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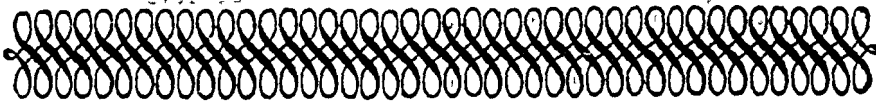
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125
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24 June 1822.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To make more effectual Provision for the Government of the Provinces of *Lower and Upper Canada*, to regulate the Trade thereof, and for other purposes relating thereto.

Note.—*The Figures in the Margin denote the number of the Folios in the written Copy.*

N. B.—*The Clauses marked (A. to L.) and the Schedules (A. and B.) were added by the Committee.*

1 **W**H E R E A S in the present situation of the Provinces of *Lower and Upper Canada*, as such with relation to *Great Britain* as to each other, a joint Legislature for both the said Provinces would be more likely to promote their general security and prosperity than a separate Legislature for each of the said Provinces, as at present by law established; Preamble.

2 **B**E it therefore Enacted by the KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of an Act passed in the thirty-first year of the reign of his late Majesty King *George the Third*, intituled, "An Act to repeal certain parts of an Act, passed, " in the fourteenth year of his Majesty's reign, intituled, "An Act " for making more effectual provision for the Government of the " Province of *Quebec* in *North America*, and to make further pro- " vision for the Government of the said Province," as provides for the composing and constituting within each of the said Provinces respectively, a Legislative Council and Assembly, and for the passing of laws by the Legislative Council and Assembly of each Province, shall be and the same is hereby repealed, except in so far as the same or any of the provisions thereof, may by this present Act
3 be continued or applied to the purposes of the joint Legislature to be

Part of
31 G. 3, c. 31,
repealed.

constituted in manner hereinafter mentioned: Provided also, that so much of an Act passed in the fourteenth year of the reign of his said late Majesty, intituled, "An Act for making more effectual provision for the Government of the Province of *Quebec* in *North America*," as is repealed by the said Act passed in the thirty-first year aforesaid, shall be deemed and taken to be, and shall remain repealed.

One Legislative Council for both Provinces of Lower and Upper Canada.

And be it further Enacted, That from and after the passing of this Act, there shall be within the said two Provinces, and for the same jointly, one Legislative Council and one Assembly, to be composed and constituted in manner hereinafter described, and which shall be called "The Legislative Council and Assembly of the *Canadas*;" and that within the said Provinces, or either of them, His Majesty, His Heirs or Successors, shall have power, during the continuance of this Act, by and with the advice and consent of the said Legislative Council and Assembly of the *Canadas*, to make laws for the peace, welfare and good government of the said Provinces, or either of them, such laws not being repugnant to this Act, nor to such parts of the said Act passed in the thirty-first year aforesaid, as are not hereby repealed; and that all such laws being passed by the said Legislative Council and Assembly, and assented to by His Majesty, His Heirs or Successors, re-assented to in His Majesty's name by the Governor-in-Chief in and over the said provinces of *Lower* and *Upper Canada*, or in case of the death or absence of such Governor-in-Chief by the Lieutenant Governor of the Province of *Upper Canada* for the time being, or in case of the death or absence of such Lieutenant Governor, then by the Lieutenant Governor of *Lower Canada* for the time being, or in case there shall be no Lieutenant Governor at such time resident in the Province of *Lower Canada*, then by the person administering the government thereof for the time being, shall be and the same are hereby declared to be, by virtue of and under the authority of this Act, valid and binding to all intents and purposes whatever within the said two Provinces.

Present Members to continue;

And be it further Enacted, That the present members of the Legislative Councils of *Lower* and *Upper Canada* shall, by virtue of this Act, and without any new or other commissions for that purpose, constitute together the Legislative Council of the *Canadas*, which said members shall take precedence in the joint Legislative Council according to the date of the instruments by which they were originally summoned to the Legislative Councils of the two Provinces respectively; and that it shall also be lawful for His Majesty, His Heirs or Successors, from time to time, by an instrument under his or their sign manual, to authorize and direct the said Governor-in-Chief, or in case of his death or absence, such other person, and in such order respectively as is hereinbefore

Other Persons may be summoned.

hereinbefore directed, to summon to the said Legislative Council, by an instrument, under a seal to be transmitted by His Majesty to the
 7 Governor-in-Chief, or under any other seal which the said Governor-in-Chief shall be by His Majesty directed to use for the purposes of this Act, and which shall be called the Great Seal of the *Canadas*, and shall be applied only to the purposes directed by this Act, such other person or persons as His Majesty, His Heirs or Successors, shall think fit; and that every person who shall be so summoned to the said Legislative Council, shall thereby become a member thereof.

And be it further Enacted, That such persons only shall be summoned to the said Legislative Council, as by the said above-mentioned Act, passed in the thirty-first year aforesaid, are directed to be summoned to the Legislative Council of the said two Provinces respectively; and that every member of the said Legislative Council shall
 8 hold his seat for the same term, and with the same rights, titles, honours, ranks, dignities, privileges and immunities, and subject to the same provisions, conditions, restrictions, limitations and forfeitures, and to the same mode of proceeding, for hearing and determining by the said Legislative Council all questions which shall arise touching the same, as are in the said Act, passed in the thirty-first year aforesaid, mentioned and contained, with respect to the members thereby directed to be summoned to the Legislative Council of the two Provinces respectively.

Who shall be Members.

And be it further Enacted, That the Governor-in-Chief, or in case of his death or absence, such other person, and in such order respectively as is hereinbefore directed, shall have power and authority
 9 from time to time, by an instrument under the Great Seal of the *Canadas*, to constitute appoint and remove the Speaker of the said Legislative Council.

Speaker.

And be it further Enacted, That the members at present composing the Assemblies of the said two Provinces shall, together with such new members as shall or may be returned for either of the said Provinces respectively in manner hereinafter mentioned, form and constitute the Assembly of the *Canadas*, and shall be and continue until the first day of July one thousand eight hundred and twenty-five, unless sooner dissolved; and that in case of a dissolution of the said Assembly, or of vacancies occurring therein, members shall be returned from the same counties and places, and in the same manner, and in the same numbers, except as hereinafter otherwise provided, as now by law they are returned within the two Provinces respectively.

