, the said recited Act shall be, and it is hereby continued in force for the space of three months, from the passing hereof, and no longer.

Prosecutions commenced under 10 Vic. c. 2, to be completed under said Act.

Fees allowed under this Act.

XV. And be it enacted, That the following fees shall be allowed for the services enjoined by this Act:—

JUSTICES' FEES:

Justices' fees.

Drawing and engrossing affidavit, one shilling and six pence.  
Subpoena, one shilling.  
Every oath, one shilling.  
Each warrant, one shilling.  
For every recognizance, one shilling and six pence.  
For every mile travelled in coming to Court, or place of trial, four pence.

CONSTABLES' FEES:

Constables' fees

For executing each warrant, or for serving other process, one shilling.  
For every mile travelled, three pence.

WITNESSES' FEES:

Witnesses' fees.

For each day's attendance, two shillings.  
For every mile travelled in coming to Court, three pence.

Continuance of Act.

XVI. And be it enacted, That this Act shall be and continue in force for ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

SCHEDULE to which this Act refers.

Form of conviction.

BE it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord 18 \_\_\_\_ at \_\_\_\_\_ in the County of \_\_\_\_\_ *A. B.* is convicted before \_\_\_\_\_ of Her Majesty's Justices of the Peace, acting under and by virtue of an Act intituled [here insert the title of this Act] for that he the said *A. B.* did [specify the offence, and the time and place when and where the same was committed, as the case may be] and

the said Justices, do adjudge the said *A. B.*, for the said offence, to forfeit and pay the sum of and also the sum of for costs, and order that the said sums shall be paid by the said *A. B.*, on or before the day of and in default thereof, to be committed to jail, there to remain for the space of unless the said sums shall be sooner paid.

Given under hand and seal the day and year first above mentioned.

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### CAP. XXII.

An Act to enable Abraham Gesner to obtain letters patent for the invention of a new and improved mode of manufacturing illuminating gas. Expired.

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### CAP. XXIII.

An Act to provide for removing the Post office of Charlottetown into the old Court house therein, and for other purposes therein mentioned.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That when and so soon as an Act passed during the present session of the General Assembly of this Island, intituled "An Act to provide for the transfer of the management of the inland posts within Prince Edward Island," shall go into operation, it shall and may be lawful for the Lieutenant Governor in Council to cause that part of the old Court house in Charlottetown, formerly used and occupied as a chamber for the Legislative Council of this Island, to be properly fitted up and put in order and repair, for the use of the General Post office in Charlottetown, instead of the office at present occupied for such purpose, and to cause the said General Post office in Charlottetown, after the completion of such repairs, to be removed into and opened, and the business thereof carried on in such part of the old Court house.

Part of old Court house to be fitted up for General Post office.

General Post office to be removed into such building.

\* \* \* Sections 2, 3, 4, 5, 6, 7, 8 and 9, having reference to the establishment of a Flour and Meal Market, in Charlottetown, and other local matters, are repealed by a law of the City Council of said City, passed under the powers vested in said Corporation by the 18th Vic. c. 34, sec. 37.

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### CAP. XXIV.

An Act authorizing the Colonial Secretary of this Island to appoint a deputy. See 18 Vic. c. 19.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That the Colonial Secretary of this Island now

Colonial Secretary may appoint a deputy.

appointed, or hereafter to be appointed, shall and may, and he is hereby authorized from time to time, to nominate and appoint a fit and proper person to act as his clerk or deputy, who shall be, and he is hereby authorized, in the absence of the Colonial Secretary, to perform the duties of the said Colonial Secretary, as prescribed in and by the several Acts of this Island, now or hereafter to be in force, or which otherwise by law he is required or authorized to do, as such Colonial Secretary as aforesaid.

Deputy to be appointed by commission.

II. And be it enacted, That such deputy so to be nominated and appointed as aforesaid, shall be appointed by commission, under the hand and seal of the Colonial Secretary for the time being, which shall be duly registered in the office of Registrar of deeds of this Island; and the said deputy shall be sworn faithfully to perform the duties of his said office, before he shall act therein, and the oath shall be recorded with his commission; and every such Colonial Secretary shall, and he is hereby declared to be responsible and liable for all and every neglect of duty, defalcation and improper conduct on the part of any such clerk or deputy appointed by him, in discharge of his duty as aforesaid.

#### C A P . X X V .

See 18 Vic. c. 19.

An Act authorizing the Treasurer of this Island to appoint a deputy.

Treasurer may appoint a deputy.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That the Treasurer of this Island, now appointed or hereafter to be appointed, shall and may, and he is hereby authorized, from time to time, to nominate and appoint any fit and proper person to act as his clerk or deputy, who shall be, and he is hereby authorized, in the absence of the treasurer, to perform the duties of the said treasurer, as prescribed in and by the several Acts of this Island, now or hereafter to be in force, or which otherwise by law he is required or authorized to do, as such treasurer as aforesaid.

Deputy to be appointed by commission.

II. And be it enacted, That such deputy, so to be nominated and appointed as aforesaid, shall be appointed by commission, under the hand and seal of the treasurer for the time being, which shall be duly registered in the office of the Registrar of deeds of this Island, and the said deputy shall be sworn faithfully to perform the duties of his said office, before he shall act therein, and the oath shall be recorded with his commission; and every such treasurer and his sureties shall be and he and they are hereby declared to be responsible and liable for all and every neglect of duty, defalcation, or improper conduct, on the part of any such clerk or deputy appointed by him, in the discharge of his duty as aforesaid.

## CAP. XXVI.

An Act to reduce the salary of the collector of impost and excise, for the district of Charlottetown. Amended by  
18 Vic., c. 16.

WHEREAS it is deemed expedient to reduce the amount of the salary paid to the collector of impost and excise for the district of Charlottetown: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the Act passed in the second year of the reign of His late Majesty King William the Fourth, intituled "An Act to regulate the salary of the collector of impost and excise for the district of Charlottetown," be, and the same is hereby repealed. Repeals  
2 W. 4, c. 23.


II. And be it enacted, That there shall be allowed and paid to the person now in occupation of, or in future to be appointed to the office of collector of impost and excise, for the district of Charlottetown, the sum of two hundred pounds currency\* *per annum*, as and for the salary of that officer, and for discharging the duties thereof, the same to be in lieu of all fees, percentages, emoluments and allowances whatsoever, and to commence and be computed from and after the passing of this Act. Salary of collector of impost for Charlottetown.

## CAP. XXVII.

An Act to restrain bulls from running at large in the common and royalty of Charlottetown. Expired.

## CAP. XXVIII.

An Act relative to accidents by fire, and for the improvement of property in Georgetown, and for the removal of nuisances from the streets and square thereof. Continued by  
24 Vic. c. 25.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

## CAP. XXIX.

An Act to relieve members of the Legislature from the liability to pay a penalty in case of refusing to accept the office of High Sheriff. Repealed by  
18 Vic. c. 7.

\* By the 18 Vic., c. 16, the office of controller of customs and navigation laws, &c., is incorporated with that of collector of impost and excise, and an additional sum of £100 is thereby granted to the person holding those offices.

## CAP. XXX.

11 Vic. c. 7.

An Act to alter the appropriation of a certain sum of money raised by the present land assessment Act.

WHEREAS the annual salary of five hundred pounds payable to His Excellency the Lieutenant Governor of this Island, under and by virtue of an Act made and passed in the eleventh year of the reign of Her present Majesty, intituled "An Act for levying further an assessment on all lands in this Colony, and for the encouragement of education," has not been required to be paid since the thirty-first day of March, in the year one thousand eight hundred and forty-nine, in consequence of Her Majesty's Imperial Government having granted and paid to the Lieutenant Governor a salary in lieu thereof, and it is therefore necessary that the appropriation thereof should be altered: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, and during the continuance of the Act above recited, the said annual sum of five hundred pounds of the moneys thereby raised and appropriated to the payment of the said salary, shall, instead thereof, be paid into the treasury of this Island, and be appropriated and applied to the general uses and purposes of Her Majesty's Government thereof, in such manner as the Legislature of this Island shall hereafter direct.

Alters the appropriation of the annual sum of £500 levied under 11 Vic., c. 7.

## CAP. XXXI.

See 3 W. 4, c. 10.

An Act relating to the office of Registrar of deeds and keeper of plans.

14 Vic., c. 3.

WHEREAS the office of Registrar of deeds, by an Act of the General Assembly of this Island, passed in the present session thereof, intituled "An Act to commute the Crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned," has again been separated from the office of Colonial Secretary and clerk of the Executive Council: and whereas it is also expedient, as it is deemed to be no longer necessary for the Surveyor general to attend daily at the Colonial Building, that the plans now kept by the Surveyor general, and deposited in his office, should hereafter be placed in the charge of and kept in the office of Registrar of deeds, so that they may be daily accessible to persons desiring to inspect the same; and that it should be enacted that all references made in statutes or documents to plans kept or to be lodged in the Surveyor general's office, should be held, after the passing of this Act, to refer

to the plans to be hereafter lodged or kept in the office of the Registrar of deeds: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That immediately after the passing of this Act, it shall be the duty of the Surveyor general of this Island, to hand over to, and place in the office of the Registrar of deeds, in the Colonial Building, in Charlottetown, all the public plans, surveys and documents relating thereto, which now are, or hereafter may be, lodged or kept in the Surveyor general's office; and it shall be the duty of the said Registrar to take charge of the same, and keep them in safe custody.

Surveyor general to hand over to the Registrar of deeds, all public plans, &c.

II. And be it enacted, That the books of registry, and the indexes thereto, and also all plans, surveys and other documents hereinbefore mentioned to be deposited in the office of the Registrar of deeds, shall be open to the public to make searches therein or therefor, within office hours, on payment of the fees hereinafter enacted to be paid for each search, and all searches shall be made under the superintendence of the Registrar; and no person making a search shall be allowed to make use of a pen or ink in making notes or extracts of such search, but shall use a pencil for that purpose, and one search shall be considered to be a search for and the inspection of all deeds or documents connected with the title of one particular piece of land, or as to incumbrances existing against one particular person; and if a copy of any deed or document be required, the same shall be made by the Registrar, or his deputy, and given by him to the party ordering it, on payment of the lawful fees therefor.

Books of registry, &c., to be open to the public.

III. And be it enacted, That if a copy of any plan so to be deposited in the office of the Registrar of deeds shall be required by any person, such person must employ either the Surveyor general, or in his absence or refusal, the deputy Surveyor general, to extract the same; who, together with the Registrar or his deputy, may, when the same is correctly extracted, grant a certificate of its being a true copy of such plan.

Copies of plans to be made by Surveyor general, &c.

IV. And be it enacted, That all references made in any statutes of this Island, or in any state documents or papers, or public or private documents, or deeds, papers or writings, of any kind or description, to plans, surveys or descriptions, kept or deposited in the office of Her Majesty's Surveyor general of this Island, shall be held, after the passing of this Act, to refer to the same as deposited or kept in the office of the Registrar of deeds, under the provisions of this Act; and wherever any statute, or public or private document, under which any proceedings may now be pending or unfinished, or may hereafter be commenced, and which may require plans and particulars of any surveys or tracts of land to be lodged

References to plans, &c., kept in Surveyor general's office, held to refer to the same, as deposited in Registrar's office.

in the office of Her Majesty's Surveyor general of this Island; then, provided the same shall be lodged in the office of the Registrar of deeds and keeper of the plans under this Act regulated, the purposes of or declared in the said statutes, or public or private documents, shall be held and deemed to have been fully answered and completed.

Repeals 11th  
sec. 3 W. 4, c.  
10.

V. And be it enacted, That the eleventh section of an Act passed in the third year of the reign of His late Majesty King William the Fourth, intituled "An Act to regulate the registry of deeds and instruments relating to the title to land, and to repeal the laws heretofore passed for that purpose," be, and the same is hereby repealed.

Registrar's  
fees.

VI. And be it enacted, That the Registrar of deeds shall take and receive:—

For the registering of every deed or instrument, one shilling currency for every one hundred words.

For every oath to be administered, one shilling.

For every certificate, whether to a deed or plan, one shilling currency.

For every plan deposited in his office (except public plans and documents by the Surveyor general,) or which are required to be registered, one shilling currency.

For every search or inspection of plans, the sum of one shilling currency.

Registrar's of-  
fice, where to  
be kept.

And the office of the Registrar and keeper of the plans shall be kept in the Colonial Building, and be open for the public business from ten in the morning to three *post meridiem*, (holidays excepted): provided always, that nothing in this or the said recited Act contained shall require the Registrar of deeds or keeper of the plans to record any deeds or writings, or take deposit, or record of any plan as aforesaid, or allow copies of plans to be taken, unless the amount of fees required by this Act shall first have been tendered or paid, at the time of depositing or applying for copies of plans, or immediately upon proof of the due execution of such deeds or writings having been made in terms of the said recited Act.

Registrar to  
keep an ac-  
count of all  
fees, &c.

VII. And be it enacted, That the said Registrar of deeds and keeper of the plans shall keep an exact and correct account in a book of all fees, payments and emoluments whatsoever, paid or payable to him, or into his office, which shall at all times be open to the inspection of the Government of this Island, and shall account for and pay the amount thereof to the Treasurer of this Island, quarterly, on the first days of July, October, January and April, or within ten days from such period, respectively, in every year; the first payment to be made on the first day of July now next ensuing, and to be applied to and for the use of Her Majesty's Government of



this Island in such manner as shall be appropriated by any Act or Acts of the Legislature thereof.

