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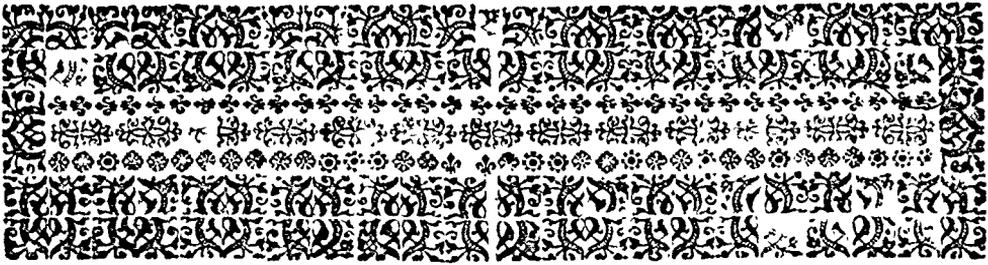
Third Assembly
second Session.

17 March 1762

Annos 3^{to} Jac. 3. Reg.

Acts for

- Pa.
93. — Regulating Retailers of spirituous Liquors.
95. — Amend^d & contin^d Act for suppressing unlicensed houses &c.
96. — Borrowing £5400 to pay Debts.
99. — To prevent Fraud in Trade with the Indians
100. — Prohibiting exportation of Bladder & Stores.
100. — Preventing the firing of Quibs, Rockets &c.
102. — Appointing Firewards, & punishing Theft at Fires with Death excluding Clergy.
104. — Establishing & regulating a Militia.
106. — Regulating Militia in War, & punishing Desertion with Death.
109. — Continuing the Act for Summary Trials.
113. — Regulating Exports of Fish, Spices, of Barrels, Staves &c. & appointing Officers to Survey the same.



At the GENREAL-ASSEMBLY of the
 Province of *Nova-Scotia*, begun and
 holden at *Halifax*, on Wednesday
 the *First* Day of *July* 1761, in the
First Year of His Majesty's Reign,
 and there continued by several Pro-
 rogations until Wednesday the 17th
 Day of *March*, 1762, in the Se-
 cond Year of His Majesty's Reign.

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A N A C T

For the Regulating *Innholders, Tavernkeepers, and
 Retailers* of Spirituous Liquors.

*E*t it enacted, by the Lieutenant Governor, Council and As-
 sembly, That from and after the Publication hereof no Re-
 tailer, Innholder, Tavern or Alehouse Keeper, who shall
 sell upon Trust or Credit, any Wine, Strong Beer, Ale,
 Brandy, Rum, or other Spirituous Liquors, mixt or un-
 mixt, to any Soldier, Sailor, Servant, or Day Labourer,
 or other Person whatsoever, to the Amount of any Sum exceeding the Sum
 of

Cap.

of *Five Shillings*, shall have any Remedy to recover the same, either at Law or in Equity, against any of the Persons aforesaid, their Executors or Administrators.

And be it further enacted, That in Case any Soldier, Sailor, Servant, Apprentice, bound Servant or Negro Slave, or other Person whatsoever, shall leave any Pawn or Pledge, as a Security for the Payment of any Sum exceeding *Five Shillings*, contracted in such Manner, such Soldier, Sailor, Servant Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, or the Masters or Mistresses of such Servant, Apprentice, bound Servant, or Negro Slave, may complain to any Justice of the Peace where such *Retailer, Innholder, Tavern or Alehouse Keeper*, or any other Persons whatsoever, receiving such Pawns or Pledges, usually resides, that such Pawn or Pledge is detained from him or her, by such *Retailer, Innholder, Tavern or Alehouse Keeper*, or any other Person whatsoever, and having made Proof thereof upon Oath; or otherwise to the Satisfaction of said Justice, such Justice of the Peace is required, by Warrant under his Hand and Seal, to compel such *Retailer, Innholder, Tavern or Alehouse Keeper*, or other Person whatsoever, by Distress and Sale of his Goods, to restore the aforesaid Pawn or Pledge to the Party complaining, or to make him or her Satisfaction for the Loss or Abuse thereof; and shall further be subject to a Fine not exceeding *Twenty Shillings*, for the Use of the Poor, and Costs of Prosecution.

And Be it further enacted, That no *Retailer* or Person whatsoever, shall harbour or suffer any Apprentice, bound Servant, or Negro Slave, to sit drinking in his or her House, nor sell or give him or them, nor suffer to be Sold or given him or them, any of the Liquors aforesaid, without special Order or Allowance of their respective Masters or Mistresses, on Pain of forfeiting the Sum of *Twenty Shillings* for every such Offence, together with the Charges of Prosecution; to be recovered upon Conviction on the Oath of *One* credible Witness, before any *One* of His Majesty's Justices of the Peace within the Town or Precinct where the Offence shall be committed, or such other Proof as shall be to the Satisfaction of such Justice; and to be levied by Warrant of Distress and Sale of the Offenders Goods and Chattels, under the Hand and Seal of the said Justice, and for Want of sufficient Distress, such Justice shall and may commit such Offender to His Majesty's Gaol, there to remain for the Space of *One Month*, or till he shall have paid and satisfied the same. And such Sum so levied shall, by the said Justice be paid into the Hands of the Overseers of the Poor of the Town or Precinct where the Offence shall be committed, to be by them applied to the Use of the Poor of such Town or Precinct.

Provided always, That nothing herein contained shall extend to debar any *Retailer, Innholder, Tavern or Alehouse Keeper*, from furnishing any Traveller, or Boarders in his Family, with necessary Refreshments on Credit.



