

THE
A C T S
OF THE
GENERAL ASSEMBLY
OF
PRINCE EDWARD ISLAND,
FOR THE YEAR
1836.



CHARLOTTETOWN:

Printed by JAMES DOUGLAS HASZARD, Printer to the
King's Most Excellent Majesty.

MDCCCXXXVI.

Rec. May 21, 1903.

TITLES OF THE ACTS.

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ANNO SEXTO

GUILIELMI IV. REGIS.

At the General Assembly of His Majesty's
Island of *Prince Edward*, begun and holden
at *Charlotte Town*, the Twenty-sixth Day of
January, Anno Domini 1835, in the Fifth
Year of the Reign of our Sovereign Lord
WILLIAM the Fourth, by the Grace of
God, of the United Kingdom of *Great
Britain and Ireland*, King, Defender of the
Faith:

1836.

GEO. WRIGHT,
President.

E. J. JARVIS,
President of
Council.

G. DALRYMPLE
Speaker.

And from thence continued, by several Proroga-
tions, to the Twenty-sixth day of *January*, 1836,
and in the Sixth Year of His said Majesty's
Reign; being the Third Session of the Fourteenth
General Assembly convened in the said Island.

CAP. I.

An Act to continue for one Year, and to amend an
Act of the Fifth Year of His present Majesty,
for the Increase of the Revenue in this Island.

Expended
du 7/11/36

[18th April, 1836.]

WHEREAS it is deemed necessary to con-
tinue and amend the said Act; Be it enacted,

Continues for one
year the Revenue
Act of 5 W. 4.

by the President, Council and Assembly, That the said Act, intituled *An Act for the increase of the Revenue in this Island*, shall be, and the same is hereby continued for one year, from and after the Seventh day of *May* next.

If Duty shall ex-
ceed £100,

II. Provided always, and be it enacted, That when from henceforth the Duties to be paid by any Importer or Importers of any articles liable to Duty under the herein-before recited Act, or any other Act, shall exceed the sum of One hundred Pounds, the Collector and Receiver of such Duties is hereby authorized to give credit for the payment thereof for the space of Twelve Months: Provided that security be given for the payment of the said Duties within the time so limited as aforesaid, in way and manner as is now by Law required.

Twelve Months
credit to be given.

Articles liable to
duty, and not re-
ported, if landed,

III. And be it enacted, That if articles liable to Duty under the herein-before recited Act, or any other Act, shall be landed from on board any Ship, Vessel or Boat, after Report shall have been made, other than such as shall have been specified and contained in any Report or Manifest directed to be made by the herein-before recited Act, or this Act—then and in such case, all such articles, or the value thereof (the same to be estimated at the highest price such commodities shall or may then respectively bear,) shall be, and the same are hereby declared to be forfeited, and shall and may be seized by any or either of the said Collectors or Receivers of the Duties for the time being, or by any of the Land-waiters or Guagers; and if such articles shall be concealed or destroyed, so as that seizure cannot be made of the same, then the Master of the said Ship, Vessel or Boat, or the Owner or Owners thereof, or the Receiver or Receivers of such articles so concealed, shall, on being duly convicted thereof, pay the value of the same according to the aforesaid Estimate.

or their estimated
value,

to be forfeited,
and the articles
may be seized.

If concealed or
destroyed, the
Master of the
Vessel so landing
them, or the
Owners or Re-
ceivers, to pay the
estimated value.

IV. And be it enacted, That all Masters of Ships, Coasting, Fishing, and all other Vessels whatsoever, coming into any Harbour, Port, River, Creek, or any part of the Coast of this Island, shall, within Twenty-four hours after such their arrival, make and subscribe a Report in writing on oath, to any of the Collectors and Receivers within this Island, of the Lading or Cargo of such Vessel, or whether in Ballast or otherwise (as the case may be,) and shall also make and subscribe a Report on oath, in the form directed by the Eighth Section of the herein-before recited Act: Provided nevertheless, that nothing in this Act contained shall be construed to require or permit the reporting or Entry of any Vessel or Vessels belonging to any Foreign Power or State, which are not legally entitled to make such Report and Entry at the Custom House, by any Laws of the Imperial Parliament of Great Britain now in force in this Colony.

Masters of all Ships, Coasting or Fishing Vessels, to report their Vessels, whether in ballast or otherwise.

Not to be construed to permit the entry of Foreign Vessels prohibited to enter by Imperial Acts.

V. And be it enacted, That if any such Masters aforesaid shall neglect or refuse to make such Report as herein directed, or shall make a false Report, such Master shall be liable, and shall forfeit and pay, for every such offence, a Fine not exceeding One hundred Pounds.

Masters, &c. neglecting or refusing to make Report, to forfeit £100.

VI. And be it enacted, That all Fines, Forfeitures and Penalties arising by operation of the herein-before recited Act, or this Act, or any other Act relating to the Revenue of this Island, shall be sued for and recovered, together with Costs, in His Majesty's Court of Vice Admiralty; any thing contained in any other Law to the contrary notwithstanding—and the Monies arising from such Penalties, Fines and Forfeitures, shall be applied, one half to and for the purposes for which the said Duties are granted, and the other half to him or them who shall inform, seize, or sue for the same.

Mode of recovery of all fines and penalties imposed by this or any other Revenue Act.

Continuance of
Act.

VII. And be it enacted, That this Act shall continue in force until the Seventh day of *May*, One thousand eight hundred and thirty-seven.

CAP. II.

An Act to provide against Accidents by Fire, and for the improvement of Property at *Georgetown*.

[18th April, 1836.]

WHEREAS it is necessary to provide for the preservation from Fire of the Jail and Court House at *Georgetown*, and for the improvement of public and private property in the said Town: And whereas the best mode of obtaining these objects will be by an Assessment upon the Proprietors of Lots in the said Town: Be it therefore enacted, by the President, Council and Assembly, That it shall and may be lawful for the Administrator of the Government for the time being, by and with the advice and consent of His Majesty's Council, to nominate and appoint Seven of the Inhabitants of the said Town, Five of whom shall be a *Quorum*, who shall, on the first Monday in *May* next, at noon, assemble at some fixed place in said Town, and in each and every succeeding year during the continuance of this Act, for the purpose of assessing the Inhabitants and Landholders of *Georgetown*, in order to clear the Town Lots of Wood and Brushwood, for sinking Wells, and for such other objects of public improvement as by them may be deemed necessary; and in case of the death, absence or resignation of any of the said Assessors, the Administrator of the Government for the time being is hereby authorized to nominate and appoint fit and proper persons in their stead, from time to time, as occasion may require.

Administrator of
the Government,
with advice of
Council, to ap-
point Seven In-
habitants of
Georgetown,

to assess the In-
habitants and
Landholders.

In case of death,
absence or resig-
nation of any per-
son so appointed,
Administrator of
Government to
appoint others in
their stead.

Expensed —
Bill 21st Oct. 1836

II. And be it further enacted, That the said Assessors, or the major part of them, at their first and subsequent annual Meetings respectively, shall be and they are hereby empowered to assess the Landholders and Inhabitants of *Georgetown* in just and equal proportions, so as the sum assessed on each Town Lot shall not in any one year exceed the sum of Six Shillings and Eight-pence; and the said Landholders and Inhabitants respectively shall pay the same within Thirty Days after such Assessment being made known by such person or persons as shall be appointed to collect and receive the same by the said Assessors, or the major part of them, by giving due notice in the *Royal Gazette* of such Assessment being made, and continued therein for a period not less than three successive weeks.

Annual Assessment not to exceed 6s. 8d.

Time of payment.

Mode of notification of Assessment.

III. And be it further enacted, That if the Owner or Owners of any Lot or Lots so assessed shall refuse or neglect to pay the amount of the said Assessment within the time herein-before mentioned, it shall and may be lawful for the said Assessors, or the major part of them, and they are hereby directed, to award a Precept to the Collector so to be appointed, commanding him to take the Goods and Chattels of such delinquent Owner or Owners, if to be found on the Lot or Lots so assessed, and of the same to make public sale, to pay the said Assessment and Costs—and out of the produce of such sale, to pay into the hands of such Treasurer as may be appointed by the said Assessors, or the major part of them, as herein-after directed, the amount of such Assessment; and if no Goods or Chattels of such delinquent Owner or Owners can be found on the respective Lots, then the said Collector is hereby directed to make public sale of such Lot or Lots so in arrear for the said Assessment, after giving Three Months public notice thereof in the *Royal Gazette* Newspaper, and out of such sale to pay into the hands of the Treasurer afore-

Owners of Town Lots neglecting to pay Assessment,

Assessors to award a precept to their Collector, to levy the same on Goods and Chattels of delinquent.

If no Goods can be found, Collector to make sale of the Lot in arrear, giving three months notice.

Overplus, (after paying tax and costs), if any, to be paid to the owner of Lot.

Collector to execute a Deed to purchaser.

Overplus not claimed within 3 Months, to be paid to Treasurer of the Island for the use of owner.

Equity of redemption reserved to former owner.

Assessors to value improvements.

Assessors to appoint a Treasurer

said the amount of such Assessment; and if any amount remains in the hands of the said Collector, after paying the sum so assessed, together with the expenses incurred for advertising and selling the same, any such balance shall be paid to the Owner or Owners of the Lot or Lots so assessed and sold; and the said Collector is hereby authorized and directed to make and execute a Deed to the purchaser or purchasers, at his, her or their expense, of such Lot or Lots—which Deed, when so executed and registered, together with the Precept authorizing the sale of such Lot or Lots, shall be held a good and sufficient Title against the original holder or holders thereof—subject only to the conditions of the original Grant: Provided always, that in case the Owner or Owners of such Lands and Premises, Goods and Chattels, shall not claim such surplus money within Three Months after any such sale as aforesaid, then the same shall be paid to and remain in the hands of the Public Treasurer of this Island, to and for the use of the said former owner or owners.

IV. Provided also, and be it further enacted, That in case any Lot or Lots shall be sold under the operation of this Act, an Equity of Redemption shall nevertheless be open to the former Owner or Proprietor, his Heirs or Assigns, for the space of Two Years next after the sale of such Lot or Lots—the purchaser accounting to the former Owner for the rents, issues and profits, and the former Owner repaying the purchase money, and lawful interest thereon, and allowing for such improvements as shall or may be made thereon—the same to be ascertained by the judgment of the said Assessors, or the major part of them, not being parties interested.

V. And be it enacted, That the said Assessors, or the major part of them, are hereby empowered and required, at such their Meetings, to appoint fit

and proper persons to be Treasurer and Collector of the Fund contemplated to be raised in pursuance of this Act, taking sufficient security for the due performance of the duties of such Officers; and at their pleasure to displace either or both of such Officers, and to appoint others in case of misbehaviour; and to allow the said Collector and Treasurer respectively such Poundage as the said Assessors, or the major part of them, may direct.

and Collector,
who shall give
security.

Remuneration to
Treasurer and
Collector.

VI. And be it enacted, That if the Collector so appointed shall neglect to perform the duties enjoined by this Act, or shall not account and hand over the said Moneys so received by him as herein-before directed, within Two Months after the receipt thereof, the said Collector shall forfeit and pay a Fine not exceeding Five Pounds; and such Collector shall also be liable to account for and pay over the amount he may have received under and by virtue of this Act.

Collector to pay
over money with-
in 2 months after
receipt, under a
penalty of £5.

Collector to pay
also the sums by
him received.

VII. And be it enacted, That if any of the said Assessors, Collector or Treasurer, shall refuse to serve in their respective offices, such person so refusing shall forfeit and pay a Fine not exceeding Two Pounds; and such Collector, Treasurer and Assessors, shall, and they are hereby required, within Thirty Days after such annual Meeting, to transmit to the Colonial Secretary's Office a just and true account of the receipts and disbursements of all Moneys received under and by virtue of this Act.

Any Assessor,
Collector or
Treasurer refus-
ing to serve, to
forfeit £2.

Duty of Asses-
sors, Collector and
Treasurer.

VIII. And be it enacted, That the said Assessors, or the major part of them, are hereby empowered and required, to cause the Treasurer or Treasurers, Collector or Collectors, appointed under and by virtue of the Act of the Second Year of His present Majesty, intituled *An Act to provide for the better preservation of Public and Private*

Assessors ap-
pointed under
this Act to cause
Collector or
Treasurer under
Act of 2 W. 4,
' for the preser-
vation of Public
and Private Pro-
perty in George-

town against accidents by Fire, to account for money received,

and to sue for any balance in their hands.

Property at Georgetown against accidents by Fire, to render an account, within Fourteen Days after demand, of all Moneys so received by him or them, and how the same have been disposed of; and in case the said person or persons shall refuse to render such account, he or they shall be respectively liable to a Fine of Twelve Pounds; and if, on examining the said Account, it shall appear that there is any Balance still remaining in his or their hands, then it shall be lawful for the Collector or Collectors to be appointed under this Act, to demand, sue for and recover the same.

Appropriation of Fines.

Mode of recovery.

IX. And be it enacted, That all sums recoverable under and by virtue of this Act shall be applied to and for the purposes herein-before expressed or mentioned: and when the same shall not exceed Five Pounds, exclusive of Costs, shall be recovered, together with Costs, before any one of His Majesty's Justices of the Peace for the County of *King's County*, by Warrant of Distress and Sale of the Defendant's Goods and Chattels; and for want of Goods and Chattels whereon to levy, then the said Defendant to be imprisoned for a term not exceeding Three Months.

Duty of Assessors.

X. And be it enacted, That the said Assessors shall cause the Trees and Underwood to be removed from the site of the said Town, and Wells to be sunk, and Pumps to be procured, fixed and repaired, and such other public improvements to be made in the said Town as may by them be deemed necessary, as far as the Funds at their disposal will admit of.

Continuance of Act.

XI. And be it enacted, That this Act shall continue and be in force for and during the space of Three Years, and no longer.

CAP. III.

An Act to restrain the Issue of certain Promissory Notes.

[18th April, 1836.]

WHEREAS divers Undertakings in writing, purporting to be Promissory Notes, for the payment of small Sums of Money, on demand, to the Bearer thereof, and declared or intended to be negotiable and transferable by delivery only, or with or without Indorsement thereof, and made payable in Treasury Notes, have been issued and put in circulation in this Island by certain individuals: And whereas much public embarrassment and inconvenience is likely to arise in consequence thereof: Be it therefore enacted, by the President, Council and Assembly, That from henceforth, every such Undertaking in writing, already issued, or which may hereafter be issued, by any person or persons, shall be, and is hereby made and declared to be, negotiable and transferable; and the Money therein mentioned shall vest in and be payable to the Indorsee, Holder or Bearer thereof; and if the same shall not be paid to such Indorsee, Holder or Bearer, by the Issuer or Issuers thereof, when payment thereof shall be demanded, according to the tenor of such Undertaking in writing, every such Indorsee, Holder or Bearer of any such Undertaking in writing shall and may sue for and recover the amount therein expressed, as if the same were a Promissory Note, and were made absolutely payable in gold or silver money—any Law or Usage to the contrary notwithstanding.

Notes payable to Bearer,

to be transferable,

and Indorsee, holder or bearer,

may recover the amount therein expressed.

II. And be it enacted, That from and after the passing hereof, if any person or persons whosoever shall make, sign and issue, or re-issue, any

Any person issuing or re-issuing any Promissory Note, payable on

demand, or at a future day, for any less sum than £5,

to forfeit £10.

Not to prevent any person actually indebted to another, from making to such creditor a promissory note for less than £5.

Promissory Note in writing, payable on demand, or at sight, or at a future day, to any real or fictitious person, or to the Indorsee, Holder or Bearer thereof, for any sum of money less than Five Pounds, every such person or persons shall, for each and every such Undertaking in writing or Promissory Note so made, signed and issued, or re-issued, forfeit and pay a Penalty of Ten Pounds: Provided, that nothing herein contained shall extend, or be construed to extend, to prevent any person or persons actually indebted to another in any sum of Money less than Five Pounds, from making and signing to such Creditor a Promissory Note or Undertaking in writing for the amount of such debt so being under Five Pounds.

Mode of recovery of penalties.

Appropriation of Penalties.

III. And be it enacted, That the Penalty hereby imposed shall and may be sued for and recovered by any person who shall prosecute therefor, and in the same manner as if the same were a debt due to himself, and shall be adjudged to him, with Costs of Suit; and one Moiety of the said Penalty, when recovered, shall be to the use of the Prosecutor, and the other Moiety shall be paid into the Treasury of this Island, to and for the use of His Majesty's Government.

CAP. IV.

Cap. 1
An Act in further amendment of an Act of the Second Year of His present Majesty, for consolidating and amending the Acts relating to Small Debts.

[18th April, 1836.]

WHEREAS a practice has prevailed among Constables, of neglecting to return Execu-

tions and other Processes issued by Commissioners for the Recovery of Small Debts and Justices of the Peace, within the period prescribed by Law; Be it therefore enacted, by the President, Council and Assembly, That from and after the passing of this Act, if any Constable or Constables who shall or may be charged with the service of any Execution or other Process, issued by any such Commissioner or Commissioners, or any Justice or Justices of the Peace, and made returnable within a certain and defined period of time prescribed by Law, shall refuse or neglect to make due return of such Execution or other Process within the period prescribed as aforesaid, it shall and may be lawful for such Commissioner or Commissioners, Justice or Justices of the Peace—or in the event of his or their absence, by death or otherwise, for any other Commissioner for the Recovery of Small Debts, or Justice of the Peace—to impose on such Constable or Constables a Penalty of not exceeding Twenty Shillings for the first offence, and a Penalty of not exceeding Forty Shillings for every second and subsequent offence, together with Costs, according to the Scale directed by the Act for the Recovery of Small Debts; and in default of payment, such Commissioner or Commissioners, Justice or Justices of the Peace, are hereby authorized to issue Process of Distress for the recovery of the same; and in case there shall be found no Goods and Chattels on which Distress may be made, it shall and may be lawful for the said Commissioner or Commissioners, Justice or Justices of the Peace, to imprison such Constable or Constables in the County Jail, for a space of time not exceeding, for the first offence, One Month, and for every subsequent offence, for a period not exceeding Two Months.

Constable charged with the service of any Execution, &c.

neglecting to make due return thereof,

to forfeit a penalty not exceeding £1 for the first offence, and a penalty not exceeding £2 for the second and every subsequent offence, with costs.

Mode of recovery.

II. And be it further enacted, That all Penalties recovered under and by virtue of this Act shall be paid into the Treasury of this Island, to and for the use of His Majesty's Government.

Appropriation of penalties.

CAP. V.

An Act to amend the Act for the Summary Trial of Common Assaults and Batteries.

[18th April, 1836.]

4 W. 4, c. 2.

Where Defendants are convicted under Assault and Battery Act,

and shall be imprisoned, Justices to make out a statement of costs incurred by Prosecutor for Witnesses, &c.

Statement to be delivered to Clerk of Council, and if approved by the Administrator of the Government, in Council, to be paid by the Treasurer.

Mode of recovery of Costs under 4 W. 4, c. 2.

WHEREAS the Act intituled *An Act for the Summary Trial of Common Assaults and Batteries*, has been found deficient, inasmuch as it does not prescribe the mode of payment of Costs in cases of Conviction: For remedy whereof, be it enacted, by the President, Council and Assembly, That from and after the passing of this Act, in all cases of Conviction, where the Defendant shall make default in payment of such Fine and Costs as shall be adjudged by the Justices appointed under the above recited Act, and in consequence thereof shall be imprisoned for a limited time, in pursuance of the said Act—they the said Justices shall, on request, make out a certified statement of the expenses of such Witness or Witnesses as have been subpoenaed and deemed by the said Justices to have been necessary and material, and the Costs of such Constable or Constables as shall be employed in serving Processes, Warrants or Executions on the part of the Prosecutor—which certified statement shall be delivered to the Clerk of His Majesty's Council; and the amount so certified, after being approved of by the Administrator of the Government for the time being, in Council, shall be paid to the parties claiming the same, by the Treasurer of this Island.

II. And whereas the Fourth Clause of the above recited Act, enabling the Justices to give Costs to either the Complainant or Defendant, or to compel either to pay their own Costs, does not direct the mode of recovering the same; Be it therefore further enacted, that it shall and may be lawful for the

said Justices to issue a Warrant of Distress, or Execution, for the Recovery of such Costs as may be ordered by them on the Trial; and in the event of no Goods or Chattels being found to satisfy the same, to imprison the party against whom such Warrant of Distress or Execution may be issued, for any term not exceeding Two Months, unless such Costs be sooner paid.

III. And whereas in the herein-before recited Act there is no express power given to Justices acting thereunder to issue Warrants or Subpœnas into any other County than that wherein the Assault is alleged to have been committed; Be it therefore enacted, that the Justices of each County wherein any such Assaults shall be alleged to have been committed, and who shall adjudicate thereupon, shall have the power to issue Subpœnas, and, either before or after Conviction, to issue Warrants of Apprehension, Commitment or Distress, into any other County.

Justices under said Act to have power to issue Warrants, Subpœnas, &c. into other Counties.

IV. And be it further enacted, That this Act shall be in force for and during the continuance of the Act to which it is an amendment.

Continuance of Act.

Continued by 3 Vict. C. 17. for 54th

CAP. VI.

An Act to authorize the closing of a certain Road within the Royalty of *Princetown*.

[18th April, 1836.]

WHEREAS the Road leading from *Robert Stewart's* to *Archibald Woodside's*, through the Royalty of *Princetown*, and known as part of the "*old Charlottetown Road*," is no longer required for public use; Be it therefore enacted, by the President, Council and Assembly, That from

Commissioner of Roads for *Princetown* and *Royalty*, to close a certain Road in said *Royalty*.

and after the passing of this Act, it shall and may be lawful for the Commissioner of Roads for the said *Town* and *Royalty*, and he is hereby required, to direct and order the closing of the said part of the "*old Charlottetown Road*."

Proprietors of Land adjoining said Road may inclose and occupy the same.

II. And be it further enacted, That the Proprietor or Proprietors of the Land through which the said Road passes, are hereby authorized to inclose and occupy the same—any law or usage to the contrary notwithstanding.

CAP. VII.

An Act to prevent persons indecently Bathing in the Waters contiguous to *Charlottetown*.

[18th April, 1836.]

Persons bathing in an unclothed state, and exposed to view in open day, between the *Four Gun Battery* on the West, and the *Big Marsh Creek* on the East, adjoining *Charlottetown*, may be apprehended by order of Justice of the Peace.

WHEREAS many persons are in the habit of bathing, in a state of nudity, in places adjacent to the *Town* and *Wharves* of *Charlottetown*, in the open day, and which practice is repugnant to the rules of morality and decorum; Be it therefore enacted, by the President, Council and Assembly, That it shall and may be lawful to and for any Justice of the Peace, upon view of the fact, or on complaint thereof to him made, on oath, by one or more credible Witness or Witnesses, of any person or persons bathing, in an unclothed state, and exposed to public view, in the open day, in those parts of the *Rivers* between the *Four Gun Battery*, on the West, and the *Creek* known as the *Big Marsh Creek*, adjoining *Charlottetown*, on the East, to order any Constable or Constables to apprehend and bring such person before him; and such Justice shall hear such charge summarily; and if the offence shall be proved to the satisfaction of said Justice, shall fine such offender, for the first offence, in a sum not

exceeding Five Shillings, together with Costs superadded; and for a second or subsequent offence, in a sum not exceeding Ten Shillings, with Costs as aforesaid; and in default of payment of either of said Fines and Costs, to commit such offender to the public Jail of *Charlottetown*, for a period not exceeding Ten Days, as to the said Justice shall seem meet—and every Constable of *Charlottetown* is hereby authorized and required to apprehend every person whom they shall see offending against this Act, without any Warrant for that purpose, and to take such persons before any Justice of the Peace, to be dealt with in manner aforesaid: Provided always, that nothing herein contained shall prevent children, under the age of Eight Years, from bathing as heretofore within the aforesaid limits.

Penalty against persons so offending.

Constables may apprehend any persons so offending without a Warrant, and carry offenders before a Justice.

Nor to prevent children under 8 years of age from bathing within said limits.

II. And be it further enacted, That all Fines recovered under this Act shall be paid into His Majesty's Treasury, and appropriated to such general purposes as may be hereafter enacted.

Appropriation of Fines.

CAP. VIII.

An Act to prevent the running at large of Sheep in the Town of *Charlottetown*.

*Expired —
Wills 3 Dec. 1836*

[18th April, 1836.]

WHEREAS the running at large of Sheep in the Town of *Charlottetown* has of late become of serious injury to many of its Inhabitants; Be it therefore enacted, by the President, Council and Assembly, that from and after the passing of this Act, when and so often as any Sheep shall be found running at large within the Town of *Charlottetown*, it shall and may be lawful for any of His Majesty's Justices of the Peace residing in the said Town,

Owner of any Sheep found at large in *Charlottetown*,

upon complaint to him made, to summon the Owner or Owners of such Sheep to appear before him; the said Justice, within a reasonable time—which shall be mentioned in the said Summons; and on the complaint being thereupon proved, on the Oath of one or more credible Witness or Witnesses, such Owner or Owners shall forfeit and pay for every such offence a sum not exceeding Two Pounds, together with Costs, as to the said Justice shall seem meet—the said Sum and Costs to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels; and if no Goods or Chattels can be found whereon to levy, the said Justice may, and he is hereby required, to commit the offender or offenders to the Jail of *Charlottetown* for any period not exceeding Forty Days.

to forfeit a sum not exceeding 2l. and costs.

Mode of recovery.

If Owner be unknown, on oath made before a Justice of the Peace, such Justice may issue a Warrant directing a Constable to impound Sheep.

Constable to advertise Sheep to be sold.

Proceeds of sale, how disposed of.

II. And be it further enacted, That in case of any such Sheep being found as aforesaid, and that the Owner or Owners shall not be known to the person or persons making such complaint, then, on oath thereof being made by such person or persons (or other credible Witness or Witnesses), the said Justice shall and may issue a Warrant under his hand, directed to one or more Constable or Constables, to take up and impound, or otherwise secure, the said Sheep forthwith, and proceed with them as directed by this Act: whereupon the said Constable or Constables shall advertise the said Sheep to be sold, by posting Notices in at least three of the most public places in *Charlottetown*, in which respectively shall be stated the number and description of such Sheep, and the time and place of sale; and in case the same shall not be redeemed, and the costs thereby incurred, with reasonable disbursements for the keep of such Sheep, shall not be paid within Five days from the posting of such Notices, then the same shall be publicly sold; and after payment of the costs and charges incurred out of the proceeds thereof, the surplus (if any) shall be

paid into the hands of the said Justice, who shall retain the same to and for the use of the Owner or Owners, when demanded.

III. And be it further enacted, That this Act shall continue and be in force for the space of Three Years from the passing hereof, and thence to the end of the then next Session of the General Assembly; and that all Fines or Forfeitures incurred hereby shall be applied in aid of the Pump and Well Assessment for the said Town.

Continuance of Act.