VIII. And be it enacted, That in case the person holding the said office of Registrar of deeds and keeper of plans as aforesaid, shall refuse or wilfully neglect to account to the Treasurer, or to keep the said account book, or to allow the inspection thereof, in manner as in the last preceding section enacted, he shall forfeit and pay to Her Majesty for every such refusal or neglect, the sum of fifty pounds, over and above the amount of any deficiency in the said moneys so by him payable; the same to be recovered by bill, plaint, or information in the Supreme Court of Judicature of this Island, to and for the use of Her Majesty's Government.

Penalty on Registrar, for refusing to account to Treasurer, &c.

Mode of recovery, and application thereof.

IX. And be it enacted, That it shall be the duty of the registrar of deeds, and he is hereby required, after any deed shall have been recorded by him, upon the request of the party requiring the same to be registered, and in his presence, to compare such deed with the copy thereof, as entered in the books of record, so that the correctness of the record may be fully ensured.

Registrar's duty.

### CAP. XXXII.

An Act to provide salaries for the Controllers of Customs and navigation laws, appointed or to be appointed at the various outports in this Island, and to repeal a certain Act therein mentioned.

WHEREAS the office of Subcollectors of Customs in this Island now no longer exists, and it is desirable to provide salaries for Controllers of Customs and navigation laws, appointed or to be appointed at the various outports in this Island, in order that the privileges of a free port may be extended to all ports in this Island, to which such officers are or hereafter may be appointed: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, there shall be allowed and paid to any person now appointed, or who shall hereafter be appointed, to act as Controller of Customs and navigation laws, at any outport in this Island, (except Charlottetown,) and who shall be duly authorized to perform the duties of such office, the sum of fifteen pounds *per annum*, of lawful current money of this Island, as and for the salary of such office, and so long as he shall hold the said office; which said salary shall be paid quarterly, by warrant drawn by the Lieutenant Governor in Council, on the Treasurer thereof: provided always, that no more than one controller of customs and navigation laws shall

Allowance to controllers of customs and navigation laws.

Not more than one controller

of customs to  
be appointed to  
any outport.

be appointed to any outport in this Island, nor be entitled to receive a salary under this Act.

Repeals 7 Vic.  
c. 21.

II. And be it enacted, That an Act passed in the seventh year of the reign of her present Majesty Queen Victoria, intituled "An Act to provide salaries for subcollectors of customs at the several outports therein mentioned," be and the same is hereby repealed.

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C A P. X X X I I I .

See 17 Vic. c. 6.

An Act for establishing the rates in currency at which rents reserved in sterling shall henceforth be paid in this Island.

\*.\* This Act did not receive the royal allowance.

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C A P. X X X I V .

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and fifty-one.

ANNO DECIMO QUINTO

# VICTORIÆ REGINÆ.

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At the General Assembly of Her Majesty's Island of PRINCE EDWARD, begun and holden at CHARLOTTETOWN, the fifth day of March, *Anno Domini*, 1850, in the thirteenth year of the reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, Queen, Defender of the Faith :

And from thence continued, by several prorogations, to the twenty-second day of January, 1852, and in the fifteenth year of Her said Majesty's reign ; being the fourth session of the eighteenth General Assembly convened in the said Island.

1852.

Sir ALEXANDER  
BANNERMAN,  
Knight, Lieut.  
Governor.

R. HODGSON,  
President of  
the Council.

ALEXANDER  
RAE, Speaker.

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## CAP. I.

An Act to further continue an Act intituled "An Act to regulate the fisheries of this Island." 5 G. 4, c. 12.

WHEREAS it is deemed necessary to protect the fisheries of this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the fifth year of the reign of His late Majesty King George

Continues for  
ten years Act  
5 G. 4, c. 12.

the Fourth, intituled "An Act to regulate the fisheries of this Island," which has been continued by subsequent Acts, but will now, unless further continued, shortly expire, be, and the same is hereby further continued for the space of ten years from and after the passing of this Act, and from thence to the end of the then next session of the General Assembly, and no longer.

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### CAP. II.

- 3 Vic., c. 12. An Act to continue two several Acts therein mentioned, relating to the floating of logs, scantling, deals, and other kinds of wood down the rivers and lesser streams in this Island.
- 6 Vic., c. 9.

Continues for  
ten years 3 Vic.  
c. 12, and 6  
Vic., c. 9.

**W**HEREAS the hereinafter mentioned Acts will shortly expire, and it is deemed expedient to continue the same: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the following Acts, *videlicet*. an Act passed in the third year of the reign of Her present Majesty Queen Victoria, intituled "An Act to regulate the floating of logs, scantling, deals, and other kinds of wood down the rivers and lesser streams in this Island;" and an Act passed in the sixth year of the reign of Her present Majesty Queen Victoria, intituled "An Act to amend the Act regulating the floating of logs, scantling, deals, and other kinds of wood down the rivers and lesser streams in this Island, and for other purposes therein mentioned;" and every matter, clause and thing in the said hereinbefore recited Acts respectively contained, shall be, and the same are hereby continued, and shall remain in force for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

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### CAP. III.

- 6 Vic. c. 20. An Act further to continue an Act relating to landlord and tenant.

Continues for  
ten years Act  
6 Vic., c. 20.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the sixth year of the reign of Her present Majesty Queen Victoria, intituled "An Act relating to landlord and tenant," and which was continued by an Act passed in the ninth year of the said reign, intituled "An Act to continue an Act relating to landlord and tenant," be, and the same is hereby further continued and declared to be in force for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

## CAP. IV.

An Act further to continue an Act regulating seamen shipped on board of any ship or vessel belonging to Prince Edward Island, whilst within the precincts of the said Island.

The Act continued by this Act has been further continued by 22 Vic., c. 12.

\* \* This Act continued the 9th Vic., c. 27, for seven years from the passing thereof, and from thence to the end of the then next session of the General Assembly.

## CAP. V.

An Act to consolidate the laws now in force regulating the sale of the interest of leaseholders, when taken in execution.

WHEREAS the laws now in force regulating the sale of the interest of leaseholders, when taken in execution, will shortly expire, and it is deemed expedient to repeal the same, and to make provisions in lieu thereof, in order that leases and terms for years should not be sold under execution in the same way as goods and chattels, which in the absence of provisions on the subject would be the case, and would be productive of much inconvenience: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. The Act, fifty-ninth George the Third, chapter seventh, and also the Act, eighth George the Fourth, chapter seventh, are hereby severally repealed, save and except and in so far as the said Acts are declared to be in force, for the purposes hereinafter mentioned.

Repeals Acts 59 G. 3, c. 7, & 8 G. 4, c. 7.

II. From and after the passing of this Act, no leasehold interest or term of years in any lands, tenements or hereditaments hereafter to be taken in execution within this Island, shall be exposed for sale until the expiration of twelve calendar months after the same shall have been so taken in execution.

No leasehold interest taken in execution to be sold until the expiration of 12 months.

III. Whenever any leasehold interest or term of years shall be taken in execution, the Sheriff, Coroner, or other proper officer, to whom such writ of execution shall be directed, shall duly advertise the same for sale, pursuant to this Act, and in the manner directed by law in such cases respecting freehold or real estates taken in execution within this Island.

Sheriff shall advertise the same for sale.

IV. If the premises so taken in execution, or any part thereof, shall have been previously underlet by the defendant or defendants named in any such writ of execution to any undertenant or undertenants, whose term or terms shall not

If premises are underlet, undertenants to be notified to

attorn to plain-  
tiff.

have expired at the time of such execution being levied, then the Sheriff, Coroner, or other proper officer, shall notify such undertenant or undertenants that he, she or they must attorn, and become tenants to the plaintiff or plaintiffs named in the writ of execution: and the said plaintiff or plaintiffs shall from thenceforth until sale, or other sooner determination of the suit, have the like power and authority to recover and receive the rents payable by such undertenant or undertenants, or so much thereof as will satisfy the execution, as the defendant or defendants named in such writ had before; and such undertenant or undertenants shall stand absolutely discharged of and from the claims of such defendant or defendants for so much rent as he, she or they shall pay as aforesaid, and which shall be received in liquidation of the levy marked on such execution.

When terms of  
years are taken  
in execution,  
Sheriff to re-  
turn the writ  
within 8 days  
after levy made.

V. In all cases where terms of years are taken in execution, under or by virtue of any writ issuing out of the Supreme Court of Judicature of this Island, or out of any other Court competent, the Sheriff to whom such writ is directed shall return the same into the said Court from which it issued within eight days after the so taking any term of years in execution as aforesaid, notwithstanding any other return day in such writ contained: provided that no covenant, agreement or proviso in any such lease or other instrument, shall prevent the interest of any such leaseholder as aforesaid from being sold, in terms of this Act, to pay his or her just debts, nor shall the sale thereof as aforesaid in any case be a forfeiture of such lease; any thing contained in such lease or instrument to the contrary notwithstanding.

Proviso.

Sheriff to sell  
the interest of  
leaseholders,  
and execute a  
deed transfer-  
ring the same  
to purchaser.

VI. It shall and may be lawful for the Sheriff, Coroner, or other proper officer, at the time allowed by this Act, to expose to sale the interest of any such leaseholder as aforesaid, and the same shall thereupon be put up to fair auction, and shall be sold to the highest bidder, who shall be declared the purchaser; and the Sheriff, Coroner, or other proper officer, shall forthwith execute to such purchaser, at his (the purchaser's) expense, an absolute deed of sale, or assignment of such leasehold interest, reciting therein the execution under which the same may have been sold; which deed or assignment shall be good and sufficient in law to transfer such leasehold interest unto such purchaser, his executors, administrators and assigns; and it shall and may be lawful for the Sheriff, Coroner, or other proper officer, after such deed or assignment shall have been so executed, to enter into the premises specified in such deed or assignment, and to put the purchaser into quiet and peaceable possession thereof.

VII. And whereas executions and other proceedings may have issued and been had, and be still pending, relating to the

sale of the interests of leaseholders when taken in execution, under and by virtue of the provisions of the Acts on that subject hereinafter recited, and hereinbefore repealed: Be it therefore enacted, that for the purpose of fully completing and finishing all such proceedings and executions, and of selling all interests of leaseholders taken thereunder, and of giving conveyances thereof, and of fully performing and completing all such matters and things as are authorized or required to be done by the hereinafter recited Acts, in relation to any such executions or other proceedings as may be had or pending, and may be necessary to be done and performed thereunder, for the carrying on and completion of the same, the Act, fifty-ninth George the Third, chapter seventh, intituled "An Act to regulate the sale of the interest of leaseholders when taken in execution;" and the Act, eighth George the Fourth, chapter seventh, intituled "An Act to continue and amend an Act passed in the fifty-ninth year of His late Majesty's reign, intituled 'An Act to regulate the sale of the interest of leaseholders when taken in execution,'" shall be, and the same are hereby declared to be continued, and to be in full force and effect, until all such proceedings as aforesaid are fully executed and determined, and for the purpose of sustaining the same; any thing in this Act to contained to the contrary thereof notwithstanding.

The Acts herein before repealed to be in force until all proceedings pending thereunder shall be determined.

VIII. This Act shall continue and be in force for the period of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Duration of Act.

## CAP. VI.

An Act to facilitate the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick.

Amended by 16 Vic., c. 15.  
Continued by 20 Vic., c. 14, & 24 V., c. 26.

**WHEREAS** it is of great importance to the public that there should be maintained a more general and constant intercourse between this Island and the Provinces of New Brunswick and Nova Scotia than is now maintained through the means of the packet employed by the Government of this Island to run with the mails between the harbors of Charlottetown and Pictou; and it is expedient to give encouragement to such persons as will provide and maintain packet vessels at the different stations hereinafter mentioned, which may serve at all times, as occasion may require, for the conveyance of goods and passengers to and from this Island, and of any Government mails or despatches: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That

**Lt. Governor, &c., to grant a license for a packet between Georgetown & Pictou, and for a packet between Bedeque and Shediac.**

**Tenders to be made.**

**Conditions to be inserted in such licenses.**

from and after the passing of this Act, it shall and may be lawful for His Excellency the Lieutenant Governor, by and with the advice and consent of Her Majesty's Council, to cause tenders to be called for to run a packet vessel or vessels between the harbor of Georgetown, in this Island, and the harbor of Pictou, in Nova Scotia, and between the harbor of Bedeque, in this Island, and the harbor of Shediac, in New Brunswick, calling at Green's wharf both on arriving at and departing from Bedeque, of the burden of not less than seventy tons for Bedeque, and fifty tons for Georgetown, old measurement; and it shall be lawful for the Lieutenant Governor in Council, out of the tenders sent in for the above purposes, or either of them, to select and accept such as shall appear to be the best and most advantageous for the public interests— regard being had as well to the nature and capacity of the accommodation of the vessel or vessels offered, as to the lowness of the rate or price of such tender; and it shall and may be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Council, to authorize by license, under his hand and seal, any person or persons, whose tender shall be so accepted, to run a packet vessel or vessels between the said harbor of Georgetown, in this Island, and the harbor of Pictou, in Nova Scotia, and between the harbor of Bedeque, in this Island, and the harbor of Shediac, in the Province of New Brunswick, calling both on arriving at and departing from Bedeque, at Green's wharf as aforesaid; and in every such license, it shall be required of the person to whom it is granted, that the packet vessel to be employed shall be of the burden of not less than seventy tons for Bedeque, and fifty tons for Georgetown, old measurement as aforesaid, and shall be sufficiently manned and furnished for the safe keeping and conveyance of all and every such public mail or mails, packages, despatches and letters delivered from the post office at Charlottetown, in this Island, and which may be committed to the care of the person or persons to whom such license shall be given; and also that such packet vessel shall have necessary and sufficient accommodation for passengers, with separate cabins for male and female passengers, with water closet attached, and shall run between the harbors at the respective stations of such packets before mentioned, at least once in every week, between the opening of the navigation and the closing of the same, during the period for which such license shall be granted; and such license shall also contain such further regulations, to be observed by the person to whom granted, as to His Excellency the Lieutenant Governor in Council shall seem needful and necessary for the safe and speedy reception, transmission and delivery of such mail, packages, letters and despatches, and for the safety of such passengers as aforesaid.