An Act in Addition to, and Amendment of, and for further prolonging, an Act made and passed in the *First Year* of His Majesty's Reign, intituled *An Act for suppressing unlicensed Houses, and for granting to His Majesty a Duty on Persons hereafter to be licensed.*

HERE IS notwithstanding the Penalties in^d eted by the Act made and passed in the *First Year* of His Majesty's Reign, intituled, *An Act for suppressing unlicensed Houses, and for granting to His Majesty a Duty on Persons hereafter to be licensed, divers idle and ill disposed Persons do continue to keep private Tipling Houses, to the great Encouragement of Vice and Debauchery, and the Diminution of His Majesty's Revenue.*

*Sup.
Temp.*

Be it therefore enacted by the Lieutenant-Governor, Council, and Assembly, That from and after the Publication of this Act, the Collector or Receiver, or Collectors or Receivers of the Duties of Impost and Excise, or either of them shall be and are hereby empowered and required, to make diligent Enquiry after and prosecute any Person or Persons, who shall presume to retail any Kind of Spirituous Liquors contrary to the Intent and Meaning of the Act made and passed in the *First Year* of His Majesty's Reign, intituled *An Act for suppressing unlicensed Houses, and for granting to His Majesty a Duty on Persons hereafter to be licensed*, or that shall offend in any of the Particulars therein contained.

And whereas amongst other Things in the aforesaid Act, it is enacted, "That all Monies arising from the Conviction of any Person or Persons aforesaid (in Case there be no Informer) shall be wholly paid to the Treasurer of the Province, and applied in the Manner as therein after directed, but if there shall be an Informer, one Moiety of such Money shall be paid to the said Informer, and the other Moiety to the said Treasurer forthwith to be applied as aforesaid." It is thought necessary for the better Encouragement of Persons informing against such as may transgress against any of the Clauses in the aforesaid Act.

Be it therefore enacted, That all the Monies arising from the Conviction of any Person or Persons for the Breach of any Part of said Act, shall after deducting the Charges of Prosecution, be paid two Thirds to the

Person.

Person or Persons who shall inform and sue for the same, and the remaining One Third to be paid to the Treasurer of the Province to be applied to and for the Uses of the Public Roads.

And be it also enacted, That when an Information shall be made against any Person or Persons offending against the aforesaid Act, and any Person or Persons shall be summoned to give Evidence relative thereto, and that such Person or Persons so summoned, shall neglect or refuse to give his or her Attendance at the Time and Place mentioned in the Summons, not having any just or reasonable Cause therefor, to be allowed of by the Justice before whom such Information shall be made, or willfully withdraw himself or herself before sworn, or shall willfully refuse to be sworn, or shall refuse to give his or her Evidence; in every such Case the Party so offending shall forfeit and pay the Sum of *Five Pounds*, to be levied by Warrant of Distress and Sale, (from the said Justice) on the Offenders Goods and Chattels, and to be applied to the Use of the Poor of the Town where such Offence shall be committed, and to be paid by such Justice to the Overseers of the Poor of the said Town; and for Want of such Distress, such Person or Persons shall be committed to Goal, there to remain for the Space of *One Month*, or until the said Sum of *Five Pounds* shall be paid.

Provided nevertheless, That no Person shall be obliged to give Evidence on any Information, before such Person be paid or secured their reasonable Charges for Attendance, to be allowed of and order'd by such Justice.

And be it enacted, That the aforesaid Act, with its Addition and Amendments shall continue and be in force for *One Year*, from and after the *Third Day of September, One Thousand Seven Hundred and Sixty Two*, and until the End of the Session of the *General-Assembly* then next following.



An Act to enable the Governor, Lieutenant-Governor, or Commander in Chief, to borrow the Sum of *Four Thousand Five Hundred Pounds* for paying off the Public Debts, and to postpone the Payment of Bounties and Premiums.

*W*HEREAS it appears upon the State of the public Accounts, that a large Debt is due by the Government to sundry Persons, to discharge the

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The Bounties and Premiums for the Year One Thousand Seven Hundred and Sixty One, and Preceding Years, and also to pay off the several Accounts of the Public Works carried on under the Direction of the Commissioners. And that the Impost and Excise Duties have been hitherto insufficient for the immediate Discharge of such Debts, and whereas it is necessary for the Support of the Public Credit, and for the Relief of the public Creditors, that a Sum of Money should be borrowed, and paid into the Treasury to answer these Purposes.

Be it therefore enacted by the Lieutenant-Governor, Council, and Assembly, That the Governor, Lieutenant-Governor, or Commander in Chief of the Province for the Time being, be and is hereby empowered to borrow on Loan a Sum of Money not exceeding Four Thousand Five Hundred Pounds of the present Currency, on the Credit of the Province Funds; and that the said Sum shall be applied to the Payment, and Discharge of the Bounties and Premiums, which were due on or before the Twenty Fifth Day of March, One Thousand Seven Hundred and Sixty Two, and also the Demands of the Persons employed in the public Works under the Direction of the Commissioners aforesaid.

And be it enacted, That any Sum so borrowed for the Purposes aforesaid, not exceeding the said Sum of Four Thousand Five Hundred Pounds, shall be paid back by the Treasurer or Keeper of the Province Funds for the Time being, to the Lender or Lenders thereof, at the Expiration of one Year compleat from the Date of such Loan with lawful Interest to the said Time of Payment (or thereafter till paid) and that out of such Monies as shall arise from the Duties on Wines, Beer, Rum, or other distilled Spirituous Liquors which are now due or shall hereafter become due by Law.

Provided, That if the Governor, Lieutenant-Governor, or Commander in Chief, should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Cases, any Person or Persons, who shall present Bounty Bills, or Accounts of Money due from the Government properly authenticated, said Notes or Accounts may be received by the Treasurer of the Province, and a Warrant shall be issued for the like Sum bearing Interest as by this Act directed.

And to enable the Treasurer or Keeper of the Province Funds more effectually to pay off and discharge the said Debt contracted as aforesaid.

Be it further enacted, That for the future the Payment of all the Bounties and Premiums granted by the General-Assembly on Fish, Hay, Oats, Stone Walls, Hemp and Flax, be and are hereby suspended, postponed, and put off for One Year, next after the same shall become respectively due or payable by any former Law of this Province.



An Act for Preventing fraudulent Dealings in the Trade with the Indians.

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WHEREAS many Mischiefs may arise by Frauds and other Injuries, in the Trade with the Indians of this Province; and whereas the said Indians are unacquainted with the Laws of this Province, and in what Manner they are to proceed in order to do themselves Right.