CAP. IX.

An Act to suspend an Act made and passed in the Twenty-sixth Year of the Reign of His late Majesty King George the Third, intituled *An Act for the Relief of Insolvent Debtors*, and to make other provisions in lieu thereof.

Cap. 2

[18th April, 1836.]

BE it enacted, by the President, Council and Assembly, That an Act made and passed in the Twenty-sixth Year of the Reign of His late Majesty King George the Third, intituled *An Act for the Relief of Insolvent Debtors*, be and the same is hereby suspended for and during the continuance of this Act.

Suspends Act of the 26 G. 3, for the relief of Insolvent Debtors, during the continuance of this Act.

II. And be it further enacted, That whenever any person may be confined within any Jail, or the Limits thereof, within this Island, for any Debt, Damages or Costs, whether on Mesne or Final process, (except such persons as may be so confined by virtue of Mesne or Final Process issued under any Act or Acts made for the Recovery of Small Debts)

Any prisoner for debt, not able to support himself, (except persons confined under Small Debt Acts),

may apply to two Judges of Supreme Court, or said Court, in Term time, or any two Commissioners appointed under this Act; and such Judges, Court or Commissioners, after notice to Creditor, shall examine such prisoner on oath, and if found unable, &c.

to order detaining Creditor to pay a weekly sum for his support,

and such person so confined shall be unable to provide or obtain his or her necessary support, it shall and may be lawful for such person, after Fourteen days confinement, to make application to any Two Judges of the Supreme Court of this Island, or to the said Court in Term time, or to any Two Commissioners to be appointed as herein-after mentioned, for a weekly support or maintenance; and such Judges, Court or Commissioners (after Fourteen days previous notice to the Plaintiff or Person at whose suit such person may be confined, his or her Attorney,) shall examine on oath such person so confined as to his or her ability to support him or herself; and if on examination, to be taken in writing, on oath as aforesaid, to be filed in the Office of the Clerk or Prothonotary of the Supreme Court aforesaid, it shall appear to such Judges, Court or Commissioners, that such person is utterly unable to support him or herself, and has no property whatever, real or personal, of what nature or kind soever (except necessary bedding, wearing apparel, kitchen utensils, and necessary tools of his or her trade or occupation, not exceeding in value, in the whole, Fifteen Pounds,) and that such confined person hath not at any time, since he or she was served with the first or Mesne Process, in the Suit in which he or she may have been confined, or since he or she had notice of the said Suit having been commenced, made over, assigned, transferred, or put out of his or her possession or power, either directly or indirectly, any property whatsoever, whether real or personal, for the purpose of defrauding such Plaintiff, or giving any undue preference to any other Plaintiff or Creditor—that then it shall be lawful for such Judges, Court or Commissioners, to make an Order for the party at whose suit such person may be confined, to pay a weekly sum, to be applied for the support of such person—which sum shall be paid weekly, and the first payment be made at the time such Judges, Court or Commissioners

may in such order direct; and from the First day of *November* until the Last day of *March* shall be Five Shillings *per Week*, and the remainder of the year, Four Shillings *per Week*; and after such order made, it shall be the duty of such party, without any further notice, to pay such weekly support agreeably to such order—such allowance to be paid to the Jailer of the County in which such Debtor may be confined at any time during the day (between sunrise and sunset) such allowance becomes due, for the use and support of such confined Debtor; and in case of failure thereof, it shall and may be lawful for such Judges, Court or Commissioners, on such failure being made known to them, to make an Order under their hands, directed to the Sheriff or Jailor, or by Rule of Court, to discharge the said person out of confinement by reason of such Suit: Provided, that nothing in this Act shall prevent any Plaintiff from prosecuting his or her Suit, if on Mesne Process, to final Judgment, or from taking out *Fieri Facias*, or Statute Execution, against the Goods and Chattels, Lands and Tenements of such Defendant, or from recovering in any other manner the amount of the Judgment obtained in the Suit, so always that the person of any Debtor so discharged shall be freed from arrest in any proceeding or action upon such Judgment: Provided also, that when two or more Creditors shall detain any Debtor in Prison as aforesaid, the said weekly allowance shall be paid in the proportions following, (that is to say)—when there are only two detaining Creditors, then each shall pay half of the said allowance, and when there shall be three or more such Creditors, then each shall pay Two Shillings *per Week*—such payments to be made in like manner as payments may at the time be made from the Public Treasury of this Island; and in case any such detaining Creditor or Creditors shall not make due payment of his, her or their proportion of such allowance, then the Debtor, upon proof thereof made

from the First November to the last day of March, 5s. per week, and 4s. per week for the remainder of the year.

In default of payment, Debtor to be discharged.

Creditor not barred from proceeding against Debtor's estate and effects, &c.

Weekly allowance how to be paid when there are two detaining Creditors; how to be paid when there are three or more detaining Creditors.

In default of payment by any Creditor of his proportion of weekly allowance, Debtor

or to be discharged from custody at his suit.

Not to affect the right of other detaining Creditors, unless they neglect to pay, &c.

Mode of appointment of Commissioners,

two in King's County and two in Prince County.

On application, Judges, Court or Commissioners, to make an order to Sheriff or Jailor to bring Debtor before them.

on oath before any Judge, or other person by this Act having authority for that purpose, shall be discharged by order of such Judge or other person, from further imprisonment at the suit of such detaining Creditor or Creditors so making default in payment of the allowance as aforesaid; but such discharge shall not affect the right of any other detaining Creditor or Creditors to continue such Debtor in prison, unless such other Creditor shall, after Eight days notice in writing to each of them, or their authorized Agents or Attorneys, of such default having been proved and order of discharge thereon made as aforesaid, neglect duly to pay their proportions of such allowance, or the whole thereof, as is required by this Act.

III. And be it further enacted, That within One Calendar Month after the passing of this Act, the Justices of His Majesty's said Supreme Court of Judicature, or any two of them, of whom the Chief Justice to be one, shall and they are hereby required to commission and appoint Two proper and fit persons in each of the Counties of *King's County* and *Prince County*, for the purposes herein-after mentioned, and who shall reside within Ten Miles of the respective Court Houses in the said Counties; and the said Commissioners shall, by virtue of such appointment, have and be invested with the same powers and authorities, in every respect, within the Counties in which they shall reside, as are given and conferred by this Act to and upon any Two of the Justices of His Majesty's said Supreme Court of Judicature.

IV. And be it further enacted, That upon the application of any person to the said Judges, Court or Commissioners; for such support, such Judges, Court or Commissioners, are hereby authorized and required to make an Order under their hands, directed to the Sheriff or Jailor, or by Rule of Court,

in whose custody such person may be confined, to bring up such person before them, at the time and place in such Order or Rule of Court to be specified, for the purpose of being examined as provided in the Second Section of this Act; and such Sheriff or Jailor shall not be liable to any Action for Escape or other Suit for or on account of obeying such Order or Rule of Court, according to the true intent and meaning of this Act.

Sheriff or Jailor not liable to an escape, &c. bringing up such Debtor.

V. And be it further enacted, That in any case, where it shall be made to appear to the satisfaction of the said Judges, Court or Commissioners, that such person has the means of providing his or her necessary support, whether from property possessed at the time, or since obtained, or by any other means, upon application made to them, such Judges, Court or Commissioners, shall be, and they are hereby authorized and empowered, by Order or Rule, to suspend the payment of such support for a stated time, or until further Order or Rule is given in that behalf by the said Judges, Court or Commissioners.

If after order for support made, it shall appear that Debtor has the means of procuring support, Judges, Court or Commissioners, may by order suspend the payment thereof.

VI. And be it further enacted, That if it shall at any time appear, or be made out to the satisfaction of such Judges, Court or Commissioners, that the person so applying for, or having support under this Act, and having the benefit of the Jail Limits, can, either by labor or otherwise, earn or procure his or her necessary support and maintenance within such Limits, such Judges, Court or Commissioners, shall and may refuse to make such Order for support as aforesaid, or in case the same be made, to suspend the same.

Debtors having the benefit of the Jail limits, if able to earn their support, not to be entitled to support from Creditor,

and if order for support has been made, it may be suspended.

VII. And be it further enacted, That any person confined either under Mesne or Final Process as aforesaid, who may have received such weekly allowance for the space of One Year, shall immediately

Debtor, who may have received a Weekly allowance for one year, entitled to his

discharge at the suit of Creditor, who may have paid the same.

Creditor may proceed to final judgment, or have execution against the Goods, &c. notwithstanding.

Judges, Court or Commissioners, may issue Subpœnas, &c. to Witnesses to appear before them.

Mode of service of Subpœna.

Duty of Witnesses; punishment for not obeying Subpœna.

Confined Debtor possessed of money or debts, who shall have

thereafter be entitled to his or her discharge from confinement at the suit of the party who may have paid the same; and in such case the said Judges, Court or Commissioners, are hereby authorized and required to discharge such person from custody, at the suit of the party who may have paid the support: Provided always, that in case of such discharge, the party shall be entitled to the same remedy, by proceeding to final Judgment, or taking out Execution against Goods, Chattels, Lands and Tenements, as is provided in the Second Section of this Act.

VIII. And be it further enacted, That when any Plaintiff or Defendant shall have occasion to compel the attendance of any Witness or Witnesses, to testify or give evidence before the said Judges, Court or Commissioners, to or before whom any application, examination, or other proceeding may be had under this Act, it shall and may be lawful for such Plaintiff or Defendant to issue a Subpœna, or if need be a Subpœna *duces tecum*, out of the said Supreme Court, commanding and requiring the attendance of such Witness, and the production of Books and Papers before the said Judges, Court or Commissioners, at the time and place in such Subpœna to be specified—which said Subpœna shall be served, and the Witness paid or tendered his expenses, in the same manner as if the Subpœna had issued from the said Supreme Court in the ordinary manner; and the Witness or the person served therewith shall be subject to the same punishment by such Court, or liable to the like damages in all respects, to the party injured, for wilfully refusing or neglecting to obey such Subpœna, as in any other case he would be liable or subject to.

IX. And be it further enacted, That when any person so confined shall be possessed of Money or Debts at the time of his or her confinement, or

afterwards, and shall have offered to pay or assign the same to the party at whose suit such person may be confined, or in case there be several parties, to them respectively, in part payment of and in proportion to such demand or demands—or when such confined person shall be possessed of either real or personal property (excepting nevertheless, wearing apparel, bedding and tools, to the value of Fifteen Pounds; as before excepted), and shall have offered to convey or assign the same to the party or parties at whose suit or suits such person may be confined, at a fair price to be agreed upon, in part payment and in proportion as aforesaid—and in case of disagreement as to the price or value of such property, shall have offered to pay in manner aforesaid the proceeds arising from the sale of such property, which said property shall be sold at public Auction by such confined person; after having first advertised the time and place of the sale thereof for the space of Fourteen Days, and given the party or parties respectively, or their Attorneys, notice of such sale, and the said party or parties shall have refused to accept and receive the said payment or assignment, or the said proceeds arising from the sale of the said property as aforesaid, that then it shall and may be lawful for the said person so confined, to assign or pay over the same to any other *bona fide* Creditor or Creditors.

offered to pay or assign the same to detaining Creditor or Creditors; or if possessed of real estate or personal property, shall have offered to convey the same to such Creditor or Creditors at a fair price,

after refusal thereof by detaining Creditor or Creditors,

may assign or pay over the proceeds thereof to any other *bona fide* Creditor.

X. And be it further enacted, That when such party or parties may have received such assignment or payment from such confined person as aforesaid, or where the confined person, in case of refusal by such party or parties, may have assigned or paid the same to other *bona fide* Creditors as aforesaid, that then, in either of such cases, the said confined person shall be entitled to the benefit of this Act, in all respects, the same as if such person had no such debt or property at the time of confinement or application.

When detaining Creditor receives such Assignment or payment, or in the event of his refusal, the same is assigned or paid to some other *bona fide* Creditor, the Debtor to be entitled to the benefit of this Act.

Detaining Creditor may discharge his Debtor, without losing the benefit of the judgment upon which Execution issued,

and such Creditor may sue out Execution against the lands, &c. of such Debtor,

or bring any Action on such judgment, &c.

XI. And whereas it is expedient that Creditors may have power to discharge Debtors without losing the benefit of Judgments obtained against such Debtors; Be it therefore enacted, that it shall and may be lawful for any Creditor or Creditors, at whose Suit any Debtor or Debtors is, are or shall be in Prison, and taken or charged in Execution for any sum of money, by writing signed by such Creditor or Creditors, or by one of them, for and in behalf of himself or herself and the others of them (being complainants in the same Action), or by his, her or their Attorney, to signify or declare his, her or their consent to the discharge of such Debtor or Debtors from the Prison in which he, she or they is, are or shall be confined in Execution at the suit of such Creditor or Creditors, without losing the benefit of the Judgment upon which such Execution issued, except as is herein-after provided; and that notwithstanding the discharge of any Debtor or Debtors, in pursuance of such consent as aforesaid, the Judgment upon which such Debtor or Debtors was or were taken or charged in Execution shall continue and remain in full force, to all intents and purposes, except as is herein-after provided; and it shall be lawful for such Creditor or Creditors, at any time, to take out Execution on any such Judgment against the Lands, Tenements, Hereditaments, Goods and Chattels of such Debtor or Debtors, or any of them, (other than except the necessary apparel and bedding of him, her or them, or his, her or their families, and the necessary tools of his, her or their trade or occupation, not exceeding the value of Fifteen Pounds in the whole,) or to bring any Action or Actions on every such Judgment, or to bring any Action or use any remedy for the recovery of his, her or their demands, against any other person or persons liable to satisfy the same, in such and the same manner as such Creditor or Creditors could or might have had or done in case such Debtor or Debtors had never been taken or charged in Exe-

cution upon such Judgment: Provided always, that no Debtor or Debtors who shall be discharged in pursuance of this Act, shall at any time afterwards be taken or charged in Execution, or convicted upon any Judgment herein-before declared to continue and remain in full force, or in any Action which may be brought on any such Judgment; and that no proceeding by *Scire Facias*, Action or otherwise, shall be had against any Bail in the Action on which such Judgment was obtained.

but the person of the Debtor never again to be taken in Execution on any such judgment.

XII. And be it further enacted, That the Executors and Administrators of any such Creditor as aforesaid shall and may consent to the discharge of any Debtor or Debtors to their Testator or Intestate, in such and the same manner, and with the same advantages and consequences, in all respects, as such Creditors if living might or could have done in pursuance of this Act; and such Executors and Administrators, respectively, shall not, by reason of any such discharge in pursuance of this Act, be deemed guilty of *Devastavit*, or be chargeable with the Debt due from the person or persons so discharged.

Executors and Administrators of Creditor may consent to discharge of Debtor with the same advantages, &c.

and not be deemed guilty of *devastavit*, &c.

XIII. And be it further enacted, That every Sheriff, Jailor or Keeper, in whose Prison, Jail or Custody any Debtor or Debtors is, are, or shall be confined or detained in Execution, shall, and every of them is hereby required, within Twenty-four hours next after such consent in writing of any Creditor or Creditors, his, her or their Attorney, or Executors or Administrators, as is herein-before mentioned, shall have been produced to and left with such Sheriff, Jailor or Keeper, or his Deputy or Agent, at such Prison or Jail, (the hand writing or mark of such Creditor or Creditors, his, her or their Executors or Administrators, or the hand writing of his, her or their Attorney, to such consent in writing, being duly proved by Affidavit of

Sheriff, &c. to discharge Debtor within Twenty-four hours after consent in writing of Creditors shall be produced.

Mode of attestation of such discharge.

some credible person to be thereunto annexed, and to be sworn before one of the Judges or Commissioners aforesaid, or before the said Supreme Court, or a Commissioner duly authorized to take Affidavits in the County where such Debtor or Debtors shall be confined), to discharge and set at liberty the Debtor or Debtors to whose discharge such consent shall be signified or declared as aforesaid, if he, she or they are in custody only upon the Execution issued at the suit of the Creditor or Creditors signifying such consent.

No Writ of *Fieri Facias* or Statute Execution to be levied on the apparel or bedding of Debtor.

XIV. And be it further enacted, That in all cases where a Writ of *Fieri Facias*, or Statute Execution, shall be issued upon any Judgment obtained or to be obtained in the said Supreme Court, it shall not be lawful for the Sheriff or other Officer executing such Writ to seize or levy upon the necessary apparel and bedding of the Debtor or Debtors against whom such Judgment shall be obtained, or of his, her or their family or families, or the necessary tools of his, her or their trade or occupation, in satisfaction of such Judgment: Provided always, that such apparel, bedding and tools, so to be exempted from being seized or levied upon as aforesaid, shall not exceed the value of Fifteen Pounds in the whole, to any one Debtor, which value shall be ascertained by the Oath of Three disinterested Freeholders in the County, to be appointed by such Sheriff or other Officer to appraise the same, which Oath the said Sheriff or other Officer is hereby authorized and empowered to administer.

if the same so to be exempted shall not exceed £15 in value.

Mode of ascertaining value of apparel, &c.

XV. And whereas it is expedient, in certain cases, to authorize and empower the Supreme Court of Judicature of this Island to grant relief to or discharge confined Debtors, who by the strict provisions of the foregoing Sections of this Act, may not be entitled to the benefit thereof—Be it therefore further enacted, that when any person may or have

been confined in any Jail or Limits thereof, in this Island, for the space of One Year, at the suit of any person for either Debt, Costs or Damages, such confined person may apply to the said Supreme Court in Term time, on Affidavit of the circumstances, for relief or discharge, which said Court, on notice having been given of such application to the adverse Party or his Attorney, may inquire into the matter, on Affidavit or otherwise; and if it shall thereupon appear to said Court, that the person so confined has no property whatever, real or personal, within his possession, power or controul, wherewith he can satisfy such demand, or any part thereof, or support himself in custody, such Court may in its discretion make an Order either for the maintenance or discharge of such person so confined, in the same manner as any Judges of such Court, or any of the Commissioners aforesaid, may now do by virtue of this Act—and which Order or Discharge shall in all respects have the like force and effect as any Order or Discharge made by any Judges or Commissioners, pursuant to the foregoing directions of this Act.

Any person confined in any Jail or limits for One Year, may apply to Supreme Court in Term time for relief or discharge;

and Court, if satisfied that such person has no property, &c.

may order him a maintenance, or discharge him.

XVI. And be it further enacted, That every person who shall be convicted of making or taking a false oath to any of the matters herein-before described, or required to be sworn to, shall be deemed guilty of Perjury, and shall be liable to all the pains and penalties to which persons are liable for wilful and corrupt Perjury.

Any person making a false Oath under this Act, to be guilty of perjury, and to be punished accordingly.

XVII. And be it further enacted, That in case any confined person may have been discharged in consequence of the weekly support ordered agreeably to the provisions of this Act not having been paid, or after a Twelvemonth's confinement agreeably to this Act, all persons whosoever shall be indemnified and are hereby freed and discharged against and from all Suits, Actions, Prosecutions,

Indemnifies all persons against any Actions, &c. to be brought by reason of the discharge of any Debtor under the provisions of this Act.

Informations or Judgments whatsoever, that may be had, moved, prosecuted or adjudged against them, or any of them, for or by reason or on account of such person having been discharged as aforesaid.

Fees of Commissioners for King's and Prince Counties.

XVIII. And be it further enacted, That there shall be paid to each of the said Commissioners, by the party applying to them for any Order, the following Fees, and no more, for any matters done under the authority of this Act:

For each Mile necessarily travelled, to attend at any hearing, inquiry, or examination required by this Act—Sixpence.

For every Order made—Two Shillings.

Continuance of Act.

XIX. And be it further enacted, That this Act shall continue and be in force for and during the period of Seven Years, and from thence to the end of the then next Session of the General Assembly, and no longer.

CAP. X.

An Act to impose a Tax on Dogs, with certain exceptions, and relating to other matters connected with them.

[18th April, 1836.]

After 1st May, 1836, the owner or keeper of a Dog in Charlottetown,

to pay 5s. for such Dog, if owned or kept for 30

WHEREAS it is expedient to impose a Tax on Dogs—Be it enacted, by the President, Council and Assembly, That from and after the First day of *May* next, every owner or keeper of a Dog in *Charlottetown* shall pay to the Collector appointed under the authority of this Act, the sum of Five Shillings for one Dog, if owned or kept for the space of Thirty Days between the said First day

of *May* next and the First day of *May* One thousand eight hundred and Thirty-seven; and for each and every other Dog so owned or kept as aforesaid by any such person or persons, the further sum of Five Shillings; and which sum or sums shall be paid annually on the First day of *May*, at the expiration of each and every consecutive Year during the continuance of this Act, by any such person or persons who shall or may own or keep any such Dog or Dogs for the space of Thirty Days in each and every Year as aforesaid; and which sum or sums shall be paid to such Collector as shall or may be appointed by the Lieutenant Governor, or other Administrator of the Government, to collect such Tax, and which Collector shall be allowed the sum of Twenty *per centum* on all the Moneys by him collected under the authority of this Act, and no other sum or sums of Money whatsoever.

Days after said First of *May*; and for every other Dog so owned, &c. also to pay 5s.

Time of payment.

Appointment of Collector in Charlottetown.

Allowance to Collector in Charlottetown.

II. And be it enacted, That in all other parts of this Island, except *Charlottetown* as aforesaid, every occupier of one entire or whole House shall be entitled to keep one Dog free of Duty; but for every other Dog kept or owned by any such occupier, and for every Dog kept or owned by all other persons in such other parts of this Island, there shall be paid by the respective owners or keepers of such Dogs, the sum of Five Shillings, at the respective times, and subject to the condition in the preceding Clause mentioned; and which sums shall be paid annually to such persons as shall be appointed by the Commissioners of Roads of the several Districts throughout the Island to collect the same; and such Commissioners are hereby authorized and required to appoint as many persons within their several Districts as by them shall be deemed necessary.

In all other parts of this Island (except *Charlottetown*) the occupier of one entire House may keep one Dog free of duty; but for any other Dog kept, to pay 5s.

to be paid at the time and subject to same condition as owners of Dogs in *Charlottetown*, to such persons as may be appointed by Commissioners of Roads to collect the same.

III. And be it enacted, That the Collectors appointed by the said Commissioners as aforesaid shall annually pay the amount of Taxes respectively by

Duty of Collectors appointed by Commissioners of Roads.

Appropriation of
Tax received by
Commissioners
of Roads.

Allowance to
Collectors ap-
pointed by Com-
missioners.

Collector of Tax
in Charlottetown
to pay the same
into the Treas-
ury.

Appropriation of
Tax so paid into
Treasury.

Every person
keeping a Dog or
Dogs to subscribe
and give Collec-
tor a true return
or account there-
of,

or to forfeit 20s.

them collected into the hands of the respective Road Commissioners of the several Districts; and such Road Commissioners are hereby authorized and required to receive the respective amounts of such Tax, and appropriate them to the repairs of the Roads in the several Districts in which they shall respectively reside; and every such Collector duly complying with the terms of this Act, shall be allowed to retain for his trouble the sum of Forty *per centum* on all Moneys so by him collected, besides being exempted from performing his Statute Labour.

IV. And be it enacted, That the amount of the Tax hereby imposed, which shall be collected in *Charlottetown*, shall be paid annually by the Collector appointed as aforesaid into the Treasury of this Island; and such amount, or a sufficient part thereof, shall be appropriated and applied under the direction of the Administrator of the Government for the time being, in the purchase of a good and sufficient Fire Engine and necessary appendages, to be kept for the use of the said Town, and managed by a Company of persons, to be appointed in manner, and to be governed and regulated by and subject to the several Rules, Forfeitures and Penalties as are prescribed and enacted in an Act passed in the Eighth Year of the Reign of His late Majesty King George the Fourth, intituled *An Act to authorize the formation of a Fire Engine Company for the Town of Charlottetown*, and of any Act or Acts to be made in amendment thereof.

V. And be it enacted, That each and every person keeping one or more Dogs, shall, on requisition duly made by the said Collector or Collectors respectively, give and subscribe a just and true account and return of each and every Dog kept by him or them for the aforesaid number of days, under a Penalty of Twenty Shillings, on proof being duly given by any such Collector or Collectors respective-

ly, that such requisition has been duly made, and that no return hath, within Fourteen Days from the period of such requisition, been given by the owner or owners of such Dog or Dogs.

VI. And be it enacted, That if any Collector appointed under this Act shall refuse to collect such Tax, or shall not duly account for the same in manner enjoined and required by this Act, every such Collector shall forfeit and pay for every such offence the sum of Two Pounds; besides being liable to be prosecuted at the suit of His Majesty, for all such sums as he may have collected and ought to have collected, with Costs of recovery—the same, if not exceeding Five Pounds, to be recovered in manner like Small Debts, with Costs, before any Justice of the Peace or Commissioner for the County or place wherein such default shall have happened; and if above the sum of Five Pounds, then to be recovered, with Costs, in the Supreme Court of Judicature.

Any Collector refusing to collect, or not accounting, to forfeit for each offence £2,

and liable to prosecution for the amount by him received, or which he ought to have collected.

Mode of recovery.

VII. And whereas a practice has prevailed of allowing Bitches during the season of their being in heat, to run at large; Be it enacted, that every person owning or keeping a Bitch, who shall suffer such Bitch to run at large during the season of her being so affected, thereby collecting a number of Dogs, every such person, for each and every such offence, shall forfeit and pay a Penalty of Twenty Shillings.

The owner or keeper of any Bitch running at large during the season of heat, to forfeit 20s.

VIII. And be it enacted, That from and after the passing of this Act, if any person quietly passing through or along the Streets, Squares, Roads or other parts of this Island, shall have been attacked and bitten by any Dog, on complaint made before any Justice of the Peace appointed for the County where such person shall have been so attacked and bitten, accompanied by sufficient proof of the injury sustained, the said Justice shall forthwith order the owner or keeper of the said Dog to destroy him; and

Justice of the Peace may order the owner of any Dog that shall bite any person, to destroy such Dog within 24 hours;

and on neglect or refusal to do so, may fine him 2s. for every day the Dog remains undestroyed; owner, &c. also liable to damages and expenses.

Mode of recovery of damages and expenses.

Appropriation of fines & damages.

Person injured to be a competent witness.

Appropriation of fines not hereinbefore appropriated.

Mode of recovery of Tax, fines and penalties.

if he shall refuse or neglect to do so within Twenty-four hours after such Order has been served upon him, the said owner or keeper of such Dog shall forfeit and pay the sum of Two Shillings for each and every day such Dog shall be allowed to remain undestroyed; and besides shall be compelled to pay all damages and expenses the injured party may have sustained; which damages and expenses may be sued for and recovered, if not exceeding Five Pounds, before any one of His Majesty's Justices of the Peace appointed for the County in which the owner of such Dog may reside; but if the said damages and expenses shall exceed the said sum, then and in such case to be recovered by Action in His Majesty's Supreme Court of Judicature; and all damages, fines and penalties, that shall or may be recovered by any person who shall have been so attacked and bitten by any such Dog, shall be paid over to him or her as a compensation for the injury sustained; and every person so injured shall be a competent Witness to prove such injury, and the conviction thereupon shall be allowed as evidence of the fact of the injury having been sustained, in any Action for damages as aforesaid.