II. And be it enacted, That in the event of a suitable steamer being placed upon the station, to run weekly between the harbor of Bedeque aforesaid and the harbor of Shediac, in the Province of New Brunswick, in the place of the sailing packet before mentioned, that then and in such case, there shall be granted and paid out of the public treasury of this Island, by warrant, under the hand and seal of the Administrator of the Government for the time being, a sum not exceeding one hundred and fifty pounds to the person or persons who shall be licensed to run such steam vessel, subject, nevertheless to all such rules and regulations as are enjoined by this Act: provided also, that any license granted to the owner of any sailing packet for that station, shall in such case be cancelled, on giving six months' notice to the owner or owners holding such licence.

If a steamer be offered to ply between Bedeque and Shediac, £150 to be granted as a bounty.

III.\* And be it enacted, That during the continuance of this Act there shall be granted and paid out of the public treasury of this Island, by warrant, under the hand and seal of the Administrator of the Government for the time being, to the person who shall be licensed to run the sailing packet between Georgetown and Pictou aforesaid, an annual sum not exceeding fifty pounds; and to the person who shall be licensed to run the sailing packet between Bedeque and Shediac aforesaid, an annual sum not exceeding eighty pounds, during the continuance of their respective licenses, the one half of which payment shall be made on the first Thursday in August, and the remainder at the closing of the navigation in each year: provided, that in every instance before any of the said payments shall be made, the person or persons so licensed shall make it appear to the satisfaction of the Administrator of the Government for the time being, and Her Majesty's Council, that he or they have in all things fulfilled and complied with the conditions in his or their said license contained.

Bounties to sailing packets.

IV. And be it enacted, That before any license shall be granted in any case, under and by virtue of this Act, it shall be lawful for the Administrator of the Government in Council, for the time being, to appoint two competent persons, resident in Bedeque, no way interested in the vessel offered to be run as a packet between that port and Shediac, in the Province of New Brunswick, and two competent persons, resident in Georgetown, no way interested in the vessel offered to be run as a packet between that port and Pictou aforesaid, whose duties it shall be respectively to inspect such vessels, and ascertain the fitness thereof for such purpose, and

Inspectors to be appointed.

Duties of inspectors.

\* The annual grant of £80 allowed by this section to the person licensed to run a packet between Bedeque and Shediac is repealed by 16 Vic. c. 15.

Licenses only to be given on favorable report of inspectors.

also to examine into, inquire and ascertain the capacity and character of the respective Masters of said vessels for their offices, and who shall report thereon to the Administrator of the Government in Council for the time being; and such license shall only be granted in the event of such report being satisfactory on the said several points hereinbefore mentioned; anything in this Act contained to the contrary notwithstanding.

License may be cancelled for nonperformance of conditions.

V. And be it enacted, That if it shall be made to appear, to the satisfaction of the Lieutenant Governor and Council, that the person or persons who shall or may have obtained a license to run a packet at either of the stations mentioned in this Act shall have wilfully neglected or refused to fulfil the conditions prescribed by such license, it shall be lawful for the Lieutenant Governor in Council to cancel such license, and to grant a new license to any other person or persons who shall be willing to comply with the provisions of this Act; and the person or persons so neglecting or refusing to comply with the regulations contained in such license as aforesaid shall not be entitled to any portion of the bounty granted by this Act.

Applicants for licenses for packets to submit a schedule.

VI. And be it enacted, That any person or persons applying to the Lieutenant Governor in Council for a license as aforesaid, shall submit a schedule of the several rates to be by such person or persons charged for passengers, goods and cattle, as also a description of the accommodations provided in such vessel, which, if agreed to, shall, together with the stated times of sailing of such packet, be published three times in the *Royal Gazette* newspaper, for public information, and a copy thereof kept posted in a conspicuous part of such packet; and such person or persons shall not be entitled to the bounty allowed by this Act, if he or they shall increase the amount of such rates during the continuance of such license as aforesaid.

Harbor Master may cause vessels lying at public wharfs to give place to packets.

VII. And be it enacted, That when and so often as it shall be necessary for any vessel running as a packet vessel under this Act to come alongside of any of the public wharfs at Georgetown or Bedeque aforesaid, for the purpose of discharging or landing passengers, goods, merchandise, chattels, or Her Majesty's mails, or of shipping or receiving on board any such passengers, goods, merchandise, chattels, or mails, and no suitable berth for such vessel at any of the public wharfs in the port where such vessel may be, shall appear unoccupied, it shall and may be lawful for the harbor master of either of the said ports, as the case may be, and he is hereby required, to cause to be removed to some equally safe berth, any other vessel or vessels lying at such wharfs, and in a con-

dition capable of being removed, and whether loading or unloading, in order to give place to any such first-mentioned packet vessel; and the vessel or vessels running as packets under this Act shall be entitled to come up to and lie at any of the public wharfs aforesaid, and to load and unload thereat and thereon, without being liable to pay any harbor or wharfage dues; nor shall any such packet vessel, on entering any of the ports of this Island, be liable to pay any light dues otherwise chargeable under or by virtue of any Act of the General Assembly of this Island.

Packets not liable to harbor, or wharfage, or light dues.

VIII. And be it enacted, That this Act shall continue and be in force for five years, and from thence to the end of the then next session of the General Assembly, and no longer.

Duration of Act.

### CAP. VII.

An Act to amend the Act providing for the payment of the Civil List of Prince Edward Island, and for commuting the Crown revenues thereof.

14 Vic. c. 3.

WHEREAS by the twelfth section of an Act of the General Assembly of Prince Edward Island, made and passed in the fourteenth year of Her Majesty's reign, intituled "An Act to commute the Crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned," it is enacted, amongst other things, that all the right of Her Majesty, whether in reversion or otherwise, or reserved in and to all and singular the lands, mines of gold, silver, iron, coal, and other things therein enumerated, within this Island, and of which the title was then in Her Majesty, should be assigned, transferred and surrendered to the disposal of the General Assembly of this Island: and whereas, in compacts between the Crown and a Colonial Assembly, such as that contemplated in the said recited Act, whilst the right to dispose of the revenues and profits arising from the public lands, and the sale and rent thereof, and the regulation of the expense of managing the same, has been conceded to the local Legislature, it has, nevertheless been deemed essential to continue and maintain the right and title of the Crown over the soil itself, for the purpose of giving valid deeds and grants thereof, and for the purpose of various legal proceedings; and such was accordingly the course pursued in the Act of the General Assembly of Nova Scotia, providing for the payment of the civil list thereof, but was not provided for in the said recited Act, which therefore requires amendment: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that the

14 Vic. c. 3.

The word "lands" in the 12th sec. of 14 Vic. c. 3, shall be omitted.

word "lands," being the thirty-eighth word from the commencement of the twelfth section of the said recited Act of the General Assembly of this Island, shall be omitted in the reading and meaning, and that the said section shall read and be construed as if the said word "lands" had never been therein inserted.

Nothing in this Act shall prevent the granting, &c. of ungranted lands.

II. And be it enacted, That nothing in this Act or the said recited Act contained shall extend, or be construed to extend, to prevent the grant, sale, lease, or disposal of any of the ungranted lands in this Island, by or on behalf of the Executive Government thereof, and in the name of Her Majesty, her heirs and successors; but all such grants, sales, leases, or disposal of such ungranted lands, and the management and control thereof, shall remain and be invested in the Government of this Island, on behalf of Her Majesty, her heirs and successors, or in such officers as shall be directed by any Act of the General Assembly of this Island hereafter to be passed, and the net proceeds of such grants, sales, leases, or disposal of such ungranted lands, shall, after deducting the expenses attendant upon the management thereof, be paid into the treasury of this Island, and an account of such expenses shall be annually laid before the General Assembly of this Island; and the said expenses shall be subject to the control and regulation of the said General Assembly; and no other or greater allowance, salary or expenses shall on any account be taken or increased than such as shall be fixed and allowed, or sanctioned by the said General Assembly.

Accounts to be laid annually before General Assembly.

Lt. Governor in Council, may, in Her Majesty's name, grant, &c. ungranted Crown lands.

III. And be it enacted, That it shall be lawful for the Lieutenant Governor, or other Administrator of the Government of this Island, for the time being, by and with the advice and consent of Her Majesty's Executive Council thereof, from time to time, in the name of Her Majesty, her heirs and successors, to grant, sell, lease and dispose of any ungranted lands of the Crown in this Island, on such terms and in such manner as to him shall seem best and most for the interests of the inhabitants of this Island, and for such purpose under his hand and seal, to give and execute all necessary deeds and conveyances, the same being made, nevertheless, in the name of Her Majesty, her heirs and successors.

Suspending clause.

IV. And be it enacted, That this Act shall not go into operation, or be of any effect or force, until Her Majesty's assent shall be signified, and notification thereof shall have been published in the *Royal Gazette* newspaper of this Island.

\*.\* This Act received the royal assent on the 18th day of August, 1852, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 20th day of September, following.

## CAP. VIII.

An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned. Repealed by 23  
Vic., c. 16.

## CAP. IX.

An Act to enable the Royal Agricultural Society of Prince Edward Island to authorize the exportation of the Horse "Saladin" from this Island, on certain conditions. Repealed by  
24 Vic. c. 33.

## CAP. X.

An Act to consolidate and amend the laws now in force relating to division fences.

**B**E it enacted by the Lieutenant Governor, Council and Assembly, and by the authority of the same, as follows :

I. An Act passed in the thirty-first year of the reign of King George the Third, intituled "An Act for compelling persons owning land adjoining each other to make their respective parts or proportions of the fence between them, and for empowering the Grand Jury to nominate fence viewers," and also an Act passed in the tenth year of the reign of King George the Fourth, intituled "An Act to alter and amend an Act made and passed in the thirty-first year of the reign of his late Majesty, intituled 'An Act for compelling persons owning lands adjoining each other to make their respective parts or proportions of the fence between them, and for empowering the Grand Jury to nominate fence viewers,'" be, and the same are hereby respectively repealed. Repeals 31 G.  
3, c. 7, and  
10 G. 4, c. 5.

II. The owner or occupier of any field or lands, adjoining the lands or fields of another, enclosed or improved, shall be obliged to build and maintain his proper part or proportion of fencing, with a good and sufficient fence, four feet and a half high, on that part of such land as adjoins his own ; and in case he shall neglect or refuse to do so, after thirty days' notice to that effect, the other party may apply to the two fence viewers who shall be the nearest in the County wherein the improved lands or fields may be to the same lands or fields, who are hereby authorized and required forthwith, after such application shall have been made, to view the said field or lands so proposed to be fenced, or the fence requiring repair, and shall grant a certificate of the same to the complaining party, who is hereby empowered to cause such deficient fence to be erected and made, or otherwise to repair any fence al- Owners of fields  
adjoining, to  
make and main-  
tain their res-  
pective propor-  
tions of fencing

**Delinquent party to pay double expenses.**

ready made, if the same shall appear by such certificate to be insufficient; and the person who, of right, ought to have erected or maintained such fence shall be liable to pay to the complainant double the amount of the expenses, costs and charges, expended in the doing thereof, to be ascertained by the said fence viewers, and to be recovered on the oath of one or more credible witness or witnesses, by the party complainant, before any one or more of Her Majesty's Justices of the Peace.

**Mode of procedure where fences are prostrated or destroyed.**

III. Provided always, that in all cases where any such fence shall be prostrated or destroyed, or otherwise so injured by storm, accident, design or natural decay, as to afford no defence to the lands, then it shall be lawful for either party, owning or occupying the lands or fields between which such fence may have stood, to give notice to the other party to repair or make good his proportion of the said fence; and should the party to whom notice is so given in such lastmentioned case, neglect or refuse to repair or make good the same, within twenty-four hours after such notice, the party giving the notice shall, and he is hereby authorized to call upon the two nearest fence viewers in the County as aforesaid, who shall, and they are hereby empowered and required immediately to view the prostrate or injured fence, and grant a certificate as aforesaid; and the complaining party may proceed thereon in the same manner as in the last preceding section mentioned, to renew, erect, and repair the fence, if it shall appear by such certificate to require the same; and the person neglecting or refusing to make the said fence as aforesaid shall be liable to pay to the complainant double the amount of the expenses, costs and charges incurred in the doing thereof, to be ascertained by the fence viewers as aforesaid; the same to be recovered by the party complaining before any one or more of Her Majesty's Justices of the Peace, on the oath of one or more credible witness or witnesses.

