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THE

1899

ACTS

OF THE

GENERAL ASSEMBLY

OF

PRINCE EDWARD ISLAND,

FROM

THE TWENTY-SIXTH YEAR OF THE REIGN OF HER MOST GRACIOUS
MAJESTY QUEEN VICTORIA, A. D. 1863,

TO

THE THIRTY-FIRST YEAR OF THE SAME REIGN, A. D. 1868,
INCLUSIVE.

VOL. III.



CHARLOTTETOWN:

PRINTED BY D. LAIRD, AT THE "PATRIOT" OFFICE.

1868.

PUBLISHED BY AUTHORITY.

EDWARD PALMER, }
JOSEPH HENSLEY, } Commissioners.

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ANNO VICESIMO SEXTO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown, the third day of March, *Anno Domini*, 1863, in the twenty-sixth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith :

GEO. DUNDAS,
Lt. Governor.

D. MONTGOMERY,
President
of Legislative
Council.

T. HEATH
HAVILAND,
Speaker.

Being the first session of the twenty-second General Assembly convened in the said Island.

CAP. I.

An Act to incorporate the Marine Insurance Company of Prince Edward Island.

[Passed April 14, 1863.]

☞ This Act has been printed in the second volume of Private and Local Acts.

CAP. II.

An Act for raising a Revenue.

Expired.

[Passed May 18, 1863.]

CAP. III.

An Act relating to Steam Navigation in this Island.

[Passed April 17, 1863.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, no sea boat or vessel propelled by steam shall depart from any port or place within this Island, with passengers, without having on board, or attached to such boat or vessel, such number of life preservers and good, suitable and sufficient boats, in good condition, properly equipped, as hereinafter prescribed: for every steamer of the registered tonnage of two hundred tons and upwards, not less than one life preserver for every five tons the said steamer may admeasure, and not less than three good boats; of the registered tonnage of less than two hundred tons, the same number of life preservers as above, in proportion to the tonnage; and also, not less than two good boats, every of such boats to be provided with not less than six oars and other necessary tackle, and every such boat to be of sufficient capacity to carry not less than twelve adult persons, exclusive of the crews, and shall be of a length of keel not less than seventeen feet; also, one good and sufficient life-boat, made of metal, fireproof, or of wood, with air-tight, metallic compartments at the ends and sides, according to the direction of the inspector to be appointed as hereinafter prescribed, and also, capable of sustaining inside and outside, thirty persons, and with life-lines attached to the gunwale at suitable distances, and every of the aforesaid life-preservers shall be made of suitable materials or floats well adapted to that purpose, and such life-preservers or floats shall always be kept in convenient and accessible places in such vessel, and in readiness for the use of passengers.

Restriction on sea boats or steam vessels proceeding to sea without life preservers and suitable boats.

Number of life preservers and boats required.

Capacity of boats.

Construction of life preservers.

River steamers, number of life preservers required.

II. Steamers for river or inland navigation of the registered tonnage of one hundred tons and upwards, shall be provided with not less than ten life-preservers, and of less than one hundred tons registered tonnage, with not less than five life-preservers, the whole to be made of suitable material and approved of by the inspector.

Lock-up safety valve, where required.

III. Every steamboat plying on the rivers, bays and harbors within this Island, shall have a lock-up safety escape valve, or some other description of safety valve, subject to the approval of the steamboat inspector to be appointed under this Act, and it shall be the duty of the said inspector to establish the pressure, lock-up the same (if a lock-up safety

valve), and place the key in the hands of the captain, and the captain shall be responsible for the safe keeping of the same.

IV. Every steamboat, whether for sea or river navigation shall be provided with and have on board, in some convenient place, not less than twenty-four good and sufficient fire buckets, of wood or leather, and six good and sufficient lanterns; also, a suitable number of guage-cocks properly inserted in the boilers of the respective steamboats, and a suitable water-guage and steam-guage, indicating the height of the water and the pressure of the steam therein, as the inspector to be appointed hereinafter mentioned may direct; and also one double-acting force-pump, with chambers of such size as the said inspector may direct, according to the size and route of the steamer, to be worked by steam, if steam can be employed, otherwise by hand, and to have a suitable well-fitted hose, according to the direction of the said inspector, kept at all times in perfect order and ready for immediate use, which shall be supplied with water by a pipe connected therewith, and passing through the side of the vessel so low as to be at all times in the water when she is afloat.

Fire buckets,
where required

Water guage
and steam
guage.

Force pump
and hose,
where requir-
ed.

V. The Lieutenant Governor in Council is hereby authorized to appoint one inspector for the said Island, and such officer shall be designated Inspector of Steamboats, and shall perform the services required of him by this Act, and the salary of such inspector shall not exceed sixty pounds, including travelling expenses, and shall be paid quarterly, by warrant of the Lieutenant Governor in Council, on the treasurer of this Island.

Inspector,
duty and sala-
ry of.

VI. The inspector to be appointed as aforesaid, is hereby required to regulate and direct the weight to the square inch of the boilers of each steamer belonging to or steaming from any port or place within this Island, whether sea or river steamer, and to certify such regulations and directions in writing, to the master or owner of the steamer inspected by him, who, with the engineer of the steamboat to which such regulations and directions apply, shall be governed thereby, and it shall be the duty of the owner or master of said steamboat to cause a printed copy thereof to be posted up, and kept posted up, in some conspicuous part of the steamboat, during the season to which such inspection shall apply.

Weight on
square inch of
boiler to be re-
gulated and
certified by in-
spector.

Copy to be
posted.

VII. If such master or owner, or engineer, after the inspector shall have so certified as in the last preceding section directed, shall act contrary to the said regulations by putting a greater weight upon the boilers than allowed thereby, such master or owner and engineer shall respectively be subject

Penalty of £50
for acting con-
trary to inspec-
tor's regula-
tions.

and liable to a penalty not exceeding fifty pounds for each and every breach of such regulations, to be recovered and applied as hereinafter directed.

VIII. Every such steamboat or vessel shall be provided with a good, safe and convenient gangway to the wharf at which she may be laying, such gangway to be not less than two and one-half feet wide, with a good handrail on each side thereof, suitable for the embarking and landing of passengers to and from such steamboat or vessel as aforesaid, at all times of tide, such landing or gangway to be separate and distinct from that used for landing or loading coals or cargo, and in all cases when the landing or disembarking of the passengers takes place between sunset and sunrise a good light shall be placed at each end of such gangway before the passengers be allowed to land, and kept there for not less than one hour after arrival at the wharf or place of landing, or until the landing is finished; and the like when the embarking of the passengers takes place after dark, that is between sunset and sunrise, under the penalty of forty shillings for each and every neglect or breach of duty in this respect, to be paid by the owner or master of such boat or vessel.

Gangway to be provided for convenience of landing passengers.

Good light also to be provided.