Be it enacted by the Lieutenant-Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief, upon Complaint of any Indians, within this Province, made to him or either of them, that they have been wronged or cheated of their Furrs or any other Merchandize, or in any other their Trade and Dealing with other his Majesty's Subjects; That the Governor, Lieutenant-Governor, or Commander in Chief is hereby desired, to direct his Majesty's Attorney General to prosecute the same, either before his Majesty's Justices, or in any of his Majesty's Courts of Record in a summary Way, as the Laws do direct, and such Prosecution shall be deemed Legal, and Judgment and Execution shall issue accordingly.

This Act to continue and be in Force untill further Regulations relating to the Trade with the Indians shall be made.

An Act to prohibit for a limited Time the Exportation of Warlike Stores.

WHEREAS the Exportation of Warlike Stores of whatsoever Domination from this Province during the present War may be greatly Prejudicial to his Majesty's Subjects and the public Service,
 Be it enacted by the Lieutenant-Governor, the Council and Assembly, That no Person or Persons whatsoever during the Continuance of the present War shall directly or indirectly export, transport, carry, or convey

vey, or cause or procure to be exported, transported, carried or conveyed, out of or from this Province, or load or lay on board, or cause or procure to be laden or laid on board any Ship or other Vessel, or Boat in order to be exported or carried out of the said Province, any Ammunition or Warlike Stores of whatsoever Denomination, under the Penalty of the Forfeiture of all such Ammunition or warlike Stores or the Value thereof, and also of the Ship or other Vessel or Boat, upon which any warlike Stores shall be exported, shipped or laden to be exported as aforesaid, and all her Guns, Tackel, Apparel and Furniture, *One* Moiety of all which Forfeitures shall be for the Use of his Majesty, his Heirs, and Successors and the other Moiety to him or them, that shall inform, seize or sue for the same in any of his Majesty's Courts of Record in the said Province, or in the Court of Vice Admiralty; and that the Master and Mariners of any Ship, Boat, or Vessel, wherein any such Offence shall be committed, knowing such Offence and wittingly and willingly aiding and assisting thereunto, and being thereof duly convicted in any of the said Courts, shall be imprisoned for the Space of *Three Months*, without Bail or Mainprize. *Provided always, and be it further enacted*, That this Act or any Thing herein contained shall not extend to prohibit the Exportation of any Ammunition or warlike Stores from this Province to the Kingdoms of *Great-Britain* or *Ireland*, or from the said Province to any other Colony or Plantation in *America* to his Majesty belonging, or from an Port or Place in the said Province to any other Port or Place in the same, so as the Exporter do, before the Shipping or Laying on board the same, declare the Kingdom, Island, Plantation or Colony, and the Port or Place for which such warlike Stores are respectively designed, and do make, subscribe, and deliver a Manifest in Writing and on Oath to the Naval Officer for the Time being (which Oath such Naval Officer is hereby impowered to administer) expressing the Particulars of such warlike Stores, and do likewise become bound with two Sureties of known Residence in this Province, and of sufficient Ability, in the Sum of *Five Hundred Pounds*, if the Ship or Vessel be not above *One Hundred Tons*, and if above *One Hundred Tons*, then in *Fifteen Hundred Pounds*, to the said Naval Officer for the Time being, who is impowered to take such Security in his Majesty's Name, and to His Majesty's Use, that such warlike Stores shall not be landed or sold in any Parts whatsoever other than the Kingdom of *Great-Britain* or *Ireland*, or some other of his Majesty's Colonies or Plantations in *America*, for which the same shall be so declared; and that a Certificate under the Hand and Seal, or Hands and Seals of the Collector or other Chief Officer of his Majesty's Customs, or of the Naval Officer, or of some other principal Officer of the Port or Place, where the same shall be landed, shall within the respective Times hereinafter limited (the Danger of the Seas excepted) be produced to the said Naval Officer to whom such Security shall have been given as aforesaid, that the said Warlike Stores expressing the Particulars thereof have been landed at the Port or Place, for which the same shall have been so declared: And for the taking such Security, no Fee or Reward shall be demanded or received. And if any Person shall counterfeit, raise, or falsify any Certificate, or knowingly publish any such Counterfeit, rated, or false Certificate, he shall forfeit the Sum of *Two Hundred Pounds*, and such Certificate shall be void and of none Effect, which said Penalty shall be recovered in the same Courts and in the same

Manner

Manner as the other Penalties inflicted by this Act are recoverable, and be divided in equal Moieties between his Majesty and the Informer.

Provided also, That in Case the said Naval Officer when any Certificate shall be produced to him, shall have cause to suspect, that such Certificate is false and counterfeit, the Bonds shall not be cancelled or the Security vacated until the said Naval Officer shall have been informed from the Return or Persons in whose Name such Certificate shall appear to have been granted, that the Matter and Contents of such Certificate are just and true.

Provided nevertheless; That the said Bond or Bonds if not prosecuted within *Three Years* shall be void.

And be it further enacted, That all Certificates of the Landing and Discharging of any warlike Stores of whatsoever Denomination to be exported, shall be returned within the respective Times following, (*that is to say*) when the Bonds are taken in Respect of any such warlike Stores as aforesaid, to be exported to *Great-Britain or Ireland,* within *Eighteen Callendar Months,* after the Date of the said Bonds, and in Respect of any such warlike Stores to be exported from this Province, to any other of his Majesty's said Colonies, or from any Port or Place in this Province, to any other Port or Place in the same respectively within *Twelve Callendar Months,* after the Date of the said Bonds respectively.



An Act to prevent the Firing of Squibs, Rockets, Serpents or other Fireworks.

Be it enacted, by the Lieutenant-Governor, Council, and Assembly, That it shall not be lawful for any Persons to make, or cause to be made, or sell, or expose to Sale any Squibs, Rockets, Serpents, or other Fireworks, or any Cases, Moulds, or other Implements for the making the same, or for any Persons to permit any Squibs or other Fireworks to be thrown or fired from their Houses, Lodgings, or Habitations, or Place thereto belonging or adjoining, into any public Street, Road, Passage or Water, or for any Person to throw, or fire, or be assisting in throwing, or firing of any Squibs, or other Fireworks into any public Street, House, Shop, Highway, Road, Passage or Water; and that every such Offence shall be judged a Common Nuisance.