**In cases of difference, fence viewers to define proportions of fence to be erected and maintained by each party.**

IV. Where the adjoining owners or occupiers of enclosed or improved lands or fields differ as to the part or proportion of a division fence to be made or maintained by each or either of them, either party having previously given notice thereof to the other, may apply to the two nearest fence viewers as aforesaid, who are authorized and required thereupon, forthwith, after such application shall have been made, to view the lands or fields proposed to be fenced, or the fence requiring to be maintained, and to decide and define which part or proportion of the fence shall be erected or maintained by each owner or occupier; and such fence viewers shall grant a certificate thereof to the owner or occupier making the application, who shall serve a copy thereof on the other party, and thereafter the part or proportion allotted to each owner or occupier by

the said fence viewers in such certificate shall be the part or proportion of the fence which such owner or occupier shall be obliged to erect or maintain.

V. Where the owner or occupier of cultivated or improved lands, adjoining the uncultivated or unimproved lands of another, shall have erected a division fence between such improved and unimproved lands, and the owner or occupier of the unimproved lands shall afterwards make use of such division fence by running a cross fence therefrom, or connecting the same therewith, and enclosing such unimproved lands, whether for the purpose of pasture or otherwise, then he shall thereafter be deemed to be within the meaning of this Act, and shall be obliged to maintain his share or proportion of such division fence, the same as if such unimproved lands, so enclosed for pasture or otherwise, were actually improved and cultivated: provided always, that it shall be lawful for the party who shall have first made the fence adjoining such unimproved lands to call on the fence viewers of the district to put a value on such parts of such fences as are available for the use of the person making such cross fence as aforesaid, who shall charge the last mentioned person with half the amount of such value so assessed, to be paid to the person who originally made such line fence; which amount shall be recovered before any one or more of Her Majesty's Justices of the Peace, on the oath of one or more credible witness or witnesses.

Occupier of unimproved lands to maintain his proportion of fence, in certain cases.

Proviso.

VI. When it shall happen that the lands adjoining cultivated or improved lands shall be wood or burnt lands, and not under any improvement, then, except in the cases in the last preceding section of this Act mentioned, the owner or occupier of such wood, burnt or unimproved lands, shall not be obliged to make any part of a fence against or on the same.

Owners of unimproved lands not obliged to make division fence.

VII. Where adjoining owners or occupiers have mutually agreed upon the part or proportion of the fence to be made or maintained by each, or where the same has been decided upon by the fence viewers as aforesaid, then each owner or occupier may make or maintain his share in such manner and of such material as he may think proper, being either of stones, boards, logs, pickets, poles, or posts and rails, or by dykes or banks; and if by dykes or banks, then he shall be entitled, for the purpose of constructing the same, carefully and properly to excavate the requisite quantity of earth to make the same equally from his own and his neighbor's lands or fields next to or adjoining the division line; but it shall, in no case, be lawful for him to excavate or dig into the adjoining owner's or occupier's lands or fields further than to the distance of six feet from the division line; and such dyke or bank shall be

Fence may be made of such material as the owner thereof may think proper.

centered on the said line: provided also, that all such fences, whether with dykes or banks, or otherwise, must be good and sufficient, and of the requisite height pointed out in the former part of this Act.

Provision of last preceding section not to apply in certain cases.

VIII. So much of the last preceding clause of this Act as authorizes an owner or occupier of lands to construct his share or proportion of the division fence between his and his neighbor's lands or fields, by constructing dykes or banks, and regulates the mode in which the same may be done, shall not extend or be construed to apply to lands within Charlottetown, Georgetown or Princetown, or the commons thereof respectively.

Allowance to fence viewers.

IX. Each fence viewer shall be entitled to five shillings a day, for each day he shall have been employed, in any manner as in this Act mentioned, for his time and trouble expended therein, which shall be paid equally by each of the adjoining owners or occupiers: and if any fence viewer shall neglect any duty imposed on or required of him by this Act, when duly notified, he shall forfeit twenty shillings for each and every offence to the party aggrieved, to be recovered before any one or more of Her Majesty's Justices of the Peace, on the oath of one or more credible witness or witnesses.

Penalty on fence viewers for neglect of duty.

Meaning of the words "owner" or "occupier."

X. Wherever in this Act the owner or occupier be required to erect or maintain a division fence, or his share or proportion thereof, it shall be understood to mean the occupier, in the first instance, and if no occupier, then the owner; and notice, requiring the erection or repair of a fence, in manner as hereinbefore set forth, shall be given to the occupier, or if no occupier, then to the owner, or if more than one owner or occupier, then to any one of them, or his or their agent respectively.

Continuance of Act.

XI. This Act shall continue and be in force for ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

## CAP. XI.

An Act to prevent the stealing of dogs.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Persons stealing dogs, &c., how punished.

I. Every person who shall steal any dog from the owner or person entrusted by the owner with such dog, or who shall sell, buy, receive, harbor, detain or keep any dog, knowing the same to have been stolen, shall, on conviction thereof, on the oath of one or more witnesses, or by confession of the offender, before any two of Her Majesty's Justices of the Peace for the County



wherein the offence shall be committed, forfeit and pay, for the first offence, any sum not exceeding five pounds, nor less than one pound, as to such Justice shall seem meet, together with the costs and charges of conviction, to be ascertained by such Justices, according to the scale prescribed in the Act for the punishment of common assaults; and if such penalty be not forthwith paid, such Justices shall commit the offender to the common jail of the said County, for any period not exceeding two calendar months, or until the said penalty and charges are sooner paid; and every person so convicted, who shall be again convicted of a like offence, who shall suffer imprisonment, accompanied with hard labor, for any period not less than one month, nor more than three months, in the discretion of such Justices.

II. Any one Justice of the Peace for the County wherein the offence shall be charged to have been committed, shall and may, on information to him for that purpose, grant a warrant to search for any dog so stolen; and if such dog or his skin shall be found, shall restore the same to the owner, and the person in whose custody such dog or skin shall be found (if it appear that he was privy to such dog having been stolen, or to the skin being that of a stolen dog), shall be subject to the pains and penalty by this Act imposed, as the same are provided against a first and second offence respectively, according to the number of the offence.

Justices of the Peace to grant warrant to search for stolen dog.

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## CAP. XII

An Act to continue an Act for the encouragement of education.

\*.\* This Act continued the 10 Vic., c. 9, until the 15 Vic., c. 13, came into operation.

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## CAP. XIII.

An Act for the encouragement of education, and to raise funds for that purpose, by imposing an additional assessment on land in this Island, and on real estate in Charlottetown and common, and Georgetown and common.

Repealed by 24 Vic., c. 36.

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## CAP. XIV.

An Act relating to corporate bodies.

Amended by 15 Vic., c. 15.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Corporations  
may sue and be  
sued, &c.

I. All Corporations shall, where no other provision is specially made, be capable, in their corporate name, to sue and be sued, to prosecute and defend actions, to have a common seal, which they may alter at pleasure, to elect, in such manner as they may deem proper, all necessary officers, and to fix their compensation and define their duties, and to make by-laws and regulations not contrary to law, nor repugnant to the charter or Act by which any such Corporation may be created, for their own government and due management of their officers.

Corporations  
may determine  
mode of calling  
meetings, &c.

II. All Corporations may, by their by-laws, where no other provision is specially made, determine the manner of calling and conducting meetings, the number of members which shall constitute a quorum, the number of shares which shall entitle the members to one or more votes, the mode of voting by proxy, the mode of selling shares for the nonpayment of instalments, and of transferring shares generally, the tenure of office of the several officers, and the purchase and conveyance, and sale of their real and personal estate; and they may annex penalties to their by-laws, not exceeding in any case the sum of five pounds for any one offence.

First meeting  
of corporation,  
how convened.

III. The first meeting of all Corporations shall, unless otherwise provided in their charters or Acts of incorporation, be called by notice, signed by any one or more of the persons named in the charter or Act of incorporation, and setting forth the time, place, and purposes of the meeting, and such notice shall, seven days at least before the meeting, be delivered to each member, or left at his place of residence, or published in some newspaper of the County where the Corporation may be established, or where its principal place of business shall be situate; or if there be no newspaper in the County, then in two of the Charlottetown newspapers.

Shares of stock-  
holders deemed  
personal prop-  
erty.

IV. Notwithstanding the corporation may hold real estate, the shares of the stockholders shall be deemed to be personal property for all purposes.

Real estate may  
be sold under  
execution.

V. The real estate of the company may be sold under execution, in the same manner as personal estate, and the Sheriff shall, immediately after the sale, execute a deed to the purchaser, which shall convey all the estate and interest of the company in the real estate so sold and conveyed.

Acts or charters  
of incorpora-  
tion to expire  
unless Compa-  
ny go into op-  
eration within  
three years.

VI. All Acts or charters of incorporation shall expire, unless the company thereby established shall go into operation within three years from the passing thereof, unless otherwise specially provided therein.

Charters of cor-  
porations shall

VII. All corporations, whose charters, after they shall have gone into operation, shall expire by their own limitation, or

shall be annulled by forfeiture or otherwise, shall, nevertheless, be continued as bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits, by or against them, and of enabling them to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock, but not for the purpose of continuing the business for which such corporations were established.

expire by their own limitation, &c.

VIII. When the charter of any corporation shall expire or be annulled, as provided in the preceding section, the Supreme Court, on application of any creditor of such corporation, or of any member at any time within the three years, may appoint a trustee or trustees to take charge of the estate and effects of the corporation, and to collect the debts and property due and belonging thereto, with power to prosecute and defend suits in the name of the corporation, and to appoint agents under them, and to do all other acts which might be done by such corporation, if in being, that may be necessary for the final settlement of the unfinished business of the corporation; and the power of such trustees may be continued beyond the three years, and as long as the Court shall think necessary.

Supreme Court may appoint trustee or trustees in certain cases.

IX. When any officer or member of a corporation is liable for any debts of the corporation, or for acts in relation to its business, or to contribute for money paid by other officers or members, on account of any such debt or acts, he may be sued therefor, either in the Supreme Court or Court of Chancery.

Officers or members of corporation may be sued.

X. The directors or board of managers of any such corporation, the liability of whose members shall be limited by the Act or charter of incorporation, unless otherwise specially directed therein, shall, in all cases, be personally liable for any responsibility incurred by them on account of the corporation, beyond the amount of the stock subscribed, without the sanction of the company, to be obtained at a meeting thereof, held in accordance with the by-laws, unless such larger amount of dealing be specially authorized by the Act or charter of incorporation; but this section shall not extend to insurance companies.

Directors personally liable for any responsibility incurred by them.

XI. The acts of incorporated companies, performed within the scope of their charters, or Acts creating them, shall be valid, notwithstanding they may not be done under, or be authenticated by the seal of such corporations.

Seal of corporation not necessary to render acts of corporation valid.

XII. No corporation shall issue notes or bills for payment of money, for the purpose of circulating the same as money, or engage in any banking or insurance business, unless specially authorized to do so by its Act of incorporation; and if any corporation not so authorized, shall issue such bills or

Prohibits corporation from issuing notes, &c.

notes, or shall engage in any banking or insurance business, its charter shall be thereby rendered void.

Act to come in-  
to operation  
immediately.

XIII. This Act shall come into operation immediately upon the passing thereof, and shall extend to Acts of incorporation passed during the present session of the General Assembly, but not to any Act or charter heretofore in force.

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### CAP. XV.

15 Vic. c. 14.

An Act to amend an Act relating to corporate bodies.

Rules, &c. of no  
effect, until ap-  
proved of by the  
Administrator  
of the Govern-  
ment.


BE it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, all rules, orders, and by-laws of any body incorporated under any Act passed during the present session of the General Assembly, or that may be incorporated by Act passed at any future session thereof, for emolument or profit merely, and not for religious or moral purposes, shall first be submitted and approved of by the Administrator of the Government in Council for the time being, before the said rules, orders and by-laws shall have any force or effect, or be binding upon the members of the said corporate bodies; any thing in the said Acts to the contrary notwithstanding.

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### CAP. XVI.

2 W. 4, c. 17;  
see also, 19 Vic.  
c. 24.


An Act to alter and amend the Act made and passed in the second year of the reign of his late Majesty King William the Fourth, intituled, "An Act to incorporate the minister and trustees of Saint James's Church in the town of Charlottetown.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic., c. 3.

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### CAP. XVII.


An Act to incorporate the Diocesan Church Society of Prince Edward Island.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

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### CAP. XVIII.

An Act to incorporate, in Prince Edward Island, the people called Bible Christians.

 This Act remains in force, but has been printed in the volume of private and local Acts pursuant to directions of Act 24 Vic. c. 3.

## CAP. XIX.

An Act to continue an Act empowering the Administrator of the Government to shut up roads or parts of roads.

3 W. 4, c. 23.

\*.\* The Act 3 W. 4, c. 23, which was continued by this Act has been repealed by 18 Vic., c. 26.

## CAP. XX.

An Act to regulate the office of Colonial Secretary and Road Correspondent of this Island, and the amount of fees to be taken therein.

Amended by 18 Vic., c. 19, and 23 Vic., c. 39.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. The office of the Colonial Secretary and Road Correspondent shall be kept in the Colonial Building, and be open for the public business from ten o'clock in the morning to three o'clock in the afternoon on each day, (Sundays and holidays excepted.)

Colonial Secretary's and Road correspondent's office, where and when kept.

II. The Colonial Secretary and Road Correspondent shall hereafter take and receive in his office the fees and amounts following (that is to say):

For every grant of land passing the seal of this Island, ten shillings. Fees.