IX. And be it enacted, That all Fines and Penalties levied and recovered under and by virtue of this Act, if not otherwise appropriated by the foregoing Clauses, shall be appropriated to the same purposes as the Tax hereby levied, and in the respective Districts or Places where such Fines and Penalties shall or may respectively be incurred.

X. And be it enacted, That all sums of money intended to be raised and levied under the authority of this Act, whether arising from the Tax on Dogs, Fines or Penalties, may be sued for and recovered in a summary way, before any one of His Majesty's Justices of the Peace residing in the County in which such Tax shall become due, or the Fines or Penal-

ties shall be incurred respectively, and shall be recovered in the manner prescribed by the Act passed in the Second Year of the Reign of His present Majesty, intituled *An Act to consolidate and amend the several Acts of the General Assembly therein mentioned relating to the Recovery of Small Debts*: Provided always, that no Imprisonment under the authority of this Act shall be for a less period than Ten Days, nor more than Twenty Days, after which the party imprisoned shall be forthwith discharged.

2 W. 4, C. 1

XI. And be it enacted, That this Act shall continue in force for the space of Three Years, and from thence to the end of the then next Session of the General Assembly, and no longer.

Continuance of Act.

Continued & amended by 3 Vict. C. 4.

CAP. XI.

An Act to provide for the conveyance of the Mails by means of Steam Navigation, and to repeal the Acts heretofore passed for that purpose.

1836

[18th April, 1836.]

BE it enacted, by the President, Council and Assembly, That when and so soon as the Administrator of the Government for the time being, by and with the advice and consent of His Majesty's Council, shall contract with any person or persons for the conveyance of the Mails, between *Charlottetown*, in this Island, and *Pictou*, in the Province of *Nova Scotia*, and from *Charlottetown* aforesaid to *Miramichi*, in the Province of *New Brunswick*, from the opening of the Navigation in the Spring until the closing thereof in each Year, by a good and sufficient Steam Vessel of at least Seventy Horse Power, having good accommodations

Administrator of Government may contract for the conveyance of the Mails to Nova Scotia and New Brunswick,

and pay Contractor an annual sum not exceeding £500.

for Passengers, and being properly equipped and manned; it shall and may be lawful for the Administrator of the Government for the time being, by and with the advice and consent of His Majesty's Council, to pay or cause to be paid out of the Public Treasury of this Island, to the person or persons so contracting as aforesaid, a sum not exceeding Five Hundred Pounds *per annum*, to be drawn for by Warrant of the Administrator of the Government for the time being on the Treasurer, and to be paid in such manner as payments shall be made from the Treasury at the respective times when such annual sums as aforesaid shall become due.

Annual allowance not to be paid to Contractor, if he shall receive from the Post Office any sum of money which may reduce the Revenue derived from the Post Office of this Island.

II. Provided always, and be it further enacted, That the said sum of Five hundred Pounds *per annum* shall not be paid, if the person or persons so contracting shall be allowed or paid any sum or sums of money, either by the Post Office of this Island or the Post Office of *Nova Scotia*, if the same shall reduce the Revenue of this Island as at present collected.

Contractor to give security for performance of Contract.

III. And be it further enacted, That the said Contractor or Contractors shall enter into good and sufficient security for the performance of such Contract; and shall be bound to cause such Steam Vessel to be at *Pictou*, and ready to receive the Mail weekly, during the period herein-before mentioned, on its arrival there from *Halifax*, and immediately on receiving the same to proceed therewith to *Charlottetown*, and from thence to *Miramichi*, calling at *Charlottetown* on her return, for the purpose of taking and carrying the return Mails to *Pictou*.

Terms of contract.

Repeals Act of the 2 W. 4, c. 26,

IV. And be it further enacted, That an Act passed in the Second Year of His present Majesty's Reign, intituled *An Act to provide for the conveyance of the Mails, between Charlottetown and Pictou, by a Steam Vessel*; and an Act passed in

the Fourth Year of the Reign of His said Majesty, and Act of 4 W. 4, c. 13. intituled *An Act to regulate the conveyance of the Mails by a Steam Vessel, and to repeal an Act formerly passed for that purpose*, be, and the same are hereby respectively repealed.

V. And be it further enacted, That this Act shall be and continue in force for and during the space of Five Years from the passing hereof, and no longer. Continuance of Act.

CAP. XII.

An Act for the appointment of a Commissioner, to ascertain and determine the amount to be paid by this Island towards the support and maintenance of Light Houses.

[18th April, 1836.]

WHEREAS it is expedient to accept the liberal offer of His Majesty's Government, contained in the Despatch from the Right Honorable the Secretary of State for the Colonial Department, dated *Downing Street*, the Fourth day of *November*, One thousand eight hundred and thirty-five, to erect Light Houses on the Islands of *Scatari* and *St. Paul*, provided the Colonies whose Trade is to be benefited by the measure will engage to provide for the future maintenance of the same: Be it therefore enacted, by the President, Council and Assembly, that such person as may be appointed by the Administrator of the Government for the time being, shall be a Commissioner on the part of this Island, for the purpose of determining and deciding, jointly with the Commissioners who shall be appointed for the same purpose by the Provinces of *Lower Canada*, *Nova Scotia* and *New Bruns-*

Administrator of Government may appoint Commissioner for this Island to determine with Commissioners of Lower Canada, Nova Scotia and New Brunswick, the sites of Light Houses on St. Paul's and Scatari Islands.

Duty of Commissioner.

wick, with respect to the fittest sites on the said Islands for the proposed Light Houses, and the sums of Money required for the erection of the same, as well as for their future support after they shall have been erected; and also to determine under what management and controul the yearly expenses of the said Light Houses ought to be placed, and to apportion the sums of Money which this Island ought to contribute annually towards the maintenance of the said Light Houses, according to the Tonnage of Vessels trading to or from this Province as compared to the Tonnage of Vessels trading to or from the other Provinces above mentioned, and to the benefit which each of the said Provinces respectively may be expected to derive from the said Light Houses.

Allowance to Commissioner.

II. And be it enacted, That the reasonable disbursements made by the said Commissioner in performing the duties hereby assigned to him, provided the same do not exceed Fifty Pounds, may be paid to the said Commissioner by Warrant issued under the hand of the Administrator of the Government, by and with the advice of His Majesty's Council, out of any Moneys which now are or hereafter may be in the Treasury of this Island.

Mode of payment of Commissioner.

Duty of Commissioner.

III. And be it enacted, That the said Commissioner shall lay a Report of his doings and proceedings under the authority of this Act before the Legislature of this Island, within the first Fifteen days of the Session next after the time when the business hereby assigned to him shall be brought to a close.

CAP. XIII.

An Act to amend the Law relating to the admission of Barristers, Attorneys and Solicitors; and to regulate the admission of Advocates and Proctors in the Courts of Vice Admiralty and Court of Probate in this Island.

[18th April, 1836.]

WHEREAS it is deemed expedient that the Act passed in the Fifty-seventh Year of the Reign of His late Majesty King George the Third, intituled *An Act to regulate the admission of Barristers, Attorneys and Solicitors*, should be amended: Be it enacted, by the President, Council and Assembly, that any persons who may before the passing of this Act have acted as Prothonotary, or served as Clerks in the Office of the Prothonotary of the Supreme Court of Judicature of this Island for the time being, for a term not less than Fifteen Years, and who may be otherwise qualified (service under articles excepted), as is required of Clerks to Attorneys and Solicitors by the said recited Act before they can be admitted to practice as Attorneys and Solicitors, shall be admitted as Attorneys and Solicitors in the same manner as the last mentioned Clerks are now by Law entitled to be.

57 G. 3, c. 4.

Any Prothonotary or person who may have served as Clerk to Prothonotary for 15 years before the passing of this Act, if qualified as this Act requires, may be admitted an Attorney, &c.

II. And be it further enacted, That no Registrar of the Court of Chancery, or Clerk in his Office, or Prothonotary of the said Supreme Court, or Clerk in his Office, whilst in the execution of the duties of such Office, shall be allowed to practice as a Barrister or Attorney, or Solicitor, in either of the said Courts.

No Registrar in Chancery, or Clerk in his office, or Prothonotary of Supreme Court, or Clerk in his office to practice as an Attorney or Solicitor in said Courts.

III. And be it further enacted, That the First Section of the said Act, intituled *An Act to regu-*

Repeals First Section of 57 G. 3, c. 4.

late the admission of Barristers, Attorneys and Solicitors, be and the same is hereby repealed.

Qualifications of persons applying to be admitted Attorneys, &c. in Supreme Court, or Court of Chancery.

IV. And be it further enacted, That from and after the passing of this Act, every person who shall apply to be admitted as an Attorney in the Supreme Court, or as a Solicitor in the Court of Chancery of this Island, (except as mentioned in the First Section of this Act) shall have served *bona fide* as an articled Clerk for the space of Five Years at least, in the Office of one of the Attorneys or Solicitors of the said Courts, or shall produce authentic documents to prove his having been called to the Bar in *Great Britain* or *Ireland*, or in the Colonies, or of his having been admitted to practice as an Attorney or Solicitor in one of the Superior Courts of Law or Equity in *Great Britain* or *Ireland*, or in the Colonies: Provided always, that nothing herein contained shall be construed to prevent any person already articled at the time of the passing of this Act, as a Clerk to any Attorney or Solicitor of the said Courts of this Island, from applying for his admission as an Attorney or Solicitor in the said Courts, if he shall have served *bona fide* Four Years in the Office of any such Attorney or Solicitor, and shall be otherwise qualified, as is expressed and declared by the said Act, and this Act.

Not to prevent Clerks articled before the passing of this Act, from being admitted Attorneys, &c. after Four years service.

Qualification of Barristers.

V. And be it further enacted, That no person shall be admitted to practice as Barristers in any Court of Law or Equity in this Island, until they shall have been One Year at least practising Attorneys or Solicitors of such Courts, or of some one of the Superior Courts of Law or Equity in *Great Britain* or *Ireland*, or of the Colonies.

VI. And whereas Commissions have lately been received, constituting Courts of Vice Admiralty in this Colony, with Civil and Criminal Jurisdiction, and it is necessary that regulations should be provi-

ded for the admission of Advocates and Proctors in these Courts, and also in the Court of Probate:

Be it therefore enacted, That all persons who now are or hereafter may be admitted as Barristers, Attorneys or Solicitors of any Court of Law or Equity in this Island, may practice as Advocates and Proctors in the said Courts of Vice Admiralty and Court of Probate, and shall be admitted as such Advocates and Proctors, under the same Rules and Regulations in all respects as Barristers and Attorneys may be admitted under the said recited Act, and this Act.

Barristers, Attorneys or Solicitors of any Court of Law or Equity, may practice as Advocates and Proctors in the Courts of Vice Admiralty and Court of Probate.

CAP. XIV.

An Act to authorize the Sale of a Building heretofore used as an Episcopal Church in *Charlottetown*.

[18th April, 1836.]

WHEREAS a new Church hath been erected in *Charlottetown* by the Members of the Episcopal Congregation, and the Pew Owners of the Building heretofore used as an Episcopal Church have prayed that an Act may be passed authorizing the sale of the said Building: Be it therefore enacted, by the President, Council and Assembly, that it shall and may be lawful for the Trustees named in the Grant of the site of the said Building heretofore used as a Church, or the major part of them, to sell and dispose of the said Building, by Public Auction, to the highest bidder, (giving at least Thirty Days notice of such Sale in the *Royal Gazette* Newspaper, published in *Charlottetown*), and one condition of which Sale shall be, that the purchaser or purchasers shall, at his or their own expense,

Authorizes the Sale of a building heretofore used as an Episcopal Church in *Charlottetown*.

Mode of Sale.

Condition of sale.

Appropriation of
proceeds of Sale.

pull down, remove, take and carry away the same, and every part thereof, and fill up and level any inequalities that may be on the site thereof—and the said Trustees, after deducting all reasonable charges incurred by them in such Sale, shall divide the proceeds of the sale of the said Building among the persons owning Pews therein at the time of such Sale, according to their several and respective interests therein.

Vests the Site,
&c. in the Crown.

II. And be it further enacted, That from and after such Sale, and removal of the said Building, the Site, Ground and Soil whereon the same is situate, together with the residue of the Ground and Soil described in the said original Grant, shall belong to, remain and be vested in His Majesty, His Heirs and Successors, in as full and ample a manner as if the said Grant had not been made.

CAP. XV.

An Act relating to the Abolition of Oaths in the United Kingdom of *Great Britain and Ireland*, and other places out of this Island.

[18th April, 1836.]

WHEREAS by the Laws of this Island it is required that proof of the Execution of all Deeds, Powers of Attorney, and other Writings relating to Lands, Tenements or Hereditaments situate in this Island, if executed out of the same, shall be made on the Oath of some Witness to the Execution thereof, or on acknowledgment of an executing party, before the same shall be registered in this Island; and also that Arrests for Debt must in all cases be grounded on an Affidavit of the cause of

action—except that in every case where an Affidavit is required as above mentioned, the Affirmation of a *Quaker* shall have the same effect: And whereas by an Act of the Imperial Parliament of the United Kingdom of *Great Britain and Ireland*, made and passed in the Sixth Year of the Reign of His present Majesty, intituled *An Act to repeal an Act of the then present Session of Parliament, intituled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths,'* the Declaration substituted in the said Act is made equivalent to an Oath in certain cases within the said United Kingdom, and it is necessary that such Declaration or any other substitution for an Oath, should have the effect of an Oath in the cases herein-before recited, with respect to the Registry of Deeds and other Writings, and Arrests for Debt, when made in any place out of this Island, where the same shall in such place at the time they are made have by Law the force and effect of an Oath—Be it therefore declared and enacted, by the President, Council and Assembly, that the Declaration in lieu of an Oath mentioned in the said recited Act, or any other substitution for an Oath, shall, for the purpose of proving Deeds and Writings at the Offices for Registry thereof in this Island, or for authorizing an Arrest for Debt within the same, or for any other purpose where an Oath was heretofore required to be made out of this Island before the same could be lawfully done, and when the same shall be made in any place out of this Colony where such Declaration or substitution shall at the time it is made have the force and effect of an Oath, then and in every such case, such Declaration or other substitution for an Oath shall in this Island be equi-

Declaration in lieu of Oath made in Great Britain or Ireland, under Act of Imperial Parliament, to be as effectual for the purpose of Registering Deeds, &c. in this Island, as if Oath had been made as heretofore in such cases.

valent to an Oath or Affidavit duly made and sworn in any such place out of this Island—any thing contained in the Laws of this Island to the contrary notwithstanding.

CAP. XVI.

An Act concerning the Registration of certain Original Grants or Patents of Lots or Townships of Land in this Island.

[18th April, 1836.]

WHEREAS many of the Original Grants or Patents of the different Lots or Townships of Land within this Island are enregistered in the Books of the Office of Secretary and Registrar in the Province of *Nova Scotia*, of which Province this Island at the time of such Registration formed a part; and whereas a bound Volume containing authenticated Copies of such Registration, together with an Index to the same, has been furnished to the Office of Secretary and Registrar of this Island, from that of the Province of *Nova Scotia*, which authenticated Copies it is desirable should be made to form part of the Registry of this Island: Be it therefore enacted, by the President, Council and Assembly, that the authenticated Copies of the Original Grants or Letters Patent of the several Lots or Townships of Land in this Island, furnished by the Secretary and Registrar of the Province of *Nova Scotia*, and certified by him, and now in the custody and possession of the Secretary and Registrar of this Island, shall be deemed and taken as part of the Registry of this Island.

Copies of original Grants of Lots or Townships in this Island registered in *Nova Scotia*, now in possession of Registrar of this Colony, to be deemed part of the Registry thereof.

II. And be it further enacted, That Copies of such Grants or Letters Patent, duly certified by the Secretary and Registrar of this Island, shall be received and read in evidence in all Courts of Law or Equity in this Island, in all cases wherein authenticated Copies can or may be read; and shall have the same force and effect as if the said Original Grants or Letters Patent had been from the first enregistered in the Books of the Registry kept by the Secretary and Registrar of this Island—any Law, usage or custom to the contrary notwithstanding.

Such copies to be received in evidence in all cases wherein authenticated copies can be read.

CAP. XVII.

An Act relating to the Office of Administrator of the Government for the time being.

[18th April, 1836.]

WHEREAS doubts have arisen whether the power and authority vested in the Lieutenant Governor, under and by virtue of various Acts of the General Assembly of this Island, extend to any other person who may be in the Administration of the Government for the time being: Be it therefore enacted, by the President, Council and Assembly, That in all cases where any power or authority is or may be given to the Lieutenant Governor by any Act or Acts of the General Assembly of this Island, the same shall be construed to extend to the person who may be in the Administration of the Government for the time being.

Any power given to Lieut. Governor in any Act of this Island, to be construed to extend to Officer administering the Government for the time being.

CAP. XVIII.

An Act to continue for a limited period an Act passed in the First Year of the Reign of His present Majesty, intituled *An Act to establish a Reward for the Destruction of Bears and Loupcerviers.*

[18th April, 1836.]

Continues
1 W. 4, c. 14,
for Seven years,
and to the end of
the then next Ses-
sion of General
Assembly.

BE it enacted, by the President, Council and Assembly, That an Act passed in the First Year of the Reign of His present Majesty, intituled *An Act to establish a Reward for the destruction of Bears and Loupcerviers*, be and the same is hereby continued in full force and effect for the space of Seven Years, and from thence to the end of the then next Session of the General Assembly, and no longer.

CAP. XIX.

An Act to alter and amend the Act relating to Licenses for retailing Strong and Spirituous Liquors.

[18th April, 1836.]

3 W. 4, c. 33.

Applicant for a
Tavern License
to enter into a
Bond.

WHEREAS it is deemed expedient to amend an Act made and passed in the Third Year of the Reign of His present Majesty *William the Fourth*, intituled *An Act to repeal the several Acts relating to Licenses for retailing Strong and Spirituous Liquors, and to make other provisions in lieu thereof*; Be it therefore enacted, by the President, Council and Assembly, that any person hereafter applying for a Tavern License shall, before the same is granted, enter into a Bond or Obli-

gation to His Majesty, His Heirs and Successors, whereby the person licensed, and one or more sufficient securities, to be approved by the Justices granting the Certificate, agreeably to the Second Clause of the before mentioned Act, shall become bound in the penal sum of Ten Pounds, with condition that he, she or they shall, at all times, keep and maintain good order in the House of Entertainment for which such License shall be granted; and such Bond or Obligation shall be according to the form therefor contained in the Schedule to this Act annexed; and any Two Justices of the Peace for the Town or County wherein such Tavern or Inn may be situate, shall, on their own view, or on the oath of one or more credible Witness or Witnesses, have power to enforce payment of the said Bond with Costs; and the Penalty and Costs may be recovered before them in the same manner as Small Debts exceeding Forty Shillings may now by Law be recovered; and for which Bond the sum of Three Shillings and Four-pence, and no more, shall be taken by the Justice who may prepare and witness the Execution thereof, and who shall be one of the Justices granting the Certificate before mentioned; and such Bond, with the Certificate hereinbefore mentioned, shall be left with the Colonial Secretary at the time of obtaining License.

Penalty in Bond.

Condition of Bond.

Mode of enforcing Bond.

Fee to Justice for Bond.

II. And be it enacted, That if any person or persons, except such as shall have obtained a Tavern License, shall hereafter sell or retail any distilled Spirituous Liquors in quantities less than one quart, or shall suffer any such Liquors sold by him, her or them, to be drunk in his, her or their store, house, shop, booth or other premises, he, she or they shall forfeit and pay for the first offence the sum of Five Pounds, and for every other and subsequent offence the sum of Ten Pounds—to be recovered, together with Costs, in way and manner directed by the Thirteenth Section of the aforesaid Act: Pro-

Penalty on person not having a Tavern License, retailing Spirituous Liquors, &c. in quantities less than 1 quart, or permitting liquors to be drunk on his or her premises.

Not to extend to Licenses already granted.

vided always, that nothing in this Act contained shall be construed to prevent any person from retailing Spirituous Liquors in the terms of the License which such person may have obtained before the passing of this Act, during the continuance of such License and subject to the Laws now in force.

Repeals part of 3 W. 4, c. 33.

III. And be it enacted, That so much of an Act made and passed in the Third Year of His present Majesty, intituled *An Act to repeal the several Acts relating to Licenses for retailing Strong and Spirituous Liquors, and to make other provisions in lieu thereof*, as relates to Shop Licenses to retail in quantities less than one quart, be and the same is hereby repealed, subject to the foregoing Proviso.

Mode of payment of License Duty,

IV. And be it further enacted, That from and after the passing of this Act, no person shall be allowed to obtain a License for the retail of Spirituous Liquors, until he or she shall have paid unto the Treasurer of the said Island the amount of his or her License Duty; and upon every such payment, the said Treasurer is hereby directed and required to give a Receipt therefor, which the said person applying for such License shall produce on making such application; and that when and so often as any person shall require a continuance of his or her License from year to year, he or she shall receive the same on payment of their License Duty, and by a Receipt therefor being annually endorsed on such License by the said Treasurer, who is hereby required to make such endorsement on the person requiring the same producing the Certificate, agreeably to the Second Clause of the said afore-mentioned Act, and such person shall not be required to take out a new License in each Year.

and continuance of License from year to year.

Application of Penalties.

V. And be it enacted, That one half of the Moneys arising from the several Penalties, Fines

and Forfeitures imposed by this Act, shall be paid into the hands of the Treasurer of this Island, to and for the use of His Majesty's Government, and the other half shall belong and be paid to him, her or them who shall inform and sue for the same.

VI. And be it enacted, That all Prosecutions in pursuance of this Act, and of the Act of which this is an amendment, for Penalties, Fines and Forfeitures, shall be commenced within Three Calendar Months after the same shall have been incurred; and in computing the time, the day on which the offence shall have been committed shall be considered as the first—any thing contained in the said recited Act to the contrary notwithstanding.

Prosecutions for Fines under this Act and Act of 3 W. 4, to be commenced within Three Calendar Months.

VII. And be it further enacted, That it shall be considered (amongst other things) to be disorderly conduct, within the meaning of this Act, if any Tavern or Innkeeper shall, knowingly, permit or suffer on his or her premises, by any guest or guests, Card or Dice playing, Raffling, Shuffleboard, Skittles, or any other game of chance, or shall furnish intoxicating drink to any person or persons then evidently in a state of inebriation, or shall himself or herself be openly and repeatedly intoxicated, or shall unnecessarily keep his or her Tavern or Inn open at late and unseasonable hours, or shall permit guests in his or her Tavern or Inn to quarrel and fight, or become otherwise riotous and guilty of breaking the Peace, without giving speedy information thereof to the proper Authorities, and using all requisite endeavours to bring the offenders to Justice.

What shall be deemed disorderly conduct within the meaning of this Act.

VIII. And be it further enacted, That all persons deeming themselves aggrieved at the sentence or determination of the Justices, relative to any of the offences before mentioned, may appeal therefrom to His Majesty's Supreme Court; provided such appeal be prayed in Forty-eight Hours, and security given in manner as the Law in such cases directs in regard to the Recovery of Small Debts.

Party aggrieved may appeal from sentence of Justices to Supreme Court.

SCHEDULE to which this Act refers.

Form of Bond.

KNOW all men by these Presents, that We are held and firmly bound unto our Sovereign Lord *William* the Fourth, by the Grace of God, of the United Kingdom of *Great Britain* and *Ireland*, King, Defender of the Faith, His Heirs and Successors, in the sum of Ten Pounds lawful currency of this Island, to which payment we jointly and severally bind ourselves, our Heirs, Executors and Administrators, firmly by these presents: In Witness whereof we have hereunto set our Hands and Seals, this day of in the Year of our Lord One thousand eight hundred and

Whereas the above bounden is about to apply for a License for the sale by retail of fermented or distilled Spirituous Liquors in the Tavern or House of Public Entertainment kept by the said
in

Now the condition of the foregoing Obligation is such, that if the above bound shall obtain a License as aforesaid, and shall in no way or manner, at any time, offend against or violate, but at all times well and truly comply with and yield obedience to all and singular the Regulations and Provisions of the Act or Acts of the General Assembly of this Island made in relation to persons licensed to sell Liquors by such Tavern License aforesaid, and shall keep and maintain good order in the Tavern or House of Entertainment which the said has been licensed to keep, then and in such case the foregoing Bond or Obligation to be null and void, otherwise to be and remain in full force and effect.

Signed, sealed and delivered }
this day of 183 . }

CAP. XX.

An Act to regulate the manner of proceeding upon contested Elections of Members to serve in the General Assembly.

[18th April, 1836.]

BE it enacted, by the President, Council and Assembly, That no Petition against the Election or the Return of any Member to serve in the House of Assembly shall be received after the expiration of Six days after that appointed for the opening of the Colonial Parliament for the dispatch of business, or after the expiration of Six days next after that on which the Return of the Election of such Member shall have been notified to the House, nor unless it be signed by at least Six Electors (being duly qualified according to Law) of the County, or Town and Royalty, within this Island, for which the contested Election or Return shall have been held or made—and the legal qualification of such Electors shall be certified by them on Oath before any Justice of the Peace, who is hereby authorized to administer such Oath in the form prescribed by Law of this Island; and a Certificate of the taking such Oath, under the hand of such Justice of the Peace, shall be annexed to the Petition, which shall not be received if this form be not observed—and every such Petition shall set forth the allegations and reasons by which such Petition is to be supported; and if the House of Assembly shall resolve that the said allegations and reasons, if well founded, are sufficient to render such Election or Return void, it shall appoint a day for taking the Petition into consideration, and the day shall be such as to afford sufficient time for the Parties and Witnesses to attend before the House or Committee, according to the distance of the place whence they

No Petition against the return of a Member of Assembly to be received after Six days from the opening of the Session,

nor unless signed by Six Electors.

Qualification of such Electors to be certified on Oath, &c.

Certificate to be annexed to Petition.

Requisites of Petition.

Mode of proceeding by Assembly to try the same.

are to come, and the same shall be notified by the Clerk of the House, as well to the sitting Member or Members whose Election or Return shall be contested, as to the Petitioners; and the House of Assembly shall proceed to hear, try and determine such Contestation during the Session in which it shall be commenced, or during any subsequent Session of the same House, if it cannot be determined during that in which it is so commenced.

Petitioner to enter into a Bond before Speaker or a Justice of Supreme Court.

Penalty of principal in Bond.

Penalty of Sureties in Bond.

Conditions of Bond.

Sureties to justify.

Mode of justification.

Gives a remedy to Surety who shall have paid Money on Bond, against Principal or Co-Surety.