Continuance of present Council.

10 AND whereas an Act was passed by the Provincial Legislature of *Upper Canada*, in the sixtieth year of the reign of his said late Majesty,
 475.

Act of Upper Canada, 60 G. 3, to continue in force.

Majesty, intituled, " An Act for increasing the Representation of the " Commons of this Province in the House of Assembly ;" BE it therefore further Enacted, That the said Act, and all the provisions therein contained, except as hereinafter otherwise provided, shall remain in full force and effect, and shall be applied to the representation of the said Province of *Upper Canada* in the joint Assembly, in like manner as the same were applicable to the representation thereof in the Assembly of the said Province of *Upper Canada* before this Act was passed.

New Counties
in Lower
Canada.

And be it further Enacted, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of the said Province of *Lower Canada* for the time being, from time to time as he shall judge expedient, from and out of that part of the said Province of *Lower Canada* which has been erected into townships since the number of representatives for the said Province was settled by proclamation, to form and erect new counties, by instrument or instruments under the Great Seal of the said Province, each such new county to consist of not less than six townships ; and that when and so often as any such new county shall be formed and erected as aforesaid, the Governor, Lieutenant Governor, or person administering the government of the said Province of *Lower Canada*, shall issue a writ for the election of one member to serve for the same in the assembly ; and that whensoever the said Governor, Lieutenant Governor, or person administering the government as aforesaid, shall deem it expedient that any such new county, or any county heretofore erected within the said Province of *Lower Canada*, and at present represented by only one member, shall be represented by two members, he shall in like manner issue writs for that purpose : Provided always, that no subdivision of any counties now erected or to be hereafter erected within either of the said Provinces, except as hereinbefore provided with respect to the said townships, shall extend or be construed to extend to increase the number of representatives for such counties : Provided also, that the number of representatives for each province shall not exceed sixty.

No Act to
alter the num-
ber of Repre-
sentatives to
be passed, un-
less with con-
sent of the
Members.

And be it further Enacted, That no act by which the number of representatives of either Province shall be altered, shall hereafter be passed by His Majesty, by and with the advice and consent of the said Legislative Council and Assembly; unless the same shall have been passed by two-thirds at least of the members present at the question for the second and third reading of the same in the said Legislative Council and Assembly respectively.

Provisions
of 31 G 3,
respecting
Elections, to
remain in
force

And be it further Enacted, That all and every the provisions and regulations respecting the appointment and nomination, duties, privileges and liabilities of returning officers for either of the said Provinces

vinces respectively, and respecting the eligibility, qualification and disability of persons to sit as members in the said Assembly, or to vote on the election of such members, and respecting any oath to be taken by candidates or voters at such elections, and respecting all other proceedings at such elections, and respecting the times and places of holding such elections, as are contained in the said above-mentioned Act, passed in the thirty-first year aforesaid, except in so far as the said provisions and regulations are hereby in anywise altered, shall remain and continue in force in both of the said Provinces; and that all and every the provisions and regulations respecting the objects above enumerated, or any of them, which are contained in any Act or Acts of the provincial Legislatures, which are now in force in either of the said Provinces respectively, shall remain and continue in force within such Province, except as the same are hereby in anyways altered, until otherwise provided for by the joint Legislature.

And be it further Enacted, That when and so often hereafter as it may be necessary to summon and call together a new Assembly for the said two Provinces, it shall and may be lawful for the said Governor-in-Chief, or in case of his death or absence, then for such other person, and in such order respectively as is hereinbefore directed, by an instrument under the said Great Seal of the *Canadas*, to summon and call together the said Assembly as hereinafter expressed and provided.

Summoning
a new Assembly.

And be it further Enacted, That Writs for the election of members to serve in the said Assembly, shall be issued by the Governor, Lieutenant Governor, or person administering the government of the Province within which such members shall be chosen respectively, in the same manner and directed to the same officers, and returnable within the same period, as in and by the said Act made and passed in the thirty-first year aforesaid, is directed and provided.

Writs.

And be it further Enacted, That on the first general election of members for the said Assembly, which shall take place from and after the passing of this Act, and on all subsequent elections, whether general or for particular places, in cases of vacancy, which shall be holden in either of the said Provinces, no person shall be capable of being elected, who shall not be legally possessed to his own use and benefit, of lands and tenements within one or other of the said Provinces, of the value of Five hundred pounds sterling over and above all rents charges and incumbrances which may affect the same, such lands and tenements being by him held in freehold, in fief or in roture; and that every candidate at such election, before he shall be capable of being elected, shall, if required by any other candidate, or by the

Qualifications.

returning officer, take an Oath in the following form, or to the following effect;

“ I, *A B.* do Swear, That I am legally and *bonâ fide* possessed
 “ to my own use and benefit, of lands and tenements within 17
 “ the Province of *Canada*, of the value of Five
 “ hundred pounds sterling, over and above all rents charges
 “ and incumbrances which may affect the same; and that
 “ the said lands and tenements are by me held in freehold,
 “ in fief, or in roture [*as the case may be*], and that I have
 “ not obtained the same fraudulently, for the purpose of en-
 “ abling me to be returned Member to the Assembly of the
 “ *Canadas*; and also that I am otherwise qualified, accord-
 “ ing to the provisions of law, to be elected and returned
 “ to serve as a Member thereof.”

Provided always, That nothing in this Act contained shall be construed to affect any Act now in force in either of the said Provinces 18
 respectively, relating to the qualification (other than as respects property) of any candidate or voter at elections.

Punishing
Persons
swearing
falsely.

And be it further Enacted, That if any person shall knowingly and wilfully take a false oath respecting his qualification, either as candidate or voter at any election as aforesaid, and shall thereof be lawfully convicted, such person shall be liable to the pains and penalties by law inflicted on persons guilty of wilful and corrupt perjury in the Province in which such false oath shall have been taken.

Trials of
Elections.

And be it further Enacted, That whenever hereafter any question shall arise touching the validity of the election or return of any person in either Province to serve in the Assembly, such question shall be tried in the Joint Assembly, according to the mode of proceeding now 19
 established by law in that Province in which the disputed election or return shall have been made, until a uniform course of proceeding shall be duly established for both Provinces.

Governor
may appoint
Members of
the executive
Council to sit.