All licenses under seal, over and above the fee for the Lieutenant Governor's signature, six shillings.

For copies of all documents, papers or records, or extracts therefrom, when authorized to be taken by the Administrator of the Government for the time being, and whose authority therefor must be first obtained, at the rate of one shilling for every hundred words.

For every search made in his office, when authorized in the same manner as the taking of copies of documents, *et cetera*, one shilling.

For every certificate, whether required to a copy of a document or record, or extract therefrom, or for any other purpose, two shillings and three pence.

III. So much of an Act passed in the sixteenth year of the reign of King George the Third, intituled "An Act for regulating fees," as relates to the fees to be taken by the Provincial and Private Secretaries of this Island, shall be, and the same is hereby repealed.

Repeals certain parts of Act 16 G. 3, c. 1.

IV. The said Colonial Secretary and Road Correspondent shall keep an exact and correct account in a book of all fees,

Account of fees, &amp;c., to be kept

by Colonial  
Secretary.

payments and emoluments whatsoever, paid or payable to him, or into his office, on any account whatsoever, which shall at all times be open to the inspection of the Government of this Island, or any person or persons appointed by it to inspect the same; and he shall account for and pay the amount of all such fees, payments and emoluments to the Treasurer of this Island quarterly, on the first days of July, October, January and April, or within ten days from such periods respectively in each year; the first payment to be made on the first day of July next after the passing of this Act; and the amount so paid to be applied to and for the use of Her Majesty's Government of this Island, in such manner as shall be appropriated by any Act or Acts of the Legislature thereof.

An account of  
all disburse-  
ments for the  
road service to  
be kept.

V. The Colonial Secretary and Road Correspondent shall also keep a book, in which shall be entered an exact and correct account of all moneys paid to and disbursed by him for the road service, and the particulars thereof; which shall be subject to like inspection by the Government, or any person or persons appointed by it to inspect the same.

Penalty for re-  
fusal or neglect.

VI. In case the person holding the said office of Colonial Secretary and Road Correspondent shall refuse or wilfully neglect to keep such books as aforesaid, or either of them, or to allow the inspection thereof as aforesaid, or to account and pay over to the Treasurer, in manner as in the fourth section of this Act mentioned, he shall, for every such refusal or neglect, forfeit and pay to Her Majesty the sum of fifty pounds, over and above the amount of any deficiency in the said moneys so by him payable; the same to be recovered by bill, plaint or information, in the Supreme Court of Judicature of this Island, to and for the use of Her Majesty's Government thereof.

Penalty, how  
recoverable.

## CAP. XXI.

Amended by  
17 Vic., c. 17.

An Act to make provision for the the service of nonbailable process, in certain cases.

**W**HEREAS there is no sufficient provision regulating the service of nonbailable process issuing out of the several Courts of law in this Island, either in the case of bodies corporate or persons carrying on business therein, who may have a place of business, but no place of residence in this Colony, or in the case of proprietors or owners of land in this Island, who are resident out of the jurisdiction of the Courts of law of this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. That in all cases where, after the passing of this Act, nonbailable process shall be issued out of the Supreme Court of Judicature of this Colony against any body corporate or person carrying on business in this Island, who may have a place of business, but no place of residence therein, the service of such process may be effected by leaving a copy of the same, with the ordinary English notice thereunder written, of the purport and effect of such process, at the place of business of said defendant or defendants, with some agent or clerk, or adult person in the employment of the defendant or defendants in such business, and known to the person serving the same as being an agent, clerk or person in the employment of the defendant or defendants in such business.

Service of non-bailable process against body corporate, &c., how effected.

II. That the service of any nonbailable process issued out of the Supreme Court, after the passing of this Act, against any proprietor or owner of land who may be resident out of the limits of this Island, may be effected by causing a copy of the same, with the ordinary English notice thereunder written, of the purport and effect of such process, to be served on any agent or attorney in this Island, who, at the time of such service, shall be authorized by power or letter of attorney, in writing, to bring or defend any action or suit at law.

Service of non-bailable process against nonresidents, how effected.

III. Provided always, that no service of any process made by virtue of this Act, shall be deemed good service, unless the same shall have been made by the Sheriff of the County to whom the same shall have been directed, or his deputy, nor without an affidavit, by the party so serving the same, setting forth the facts, time and place of such service; and if under the second section of this Act, every affidavit shall also contain shortly the fact of the existence and general tenor of the power or letter of attorney, and the name or names of the person therein or thereby authorized; and if such document be not registered, the party in possession thereof shall be liable to produce the same for inspection before the service of such process, upon an order for that purpose made by any Judge of the Supreme Court of Judicature.

Service of process not deemed good unless certain formalities are complied with.

IV. Nothing herein contained shall have any force or effect, until Her Majesty's pleasure therein shall be known.

Suspending clause.

\* \* \* This Act received the royal allowance in 1852, as appears by a despatch from the Right Honorable W. L. Bathurst, Her Majesty's principal Secretary of State for the Colonies, dated the 16th of October, and published in the *Royal Gazette* newspaper of this Island, November 15, 1852.

## CAP. XXII.

11 Vic. c. 31. An Act to amend certain parts of the law in force relating to the admission of barristers, solicitors and attorneys, and to make other provisions in addition thereto.

11 Vic., c. 31. WHEREAS it is deemed expedient to amend certain parts of an Act made and passed in the eleventh year of the reign of Her present Majesty, chapter thirty-one, intituled "An Act to repeal the Acts for the admission of barristers, attorneys and solicitors, and to make other provisions in lieu thereof: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Barristers, &c. of any Court of Great Britain or Ireland, &c., entitled to practise in the Supreme Court of this Island.

I. From and after the passing of this Act, any person, being a barrister of any Court in Great Britain or Ireland, or an attorney, solicitor or barrister of any British Province or Colony, and who shall have resided in this Island for a period of at least twelve months previous to making application for admission, shall be entitled to be admitted to practise as an attorney and barrister of the Supreme Court of Judicature of this Island, without having previously entered and continued for one year as a student in the office of one of the attorneys of the said Court, having the rank of a barrister, as in the said recited Act mentioned, on his producing a satisfactory certificate, bearing date within six months previous to the commencement of his residence in this Island, from a Judge of the Court to which he belongs, of his being at the bar or on the rolls of such Court, and of his being in actual practice at the time when such certificate was granted, and that he has conducted himself with credit and reputation since he was called to the bar, or admitted to practise in the Court to which he belongs, and that he is a person of good moral character; and if he shall be otherwise qualified for such admission, under the provisions of the said recited Act; and, if required by the Judges of the Supreme Court of Judicature of this Island so to do, shall submit himself to, and pass a satisfactory examination touching his fitness and capacity, as aforesaid.

Terms of admission to the bar of this Island, by barristers, &c., of the British Provinces.

II. When and so often as any person, being an attorney and barrister of any other British Province or Colony, and who shall be otherwise qualified for such admission under the provisions of the said recited Act, shall apply to be admitted as an attorney and barrister of the Supreme Court of Judicature of this Island, it shall be lawful for such Court to admit such person, and to call him to the bar of this Island, without requiring that the person so making application shall have previously entered and continued for one year as a student in the office of one of the attorneys of the said Court, having the rank of a barrister, as in the said recited Act mentioned,



or shall have resided in this Island for a period of twelve months previous to making application as aforesaid; provided it shall appear to the said Court, and be clearly proved, that attorneys and barristers of the Supreme Court of Judicature of this Island are, at the time when any such application shall be made, entitled to equal privileges and freedom of admission to the bar of the Courts of law, equity and judicature in the country to the bar of which the attorney, solicitor and barrister, solicitor and barrister, seeking admission, belongs, as are by this and the said recited Act extended to such person so making application as aforesaid; and provided also, that such person so applying for admission shall, at the same time thereof, produce a certificate from one of the Judges of the Supreme Court of the country to the bar of which he belongs of his being on the rolls of such Court, and of his being in actual practice at the time when such certificate was granted; which certificate shall bear date within six months previous to such application, so to be made as aforesaid; and such applicant shall also produce a certificate of such Court, or of a Judge of the same, of his having conducted himself with credit and reputation since his admission, and also of his being a person of good moral character; and such applicant shall also be subject to an examination or otherwise, touching his qualifications, at the discretion of the said Supreme Court of this Island.

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### CAP. XXIII.

An Act to provide a summary remedy for females, in certain cases of seduction.

\*. \* This Act was continued by 21 Vic., c. 15, only until the several cases then pending under it should be finally completed and ended, and all such cases having been finally ended and disposed of, it was deemed advisable not to reprint it.

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### CAP. XXIV.

An Act to regulate the sale of arsenic and other poisons therein mentioned.

**W**HEREAS the unrestricted sale of arsenic and other poisons facilitates the commission of crime, and the occurrence of accidents: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. Every person who shall sell any arsenic, strychnine or prussic acid, shall forthwith, and before the delivery thereof to the purchaser, enter, or cause to be entered, in a fair and

On every sale of poisons, particulars of sale:

to be entered  
in a book by  
the seller.

regular manner in a book or books to be kept by such person for that purpose, in the form set forth in the schedule to this Act, or to the like effect, a statement of such sale, with the quantity of arsenic, strychnine or prussic acid so sold, and the purpose for which the same is required or stated to be required, and the day of the month and year of the sale, and the name, place of abode, and condition or occupation of the purchaser; into all which circumstances the person selling such arsenic, strychnine or prussic acid, is hereby required and authorized to inquire of the purchaser before delivering the same to him; and such entries shall, in every case, be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser professes to be unable to write, (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale, the words "cannot write"); and where a witness is hereby required to the sale, shall also be signed by such witness, together with his place of abode.

Restrictions as  
to sale of arse-  
nic, &c.

II. No person shall sell arsenic, strychnine or prussic acid to any person who is unknown to the person selling the same, unless the sale be made in the presence of a witness who is known to the person selling the same, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries before the delivery of the arsenic or other poisons hereinbefore named to the purchaser, and no person shall sell arsenic or any of the other poisons hereinbefore named to any person other than a person of full age.

Provisions for  
colouring arse-  
nic.

III. No person shall sell any arsenic, unless the same be, before the sale thereof, mixed with soot or indigo, in the proportion of one ounce of soot, or half an ounce of indigo, at the least, to one pound of the arsenic, and so in proportion for any greater or less quantity: provided always, that where such arsenic is stated by the purchaser to be required not for use in agriculture, but for some other purpose, for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture, in a quantity of not less than two pounds at any one time.

Penalty for of-  
fending against  
this Act.

IV. If any person shall sell any arsenic, strychnine or prussic acid, save as authorized by this Act, or on any such sale shall deliver the same without having made and signed the entries hereby required on such sale, or without having obtained such signature or signatures to such entries as required by this Act; or if any person purchasing any such poison as aforesaid shall give false information to the person selling the same, in relation to the particulars which such lastmentioned person is hereby authorized to inquire into of such purchaser,

or if any person shall sign his name as aforesaid, as a witness to a sale of arsenic, to a person unknown to the person so signing as witness, every person so offending, shall, for every such offence, upon a summary conviction for the same before two Justices of the Peace in this Island, be liable to a penalty not exceeding five pounds.

V. This Act shall not extend to the sale of arsenic, strychnine or prussic acid, when the same forms part of the ingredients of any medicine required to be made up or compounded according to the prescription of a legally qualified medical practitioner, or a member of the medical profession, or to the sale of arsenic by wholesale to retail dealers, upon orders in writing in the ordinary course of wholesale dealing.

Act not to prevent sale of arsenic for medicine.

VI. It shall not be lawful for any person or persons, after the passing of this Act, to make use of the poison called strychnine, hereinbefore mentioned, whether in small or large quantities, for the purpose of destroying foxes or other animals; and any such person or persons offending against the provisions of this clause, and making use of strychnine for such purposes as aforesaid, shall, for each and every offence, be liable to pay a fine or penalty not exceeding five pounds,—the same to be recovered, with costs, on oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace for the County wherein the offence was committed, and levied by distress and sale of the offender's goods and chattels; or in default thereof, the offender to be imprisoned in the common jail of the County for a period not exceeding one month; and the amount of such penalty, when recovered, shall belong and be paid to the party or parties informing or suing for the same.

Prohibits the use of strychnine for the purpose of destroying foxes.

Penalty for offending against this section.

VII. In the construction of this Act the word "arsenic" shall include arsenious acids and the arsenites, arsenic acid and the arseniates, and all other colourless poisonous preparations of arsenic.

"Arsenic" to include arsenious compounds.

SCHEDULE to which this Act refers.

Day of Sale.	Name and surname of purchaser.	Purchaser's place of abode.	Condition or occupation.	Quantity of arsenic or other poison sold.	Purpose for which required.
1st September, 18	John Roberts.	Saint Eleanor's.	Farmer.	5 lbs.	To steep wheat.

Purchaser's signature,  
 JOHN ROBERTS.  
 (Or if purchaser cannot write,  
 seller to put here the words  
 "cannot write.")

Witness,  
 JAMES STONE,  
 Township 25.

Seller's signature,  
 GEORGE WOOD.

## CAP. XXV.

An Act further to continue an Act relating to dogs, and the taxation thereon. 9 Vic., c. 3.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the ninth year of the reign of her present Majesty Queen Victoria, intituled "An Act to consolidate and amend the several Acts relating to dogs, and the taxation thereon," which was continued by an Act passed in the thirteenth year of the same reign, intituled "An Act to continue several Acts therein mentioned," be, and the same is hereby further continued and declared to be in force for the space of ten years after the passing hereof, and from thence to the end of the then next session of the General Assembly and no longer.