II. And be it further enacted, That no such Petition shall be received unless it be accompanied by a Bond, in due form entered into before the Speaker of the House of Assembly, or before one of the Judges of the Supreme Court of Judicature—by which Bond the Petitioner or Petitioners shall bind himself or themselves under a Penalty of One hundred Pounds, with two good and sufficient Sureties under a Penalty of Fifty Pounds each, to appear and prosecute their complaint, and to pay such sum of money as the House of Assembly shall adjudge to the person or persons against whom such complaint shall have been made, if the Petitioner or Petitioners shall fail; and the said Sureties shall, at the time of their signing the said Bond (which shall be in the form of the Schedule hereunto annexed,) justify their sufficiency on oath before the said Speaker (who is hereby authorized to administer such Oath), or before the said Judge who shall receive such Bond, and shall certify the whole under his hand.

III. And be it further enacted, That any Surety who shall have paid any sum of money by reason of the forfeiture of any such Bond, shall be entitled to have such sum reimbursed to him, as well by his co-surety for his portion, as by the Petitioner or Petitioners.

IV. And be it further enacted, by the authority aforesaid, That the Petitioners shall, within a time

to be fixed by the House, place in the hands of the Clerk thereof a list of the Witnesses whom they intend to call, and the opposite party shall do the like within the same time; and it shall be the duty of the Speaker to issue an Order under his hand, addressed to the Sergeant at Arms attending the House of Assembly, or his Deputies, enjoining him or them to summon the Witnesses named in such list to appear on the day and at the hour fixed for the Trial of the Contestation; and if such Witnesses, after being duly summoned, do not appear or give some sufficient excuse (of which the said House shall be judge), such of them as make default shall incur a Penalty which shall not exceed the sum of One hundred Pounds—the same to be recovered by Bill, Plaint or Information in any Court of competent Jurisdiction, and to be paid into the Treasury of this Island, to and for the use of His Majesty's Government: Provided always, that no Witness shall incur any Penalty, if such Petitioner or the Party summoning him shall (being thereto required) have refused to advance him at the rate of Three-pence *per* mile for each mile such Witness shall have to travel from his place of residence to attend before the Committee and return back again: Provided also, that each party shall deposit in the hands of the Clerk of the House the sum necessary to defray the expenses of summoning the Witnesses of such party, which shall be taxed by the Speaker of the House, saving to the House itself the right of deciding finally which of the parties shall pay the whole amount of such expenses.

Petitioner and sitting Member to furnish Clerk of Assembly with lists of their Witnesses.

Mode of summoning Witnesses.

Penalty on Witness not appearing.

Mode of recovery of Penalty.

Application of Penalty.

Witness to be first tendered Mileage.

Each party to deposit with Clerk of Assembly a sum sufficient to defray the expenses of summoning Witnesses, to be taxed by Speaker.

V. And be it further enacted, That when any Member shall have signified in writing under his hand to the Speaker, that he does not intend to contest the Petition presented against his Return, he shall not be admitted as a party against such Petition at any time or during the course of any

Sitting Member signifying in writing his intention not to contest Petition, not to be a party or allowed to sit or vote before decision.

subsequent proceedings, and shall not sit or vote in the House of Assembly at any time before the final decision of such Contestation.

Parties to exchange lists of Voters deemed objectionable.

VI. And be it further enacted, That the parties shall, within the delay mentioned in the First Section, exchange lists of all the Voters to whom either of them intend to object before the said House, with the reasons of such objection, and a statement of all other things and incidents on which either of them intends to insist or to contest before the said House.

Mode of trial of Contested Elections.

VII. And be it further enacted, That in all Contestations brought before the House of Assembly relative to Elections, the House shall refer the taking of the Inquest to a Committee of the whole House, out of which the Chairman shall be appointed; and the Chairman and Members shall be sworn by the Clerk of the House, who is hereby authorized to administer such Oath; and the Oath of the said Chairman and of the Members of the said Committee shall be "to inquire diligently and without favor or partiality, into the facts relative to the order of reference, and to make a true and faithful Report of the Inquest by them taken, and of their opinion thereon."

Mode of examination of Witnesses.

VIII. And be it further enacted, That the Witnesses shall remain outside of the House, and that when they shall be called in, they shall, before they are examined, be sworn at the Bar by the Clerk of the House: Provided always, that when any Member of the House shall be a Witness, he may be sworn and examined in his place.

Speaker's certificate of Costs to be evidence in any Court in favor of person to whom granted.

IX. And be it further enacted, That after the House shall have decided the contested Election, it shall determine the amount of the Costs incurred in consequence of the same, and the Speaker shall cer-

tify the amount under his hand; and such Certificate shall be evidence of such Costs. in favor of those to whom they shall have been adjudged by the House, in any Court having authority to award Judgment and Execution for the same: Provided always, that if the Election of one or more Members shall be declared void by the said House, only by reason of facts which shall have happened without the knowledge, participation or consent of such Member or Members, he or they shall not be condemned to pay any part of the Costs.

Sitting Member not to be condemned in Costs, if Election be declared void in consequence of facts not within his knowledge.

X. And be it further enacted, That every person who shall be guilty of wilful Perjury, in giving any evidence after being sworn under the authority of this Act, shall be liable to the Pains and Penalties attached by the Laws in force in this Colony for the crime of wilful and corrupt Perjury.

Punishment for Perjury under this Act.

XI. And be it further enacted, That no question concerning any Election shall be agitated, discussed or decided, unless the number of Members required by the Rules of the House be then present.

No Contested Election to be decided unless the number of Members required by Rules of the House be present.

XII. And be it further enacted, That this Act shall continue in force for the space of Three Years from the passing thereof, and from thence to the end of the then next Session of the General Assembly, and no longer.

Continuance of Act.

*Continued by
Bill of 1839*

SCHEDULE.

FORM OF BOND.

Form of Bond. **BE** it known, that on the _____ day of _____ in the Year of our Lord One thousand eight hundred and _____ personally appeared before me _____ who separately acknowledged themselves to owe as follows, (that is to say) **A. B.** the sum of _____ Pounds, and **C. D.** and **E. F.** each the sum of _____ Pounds, to be levied on their Goods and Chattels moveable, and of their Lands and Possessions respectively, for the use of our Lord the King, or of the person to whom the same shall appertain, in consequence of a Petition, to be presented to the House of Assembly, against the legality of a certain Election of a Member (*or Two or more Members, as the case may be*) to serve in the Assembly, if the Conditions herein-after mentioned be not performed.

Now the conditions of this Bond are such, that if the persons so petitioning shall duly appear before the said House of Assembly, at such time as shall be appointed by it for taking their Petition into consideration, and shall prosecute the Contestation to the final decision thereof, or until it shall be otherwise determined with the permission of the said House, and shall pay such Costs as shall be adjudged by the said House, to the person or persons sustaining damage by reason of such Petition, then this Bond shall be void, otherwise it shall remain in full force and virtue.

Signatures.

CAP. XXI.

An Act to improve the Administration of Justice in Criminal Cases.

[18th April, 1836.]

WHEREAS it is deemed expedient to improve the Administration of Justice in Criminal Cases in this Island; Be it enacted, by the President, Council and Assembly, That where any person shall be taken on a charge of Felony, or suspicion of Felony, before one or more Justice or Justices of the Peace, and the charge shall be supported by positive and credible evidence of the fact, or by such evidence as, if not explained or contradicted, shall, in the opinion of the Justice or Justices, raise a strong presumption of the guilt of the person charged, such person shall be committed to Prison by such Justice or Justices, in the manner hereinafter mentioned; but where the evidence given in support of the charge shall, in the opinion of such Justice or Justices, not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal, or such evidence shall be adduced on behalf of the person charged, as shall, in his or their opinion, weaken the presumption of his or her guilt, but there shall notwithstanding appear to him or them, in either of such cases, to be sufficient ground for judicial inquiry into his or her guilt, the person charged shall be admitted to Bail by such Justice or Justices, in the manner hereinafter mentioned: Provided always, that nothing herein contained shall be construed to require any such Justice or Justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to him or them to be meet and conducive to the ends of Justice to hear the same.

Who may be admitted to Bail on a charge of Felony, and who may not.

Before any Person charged with Felony, &c. shall be Bailed or Committed, the Justices shall take down in writing the examination, &c. and bind Witnesses to appear at the Trial.

II. And be it further enacted, That such Justice or Justices, before he or they shall commit to Prison, or admit to Bail, any person arrested for Felony, or on suspicion of Felony, Misdemeanor; or suspicion thereof, shall take the Examination of such person, and the Information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or so much thereof as shall be material, into writing, and shall certify such Bailment in writing; and every such Justice shall have authority to bind, by Recognizance, all such persons as know or declare any thing material touching any such Felony, or suspicion of Felony, Misdemeanor, or suspicion thereof, to appear at the next Supreme Court, or Court of Oyer and Terminer and Jail Delivery, or Sessions of the Peace, at which the Trial thereof is intended to be, then and there to prosecute or give evidence against the party accused; and such Justice or Justices respectively shall subscribe all such Examinations, Informations, Bailments and Recognizances, and deliver or transmit the same to the proper Officer of the Court in which the Trial is to be, before or at the opening of the Court.

Examination, &c. to be delivered to the Court.

Supreme Court, or any Judge thereof, may admit to Bail any person charged with Felony, &c. without bringing the body before Court or Judge.

III. Provided always, and be it enacted, That any person charged with Felony, or suspicion of Felony, Misdemeanor, or suspicion thereof, may be admitted to Bail by order of the Supreme Court, or any one of the Judges of the same Court, without bringing the body of the person charged before such Court or Judge; and such Court or Judge may order to be transmitted to them or him the Evidence taken before the Justice or Justices of the Peace against the person charged, for the purpose of considering an application for Bail, without a Writ of *Certiorari* being issued for that purpose; and any Order for Bailment to be made by such Court or Judge, shall specify the number of Sureties and the amount in which Security is to be taken; and

Bailment by virtue of such order may be made by any Justice or Justices of the Peace of the County or place where the person charged may be in custody, which Justice or Justices shall require good and sufficient Bail, to the number and amount specified in the Order, and shall certify the Bailment in writing, and subscribe the same, and deliver or transmit the same, together with the Order for Bailment, to the proper Officer of the Court in which the Trial is to be, before or at the opening of the Court.

IV. And be it enacted, That every Coroner Duty of Coroner. upon any Inquisition taken before him, whereby any person shall be indicted for Manslaughter or Murder, or as an Accessary to Murder before the fact, shall put in writing the Evidence given to the Jury before him, or as much thereof as shall be material; and shall have authority to bind by Recognizance all such persons as know or declare any thing material touching the said Manslaughter or Murder, or the said offence of being Accessary to Murder, to appear at the next Supreme Court, or Court of Oyer and Terminer and Jail Delivery, at which the Trial is to be, then and there to prosecute or give evidence against the party charged; and every such Coroner shall certify and subscribe the same Evidence and all such Recognizances, and also the Inquisition before him taken, and shall deliver or transmit the same to the proper Officer of the Court in which the Trial is to be, before or at the opening of the Court.

V. And be it enacted, That if any Justice or Coroner shall offend in any thing contrary to the true intent and meaning of these Provisions, the Court, to whose Officer any such Examination, Information, Evidence, Bailment, Recognizance, or Inquisition ought to have been delivered, shall, Penalty on Justices and Coroners.

upon examination and proof of the offence in a summary manner, set such Fine upon every such Justice or Coroner as the Court shall think meet.

Felony to be tried in Supreme Court, or Court of Oyer and Terminer, except in cases where power is given to other Courts by Statute.

VI. And be it enacted, That every Felony shall be tried and determined in the Supreme Court, or Court of Oyer and Terminer and Jail Delivery, except in cases where power may be specially given by Act or Statute to any other Court to try and determine any Felony.

Accessory before the fact may be tried as such, or as a substantive Felon, by any Court which has jurisdiction to try the principal Felon, although the offence be committed on the Seas or abroad.

VII. And for the more effectual prosecution of Accessories before the fact of Felony, Be it further enacted, that if any person shall counsel, procure or command any other person to commit any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes, Act or Acts of Assembly, made or to be made, the person so counselling, procuring or commanding shall be deemed guilty of Felony, and may be indicted and convicted, either as an Accessory before the fact to the principal Felony, together with the principal Felon, or after the conviction of the principal Felon, or may be indicted and convicted of a substantive Felony, whether the principal Felon shall or shall not have been previously convicted, or shall or shall not be amenable to Justice, and may be punished in the same manner as any Accessory before the fact to the same Felony, if convicted as an Accessory, may be punished; and the offence of the person so counselling, procuring or commanding, howsoever indicted, may be inquired of, tried, determined and punished by any Court which shall have jurisdiction to try the principal Felon, in the same manner as if such offence had been committed at the same place as the principal Felony, although such offence may have been committed either on the high seas, or at any place on land, whether within His Majesty's Dominions or without; and that in case the principal Felony shall have been committed

within the body of any County, and the offence of counselling, procuring or commanding, shall have been committed within the body of any other County, the last mentioned offence may be inquired of, tried, determined and punished in either of such Counties: Provided always, that no person who shall be once duly tried for any such offence, whether as an Accessary before the fact, or as for a substantive Felony, shall be liable to be again indicted or tried for the same offence.

If offences be committed in different Counties, Accessary may be tried in either.

VIII. And for the more effectual prosecution of Accessaries after the fact to Felony, Be it further enacted, that if any person shall become an Accessary after the fact to any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes, Act or Acts of Assembly, made or to be made, the offence of such person shall be deemed Felony, and may be inquired of, tried, determined and punished by any Court which shall have jurisdiction to try the principal Felon, in the same manner as if the act by reason whereof such person shall have become an Accessary had been committed at the same place as the principal Felony, although such act may have been committed either on the high seas, or at any place on land, whether within His Majesty's Dominions or without; and that in case the principal Felony shall have been committed within the body of any County, and the act by reason whereof any person shall have become Accessary shall have been committed within the body of any other County, the offence of such Accessary may be inquired of, tried, determined and punished in either of such Counties: Provided always, that no person who shall be once duly tried for any offence of being an Accessary, shall be liable to be again indicted or tried for the same offence.

Accessary after the fact may be tried by any Court which has jurisdiction to try the principal Felon.

If the offence be committed in different Counties, Accessary may be tried in either.

IX. And in order that all Accessaries may be convicted and punished, in cases where the principal

Accessary may be prosecuted after conviction

of the principal, though the principal be not attainted.

Felon is not attainted, Be it enacted, that if any principal offender shall be in any wise convicted of any Felony, it shall be lawful to proceed against any Accessary, either before or after the fact, in the same manner as if such principal Felon had been attainted thereof, notwithstanding such principal Felon shall die or be pardoned, or otherwise delivered before Attainder; and every such Accessary shall suffer the same punishment, if he or she be in any wise convicted, as he or she should have suffered if the principal had been attainted.

Offences committed on the boundaries of Counties may be tried in either County.

X. And for the more effectual prosecution of offences committed near the Boundaries of Counties, or partly in one County and partly in another, or in places in respect to which it may be uncertain within which of two Counties they are situate—Be it enacted, that where any Felony or Misdemeanor shall be committed on the Boundary or Boundaries of two Counties, or within the distance of one mile from any such Boundary or Boundaries, or in any place or places with respect to which it may be uncertain within which of two Counties they may be situate, or where any Felony or Misdemeanor shall be begun in one County and completed in another, every such Felony or Misdemeanor may be dealt with, inquired of, tried, determined and punished in either of the said Counties, in the same manner as if it had been actually and wholly committed therein.

Offences committed during a journey or voyage may be tried in any County through which the Coach, &c. passed.

XI. And for the more effectual prosecution of offences committed during Journeys from place to place, Be it enacted, that where any Felony or Misdemeanor shall be committed on any person, or on or in respect of any property in or upon any Coach, Waggon, Cart, Sleigh, Sled, or other Carriage whatever, employed in any journey, or shall be committed on any person, or on or in respect of any property on board any Vessel, Lighter, Boat

or Canoe whatever, employed on any voyage or journey upon any navigable river, canal or inland navigation, or on or in respect of any property in, upon, or forming part of any Raft whatever, passing in or upon any such navigable river, canal or inland navigation, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined and punished in any County through any part whereof such Coach, Waggon, Cart, Sleigh, Sled, Carriage, Vessel, Lighter, Boat, Canoe or Raft shall have passed in the course of the journey, voyage or passage during which such Felony or Misdemeanor shall have been committed, in the same manner as if it had been actually committed in such County; and in all cases where the side, centre, or other part of any highway, or the side, bank, centre, or other part of any such river, canal or navigation shall constitute the Boundary of any two Counties, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined and punished in either of the said Counties, through or adjoining to or by the Boundary of any part whereof such Coach, Waggon, Cart, Sleigh, Sled, Carriage, Vessel, Lighter, Boat, Canoe or Raft shall have passed in the course of the journey, voyage or passage during which such Felony or Misdemeanor shall have been committed, in the same manner as if it had been actually committed in such County.

XII. And in order to remove the difficulty of stating the names of all the owners of property in the case of partners, and other joint owners, Be it enacted, that in any Indictment or Information for any Felony or Misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and

In Indictments for offences committed on the property of Partners, it may be laid in any one Partner by name, and others.

to state such property to belong to the person so named, and another or others, as the case may be; and whenever in any Indictment or Information for any Felony or Misdemeanor, it shall be necessary to mention for any purpose whatsoever any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid—and this Provision shall be construed to extend to all Joint Stock Companies and Trustees.

Property belonging to the Government, or to Counties, &c. may be laid in the Government or Inhabitants of the County.

XIII. And with respect to the property of the Government of this Island or of Counties, Be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed in, upon, or with respect to any Bridge, Wharf, Court House, Jail, House of Correction, Infirmary, Asylum, or other Building, erected, or hereafter to be erected, or maintained in whole or in part at the expense of the said Government, or of any County, or on or with respect to any Goods or Chattels whatsoever, provided for, or at the expense of the said Government, or of any County, to be used for building, altering or repairing any Bridge, Wharf, Court House, or other such Building as aforesaid, or to be used in or with any such Bridge, Wharf, Court House or other Building, it shall be sufficient to state any such property, real or personal, to belong to the said Government, or to the Inhabitants of any such County, as the case may be; and it shall not be necessary to specify the names of any of such Inhabitants.

Property under the management of public Officers may be laid in the name of such Officers.

XIV. And with respect to property under the management of Public Officers, Be it enacted, that in any Indictment or Information for any Felony or Misdemeanor committed on or with respect to any Building, or any Goods and Chattels, or any other property, real or personal, whatsoever, in the occupation of or under the superintendance, charge or management of any Public Officer or Commissioner

whatsoever, or of any County or Parish Officer or Commissioner whatsoever, it shall be sufficient to state any such property to belong to the Officer or Officers, Commissioner or Commissioners, in whose occupation, or within or under whose superintendance, charge or management such property shall be; and it shall not be necessary to specify the names of any of such Officers or Commissioners.

XV. And for preventing abuses from dilatory Pleas, Be it enacted, that no Indictment or Information shall be abated by reason of any dilatory Plea of misnomer or want of addition, or of wrong addition, of the party offering such Plea, if the Court shall be satisfied by Affidavit or otherwise of the truth of such Plea; but in such case the Court shall forthwith cause the Indictment or Information to be amended, according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory Plea had been pleaded.

Indictment not to abate by dilatory plea of misnomer, &c.

XVI. And that the punishment of offenders may be less frequently intercepted in consequence of technical niceties, Be it enacted, that no Judgment upon any Indictment or Information for any Felony or Misdemeanor, whether upon Demurrer or after Verdict or Outlawry, or by Confession, Default or otherwise, shall be given in favour of any Prisoner or Defendant, or stayed or reversed, for want of the averment of any matter unnecessary to be proved; nor for the omission of the words "as appears by the Record," or of the words "with force and arms," or of the words "against the Peace," nor for the insertion of the words "against the form of the Statute or Act of Assembly," instead of the words "against the form of the Statutes or Acts of Assembly," or *vice versa*; nor for that any person or persons mentioned in the Indictment or Information is or are designated by a name of office or other descriptive

What defects shall not vitiate an Indictment after verdict or otherwise.

appellation, instead of his, her or their proper name or names; nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence; nor for stating the time imperfectly; nor for stating the offence to have been committed on a day subsequent to the finding of the Indictment or exhibiting the Information, or on an impossible day, or on a day that never happened; nor for want of a proper or perfect venue, where the Court shall appear by the Indictment or Information to have had jurisdiction over the offence.

What shall not be sufficient to stay or reverse judgment after the verdict.

XVII. And be it enacted, That no Judgment after Verdict upon any Indictment or Information for any Felony or Misdemeanor, shall be stayed or reversed for want of a *similiter*, nor by reason that the Jury process has been awarded to a wrong Officer upon an insufficient suggestion, nor for any misnomer or misdescription of the Officer returning such process, or of any of the Jurors, nor because any person has served upon the Jury who has not been returned as a Juror by the Sheriff or other Officer; and that where the offence charged has been created by any Act or Statute, or subjected to a greater degree of punishment by any Act or Statute, the Indictment or Information shall, after Verdict, be held sufficient to warrant the punishment prescribed by the Act or Statute, if it describe the offence in the words of the Act or Statute.

A plea of "Not Guilty," without more, shall put the prisoner on his trial by Jury.

XVIII. And be it enacted, That if any person being arraigned upon any Indictment for Treason or Felony, shall plead thereto a Plea of "Not Guilty," he shall by such Plea, without any further form, be deemed to have put himself upon the Country for Trial; and the Court shall in the usual manner order a Jury for the Trial of such person accordingly.

XIX. And be it enacted, That all persons who shall be tried for any offence whatsoever, before any Court of Record in this Island having Criminal Jurisdiction, shall be allowed to make full defence by Counsel, the same as in all Civil Causes or Trials.

Prisoner may make full defence by Counsel.

XX. And be it enacted, That if any person being arraigned upon or charged with any Indictment or Information for Treason, Felony or Misdemeanor, shall stand mute of malice, or will not answer directly to the Indictment or Information—in every such case, it shall be lawful for the Court, if it shall so think fit, to order the proper Officer to enter a Plea of “Not Guilty” on behalf of such person; and the Plea so entered shall have the same force and effect as if such person had actually pleaded the same.

If he refuse to plead, the Court may order a plea of “Not Guilty,” to be entered.

XXI. And be it enacted, That no Plea setting forth any Attainder shall be pleaded in bar of any Indictment, unless the Attainder be for the same offence as that charged in the Indictment.

Attainder for another crime, not pleadable.

XXII. And be it enacted, That where any person shall be indicted for Treason or Felony, the Jury empaneled to try such person shall not be charged to inquire concerning his Lands, Tenements or Goods, nor whether he fled for such Treason or Felony.

Jury shall not inquire of Prisoner's lands, &c. nor whether he fled.

XXIII. And be it enacted, That no person arraigned for any Felony shall be admitted to any peremptory challenge above the number of Twenty; and if any person indicted for any Treason or Felony shall challenge peremptorily a greater number of the men returned to be of the Jury than such person is entitled by Law so to challenge, every peremptory challenge beyond the number allowed by Law in the case then on Trial shall be entirely void, and the Trial of such person shall proceed as if no such challenge had been made.

Every challenge beyond the legal number shall be void.

Benefit of Clergy abolished.

XXIV. And be it enacted, That Benefit of Clergy with respect to persons convicted of Felony, shall be abolished; but that nothing herein contained shall prevent the joinder in any Indictment of any Counts which might have been joined before the passing of this Act.

What Felonies shall be capital.

XXV. And be it enacted, That no person convicted of Felony shall suffer Death, unless it be for some Felony which was excluded from the Benefit of Clergy before or on the First day of the present Session of the General Assembly, or which hath been or shall be made punishable with Death by some Act or Statute passed after that day.

Felonies not capital, punishable under the Acts (if any) relating thereto, otherwise under this Act.

XXVI. And be it enacted, That every person convicted of any Felony not punishable with Death, shall be punished in the manner prescribed by the Act or Acts, Statute or Statutes, specially relating to such Felony; and that every person convicted of any Felony for which no punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding Two Years; and in addition to such imprisonment, if the Court shall so think fit, to be either fined in such sum as the Court shall award, or (if a male) to be once, twice or thrice publicly whipped.

The Court may order hard labour or solitary confinement as part of the sentence of imprisonment.

XXVII. And with regard to the place and mode of Imprisonment for all Felonies; Be it enacted, that where any person shall be convicted of any Felony, for which Imprisonment may be awarded as a punishment, it shall be lawful for the Court to sentence the offender to be imprisoned in the Common Jail, and also to be kept to hard labour for the whole or any portion or portions of such Imprisonment; and also to direct that the offender shall be kept in solitary confinement for the whole, or any

portion or portions of such Imprisonment, or of such Imprisonment with hard labour, as to the Court in its discretion shall seem meet.

XXVIII. And be it enacted, That wherever sentence shall be passed for any offence on a person already under sentence of Imprisonment for another offence, it shall be lawful for the Court to award Imprisonment for the subsequent offence, to commence at the expiration of the Imprisonment to which such person shall have been previously sentenced, although the aggregate term of Imprisonment may exceed the term for which either of those punishments could be otherwise awarded.

If a person under sentence for another crime is convicted of Felony, the Court may pass a second sentence, to commence after the expiration of the first.

XXIX. And whereas it is expedient to provide for the more exemplary punishment of offenders who commit Felony, after a previous conviction for Felony, whether such conviction shall have taken place before or after the commencement of this Act: Be it therefore enacted, that if any person shall be convicted of any Felony, not punishable with Death, committed after a previous conviction for Felony, such person shall, on such subsequent conviction, be liable to be imprisoned for any term not exceeding Four Years, and (if a male) to be once, twice or thrice publicly whipped (if the Court shall so think fit), in addition to such Imprisonment; and in an Indictment for any such Felony committed after a previous conviction for Felony, it shall be sufficient to state that the offender was at a certain time and place convicted of Felony, without otherwise describing the previous Felony; and a Certificate containing the substance and effect only (omitting the formal part) of the Indictment and Conviction for the previous Felony, purporting to be signed by the Clerk of the Court, or other Officer having the custody of the Records of the Court, where the offender was first convicted, or by the Deputy of such Clerk or Officer (for which Certifi-

Punishment for a subsequent Felony.

Form of Indictment for the subsequent Felony.

What shall be sufficient proof of the first conviction.

Uttering false
certificate of con-
viction, Felony.

cate a Fee of Two Shillings and Sixpence shall be taken, and no more), shall, upon proof of the identity of the person of the offender, be sufficient Evidence of the first Conviction, without proof of the signature or official character of the person appearing to have signed the same; and if any such Clerk, Officer or Deputy shall utter a false Certificate of any Indictment and Conviction for a previous Felony, or if any person other than such Clerk, Officer or Deputy, shall sign any such Certificate as such Clerk, Officer or Deputy, or shall utter any such Certificate with a false or counterfeit signature thereto, every such offender shall be guilty of Felony.