IX. Every steamboat plying within any of the harbors, bays and rivers of this Island, and coming to any port or place within the same, shall carry at the mast-head of such steam-vessel, or upon a staff to be erected over the wheelhouse, not less than ten feet high above the upper deck, at night, during the time she shall be underweigh, a good clear and distinct signal white light, and also side lights red and green; and steam tug boats shall carry a red light at the mast-head, which lights shall be so kept until alongside the wharf, on coming into port or place of destination, under the penalty, for each and every neglect, of twenty-five pounds, to be paid by the owner or master of such boat or vessel, and to be recovered and applied as hereinafter directed.

Inward bound & river steam boats to carry a white light ten feet high; also, red and green side lights.

Penalty of £25 for neglect.

X. The inspector so to be appointed as aforesaid, is hereby authorized at all times, and as often as he may judge necessary, to go on board and examine and inspect the hull, boilers, machinery, boats, and other parts, appurtenances of any steamer belonging to or steaming from any port or place within this Island employed in carriage of passengers, and to satisfy himself that every such vessel so submitted to his inspection is of a structure suitable for the service in which she is employed, that she has suitable accommodations for her crew and passengers, and is in a condition to warrant the belief that she may be used in navigation as a steamer with safety to life, and that all the requirements of this law in regard to

Inspector authorized to board and inspect hull and machinery of steamers.

boats, boilers, machinery, life preservers, and other things are faithfully complied with, and if he deem it expedient he may direct the vessel to be put in motion, and may adopt any other suitable means to test her sufficiency and her equipments.

May direct vessel to be put in motion.

XI. In addition to such annual inspection, it shall be the duty of such inspector to examine, from time to time, steamers arriving and departing, so often as to enable him to detect any neglect to comply with the requirements of the law, and also any defect or imperfections becoming apparent after the inspection aforesaid, and tending to render the navigation of the vessel unsafe; and if he shall discover any omission to comply with the law, or that repairs have become necessary to make the vessel safe, he shall at once notify the master or owner, stating in the notice what is required.

Inspector may make further examination and notify master of any defect.

XII. The owner or master of every steamer shall, at the time of each and every inspection or examination of the boilers of such steamer, state in writing to the inspector, the amount of pressure which he is willing the boilers should be subjected to, and the inspector shall not, in any case, authorize a greater weight to the square inch of any boilers than two-thirds of the amount of pressure such boilers shall have sustained during the inspection: provided always, that the working pressure upon any boilers so authorized by the inspector shall in no case exceed ninety pounds to the square inch.

At the inspections, owner, &c., to state what amount of pressure boilers to be subjected to.

XIII. It shall be the duty of the inspector appointed under this Act to examine and see that suitable and safe provisions are made throughout any such vessel to guard against loss or damage by fire, and no licence shall be granted if any combustible material liable to take fire from heated iron or any other heat generated on board such vessel in and about the boilers, pipes and machinery, shall be placed at less than twelve inches distance from such heated metal or other substance likely to cause ignition, unless a column of air or water intervene between such heated surface and any wood or other combustible material so exposed, sufficient at all times, and under all circumstances, to prevent ignition; and further, when wood is so exposed to ignition, as an additional preventive, it shall be shielded by some incombustible material in such manner as to leave the air to circulate freely between such material and wood: provided always, that when the structure of such steamers is such, or the arrangements of the boilers or machinery is such that the requirements aforesaid cannot, without serious inconvenience or sacrifice be complied with, the inspector may vary them, if in his judgment it can be done with safety.

Inspector to see that provisions are made against loss by fire.

Wooden parts of vessel to be protected from ignition.

official acts and doings, which, in the form of a report to the Lieutenant Governor, shall annually be laid before the Legislature, together with a record of the certificate of inspections of vessels, their boilers, engines and machinery, whether of approval or disapproval.

XVIII. On any steamer navigating rivers only, when from disarrangement of the machinery of the boat, the engineer shall be of opinion that the further navigation of the vessel is unsafe, the vessel shall be brought to anchor or moored as soon as prudently may be done : provided that if the person in command shall, after being so admonished by such engineer, pursue such voyage, he may do the same, but in such case, both he and the owners of such steamer shall be answerable for all damages which shall arise to the person of any passenger or his baggage, on board of such steamer, from so pursuing such voyage contrary to such admonition, and no degree of care or diligence shall in such case be held to justify or excuse the person in command, or the owner or owners.

River steamers to be brought to anchor when engineer of opinion they are unsafe.

Master may, nevertheless, proceed at his own and owner's risk.

XIX. Steamboats intended for and confined to the navigation of rivers and inland navigation, are required to carry at least one good boat, provided with four oars of sufficient capacity to carry not less than twelve persons with safety, besides the crew, and also not less than six good life-preservers.

One good boat at least required for river steamers.

XX. All penalties and forfeitures imposed by this Act, not exceeding the sum of ten pounds, may be sued for and recovered by summary proceedings, with costs of suit, at the suit of Her Majesty's Attorney General, or any person who shall prosecute for the same, before any two Justices of the Peace for the County in which the offence shall have been committed or the cause of complaint shall have arisen, or in which the offender or party complained of shall and may appear to be, or before the Mayor or any two City Councillors of the City of Charlottetown, for any offence against this Act incurred by the owner, captain, or engineer of any boat plying on the Hillsborough river, or Elliot River, or to or from the City of Charlottetown ; and all penalties above ten pounds shall and may be prosecuted for and recovered with costs as aforesaid in Her Majesty's Supreme Court of Judicature, by bill, plaint, or information, at the suit of Her Majesty's Attorney General, or any person who may prosecute for the same ; and all penalties imposed by this Act shall when recovered, after payment of expenses, be paid into the treasury of this Island, for the use of Her Majesty's Government.

Penalties not exceeding £10 how recovered.

Penalties over £10, how recovered and appropriated.

XXI. The owner or owners of any steamboat who shall permit such boat to navigate in any of the waters of

Owners of steamboat

when liable to penalty of £50 for breach of duty not otherwise rendered penal.

this Island, or to depart from any port or place in this Island, with passengers, without all the provisions and requirements of this Act being fully complied with, shall forfeit and pay, for every breach or dereliction of duty for which a penalty is not hereinbefore imposed, a sum not exceeding fifty pounds.

Master, &c., of steamboat where liable to penalty of £10 in addition to penalty imposed on owner.

XXII. The master or officer in charge of any such steamboat or vessel, who shall navigate or depart from any port or place in this Island in such vessel without all the provisions of this Act being complied with, shall forfeit and pay a sum not exceeding ten pounds, in addition to the penalty imposed upon the owner or owners for every offence.

Steamboat departing on a voyage outwards, without certificate of inspector, master or owner to forfeit £50.

XXIII. If any steamboat shall depart from any port or place in this Island, on a voyage to any other port or place in or out of this Island, without having first procured from the inspector of Steamboats, or his deputy, the requisite certificate of such boat being in all respects provided as is required by this Act, the master or owner thereof shall, for each and every such neglect, forfeit and pay a fine of not less than fifty pounds, in the discretion of the Court before which prosecuted, to be recovered in manner prescribed by this Act.