Continues for ten years the Act 9 Vic. c. 3.

## CAP. XXVI.

An Act for raising a revenue.

Expired.

## CAP. XXVII.

An Act relating to light and anchorage duties.

Repealed by 19 Vic. c. 14.

## CAP. XXVIII.

An Act to consolidate and amend the Acts now in force regulating the letting of stalls in Charlottetown market house, and for other purposes therein mentioned.

\* \* \* This Act has been repealed by virtue of a law of the City Council of Charlottetown, passed under the powers vested in said Corporation by Act 18 Vic. c. 34, sec. 37.

## CAP. XXIX.

An Act to alter and amend an Act passed in the sixth year of the reign of Her present Majesty, intituled "An Act to alter and amend the Act for the establishment of an Academy in Charlottetown."

Continued by 21 Vic. c. 5.

Repealed by 23 Vic. c. 17.

## CAP. XXX.

An An relating to the weighing of coal, culm and coke in Charlottetown.

\* \* \* This Act has been repealed by virtue of a law of the City Council of Charlottetown, passed under the powers vested in said Corporation by the 18 Vic., c. 34, s. 37.

## CAP. XXXI.

Continued by  
21 Vic. c. 6.

An Act to regulate the publishing of notices and advertisements relating to the public service.

Advertisements relating to the public service, to be published in the *Royal Gazette* only, &c.

WHEREAS by some of the Acts of the General Assembly of this Island, now in force, it is required that notices or advertisements of proceedings thereunder, connected with the public service, shall be inserted or published in the public newspapers of the Colony, or in more than one of the Island newspapers, without defining in how many newspapers the said notices or advertisements shall be inserted, whereby it might be held necessary to insert and publish the same in every newspaper published in the Colony, and it is deemed an unnecessary expenditure of the public money, that such publications, or any other notices or advertisements relating in any manner to the public service of the Island, should be made or inserted in more than one such newspaper: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act all notices and advertisements of every description, in any manner relating to the public service of this Colony, whether directed to be made under or by virtue of any Act or Acts of the General Assembly of this Island, or otherwise, shall be inserted or published as often as may be requisite, or for the requisite length of time, in each case, in the *Royal Gazette* newspaper only, or such other newspaper as may, for the time being, be published by the Queen's Printer thereof; and all such advertisements and notices, to be published as hereinbefore described, shall have the same force and effect, to all intents and purposes, as if they had been published in all the public newspapers of the Colony, or in more than one of the Island newspapers, where the same may be required to be done under or by virtue of any Act or Acts of the General Assembly of this Island heretofore made; any thing in such Acts contained to the contrary notwithstanding.

Continuance  
of Act.

II. And be it enacted, That this Act shall continue and be in force for and during the space of five years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

## CAP. XXXII.

An Act to facilitate the proving of wills and testamentary dispositions within this Island.

Execution of  
wills, &c. how  
proved.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That the execution of all wills or testamentary dispositions made or hereafter to be made within this Island,

shall and may henceforth be proved for the purpose of registry in the Court of the Surrogate or Judge of Probate for the said Island for the time being, and for granting letters testamentary thereon, before any Commissioner now appointed or hereafter to be appointed in the said Island, for taking affidavits in Her Majesty's Supreme Court of Judicature for this Island, or for taking proof and acknowledgment of the execution of deeds under the statute of the third William Fourth, chapter tenth, on the oath of any subscribing witness to any such will or testamentary disposition; and each and every of the said Commissioners are hereby empowered and authorized to administer such oath to any such witness, in the form set forth in the affidavit in the schedule to this Act annexed; which affidavit shall be subscribed by the party making the same in the presence of the Commissioner who shall administer the oath, and who also shall subscribe the *jurat* of the said affidavit; and every such affidavit may either be written upon the original will or testamentary disposition, or upon a separate paper, and annexed to the said original will or testamentary disposition by the Commissioner taking the same: provided always, that nothing herein contained shall extend, or be construed to extend, to interfere with the power and authority of the Surrogate or Judge of the said Court of Probate for the time being, to receive and take proof of the execution of any such will or testamentary disposition for registry and for probate, as heretofore done in accordance with the practice of the said Court of Probate, if the parties interested shall appear before him and require him to receive and take the same; and provided also, that nothing herein contained shall extend, or be construed to extend, to limit the right of any person interested in any such will or testamentary disposition to enter a *caveat* in the said Court of Probate against the same, and to require that any such will or testamentary disposition shall be solemnly proved, according to the practice of the said Court of Probate.

3 W. 4, c. 10.

Oath to be administered to witness.

Not to interfere with the authority of the Judge of Probate, if parties appear before him.

II. If any person shall forswear himself or herself before any such Commissioner as aforesaid, and shall be duly convicted thereof, such person shall be liable to and shall suffer the pains and penalties imposed, or to be imposed by law in this Island, on persons guilty of wilful and corrupt perjury.

Person forswearing himself before Commissioner, how punished.

III. Any Commissioner taking any affidavit as aforesaid, under or by virtue of this Act, shall be entitled to receive and take therefor the fee of three shillings and six pence currency, and no more.

Commissioner's fee.

## SCHEDULE to which this Act refers.

*Form of affidavit to be made before Commissioner under the foregoing Act.*

Affidavit to be  
made before  
Commissioner.

The within will (or "annexed will," as the case may be,) of *A. B.*, being presented for probate, *C. D.*, one of the subscribing witnesses (or "the subscribing witness," as the case may be), thereto, made oath that he (or "she") was present and did see the said testator (or "testatrix," as the case may be), sign, seal and deliver the same (or "sign and deliver the same," as the case may be), and also heard him (or "her;" as the case may be), publish and declare the same as and for his (or "her") last will and testament, and that when he (or "she") so did, he (or "she") was of sound disposing mind and memory, according to this deponent's best discerning, and that he (or "she" as the case may be), set and subscribed his (or "her") name as a witness thereto, in the said testator's (or "testatrix's") presence, and that *E. F.* ("and all other witnesses," if more there be to the will), set his ("her," or "their," as the case may be), name (or "names") as a witness (or "as witnesses," as the case may be), thereto at the same time.

(Signed) *A. B.*

Sworn at in County }

this day of 185 }

(Signed) *G. H.*

Commissioner for taking affidavits for said }  
County in the Supreme Court. }

## CAP. XXXIII.

Continued by  
19 Vic., c. 5.

An Act authorizing the harbor and ballast masters of the various harbors and rivers in this Island to superintend the laying down, erection and maintenance of the buoys and beacons therein.

**B**E it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Harbor and  
ballast master's  
duty.

I. After the passing hereof, in all harbors and rivers in this Island whereunto a harbor and ballast master may have been or shall be appointed, it shall be the duty of such harbor and ballast master to superintend the laying down of buoys and erection of beacons therein, and to attend to the proper maintenance and keeping of the same; and the application of all moneys granted for any of the purposes aforesaid shall be entrusted to the said harbor or ballast master.



II. It shall also be the duty of such harbor or ballast master, whenever any of the buoys or beacons in their respective harbors or rivers shall need repair, renewal or removal, to notify the same to the Lieutenant Governor in Council, and at the same time to specify the probable amount which will be required to make such repair, renewal or removal.

Further duty of harbor or ballast master.

III. When any money is placed in the hands of any of the said harbor or ballast masters, to be laid out in erecting, laying down or maintaining any buoys or beacons, he shall let the doing thereof by public auction to the lowest bidder, giving at least ten days' previous notice thereof, by posting the same in three or more conspicuous places near to the harbor.

Moneys in harbor or ballast master's hands, how applied.

IV. Every such ballast or harbor master duly performing his duties as herein set forth, shall be entitled to receive from the treasury of this Island, as a remuneration for his trouble, the sum of five pounds *per centum* on all moneys expended by him in laying down, erecting or maintaining such buoys and beacons.

Remuneration to harbor or ballast master for his services.

V. This Act shall continue and be in force for the space of three years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Continuance of Act.

#### CAP. XXXIV.

An Act relating to the Charlottetown ferry and the wharfs connected therewith.

Amended by 19 Vic., c. 17.

WHEREAS the contract for the lease of the ferry over the Hillsborough, opposite Charlottetown, commonly called the Charlottetown ferry, to Thomas Boggs Tremain, of said town, merchant, entered into under the provisions of the Act of the eleventh year of the reign of Her present Majesty, chapter thirteen, intituled "An Act relating to Charlottetown ferry," has been annulled; and by advertisement, dated the sixteenth day of February, one thousand eight hundred and fifty-two, inserted in the *Royal Gazette* newspaper of this Island, tenders have been called for at the Secretary's office for placing a teamboat, of not less than four horse power, together with row and sail boats, on Charlottetown ferry, for a term of five years, and in manner therein set forth, and such tenders have been received: and whereas doubts have arisen as to the construction of the said recited Act, and the extent of the power of the Lieutenant Governor of this Island under the same, in granting a lease of the said ferry, and it is desirable that the same should be removed, so as to provide at

11 Vic., c. 13.

once for the accommodation of the public: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

**Lt. Governor may let the Hillsborough ferry for five years to lowest tender.**

I. It shall be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Council, to let and grant for any space not exceeding five years, the exclusive right to the said Hillsborough ferry, opposite Charlottetown, and the premises connected therewith, to the person or persons who may have tendered the lowest terms therefor, in accordance with the said advertisement calling for tenders as aforesaid; and provided, that such person or persons shall become bound, with two responsible sureties, to be approved of by the said Lieutenant Governor in Council, to convey passengers, cattle and luggage across the said ferry, by means of a good and sufficient teamboat, to be propelled by not less than four able horses, and which shall be not less than fifty feet in length, besides providing a sufficient number of good and sufficient keel or flat bottomed boats for the conveyance of passengers, cattle and luggage across the said ferry, and also in accordance with the provisions of this Act, hereinafter contained, relating to the same.

**Lt. Governor may let said ferry for 20 years, for the purpose of establishing a steamboat thereon.**

II. From and after the passing of this Act, it shall be lawful for the Lieutenant Governor, by and with the advice aforesaid, from time to time, when occasion may require, to let and grant for any space of time, not exceeding twenty years from the date of the lease, the exclusive right to the said ferry and the premises connected therewith, to any person or persons who shall become bound as aforesaid, with two responsible sureties, to be approved of by the said Lieutenant Governor in Council, to convey passengers, cattle and luggage across the said ferry, by means of a good and sufficient steamboat, of not less than twelve horse power, besides providing a sufficient number of boats, as in the last clause mentioned; or if the services of a steamboat cannot be procured, or the Lieutenant Governor in Council shall think fit to employ a teamboat instead thereof, then the Lieutenant Governor, with the advice and consent aforesaid, may let and grant, for any space of time not exceeding five years from the date of the lease the exclusive right to the said ferry and premises aforesaid to any person who shall tender the lowest terms for the same, and become bound, as in the last clause mentioned, to convey passengers, cattle and luggage, across the said ferry, by means of a good and sufficient teamboat, of the same description as in the last clause mentioned, besides providing a sufficient number of good and sufficient keel or flat bottomed boats for the conveyance of passengers, cattle and luggage, across the said ferry, and in both cases in accordance with the provisions of this Act, hereinafter contained, relating to the said ferry.

III. The person whose tender may have been or shall hereafter be accepted in any of the cases aforesaid, shall be subject to such rules and regulations as shall be fixed and determined by the Lieutenant Governor in Council respecting the same, previous to the execution of the lease, license or contract; and the Act of the third William the Fourth, chapter eight, intituled "An Act to repeal two certain Acts therein mentioned, for licensing and regulating ferries, and to make other provisions in lieu thereof," shall be binding on the Charlottetown ferryman or lessee of said ferry, licensed under this Act, who, as well as his servant or servants, and all persons acting under him in the management of the said ferry, shall be subject to all fines, forfeitures and penalties therein mentioned.

Rules and regulations for the government of the said ferry to be fixed by Lt. Governor.

VII. No lease of the said ferry shall be given, or tender therefor accepted, wherein the rates of ferriage proposed shall be higher than those which are hereinafter specified, that is to say:

Single passengers, each, four pence.

Horses, each, one shilling.

Wheel carriages, each, one shilling.

Horned cattle, each, one shilling.

Hogs, each, two pence.

Sheep, each, two pence.

Produce and other matter measured by the bushel, one half penny *per* bushel.

Heavy weights of every description, *per* hundred weight, six pence.

Rates of ferriage.

VIII. All tenders for the said ferry shall be called for by public advertisement in the *Royal Gazette* newspaper of this Island; and such tenders may, if it be found advisable, be called for during the existence of a lease of the said ferry, so that any lease or contract founded thereon may, if required, take effect immediately upon the determination of the former lease or contract.

Tenders to be called for by public advertisement.

IX. Where no such tender shall be received after any such advertisement, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to make such rules, regulations and arrangements, respecting the said ferry, as he shall deem to be most for the benefit and advantage of the public.

No tender being received, Lt. Governor may make rules, &c.

X. The said recited Act of the eleventh year of the reign of Her present Majesty, chapter thirteen, intituled "An Act relating to Charlottetown ferry," shall be, and the same is hereby repealed.

Repeals 11 V., c. 13.