And be it further Enacted, That it shall and may be lawful for the said Governor-in-Chief, or in case of his death or absence, then for such other person, and in such order respectively as is hereinbefore directed, if at any time he shall deem it expedient, to summon and authorize, by an instrument under his hand and seal, two members of the executive Council of each Province to sit in every Assembly with power of debating therein, and with all other powers, privilèges and immunities of the members thereof, except that of voting.

Sittings, dis-
solutions, and
prorogations

And be it further Enacted, That the said Legislative Council and Assembly shall be called together for the first time at some period not 20
 later

later than the first day of September one thousand eight hundred and twenty-three, and once afterwards in every twelve calendar months, and that the said Governor-in-Chief, or in case of his death or absence, such other person; and in such order respectively as is hereinbefore directed, shall and may convene the first and every other session of the said Legislative Council and Assembly, at such places within either Province, and at such times, under the restrictions aforesaid, as he shall judge most conducive to the general convenience, giving due and sufficient notice thereof, and shall have power to prorogue the same from time to time, and to dissolve the same by proclamation or otherwise whenever he shall deem it necessary or expedient.

as ordered by
the Governor.

21 And be it further Enacted, That every Assembly hereafter to be summoned and chosen, shall continue for five years, from the day of the return of the writs for choosing the same, and no longer; subject nevertheless to be sooner prorogued or dissolved by the said Governor-in-Chief, or in case of his death or absence, by such other person, and in such order respectively as is hereinbefore directed.

Duration of
Assembly.

And be it further Enacted, That all questions which shall arise in the said Legislative Council or Assembly, except in the cases herein otherwise provided, shall be decided by the majority of voices of such members as shall be present; and that in all cases where the voices shall be equal, the Speaker of such Council or Assembly shall have a casting voice.

Majority to
decide.

22 Provided always, and be it further Enacted, That no member either of the Legislative Council or Assembly shall be permitted to sit or vote therein, until he shall have taken and subscribed the oath prescribed for that purpose by the said Act passed in the thirty first year aforesaid, before a person duly authorized to administer the same, as in and by the said Act is directed.

Oath.

23 And be it further Enacted, That any Bill which shall be passed by the Legislative Council and Assembly shall be presented for His Majesty's assent to the said Governor-in-Chief, or in case of his death or absence, to such other person, and in such order respectively, as is hereinbefore directed, who shall, according to his discretion, declare or withhold His Majesty's assent to such Bill, or reserve such Bill for the signification of His Majesty's pleasure thereon, subject always to the same provisions and regulations with respect to Bills which may either be assented to, or from which His Majesty's assent may be withholden, or which may be reserved as aforesaid, as the case may be, as in and by the said Act, passed in the thirty-first year aforesaid, are contained and enacted with regard to such Bills respectively.

Royal Assent.

And be it further Enacted, That all laws, statutes or ordinances which are in force at the time of passing of this Act, within the said

All Laws to
continue in
force.

Provinces or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority and effect in each of the said Provinces respectively as if this Act had not been made, except in as far as the same are repealed or varied by this Act, or in so far as the same shall or may be hereafter by virtue of and under the authority of this Act repealed or varied by His Majesty, His Heirs or Successors, by and with the advice and consent of the said Legislative Council and Assembly.

Privileges
of Members
to continue.

And be it further Enacted, That all rights, privileges, immunities and advantages which are at present legally exercised and enjoyed by the members of the Assemblies of *Lower and Upper Canada* respectively, shall continue to be exercised and enjoyed by them as members of the said Assembly of the *Canadas*, in as full and as ample a manner as heretofore: Provided always, That no privilege of the said Legislative Council or of the said Assembly, shall extend or be construed to extend to authorize the imprisonment of any of His Majesty's subjects not being members of the said Legislative Council or of the said Assembly, or officers or servants of the said bodies respectively, until an Act be passed declaratory of the rights and privileges of the said bodies in this respect. 24

Proceedings
and Debates
to be in the
English
Language

And be it further Enacted, That from and after the passing of this Act, all written proceedings of what nature soever of the said Legislative Council and Assembly, or either of them, shall be in the *English* language and none other; and that at the end of the space of fifteen years from and after the passing of this Act, all debates in the said Legislative Council or in the said Assembly, shall be carried on in the *English* language and none other.

Persons pro-
fessing the
Religion of
the Church of
Rome, not to
be affected.

AND whereas by the said Act of the Imperial Parliament of *Great Britain*, made and passed in the fourteenth year aforesaid, intituled, "An Act for making more effectual provision for the government of the Province of *Quebec*, in *North America*," it was, amongst other things, declared, That His Majesty's subjects, professing the religion of the church of *Rome* of and in the said Province of *Quebec*, might have hold and enjoy the free exercise of the said religion, subject to the King's supremacy as in the said Act mentioned, and that the clergy of the said church might hold receive and enjoy their accustomed dues and rights with respect to such persons only as should profess the said religion; BE it therefore further Enacted and Declared, That nothing in this Act contained, nor any Act to be passed by the said joint Legislature, nor any resolution or other proceeding of said Legislative Council or Assembly, shall in anywise affect or be construed to affect the free exercise of the religion of the Church of *Rome* by His Majesty's subjects professing the 25 26

the same, within either of the said Provinces, but the same may continue to be exercised, and the clergy of the said church and the several curates of each respective parish of the said Province of *Lower Canada*, now performing the clerical duties thereof, or who shall hereafter, with the approbation and consent of His Majesty, expressed in writing by the Governor or Lieutenant Governor, or persons administering the government of the said Province of *Lower Canada* for the time being, be thereto duly collated appointed or inducted, may
 27 continue to hold receive and enjoy their accustomed dues and rights in as full and ample manner, to all intents and purposes, as heretofore, and as is provided and declared by the said last-mentioned Act.

And be it further Enacted, That all the provisions, regulations and restrictions made and imposed in and by the said Act, passed in the thirty-first year aforesaid, with respect to any Act or Acts containing any provisions of the nature therein particularly mentioned and specified, shall and the same are hereby declared to extend and apply to each and every Act which shall be passed by the said Legislative Council and Assembly, and which shall contain any provisions of the nature in and by the said last-mentioned Act set forth and specified.