Lt. Governor may appoint two persons qualified to estimate strength and qualities of steamer.

XXIV. The Lieutenant Governor in Council may appoint in any port or place in this Island two persons acquainted with shipbuilding, qualified and competent to make a reliable estimate of the strength, seaworthiness and other qualities of the hull of any steamer employed in the carriage of passengers, and of her fitness for the route on which she may be placed without peril to life from any imperfections of the several parts, or from age or use, who shall be authorized to make a survey of any vessel, on being requested to do so by the inspector of steamers for the said Island, who shall also furnish such inspector with their report of such inspection, and their opinion, in writing, of the character and condition of the vessel.

Remuneration for inspection £2 10s.

XXV. The remuneration for such inspection shall be two pounds ten shillings, to be divided between such persons so appointed, as provided in the preceding section of this Act, and shall be paid by the owner or master of such vessel on the certificate of the inspector of steamers, before the inspection shall be deemed completed.

Act not to extend to foreign steamers, &c.,

XXVI. Nothing in this Act contained shall apply to steamers registered in any foreign country, unless such vessel shall be engaged in conveying mails or passengers to or from this Island to any other colony or country, nor to steamers the property of Her Majesty.

CAP. IV.

An Act to incorporate the Union Bank of Prince Edward Island.

[Passed April 21, 1863.]

~~REV.~~ This Act has been printed in the second volume of Private and Local Acts.

CAP. V.

An Act to alter and amend the Act intituled "An Act to consolidate and amend the several Laws relating to Education."

Repealed by
31 Vic. cap. 6.

[Passed April 21, 1863.]

CAP. VI.

An Act to amend the law relating to Statute Labor, and to authorize the establishment of certain additional Road Districts, and the appointment of Road Commissioners therefor.

[Passed April 21, 1863.]

WHEREAS it is deemed expedient to increase the number of Road Districts in the several Counties hereinafter named. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of this Act, Prince County shall be divided into and shall contain eleven Road Districts, instead of ten, as prescribed and set forth in the schedule (A), annexed to the Act of the twenty-fifth Victoria, chapter two, intituled "An Act to consolidate and amend the laws relating to statute labor and the expenditure of public moneys on the highways; and the said schedule (A) to the said recited Act annexed, shall be, and the same is hereby altered by separating township number seventeen from the sixth road district of Prince County, as set forth in the said schedule, and said township is hereby formed into and constituted a new road district, and shall be known as the eleventh road district of Prince County.

Prince County to be divided into eleven road districts, instead of ten, as formerly,

Act of 25th Vic. cap. 2, altered accordingly.

II. The said schedule (A) to the said recited Act of the twenty-fifth Victoria, chapter two, is hereby further altered as follows: all that part of township number sixty-five lying

Schedule (A) of said recited Act altered.

Part of town-
ship No. 65
constituted an
additional dis-
trict, to be call-
ed No. 13, in
Queen's Coun-
ty.

on the south side of the Elliot river, and set forth in said schedule as part of the fifth road district of Queen's County, is hereby separated from said fifth road district, and the same is formed into and constituted a separate district, and shall be known and added to the said schedule as road district number thirteen, in Queen's County; and all that part of township number fifty-eight in Queen's County, which lies south of south Pinette river, together with the wharf at south Pinette, is hereby separated from road district number ten, and added to district number eleven, in Queen's County.

Moneys appro-
priated the
present session
for townships
Nos. 17, 65, and
58, how to be
expended.

III. All moneys appropriated during the present session of the Legislature, for roads, bridges and wharfs, on township number seventeen aforesaid, and for the hereinbefore mentioned part of township number sixty-five, and for that part of township number fifty-eight, which is hereby separated from road district number ten and added to district number eleven, in Queen's County, shall be expended therein respectively, in the two former cases, by the Commissioner to be appointed thereto respectively under this Act, and in the latter case by the commissioner of road district number eleven, in Queen's County, aforesaid.

Administrator
of the Govern-
ment to ap-
point two ad-
ditional road
Commission-
ers.

IV. So soon as this Act shall go into operation, it shall and may be lawful for the Administrator of the Government, in Council, to nominate and appoint a Commissioner of highways for each of the several new road districts established by this Act, (and each of such commissioners shall be a resident within the district for which he shall be appointed respectively) and from time to time to fill up any vacancy or vacancies occurring in the office of Commissioner of highways for the aforesaid districts respectively, as well as in the office of Commissioner of highways for each of the several districts herein-after mentioned, namely: the fifth, tenth, and eleventh road districts of Queen's County, and the sixth road district of Prince County, as the same are altered or constituted by this Act, whether such vacancy or vacancies shall occur by death or otherwise.

Commissioner
for (new) dis-
trict No. 11,
his powers.

V. The Commissioner of highways to be appointed to road district number eleven, in Prince County, under this Act, shall have power to hire laborers by the day, or otherwise contract with any person or persons whomsoever, and upon such terms as he shall see fit, for the making and repairing of highways, wharfs, roads and bridges within his district, and to draw the several amounts appropriated for such district as he the said Commissioner shall require the same; anything in the twenty-third section, or any other part of the said recited Act to the contrary, notwithstanding.

VI. There shall be paid out of the moneys in the public treasury of this Island to the Commissioners of highways to be appointed under this Act, annually, the respective sums following, that is to say: to the Commissioner of district number thirteen, in Queen's County, the sum of seven pounds ten shillings, and to the Commissioner of district number eleven, in Prince County, the sum of ten pounds; and such sums shall be in the lieu of all fees or per centage on moneys expended, and shall be paid in like manner as Commissioners' salaries under the said recited Act.

Salaries of new commissioners.

VII. All the modes and form of proceedings, and all and singular the powers and authorities, provisions, directions, penalties, forfeitures, clauses, matters and things contained and set forth in the said recited Act of the twenty-fifth Victoria, chapter two, except when the same are amended or repealed by this Act, shall be in force in, and the same are hereby extended to the said several districts hereby added to, altered or constituted and established, and to the inhabitants thereof, the Commissioners of highways, overseers of statute labor, and other officers to be from time to time appointed therein and therefor, under this Act.

Act of 25th Vic. cap. 2, and its provisions, to apply to new districts.

VIII. This Act shall go into operation immediately on the passing thereof.

CAP. VII.

An Act to incorporate the Grand Orange Lodge of Prince Edward Island, and the Subordinate Lodges in connection therewith.

[Passed April 21, 1863.]

* * This Act was not allowed by Her Majesty, see Despatch from the Duke of Newcastle, Secretary of State for the Colonies, dated 26th September, 1863, and published in the *Royal Gazette* on the 21st October, 1863.

CAP. VIII.

An Act to authorize the Government to sell the Military Barracks in Charlottetown.