Effect of a free
or conditional
pardon.

XXX. And be it enacted, That if His Majesty shall be pleased to extend mercy to any offender convicted of any crime punishable with Death, upon condition of Transportation to any place without the limits of this Island, either for the term of life, or for any number of years, and such intention of mercy shall be signified by the Governor or Commander in Chief of the Island to the Court before which such offender hath been or shall be convicted, or any subsequent Court with the like authority, such Court shall allow to such offender the benefit of a conditional pardon, and make an Order for the immediate Transportation of such offender; and in case such intention of mercy shall be so signified to any Judge of the Supreme Court, such Judge shall allow to such offender the benefit of a conditional pardon, and make an Order for the immediate Transportation of such offender, in the same manner as if such intention of mercy had been signified to any such Court as aforesaid; and such Allowance and Order shall be considered as an Allowance and Order made by the Court before which such offender was convicted, and shall be entered on the Records of the same Court by the proper Officer thereof, and shall be as effectual, to all intents and purposes, and

have the same consequences, as if such Allowance and Order had been made by the same Court during the continuance thereof; and every such Order shall subject the offender to be conveyed to the place or places, without the Limits of this Island therein mentioned, and to be liable to all the regulations and provisions of any Statute or Statutes of the Imperial Parliament relating to offenders transported to such place or places.

XXXI. And be it enacted, That wherever this or any other Act or Statute relating to any offence, whether punishable upon Indictment or Summary Conviction, in describing or referring to the offence, or the subject matter on or with respect to which it shall be committed, or the offender, or the party affected, or intended to be affected, by the offence, hath used or shall use words importing the singular number, or the masculine gender only, yet the Act or Statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any Forfeiture or Penalty is payable to a party aggrieved, it shall be payable to a body corporate, in every case where such body shall be the party aggrieved.

Rule for interpretation of all Criminal Statutes.

XXXII. And whereas it is expedient to prevent all doubts respecting the civil rights of persons convicted of Felonies not capital, who have undergone the punishment to which they were adjudged: Be it therefore enacted, that where any offender hath been or shall be convicted of any Felony, not punishable with Death, and hath endured, or shall endure, the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects

Civil rights of persons convicted of Felonies, not capital, who have undergone, punishment adjudged.

and consequences as a Pardon under the Great Seal, as to the Felony whereof the offender was so convicted: Provided always, that nothing herein contained; nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other Felony.

Every punishment for Felony, after it shall be endured, (except Perjury, &c.) restores the competency of offender as a Witness.

XXXIII. And whereas there are certain Misdemeanors which render the parties convicted thereof incompetent Witnesses, and it is expedient to restore the competency of such parties after they have undergone their punishment: Be it therefore enacted, that where any offender hath been or shall be convicted of any such Misdemeanor (except Perjury, or Subornation of Perjury), and hath endured, or shall endure, the punishment to which such offender hath been or shall be adjudged for the same, such offender shall not, after the punishment so endured, be deemed to be, by reason of such Misdemeanor, an incompetent Witness in any Court or proceeding, Civil or Criminal.

Witnesses produced for Prisoner, to be sworn in the same manner as Witnesses for the Crown.

XXXIV. And be it enacted, That every person who shall be produced or appear as a Witness on behalf of the Prisoner upon any Trial for Murder or Felony, before he or she be admitted to give Evidence, shall first take an Oath to depose the Truth, in such manner as the Witnesses for the King are by Law obliged to do; and if any Witness be convicted of wilful Perjury in such Evidence, he or she shall suffer all the Penalties, Forfeitures and Disabilities which by Law may be inflicted on persons convicted of wilful Perjury.

Form of Indictment, &c. under this or any other Act.

XXXV. And be it enacted, That all Indictments, Process, Pleadings and Trials, and the Rules of Evidence upon any Trials for any Felonies and Misdemeanors, either by the Common Law of *England*, or by virtue of this Act, or any other

Act hereafter to be passed, shall be according to the Usage, Practice, and Laws of *England*, and of this Island.

XXXVI. And be it enacted, That this Act shall commence and take effect on the First day of *August* in the present Year; except as to offences and other matters committed or done before or upon the last day of *July* next, which shall be dealt with and punished as if this Act had not been passed.

This Act to be in force from 1st August 1836, except as to offences committed before or upon 31st July, 1836.

CAP. XXII.

An Act to provide for the punishment of Offences against the Person and Property, and to repeal the Act relating to Treasons and Felonies.

[18th *April*, 1836.]

WHEREAS it is expedient to provide for the punishment of Offences against the Person and Property, and to repeal the Act relating to Treasons and Felonies: Be it therefore enacted, by the President, Council and Assembly, That if any person or persons shall compass or imagine the death of the King, or shall levy War against him, or adhere to his Enemies, or shall give them aid or comfort, or shall forge or counterfeit the King's Money, being Gold or Silver Coin of *England*, or of *Great Britain* or *Ireland*, or of this Island, or shall counterfeit the King's Great Seal or Privy Seal, or the Seal of this Island, and shall thereof be duly convicted, the person or persons so offending are hereby declared and adjudged to be Traitors, and shall suffer as in cases of High Treason; and that all Treasons declared by the Acts of Parliament of *England* or of *Great Britain*, shall be deemed and adjudged to be Treasons within this Island; and that such Acts of Parliament as direct

What shall be Treason.

All Treasons by Acts of Imperial Parliament to be deemed Treasons in this Colony.

the proceedings and evidence against, and Trials of such Traitors, shall have their full force and effect, and be observed as the rule in all Trials for Treason in this Island.

Petit Treason to be treated in all respects as murder.

II. And be it enacted, That every offence which before the commencement of this Act would have amounted to Petit Treason, shall be deemed to be Murder only, and no greater offence; and all persons guilty in respect thereof, whether as Principals or as Accessaries, shall be dealt with, indicted, tried and punished, as Principals and Accessaries in Murder.

Punishment of principals and accessaries in murder.

III. And be it further enacted, That every person convicted of Murder, or of being an Accessary before the fact to Murder, shall suffer Death as a Felon; and every Accessary after the fact to Murder shall be liable to be punished by Fine and Imprisonment, or either—such Imprisonment to be, with or without hard labour, in the Common Jail or House of Correction, at the discretion of the Court, for any term not exceeding Four Years.

Punishment for Manslaughter.

IV. And be it further enacted, That every person convicted of Manslaughter shall be liable to be imprisoned, with or without hard labour, in the Common Jail or House of Correction, for any term not exceeding Three Years, or to pay such Fine as the Court shall award, or to be both fined and imprisoned, if the Court shall so award.

As to Homicide not Felonious.

V. And be it further enacted, That no Punishment or Forfeiture shall be incurred by any person who shall kill another by misfortune, or in his own defence, or in any other manner without Felony.

Attempts to murder, when evidenced by certain

VI. And be it further enacted, That if any person unlawfully and maliciously shall administer, or

attempt to administer, to any person, or shall cause to be taken by any person, any poison, or other destructive thing, or shall unlawfully and maliciously attempt to drown, suffocate or strangle any person, or shall unlawfully and maliciously shoot at any person, or shall, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut or wound any person, with intent, in any of the cases aforesaid, to kill such person, or to maim, disfigure or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of the party so offending, or of any of his accomplices, for any offence for which he or they may respectively be liable by Law to be apprehended or detained, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of Felony—and being convicted thereof, shall be liable to the punishment prescribed for Felony in an Act of the present Session; for improving the Administration of Justice in Criminal Cases.

Acts, shall be capital.

VII. And be it enacted, That if any Woman shall be delivered of a Child, and shall, by secret burying or otherwise disposing of the dead body of the said Child, endeavour to conceal the birth thereof, every such offender shall be guilty of a Misdemeanor; and being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for any term not exceeding Two Years; and it shall not be necessary to prove whether the Child died before, at or after its birth: Provided always, that if any Woman tried for the Murder of her Child shall be acquitted thereof, it shall be lawful for the Jury by whose Verdict she shall be acquitted, to find, in case it shall so appear in evidence, that she was delivered of a Child, and that she did, by secret burying, or otherwise disposing of the dead body of

A Woman secreting the dead body of her child, to conceal the fact of its birth, guilty of misdemeanor.

Proviso.

such Child, endeavour to conceal the birth thereof; and thereupon the Court may pass such sentence as if she had been convicted upon an Indictment for the concealment of the Birth.

Administering
poison, or using
any means to pro-
cure the miscar-
riage of a woman
quick with child.

The like as to a
woman not quick
with child.

VIII. And be it enacted, That if any person, with intent to procure the Miscarriage of any Woman, then being quick with child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any poison, or other noxious thing, or shall use any instrument, or other means whatever with the like intent, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of Felony, and being there- of convicted shall suffer Death as a Felon; and if any person, with intent to procure the Miscarriage of any Woman not being, or not being proved to be, then quick with Child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any medicine or other thing, or shall use any instru- ment, or other means whatever with the like intent, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of Felony; and being convicted thereof, shall be liable to be imprisoned, with or without hard labour, in the Common Jail or House of Correction, for any term not exceeding Two Years; and (if a Male) to be once, twice or thrice publicly whipped, if the Court shall so think fit, in addition to such Imprisonment.

Sodomy.

IX. And be it enacted, That every person con- victed of the abominable crime of Buggery, com- mitted either with mankind or with any animal, shall suffer Death as a Felon.

Rape.

X. And be it enacted, That every person con- victed of the crime of Rape, shall suffer Death as a Felon.

Carnal know-
ledge of a Girl

XI. And be it enacted, That if any person shall unlawfully and carnally know and abuse any Girl

under the age of Ten Years, every such offender shall be guilty of Felony, and being convicted thereof, shall suffer Death as a Felon; and if any person shall unlawfully and carnally know and abuse any Girl being above the age of Ten Years, and under the age of Twelve Years, every such person shall be guilty of a Misdemeanor; and being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for such term as the Court shall award.

under Ten Years of age.

The like of a girl above Ten and below Twelve.

XII. And whereas upon Trials for the crimes of Buggery and Rape, and of carnally abusing Girls under the respective ages herein-before mentioned, offenders sometimes escape by reason of the difficulty of the proof which has been required of the completion of these several crimes—For remedy thereof, be it enacted, That it shall not be necessary, in any of those cases, to prove the actual emission of seed, in order to constitute carnal knowledge, but that the carnal knowledge shall be deemed complete upon the proof of penetration only: Provided always, that if complaint shall not be made of the Ravishment of any Woman or Infant above Ten Years of age, within Ten Days after the commission of the crime (unless in cases where the Female shall be unable to make such complaint), before one of His Majesty's Justices of the Peace, or other Magistrate, then such fact shall be adjudged to have been committed by and with the consent of such Woman or Infant.

What shall be sufficient proof of carnal knowledge in the four preceding cases.

Complaint of Rape to be made within ten days.

XIII. And be it enacted, that every Assault and Battery committed on the body of any Man, Woman or Infant, with intent to commit the abominable crime of Buggery, and every Assault and Battery committed on the body of any Woman or Infant, with intent to ravish, shall be punished by adjudging the offender or offenders, upon due conviction thereof, to stand in the Pillory, and to suffer Imprison-

Assault with intent to commit Sodomy & Rape.

ment, with or without hard labour, for any term not exceeding **Two Years**; and also to be fined; if the Court shall so award.

Unlawful abduction of a Girl from her parents or guardians.

XIV. And be it enacted, That if any person shall take, or cause to be taken, any unmarried Girl, under the age of **Sixteen Years**, either with or without her consent, out of the possession and against the will of her **Father** or **Mother**, or of any other person having the lawful care or charge of her, every such offender shall be guilty of a **Misdemeanor**; and being convicted thereof, shall be liable to suffer such punishment, by **Fine** and **Imprisonment**, or by **Imprisonment** in solitary confinement, with or without hard labour, as the Court shall award: **Provided** always, that no **Imprisonment**, in any such case, shall exceed the term of **One Year**; and that no **Prosecution** shall take place unless complaint of such abduction shall be made before some **Magistrate** within **One Calendar Month** after the same shall have occurred.

Prosecution to be commenced within One Calendar Month.

Bigamy.

XV. And be it enacted, That if any person, being married, shall marry any other person during the life of the former **Husband** or **Wife**, whether the second **Marriage** shall have taken place in this **Island** or elsewhere, every such offender shall be guilty of **Felony**; and being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for any term not exceeding **Two Years**, and also fined, if the Court should so award; and any such offence may be dealt with, inquired of, tried, determined and punished in the **County** where the offender shall be apprehended or be in custody, as if the offence had been actually committed in that **County**: **Provided** always, that nothing herein contained shall extend to any second **Marriage** contracted out of this **Island** by any other than a subject of **His Majesty**; or to any person marrying a second time, whose **Husband** or **Wife** shall have been

Place of Trial.

Exceptions.

continually absent from such person for the space of Seven Years then last past, and shall not have been known by such person to be living within that time; or shall extend to any person who at the time of such second Marriage shall have been divorced from the bond of the first Marriage; or to any person whose former Marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

XVI. And be it enacted, That the distinction between Grand Larceny and Petit Larceny shall be abolished, and every Larceny, whatever be the value of property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents, in all respects, as Grand Larceny was before the commencement of this Act; and every person convicted of Larceny shall be liable to the punishment prescribed for Felony in the said recited Act of the present Session, for improving the Administration of Justice in Criminal Cases.

Distinction between Grand and Petit Larceny abolished.

Punishment for Larceny.

XVII. And be it enacted, That if any person shall steal any Certificate, Order, or other Security whatsoever, entitling or evidencing the Title of any person or Body Corporate to any share or interest in any public Stock or Fund, whether of the United Kingdom, or of *Great Britain* or *Ireland*, or of this or any other *British* Province, or of any Foreign State, or in any Fund of any Body Corporate, Company or Society, or to any Deposit in any Savings' Bank, or shall steal any Debenture, Deed, Bond, Bill, Note, Warrant, Order, or other Security whatsoever, for Money, or for payment of Money, whether of the United Kingdom, or of *Great Britain* or of *Ireland*, or of this or of any other *British* Province, or of any Foreign State, or shall steal any Warrant or Order for the delivery or transfer of any Goods or valuable thing, every such offender shall be deemed guilty of Felony of the

Stealing public or private Securities for Money, or Warrants for Goods, shall be Felony, and punishable according to the circumstances like stealing Goods.

same nature, and in the same degree, and punishable in the same manner, as if he had stolen any Chattel of like value with the Share, Interest or Deposit to which the Security so stolen may relate, or with the Money due on the Security so stolen, or secured thereby and remaining unsatisfied, or with the value of the Goods or other valuable thing mentioned in the Warrant or Order; and each of the several Documents herein-before enumerated shall throughout this Act be deemed for every purpose to be included under and denoted by the words "Valuable Security."

Rule of Interpretation.

Robbery from the person.

Assault, with intent to rob, and demands with menaces or force.

XVIII. And be it enacted, That if any person shall rob any other person of any Chattel, Money or valuable Security, every such Offender being convicted thereof, shall suffer Death as a Felon; and if any person shall with menaces, or by force, demand any such property of any other person, with intent to steal the same, or shall assault any other person with intent to rob him, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to the punishment prescribed for Felony in the said recited Act, for improving the Administration of Justice in Criminal Cases.

Obtaining money &c. by threatening to accuse a party of an infamous crime.

XIX. And be it declared and enacted, That if any person shall accuse, or threaten to accuse, any other person of any infamous crime as herein-after defined, with a view or intent to extort or gain from him, and shall, by intimidating him by such accusation or threat, extort or gain from him any Chattel, Money, or valuable Security, every such Offender shall be guilty of Robbery, and shall be indicted and punished accordingly.

Sending letters containing menacing demands, or threatening to accuse a party of an infamous crime, to extort money, &c.

XX. And be it enacted, That if any person shall knowingly send or deliver any Letter or Writing, demanding of any person, with menaces, and without any reasonable or probable cause, any Chattel, Money, or valuable Security: or if any person shall

accuse, or threaten to accuse, or shall knowingly send or deliver any Letter or Writing, accusing, or threatening to accuse, any person of any crime punishable by Law with Death, Imprisonment with hard labour, or Pillory, or of any Assault with intent to commit any Rape, or of any attempt or endeavour to commit any Rape, or of any infamous crime, as herein-after defined, with a view or intent to extort or gain from such person any Chattel, Money, or valuable Security, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to be punished in the manner prescribed for Felony in the above mentioned Act, for improving the Administration of Justice in Criminal Cases.

XXI. And for defining what shall be an infamous crime within the meaning of this Act, Be it enacted, That the abominable crime of Buggery, committed either with mankind or with Beast, and every Assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise or threat, offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

What shall be deemed an infamous crime.

XXII. And be it enacted, That every person convicted of Burglary shall suffer Death as a Felon; and it is hereby declared, that if any person shall enter the Dwelling House of another, with intent to commit Felony, or being in such Dwelling House, shall commit any Felony, and shall, in either case, break out of the said Dwelling House in the night time, such person shall be deemed guilty of Burglary.

Burglary capital.

XXIII. Provided always, and be it enacted, That no Building, although within the same cur-

What buildings only are part of a House, for capital punishment.

tilage with the Dwelling House, and occupied therewith, shall be deemed to be part of such Dwelling House, for the purpose of Burglary, unless there shall be a communication between such Building and Dwelling House, either immediate or by means of a covered and inclosed passage leading from one to the other.

Robbery in any building within the same curtilage as the House, but not privileged as part of the House.

XXIV. And be it enacted, That if any person in the night time shall break and enter any Building, being within the curtilage of a Dwelling House, and occupied therewith, but not being part thereof according to the Proviso herein-before mentioned, or any Public Office, or other Public Building, or any Mill, Shop, Warehouse, Counting House, Bank, Office, or other Building used or occupied for carrying on any Trade or Business, such Public Office, Public Building, Mill, Shop, Warehouse, Counting House, Bank, Office, or other Building, not being a Dwelling House, for the purpose of Burglary, with intent, in any such case, to commit Felony, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to the punishment prescribed for Felony in the said recited Act, for improving the Administration of Justice in Criminal Cases.

Robbery of public Office, Shop, &c.

Stealing any Goods from a Vessel, &c. in a Port, River or Canal, &c.

XXV. And be it enacted, That if any person shall steal any Goods or Merchandize in any Vessel, Lighter, Barge, Boat, Raft or Canoe, or shall steal any part of the Rigging, Sails, Materials or other Appurtenances belonging to any such Vessel, Lighter, Barge, Boat, Raft or Canoe, in any Port of entry or discharge, or upon any navigable River or Canal within this Island, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to be punished in the manner prescribed for Felony in the before mentioned Act, for improving the Administration of Justice in Criminal Cases.

XXVI. And be it enacted, That if any person shall steal, or shall, for any fraudulent purpose, take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure or destroy any Record, Writ, Return, Panel, Process, Interrogatory, Deposition, Affidavit, Rule, Order, or Warrant of Attorney, or any original Document whatsoever, of or belonging to any Court of Record, or relating to any Matter, Civil or Criminal, begun, depending or terminated in any such Court; or any Bill, Answer, Interrogatory, Deposition, Affidavit, Order or Decree, or any original Document whatsoever, of or belonging to any Court of Equity, or relating to any Cause or Matter begun, depending or terminated in any such Court, every such Offender shall be guilty of a Misdemeanor; and being convicted thereof, shall be liable to suffer such punishment, by Fine or Imprisonment, or by both, as the Court shall award—the Imprisonment to be either with or without hard labour, and with or without solitary confinement, as the Court shall think fit, and in no case to exceed the term of Two Years; and it shall not, in any Indictment for such offence, be necessary to allege that the article in respect of which the offence was committed, is the property of any person, or that the same is of any value.

The Stealing &c.
of Records and
other proceedings
of Courts of Jus-
tice.

XXVII. And be it enacted, That if any person shall, either during the life of the Testator or Testatrix, or after his or her death, steal, or for any fraudulent purpose destroy or conceal any Will, Codicil or other Testamentary Instrument, whether the same shall relate to Real or Personal Estate, or to both, every such Offender shall be guilty of a Misdemeanor; and being convicted thereof, shall be liable to suffer such punishment as is herein-before last mentioned; and it shall not, in any Indictment for such offence, be necessary to

The Stealing &c.
of Wills.

allege that such Will, Codicil, or other Instrument, is the property of any person, or that the same is of any value.

The Stealing of Writings relating to real estate.

XXVIII. And be it enacted, That if any person shall steal any Paper or Parchment, written or printed, or partly written and partly printed, being Evidence of the Title, or of any part of the Title, to any Real Estate, every such Offender shall be deemed guilty of a Misdemeanor; and being convicted thereof, shall be liable to suffer such punishment as is herein-before last mentioned; and in any Indictment for such offence, it shall be sufficient to allege the thing stolen to be Evidence of the Title, or of part of the Title, of the person, or of some one of the persons, having a present Interest, whether legal or equitable, in the Real Estate to which the same relates, and to mention such Real Estate or some part thereof; and it shall not be necessary to allege the thing stolen to be of any value.

These provisions as to Wills and Writings shall not lessen any remedy which the party aggrieved now has.

XXIX. Provided always, and be it enacted, That nothing in this Act contained, relating to either of the Misdemeanors aforesaid, nor any Proceeding, Conviction or Judgment to be had or taken thereupon, shall prevent, lessen or impeach any remedy at Law or in Equity, which any party aggrieved by any such offence might or would have had if this Act had not been passed; but nevertheless, the Conviction of any such Offender shall not be received in Evidence in any Action at Law, or Suit in Equity, against him; and no person shall be liable to be convicted of either of the Misdemeanors aforesaid by any Evidence whatever, in respect of any act done by him, if he shall, at any time previously to his being indicted for such offence, have disclosed such act on oath, in consequence of any compulsory process of any Court of Law or Equity, in any Action, Suit or Proceeding which shall have been, *bona fide*, instituted by any party aggrieved.

XXX. And be it enacted, That if any person shall wilfully kill any Horse, Mare, Gelding, Colt or Filly, or any Bull, Cow, Ox, Heifer or Calf, or any Ram, Ewe, Sheep or Lamb, or any Boar; Sow or Pig, with intent to steal the carcass or skin, or any part of the Cattle so killed, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to be punished in the manner prescribed for Felony in the above mentioned Act, for improving the Administration of Justice in Criminal Cases.

Killing Horses, Cows, &c. with intent to steal skin or carcass.

XXXI. And for the punishment of depredations committed by Tenants and Lodgers—Be it enacted, That if any person shall steal any Chattel or Fixture, let to be used by him or her in or with any House or Lodging, whether the Contract shall have been entered into by him or her, or by her husband, or by any person on behalf of him or her, or her husband, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to be punished in the manner herein-before last mentioned, as in the case of Larceny; and in every such case of stealing any Chattel, it shall be lawful to prefer an Indictment in the common form, as for Larceny; and in every such case of stealing any Fixture, to prefer an Indictment in the same form as if the Offender were not a Tenant or Lodger; and in either case to lay the property in the owner or person letting to hire.

Tenants and Lodgers stealing any property from houses or apartments let to them.

XXXII. And for the punishment of Embezzlements committed by Clerks and Servants—Be it declared and enacted, That if any Clerk or Servant, or any person employed for the purpose, or in the capacity of a Clerk or Servant, shall, by virtue of such employment, receive or take into his possession any Chattel, Money, or valuable Security, for or in the name or on the account of his Master, and shall fraudulently embezzle the same, or any part

Clerks or Servants receiving any Money, &c. on their master's account, and embezzling it, shall be deemed to have feloniously stolen it.

thereof, every such Offender shall be deemed to have feloniously stolen the same from his Master, although such Chattel, Money or Security was not received into the possession of such Master, otherwise than by the actual possession of his Clerk, Servant, or other person so employed; and every such Offender being convicted thereof, shall be liable to be punished in the manner herein-before last mentioned.

Distinct acts of Embezzlement may be charged in the same Indictment.

XXXIII. And for preventing the difficulties that have been experienced in the prosecution of the last mentioned Offenders—Be it enacted, That it shall be lawful to charge in the Indictment and proceed against the Offender for any number of distinct acts of Embezzlement, not exceeding three, which may have been committed by him against the same Master within the space of Six Calendar Months from the first to the last of such Acts; and in every such Indictment, except where the offence shall relate to any Chattel, it shall be sufficient to allege the Embezzlement to be of Money, without specifying any particular coin or valuable Security; and such allegation, so far as regards the description of the property, shall be sustained, if the Offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if he shall be proved to have embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

As to allegation and proof of the property embezzled.

Obtaining money &c. by false pretences, a misdemeanor.

XXXIV. And whereas a failure of justice frequently arises from the subtle distinction between Larceny and Fraud—For remedy thereof, be it enacted, That if any person shall, by any false pretence, ob-

tain from any other person any Chattel, Money, or valuable Security, with intent to cheat or defraud any person of the same, every such Offender shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to suffer such punishment, by Fine or Imprisonment, or both, as the Court shall award—the Imprisonment to be either with or without hard labour, and with or without solitary confinement, as the Court shall see fit, and not in any case to exceed the term of Two Years: Provided always, that if upon the trial of any person indicted for such Misdemeanor, it shall be proved that he obtained the property in question in any such manner as to amount in Law to Larceny, he shall not, by reason thereof, be entitled to be acquitted of such Misdemeanor; and no person tried for such Misdemeanor shall be liable to be afterwards prosecuted for Larceny upon the same facts.

No acquittal on the ground that the case proved amounts to Larceny.

XXXV. And with regard to Receivers of stolen Property—Be it enacted, That if any person shall receive any Chattel, Money, valuable Security, or other Property whatsoever, the stealing or taking whereof shall amount to a Felony, either at Common Law or by virtue of this Act, (such person knowing the same to have been feloniously stolen or taken,) every such Receiver shall be guilty of Felony, and may be indicted and convicted, either as an Accessary after the fact, or for a substantive Felony; and in the latter case, whether the principal Felon shall or shall not have been previously convicted, or shall or shall not be amenable to Justice; and any Court that has power to try the principal Felon may also try the Receiver, howsoever indicted; and every such Receiver, howsoever convicted, shall be liable to be punished in the manner prescribed for Felony in the said Act for improving the Administration of Justice in Criminal Cases: Provided always, that no person, howsoever tried

Where the original offence is Felony, the receivers of stolen property may be tried either as accessaries after the act, or for a substantive Felony.

for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Where original offence is a misdemeanor, receivers may be prosecuted for a misdemeanor.

XXXVI. And be it enacted, That if any person shall receive any Chattel, Money, valuable Security, or other property whatsoever, the stealing, taking, obtaining or converting whereof is made an indictable Misdemeanor by this Act, such person knowing the same to have been unlawfully stolen, taken, obtained or converted, every such Receiver shall be guilty of a Misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal Misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to Justice; and every such Receiver shall, on conviction, be liable to be punished in the manner provided for the person guilty of the principal Misdemeanor.

All receivers may be tried where the principal is triable, or where the property is found in their possession, as well as where the receiving takes place.