Be it further enacted, That if any Persons shall make, or cause to be made, or shall give, sell, or utter any Squibs, Rockets, Serpents or other Fireworks

Fireworks, or any Moulds or Instruments for the making of any such Squibbs, Rockets or Serpents or other Fireworks, every Person so offending and being thereof convicted before one of His Majesty's Justices of the Peace of the Place where such Offence shall be committed, by Confession of the Party, or the Oath of *One* credible Witness shall forfeit the Sum of *Forty Shillings*; and if any Persons shall throw, or fire, or be aiding and assisting in throwing or firing of any Squibbs, Rockets, Serpents, or other Fireworks, into any public Street, House, Shop, Highway, Passage, or Water, every Person so offending, and being thereof convicted as aforesaid, shall forfeit the Sum of *Forty Shillings*, and if any Persons shall permit any Squibbs, or other Fireworks, to be thrown or fired from their Houses, Shops, Lodgings, or Habitations, or in any Place thereto belonging, or adjoining to any public Street, Road or Passage, or any other Place, every such Person so offending and being thereof convicted as aforesaid, shall forfeit the Sum of *Forty Shillings*. The said several Forfeitures to be levied by Distress and Sale of the Goods of every such Offender, by Warrant of the Justice, before whom the Conviction shall be made, the one Half of the Forfeiture to be to the Use of the Poor where the Offence shall be committed, and the other Half to the Use of them, who shall prosecute and cause such Offenders to be convicted; and if said Persons so offending shall not immediately upon their being convicted, pay to the Justice before whom such Conviction shall be made, the said Forfeiture for the Uses aforesaid, such Justice is hereby required and empowered, by Warrant to commit such Person to the House of Correction, or Goal for any Time not exceeding *Fourteen Days*, unless such Offender shall sooner pay such Forfeiture to the said Justice.

Provided, That this Act shall not extend to debar the Governor, Lieutenant-Governor, or Commander in Chief of this Province, or the commanding Officers of His Majesty's Troops, or any Persons employed under them or either of them, from making and firing off any such Fireworks as aforesaid.

Be it also enacted, That no Person whatsoever shall presume to make, or cause to be made any Bonfires within *Three Hundred Yards* of any Buildings, Stacks of Hay, or Corn, under the Penalty of *Forty Shillings*, to be recovered and applied in the Manner as mentioned in this Act.



An Act for appointing Firewards, ascertaining their Duty, and for punishing Thefts and Disorders at the Time of Fire.

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BE it enacted by the Lieutenant Governor, Council, and Assembly, That it shall and may be lawful to and for the Justices of the Peace for the Town and County of Halifax, from Time to Time Annually in their Sessions, to appoint such Number of prudent Persons of known Fidelity not exceeding Ten, in the several Parts of the said Town of Halifax, and the Suburbs thereof, as they may think fit, who shall be sworn faithfully to discharge their Trust and shall be denominated and called *Firewards*, and have a proper *Badge* assigned to distinguish them in their Office, *viz*: A Staff of Six Feet in Length, coloured Red, and headed with a bright *Brass Spear* of six Inches long.

And be it further enacted, That at the Times of the breaking forth of Fire in the said Town or Suburbs thereof, and during the Continuance thereof, the said Firewards shall and are hereby authorized and empowered, jointly or severately to command and require Assistance for the extinguishing and putting out the Fire, and for removing of Household Stuff and Furniture, Goods, and Merchandizes out of any Dwelling Houses, Store-Houses, or other Buildings actually on Fire or in Danger thereof, and to appoint Guards to secure and take Care of the same; As also to require Assistance for the pulling down of any Houses, or any other Services relating thereto, to stop and prevent the further spreading of the Fire; and to suppress all Tumults and Disorders. And the Officers appointed from Time to Time as aforesaid, are required upon the Notice of Fire breaking forth (taking their Badge with them) immediately to repair to the Place, and vigorously exert their Authority for the requiring Assistance, and using their utmost Endeavours to extinguish, and prevent the spreading of the Fire, and to preserve and secure the Estate and Effects of the Inhabitants; and due Obedience is required to be yielded unto them, and each of them accordingly for that Service: And for all Disobedience, Neglect or Refusal in any Person Information thereof shall, within Two Days next thereafter, be given to any One of His Majesty's Justices of the Peace for the said County and Town, and upon Conviction thereof, before any two of the Justices aforesaid, each and every Person so convicted shall forfeit and pay the Sum of Forty Shillings, to be levied and distributed by the Direction of such Justices, among the Poor most distressed by the Fire; and in Case the Offenders are unable to satisfy the Fine then to suffer Ten Days Imprisonment,

And be it further enacted. That when any Fire shall break out in the said Town of *Haliifax*, or the Suburbs thereof, *Two* or more of the Magistrates or Firewards of the said Town, shall and may, and are hereby impowered to give Directions for pulling down any such House or Houses as shall by them be judged meet to be pulled down, for the stopping and preventing the further spreading of the Fire; and if it shall so happen, that the pulling down any such House or Houses by the Direction aforesaid, shall be the Occasion of stopping the said Fire, or that the said Fire shall stop before it come to the same, that then all and every Owner of such House or Houses shall receive reasonable Satisfaction, and be paid for the same by the rest of the Inhabitants of the said Town and Suburbs, (to be accounted from the River called *Fresh-Water-River*, to Mr. *Mau-ger's* Distilling House inclusive) whole Houses shall not be burnt, in the Manner hereinafter prescribed, *That is to say,*