Certain provisions of 31 G. 3, to extend to all Acts.

28 And be it further Enacted, That all and every the accounts, returns, papers, and documents, which by any Act now in force in either Province, are directed to be laid before the Legislature thereof respectively, shall, under the penalties therein provided, be in like manner transmitted and laid before the Legislature of the *Canadas*, during the continuance of such Acts.

Accounts to be laid before Assembly.

And be it further Enacted, That the officers and other persons receiving salaries or allowances in respect of services rendered by them in the Legislatures of their respective Provinces, shall continue to receive such salaries and allowances as heretofore, until otherwise provided for by any Act which shall be passed by His Majesty, His Heirs or Successors, with the advice and consent of the Legislative Council and Assembly of the *Canadas*.

Salaries to continue.

29 AND whereas doubts have been entertained, whether the tenures of lands within the said Provinces of *Upper and Lower Canada*, holden in fief and seignory, can legally be changed: AND whereas it may materially tend to the improvement of such lands, and to the general advantage of the said Provinces, that such tenures may henceforth be changed in manner hereinafter mentioned; BE it therefore further Enacted and Declared, That if any person or persons holding any lands in the said Provinces of *Lower and Upper Canada*, or either of them, in fief and seignory, and having legal power and authority to alienate the same, shall at any time from and after the commencement of this
 30 Act, surrender the same into the hands of His Majesty, His Heirs

Tenures of Lands may be changed.

or Successors, and shall by petition to His Majesty, or to the Governor, Lieutenant Governor, or person administering the government of the Province in which the lands so holden shall be situated, set forth that he she or they is or are desirous of holding the same in free and common soccage, such Governor, Lieutenant Governor, or person administering the government of such Province as aforesaid, in pursuance of the instruction of His Majesty's Secretary of State, or by and with the advice and consent of the executive Council of such Province, shall cause a fresh grant to be made to such person or persons of such lands, to be holden in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of *Great Britain* called *England*, subject nevertheless, if it shall be deemed advisable or expedient to require the same, to payment to His Majesty, by such grantee or grantees of such sum or sums of money, as and for a commutation for the fines and other dues which would have been payable to His Majesty under the original tenures, or to such conditions, restrictions and limitations in lieu thereof, as to His Majesty, or to the said Governor, Lieutenant Governor, or person administering the government as aforesaid, (as the case may be) shall seem just and reasonable: Provided always, That on any such fresh grant being made as aforesaid, no allotment or appropriation of lands for the support and maintenance of a protestant clergy shall be necessary; but every such fresh grant shall be valid and effectual, without any specification of lands for the purpose aforesaid; any law or statute to the contrary thereof in anywise notwithstanding.

Release of
feudal
Tenures.

And be it further Enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, to commute with any person holding lands at "*cens et rentes*," in any censive or fief of His Majesty within either of the said Provinces, and such person may obtain a release from His Majesty of all feudal rights arising by reason of such tenure, and receive a grant from His Majesty, His Heirs or Successors, in free and common soccage, upon payment to His Majesty of such sum of money as His Majesty, His Heirs or Successors, may deem to be just and reasonable, by reason of the release and grant aforesaid; and all such sums of money as shall be paid upon any commutations made by virtue of this Act, shall be applied towards the administration of justice and the support of the civil government of the said Province.

American
Goods may
be imported.

AND whereas it is expedient to make further regulation respecting the trade of the said Provinces of *Canada*; BE it Enacted, That from and after the passing of this Act, it shall be lawful to import by land or inland navigation in any *British* or *American* vessel or vessels, boat or boats, carriage or carriages, the goods, wares and commodities the growth, produce or manufacture of the United States of *América*, enumerated in the Schedule or Table annexed to this Act marked (A.)

from

35 from any port or place in the United States of *America*, into any port or place of entry at which a custom-house now is or hereafter may be lawfully established, in either of the Provinces of *Upper* and *Lower Canada*: Provided always nevertheless, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of either of the said Provinces respectively, by and with the advice and consent of the Executive Council thereof for the time being, from time to time to diminish or increase by proclamation, the number of ports or places which are or hereafter may be appointed in such Province for the entry of goods, wares and commodities imported from the United States of *America*.

And be it further Enacted, That from and after the passing of this Act, there shall be raised, levied, collected and paid unto His Majesty, His Heirs and Successors, for and upon such of the goods, wares and commodities which shall be so imported, as are enumerated in the Schedule or Table annexed to this Act marked (B.) the several duties of customs as the same are respectively inserted or described, and set forth in figures in the said Schedule.

CLAUSE (A.)
Duties to be paid.

Provided always, and be it further Enacted, That if upon the importation of any article charged with duty by this Act, the said article shall also be liable to the payment of duty under the authority of any colonial law, equal to or exceeding in amount the duty charged by this Act, then and in such case the duty charged upon such article by this Act shall not be demanded or paid upon the importation of such article: Provided also, That if the duty payable under such colonial law, shall be less in amount than the duty payable by this Act, then and in such case the difference only between the amount of the duty payable by this Act, and the duty payable under the authority of such colonial laws, shall be deemed to be the duty payable by this Act; and the same shall be collected and paid in such and the like manner, and appropriated and applied to such and the like uses, as the duties specified in the said Schedule annexed to this Act marked (B.) are directed to be collected, paid, appropriated and applied.

CLAUSE (B.)
Duties under any Colonial Law to be observed.

And be it further Enacted, That the same Tonnage Duties shall be paid upon all *American* vessels or boats, importing any goods into either of the said Provinces, as are or may be for the time being payable in the United States of *America*, on *British* vessels or boats, entering the harbours of the state from whence such goods shall have been imported.

CLAUSE (C.)
Tonnage Duties to be the same as in United States.

And be it further Enacted, That in all cases in which the duties imposed by this Act upon the importation of articles into the said Provinces, or either of them, are charged, not according to the

CLAUSE (D.)
Value of Goods.

weight, guage or measure, but according to the value thereof, such value shall be ascertained in the mode prescribed by an Act passed in this present Session of Parliament, intituled, "An Act to regulate the Trade between His Majesty's possessions in *America* and the *West Indies*, and other places in *America*, and the *West Indies*."

CLAUSE (E.)
Recovering
Duties.