XI. Any person not being duly licensed, who shall carry over the said Charlottetown ferry any person, cattle, carriage, or other article for hire, unless by consent of the ferryman or

Penalty on persons ferrying without license.

lessee thereof, or on his not giving due attendance or complying with his duties and the terms of his contract, shall, for each offence, forfeit the sum or fine of twenty shillings, to the use of the person suing for the same, recoverable before any one of Her Majesty's Justices of the Peace.

**Minchin's Point wharf, how managed.**

XII. The public wharf at Minchin's Point, opposite to Charlottetown, on the south side of the Hillsborough river, shall be under the management and control of the Lieutenant Governor in Council, who shall have power to establish the rates of wharfage to be paid by vessels using the same, and to make such other rules and regulations for the management of the said wharf, as he may think fit from time to time.

**Lt. Governor to appoint a wharfinger for said wharf.**

XIII. The Lieutenant Governor in Council may, and he is hereby authorized, from time to time, to appoint a fit and proper person to be wharfinger of the wharf at Minchin's Point, whose duty it shall be to carry out such rules and regulations as, in manner aforesaid, may be made for the management of the same, and to demand and receive from the owners or masters of all vessels using the wharf the rate established as in the last clause mentioned; and such wharfinger shall have the same power, with respect to the management of the wharf at Minchin's Point, and the removal of and control over all vessels coming thereto or lying thereat, as the wharfinger of the public wharfs in Charlottetown now has, or hereafter may have, in respect to such last mentioned wharfs, by virtue of any Act of the General Assembly of this Island, now or hereafter to be in force.

**Wharfinger may sue for and recover wharfage before any Justice of the Peace, &c.**

XIV. If the master or owner of any vessel shall refuse to pay such wharfage rate, established as aforesaid, the wharfinger may sue for, prefer and recover the same in his own name, with costs, before any Justice of the Peace or Court of Commissioners for the recovery of small debts in Charlottetown, by summons, *capias* or otherwise; and the amount of judgment and costs shall be levied by warrant of distress and sale of the goods and chattels of the offenders, or materials of the vessel; such rates, when paid or recovered, to be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

**Lt. Governor may remove wharfinger and appoint another in his stead.**

XV. The Lieutenant Governor in Council may remove or displace any person so appointed wharfinger of the wharf at Minchin's Point, and as often as occasion may require, from time to time, appoint another person to be such wharfinger.

**Allowance to wharfinger for his services.**

XVI. Any person appointed wharfinger of the wharf at Minchin's Point, who shall duly and properly discharge the duties of his office, shall be entitled to receive out of the treasury of this Island the sum of five pounds *per annum*, as

remuneration for his services, and so in proportion for a shorter period, the said salary to be payable half yearly from the date of each appointment.

\* \* \* The 4th, 5th, 6th and 17th sections of this Act having been repealed by 19th Vic. c. 17, are not herein inserted.

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CAP. XXXV.

An Act to enable Thomas Robson to obtain letters patent for Expired.  
a fog bell and horizontal windmill.

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CAP. XXXVI.

An Act to provide for the care and maintenance of idiots, lunatics, and persons of unsound mind.

WHEREAS it frequently happens that persons, lunatic and of unsound mind, are possessed of or entitled to property sufficient, or in part sufficient, to defray the expense of their maintenance and medical treatment: and whereas the practice of proceeding by inquisition in the Court of Chancery has been attended with great expense and delay, and is in many cases otherwise ineffectual to render such property available for the support and maintenance of such persons; and it would be for the benefit of such persons, if power were given to proceed in a summary manner in such cases, under the control of the Chancellor or Master of the Rolls of this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. That when and so often as any person shall be idiot, lunatic or of unsound mind, but possessed of goods and chattels, lands and tenements, rights and credits, it shall and may be lawful for the Chancellor or Master of the Rolls of this Island, on petition, stating the name, age and residence of the person therein alleged to be idiot, lunatic or of unsound mind, and particularly setting forth the real and personal estate, rights and credits of and belonging to such person, so far as the same are known to the petitioner, and the value thereof, and verified by the affidavit of such petitioner, or some other credible person or persons, (and which petition and affidavit shall be in the form in the schedule to this Act annexed, respectively marked (A) and (B), with such alterations and variations as circumstances may require,) to order such person so alleged to be idiot, lunatic or of unsound mind, to be examined by two competent medical men, for the purpose of ascertaining his state of mind and capability of managing his own affairs, (which order shall be in the form in the schedule

Chancellor or Master of the Rolls may, on petition, order alleged idiot, &c. to be examined.

Form of petition, &c.

Form of order.

Chancellor, &c. may make an order for proper management of the estate.

Form of such order.

Chancellor, &c. may direct a writ to be issued in certain cases.

Chancellor may order freehold estates and personal property to be sold or leased.

Form of such order.

to this Act annexed, marked (C.), with such alterations and variations as circumstances may require,) which two medical men shall certify their opinion thereon; and if, upon such certificate of such medical men, it shall appear to the satisfaction of the Chancellor or Master of the Rolls that such person is of unsound mind and incapable of managing his own affairs, and that under the circumstances it will be for the benefit of such person so found idiot, lunatic or of unsound mind, that the custody of his person and management of his estate should be committed to some other person, it shall and may be lawful for the said Chancellor or Master of the Rolls to make an order, appointing some fit and proper person or persons to be a committee of the person and estate of such idiot, lunatic or person of unsound mind; and also, if necessary, directing such allowance to be made out of the estate for the maintenance and medical treatment of such person as shall be deemed proper, (which order shall be in the form in the schedule to this Act annexed, marked (D), with such alterations and variations as circumstances may require), and which order shall have the effect of vesting the person and estate of such idiot, lunatic, or person of unsound mind, in such committee, in the same manner as a grant to the committee of the person and estate of a lunatic, made by and under the order and direction of the Chancellor, would have done: provided always, that when the fact of such person being idiot, lunatic, or of unsound mind, shall be doubtful, the said Chancellor or Master of the Rolls, before making any such order, may, if he shall see fit, direct a commission, in the nature of a writ *de lunatico inquirendo*, to be issued, in order that the state of such person's mind may be ascertained by a jury, as in other cases; and until the return of the inquisition thereon, may make such provisional order respecting the person and estate of such alleged lunatic or idiot as may seem necessary.

II. That in case the yearly income from the estate of such idiot, lunatic, or person of unsound mind, shall not be sufficient for the maintenance and medical treatment of such person, it shall and may be lawful for the said Chancellor or Master of the Rolls, either at the time of making the order appointing the committee of such person, or at any time afterwards, or from time to time, as it may be necessary or expedient so to do, to order and direct the freehold estates and personal property of such person, or any part or parts thereof, to be sold or leased, for the purpose of raising such sum or sums of money as shall or may be necessary for the maintenance and medical treatment of such person, (which order shall be directed to the Sheriff of the County in which such estates or property is situate, and shall be in the form in the schedule to this Act annexed, marked (E), with such alterations and variations as circumstances may require); and in cases where

the order is made to sell only a specified part of such estate, the said Chancellor or Master of the Rolls may, from time to time, make further order to sell a further part of such estate, for the maintenance and medical treatment of such person.

Chancellor, &c.  
may make further order.

III. That every order to sell or let real estate as aforesaid shall be registered by the Registrar of the Court of Chancery, and a copy of such record, under the seal of the said Court, certified under the hand of such Registrar, shall be evidence in all Courts, without further proof.

Order to be registered.

IV. That before any sale or lease be made of any freehold or leasehold estate, by virtue of such order, the Sheriff to whom the same is directed shall give thirty days' public notice of such sale or letting, by putting up notifications in three of the most public places in the County where the land lies, and by publishing such notification, once in each week, for four successive weeks, in the *Royal Gazette* of this Island, in which notifications the name and residence of the lunatic, idiot, or person of unsound mind, shall be stated, and the several parcels of the lands or tenements to be sold or leased shall be particularly and appropriately designated; and whoever will give most shall have the preference at such sale or letting, and such sale or letting shall be by public auction.

Duty of Sheriff with respect to such order.

V. That on sale or letting of any such real estate, under such order, the Sheriff shall and may execute a deed or lease of the premises so sold or leased, in which the substance of such order shall be recited, which deed or lease shall have the like force and effect, as if made and executed by such idiot, lunatic, or person of unsound mind, when in his sound mind.

Sheriff to execute deed or lease of premises sold, &c.

VI. That every deed or lease made by any Sheriff, under the provisions of this Act, having been first duly acknowledged and proved according to the law relating to the registry of deeds, and an affidavit having been made by such Sheriff, before any officer or court duly authorized to take acknowledgments in proof of the execution of conveyances, and endorsed in the said deed or lease, that the said premises mentioned in such deed or lease have been duly advertised, and sold according to law, may be registered in the office of the Registrar of deeds for this Island; and such deed or lease so registered, or a copy thereof (in case the original be lost), may be given in evidence in any Court of law or equity in this Island, on like manner, and with and under the same rules and restrictions as any other registered deed; and when so given in evidence, together with proof, as hereinbefore mentioned, of such order, shall be deemed and taken to be evidence, that all proceedings in which such conveyance is founded were rightly had and done.

Deed or lease may be registered in the office of the registrar of deeds.

Proceeds of sale of property to be paid into the treasury.

VII. That all moneys which may be received by any Sheriff from any sale made under the authority of this Act, (after deducting his poundage, fees and expenses,) shall be paid into the treasury of this Island, accompanied by a certificate, stating the name of the lunatic, and of the person or persons acting as his committee; and on receipt thereof, the Treasurer shall open an account with the committee of such lunatic, and shall enter the amount paid in to the credit of such committee; and all moneys so paid in shall be applied by the said Treasurer in paying off treasury warrants, in the same manner as other public moneys—interest, after the rate of five *per centum, per annum*, being allowed thereon, and carried to the credit of such committee in such account.

Chancellor, &c. may order quarterly allowance for maintenance, &c. of lunatic.

VIII. That the Chancellor or Master of the Rolls may, from time to time, grant an order, and direct the Treasurer, out of the moneys so paid into the credit of any such committee as aforesaid, or the interest accrued thereon, to pay either to such committee, or to the trustees or keeper of any asylum for the care of lunatics, such quarterly allowance for the maintenance and medical treatment of such lunatic, idiot, or person of unsound mind, as the said Chancellor or Master of the Rolls may deem just.

Chancellor, &c. may order lunatic to be placed in any asylum for lunatics in this Island.

IX. That it shall be lawful for the said Chancellor or Master of the Rolls, in case it shall be deemed for the benefit of such idiot, lunatic, or person of unsound mind, so to do, to order and direct such person to be placed in any asylum for the care of lunatics in this Island, or in any other abode suitable for the reception and circumstances of such lunatic, and to direct such allowance out of the estate as may be necessary for the maintenance and medical treatment of such person at such asylum, to be paid to the trustees of such asylum, or to such person as they shall appoint.

Mode of proceeding, when goods or effects of lunatic are withheld.

X. And whereas it sometimes happens, that the goods and effects of idiots, lunatics and persons of unsound mind are withheld by others, and cannot be come at by the committee of the estate of such idiots, lunatics, or persons of unsound mind: Be it therefore enacted, that when the goods or effects of any idiot, lunatic, or person of unsound mind, shall be detained or withheld from the committee of the estate of such person, by any person or persons whomsoever, it shall be lawful for such committee to cause such goods or effects to be attached, in whose hands or possession, or under whose management soever the same are or may be found; and also to cause such person or persons to be served with a summons to appear in the Supreme Court at the then next sitting thereof, and submit to an examination respecting the goods so attached (which attachment and summons shall be in the form in the



schedules to this Act annexed, marked respectively (F) and (G), with such alterations and variations as circumstances may require), and shall be issued out of the office of the Prothonotary of the Supreme Court, on affidavit filed on Judge's order, as in other cases; and in case the person or persons so summoned shall admit the goods and effects so attached to belong to such idiot, lunatic, or person of unsound mind, and it shall appear, to the satisfaction of the Court, that such idiot, lunatic, or person of unsound mind, is entitled to the possession thereof, it shall be lawful for the said Supreme Court to order such goods and effects to be delivered up to the committee of such person; and in case the person in whose hands or power such goods and effects shall have been attached, as aforesaid, shall claim a right to retain such goods or effects, the said Court shall proceed to examine the merits of the case, by witnesses (wherein no dilatory plea shall be allowed), and to determine either for plaintiff or defendant, according to law and equity, and to make up judgment accordingly.

XI. That where no goods or effects of such idiot, lunatic, or person of unsound mind, shall be exposed to view, or can be come at so as to be attached, it shall and may be lawful for the committee of such idiot, lunatic, or person of unsound mind, to cause any person or persons suspected of having any goods or effects of or belonging to such idiot, lunatic, or person of unsound mind, or of being indebted to such person in any sum or sums of money, to be served with a summons out of the said Supreme Court, which summons shall contain a declaration of the cause of complaint in the body thereof, in the same manner as is contained in summary writs issued out of the Supreme Court, and directing the defendant or defendants therein named to appear in the Supreme Court, and submit to an examination respecting any goods in his hands, or power of, or belonging to such idiot, lunatic, or person of unsound mind, or of any debts, or sum or sums of money due from such defendant to such person; and the defendant shall thereupon submit to an examination, on oath, in the said Court, respecting the same; after which (if the said Court shall deem it necessary, or either party shall desire it,) the Court shall proceed to examine witnesses (wherein no dilatory plea shall be allowed), and to determine either for plaintiff or defendant, according to law, and to make up judgment accordingly.