The Owner or Owners of such House or Houses so pulled down and intituled as aforesaid, shall as soon as may be, make Application to the *First Justice* in the Commission of the Peace for the said Town and County, or in his Absence to the next Justice named in the said Commission, who is hereby impowered to call a *Special Sessions* of the Justices, who shall meet at the Time appointed; and the Court being satisfied by such Proof as shall be brought, of the Justice of the Claims made, they shall then issue an Order for the Valuation of the Damages so sustained, to be made by *Two* or more indifferent Persons, who shall make a Return of their Proceedings upon Oath into the said Court by the Day affixed, whereupon the Court shall appoint *two* or more Assessors, who shall Tax the Houses of the said Inhabitants that have not been burnt, at such Rate or Rates as shall by them be thought just, in Proportion to the Value of the Houses that are to be taxed, for paying the said Damages and the Charges of Valuation, Taxation, and Collection, together with the other Fees of the Court, to be settled before the making such Assessment; and the said Assessors are to report their Proceedings to the Court also upon Oath. And the said Court shall thereupon issue an Order for collecting the Monies so taxed, and in Case of Non-payment the same to be levied by Warrant of Distress to be obtained from any *One* of the said Justices upon Application to him by the Collector or Collectors of the said Tax: And as soon as the Assessments are so collected, the Court shall order Payment to be made to the Party claiming according to the Report made and approved of the said Damages; as also the Payment of such other Charges as aforesaid.

Provided, That if the House where the Fire did begin and break out, shall be judged fit to be pulled down to hinder the increase and further spreading of the same, that then the Owner of such House shall receive no Manner of Satisfaction therefor, any Thing herein contained to the contrary notwithstanding.

And be it likewise enacted. That if any evil minded wicked Persons, shall take Advantage of such Calamity, to rob, plunder, purloin, embezzle, or convey away, or conceal any Goods, Merchandizes or Effects, of the distressed

distressed Inhabitants, whose Houses are on Fire or endangered thereby, and put upon removing their Goods; and shall not restore and give Notice to the Owner or Owners, if known, or bring them into such public Place as shall be appointed and assigned by the *Governor and Council*, within the Space of *Two Days* next after Proclamation made for that Purpose, the Person or Persons so offending, and being thereof convicted, shall be deemed Felons and suffer Death as in Cases of Felony, without Benefit of Clergy.



An Act in Addition to an Act, intituled, An Act for establishing and regulating a Militia.

W H E R E A S by an Act, intituled, *An Act for establishing and regulating a Militia*, it is enacted, " That the Captain and commissioned Officers of each Company shall, and thereby are fully empowered to nominate and appoint proper Persons to serve as Serjeants and Corporals in their respective Companies, and to displace them and appoint others in their Room, as they shall see Occasion " But whereas no provision is made to oblige Serjeants and Corporals, so nominated and appointed, to serve: which is found highly detrimental to the Service, when the Militia are ordered to do Duty,

Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That any Person who shall be nominated and appointed to serve as a Serjeant or Corporal, as directed in the above-mentioned Act, and shall refuse to serve, shall pay *Forty Shillings* Fine, and another shall be chosen in his Room, and so on until one do accept.

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

And whereas there are sundry supernumerary Militia Officers, Committed in this Province, who are not appointed to any particular Companies.

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

And whereas by the said Act, "intituled, An Act forestablishing and regulating a Militia," *It is enacted,* "That every Captain, or Chief Officer of any Company or Regiment shall be obliged, on a Penalty therein mentioned, to draw forth his Company every *Three Months* and no more, to exercise them in Motions, the Use of Arms, and Shooting at Marks, or other Military Exercises."

Which has been thought to be insufficient to answer the Purposes designed by the said Act,

Be it therefore enacted, That from and after the Publication hereof, every Captain or Chief Officer of any Company of Militia, having received Orders for that Purpose from the Officer commanding any regiment of Militia, or any other Corps or Body of Militia, who are required to give Orders accordingly, shall be obliged on Penalty of *Five Pounds*, to draw forth his Company or cause them to be drawn forth for exercising them in Motions, the Use of Arms, and Shooting at Marks, or other Military Exercises, *Eight Days* in each Year and no more; to be regulated at the Discretion of such commanding Officer, according as will best suit with the Conveniency of the People, and as will give the least Interruption to their Labour and Industry: And every Person liable to be trained, having *Three Days* Notice thereof, and not appearing and attending the same, shall for each Day's Neglect, pay a Fine of *Five Shillings*.

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

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



An Act for the better regulating the Militia, on actual Service in Time of War.

11.9
 12.10
 13.11
 14.12

WHEREAS in Times of imminent Danger, either by Invasion or Sudden Attack made or threatened to be made by his Majesty's Enemies on any of his Subjects within this Province, inso-much that His Excellency the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, shall, by Virtue of the Power granted him by his Majesty's Commission, Judge it expedient to order any Part of the Militia of this Province to march from one County or part of the Province to another, on necessary Service; or to do Duty by mounting Guard: In such Case it is requisite that due Subordination should be observed, for preventing Mutiny, Desertion and Contempt.

Be it enacted, By the Lieutenant Governor, Council, and Assembly, That If any Officer, Non-commissioned Officer, or Soldier of the Militia, under Arms for real Service, on a March, or on Guard, or that shall be ordered for any of the abovementioned Duties, shall disobey Orders, or neglect doing his Duty, or shall shew any contemptuous Behaviour towards his superior Officer; if an Officer, he shall on Conviction thereof before a *General Court Martial* to be constituted and appointed as hereinafter directed, be cashiered by the Sentence of such Court Martial; if a Non-commissioned Officer or Soldier, he shall be confined by the commanding Officer of such Party or Guard: And it shall be lawful for the commanding Officer of the Regiment, or of any Party, or Command, not under the Degree of a Captain, to order a *Regimental Court Martial* to be forthwith held for the Trial of such Offender; the said *Court Martial* to consist of one Captain and two Subalterns at least, but where they can be had of *One* Captain and four Subalterns, who may give Judgment by laying a Fine on such Offender in any Sum not exceeding *Forty Shillings*, which Fine so ordered by the Court-Martial, if he neglect or refuse to pay the said Offender shall be corporally punished, by riding a Wooden Horse any Time not exceeding *Half an Hour*, or be committed to the House of Correction to be kept to hard Labour there for any Time not exceeding *Ten Days*.

Provided nevertheless, That no Sentence of a *Regimental Court Martial* shall be put into Execution until approved of by the commanding Officer of the Regiment, or of the Detachment where the Crime may have been

been committed. And no Officer, being the Accuser, shall sit as a Member.