And be it further Enacted, That if the importer or proprietor of such articles shall refuse to pay the duties hereby imposed thereon, it shall and may be lawful for the collector or other chief officer of the Customs, where such articles shall be imported, and he is hereby respectively required to take and secure the same, with the casks or other package thereof, and to cause the same to be publicly sold, within the space of Twenty days at the most, after such refusal made, and at such time and place as such officer shall, by four or more days public notice, appoint for that purpose; which articles shall be sold to the highest bidder, and the money arising from the sale thereof shall be applied to the payment of the said duties, together with the charges which shall have been occasioned by the said sale, and the overplus (if any) shall be paid to such importer, proprietor or any other person authorized to receive the same.

CLAUSE (F.)
Duty on
Rum.

AND whereas a certain Act made and passed in the twenty-eighth year of the reign of his late Majesty King *George* the Third, intituled, "An Act to allow the Importation of Rum and other Spirits from His Majesty's Colonies or Plantations in the *West Indies* into the Province of *Quebec*, without payment of Duty, under certain conditions and restrictions," has been repealed during the present Session of Parliament; and it is expedient to afford protection to the trade between the said Colonies and the Province of *Lower Canada*, by imposing the same duty upon Rum or other Spirits, the produce or manufacture of the said Colonies, imported from *Great Britain* into the said Province, as is now payable upon the same articles when imported from His Majesty's said Colonies or Plantations in the *West Indies*; BE it therefore Enacted, That from and after the passing of this Act, there shall be raised, levied, collected and paid unto His Majesty, His heirs and Successors, for and upon every gallon of Rum or other Spirits, the produce or manufacture of any of His Majesty's Islands, Colonies or Plantations in the *West Indies*, which shall be imported or brought into any part of the said Province of *Lower Canada* from *Great Britain* or *Ireland*, or any of the *British* dominions in *Europe*, the sum of sixpence over and above all other duties now or hereafter to be made payable thereon in the said Province.

CLAUSE (G)
Payment and
appropriation
of the Duties.

And be it further Enacted, That the rates and duties chargeable by this Act, shall be deemed, and are hereby declared to be sterling money

of

of *Great Britain*, and shall be collected, recovered and paid to the amount of the value which such nominal sums bear in *Great Britain*; and that such sums may be received and taken according to the proportion and value of five shillings and sixpence to the ounce in silver; and that the said duties hereinbefore granted shall be received, levied, collected, paid and recovered in the same manner and form, and by such rules, ways and means, and under such penalties and forfeitures as any other duties payable to His Majesty upon goods imported into the said Provinces of *Upper* and *Lower Canada*, or into either of them respectively, are or shall be raised, levied, collected, paid and recovered, by any Act or Acts of Parliament, as fully and effectually to all intents and purposes as if the several clauses, powers, directions, penalties and forfeitures relating thereto were particularly repeated and again enacted in the body of this Act; and that all the monies which shall arise by the said duties (except the necessary charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same) shall be paid by the Collector of His Majesty's Customs into the hands of His Majesty's receiver general in the said Provinces respectively for the time being, and shall be applied to and for the use of the Provinces of *Upper* and *Lower Canada*, respectively, in such manner only as shall be directed by any law or laws which may be made by His Majesty, His Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of the *Canadas*, and in such manner, before the passing of any such Act, as the other duties payable upon articles imported into *Upper* or *Lower Canada* shall or may be applied after the passing of this Act, and before any law or laws shall be made by His Majesty, His Heirs or Successors, by and with the advice and consent of the said Legislative Council and Assembly for that purpose.

And be it further Enacted, That it shall be lawful to export in any *British* or *American* vessel or vessels, boat or boats, carriage or carriages, from any of the ports or places of entry now or hereafter to be established in the said Provinces, to any port or place in the United States of *America*, any article of the growth, produce or manufacture of any of His Majesty's dominions, or any other article legally imported into the said Provinces: Provided always, That nothing herein contained shall be construed to permit or allow the exportation of any arms or naval stores, unless a licence shall have been obtained for that purpose from His Majesty's Secretary of State; and in case any such articles shall be shipped or water-borne for the purpose of being exported contrary to this Act, the same shall be forfeited; and shall and may be seized and prosecuted as hereinafter directed.

Exports.

No Arms or Naval Stores to be exported without a Licence.

And be it further Enacted, That nothing in this Act contained shall be construed to interfere with or repeal, as respects the inland navigation

Not to affect Inland Navigations.

navigation of the said Provinces, any of the provisions contained in a certain Act of the Parliament of *Great Britain*, passed in the seventh and eighth years of the reign of King *William*, intituled, "An Act " for preventing Frauds, and regulating Abuses in the Plantation 36-
" trade;" except in so far as the same are altered or repealed by this Act.

Recovery of Penalties.

And be it further Enacted, That all penalties and forfeitures incurred in either of the said Provinces under this Act (except where it is otherwise provided), shall and may be sued for and prosecuted in any court having competent jurisdiction within such province respectively; and the same shall and may be recovered, divided and accounted for in the same manner and form, and by the same rules and regulation in all respects, as other penalties and forfeitures for offences against the laws relating to the customs and trade of the said 37
Provinces respectively, shall or may by any Act or Acts of the Legislatures of such Provinces, be sued for, prosecuted, recovered, divided and accounted for, within the same respectively.

CLAUSE (H.)
Draw back on Rum and Spirits from Newfoundland.

AND whereas it is expedient to encourage the trade between *Newfoundland* and *Canada*, by enabling the merchants and traders of *Newfoundland* to export from thence into *Canada* rum and other spirits, the produce of the *British West India* islands, or any of His Majesty's colonies on the continent of *South America*, free of any duty which may have been imposed upon its importation from any of the places aforesaid, and for which purpose to allow, upon the export of such rum or other spirits, a drawback of the full duties paid upon the importation thereof; BE it therefore Enacted, That from and after the passing of this Act, there shall be paid and allowed upon the exportation from *Newfoundland* into *Canada* of rum or other spirits, being the produce of the *British West India* islands, or any of His Majesty's colonies on the continent of *South America*, a drawback of the full duties of Customs which may have been paid upon the importation thereof from any of the said places into *Newfoundland*, upon a certificate being produced, under the hands and seals of the collector and comptroller of His Majesty's Customs at *Quebec*, certifying that the said rum or other spirits have been duly landed in *Canada*.