[Passed April 21, 1863.]

☞ This Act has been printed in the second volume of Private and Local Acts.

CAP. IX.

An Act to continue certain Acts therein mentioned.

[Passed April 21, 1863.]

WHEREAS the Acts hereinafter mentioned will shortly expire, and it is deemed expedient to continue the same :

I. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the Act of the sixth year of Her present Majesty, Queen Victoria, Chapter twenty, intituled "An Act relating to Landlord and Tenant;" the Act of the ninth year of the same reign, chapter three, intituled "An Act to consolidate and amend the several Acts relating to Dogs and the taxation thereon;" the Act of the fifteenth year of the same reign, chapter five, intituled "An Act to consolidate the laws now in force regulating the sale of the interest of leaseholders, when taken in execution;" and the Act of the fifteenth year of the same reign, chapter ten, intituled "An Act to consolidate and amend the laws now in force relating to division fences," shall be and the same are hereby severally continued in force for the period of ten years from the time of the passing hereof, and from thence to the end of the then next session of the General Assembly of this Island, and no longer.

6 Vic. cap. 20
9 Vic. cap. 3.
15 Vic. cap. 5.
15 Vic. cap. 10
All continued for 10 years.

CAP. X.

An Act to alter and amend the Act for the preservation of the Alewives' Fisheries in this Island.

[Passed April 21, 1863.]

BE it enacted by the Lieutenant Governor, Council and Assembly as follows :

I. From and after the passing of this Act, the fourth, fifth, sixth, seventh and eighth sections of the Act made and passed in the twenty-fourth year of the reign of her present Majesty, chapter seven, intituled "An Act for the preservation of the Alewives' Fisheries in this Island," shall be, and the same are hereby severally repealed.

4th, 5th, 6th and 8th sects. of 24 Vic., cap. 7, repealed.

II. Any person who shall or may be aggrieved or injured by the illegal or improper setting of nets or seines, as mentioned


in the third section of the said recited Act, and who shall notify any neighboring Justice of the Peace thereof, such Justice of the Peace is thereupon hereby required to investigate the circumstances, and if he shall find that the nets or seines have been illegally or improperly set, he shall have power and he is hereby required to abate and remove the same, and to prosecute the person to whom they belong, or who shall have set them, for the penalties imposed by the said recited Act, and such penalties shall be recovered as therein prescribed.

Proceedings under third section how carried into effect.

C A P. X I.

An Act to authorize the Lieutenant Governor of Prince Edward Island to sell certain Pews in Saint Paul's Church, Charlottetown, now held by the Government.


[Passed April 21, 1863.]

 This Act has been printed in the second volume of Private and Local Acts.

C A P. X I I.

An Act to incorporate the Minister and Trustees of the Presbyterian Church of Bay Fortune.


[Passed April 21, 1863.]

 This Act has been printed in the second volume of Private and Local Acts.

C A P. X I I I.

An Act to incorporate the Minister and Trustees of the Presbyterian Church of Saint Peter's Bay.

[Passed April 21, 1864.]

 This Act has been printed in the second volume of Private and Local Acts.

C A P. X I V.

An Act for the naturalization of Aliens.

[Passed April 21, 1863.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows :

Foreigners may be naturalized by taking oath.

I. Any person of foreign birth, having resided in this Island for seven years, shall, upon taking and subscribing the oath hereinafter prescribed, be entitled, within this Island, to all the privileges of a natural born subject of Her Majesty: such oath shall be as follows, *videlicet*:

Form of oath.

“ I, *A. B.*, of _____ do swear that I have resided seven years in this Island, without having during that time, been a stated resident in any foreign country, and that I will be faithful and bear true allegiance to the Sovereign of Great Britain and Ireland, and of this Island, as dependent thereon.”
 “ So help me God.”

And shall be administered by a Judge of the Supreme Court of Judicature, in open Court, during the term or terms thereof, and at the same time subscribed by such person in a book to be kept for that purpose.

Certificate of oath to be entered in Colonial Secretary's office.

II. The Judge administering such oath shall cause a certificate thereof to be transmitted to the office of the Colonial Secretary, which shall be entered in a book to be kept for that purpose in his office, and a copy of such certificate, certified under the seal of the Island, shall be sufficient proof thereof, and of such person being admitted to all the privileges aforesaid, in all Courts whatsoever.

Oath falsely taken to be perjury.

III. If any person shall falsely swear to the facts of residence, in such oath contained, he shall be guilty of perjury, and liable to the penalty incident thereto, and upon conviction shall forfeit all the privileges to which he might have been entitled under this Act.

Married women how naturalized.

IV. Every woman married to a natural born British subject or naturalized person, shall be deemed to be naturalized, and shall, within this Island, have all the privileges of such subject.

Fees payable on naturalization.

V. A fee of ten shillings shall be paid by the person naturalized, to the Colonial Secretary, for entering the said certificate of the oath in the said book to be kept as aforesaid; and for every copy of such certificate, certified under the seal of this Island, the sum of sixteen shillings and eight pence, the said fees to be applied to and for the use of the government of this Island.

Suspending clause.

VI. Nothing in this Act contained shall have any force or effect until Her Majesty's assent thereto shall be signified, and notification thereof shall have been published in the *Royal Gazette* newspaper of this Island.

* * This Act received the royal assent on the 17th November, 1863, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 6th day of January, 1864.

CAP. XV.

An Act authorizing the Legislative Council and House of Assembly to commit prisoners in contempt to the common jail of Queen's County.

[Passed April 21, 1863.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. That from and after the passing of this Act the common jail of the County of Queen's, shall be the prison of the Legislative Council and House of Assembly of this Island.

Queen's County jail to be prison for Houses of Legislature.

II. The said Legislative Council and House of Assembly shall have full power to commit to such prison any person or persons who shall, by resolution of the said Legislative Council or House of Assembly, be adjudged guilty of any contempt or breach of the privileges of the said Legislative Council or House of Assembly respectively, in as full and ample a manner as persons adjudged guilty of such offences might, before the passing of this Act, be committed to the custody of the Sergeant-at-Arms of the said Legislative Council or House of Assembly, respectively.

Persons adjudged guilty of contempt to be committed to such prison.

III. It shall be the duty of the keeper of the common jail of the said County of Queen's, to receive into his custody, and confine in such jail all such persons as shall at any time hereafter be committed to such jail under and by virtue of any warrant signed by the President of the Legislative Council or by the Speaker of the House of Assembly of this Island.

Jailer's duty


IV. All Justices of the Peace, Sheriffs, Deputy Sheriffs, Jailers, Constables, and other officers, shall be aiding and assisting the said Legislative Council and House of Assembly and their officers in the exercise of the jurisdiction of the said Legislative Council and House of Assembly, whenever required so to do.

Duty of Magistrates, &c. &c

CAP. XVI.

An Act to incorporate sundry persons by the name of the President, Directors and Company of the Farmers' Bank of Rustico.