And be it further enacted, That if any Officer, Non-commissioned Officer, or Soldier, of the Militia, shall in the Field, upon a March, or in Quarters on actual Service, desert the Troop Company or Command to which he belongs, or shall disobey orders; if a commissioned Officer, he shall be put under Arrest by the commanding Officer, if a Non-commissioned Officer, or Soldier, he shall be sent to the next County or other Jail as soon as convenient, and it shall and may be lawful for his Excellency the Governor, Lieutenant Governor or Commander in Chief of the Province, to order a General Court Martial, by a Warrant under his Hand and Seal, for the Trial of such Offender as Speedily as the Service will admit; which Court Martial shall not consist of a less Number than Thirteen commissioned Officers of the Militia; and the President of such Court Martial shall not be under the Degree of a Field Officer, and there shall be as many Captains as conveniently can be had, the eldest Subalterns to make up the Number: And that such Court-Martial shall have Power to administer an Oath to any Witness, in order to the Examination or Trial of the above Offences that shall come before them.

And be it further enacted, That such General-Court Martial shall have Power to punish with Death, or otherwise by Fine or Imprisonment, the Fine not exceeding *Twenty Pounds*, or Imprisonment not more than *six months*.

Provided always, That in all Trials by General-Courts Martial, every Officer, before any Proceeding be had, shall take the following Oath, and the Judge Advocate is hereby authorized to administer the same.

YOU Shall well and truly try and determine according to your Evidence in the Matter now before you, between Our Sovereign Lord the King's Majesty and the Prisoner to be tried.

And no Sentence of Death shall be given against any Offender, by any such General Court-Martial, unless *Twelve* Officers present shall concur therein; and His Excellency the Governor, Lieutenant-Governor, or Commander in Chief, shall have Power to appoint any one of His Majesty's Justices of the Peace for said Province, or other fit Person, to act as Judge Advocate at any such General Court-Martial.

And be it also enacted, That no Sentence of such General Court-Martial shall be put in Execution before the same be approved by his Excellency the Governor, Lieutenant Governor or Commander in Chief for the Time being.

Provided always and be it enacted, That when any Part of the Militia shall be draughted to march from one part of the Province or Town to Another

another on real Service, all such Draughts or Detachments shall be made by Ballot from Each Company, in exact Proportion according to their Numbers then fit for Duty, which shall be on the Oath of the Captain, or commanding Officer, to the best of his Knowledge, if required; and each and every Person so draughted shall go in his own proper Person or find a good Man in his Room, and for his Neglect or Disobedience herein, he shall be confined by the commanding Officer, and shall pay a Fine of *Ten Pounds*, or remain in Jail for *Three Months*, and another Man shall be draughted as aforesaid to march in his Place, who shall have *Half* of the above Fine.

And be it further enacted, That when any Part of the Militia shall be ordered to march from one Part of the Province or Town to another not in the same County to which they belong, on real Service, there shall be allowed and paid to the commissioned, Non-commissioned Officers, Drummers and Private Soldiers, for so long as they shall remain on such Service, at and after the Rates following, *That is to say*, to the commissioned Officers at and after the same Rate as Officers of the like Rank in his Majesty's Troops; to the Serjeants after the Rate of *Two Shillings*, Corporals *One Shilling and Four Pence*, Drummers *One Shilling and Four Pence*, and private Soldiers *One Shilling per Diem* each, together with the like Allowance of Rations of Provisions of all Kinds as are distributed and allowed to the Non-Commissioned Officers and Soldiers in his Majesty's Regular Forces.

Provided always, That this Act nor any Thing herein contained shall take Effect or be carried into Execution at any Time, but on Occasion of actual Invasion or sudden Attack from an Enemy, or imminent Danger thereof, any Thing herein contained to the contrary notwithstanding.

All Fines and Forfeitures to be incurred by this Act, and not particularly appropriated shall be applied to such military Uses as shall be thought necessary by the Governor, Lieutenant-Governor, or Commander in Chief of this Province for the Time being.





An Act for continuing an Act made and passed in the Thirty third Year of His late Majesty's Reign, intituled, An Act for the summary Trial of Actions.

WHEREAS an Act made and passed in the Thirty third Year of His late Majesty's Reign, Intituled "An Act for the summary Trial of Actions," is near expiring, and it is thought expedient that the same should be continued for a further Time, Be it therefore Enacted by the Lieutenant-Governor, the Council and Assembly, That the said Act be and the same is hereby continued for Two Years from the Publication of this Act.

Cap. 10



An Act for regulating the Exportation of Fish, and the Assize of Barrels, Staves, Hoops, Boards, and all other Kind of Lumber; and for appointing Officers to survey the same.

BE it enacted by the Lieutenant-Governor, Council and Assembly, That from and after the end of this present Session of the General Assembly, all pickled Fish for Exportation shall be put in none but Barrels of thirty-one Gallons and a half at least, and that the Fish be all of one Kind, well saved, sweet, free from Rust, and close packt, the Barrels tight, and full of sweet and strong Pickle.

Cap. 11

That Herrings be free from Oil.

That merchantable Cod-Fish have the Qualities that make them so in *Newfoundland.*

That

That all Hoghead Staves be six Inches broad, three quarters of an Inch thick at the thin Edge, and forty Inches long.

That Barrel Staves be four Inches broad, and half an Inch thick at the thin Edge, and thirty Inches long.

That Barrel Staves for the *Irish* Market be thirty Inches long, five Inches broad, clear of Sap, and three quarters of an Inch thick at the thin Edge.

That Hoghead Hoops be fifteen Feet long, substantial and well shaved, and three quarters of an Inch broad at the small End.

That Barrel Hoops be nine Feet long, and half an Inch broad at the small End.

That Boards shall be full one Inch thick,

That Shingles be eighteen Inches long at least, four Inches broad, and half an Inch thick at the thick End.

That Clapboards be five Inches broad, half an Inch thick at the Back, and four Feet four Inches long.

That Chord-Wood be full four Feet long each Stick, accounting half the Cart, the Pile to be solid, four Feet high, or an Allowance for Wants of eight Feet long, and each Chord sound hard Wood.