CLAUSE (I.)
Entry thereof.

And be it further Enacted, That no Entry shall pass, nor any drawback be paid or allowed upon the exportation of rum or other spirits from *Newfoundland* into *Canada*, unless such entry be made in the name of the real owner or owners, proprietor or proprietors of the said goods; and that before such owner or owners, proprietor or proprietors shall receive the said drawback so allowed as aforesaid, one or more of them shall verify upon oath, upon the debenture to be made out for the payment of such drawback, that he or they is or are

are the real owner or owners of the said goods; nor unless proof on oath shall be made to the satisfaction of the collector and comptroller of His Majesty's Customs, at *Newfoundland*, that the full duties due upon the importation of the said goods into *Newfoundland* had been paid and discharged.

And be it further Enacted, That the said Drawback shall be paid by the collector of His Majesty's Customs, at *Newfoundland*, with the consent of the comptroller there, out of any monies in his hands arising from the duties of Customs.

CLAUSE (K.)
Drawback,
how payable.

And be it further Enacted, That no drawback shall be paid and allowed as aforesaid, unless the said rum, or other spirits, shall be duly entered for exportation with the proper officers of the Customs, and actually shipped on board the ship or vessel in which the said goods are intended to be exported, within the space of one year from the time such rum or other spirits were originally imported into *Newfoundland*, nor unless such Drawback shall be claimed within one year after the goods are so shipped for exportation.

CLAUSE (L.)
Rum to be
exported from
Newfound-
land within
one year after
first impor-
tation.

38 And be it further Enacted, That all and every the duties payable, within either of the Provinces of *Lower* or *Upper Canada*, on goods imported into the said Provinces respectively, under any Acts of either Province which were in force at the termination of the last session of the Legislature, in and for such Province respectively, shall continue to be levied until the first day of February one thousand eight hundred and twenty-five, unless the same, or any part thereof, shall be sooner repealed or altered by any Act to be passed by His Majesty, His Heirs or Successors, with the advice and consent of the Legislative Council and Assembly for the *Canadas*: Provided always nevertheless, That nothing herein contained shall be taken or construed to extend to limit the existence or continuance of any duty or duties which by and under any law now in force would otherwise continue and be payable after the said first day of February one thousand eight hundred and twenty-five, but that the said duties, and the Acts imposing the same, shall continue and remain as if this Act had not been passed: Provided also, That nothing herein contained shall be taken to authorize the exaction of any duty upon articles imported before the commencement of this Act, which they were not subject to at the time of their importation.

Duties
continued.

39 And be it further Enacted, That the Governor, Lieutenant Governor, or person administering the government of each of the said Provinces respectively, by and with the advice and consent of the executive Council thereof, may appropriate and apply towards defraying the expense of administering justice and the support of the government in each Province, the whole Revenue of such Province which may be

Appropri-
ation of
Revenue.

received before and until the first day of February one thousand eight hundred and twenty-five, unless His Majesty, His Heirs or Successors, shall by any Act or Acts passed by and with the advice and consent of the Legislative Council and Assembly of the *Canadas*, make provision for appropriating such parts of the said revenue as would by law have been at the disposal of the Legislature of either of the said Provinces respectively, had this Act not been passed: Provided always, That nothing herein contained shall be taken to vary or repeal any appropriation already made by any Act in force in either Province, and chargeable upon the revenue thereof respectively, but that the same shall be duly observed so far as it is consistent with the provisions of this Act: Provided also, That nothing in this Act contained shall be taken or extend to vary henceforward, the mode of appropriating or disposing of any duty or revenue which may hereafter be raised under *British Acts* of Parliament now in force in either Province.

Mode of settling proportion of Drawbacks between the Provinces.

AND whereas since the division of the Province of *Quebec* into the Provinces of *Lower* and *Upper Canada*, divers regulations have from time to time been made by agreements concluded under the authority of Acts passed by the Legislatures of the said two Provinces respectively, concerning the imposing of duties upon articles imported into the port of *Quebec*, in the Province of *Lower Canada*, and the payment of drawbacks of such duties to the Province of *Upper Canada*, on account of the proportion of goods so imported into *Quebec*, and passing from thence into the said Province of *Upper Canada*, and consumed therein, the last of which agreements expired on the first day of July one thousand eight hundred and nineteen: AND whereas it appears by the report of the Commissioners last appointed for the purposes aforesaid, that the Province of *Upper Canada* claims certain arrearages from the Province of *Lower Canada*, on account of such drawbacks, which claims are not admitted on the part of the Province of *Lower Canada*; and it further appears by the report of the said Commissioners, appointed on behalf of both Provinces, for the purposes aforesaid, that they have failed to establish any regulation for the period beyond the first day of July one thousand eight hundred and nineteen, by reason that they could not agree upon the proportion of duties to be paid to *Upper Canada* by way of drawbacks; FOR Remedy of the inconvenience occasioned by the suspension of the said agreement, and for the satisfactory investigation and adjustment of the said claims, BE it Enacted, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of each of the said Provinces of *Upper* and *Lower Canada*, so soon as conveniently may be after the passing of this Act, to appoint, by commission under the Great Seal of their respective Provinces, one Arbitrator; and that the said

said Arbitrator so appointed shall have power, by an instrument under their hands and seals, to appoint a third Arbitrator; and in case of their not agreeing in such appointment within one month from the date of the appointment of the Arbitrators, so directed to be made on the part of the respective Provinces, or the last thereof, if the said appointments shall not be made on the same day, His Majesty, His Heirs or Successors, shall have power, by an instrument under his sign manual, to appoint such third Arbitrator; who (if appointed in manner last mentioned) shall not be an inhabitant of either of the said Pro-
 44 vinces; and that the three Arbitrators so appointed as aforesaid, shall have power to hear and determine all claims of the Province of *Upper Canada* upon the Province of *Lower Canada*, on account of drawbacks or proportion of duties accruing under agreements made and ratified by the authority of the Legislatures of the said two Provinces, according to the fair understanding and construction of the said agreements; and also to hear any claim, which may be advanced on the part of the Province of *Upper Canada*, to a proportion of duties accruing under *British* Acts of Parliament, which are not embraced within the terms of any provisional agreement, and to report the particulars of any such claim, with the evidence thereupon, to the
 45 Lords Commissioners of His Majesty's Treasury for the time being; and if it shall appear to the Commissioners of His Majesty's Treasury that any sum is justly due from the Province of *Lower Canada* to the Province of *Upper Canada* on account of such claim, they shall signify the same, together with the amount, to the Governor or person administering the government of the Province of *Lower Canada* for the time being, who shall thereupon issue his warrant upon the Receiver General of *Lower Canada*, to pay such amount to the Receiver General of *Upper Canada*, in full discharge of any such claims.