[Passed April 21, 1863.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XVII.

An Act to incorporate King Hiram Lodge, No. (1123,) one thousand one hundred and twenty-three, of Free and accepted Masons, of Saint Eleanor's, in Prince Edward Island.

[Passed April 21, 1863.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XVIII.

Executed. An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and sixty-three.

[Passed April 21, 1863]

ANNO VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown the sixteenth day of March, *Anno Domini*, 1864, in the twenty-seventh year of the reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith :

GEO. DUNDAS,
Lt. Governor,

D. MONTGOMERY,
President
of Legislative
Council.

Being the second session of the twenty-second General Assembly convened in the said Island.

R. McAULAY,
Speaker.

CAP. I.

An Act for raising a Revenue.

[Passed April 30, 1864.]

Expired.

CAP. II.

An Act for settling differences between Landlord and Tenant, and to enable tenants on certain townships to purchase the fee simple of their farms.

[Passed May 2, 1864.]

WHEREAS by a certain Address of the House of Assembly, pursuant to certain resolutions, passed by the said House, it was prayed that Her Majesty's Government would be pleased to direct a commission to inquire into the

Preamble.

Preamble.

existing relations between landlord and tenant, and to negotiate with the proprietors for abatement of arrears of rent, and also for terms to enable the tenants to purchase the fee simple of their farms: and whereas Sir Samuel Cunard, Baronet, Edward Cunard, Sir Graham Montgomery, Baronet, James Montgomery, the Right Honorable Lawrence Sullivan, Daniel Hodgson, William Cundall, John Roach Bourke, the Honorable Thomas Heath Haviland, John A. McDonald, and the Honorable Edward Palmer and Henry Palmer, proprietors of the several township lands mentioned in the schedule to this Act annexed, marked (A), did agree to the issuing of such commission: and whereas a royal Commission was thereupon issued; and whereas the commissioners thereby appointed, by their report, did find and declare that no arrears of quit rents, by the original grants reserved, are now due, or recoverable from the proprietors, tenants or occupiers of such lands; and also that the proprietors, their tenants or occupiers, should be quieted in their possession of certain parts of the said lands called or known as the "Fishery Reserves;" and did also declare and award that all arrears of rent, which accrued due to the said proprietors, in respect of any of the said lands, previous to the first day of May, one thousand eight hundred and fifty-eight, should be remitted to the tenants; and did also give certain rates at which they should have a right to purchase the fee simple of their farms; and whereas the said Commissioners did also, by their report, direct and provide that in certain cases the value of the land should be ascertained by arbitrators or valutors, to be chosen by the landlords and their tenants respectively: and whereas the validity of such last mentioned direction or provision of the said commissioners hath been questioned, and it hath been made to appear that such direction or provision exceeded the authority of the said commissioners, and rendered the said award ineffective; and whereas it is nevertheless expedient that the questions concerning the land tenures of this Island, and which have been publicly agitated for so many years, should be set at rest by such legal provisions as will enable the tenantry to convert their leaschold tenures into fee simple estates, upon such terms and conditions as her Majesty may deem just and reasonable: and whereas the said proprietors have intimated to her Majesty's government their willingness to remit to their tenants, on their respective estates, certain arrears of rent hereinafter mentioned, and also that the tenants on the said estates shall have the right to purchase the fee simple of their farms at the rate hereinafter expressed. Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

I. That, first, every tenant now holding under lease, or demise from any of the proprietors in the said schedule named,

or their ancestors, or any other person or persons from or through whom they derive title, their, or any of their heirs, or assigns, having at the time of his desiring to exercise the right of purchase hereinafter given, an unexpired term of not less than forty years under written demise, in any of the township lands of such proprietors therein mentioned, shall have a right or option to purchase the fee simple of the lands so held by him under lease or demise, at the rates hereinafter mentioned, that is to say: during the period of ten years from the day when this Act shall come into force, every such tenant shall have a right or option to purchase such fee simple at fifteen years' purchase of the yearly rent reserved and made payable by and under such demise: provided always, that in any case where the said yearly rent, during the first portion or years of the term, shall be less than the yearly rent reserved, during the residue of such term the amount of the purchase money shall be computed by multiplying the maximum or full rent reserved during the residue of such term by the number of years' purchase at which such tenant may, under the provisions aforesaid, be entitled to purchase.

Tenants of terms beyond 40 years may purchase the fee simple of their farms at 15 years' rent.

Proviso.

II. That the hereinbefore recited declarations or award of the said commissioners, respecting the arrears of quit rents, and also concerning the lands known as the "Fishery Reserves," be, and the same are hereby declared to be binding, in law and equity, in respect of the estates of the proprietors of township lands whose names are set forth in the schedule hereunto annexed.

Declarations respecting Fishery Reserves.

III. All arrears of rent which have accrued due to any of the said proprietors from any tenant of such township lands previous and up to the first day of May one thousand eight hundred and fifty-eight, and unpaid at the passing of this Act, whether secured by bond, judgment, cognovit, promissory note, or other species of security, are hereby remitted, released and given up, whether such tenant shall purchase his farm under the provisions of this Act or otherwise, save as hereinafter excepted; and no action, execution, or other proceeding in law or equity, shall be had or taken for any such arrears of rent: provided always, that where any such arrears of rent shall have been secured by judgment at law recovered, and entered up in the Supreme Court of Judicature in this Island against any tenant or tenants of the said proprietors, respectively, who have refused or neglected to pay their yearly accruing rents, in accordance with the recommendation of the aforesaid royal Commissioners, such judgments having been entered up, upon, or at any time previously to the first day of October, one thousand eight hundred and sixty-three, shall stand good, and may be enforced as well for

Certain arrears of rent released

Proviso as to certain clauses

Proviso as to certain over-plus payments.

such arrears as for rent which may have accrued since the first day of May, one thousand eight hundred and fifty-eight, if any such shall be included in such judgments; and provided further, and it is hereby declared, that nothing in this Act shall be construed to entitle any tenant, who, subsequent to the first day of May one thousand eight hundred and fifty-eight, shall have paid a sum larger than was sufficient to cover or liquidate the rent accruing due, between the said first day of May, one thousand eight hundred and fifty-eight, and the time of the passing of this Act, to have the overplus or amount remaining after deducting the rent so accruing between the said first day of May, one thousand eight hundred and fifty-eight and the time of the passing of this Act, applied in or towards the liquidation or payment of any rent, accruing after the date of the passing of this Act; but such over-plus shall be taken and held to have been appropriated by the landlord, in payment of arrears that accrued due previous to the said first day of May, one thousand eight hundred and fifty-eight.

This Act where a good defence for arrears of rent.

IV. In any action, hereafter to be brought by any of the said proprietors, their heirs or assigns, against any such tenant for the recovery of rent, which may have accrued due previous to the first day of May, one thousand eight hundred and fifty eight, under any such demise as aforesaid, this Act (as to so much of the demand as relates to rent accrued due, previous to such last mentioned date,) shall be a good defence, under the general issue, without the same being specially pleaded in bar thereto.