And be it further enacted, That all Barrels used for Fish within this Province, shall be made of sound well seasoned Timber and free of Sap, and that fit Persons be appointed from Time to Time in all Places needfull, to view and gauge all such Barrels; and such as shall be found tight and of the Assize beforementioned, shall be marked with the Gauger's Mark, who shall have for his Pains *Eight Pence* per Ton; and every Cooper shall make his Barrels of the Assize aforesaid, and shall set his distinct Brand Mark on all Barrels so made by him, on Penalty of *Forty Shillings* for each Offence.

And Be it also enacted, And whosoever shall put to sale any Barrels new made up from old Stuff, being deficient either in Workmanship or Timber, upon Proof thereof made by one sufficient Witness, before any one of His Majesty's Justices of the Peace, he shall forfeit such Barrels, and be fined and pay the Sum of *Ten Shillings* for every Barrel that shall be so found defective, or shall suffer *Ten Days* Imprisonment for every such defective Barrel. *Provided* the said Imprisonment do not in the whole exceed the Term of *three Months*.

And be it enacted, That the Grand Jury for each County within the Province, shall annually at the *First General Quarter Sessions* in the Year, and before the Rising of the Court, nominate and appoint fit Persons to serve in such Towns or Places where the same shall be necessary, as Gaugers of Casks or Barrels, Cullers and Surveyors of dry and pickled Fish, Boards, Staves, Shingles, Clapboards, Hoops, and Chord-Wood, and shall report to the said Court the Names of the several Persons by them so nominated and appointed for the Service aforesaid, that they may be sworn by the said Court to the due Execution of their several Offices, which if any so nominated and appointed shall refuse, he shall pay the Sum of *Forty Shillings*, and another shall be nominated and appointed in the like Manner in his stead; and taking of any of these by Misbehaviour, Death, or leaving the Province, or changing the Town of his Residence, their Places shall be filled up, by a new Nomination and appointment in the same Manner at the next *Quarter Sessions*, or *Special Sessions* to be called for that Purpose, under the like Penalty for Refusal.

And be it further enacted, That every Gauger of Cask or Barrels appointed as aforesaid, shall take Care that such Cask or Barrels by him viewed and marked as aforesaid, be agreeable to the Directions of this Act; and that he mark no Cask or Barrels whatsoever defective in any of the above Particulars, on Penalty of *Ten Shillings* for every Cask so by him marked that shall be found defective in any of the aforesaid Respects.

And be it enacted, for preventing of Fraud and Deceit in the packing of pickled Fish to be put to Sale, That in every Town within this Province where such pickled Fish are packed for Sale, the Surveyor or Surveyors of Fish of such Town, or of the Town where they are put to sale or shipped, shall see that it be well and orderly performed, and that the said Fish be packed all of one Kind, and that all Cask or Barrels so packed be full, and in all other Respects answerable to the Regulations herein specified in that behalf, setting his Brand or Mark on all Casks or Barrels so by him examined and surveyed, and he shall receive of the Owner or Seller of such Fish, for surveying and marking, *Two Pence* per Barrel and *Four Pence* per Mile for his Travel; and if any such pickled Fish be put to Sale or shipped off without the Surveyor's Brand or Mark, they shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

And be it likewise enacted, That all Sorts of green or pickled Fish that shall be put up for Exportation to a Foreign Market, shall be searched, surveyed, and approved by the sworn Surveyor, who shall take strict Care that the same be in all Respects agreeable to the Regulations herein before specified, and shall and may open the Head of any one Barrel the Buyer shall chuse for that Purpose, and such as shall be found good and merchantable the Surveyor shall mark with such Brand Mark as shall be assigned to him by the said Court, and such other Cut-Mark as may denote the Kind of Fish and Time when packed. And if any Master of any Ship or Vessel, or any Officers or Mariners belonging thereto, shall receive such pickled Fish not marked and branded as aforesaid, on board any of their

Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Fish; and he or they who shall own such Fish shall forfeit the same, or the Value thereof. And if any Cooper or other Person shall slit any Fish, either on board or on Shore, after the same hath been to marked and branded by the Surveyor, and ship and export the same, the Surveyor not having allowed thereof, and marked the Casks or Barrels a new whereinto such Fish shall be slitted; all Persons acting, ordering, or assisting therein, upon Conviction thereof before any one of his Majesty's Justices of the Peace, by the Oath of one credible Witness, for the first Offence shall suffer Six Months Imprisonment; for the second nine Months Imprisonment; and for the third twelve Months Imprisonment without Bail or Mainprize; and shall likewise pay double Damages to the Person wronged thereby. And if any Person or Persons shall presume to counterfeit the Brand-Mark of any Surveyor or Gauger; or Certificate of any Culler, upon due Proof or Conviction, he or they shall incur, forfeit, and pay the Sum of Ten Pounds, and suffer one Month's Imprisonment.

And be it further enacted, That the Culler of dry Cod-Fish thereto appointed ~~is to~~ stand, shall cull all such dry Cod-Fish that shall be sold or exported, and shall have One Penny per Quintal for every Quintal of Fish by him culled, and Four Pence per Mile for his Travel, to be paid by the Owner or Seller; and such Culler shall give a Certificate under his Hand specifying the Quantity of Fish so by him culled, and the Name of the Owner, Seller, or Shipper thereof, and of the Time or Place where culled, and if any dry Cod-Fish shall be put to Sale, or shipped for Exportation, without having been to culled by the Culler, or without such Certificate thereof as before directed, the same shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

And be it also enacted, That all Boards, Plank, Timber and Slit-work, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any Foreign Market, before their Delivery on Sale, shall be viewed, surveyed and also measured, by one of the Surveyors thereto appointed, (where he shall have any Doubt of the Measure) having Consideration for drying and shrinking; also shall mark a new all such to the just Contents, making Allowance for Rotts, Splits and Wains, the Seller to pay the Officer Four Pence per thousand Feet for viewing only, and six Pence per thousand Feet more for measuring and marking; and so in Proportion for a lesser Quantity than a thousand Feet, and four Pence per Mile for his Travel as aforesaid: And no Boards, Plank, Timber, or Slitt-work, shall be delivered upon Sale, or shipped for Exportation beyond Sea, before they have been viewed and surveyed by the Surveyor, and by him found answerable to the Description in this Act mentioned, and also measured (if Occasion be) and marked a new by one of the Officers thereto appointed; on Pain of being forfeited, or the Value thereof, by the Seller or Shipper thereof.