XXXVII. And be it enacted, That if any person shall receive any Chattel, Money, valuable Security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained or converted, every such person, whether charged as an Accessary after the fact to the Felony, or with a substantive Felony, or with a Misdemeanor only, may be dealt with, indicted, tried and punished in any County or place in which he shall have or shall have had any such property in his possession, or in any County or place in which the party guilty of the principal Felony or Misdemeanor may by Law be tried, in the same manner as such Receiver may be dealt with, indicted, tried and punished in the County or place where he actually received such property.

The owner of stolen property prosecuting thief or receiver, shall

XXXVIII. And to encourage the prosecution of Offenders—Be it enacted, That if any person guilty of any such Felony or Misdemeanor as afore-

said, in stealing, taking, obtaining or converting, or in knowingly receiving any Chattel, Money, valuable Security, or other property whatsoever, shall be indicted for any such offence, by or on the behalf of the Owner of the property, or his Executor or Administrator, and convicted thereof, in such case the Property shall be restored to the Owner or his Representative; and the Court before whom any such person shall be so convicted shall have power to award, from time to time, Writs of Restitution for the said property, or to order the restitution thereof in a summary manner; and the Court may, in like manner, if it shall see fit, order the restitution of property in cases where the party so indicted as aforesaid may not be convicted, if it shall clearly appear that the property had been stolen, or taken, or obtained from the Owner by Felony or Misdemeanor, as aforesaid: Exception. Provided always, that if it shall appear, before any award or order made, that any valuable security shall have been, *bona fide*, paid or discharged by some person or Body Corporate liable to the payment thereof, or being a negotiable Instrument, shall have been, *bona fide*, taken or received by transfer or delivery by some person or Body Corporate, for a just and valuable consideration, without any notice, or without any reasonable cause to suspect that the same had by any Felony or Misdemeanor been stolen, taken, obtained or converted as aforesaid, in such case the Court shall not award or order the restitution of such Security.

XXXIX. And be it enacted, That every person who shall corruptly take any Money or Reward, directly or indirectly, under pretence or upon account of helping any person to any Chattel, Money, valuable Security, or other Property whatsoever, which shall by any Felony or Misdemeanor have been stolen, taken, obtained or converted as aforesaid, shall (unless he cause the Offender to be apprehended and brought to Trial for the same,) be guilty

Taking reward for helping to the recovery of stolen property, without bringing the offender to Trial.

of Felony; and being convicted thereof, shall be liable to be punished in manner prescribed for Felony, in the said Act for improving the Administration of Justice in Criminal Cases.

Setting fire to a
Church, Chapel,
&c.

or any House,
Stable, &c.

XL. And be it enacted, That if any person shall unlawfully and maliciously set fire to any Church or Chapel, or to any Chapel or other Building set apart and solely used for the religious worship of persons dissenting from the United Church of *England* and *Ireland*, or shall unlawfully and maliciously set fire to any House, Stable, Coach-house, Outhouse, Warehouse, Office, Shop, Mill, Barn or Granary, or to any Building or Erection used in carrying on any Trade or Manufacture, or any branch thereof, whether the same, or any of them respectively, shall then be in the possession of the Offender, or in the possession of any other person, with intent thereby to injure or defraud any person, every such Offender shall be guilty of Felony; and being convicted thereof, shall suffer Death as a Felon.

Setting fire to or
destroying a Ship
&c.

XLI. And be it enacted, That if any person shall unlawfully and maliciously set fire to, or in any wise destroy, any Ship or Vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in any wise destroy, any Ship or Vessel, with intent thereby to prejudice any Owner or part Owner of such Ship or Vessel, or of any Goods on board the same, or any person that hath underwritten or shall underwrite any Policy of Insurance upon such Ship or Vessel, or on the Freight thereof, or upon any Goods on board the same, every such Offender shall be guilty of Felony; and being convicted thereof, shall suffer Death as a Felon.

Damaging a Ship
otherwise than by
Fire.

XLII. And be it enacted, That if any person shall unlawfully and maliciously damage, otherwise than by Fire, any Ship or Vessel, whether complete

or in an unfinished state, with intent to destroy the same, or to render the same useless, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to the punishment prescribed for Felony in the said above recited Act of the present Session, for improving the Administration of Justice in Criminal Cases.

XLIII. And be it enacted, That if any person shall unlawfully and maliciously cut down, break down, or otherwise destroy any Dike or Aboiteau, whereby any Lands shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously cut down, break down, or otherwise destroy any Mill Dam, or shall unlawfully and maliciously pull down, or in any wise destroy, any public Bridge or Wharf, or do any injury with intent and so as thereby to render such Bridge or Wharf, or any part thereof, dangerous or impassable, every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to the punishment herein-before last mentioned.

Destroying any Dike, &c. or Mill Dam.

XLIV. And be it enacted, That if any person shall unlawfully and maliciously set fire to any public School-house, or any Stack of Corn, Grain, Pulse, Straw or Hay—every such Offender shall be guilty of Felony; and being convicted thereof, shall be liable to the punishment herein-before last mentioned.

Setting fire to a public School-house, or stack of Hay, &c.

XLV. And be it enacted, That every punishment by this Act imposed on any person maliciously committing any offence against property, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

Malice against the owner not essential to any offence under this Act.

Principals in the second degree and Accessories.

XLVI. And be it enacted, That in the case of every Felony punishable under this Act, every Principal in the second degree, and every Accessary before the Fact, shall be punishable with Death or otherwise, in the same manner as the Principal in the first degree is by this Act punishable; and every Accessary after the Fact to any Felony punishable under this Act (except only a Receiver of stolen property), shall, on conviction, be liable to be punished by Fine or Imprisonment, or both, as the Court shall award—such Imprisonment to be either with or without hard labour, and with or without solitary confinement, as the Court shall see fit, and not to exceed the term of Two Years; and every person who shall aid, abet, counsel or procure the commission of any Misdemeanor punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Abettors in Misdemeanors.

Persons in the act of committing any offence may be apprehended without a Warrant.

XLVII. And for the more effectual apprehension and discovery of all Offenders punishable under this Act, Be it enacted, That any person found committing any offence punishable under this Act, may be immediately apprehended, without a Warrant, by any Peace Officer, or by the Owner of the Property upon or with respect to which the offence shall be committed, or by his servant, or any person authorized by him, and forthwith taken before a Justice of the Peace, to be dealt with according to Law; and if any credible Witness shall prove upon Oath, before a Justice of the Peace, a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any offence against this Act shall have been committed, the Justice may grant a Warrant to search for such property, as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on

or with respect to such property, is hereby authorized, and, if in his power, is required, to apprehend and forthwith to carry before a Justice of the Peace the party offering the same, together with such property, to be dealt with according to Law.

XLVIII. And for the protection of persons acting in the execution of this Act—Be it enacted, That all Actions and Prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and shall be commenced within Six Calendar Months after the fact committed, and not otherwise; and notice in writing of such Action, and of the cause thereof, shall be given to the Defendant One Calendar Month, at least, before the commencement of the Action; and in any such Action the Defendant may plead the general issue, and give this Act and the special matter in evidence at any Trial to be had thereupon; and no Plaintiff shall recover in any such Action, if tender of sufficient amends shall have been made before such Action brought, or if a sufficient sum of Money shall have been paid into Court after such Action brought, by or on behalf of the Defendant; and if a Verdict shall pass for the Defendant, or the Plaintiff shall become nonsuit, or discontinue any such Action, after issue joined, or if, upon demurrer or otherwise, Judgment shall be given against the Plaintiff, the Defendant shall recover his full Costs, as between Attorney and Client, and have the like remedy for the same as any Defendant hath by Law in other cases; and though a Verdict shall be given for the Plaintiff in any such Action, such Plaintiff shall not have Costs against the Defendant, unless the Judge before whom the Trial shall be shall certify his approbation of the Action, and of the Verdict obtained thereupon.

Venue in proceedings against persons acting under this Act.

Notice of Action.

General Issue, &c.

33 W. 4, c. 1,
repealed.

XLIX. And be it enacted, That an Act made and passed in the Thirty-third Year of the Reign of King George the Third, intituled *An Act relating to Treasons and Felonies*, be and the same is hereby repealed, except as to offences committed or done before or upon the last day of *July* next, which shall be dealt with and punished as if this Act had not been passed.

Commencement
of this Act.

L. And be it enacted, That this Act shall commence and take effect on the First day of *August* in the present year.

CAP. XXIII.

An Act to incorporate the Trustees of *Saint Andrew's College*, and to repeal a certain Act therein mentioned.

[18th April, 1836.]

WHEREAS the Right Reverend *Aeneas Bernard Maceachern*, Catholic Bishop of *Charlottetown*, now deceased, did, on the Thirtieth day of *November*, One thousand eight hundred and thirty-one, establish a College at *Saint Andrew's*, in this Island, which is commonly called *Saint Andrew's College*; and whereas the said late Right Reverend *Aeneas Bernard Maceachern* hath, by Lease and Release, bearing date respectively the Seventeenth and Eighteenth days of *January*, One thousand eight hundred and thirty-three, (a copy of which said Indenture of Release is contained in the Schedule to this Act annexed) given up all his Claim, Right, Title and Interest in and to the said College, with certain Lands, Tenements and Hereditaments thereunto belonging, as declared and set forth in the said Deed of Release, unto the

Right Reverend *Aeneas Bernard Maceachern*, Roman Catholic Bishop of *Charlottetown*, Right Reverend *William Fraser*, Roman Catholic Bishop of *Tanen*, the Reverend *Bernard Donald Macdonald*, of *Charlottetown* aforesaid, the Reverend *Sylvanus Perry*, *Belle Alliance*, in *Prince County*, *John Small Macdonald*, of *West River*, in *Queen's County*, Esquire, *Daniel Brenan*, of *Charlottetown* aforesaid, Esquire, *Angus Macdonald*, of *Three Rivers*, in *King's County*, Esquire, and *Donald Macdonald*, of *Tracadie*, in *Queen's County*, Esquire, their Heirs and Successors, as Trustees of said College, to have and to hold the said Lands, Tenements and Hereditaments, in fee simple for ever, for the use and benefit of the said College: And whereas also it is necessary, for the better regulation thereof, to render the surviving Trustees, together with another Trustee, to be appointed as herein-after mentioned, a Body Corporate and Politic, with perpetual succession:—Be it therefore enacted, by the President, Council and Assembly, That the said Right Reverend *William Fraser*, the Reverend *Bernard Donald Macdonald*, the Reverend *Sylvanus Perry*, *John Small Macdonald*, *Daniel Brenan*, *Angus Macdonald* and *Donald Macdonald*, with another Trustee to be appointed as herein-after mentioned, and their Successors for ever—which said Successors shall be elected and chosen in way and manner herein-after mentioned—shall be and they are hereby constituted and declared a Body Corporate and Politic, in name and in deed, and by the name and style of “The Trustees of *Saint Andrew's College*,” shall be a perpetual Corporation, and shall have succession for ever, and a common Seal, with power to break, change and alter the same, from time to time, at pleasure; and shall be in Law capable of suing and being sued, pleading and being impleaded, defending and being defended, answering or being answered unto, in all Courts of Judicature, in all

Incorporates the Trustees named in Trust Deed of *Saint Andrew's College*, and their Successors.

Style of Corporation.

Powers of Corporation.

manner of Actions, Suits, Complaints, Matters and Causes whatsoever; and also of contracting and being contracted with, relative to the Funds of the said Corporation, and the business and purposes for which it is hereby constituted, as is herein-after declared; and may make, establish and put in execution, alter or repeal such By Laws, Rules, Ordinances and Regulations, not contrary to the Laws of this Island, or the provisions of this Act, as the said Corporation may think necessary and expedient for the better regulation and management thereof: Provided always, that Five of the Members of the said Corporation shall be a *Quorum*, for all matters and business to be done or transacted by the said Corporation, not herein-after provided for.

Five members to form a *Quorum*.

Lands held by Trustees named in Trust Deed, to be holden by Corporation.

II. And be it further enacted, That the Lands, Messuages and Tenements aforesaid, now held by the surviving Trustees named in the before-mentioned Release, shall be holden by the said Corporation, to stand and be possessed thereof for ever, to and for the several trusts and purposes expressed and set forth in said Release, so far as this Act shall not alter or affect the same.

Corporation may hold real or personal Estate, not exceeding in value £1000 Sterling per annum.

III. And be it further enacted, That it shall and may be lawful for the said Corporation to purchase any Real or Personal Estate, or accept such as may be given, granted, devised or bequeathed, for the use and benefit of the said College, which shall not, together with that already holden by the said Trustees as aforesaid, exceed the net yearly value or income of One thousand Pounds Sterling; and that the said Corporation shall and may sell, alienate or dispose of the said Real or Personal Estate so purchased, given, granted, devised or bequeathed, from time to time, as they may see fit.

What persons shall vote for Trustees.

IV. And be it further enacted, That no person shall be authorized, or have power to vote for the

Election of a Trustee, or Member of the said Corporation, except such as shall have subscribed and paid towards the support of the said College the sum of One Pound annually, for at least Two Years previous to such Election, or as shall have contributed at one time to the value of Twenty Pounds, (which sum shall entitle him to vote at the Election of a Member of said Corporation, as often as occasion may be, during his life,) or any one of the before named surviving Trustees, and the Trustees to be appointed as herein-after mentioned, and their Successors in Office for ever.

V. And be it further enacted, That when a vacancy shall happen in the said Corporation, by death, resignation, or other removal, of either or any of the before named *Right Reverend William Fraser, Reverend Bernard Donald Macdonald, Reverend Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald, Donald Macdonald,* or the Trustee to be appointed as herein-after mentioned, or either or any of their Successors in Office, the said vacancy shall be filled up and supplied by the person who shall be duly elected by a majority of the votes of the surviving or remaining Members of the said Corporation, together with such other persons as shall be entitled to vote and be there present and give their votes; and the person so chosen or elected shall not have any power or authority to exercise his functions as a Member of said Corporation, until his said Election shall be duly registered in the proper Register Office within this Island; which Registry shall be on the production of a Certificate, signed by the Trustee or Trustees present at such Election, and on the Oath of one of them, or of any subscribing Witness thereto.

Mode of filling up vacancies in Corporation.

VI. Provided always, and be it further enacted, That not more than Four of the Members of said

Not more than 4 of the Trustees to be in Holy Orders.

What shall be deemed proof of person being in Holy Orders.

Corporation shall be Clergymen of the Church of *Rome*, in Holy Orders—and proof of the celebration of any religious service by such person, according to the Rites of the Church of *Rome*, shall be deemed and taken to be, *prima facie* evidence of the fact of such person being in Holy Orders, within the intent and meaning of this Act.

A Book to be kept for entering By Laws, lists of Donations, &c.

VII. And be it further enacted, That there shall be a Book or Register kept by the said Corporation, in which shall be contained the By Laws, Rules and Regulations, which may be made or put in execution, from time to time, for the government and management of the said College, as well as the proceedings that may from time to time take place in filling up vacancies, and also a regular List of such persons as may contribute towards the support of the said College, either by gift, devise, bequest or annual subscription, expressing the exact amount of the same.

Corporation not to interfere with religious opinions of Students.

VIII. And be it further enacted, That the said Corporation shall not have any power or authority under or by virtue of this Act, to make any such By Laws, Rules or Regulations, as may be considered in any manner whatsoever a religious Test; nor shall interfere with any individual student thereof in matters of Religion, nor compel or request any of them to attend at Prayers, or any Ceremony of or relating to the Catholic Church, except such only as shall profess to belong to the said Church.

Lieut. Governor, to be Visitor of the College.

IX. And be it further enacted, That the Lieutenant Governor or other Administrator of the Government for the time being, shall be the Visitor of the said College.

Remedy in case of neglect or abuse in the management of Trust.

X. And be it further enacted, That in every case of any neglect or abuse in the management of the Trust created by the said recited Deed and this

Act, or which may hereafter be lawfully created in respect of the said Trust Property for the time being, or the Estates and Funds thereto belonging, or for regulating the Administration thereof, any person interested as Subscribers, Donors or Trustees as aforesaid, in the said Property, Funds or Institution, may present a Petition to the Chancellor of this Island, stating the abuse or neglect, and praying such relief as the nature of the case may require; and it shall be lawful for the Chancellor, and he is hereby required, to hear such Petition in a summary way, and upon Affidavits, or such other Evidence as shall be produced upon such hearing, to determine the same, and to make such Order therein, and with respect to the Costs of such application, as to him shall seem just; and such Order or Decree shall be final, but shall not be enrolled until signed by the Chancellor.

XI. And be it further enacted, That when a vacancy shall happen in the said Corporation as aforesaid, the Secretary of the said Corporation shall give notice thereof, for three successive weeks, in any Newspaper then printed within this Island, and shall at the same time and in the same manner notify the persons entitled to vote in filling up such vacancies, when and where the same shall take place.

Notice of Vacancy in corporation, how to be given.

XII. And be it further enacted, That within Three Calendar Months after the passing of this Act, a Trustee in the place and stead of the said late Right Reverend *Aneas Bernard Maceachern*, deceased, shall be appointed, in the manner prescribed by this Act for the appointment of new Trustees; and such new Trustee, when so appointed, shall have and be invested with all the rights, powers and authority which were vested in the Trustees named in the said recited Deed of Trust and Release, and is given and confirmed to the said

Mode of filling up vacancy occasioned by decease Bishop Maceachern.

Powers of new Trustee.

surviving Trustees and such new Trustee by this Act; and from and forever after the said appointment the number of Trustees shall always be Eight.

Deeds of Gift and Conveyance of Real Estate to be registered within Twelve Months after execution.

XIII. And be it further enacted, That all Deeds of Gift and Conveyance of Real Estate which shall be made to the said Corporation, shall be registered within Twelve Calendar Months after the Execution thereof respectively, in the proper Office for the Registration of Deeds within this Island; and in default of such Registration as aforesaid, within the time aforesaid, the same shall be absolutely null and void, and of no more force or effect than if the same had not been made or executed.

Saving the rights of His Majesty, &c.

XIV. And be it further enacted, That nothing herein contained shall affect, or be construed to affect, in any manner or way, the rights of His Majesty, his Heirs or Successors, or of any person or persons, or of any Body Corporate or Politic—such only excepted as are herein named.

This Act to be deemed a Public Act.

XV. And be it further enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such, by all Judges, Justices of the Peace, and Ministers of Justice, and other persons whomsoever, without being specially pleaded.

Repeals
3. W. 4, c. 17.

XVI. And be it further enacted, That an Act made and passed in the Third Year of His present Majesty's Reign, intituled *An Act to incorporate the Trustees of Saint Andrew's College, in King's County*, and every matter, clause and thing therein contained, be and the same are hereby repealed.

SCHEDULE to which this Act refers.

THIS Indenture, made the Eighteenth day of *January*, in the year of our Lord One thousand eight hundred and thirty-three, between the Right Reverend *Aneas Bernard Maceachern*, Roman Catholic Bishop of *Charlottetown*, but now residing at *Saint Andrew's, King's County, Prince Edward Island*, of the one part, and the said *Aneas Bernard Maceachern*, the Right Reverend *William Fraser*, Roman Catholic Bishop of *Tanen*, the Reverend *Bernard Donald Macdonald*, of *Charlottetown* aforesaid, the Reverend *Sylvanus Perry*, of *Belle Alliance*, in *Prince Edward Island* aforesaid, *John Small Macdonald*, of *West River*, in *Queen's County*, Esquire, *Daniel Brennan*, of *Charlottetown* aforesaid, Esquire, *Angus Macdonald*, of *Three Rivers*, in *King's County*, Esquire, and *Donald Macdonald*, of *Tracadie*, in *Queen's County*, in the said Island, Esquire, of the other part: Whereas the said *Aneas Bernard Maceachern* is seized to him and his heirs in fee simple of the Messuages, Lands, Tenements and Hereditaments herein-after released, or otherwise assured, or intended so to be; and whereas the said *Aneas Bernard Maceachern*, in his anxious desire to promote the Education of Youth, hath agreed to convey and assure the Premises herein-after particularly mentioned unto the said Trustees hereby appointed, and their Heirs in succession, for the purpose of founding a College, to be called *Saint Andrew's College*: Now this Indenture witnesseth, that for the considerations aforesaid, and also in consideration of the sum of Five Shillings, of lawful Sterling money, to the said *Aneas Bernard Maceachern* in hand paid, by the said *Aneas Bernard Maceachern*, *William Fraser*, *Bernard Donald Macdonald*, *Sylvanus Perry*, *John Small Macdonald*,

Trust Deed recited in and referred to by this Act.

Daniel Brenan, Angus Macdonald and Donald Macdonald, at and before the sealing and delivery of these presents, the receipt whereof the said *Aeneas Bernard Maceachern* doth hereby admit and acknowledge, he the said *Aeneas Bernard Maceachern* hath granted, bargained, sold, aliened and confirmed, and by these Presents doth grant, bargain, sell, alien, release and confirm unto the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Smalt Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, in their actual possession now being, by virtue of a bargain and sale to them thereof made by the said *Aeneas Bernard Maceachern*, in and by an Indenture of bargain and sale, bearing date the day next before the day of the date of these Presents, and by force of the Statute made for transferring uses into possession, and to their Heirs and Assigns, all that Tract, Piece or Parcel of Ground or Land, situate, lying and being on the North side of *Hillsborough River*, in the Parish of *Saint Patrick*, in the *King's County*, and in the Island of *Prince Edward* aforesaid—the whole whereof now is and heretofore hath been part and parcel of that Lot or Township which is delineated, particularized and known by being numbered and laid down as Lot or Township Number *Thirty-eight (38)*, on the two several Surveys or Maps of the said Island—one whereof now remains in the Plantation Office, *Whitehall*, in the Kingdom of *Great Britain*, and the other in the Office of His Majesty's Surveyor General for the said Island, at *Charlottetown* aforesaid—relation being thereunto respectively had, may more fully and at large appear; which said Piece or Parcel of Ground hereby released and confirmed, or mentioned and intended so to be, contains by estimation Two hundred Acres of Land (be the same more or less), and is bounded as follows, (that is to say)—commencing on the North side of the Road leading to *Saint*

Peter's, and commonly called *Saint Peter's Road*, on the Boundary Line of Lot or Township Number *Thirty-seven* (37), and running on the said Boundary Line due North Forty-seven Chains, and from thence by a Line due East for the distance of Forty-five Chains, or until it meets the Western Boundary Line of a certain Tract of Land formerly belonging to *George Burns*, and by him sold and conveyed to *William Bentick*, Esquire, Captain in His Majesty's Royal Navy; then running down the said last mentioned Boundary Line, South, Fifteen Degrees West, Sixty-six Chains, until it meets the edge of the Marsh or Salt Meadow Land on the North side of *Hillsborough River* aforesaid, containing in front thereof Thirty-one Chains and Fifty Links (more or less); the same to commence and be computed from the first mentioned place of admeasurement, on the said Boundary Line of Lot or Township *Thirty-seven* (37), and to run due East until it meets the said Boundary Line of the said Land and Premises belonging to the said *William Bentick*, Esquire, having in front thereof a certain piece or parcel of Marsh or Salt Meadow Land, and *Hillsborough River* aforesaid, together with the said last mentioned Marsh or Salt Meadow Land, together with the Messuage, Tenement or Dwelling House thereon erected and built, or on some part thereof; also all Barns, Sheds, Houses, Out-houses, Buildings, Fences, Meadows, Feedings, Marshes, Woods, Underwoods, Timber and Timber Trees, Ways, Waters, Water courses, Passages, Profits, Commodities and Appurtenances whatsoever to the same belonging or in any wise appertaining; and the Reversion and Reversions, Remainder and Remainders yearly, and other Rents, Issues and Profits thereof, and of every part thereof, and also all the Estate, Right, Title, Interest, Trust, Property, claim and demand whatsoever, both at Law and Equity, of him the said *Æneas Bernard Maceachern*, his Heirs and

Assigns, of, into or out of the said Tract of Land and Premises hereby released and confirmed, and every part and parcel thereof, to have and to hold the said Tract, Piece or Parcel of Ground and Premises hereby released and confirmed, and intended so to be, unto the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, their Heirs and Assigns, to the only use and behoof of the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, their Heirs and Assigns for ever, upon the trusts and for the ends, intents and purposes herein-after expressed and declared, of and concerning the same, (that is to say)—that they the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, their Heirs and Assigns, shall and will severally stand seized of the Lands, Hereditaments and Premises hereby granted and released, or mentioned and intended so to be, upon trust, to support and keep up the College so to be established as herein-before mentioned, for the Education of Youth, according to the true intent and meaning of these Presents: And the said *Aeneas Bernard Maceachern* doth hereby for himself, his Heirs, Executors and Administrators, covenant, promise and agree to and with the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, their Heirs and Assigns, by these Presents, in manner following, (that is to say)—that he the said *Aeneas Bernard Maceachern*, at the time of the sealing and delivery of these Presents, is and stands lawfully, rightfully and absolutely seized in

his demesne, as of fee, of and in the Tract of Land and Premises hereby released or mentioned, or intended so to be, with the Appurtenances, in fee simple, in possession, without any reservation, remainder, trust, limitation, use or uses, or any other matter or thing whatsoever, to alter, change, charge, revoke, make void, lessen, incumber or determine the same; and further, that the said *Aeneas Bernard Maceachern* now hath in himself good right, full power, and lawful and absolute authority, by these Presents, to grant, bargain, sell, convey, and assure the said hereby released Premises, with the Appurtenances, unto the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, their Heirs and Assigns, according to the true intent and meaning of these Presents: And further, that the said Tract of Land, Messuage, Tenement, Erections, Buildings and Premises hereby released, with the Appurtenances, now are, and from henceforth for ever hereafter shall remain, continue and be unto and to the only and proper use and behoof of the said *Aeneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald and Donald Macdonald*, their Heirs and Assigns, forever, freely and clearly acquitted and discharged, or otherwise well and sufficiently saved harmless, and indemnified of, from and against all former and other Gifts, Grants, Bargains, Sales, Mortgages, Jointures, Dowers, and Title of Dower, Uses, Trusts, Judgments, Extents, Executions, Rents, Arrears of Rent, and of, from and against all and singular other Estates, Titles, Charges and Incumbrances whatsoever had, made, done, committed or suffered, or to be had, made, done, committed or suffered, by the said *Aeneas Bernard Maceachern*, his Heirs or Assigns, or of or by any other person or persons lawfully claiming or to claim by.

from or under him, them, or any or either of them; and lastly, that he the said *Æneas Bernard Maceachern*, his Heirs, Executors and Administrators, and all and every other person and persons whomsoever, having, or lawfully claiming, or who shall or may have or lawfully claim, any Estate, Right, Title, Trust or Interest, either at Law or in Equity, of and in the said hereby released Premises, with the Appurtenances, shall and will, from time to time, and at all times hereafter, upon the reasonable request, and at the costs and charges in the Law of the said *Æneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald* and *Donald Macdonald*, their Heirs or Assigns, make, do and execute, or cause or procure to be made, done and executed, all and every such further and other lawful and reasonable act and acts, thing and things, devises, conveyances and assurances in the Law whatsoever, for the further, better, more perfect and absolute granting, conveying and assuring the said hereby released Premises, with the Appurtenances, unto and to the use and behoof of the said *Æneas Bernard Maceachern, William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brenan, Angus Macdonald* and *Donald Macdonald*, their Heirs and Assigns forever, according to the true intent and meaning of these Presents: In witness whereof, the said parties to these Presents have hereunto set their Hands and Seals, the day and year first above written.