Certain arrears of rent to be paid before purchase.

V. That no tenant shall be entitled to claim the right or option to purchase under this Act, unless all arrears of rent, and which might have been recovered before the passing of this Act, are not released or barred by the provisions hereof and shall be fully paid and satisfied.

VI. That nothing in this Act shall extend to any lease made after the passing of this Act.

Whole of purchase money to be paid.

VII. That no landlord shall be compelled to sell under the provisions of this Act, unless the whole of the purchase money be tendered or offered to be paid.

Rent where apportioned.

VIII. That in case the tenant shall desire to purchase between the periods or days on which the rent falls due, the same shall be apportioned, and the portion there found to be due, added to the purchase money, payable by such tenant under the provisions of this Act.

IX. In all cases where leases have been granted subsequent to the period when the Act passed in the seventeenth year of the reign of her present Majesty, chapter six, intituled "An Act relating to certain leases and monetary obligations, entered into before the passing of the currency Act," came into force and operation, such leases having the rent therein reserved in sterling; and the tenant shall have been accustomed to pay his rent reserved, by such, his lease, with the addition of one-ninth part thereof, every such tenant shall be entitled to have the purchase money computed, in the same manner as the rent has been accustomed to be computed when paid.

Purchase money where payable with one ninth.

X. Nothing in this Act shall have any force or effect until Her Majesty's pleasure therein shall be known.

Suspending clause

SCHEDULE (A.)

Sir Samuel Cunard, proprietor of townships numbers two (2), fourteen (14), twenty-one (21), thirty-two (32), forty-four (44), sixty-three (63), sixty-four (64), and halves of townships numbers twenty (20), forty-five (45); forty-six (46), forty-nine (49), and parts of townships eight (8), forty-eight (48), fifty-four (54), and sixty-five (65); also, one-third ($\frac{1}{3}$) part of township number twenty-seven (27).

Schedule.

Mr. Edward Cunard, proprietor of townships numbers four (4), five (5), six (6), and half of township number one (1).

Right Honorable Lawrence Sullivan, proprietor of townships numbers nine (9), sixteen (16), twenty-two (22), and sixty-one (61).

Sir Graham Montgomery, of one-third ($\frac{1}{3}$) part of township thirty-four (34).

Honorable Thomas Heath Haviland, proprietor of township number fifty-six (56), and parts of townships numbers forty-three (43), forty (40), and eight (8).

Henry and Edward Palmer, proprietors of one-half of township number one (1).

Mr. Daniel Hodgson, proprietor of part of township number twenty-three (23).

Mr. William Cundall, proprietor of part of township number twenty (20).

Mr. John A. Macdonald, proprietor of parts of townships numbers thirty-five (35), and thirty-six (36).

Mr. John R. Bourke, proprietor of half of township number thirty-seven (37).

James Montgomery, Esquire, proprietor of one-third ($\frac{1}{3}$) part of townships numbers fifty-one (51), fifty-nine (59), and thirty-four (34).

* * * This Act received Her Majesty's assent, and notification thereof was published in the *Royal Gazette* newspaper on the 30th day of Nov.. A. D., 1864.

CAP. III.

An Act to alter the Act for the trial of actions in a summary way, and to make other provisions relative to the return of writs issued out of the Supreme Court of Judicature.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and Assembly:

Summary writs to be returnable 14th day of June.

Bail or appearance when to be entered.

General issue only to be pleaded.

Original process when to be filed after service.

I. That from and after the passing of this Act, all summary writs for the trials of actions in a summary way, shall be returnable on the fourteenth clear day, exclusive of Sundays, before the first day of the term at which it is intended the said action shall be tried; and the defendant or defendants, in any such action, shall enter an appearance, or file common bail or special bail, as the case may require, and plead on the said return day.

II. No other plea than the general issue shall be required or allowed in summary cases, and the defendant shall be entitled to set up and give in evidence any defence under it.

III. That at any time, on and after the seventh clear day, exclusive of Sundays, before the said first day of term, the plaintiff may file the original summary process with the prothonotary of the said Supreme Court, and in case the defendant or defendants shall not have entered an appearance, or filed common bail or special bail, as the case may require, or pleaded thereto, the said prothonotary, or his deputy, shall endorse a memorandum to the effect of such want of appearance and plea, on the said original summary process; and the defendant or defendants shall not be at liberty to enter an appearance, or file common bail or special bail, as the case

may require, and plead thereto, after the prothonotary or his deputy shall have endorsed such memorandum on the said original process, as aforesaid, unless upon sufficient cause being shewn, upon affidavit, before any Judge of the said Supreme Court, who shall make an order therefor.

Memorandum to be endorsed by the prothonotary.

IV. That at the hearing of such summary actions, in which the prothonotary or his deputy shall have made such memorandum as aforesaid, it shall not be necessary for the plaintiff to issue any subpoenas to compel the attendance of any witnesses in the said action, and all charges therefor shall be disallowed; but the defendant or defendants at such hearing shall be taken to have admitted every allegation properly set forth in the said writ or process.

Default, how proceeded with.

V. That no costs shall be allowed for any plaintiff's attorney attending to file the said original summary process, as aforesaid, nor to the prothonotary for making the said want of appearance and plea, as aforesaid, on any pretence whatever; but at the taxation of any such costs such charges shall only be taxed as are now allowed by the Judges of the said Supreme Court at the passing of this Act, wholly irrespective of such additional services herein required.

Costs, how regulated.

VI. That from and after the passing of this Act, any writ, process, or execution, of what nature or kind soever, issuing out of the said Supreme Court, may be returnable upon any day except Sunday, and that for the purposes of returning any such writs, process, or execution, every day except Sunday shall be considered a part of the last preceding term: provided always, that such writ, process or execution, not being an *alias plurus* or *alias pluries*, bear teste upon the last day of the preceding term; and every such writ, process or execution, not being an *alias plurus* or *alias pluries*, actually issuing during the continuance of any term, shall bear teste upon the day upon which they were issued.

Other writs, executions, &c. when may be made returnable.

Proviso.

VII. That from and after the day when this Act shall commence and take effect, all other Acts, and parts of Acts, contrary to, or inconsistent with the provisions of this Act, shall be, and the same are hereby repealed.

Repeals other Acts contrary thereto.

VIII. This Act shall not extend to, or in any manner affect pending suits.

Not to extend to suits pending.

IX. This Act shall come into force immediately after the passing thereof.

Act, when to go into force.

CAP IV.

Repealed by 31
Victoria, chap.
10.

An Act for the establishment of a Bank for Savings in Prince
Edward Island.

[Passed May 2, 1864.]

CAP. V.

An Act to regulate the inspection of Flour and Meal.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and
Assembly, as follows :

Inspectors and
weighers of
flour when and
where to be
appointed.