And be it further Enacted, That the said Arbitrators shall have power to send for and examine such persons, papers and records as they shall judge necessary for their information in the matters referred
 46 to them, and that if any person or persons shall refuse or neglect to attend the said Arbitrators, or to produce before them any papers or documents, having been duly served in either province with reasonable notice in writing for that purpose, he she or they shall forfeit and pay the sum of fifty pounds, to be recovered by bill, plaint or information, in any court having competent jurisdiction within the Province in which such person usually resides, to be applied towards the support of the civil government of the said Province, and to be accounted for to His Majesty through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form, as it shall please His Majesty to direct.

Power of
Arbitrators.

Witnesses. And be it further Enacted, That the witnesses to be produced before the said Arbitrators, if it is desired by either of the said Arbitrators, shall and may be sworn before any of His Majesty's Justices of the peace within either of the said Provinces, or before any one of the said Arbitrators, who are hereby empowered jointly or severally to administer such oath, and that if any person shall in any such oath so taken as aforesaid, wilfully forswear himself, he shall be deemed guilty of wilful and corrupt perjury. 47

Appointing Arbitrators on vacancies. And be it further Enacted, That in case of the death, removal or incapacity of either of the said Arbitrators before making an award, or in case the third Arbitrator chosen or appointed as aforesaid, shall refuse to act, another shall be appointed in his stead, in the same manner as such Arbitrator so dead, removed or become incapable or refusing to act as aforesaid, was originally appointed; and that in case a third Arbitrator shall be appointed by His Majesty as hereinbefore mentioned, it shall and may be lawful for the Governor-in-Chief in and over the said Provinces, to determine the amount of remuneration to be paid to such Arbitrator, which amount shall be defrayed in equal proportions by each province, and shall be paid by warrants, to be issued for that purpose, by the Governor, Lieutenant Governor, or person administering the government of each Province, upon the receiver general thereof respectively. 48

Award to be final. And be it further Enacted, That the Award of the majority of the said Arbitrators shall be final and conclusive as to all matters therein contained; and that if either of the Arbitrators nominated by the Governor of either of the said Provinces, shall refuse or neglect to attend, on due notice being given, the two remaining Arbitrators may proceed to hear and determine the matters referred to them, in the same manner as if he were present. 49

Award to be certified to certain Officers. Payment of Sum awarded. And be it further Enacted, That the said Arbitrators, or a majority of them as hereinbefore mentioned, shall certify the award to be made by them in the premises, under their hands and seals, to the Commissioners of His Majesty's Treasury of the United Kingdom of Great Britain and Ireland, and to the Governor, Lieutenant Governor, or person administering the government of each of the said Provinces; and that if any sum be directed by the said award to be paid to the Province of *Upper Canada* by the Province of *Lower Canada*, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of the said Province of *Lower Canada*, and he is hereby required to issue his warrant upon a receiver general of the Province of *Lower Canada*, in favour of the receiver general of the Province of *Upper Canada*, for the sum so awarded; which sum shall be accordingly paid by the receiver general of *Lower Canada*, in discharge of such warrant, and shall be accounted for by him to the 50

the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

Division of Duties.

And be it further Enacted, That of all duties which have been levied in the Province of *Lower Canada* since the first day of July one thousand eight hundred and nineteen, upon any goods, wares, merchandize or commodities, imported by sea into the Province of *Lower Canada*, and also of all duties which after the passing of this Act, and before the first day of July one thousand eight hundred and twenty-four, shall be levied in the Province of *Lower Canada* upon any goods, wares, merchandizes or commodities, imported by sea into the said Province of *Lower Canada*, the Province of *Upper Canada* shall be entitled to have and receive one-fifth part as the proportion of duties arising and due to the said Province of *Upper Canada* upon such importations; and that the Governor, Lieutenant Governor, or person administering the government of the Province of *Lower Canada*, shall and may issue his warrant forthwith upon the receiver general of *Lower Canada*, in favour of the receiver general of the Province of *Upper Canada*, for such proportion of the duties as shall have been received in the Province of *Lower Canada* before the passing of this Act, and shall and may on the first day of January, and the first day of July, in each and every year thereafter, issue his warrant upon the receiver general of *Lower Canada* in like manner, for the payment to the receiver general of *Upper Canada*, of such sum as may be then ascertained to be due on account of the said proportion, according to the provisions of this Act.

Ascertaining future divisions of Duties.

And be it further Enacted, That immediately after the said first day of July one thousand eight hundred and twenty-four, the proportion to be paid to *Upper Canada* for the four years next succeeding, of duties levied in the Province of *Lower Canada*, upon goods, wares and commodities imported therein by sea, shall and may be ascertained by the award of Arbitrators, to be appointed in the same manner, and with the same powers, as hereinbefore provided, with respect to the Arbitrators, to whom the question of arrears is to be referred, and that Arbitrators shall in like manner be appointed, and an award made once in every four years thereafter, for the purpose of establishing such proportion from time to time; and all and every the provisions contained in this Act, respecting the appointment, powers, and remuneration of the arbitrators, to be first appointed after the passing thereof, and regarding the execution of their duty, shall apply and extend to the Arbitrators, to be appointed for the purposes last herein-mentioned: Provided always nevertheless, That if His Majesty, His Heirs or Successors, shall by any Act to be passed after the said first day of July one thousand eight hundred and twenty-four,

by and with the advice and consent of the Legislative Council and Assembly for the said two Provinces, establish the proportion of duties to be paid to *Upper Canada*, or provide other measures for ascertaining the same, or shall dispense with the necessity of ascertaining such proportion, then and from thenceforth all and every the provisions herein contained, respecting the appointment of Arbitrators, after the said first day of July one thousand eight hundred and twenty-four, shall cease and determine,

Proportion hereby established to be paid, until a new one is made.