Persons suspected of having goods or effects of lunatic in his possession, &c. how dealt with.

XII. That the defendant or defendants, on the trial of any action or suit commenced and prosecuted by attachment or summons, under the authority of this Act as aforesaid, shall have the benefit of all matters in his, or her, or their defence, that he, she, or they might have had, if he, she, or they had been sued in the ordinary forms of law heretofore practised in the said Court, or in any Court of equity in this Island; and

Privilege of defendant in conducting his defence.

the said Supreme Court is hereby required and empowered to allow the same to the said defendant or defendants.

Court may order jury to be summoned for trial of matter of fact.

XIII. Provided always, that when, on examination of the defendant or defendants, or the witnesses, the matter of fact, from a consideration of the whole evidence, may appear doubtful, or when either of the parties shall desire it, and so elect, the said Court shall in all cases thereupon order the Sheriff, or his deputy, immediately to summon a jury for the trial of such matter of fact; or if it be found necessary, to appoint a day for such trial, and judgment on the verdict shall or may be entered up and signed for the party, in favor of whom the same shall have been given.

Defendant neglecting to appear at return of summons, liable to pay costs, &c.

XIV. That if any defendant duly served with summons as aforesaid shall neglect to appear at the return thereof, and submit to such examination, on oath, as aforesaid, he shall be liable to pay to the plaintiff all such costs as shall or may accrue upon such suit, the same to be taxed in common form; and the said Court shall also order any goods of such lunatic which have been attached in such defendant's hands, to be delivered up to the committee of such lunatic, and also give judgment by default against such defendant, for the value of any goods of such lunatic in defendant's hands, or any sum or sums of money alleged in such summons to be due from such defendant to such lunatic, unless the said Supreme Court shall see fit to allow such defendant further time to appear and answer respecting the premises.

Chancellor, &c. to allow reasonable costs to petitioner, &c.

XV. That the Chancellor, or Master of the Rolls, shall allow to and direct to be paid out of the estate and effects of any such idiot, lunatic, or person of unsound mind, the reasonable costs and expenses of the person or persons petitioning under this Act, and incurred by him or them in any way or manner thereunder; and also shall allow to and order to be paid out of the estate and effects of any such idiot, lunatic, or person of unsound mind, a reasonable annual allowance to his committee, together with reasonable costs and expenses incurred by the said committee in the management of the said estate.

Duty of committee of lunatic.

XVI. That the committee of the said idiot, lunatic, or person of unsound mind, shall, and he is hereby required to produce to the Chancellor, or Master of the Rolls, quarterly, a certificate, under the hand of one competent medical person, setting forth the state of mind of the said idiot, lunatic, or person of unsound mind, at the time; and the committee of any such idiot, lunatic, or person of unsound mind, shall not be entitled to any order for the payment of the care and maintenance of such idiot, lunatic, or person of unsound mind, or for the payment of any moneys out of his estate, for any purpose whatsoever, until such quarterly certificate shall have been produced as aforesaid.

XVII. That it shall be lawful for the Chancellor or Master of the Rolls (in case they shall deem it necessary and consistent with the due and proper maintenance of any idiot, lunatic, or person of unsound mind,) to direct such allowance as they shall think fit to be made out of the estate of such person for the support and maintenance of his family.

Chancellor, &c. may order allowance for support of lunatic's family.

XVIII. That any person so found idiot, lunatic, or of unsound mind, on recovering his reason, and becoming capable of managing his own affairs, may petition the Chancellor, or Master of the Rolls, stating such recovery; and the said Chancellor, or Master of the Rolls, on being satisfied by the certificate of some competent medical man, that such person has become capable of managing his own affairs, may order the proceedings taken against such person and his estate to be superseded, and also to direct any moneys in the hands of the Treasurer of the said Island, which may have been paid in as aforesaid, and there remain standing to the credit of the committee, to be paid to such person; and the committee of such person shall thereupon render to him a just and true account of his estate, and shall deliver and pay over to him all the effects and moneys belonging to the estate of such person remaining in his hands, after deducting all just and necessary costs, charges and expenses, which such committee may have been at, or incurred, or become liable to pay, in and about the execution of the trusts committed to him, or in and about the care and management of such estate; and in case of the death of such idiot, lunatic, or person of unsound mind, before such order and proceedings shall be superseded as aforesaid, such committee shall render the like account unto the executors or administrators of such person, to whom the said Chancellor or Master of the Rolls shall also direct any money in the treasury as aforesaid to be paid.

Person recovering his reason, may petition Chancellor, &c. stating such recovery.

XIX. That any person feeling himself aggrieved by any order, or any sale or disposition of the estate of such idiot, lunatic, or person of unsound mind, made under the authority of this Act, may appeal by petition to the Court of Chancery of this Island; provided such petition be presented by some person, who (in the event of the death of such idiot, lunatic, or person of unsound mind), might be entitled to or claim an interest in some part of the estate so sold or disposed of; and the said Court may thereupon make such order, or give such directions concerning the matter of such petition as shall be deemed just.

Gives right of appeal to parties aggrieved.

XX. That all and every act done by any such committee of the estate of any person being idiot, lunatic, or of unsound mind, under and by virtue of this Act, and the order of the Chancellor or Master of the Rolls, as aforesaid, shall be as valid and

Renders valid all acts of committee.

binding against such person so being lunatic, idiot, or of unsound mind, and all persons claiming by, from or under him, as if the person so being idiot, lunatic, or of unsound mind, had been in his sound mind, and had personally done such act or acts.

Estate of lunatic liable for maintenance of persons dependent upon him for support.

XXI. That the estate and effects of any person declared idiot, lunatic, or of unsound mind, under and by virtue of this Act, shall be liable to be charged with the maintenance of all such persons liable to be maintained by such idiot, lunatic, or person of unsound mind, as if he was of sound mind, under and by virtue of the Act of the General Assembly of this Island, in that behalf made and passed in the fourteenth year of the reign of Her present Majesty, if it shall appear to the Chancellor or Master of the Rolls that the estate and effects of such idiot, lunatic, or person of unsound mind, is more than adequate for his support; and in such event, the Chancellor or Master of the Rolls may order such sum, as a maintenance as aforesaid, to be paid out of his estate and effects in manner as in such order shall be directed, on application, by petition and affidavit, in a summary way, by any person or persons authorized under the said recited Act, to apply to any two Justices of the Peace thereunder.

Suspending clause.

XXII. That nothing in this Act contained shall have any force or effect, until Her Majesty's pleasure therein be known.

\* \* This Act received the royal allowance in 1852, as appears by a despatch from the Right Honorable W. L. Bathurst, Her Majesty's principal Secretary of State for the Colonies, dated the 16th of October, and published in the *Royal Gazette* newspaper of this Island, November 15, 1852.

## SCHEDULES to which this Act refers.

### SCHEDULE (A.)

#### FORM OF PETITION.

In the matter of *A. B.*, a supposed lunatic.

To the Chancellor, (or Master of the Rolls, as the case may be.)

The petition of *C. D.*  
humbly sheweth—

Petition.

That *A. B.*, of \_\_\_\_\_ in the County \_\_\_\_\_ your petitioner [the relationship, if any, between the petitioner and the supposed lunatic,] now is and hath, for the last \_\_\_\_\_ past, been so deprived of his reason and understanding that he is rendered altogether unfit and unable to govern himself, or to manage his affairs, as by the affidavit hereto annexed appears.

And your petitioner further shews, that the estate and effects of the said *A. B.*, so far as is known to your petitioner, consists of [here set forth the property, and if lands, whether the same are leased, and at what rents, or produce any and what annual income] and your petitioner believes that the whole value of such property, if sold, would amount to the sum of £ or thereabouts.

Your petitioner therefore prays, that your will be pleased to order that the said *A. B.* be examined by two competent medical men, for the purpose of ascertaining the said *A. B.*'s state of mind, and his capability of managing his affairs; and that if the said *A. B.* shall be found of unsound mind, and incapable of managing his affairs, that the custody of the person and estate of the said *A. B.* may be committed to some fit and proper person or persons, according to the statute in such case made and provided.

And your petitioner will ever pray.

(Signed) *C. D.*

### SCHEDULE (B.)

#### FORM OF AFFIDAVIT.

*C. D.*, of maketh oath and saith, that he hath Affidavit.  
known *A. B.* the supposed lunatic in the annexed petition named, for the space of last past, and this deponent verily believes him to be disordered in his reason, and thereby rendered incapable of taking care of his person or estate, and this deponent further saith, that the only estate and effects of the said *A. B.*, as this deponent verily believes, consist of [here set forth the property]; and this deponent further saith, that he, this deponent, verily believes, that such estate and effects are of the value set forth in the annexed petition.

(Signed) *C. D.*

Sworn before me at  
this day of 185 }

[The affidavit must be sworn before a master in Chancery, Judge of the Supreme Court, or Commissioner for taking affidavits in the Supreme Court.]

### SCHEDULE (C.)

#### FORM OF ORDER TO MEDICAL MEN.

In the matter of *A. B.*, a supposed lunatic.

Upon reading the petition of *C. D.*, and affidavits of thereunto annexed, I do order that the said *A. B.* be examined by Order to medical men.  
for the



incapable of managing his own affairs, and the care and custody of the person and estate of the said *A. B.* hath been duly committed to \_\_\_\_\_ and whereas it hath been made to appear to me, that the yearly income from the estate of the said *A. B.* is insufficient for the maintenance and medical treatment of the said *A. B.* and that it would be for the benefit of the said *A. B.* that the lands and premises hereinafter mentioned should be sold for the support and maintenance of the said *A. B.*: I do, therefore, hereby order and direct you, that you do (after first giving thirty days' public notice thereof, pursuant to the provisions of the said Act in such case made and provided) set up and sell at public auction a certain piece of land of and belonging to the said *A. B.* situate [here describe the situation of the land to be sold] to the best purchaser or purchasers that can be got for the same, and that you do pay the proceeds arising from such sale (after deducting sheriff's poundage and other incidental expenses) into the treasury of this Island, to the credit of the said \_\_\_\_\_ the committee of the said *A. B.* pursuant to the provisions of the said statute.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 185

*J. K.*, Ch. or M. R.

### SCHEDULE (F.)

#### FORM OF ATTACHMENT.

Prince Edward Island County.	{	Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.	Attachment.
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To the Sheriff of \_\_\_\_\_ County, greeting:—

We command you that you, attach the goods and chattels belonging to *A. B.*, a person of unsound mind, consisting of the following articles, to wit: [here enumerate the articles] now alleged to be in the possession of *C. D.*, within your bailiwick, and also to summon the said *C. D.* to appear before us in our Supreme Court of Judicature, to be holden at \_\_\_\_\_ on the \_\_\_\_\_ then and there to answer *E. F.*, the committee of the said *A. B.*, touching the said goods and chattels. Hereof fail not to make due return of this writ, and your doings herein, according to law.

Witness Edward James Jarvis, Esquire, at Charlottetown,  
the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of our reign.

## SCHEDULE (G.)

## FORM OF SUMMONS.

Summons. Prince Edward Island, } Victoria, by the Grace of God, of the  
County. } United Kingdom of Great Britain,  
and Ireland, Queen, Defender of  
the Faith, &c. &c.

To the Sheriff of County, greeting:

We command you that you summon *C. D.*, alleged to be or lately to have been in possession of certain goods and chattels, effects and credits, to wit: [here enumerate the articles] of and belonging to *A. B.*, a person of unsound mind, that the said *C. D.* may appear in his own proper person before us, in our Supreme Court of Judicature, to be holden at \_\_\_\_\_ on the \_\_\_\_\_ then and there to answer *E. F.*, committee of the said *A. B.*, touching the said goods and chattels, effects and credits, as directed in and by an Act intituled "An Act to provide for the care and maintenance of idiots, lunatics, and persons of unsound mind;" and hereof fail not to make due return of this writ or summons, and your doings therein, according to law.

Witness Edward James Jarvis, Esquire, at Charlottetown,  
this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of our reign.

## CAP. XXXVII.

An Act for the better preventing accidents by fire within Charlottetown and the common thereof.

\*\*\* The provisions of this Act, (which have been repealed by a law of the City Council of Charlottetown, passed under the powers vested in said corporation by Act 18 Vic. cap. 34, sec. 37,) may affect titles to lands, but are omitted pursuant to directions of Act 23 Vic. cap. 10.

## CAP. XXXVIII.

An Act to incorporate a temperance hall company in Charlottetown.

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.

## CAP. XXXIX.

An Act to incorporate the grand division and subordinate divisions of the order of the sons of temperance in Prince Edward Island.

☞ This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic. c. 3.




## CAP. XL.

An Act to amend an Act relating to statute labor for Charlottetown, its common and royalty, and also to nuisances in and about the same. Repealed by 24 Vic., c. 20.

## CAP. XLI.

An Act to prevent the going at large of swine and geese at all seasons, and of horses at certain seasons of the year, in the square and streets of Georgetown. Continued and amended by 20 Vic., c. 12.

 This Act remains in force, but has been printed in the volume of private and local Acts, pursuant to directions of Act 24 Vic., c. 3.

## CAP. XLII.

An Act relating to the alewives' and other fisheries, and the appointment of protectors or overseers of fisheries, and to prohibit the taking of salmon after a certain period of the year, and for certain purposes therein mentioned. Repealed by 24 Vic. c. 7.

## CAP. XLIII.

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