I. So soon as this Act shall go into operation the Lieutenant
Governor in Council may appoint, at every port of entry in
this Island where necessary, one fit person to be inspector and
weigher of flour and meal, who may appoint a deputy, and shall
be liable for his defaults, and shall take security for the faith-
ful discharge of his duties.

Inspectors to
give security
by bond.

II. Every inspector and weigher, before entering upon his
duties, shall give security, by bond, with two sureties to the
Queen, for the faithful performance of such duties by himself
or deputies, and for making good any damage sustained, by
any person in consequence of the neglect, misconduct or de-
fault of such inspector or deputies ; and shall also take the fol-
lowing oath before a Justice of the Peace :

Oath also to be
taken.

“ I, *A. B.*, do swear, that I will faithfully, according to the
best of my skill, execute the office of inspector and weigher of
flour and meal according to law :”

—and each deputy, before acting as such, shall be in like
manner sworn to the faithful performance of his duty.

Barrels and
half barrels
of flour, &c.,
imported or
manufactured,
to be inspected
and weighed.

III. All wheat flour, rye flour, corn meal and buckwheat
meal, imported or manufactured in this Island, and brought
into market for sale in barrels or half barrels, shall, imme-
diately upon being landed, or so brought in, and before being
sold or offered for sale, or shipped, or taken out of any ware-
house for consumption, or sent from the place where the same
shall have been so landed, be inspected and weighed by the in-
spector and weigher of such port, or his deputy ; and each bar-
rel shall contain not less than one hundred and ninety-six
pounds, net weight ; and each half barrel not less than ninety-
eight pounds, net weight, of flour or meal, which if not good,

sweet and wholesome, shall be marked and denominated "Bad," but this section shall not apply to flour or meal deposited in a warehouse and directly shipped therefrom for exportation.

IV. The inspectors and weighers, or their deputies, upon the landing of any flour and meal in barrels or half barrels, as aforesaid, shall inspect and weigh the same, which shall be of at least the quantity aforesaid; and if deficient, shall mark, in a legible figure or legible figures, the quantity deficient in connection with the word "Short," as for instance, "Short 2½," where there may be a deficiency of two and one-half pounds, and so for different quantities deficient; and thereupon shall brand, with a branding iron, each barrel or half barrel thereof with the initials of his christian and surname, or mark the same thereon with black or red paint, with the net weight of each barrel or half barrel, and following the same with the letter "E" for extra, "S" for superfine, "F" for fine, "M" for middlings, or "Bad" for bad, every barrel or half barrel of such flour or meal, which, after landing, or being brought into the market, as aforesaid, shall be sold or offered for sale, removed or shipped for consumption in this Island, contrary to the provisions of this Act, shall be seized by any inspector, or his deputy, or by any revenue officer; and if not exceeding five pounds in value, shall be declared by two Justices of the Peace forfeited to the Queen; if the value shall exceed five pounds, the same may be prosecuted to condemnation in any Court of Record.

Quantity of flour, &c., where deficient to be marked "short."

Quality of flour &c., how to be marked.

V. Any person offending against the provisions of this Act, shall be liable to pay ten shillings for each offence; one-half the net proceeds of the seizures or penalties to be paid to the person who shall seize or prosecute for the same; and the residue into the treasury of this Island for the use of the Government thereof.

Offenders against Act to be fined ten shillings.

VI. Any person selling barrelled flour or meal, against the provisions of this Act, shall be liable to all damages in consequence thereof.

Selling flour, &c., against provisions of Act, renders parties liable to all damages.

VII. The inspector or his deputy may fix a tare for the said barrels or half-barrels to the best of his judgment.

Tare how fixed.

VIII. The inspector, or his deputy, shall be paid for inspecting, weighing and marking, as follows:—For each barrel of flour or meal, one penny; for each half barrel of flour or meal one half-penny—to be paid by the owner, seller, importer, or consignee thereof.

Amount to be paid inspectors

Inspector
liable to a fine
of 20s. for in-
specting, &c.,
contrary to
Act.

IX. If any inspector, or his deputy, shall inspect, weigh, brand or mark, any barrel or half-barrel of flour or meal, contrary to this Act, he shall forfeit twenty shillings for each offence.

Act not to in-
terfere with
rights, &c., of
City of Char-
lottetown.

X. Nothing in this Act shall interfere with the rights and privileges of the Corporation of the City of Charlottetown.

XI. This Act shall go into operation immediately on the passing thereof.

CAP. VI.

An Act to amend the law relating to Bills of Exchange and Promissory Notes.

[Passed May 2, 1864.]

Preamble.

WHEREAS, according to law, as hath been adjudged, where a Bill is accepted, payable at a bank, the acceptance thereof is not a general but a qualified acceptance; and whereas a practice hath very generally prevailed among merchants and traders so to accept bills, and the same have among such persons been very generally considered as bills generally accepted, and accepted without qualification; and whereas many persons have been, and may be, much prejudiced and misled by such practice and understanding; and persons accepting bills may relieve themselves from all inconvenience by giving such notice as hereinafter mentioned of their intention to make only a qualified acceptance thereof. Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

Words neces-
sary to consti-
tute a special
acceptance of
a Bill, &c.

I. That from and after the passing of this Act, if any person shall accept a bill of exchange, payable at the office or place of business of any bank or other place, without further expression in his acceptance, such acceptance shall be deemed and taken to be, to all intents and purposes, a general acceptance of such bill; but if the acceptor shall, in his acceptance, express that he accepts the bill payable at the office or place of business of any bank, or other place only, and not otherwise or elsewhere, such acceptance shall be deemed, and taken to be, to all intents and purposes, a qualified acceptance of such Bill; and the acceptor shall not be liable to pay the said bill, except in default of payment, when such payment shall have been first duly demanded, at such office or place of business in such bank or other place.

II. And be it further enacted that from and after the passing of this Act, no acceptance of any inland bill of exchange

shall be sufficient to charge any person unless such acceptance be in writing on such bill, or if there be more than one part of such Bill on one of the said parts. be accepted in writing.

III. And whereas it is necessary to provide a remedy for the recovery of moneys payable on bills of exchange, promissory notes, or other negotiable instruments, which may have been lost: Be it further enacted, that in case of an action, founded upon a bill of exchange, promissory note or other negotiable instrument, it shall be lawful for the Court, or a Judge, to order that the loss of such instrument shall not be set up; provided an indemnity is given to the satisfaction of the Court or Judge, against the claims of any other person, upon such negotiable instrument. Remedy where Bill lost.

CAP. VII.

An Act to amend the Act entitled "An Act to incorporate the Union Bank of Prince Edward Island." 26 Vic., cap. 4

[Passed May 2, 1864.]

~~§~~ This Act has been printed in the second volume of Private and Local Acts.

CAP. VIII.