ÆNEAS BERNARD MACEACHERN,
Bishop of Charlottetown.

B. DONALD MACDONALD,

S. PERRY,

JOHN S. MACDONALD,

DANIEL BREMAN,

ANGUS MACDONALD,

DONALD MACDONALD.

Received, the day and year first within written, of and from the within named *William Fraser, Bernard Donald Macdonald, Sylvanus Perry, John Small Macdonald, Daniel Brennan, Angus Macdonald and Donald Macdonald*, the sum of Five Shillings, Sterling Money, being the consideration Money within expressed to be by them paid to me.

As witness my hand,

† *Aeneas Bernard Maceachern,*
Bishop of Charlottetown.

Witness,
William Mumford,
William C. Monckton.

—
Prince Edward Island,
Register Office.

This Release was duly registered the 20th May, 1833, at or about the hour of Twelve o'clock, on the Oath of *William C. Monckton*, a subscribing Witness.

Which I certify,
(Signed) *J. P. Collins*, Registrar.
Vide Liber 39, Folio 302.

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CAP. XXIV.

An Act to consolidate and amend the Election Laws. [18th April, 1836.]

WHEREAS the several Laws relative to the Election of Members to serve in General Assembly within the Island require consolidation and amendment—Be it enacted, by the President,

*Amended by
3 Vict. c. 25
by 1 Vict. c. 1*

47 G. 3 c. 3,

11 G. 4, c. 8,

2 W. 4, c. 9,

and 3 W. 4, c. 15,
repealed.

Council and Assembly, That an Act passed in the Forty-seventh Year of the Reign of King George the Third, intituled *An Act to repeal an Act made and passed in the Forty-first Year of His present Majesty's Reign, intituled 'An Act for the better regulation of Elections,'* and to regulate Elections for Members to serve in General Assembly in future; and an Act passed in the Eleventh Year of the Reign of the late King George the Fourth, intituled *An Act to alter, amend and suspend certain parts of an Act made and passed in the Forty-seventh Year of His late Majesty's Reign, intituled 'An Act to repeal an Act made and passed in the Forty-first Year of His present Majesty's Reign, intituled "An Act for the better regulation of Elections,"* and to regulate Elections for Members to serve in General Assembly in future; and an Act passed in the Second Year of His present Majesty's Reign, intituled *An Act for limiting the time for holding the Poll for the Election of Members to serve in General Assembly;* and an Act passed in the Third Year of His present Majesty's Reign, intituled *An Act for shortening the duration of Colonial Parliaments, from the space of Seven Years to that of Four*—and every clause, matter and thing therein contained, be, and the same are hereby respectively repealed.

*Repealed
4.5.1836.0.9*

Duty of Sheriff,
on receiving Writ
of Election.

Places where
Notice is to be
posted.

Also to be pub-
lished in News-
papers.

II. And be it further enacted, That the Sheriff of this Island, or his Deputy, for the time being, shall, within four days after he shall have received His Majesty's Writ for electing Members to serve in the General Assembly, cause a copy thereof to be posted in at least Three of the most populous parts or places within such County or Town and Royalty, as he shall be directed to hold such Election for; and Notice of such Election shall be inserted as often as may be practicable, previous to holding the same, in the Newspapers published in

this Island; and under each and every such Copy there shall be fairly and distinctly written or printed the time and place of holding the said Election— which said Notice shall be signed by the said Sheriff or his Deputy; and the said Sheriff or his Deputy, or such other Returning Officer as may be appointed by the said Sheriff, shall cause the said Election to be holden at such time and place, and in such manner as in and by the said Writ shall or may be directed, when and where all those persons who shall be duly qualified to vote at such Election may proceed to elect the Member or Members required by the said Writ to be elected.

Duty of Sheriff,
&c. in holding
Poll.

III. And be it further enacted, That the Sheriff or other Returning Officer shall, before proceeding to any Election, take and subscribe before a Magistrate, in presence of three or more Electors, who, with the said Magistrate, shall certify his having taken an Oath, the form of which appears in Schedule (A.), to this Act annexed, which Oath shall be annexed to the Return of every Writ of Election, under a Penalty of Fifty Pounds upon every Returning Officer refusing or neglecting so to do: and the Sheriff or other Returning Officer shall, before opening the Poll, appoint two Clerks, to assist in taking the Election, who shall be sworn by the said Sheriff, or other Returning Officer, according to the form in Schedule (B.), to this Act annexed—a copy of which Oath shall be annexed to the Poll Books.

Sheriff, &c. to be
sworn.

Oath to be annexed to Return of Writ, under Penalty of £50

Sheriff, &c. to appoint 2 Clerks, who shall be sworn.

IV. And be it further enacted, That every Sheriff or Returning Officer to whom any Writ for electing a Member or Members to serve in the General Assembly shall be directed, and who shall have published and given such notice thereof as is herein-before prescribed and directed, shall, on the day, and at the place mentioned in the said Writ, between the hours of Ten and Twelve of the

Duty of Sheriff,
&c. in holding
the Poll.

Time of holding
the Poll.

Further duty of Sheriff, &c. in holding the Poll.

Duty of Sheriff, &c. before closing the Poll.

clock in the forenoon, proceed to the Election, by reading the said Writ and this Act, and shall not declare the choice upon the view without the consent of the Candidates, nor by unnecessary adjournment delay the Election, but shall, if a Poll be required, fairly and indifferently proceed, from day to day, and from time to time, to take the Poll, during the time herein-after prescribed by this Act, of all the Electors who may be then and there present to offer their Votes; and before the Sheriff or other Returning Officer shall close the Poll so opened, unless with the consent of the Candidates, he shall make Proclamation for all persons duly qualified by this Act to come forward and give their Votes; and if, after such Proclamation made, no such person or persons shall appear to vote for the space of one hour, the Poll shall be closed.

Qualification of Electors for any Town or Royalty.

V. And be it further enacted, That every Male person, of the age of Twenty-one Years, or upwards, and not subject to any legal incapacity, who shall be sole Owner of one whole Town Lot, Pasture Lot, Common Lot, or Water Lot, in any Town or Royalty within this Island, or who shall be Owner or Tenant of any House, Warehouse, Shop, or other Building, of the yearly Rent of Ten Pounds, shall be entitled to vote for the Election of a Member or Members to represent the said Town and Royalty in General Assembly—provided he shall have been possessed of such Town Lot, Common Lot, Pasture Lot, or Water Lot, or of such House, Warehouse, Shop, or other Building, for at least Twelve Calendar Months previous to the date of the Writ of Election for said Town and Royalty.

Qualification of Electors for any Town or Royalty.

VI. And be it further enacted, That the House, Warehouse, Shop, or other Building, in respect of the occupation of which any person shall be entitled

to vote at an Election for any Town and Royalty as aforesaid, may be different Premises, occupied in immediate succession by such person during the space of Twelve Months next previous to the date of the Writ of Election.

VII. And be it further enacted, That in case any House, Warehouse, Shop, or other Building, or any part thereof, or any Lot of Land as aforesaid, or any part thereof, situate in any Town or Royalty, shall be occupied by any person or persons, either as sole Tenant or Joint Tenants thereof, or as Copartners in Trade, or otherwise, such person or persons shall be entitled to vote at every Election for the Town and Royalty wherein the Premises so occupied are situated, if the person or persons claiming to vote shall, in respect of his or their Tenancy, have been each severally and respectively paying Rent for the same, after the rate of Ten Pounds *per annum*, whether the same be paid yearly or otherwise, and the Premises in respect of which such person or persons shall claim to vote shall have been occupied by him or them for Twelve Calendar Months next before the Teste of the Writ of Election for such Town and Royalty: Provided always, that nothing herein contained shall extend, or be construed to extend, to entitle any person living as a Boarder or Lodger in any House within such Town or Royalty, to vote at the Election therein, unless otherwise qualified in the terms of this Act: And provided also, that any of the before-mentioned qualifications, in any Town or Royalty as aforesaid, shall not entitle the Owner or Occupier thereof to vote for any Member or Members to serve in General Assembly for the County in which such Town and Royalty are situate.

Qualification of
Electors for any
Town or Royalty.

VIII. And whereas doubts have arisen as to the right of voting of the persons residing on certain reserved Lands called *Cardigan Point*, marked in

the original Plan of this Island as part of the Royalty of *Georgetown*, and the said persons having heretofore voted as Electors for said Town and Royalty, but in consequence of such doubts have lately been debarred the Franchise which they formerly exercised: Be it therefore enacted, That from and after the passing of this Act, all persons who now are or who may hereafter be Owners or Occupiers of at least Eight Acres of such reserved Lands, shall and they are hereby declared to be entitled to vote as Electors of said Town and Royalty.

Owners or Occupiers of reserved Lands on *Cardigan Point*, may vote as Electors for *Georgetown* and Royalty.

Qualification of Electors for Counties.

IX. And be it further enacted, That every Male person, of the age of Twenty-one Years, and upwards, and not subject to any legal incapacity, who shall be in the actual possession of any Freehold Estate of the value of Forty Shillings *per annum*, or who shall be in the actual possession of a Leasehold Estate for a Term of Years, of the Rent of Forty Shillings *per annum*, or who shall occupy a Dwelling House, or Dwelling House and Land, of the Rent of Five Pounds *per annum*, and shall have been so seized or possessed of such Freehold or Leasehold Estate as aforesaid for Twelve Calendar Months previous to the Teste of the Writ of Election for a Member or Members to serve in General Assembly, or shall have been in possession or occupation of such Dwelling House, or Dwelling House and Land as aforesaid, Twelve Calendar Months previous to the Teste of the Writ of Election, shall be entitled to vote at said Election for a Member or Members to represent the County where such Freehold, Leasehold, Dwelling House, or Dwelling House and Land, shall be situated: Provided always, that in case of Premises constituting any of the before-mentioned qualifications being jointly occupied, that not more than one of the said joint Occupants shall vote thereon; and that not more than one person shall vote on any Lease-

*Repealed by
Act. C. 9*

hold qualification, in case the Land so leased be re-let, and the person voting thereon shall be in actual possession of the same.

X. And be it further enacted, That if any Elector shall be questioned by any Candidate, or any Elector representing him, as to his qualification at the time of voting, or afterwards before any other Vote is polled, the Sheriff or other Returning Officer shall, and he is hereby empowered, to administer to him the Oath or Affirmation in Schedule (C.) to this Act annexed; and if the said Elector refuse to take the said Oath, or Affirmation (*as the case may be*), his name shall not be recorded nor remain on the Poll Books as a qualified Elector; and if the Election be for more Members than one, any Elector refusing or neglecting to give the number of Votes which he is entitled to give at one and the same time, or at least before any other Vote is polled, shall not be entitled to vote afterwards at such Election: and if during the continuance of such Election, and at the time of polling or recording any Vote on the Poll Books, any Candidate, or any person representing him, shall object to such Vote, the Sheriff or other Returning Officer shall cause to be marked such Vote by the word "objected" on the margin of the Poll Books, immediately opposite the said Vote, and shall take down the person's place of abode, and make such other remarks as may be sufficient to identify him afterwards.

Any Elector may be sworn as to his qualification.

Sheriff, &c. to administer Oath.

Elector refusing Oath, not entitled to vote.

Regulates mode of Electors voting.

XI. And be it further enacted, That when any Writ or Writs of Election for a Member or Members to serve in General Assembly shall be directed to the Sheriff, or other Returning Officer, for any County or Town and Royalty within this Island, he shall, if for any Town and Royalty, after having complied with the requisitions of this Act hereinbefore stated, proceed to take the Poll at any con-

Duty of Sheriff, &c. on receiving Writ of Election.

Time for holding
Poll for any Town
or Royalty.

Place for opening
Poll for King's
County.

Place of first ad-
journment of Poll
for King's
County.

Place of second
adjournment of
Poll for King's
County.

Place of third or
last adjournment
of Poll for King's
County.

Poll to be opened
at each place
alternately.

venient place in said Town or Royalty, and continue the same from day to day for the space of Three Days, unless otherwise agreed on by the Candidates; and if for the County of *King's County*, the Poll shall be opened, first, at or near the *Presbyterian Meeting House*, North side of *Murray Harbor*, on Township Number *Sixty-three*, where the Sheriff or other Returning Officer is hereby empowered and required to take the Votes of all persons duly qualified to vote at such Election, who shall then and there appear and offer their Votes, during the space of Two Days (unless sooner closed by consent of the Candidates); and from thence the Poll shall be adjourned, if required by any Candidate, or any Elector representing him, to *Georgetown*, where the Poll shall be kept open for the space of Two Days (unless sooner closed by consent of the Candidates), to receive the Votes of all the Voters duly qualified to vote at such Election, who shall then and there appear and offer their Votes; and from thence the Poll shall be adjourned, if required by any Candidate, or any Elector representing him, to at or near the Bridge at the head of *Saint Peter's Bay*, on Township Number *Forty-one*, where the Poll shall be kept open for the space of Two Days (unless sooner closed by consent of the Candidates), to receive the Votes of all the Voters duly qualified to vote at such Election, who shall then and there appear and offer their Votes; and from thence the Poll shall be adjourned, if required by any Candidate, or any Elector representing him, to at or near *Maccachern's Mill*, on Township *Forty-five*, where the Poll shall be kept open for the space of One Day (unless sooner closed by consent of the Candidates), to receive the Votes of all the Voters duly qualified to vote at such Election, who shall then and there appear and offer their Votes; and the Poll shall be opened at each of the foregoing places alternately (that is to say)—at the first Election which shall be held after the

passing of this Act, at *Murray Harbor* aforesaid, and at the next succeeding Election at or near *Maceachern's Mill*, on Township *Forty-five*, as aforesaid, and from thence shall adjourn, if required, to the head of *Saint Peter's Bay*, as aforesaid, and from thence shall adjourn, if required, to *Georgetown*, as aforesaid, and from thence shall adjourn to *Murray Harbor*, as aforesaid—and so on alternately at each and every succeeding Election, in alternate succession: And if for the County of *Queen's County*, the Poll shall be first opened at any convenient place at or near *Hayden's Mill*, *Vernon River*, on Township Number *Fifty*, where the Poll shall be kept open for the space of *Two Days* (unless sooner closed by consent of the Candidates), to take the Votes of all the persons duly qualified, who shall then and there appear and offer their Votes; and from thence shall be adjourned, at the request of any Candidate, or any Elector representing him, to any convenient place at or near *Campbelltown*, on Township Number *Twenty-one*, where the Poll shall be kept open for the space of *Two Days* (unless sooner closed by consent of the Candidates), to receive the Votes of all the persons duly qualified, who shall then and there appear and offer their Votes; and from thence the Poll shall be adjourned, at the request of any Candidate, or any Elector representing him, to *Charlottetown*, where the Poll shall be kept open during the space of *Three Days* (unless sooner closed by consent of the Candidates); and the Poll shall be opened alternately at *Hayden's Mill* and *Campbelltown*, (that is to say)—at the first Election after the passing of this Act, at or near *Hayden's Mill*, *Vernon River*, as aforesaid, and after the conditions of this Act, as herein-before prescribed, shall have been complied with, shall be adjourned to *Campbelltown*, on Township Number *Twenty-one*, as aforesaid, if required as aforesaid; and at the then next following Election the Poll shall be opened at or near

Place of first opening Poll for *Queen's County*.

Place of first adjournment of the Poll for *Queen's County*.

Place of second or last adjournment of the Poll for *Queen's County*.

Poll for *Queen's County* to be opened at each place alternately.

Campbelltown aforesaid, and from thence shall be adjourned, if required as aforesaid, to the appointed place at or near *Hayden's Mill, Vernon River*, as aforesaid; and so on alternately at each and every succeeding Election—the Poll, if required as aforesaid, always to be adjourned from whichever of the last before-mentioned places it shall have been held at last, to *Charlottetown*, where the Election shall terminate: And for the County of *Prince County*, the Poll shall be opened at the first Election after the passing of this Act, at or near *Hillstown, Cascumpeque*, where the Poll shall be kept open for the space of Two Days (unless sooner closed by consent of the Candidates), to receive the Votes of all the persons duly qualified to vote at such Election, who shall then and there appear and offer their Votes; and from thence the Poll shall be adjourned, at the request of any Candidate, or any Elector representing him, to any convenient place at or near the *Catholic Chapel*, on Township Number *Fourteen*, where the Poll shall be kept open for the space of Two Days (unless sooner closed by consent of the Candidates), to receive the Votes of all the Voters duly qualified to vote at such Election, who shall then and there appear and offer their Votes; and from thence the Poll shall be adjourned, at the request of any Candidate, or any Elector representing him, to any convenient place on the South side of *Dunk River, Bedeque*, where the Poll shall be kept open for the space of Two Days (unless sooner closed by consent of the Candidates), to receive the Votes of all the persons duly qualified to vote at such Election, who shall then and there appear and offer their Votes; and from thence the Poll shall be adjourned, at the request of any Candidate, or any Elector representing him, to *Barrett's*, at the *Cross Roads*, on Township Number *Nineteen*, where the Poll shall be kept open for the space of Two Days (unless sooner closed by consent of Candidates,) to receive the Votes of all the persons duly qualified to vote at such Election, who shall then and there ap-

Place of opening
the Poll for
Prince County.

Place of first ad-
journment of the
Poll for *Prince*
County.

Place of second
adjournment of the
Poll for *Prince*
County.

Place of third ad-
journment of the
Poll for *Prince*
County.

pear and offer their Votes; and the Poll shall be opened alternately at each of the before mentioned places, (that is to say)—at the first Election which shall be held after the passing of this Act, at or near *Hillstown*, as aforesaid; and at the next succeeding Election, at *Barrett's* aforesaid; and from thence shall adjourn, if required, to *Bedeque* aforesaid; and from thence to the *Catholic Chapel*, on Township *Fourteen*, as aforesaid, if so required; and from thence shall adjourn, if required, to *Hillstown* aforesaid—and so on alternately at each and every succeeding Election, in alternate succession.

Poll for Prince County to be opened alternately at each place.

XII. And be it further enacted, That no application for removal or adjournment of the Poll shall be received, unless the same shall be openly made at the Hustings on the day on which the Poll is first opened, or on the day next succeeding, during the time of Polling, at each of the respective places as herein-before mentioned; and the Sheriff or other Returning Officer shall, on such application being made, forthwith notify the Electors of the County of the said adjournment, by posting Advertisements at three of the most public places in the District or Districts to which the Poll shall be adjourned—if for the County of *Queen's County*, that he will, on the Seventh day next after the opening of the Poll at the place where the same was first opened, continue the same at the place directed by this Act for the first adjournment; and that he will, on the Fourteenth day next after the opening of the Poll where the same was first opened, continue the same at the place directed by this Act for the second adjournment, should such adjournment be required—and if for the County of *Prince County*, that he will, on the Seventh day next after the opening of the Poll at the place where the same was first opened, continue the same at the place directed by this Act for the first adjournment; and that he will, on the Tenth day next after the opening of the Poll

Mode and time of application for adjournment of Poll.

Duty of Sheriff, &c. on such application.

Times of holding the adjourned Poll for Queen's County.

Times of holding the adjourned Poll for Prince County.

where the same was first opened, continue the same at the place directed by this Act for the second adjournment; and that he will, on the Sixteenth day next after the opening of the Poll where the same was first opened, continue the same at the place directed by this Act for the Third adjournment, should such adjournment be required—and if for the County of *King's County*, that he will, on the Third day next after the opening of the Poll at the place where the same was first opened, continue the same at the place directed by this Act for the first adjournment; and that he will, on the Seventh day next after the opening of the Poll at the place where the same was first opened, continue the same at the place directed by this Act for the second adjournment; and that he will, on the Tenth day next after the opening of the Poll at the place where the same was first opened, continue the same at the place directed by this Act for the third adjournment, should such adjournment be required.

Times of holding
the adjourned
Poll for *King's*
County.

Sheriff, &c. to
publish advertise-
ments describing
the qualifications
of Electors, &c.

XIII. And be it further enacted, That the Sheriff or other Returning Officer shall, at the time he shall advertise the holding the Poll, publish other Advertisements describing the qualifications that are required of the Electors by this Act, the Oath directed to be taken, the consequences of violating such Oath, and the Penalty for voting or attempting to vote twice at such Election; and such Advertisements shall be printed and posted at not less than five places within three hundred yards of the place of holding such Election.

Duty of Sheriff,
&c. before clos-
ing Poll, unless
by consent of
Candidates.

XIV. And be it further enacted, That no Sheriff or Returning Officer at any Election for any Town or County within this Island shall close the Poll, unless with the consent of the Candidates, at any place where the same may be opened, without making Proclamation for all persons duly qualified to vote at such Election to come forward and give their

Votes; and if, after such Proclamation made, no Voter or Voters come forward for the space of one hour, the Poll shall be closed.

XV. And be it further enacted, That at all Elections hereafter to be held for a Member or Members to serve in General Assembly for this Island, between the First day of April and the First day of October, in any Year, both days inclusive, the Sheriff or other Returning Officer shall open the Poll on each and every day of such Election between the hours of Ten and Twelve of the clock in the forenoon, and shall not keep the same open later than Seven of the clock in the afternoon; and at all Elections hereafter to be held for a Member or Members to serve in General Assembly, between the First day of October and the First day of April, in any Year, the Poll shall be opened between the hours of Ten and Twelve in the forenoon, and shall not be kept open later than Five of the clock in the afternoon.

Time of opening and closing Poll, for Elections held between the 1st April and the 1st October.

Time of opening and closing Poll for Elections held between the 1st October and the 1st April.

XVI. And be it further enacted, That the Sheriff or other Returning Officer, at the close of the Poll at any Election for a Member or Members to serve in General Assembly, shall sum up the number of Votes for each Candidate, and shall declare the person or persons having the majority of votes duly elected; and in case a Scrutiny shall be demanded in writing, within Twelve hours after the closing of the Poll, the Sheriff or other Returning Officer shall grant the same, and shall, with the two Poll Clerks, proceed in such Scrutiny at the place where the Poll finally closed the day following the close of the Poll (unless such day be Sunday, and if so, the said Scrutiny shall be on the Monday following); and the said Returning Officer may adjourn from day to day, as may be required, to prosecute the said Scrutiny, if the party claiming the same, or some Elector in his behalf, shall per-

Duty of Sheriff, &c. at the close of the Poll.

*Repealed
by 2nd Act.*

Scrutiny must be demanded in writing.

Mode of proceeding with Scrutiny.

No Vote to be scrutinized, unless marked "objected" when given.

Sheriff, &c. empowered to summon parties before him on Scrutiny, and to examine them on Oath.

Place where return of proceedings to be made.

Sheriff, &c. to execute an Indenture to Candidate elected.

Expense of Scrutiny how paid, and by whom.

Mode of enforcing payment of expenses of Scrutiny.

sist in such demand: Provided always, that no Vote shall be scrutinized unless such Vote or Votes shall have been marked "objected" at the time of taking down such Vote or Votes in the Poll Books; and the Sheriff or other Returning Officer shall, and he is hereby required and empowered, to summon all such persons before him as may be required by any Candidate or Candidates, or any Elector or Electors, on his or their behalf, for the purpose of enabling him to proceed in such Scrutiny, and to examine them upon Oath; and after all such Votes as were requested as aforesaid to be scrutinized have been gone through, or in case there shall not have been any Scrutiny, then, after the Candidate or Candidates shall have been declared duly elected, the said Returning Officer shall make a due Return of all proceedings, together with the Poll Books and Writ of Election, to the Colonial Secretary's Office—on the back of which said Writ of Election shall be written or endorsed the name or names of such Candidate or Candidates as shall have been duly elected; and the said Sheriff or other Returning Officer shall execute to each and every Candidate so elected an Indenture, agreeably to the form in Schedule (D.), to this Act annexed—a copy of which Indenture shall be returned by the Sheriff or other Returning Officer to the said Colonial Secretary's Office: and the said Sheriff or other Returning Officer is hereby empowered to ask and demand of each of the Candidates in whose favour the objected Votes have been given, and for the decision of which a Scrutiny has been granted, the just and proper share or part of the expenses incurred by such Returning Officer and Poll Clerks, in prosecuting the said Scrutiny, over and above the expense attending the summoning and attendance of Witnesses of the said Candidate; and in case any such Candidate shall neglect or refuse to pay his share of the expenses as aforesaid, the said Returning Officer is hereby empowered to prose-

cute for the same, in any Court of Record within this Island capable of taking cognizance of the same.

XVII. And be it further enacted, That in the event of two or more Candidates at any one Election having the same number of Votes, no Sheriff or other Returning Officer shall make Return, as duly elected, of any one such Candidate having an equal number of Votes, to the exclusion of the other Candidate or Candidates; but shall, in every such case, return the whole of the Candidates having an equal number of Votes, with the proceedings thereon, as herein before directed: Provided always, that nothing herein contained shall prevent, or be construed to prevent, the Sheriff or other Returning Officer from proceeding on a Scrutiny, as herein-before provided.

Duty of Sheriff, &c. in the event of Candidates having the same number of Votes.

XVIII. And be it further enacted, That in case any person, summoned by the Sheriff or other Returning Officer to give evidence on any such Scrutiny, shall refuse to attend and give evidence, then each and every person so making default shall forfeit and pay, for each and every offence, a sum not exceeding Five Pounds.

Persons refusing to attend, to give evidence on Scrutiny before Sheriff, &c. to forfeit £5.

XIX. And be it further enacted, That in case any Sheriff or other Returning Officer, to whom any Writ or Writs of Election for a Member or Members to serve in General Assembly shall be directed, shall return any person or persons not duly elected by the majority of the Electors, such Officer shall forfeit and pay the sum of One hundred Pounds for every such false Return—to be recovered in manner herein-after directed; or if the said Returning Officer shall otherwise do, or cause to be done, any other matter or thing contrary to the directions of this Act, he shall forfeit and pay, for every such offence, the sum of Ten Pounds—to be

Sheriff, &c. liable to a Penalty of £100 for a false Return, and to a Fine of £10 for not complying with this Act in other respects.

And also to a
Fine of £50, for
favoring the Re-
turn of any Can-
didate.

recovered and applied in manner herein-after directed: and any Returning Officer who shall take any part before or during any Election by him held, by voting, favoring or influencing, or causing to be favored or influenced, the return of any particular Candidate, shall forfeit and pay the sum of Fifty Pounds—to be recovered and applied as herein-after directed.