And be it enacted, That all Shingles and Clapboards exposed to Sale by Quantities in Bundles, that do not hold out the Number they are marked for, unless it shall appear that some have been drawn or shaken out of the Bundles after packing, shall be forfeited; the Charge of searching and telling to be paid thereout. That every Bundle of Shingles and Clapboards that, according to the Judgment of the Surveyor, will hold out eighteen Inches long, four Inches broad, and half an Inch thick, agreeable to the Dimensions by this Act prescribed for Shingles, and if Clapboards, five Inches broad, half an Inch thick at the Back, and four Feet four Inches long, being the Dimensions by this Act prescribed for Clapboards; shall be accounted merchantable, all that are otherwise to be culled out and burnt, till what be left of said Bundles will bear the same Proportions before prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Shingles, Twopence per Thousand; if Clapboards, *Two pence* per Thousand surveying, and *One Penny* more per Thousand telling; to be paid by the owner or Seller, where no Forfeiture is found for want of Tale to satisfy such Charge, and for every Thousand he culls and binds up again, *Six Pence* per Thousand, and proportionably for a lesser Quantity, to be paid by the Owner or Seller of the said Shingles or Clapboards, returning the Remainder to the Owner, if any be, after the Charges are paid

And be it also enacted, That if any Boards, Plank, Timber, or Slit-work, or any Shingles or Clapboards shall be exposed for Sale, or shipped for Exportation, without such Survey as above directed, had before the Delivery thereof; the whole of such Boards, Plank, Timber, Slit work, Shingles or Clapboards, or the Value thereof, shall be forfeited by the Seller or Shipper.

And be it further enacted, That all Hoghead Staves, Barrel Staves, Hoghead Hoops, and Barrel Hoops that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any foreign Market, before their Delivery on Sale shall be viewed and Surveyed by one of the Surveyors thereto appointed, who shall take strict Care that the same be severally conformable to the Directions of this Act; and that all Staves and Hoops, that according to the Judgment of the said Surveyor, shall be agreeable to the Directions of this Act, and none other, shall be accounted Merchantable; and all that shall be found otherwise to be culled out and burnt, till what be left will bear the several Proportions by this Act prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Staves, *Six Pence* per Thousand, if Hoops *Three Pence* per Thousand to be paid by the Seller.

And be it also enacted, That all Hoops exposed to Sale by Quantities in Bundles that do not hold out the Number that they are so exposed to Sale for, unless it appears that some are drawn or shaken out of the Bundle after packing, shall be forfeited; the Charge of surveying *Three Pence* per Thousand, and *Three Pence* per thousand telling, and so in Proportion

Proportion for a lesser Quantity, being paid thereout. And if any Staves or Hoops shall be delivered upon sale or shipped for exportation to any Foreign Market, before they have been surveyed by the Surveyor, and by him found to answer the Descriptions in this Act mentioned, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

And be it further enacted, That all Chord-Wood exposed to sale, shall on the Sale, and before the Delivery thereof, be surveyed by the Officer for that Purpose appointed, who shall measure the same, and take Care that each Chord do answer the Qualifications by this Act required; and he shall receive of the Seller for each Survey and Examination, *Two Pence* per Chord and no more; and if any Chord-wood shall be sold and delivered without such Survey, the same shall be forfeited, or the Value thereof, by the Seller.

And be it further enacted, That if any Person shall refuse to satisfy the Officer or Officers by this Act appointed, his Fees beforementioned, he shall have Power to detain so much of the Commodity as will make him Satisfaction for his Fees and Travel aforesaid: *Provided* that such Fees do not exceed the Sum of *Twenty Shillings*, and in Case the same shall exceed the Sum of *Twenty Shillings*, then to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of any one of His Majesty's Justices of the Peace, the Surplus, if any be, after paying the Officer's Fees and Charges of Distress and Sale, to be returned to the Owner of the said Goods.

And be it further enacted, That an Oath shall be administered to the several Officers that shall be chosen to gauge, survey and search the several Articles in this Act mentioned, in the following Form, *Viz.*

YO U swear, That you will from Time to Time diligently and faithfully discharge and execute the Office of-----within the Limits whereof you are appointed for the ensuing Year, and until another be chosen in your Place; and that in and by all the Particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein impartially according to Law, without Fear or Favour.

So help you G O D,

And be it likewise enacted, That all Fines, Penalties, and Forfeitures arising by Force and Virtue of this Act, shall be one-Half to His Majesty, towards the Support of His Majesty's Government of this ~~Province~~; and the other Half to him or them that shall inform or sue for the same, to be recovered in Manner following, *That is to say,* Where the Forfeiture or Value thereof shall not exceed the Sum of *Twenty Shillings*, the same to be recoverable before any one of His Majesty's Justices of the Peace, by Oath of one credible Witness, to be levied by Warrant of Distress and Sale of the offender's Goods and Chattels, under the Hand and Seal of such Justice, and for want of sufficient Distress, such Offender to suffer *twenty Days* Imprisonment; and where the Forfeiture or Value shall amount to

Above

above *Twenty Shillings*, but shall not exceed the Sum of *Three Pounds*, then the same to be recoverable before any two of his Majesty's said Justices of the Peace upon the like Proof as above, and to be levied by like Warrant under the Hands and Seals of such Justices, and for want of sufficient Distress the Offender to suffer sixty Days Imprisonment; and in case such Forfeiture or the Value thereof shall exceed *Three Pounds*, the same to be recoverable by him or them who shall inform or sue for the same, in any of His Majesty's Courts of Record in this Province.

And be it enacted, That this Act be read and published once every Year, at the opening of the first Courts of General Quarter Sessions of the Peace for the several Counties within this Province.