And be it further Enacted, That after the said first day of July one thousand eight hundred and twenty-four, and until a new proportion of duties, to be paid to *Upper Canada*, shall be established, or other provision made respecting the same, as hereinbefore provided, and also at all times hereafter, in default of any such proportion being appointed or provision made, the proportion of duties last assigned, to be paid to *Upper Canada* under the authority of this Act, shall continue to be paid by the Province of *Lower Canada*, and warrants shall issue for the payment of the same in the same manner as for the period before the same first day of July one thousand eight hundred and twenty-four: Provided always, That it shall be in the power of the Arbitrators nevertheless, by their subsequent award, to alter such proportion from the period for which it was last established, if it shall appear to them just so to do. 55

Monies to remain in Treasuries of each Province.

And be it further Enacted, That from and after the passing of this Act, the proportion of duties on importations by sea into the Province of *Lower Canada*, which shall belong to each Province respectively, according to the distribution to be made under the provisions of this Act, together with all other revenue which shall be raised in each, shall remain in the treasury thereof to the use of each Province respectively, subject to such Act or Acts of appropriation whether *British* or provincial, as at present exist, and to such other Acts as may be passed by His Majesty, His Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of the said two Provinces, for appropriating to the use of each Province such portion of its revenue respectively, as may by law be at the disposal of the Legislature thereof: Provided always, nevertheless, That if His Majesty, His Heirs or Successors, shall by any Act to be passed by and with the advice and consent of the Legislative Council and Assembly for the said two Provinces, make permanent provision for the expense of administering justice, and the support of the said government in both Provinces, the excess of revenue above such provision, which may thereafter be levied in both Provinces, and which shall be subject to the disposal of the Legislature thereof, may thenceforth by any Act or Acts to be passed by His Majesty, His Heirs or Successors, by and with the advice and consent 56

Appropriation of Surplus Revenue.

57

consent of the Legislative Council and Assembly for the *Canadas*, be appropriated in common to the use of both or either of the said Provinces.

And be it further Enacted, That if any person or persons shall be
 58 sued or prosecuted for any thing done or to be done in pursuance
 of this Act, such person or persons may plead the General Issue, and
 give this Act and the special matter in evidence; and if the plaintiff
 or plaintiffs, prosecutor or prosecutors, shall become nonsuit, or forbear
 the prosecution, or discontinue his her or their action, or if a verdict
 shall pass against him her or them, the defendants shall have Treble
 Costs, and shall have the like remedy for the same as in cases where
 costs are by law given to defendants.

SCHEDULES to which this ACT refers.

SCHEDULE (A.)

| | |
|---|--|
| Asses. | Indigo. |
| Barley. | Live stock of any sort. |
| Beans. | Lumber. |
| Biscuit. | Logwood. |
| Bread. | Mahogany, and other Wood for Cabinet Wares. |
| Beaver, and all sorts of Fur. | Masts. |
| Bowsprits. | Mules. |
| Calavances. | Neat Cattle. |
| Cocoa. | Oats. |
| Cattle. | Pease. |
| Cochineal. | Potatoes. |
| Coin and Bullion. | Poultry. |
| Cotton Wool. | Pitch. |
| Drugs of all sorts. | Rye. |
| Diamonds and Precious Stones. | Rice. |
| Flax. | Staves. |
| Fruit and Vegetables. | Skins. |
| Fustick, and all sorts of Wood for Dyer's use. | Shingles. |
| Flour. | Sheep. |
| Grain of any sort. | Tar. |
| Garden Seeds. | Tallow. |
| Hemp. | Tobacco. |
| Heading Boards. | Turpentine. |
| Horses. | Timber. |
| Hogs. | Tortoise Shell. |
| Hides. | Wool. |
| Hay. | Wheat. |
| Hoops. | Yards. |
| Hardwood or Mill Timber. | |

SCHEDULE (B.)

| | £. | s. | d. |
|---|-----------|-----|----|
| | Sterling. | | |
| Barrel of Wheat Flour, not weighing more than 196 lbs. net weight - - - - - | 0. | 5. | 0. |
| Barrel of Biscuit, not weighing more than 196 lbs. net weight - - - - - | 0. | 2. | 6. |
| For every Cwt. of Biscuit - - - - - | 0. | 1. | 6. |
| For every 100 lbs. of Bread, made from Wheat or other Grain, imported in bags or packages - - - - - | 0. | 2. | 6. |
| For every Barrel of Flower, not weighing more than 196 lbs. made from Rye, Peas or Beans - - - - - | 0. | 2. | 6. |
| For every Bushel of Peas, Beans, Rye or Calavances - - - - - | 0. | 0. | 7. |
| Rice, for every 100 lbs. net weight - - - - - | 0. | 2. | 6. |
| For every 1,000 Shingles, called Boston Chips, not more than 12 inches in length - - - - - | 0. | 7. | 0. |
| For every 1,000 Shingles, being more than 12 inches in length - - - - - | 0. | 14. | 0. |
| For every 1,000 Red Oak Staves - - - - - | 1. | 1. | 0. |
| For every 1,000 White Oak Staves or Headings - - - - - | 0. | 15. | 0. |
| For every 1,000 feet of White or Yellow Pine Lumber, of one inch thick - - - - - | 1. | 1. | 0. |
| For every 1,000 feet of Pitch Pine Lumber - - - - - | 1. | 1. | 0. |
| Other kinds of Wood and Lumber, per 1,000 feet - - - - - | 1. | 8. | 0. |
| For every 1,000 Wood Hoops - - - - - | 0. | 5. | 3. |
| Horses, for every 100 l. of the value thereof - - - - - | 10. | 0. | 0. |
| Neat Cattle, for every 100 l. of the value thereof - - - - - | 10. | 0. | 0. |
| All other Live Stock, for every 100 l. of the value thereof | 10. | 0. | 0. |

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1000

3 GEO. IV.—Sess. 1822.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To make more effectual Provision for the Government of the Provinces of *Lower* and *Upper Canada*, to regulate the Trade thereof, and for other purposes relating thereto.

Ordered, by The House of Commons, to be Printed,
24 June 1822.