Sheriff, &c. to
furnish Copy of
Poll Books, on
being, paid his
Fees.

XX. And be it further enacted, That the Sheriff or other Returning Officer shall, within a reasonable time, furnish a copy of the Poll Books to any person demanding the same, on being paid his reasonable Fees.

Fraudulent Con-
veyances shall be
taken as absolute
against the Gran-
tors.

XXI. And be it further enacted, That all Conveyances of Lands, or other Premises, to multiply Votes, or to qualify any Elector or Electors to vote at Elections, subject to any agreement to reconvey the same, shall be taken against the Grantor or Grantors as free and absolute; and all collateral Securities for defeating such Estate shall be void; and the person or persons making such Conveyance, or any person voting from such qualification, or any person voting, or attempting to vote, more than once at any Election, shall be subject to a Penalty of Ten Pounds—to be recovered by any person who shall sue for the same, in any Court of Record within this Island capable of taking cognizance thereof.

All collateral Se-
curities to defeat
them void.

Persons making
the same, or vo-
ting by color
thereof, to for-
feit £10.

Qualifications of
Candidates.

XXII. And be it further enacted, That no person shall be capable of being elected a Member for any Town and Royalty or for any County within this Island, unless he shall be in the seizin or possession of a Freehold or Leasehold Estate within this Island, of the value of Fifty Pounds, or entitled to an Equitable Estate, in Land or Tenements, within the same, of like value, previous to the date of his Election; and shall, before he be permitted to take

*Repealed by
Stat. C. 9*

his seat in the House of Assembly, take the usual Oaths prescribed by Law, and also the Oath in Schedule (E.), to this Act annexed—and which last mentioned Oath the Sheriff or other Returning Officer is hereby empowered and required to administer to each and every Candidate, previous to taking any Vote or Votes for such Candidate, unless in the event of any such Candidate being absent from the Island at the time of the Election.

Oath to be taken by Members of Assembly.

XXIII. And be it further enacted, That no Member of His Majesty's Council shall canvass for or vote at the Election of any Member or Members to serve in the General Assembly of this Island.

Prohibits Members of Council from voting or canvassing at Elections.

XXIV. And be it further enacted, That in case of a vacancy happening in the Assembly, by the death of any Member thereof, or by his being called to His Majesty's Council, or by resigning his seat on his removal from the Island, or otherwise, on information thereof being given to the Speaker by any Member rising in his place—or if such vacancy happen during any recess of the Assembly, by Prorogation or Adjournment, on information thereof being given to the Speaker for the time being, under the hands of any two Members of the Assembly—it shall be the duty of the Speaker to report the same forthwith to the Lieutenant Governor or other Administrator of the Government for the time being, who is hereby empowered and required, within seven days after such Report, to issue a new Writ for the Election of a Member or Members of Assembly to fill up such vacancy; and in case of the death or absence from the Island of the Speaker, upon the representation of any two of the Members of the Assembly, under their hands, to the Lieutenant Governor or other Administrator of the Government for the time being, he shall proceed thereon in the same manner as if the same had been represented by the Speaker.

How vacancies in Assembly are to be declared.

Absence of Member for two Sessions, vacates seat.

XXV. And be it further enacted, That if any Member of the Assembly shall be absent from his place in the Assembly for two entire Sessions, without leave of the House of Assembly, his seat shall be declared vacant on the last day of the second Session from which such Member shall have so absented himself; and the Speaker shall notify the Lieutenant Governor or other Administrator of the Government for the time being, who shall proceed thereon as is herein-before directed.

How vacancy is to be declared.

Duration of Assembly.

XXVI. And be it further enacted, That every Assembly hereafter to be called for this Island, shall continue for the space of Four Years, from the day of the Return of the Writs for calling the same, and no longer; subject, nevertheless, to be sooner prorogued or dissolved by the Lieutenant Governor or other Administrator of the Government for the time being.

Penalty for Bribery at Elections.

XXVII. And be it further enacted, That any person or persons who shall bribe or corrupt any Voter or Voters, at any Election within this Island, shall forfeit and pay the sum of One hundred Pounds—to be recovered and applied as is herein-after directed.

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Repealed by
Act 1869
With the exception of High Sheriff, any Returning Officer may be elected a Member of Assembly for a place for which he does not act as such Returning Officer.

XXVIII. And be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to prevent or exclude any person, other than the High Sheriff of this Island, who shall or may be nominated and appointed Returning Officer, from being elected a Member of the Assembly for any County, or Town and Royalty, other than the County or Town and Royalty for which such person shall have been appointed and nominated Returning Officer.

Fees of Returning Officer.

XXIX. And be it further enacted, That the Returning Officer shall be paid at the rate of Ten

Shillings for every day he shall have kept open the Poll; and shall moreover be allowed Seven Shillings and Six-pence *per diem*, for each of the Poll Clerks, besides his and their Travelling Fees, at the rate of Four-pence *per Mile*, for every Mile they may have to travel to and from the place for holding the Election; and for such payment (together with reasonable expenses incurred for the use of any Building, and for the erection of any Stage or Platform, necessary for the accommodation of himself and the Poll Clerks in taking the Poll,) he shall make application to the Administrator of the Government for the time being, who is hereby authorized, by and with the advice and consent of His Majesty's Council, to issue a Warrant, directed to the Treasurer, for the payment of the same.

Fees of Poll Clerks.

Mode of payment of such Fees.

XXX. And be it further enacted, That no Candidate shall, either by himself or others, directly or indirectly, supply or furnish Rum, Brandy, Gin, or other distilled Spirituous Liquors, to any Elector, during the continuance of the Election at which such Candidate shall solicit or obtain Votes, within Five Miles of the place where such Election shall be held, on pain of forfeiting the sum of Five Pounds.

Penalty on Candidate furnishing Rum, &c. to Electors.

XXXI. And be it further enacted, That all Fines and Penalties which shall be incurred by any breach of this Act, if under Five Pounds, shall be recovered before any one Justice of the Peace, by Warrant of Distress and Sale of the Defendant's Goods and Chattels; and for want of Goods and Chattels whereon to levy, the offender to be imprisoned for a term not exceeding Three Months; and if above Five Pounds, by Bill, Plaint or Information, or by Action of Debt, in any Court of Record within this Island—one half whereof shall be paid into the Treasury of this Island, to and for the use of His Majesty's Government, and the other half to the person or persons who shall sue for the same;

Mode of recovery of Penalties imposed by this Act.

and that all such Fines and Penalties shall be recovered respectively with Costs: Provided always, that if any Suit or Action be brought against any person or persons for any Penalty or Penalties by this Act imposed, such Suit or Action shall be commenced within One Calendar Month next after the offence shall be committed, and not afterwards; but nothing in this Act contained shall prevent any person from being prosecuted in pursuance of a Resolution of a Committee of Privileges and Elections, so as such Prosecution be commenced within One Calendar Month after such Resolution shall have been made.

Absent Candidates may be re-presented.

XXXII. And be it further enacted, That any Elector, present at any Election, may declare himself the Representative of any Candidate who is an actual Settler and Inhabitant of this Island, but who may be absent at the time, without requiring any special power to that effect.

Suspending Clause.

XXXIII. And be it further enacted, That nothing in this Act contained shall have any force or effect, until His Majesty's pleasure thereon shall be known.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

THE OATH OF THE RETURNING OFFICER.

I *A. B.* Returning Officer for the County [or Town and Royalty] of _____ do solemnly swear, that I have not, directly or indirectly, received any sum or sums of money, office, place or employment, gift, gratuity or reward, or any bond, bill or note, or any promise or gratuity whatsoever, either by myself or any person to my use, benefit or advantage, for favoring the Election of any particular person or persons, or making, or endeavouring to make, the Return of any particular person or persons, at the present Election of a Member [or Members] to serve in the General Assembly of *Prince Edward Island*; and that I will proceed in taking the Votes of the Electors, and will make Return of such person or persons as shall appear to me to have a majority of legal Votes—and this I solemnly swear to do, without partiality, fear, favor, ill-will or affection.

Oath of Returning Officer.

So help me GOD.

SCHEDULE (B.)

POLL CLERKS' OATH.

I *A. B.* do swear, that I will, at the ensuing Election of a Member [or Members] to serve in General Assembly, for the County of _____ [or Town and Royalty of _____] truly and indifferently take the Poll, and set down the name of each Voter, and for whom he shall vote; and that I will not enter upon the Poll Books the name or vote of any person but such as shall be permitted by the Sheriff or other Returning Officer to vote at this Election; and that I will truly enter on the Poll Books every such Vote without partiality.

Poll Clerks' Oath.

So help me GOD.

SCHEDULE (C.)

FORM OF ELECTOR'S OATH.

Elector's Oath.

I *A. B.* do swear, that **I** am in possession of a Freehold, [Leasehold, or other qualification, as the case may be,] situate in the Town or Royalty of [or County of, as the case may be,] and that **I** am and have been in possession thereof for now last past; and that **I** have not received or got possession of the same on purpose to qualify me to vote at this Election; and that **I** have not received or had, by myself or any person whatever in trust for me, or for my use and benefit, directly or indirectly, any sum or sums of money, office, place or employment, gift or reward, of any kind, in order to induce me to give my vote at this Election; and that **I** have not before voted at this Election; and that **I** am of the age of Twenty-one years and upwards, as **I** verily believe.

So help me GOD.

SCHEDULE (D.)

FORM OF INDENTURE.

Form of Indenture.

THIS Indenture, made this day of in the Year of our Lord , and in the Year of the Reign of our Sovereign Lord King of the United Kingdom of *Great Britain* and *Ireland*, &c. &c. &c. Between Returning Officer for the County of [or Town and Royalty of, as the case may be] in *Prince Edward Island*, of the one part, and *A. B. C. D.* and *E. F.* of the other part, Witnesseth, That, agreeably to His Majesty's Writ, bearing date the day of after Proclamation thereof being made,

according to law, We the said *A. B., C. D., E. F., &c.* Electors of the said County of [*or Town and Royalty of, as the case may be*] in full Assembly, have chosen *F. G.* as a Member to serve for the said County [*or Town and Royalty, as the case may be*] in the General Assembly of this Island, to be held the _____ day of _____ next at *Charlottetown*; and by these Presents we have and do give to the said *F. G.* ample and sufficient power for us and the Electors of the said County [*or Town and Royalty, as the case may be*], to make and consent to such matters as in the said Assembly of the said Island shall be by favor of God ordained. In Witness whereof, each of the said Parties hath interchangeably set his Hand and Seal to these Presents the day and year above written.

SCHEDULE (E.)

OATH TO BE TAKEN BY CANDIDATES AND MEMBERS.

I *A. B.* do swear, that I truly and *bona fide* have such a Freehold, Leasehold, or Equitable Estate, in Land or Tenements on this Island, to and for my own use and benefit (over and above what will clear all incumbrances that may affect the same), of the value of Fifty Pounds, as doth qualify me to serve as a Member for _____ of _____ according to the tenor and true meaning of the Act of the General Assembly, in such case made and provided.

Candidates' and Members' Oath.

So help me GOD.

CAP. XXV.

An Act for appropriating certain Moneys therein mentioned, for the service of the Year of our Lord One thousand eight hundred and thirty-six.

[18th April, 1836.]

May it please your Honor;

WE His Majesty's dutiful and loyal subjects the House of Assembly of *Prince Edward Island*, towards appropriating the several Supplies raised for the exigencies of His Majesty's Government, do humbly beseech that it may be enacted— And be it therefore enacted, by the President, Council and Assembly, That by or out of such Moneys as from time to time shall be and remain in the Public Treasury of this Island, there shall be allowed and paid, for the services herein mentioned, the several sums following, (that is to say):

£500 to the Treasurer for his salary for the present year.

The sum of Five hundred Pounds to the Treasurer of this Island, for his Salary for the present year.

£260 to Collector of Impost for his Salary.

And a further sum of Two hundred and sixty Pounds to the Collector of Impost and Excise for the District of *Charlottetown*, for his Salary for the present year.

£200 for Salaries of Sub-Collectors of Customs.

And a further sum of Two hundred Pounds, to defray the Salaries of the Sub-Collectors of His Majesty's Customs for the present year.

£150 to Commissioners of Highways.

And a further sum of One hundred and fifty Pounds to the Commissioners of Highways, for their services for the present year.

£30 to person appointed to correspond with Road Commissioners.

And a further sum of Thirty Pounds to the person appointed to correspond with the Road Commissioners, for his services for the present year.

£75 to Inspecting Field Officer.

And a further sum of Seventy-five Pounds to the person who may be appointed to inspect the Militia and to receive the Returns, for the present year.

And a further sum of Forty Pounds to the Wharfinger of *Charlottetown*, for his Salary for the present year. £40 to the Wharfinger.

And a further sum of Fifty Pounds to the Speaker of the House of Assembly, for his services during the present Session. £50 to the Speaker of the Assembly.

And a further sum of Twenty-five Pounds to each of the other Members of the House of Assembly, together with travelling charges, at the rate of Eight-pence per mile, in twice coming to and twice returning from the present Session of the General Assembly. £25 to each of the other Members, and travelling charges.

And a further sum of One hundred Pounds to the Chief Justice, for his travelling expenses to attend the County Courts, for the present year. £100 to Chief Justice.

And a further sum of Ninety Pounds, for the maintenance and safe keeping of Insane persons, for the present year. £90 for Insane persons.

And a further sum of Twenty Pounds to *Elizabeth Chappell*, for conducting the business of the Inland Mails, for the past year. £20 to Post Mistress.

And a further sum of Forty Pounds, to defray the Salary of the Market Clerk for the present year. £40 to the Market Clerk.

And a further sum of Forty Pounds to the Keeper of the Jail of *Charlottetown*, to defray his Salary for the present year. £40 to the Jailor of Charlottetown.

And a further sum of Sixty Pounds, to defray the Salaries of the Keepers of the Jails in *King's* and *Prince Counties* for the present year. £60 to Jailors in King's & Prince Counties.

And a further sum not exceeding Six hundred Pounds, for carrying into effect the provisions of the Act intituled *An Act for the encouragement of Education*. £600 for the encouragement of Education.

And a further sum of Fifty Pounds, to be paid to the Trustees of *Saint Andrew's College*, for the benefit of that Institution. £50 to the Trustees of St. Andrew's College.

And a further sum of Fifteen Pounds to the Secretary of the Board of Education, for his services, including Stationary and other contingent expenses, for the present year. £15 to Secretary of Board of Education.

£10 to Hannah
Bullpitt.

And a further sum of Ten Pounds to *Hannah Bullpitt*, for conducting a preparatory School in *Charlottetown*.

£10 to William
Purcell.

And a further sum of Ten Pounds to *William Purcell*, a blind person.

£8 to Elizabeth
Le Page.

And a further sum of Eight Pounds to *Elizabeth Le Page*, towards the support of her husband *Andrew Le Page*, a Lunatic.

£10 to Hercules
Frize.

And a further sum of Ten Pounds to *Hercules Frize*, a blind person.

£15 to Isaiah
Porrier.

And a further sum of Fifteen Pounds to *Isaiah Porrier*, for the support of an Insane Mulatto female.

£10 to John
Ready.

And a further sum of Ten Pounds to *John Ready*, a blind person.

5l. to William
Macneil.

And a further sum of Five Pounds to *William Macneil*, a blind person.

5l. to D. Brennan.

And a further sum of Five Pounds, to be paid to the Reverend *John Kcir*, towards the support of *Daniel Brennan*, a blind person.

5l. to J. Maddox.

And a further sum of Eight Pounds, to be paid to the Reverend *John MacLennan*, for the support of *James Maddox*, a blind person.

5l. to M. Dwyer.

And a further sum of Five Pounds to the Reverend *Robert Douglas*, towards the support of *Martin Dwyer*.

10l. towards the
support of Tho-
mas Doyle's two
Idiot children.

And a further sum of Ten Pounds, to be paid to the Honorable *George Richard Goodman*, towards the support of two idiot children of *Thomas Doyle*.

40l. to pay pre-
miums for killing
Bears and Loup-
cerviers.

And a further sum of Forty Pounds, to defray the Premiums allowed by Law for the destruction of Bears and Loupcerviers (should the same be required), the present year.

5l. for a Beacon on
Point Prim.

And a further sum of Eight Pounds in aid of erecting a Beacon on *Point Prim*.

90l. for George-
town Wharf.

And a further sum of Ninety Pounds, for the purpose of extending the Public Wharf at *Georgetown*.

And a further sum not exceeding Three hundred and eighty Pounds, to defray the expense of rebuilding the Ferry Slip opposite *Charlottetown*.

380*l.* for Ferry Slip opposite Charlottetown.

And a further sum not exceeding Seventy Pounds, to be expended in aid of building a Wharf at *Hope River*, as soon as the sum of Thirty Pounds is subscribed and paid to the Road Commissioner of that District, in aid of the same.

70*l.* in aid of building a Wharf at Hepe River.

And a further sum of Forty-five Pounds, for the purpose of extending *Princetown Wharf*.

45*l.* for Princetown Wharf.

And a further sum of Forty Pounds, to purchase a right of way in the most direct line from the new *De Sable Bridge* to the *Tryon Road*, should the same be required.

40*l.* for road to De Sable Bridge.

And a further sum of One thousand five hundred Pounds, for the service of Roads and Bridges—to be applied and expended agreeably to the Report of the Committee of the House of Assembly on Roads and Bridges, for the present year.

1500*l.* for Roads and Bridges.

And a further sum of One hundred Pounds (to be divided in equal proportions between the three Counties), for the incidental repairs of Roads and Bridges, for the present year.

100*l.* for incidental repairs of Roads & Bridges.

And a further sum of Ten Pounds to the Assayer of Weights and Measures for *Queen's County*, in lieu of Office Rent and other contingent expenses.

10*l.* to Assayer of Weights and Measures for Queen's County.

And a further sum of Two hundred and seventy Pounds, to defray the Sheriff's expenses for the Jails of *King's*, *Queen's* and *Prince Counties*, and for supplying the same with Bread and Fuel, for the present year, should the same be required.

270*l.* to defray Sheriff's expenses for the several County Jails.

And a further sum of Ten Pounds to the Medical Attendant on the *Charlottetown Jail*, for the ensuing year, for attendance and Medicine.

10*l.* to Medical attendant on Charlottetown Jail.

And a further sum of Twenty Pounds to each of the Five Agricultural Societies in *King's*, *Queen's* and *Prince Counties*.

20*l.* to each of the Agricultural Societies.

And a further sum of Thirty Pounds in aid of building a Slip at the *King's Wharf*, *Charlotte-*

30*l.* in aid of building a Slip at

the King's What
in Charlottetown.

30l. to Commis-
sioners for issuing
Treasury Notes.

25l. to High
Sheriff.

150l. to each of
the Masters of the
Academy.

40l. to the Mes-
senger of the Ex-
ecutive Council,
Crier and Tip-
staff.

12l. for bed cloth-
ing for poor debt-
ors.

240l. for defray-
ing fees of Colo-
nial Secretary
and Clerk of the
Council, &c.

150l. for the con-
veyance of the
Winter Mails.

180l. for convey-
ing Inland Mails.

25l. to the master
of the National
School.

10l. to Joshua
Chappell.

town, as soon as the sum of **Twenty-seven Pounds**, which has been subscribed towards the same, shall be paid into the hands of the **Public Treasurer**.

And a further sum of **Thirty Pounds**, to defray the charge allowed by Law to the **Commissioners** for issuing **Treasury Notes**, should the same be required during the present year.

And a further sum of **Twenty-five Pounds** to the **High Sheriff**, being his allowance for the present year.

And a further sum of **One hundred and fifty Pounds** each, to the two **Masters of the *Charlottetown Academy***, for their **Salaries** for the present year.

And a further sum of **Forty Pounds** to the **Messenger of the Executive Council**, **Crier of the Supreme Court**, and **Tipstaff of the Court of Chancery**, for his **Salary** for the present year.

And a further sum of **Twelve Pounds** to the **High Sheriff**, for the purchase of bed clothing for the use of poor **Debtors** confined in the three **County Jails**.

And a further sum not exceeding **Two hundred and Forty Pounds**, for defraying the **Fees** of the **Colonial Secretary** and **Clerk of the Council**, and to provide for the contingent expenses of those offices, for the present year, should the same be required.

And a further sum of **One hundred and fifty Pounds**, to defray the expense of conveying the **Winter Mails**, should the same be required.

And a further sum of **One hundred and eighty Pounds**, to defray the expense of conveying the **Inland Mails** for the present year, should the same be required.

And a further sum of **Twenty-five Pounds** to the **Master of the National School**, for his **Salary** for the present year.

And a further sum of **Ten Pounds** to *Joshua Chappell*, to reimburse him for **Light Moneys** paid

during the past year, on a Vessel run by him as a Packet between the *Bay De Verte* and this Island.

And a further sum of Ten Pounds in aid of erecting Beacons at *Richmond Bay*. 10l. for erecting Beacons.

And a further sum of Twelve Pounds, to be paid to *James Campbell*, Esquire, for the support of three blind persons of the name of *Mackay*, at *New London*. 12l. for support of 3 blind persons named Mackay.

And a further sum not exceeding Fifty Pounds, for the purpose of fitting Spouts to Government House, the Academy, and the three Jails. 50l. for fitting Spouts to Government House, Academy and Jails.

And a further sum of Fifty-one Pounds eleven shillings and three-pence, to defray the expense of putting the Church in mourning, on the occasion of the death of his late Excellency *Sir Aretas William Young*. 51l. 11s. 3d. for expense of Church mourning.

And a further sum of Seventy-two Pounds, to be paid the Honorable *George Wright*; and a further sum of Seventy-two Pounds ten Shillings, to be paid to the Honorable *George Richard Goodman*; and a further sum of Seventy-five Pounds ten Shillings, to be paid to *Daniel Brennan*, Esquire—for their services and disbursements as Commissioners for establishing the County Lines. Remuneration to Commissioners under Boundary Act.

And a further sum of Sixty-four Pounds and six-pence, to defray the Balances due the Surveyors for running the County Lines; being in addition to the sum of One hundred and fifty Pounds granted last year for the same service. 64l. 6d. to Surveyors for running the County Lines.

And a further sum of Three hundred and fifty Pounds (should the same be required), for defraying the expense of Crown Prosecutions, including Fees of the Crown Officers, Clerks of the Courts and Witnesses, and Coroner's and Jurors' Fees, for the present year. 350l. to defray the expenses of Crown Prosecutions.

And a further sum of Fifty Pounds (should the same be required), to defray the Crown Officers' Fees for other purposes, for the present year. 50l. to defray Crown Officers' Fees.

And a further sum of One hundred Pounds (should the same be required), for carrying into effect 100l. for preventing the importation and spread-

ing of Infectious Distempers.

the provisions of the Act for preventing the importation and spreading of Infectious Distempers in this Island.

307. for the purchase of Books for the Assembly.

And a further sum of Thirty Pounds to the Speaker of the House of Assembly, for the purchase of Books for the Library, under the direction of a Special Committee appointed last year for that purpose.

Remuneration to Commissioners for printing the Laws.

And a further sum of One hundred Pounds to be paid to *William Cullen*, and a further sum of Fifteen Pounds to *Charles Binns*, and a further sum of Ten Pounds to *William Forgan*, Esquires, for their services as Commissioners under the Act of the 3d William the 4th, cap. 24.

717. 1s. 8d. to said Commissioners to defray costs incurred in prosecution against J. H. White.

And a further sum of Seventy-one Pounds four shillings and eight-pence, to be paid to the above Commissioners, to defray the Plaintiffs' and Defendant's Costs incurred in the Prosecution against *John Henry White*, for non-fulfillment of his Contract for printing the Laws.

1907. in aid of erecting a Bridge at DeSable River.

And a further sum not exceeding One hundred and ninety Pounds, to defray the expense of erecting a Bridge at *De Sable River*—in addition to the sum of Eighty Pounds granted last year for that purpose.

1507. to defray contingent expenses of the Government.

And a further sum not exceeding One hundred and fifty Pounds, to defray such contingent expenses of Government as may arise during the present year—to be drawn for by Warrant of the Administrator of the Government for the time being.

3007. to the owners of the Pocahontas Steam-boat.

And a further sum of Three hundred Pounds to the Owners of the *Pocahontas* Steam Boat, for conveying the Mails during the summer season of the year One thousand eight hundred and thirty-five—deducting therefrom a rateable proportion of the said allowance for each time she was absent from the station, unless when her place was supplied by another Steam Vessel.

157. towards support of Ellis River Ferry, for 3 years.

And a further sum of Fifteen Pounds, to be paid in equal sums annually for Three Years, for the

encouragement of *Ellis River Ferry*, agreeably to the Resolution of the Committee of Supply.

And a further sum of Twenty-two Pounds three shillings and eight-pence halfpenny, to be paid to Messieurs *Smiths* and *Wright*, being amount of their Account for work done by direction of the House of Assembly.

22l. 3s. 8^{d.} to Messrs. Smiths and Wright.

And a further sum not exceeding Fifty Pounds, for the purpose of repairing the *Market House* at *Charlottetown*.

50l. for repairing the Market House at Charlottetown.

And a further sum of Thirty-five Pounds, for the encouragement of deserving *Acadian French Teachers*, agreeably to the Report of the Committee of Supply.

35l. to Acadian French Teachers.

And a further sum of Two hundred and fifty Pounds, to defray the expense of the Public Printing and Stationary for the present year, should the same be required.

250 for public Printing and Stationary.

And a further sum of Forty-four Pounds, for the purpose of painting and making the necessary alterations in the Court Houses in *King's* and *Prince Counties*, agreeably to the Report of the Committee of Supply.

44l. for painting and making alterations in Court Houses in King's and Prince Counties.

And a further sum of Twenty-five Pounds, in aid of opening the new line of Road from *De Sable* to *Elliot River*.

25l. in aid of opening a Road.

And a further sum not exceeding Fifty Pounds, to defray the disbursements of the Commissioner to be appointed on the subject of *Saint Paul's* and *Scatari Light Houses*.

50l. to Commissioner of Light Houses.

And a further sum of Five hundred Pounds, at the disposal of the Administrator of the Government (should the same be required), for carrying into effect the provisions of an Act passed in the present Session, for the conveyance of the Mails by a Steam Vessel.

500l. for conveyance of the Mails by a Steam Vessel.

And a further sum of Seventy-two Pounds seven shillings and eleven-pence, to Messieurs *Smiths* and *Wright*, being the amount of their contract for building the Guard House near Government House.

72l. 7s. 11d. for building Guard House.

617. 16s. for fitting up Council Chamber.

And a further sum of Sixty-one Pounds sixteen shillings, to be placed at the disposal of the Administrator of the Government, to defray the expense incurred in fitting up the Council Chamber, during the past year.

Contingent expenses of Council and Assembly.

And a further sum sufficient to defray the usual contingent expenses of the Legislative Council and House of Assembly for the present Session—to be paid to the parties entitled thereto, on their Accounts being approved of by each House respectively, and certified by their respective Speakers.