An Act relating to the office of Commander-in-Chief. See 29 Vic., cap 2, and 30 Vic., cap 6.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. The Lieutenant Governor of this Island shall, by virtue of his office, be Commander-in-Chief of the Militia and Volunteers, during the absence from the Island of the Governor-General. Lieut. Governor *ex-officio* appointed.

II. This Act shall not come into operation until Her Majesty's Royal assent shall be thereunto signified, and notification thereof shall have been published in the *Royal Gazette* newspaper of this Island. Limitation

* * This Act received the Royal assent, and notification thereof was, on the 5th day of April, 1865, published in the *Royal Gazette* newspaper.

CAP. IX.

14 Vic., Cap. 2 An Act to amend the Act now in force for the relief of Insolvent Debtors.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

Orders for relief where may be signed by one Judge or Commissioner.

I. That the original order which the Supreme Court, or the Judges thereof, or the Commissioners appointed to carry into effect the purposes and provisions of the Act of the fourteenth year of Her Majesty, Queen Victoria, chapter the second, are on application of any party, for relief as an insolvent debtor, authorized and required to make, by the fifth section of the said recited Act, to the Sheriff or Jailor, in whose custody the applicant shall be confined, in order to bring such person up before them, may hereafter be made either by the Court or by one Judge thereof, or by one of the said Commissioners.

Like as regards small debt relief.

23 Vic., cap. 16.

II. In like manner the like original order may be made by one of the Commissioners appointed, or who shall hereafter be appointed, for the relief of insolvent debtors, under the Act of the twenty-third year of the reign of Her present Majesty, chapter the sixteenth, relating to the recovery of Small Debts.

CAP. X

An Act to revive and continue the Act intituled "An Act to regulate the Fisheries of this Island."

[Passed May 2, 1864.]

Preamble.

WHEREAS the Act made and passed in the fifth year of the reign of His late Majesty, King George the Fourth, chapter twelve, intituled "An Act to regulate the fisheries of this Island," recently expired, and it is deemed expedient to revive and continue the same. Be it therefore enacted by the Lieutenant Governor, Council and Assembly :

5 Geo. 4th, cap. 12, revived for 10 years.

I. That the said recited Act of the fifth year of the reign of his said late Majesty, King George the Fourth, chapter twelve, shall be, and the same is hereby revived and continued, for the space of ten years, from the passing hereof, and from thence to the end of then next session of the General Assembly, and no longer.

CAP. XI.

An Act relating to Partridges or Tree Grouse, and to repeal certain portions of the several Acts therein mentioned.

[Passed May 2, 1864.]

WHEREAS the very great destruction of partridges or tree grouse, in this Island, has tended to render the same scarce, and if continued, without some further restriction, there is reason to fear that they will be exterminated. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows :

Preamble.

I. From and after the passing of this Act, so much and such parts of the Act made and passed in the twentieth year of the reign of His late Majesty, King George the Third, chapter five, and also so much and such parts of the Act passed in the twenty-first year of the same reign, chapter eleven, as relate to the killing of partridges, shall be and the same are hereby severally repealed.

20 Geo. 3, cap 5, and 21 Geo. 3, cap. 11, partially amended.

II. From and after the publication hereof, it shall not be lawful for any person or persons, whomsoever, to shoot, kill or destroy, or to have in his, her, or their possession, any partridge, partridges, or tree grouse, until the first day of October, which will be in the year of our Lord one thousand eight hundred and Sixty-five ; and from and after the last mentioned period it shall not be lawful for any person or persons, whomsoever, to shoot, kill or destroy, or to have in his, her or their possession, any partridge, partridges or tree grouse, between the first day of January and the first day of October, in any year ; and every person offending against any of the aforesaid provisions shall forfeit and pay the sum of ten shillings for every partridge or tree grouse so shot, killed or had in possession, within the periods respectively as aforesaid, to be recovered with costs before any one of Her Majesty's Justices of the Peace, on the oath of one or more credible witness or witnesses ; and it shall be the duty of any such Justice as aforesaid, and he is hereby required, upon proof being made to his satisfaction, or upon view of the violation of the provisions of this Act, to issue his warrant or warrants for the levying by distress and sale of the goods and chattels of such offender or offenders, the amount of such penalty or penalties, one-half thereof to be paid to the informer, and the other half into the treasury of this Island, for the use of Her Majesty's Government ; and in the event of there being no goods and chattels whereupon to levy, such offender shall be committed to the Jail of the County, wherein the offence shall have been committed, for a period not exceeding one calendar month,

No Partridge, &c., to be killed previous to 1st October, 1865, after then to be protected between 1st Jan. and 1st Oct., yearly.

Penalty of 10s. for killing.

Recovery thereof.

Limitation of
Act.

III. This Act shall continue and be in force for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XII.

Expired.


An Act to continue certain Acts therein mentioned.

[Passed May 2, 1864.]

CAP. XIII.

An Act in addition to the Act to extend the criminal jurisdiction of the Police Court in the City of Charlottetown.

[Passed May 2, 1864.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XIV.

25 Vic. cap. 18. An Act to amend the Act intituled "An Act to change the constitution of the Legislative Council, by rendering the same elective.

[Passed May 2, 1864.]

Preamble.

WHEREAS doubts have arisen whether an alien may or may not vote for members to serve in the Legislative Council of this Island, under and by virtue of the seventh section of the Act made and passed in the twenty-fifth year of the reign of her present Majesty, chapter eighteen, intituled "An Act to change the constitution of the Legislative Council, by rendering the same elective," and it is necessary to remove such doubts. Be it therefore enacted by the Lieutenant Governor Council and Assembly, as follows:

Aliens prohibited from voting.

I. No alien shall be deemed entitled or permitted to vote for the election of a member to serve in the Legislative Council by virtue of the said seventh clause of the said Act, or of any other part of the said, or any other Act of the General Assembly of this Island.

CAP. XV.

An Act to amend the Act to regulate the Specie Currency of Prince Edward Island. 19 Vic. cap. 24.

[Passed May 2, 1864.]

WHEREAS in the Act intituled "An Act for regulating the Specie Currency of Prince Edward Island," and passed in the twelfth year of the reign of her present Majesty, no provision is contained limiting the amount of silver which may be legally tendered. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly :

Preamble.

I. That from and after the passing of this Act, silver coins shall not be a legal tender to the amount of more than six pounds currency, and that the holder of notes, or obligations of any person or body corporate, to the amount of six pounds currency, shall not be bound to receive in such silver coins, more than that amount in payment of such notes, if presented at one time, although each or any of such notes be for a less sum. £6 maximum tender in silver

II. Provided always, that this Act shall not come into force or operation until the first day of June, in the year of our Lord one thousand eight hundred and sixty-five. Proviso.

CAP. XVI.

An Act to authorize the establishment of certain additional Small Debt Courts in this Island.

See 29 Vic. cap. 15, and 30 Vic. cap. 4, and 31 Vic. cap.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. After the passing of this Act, it shall and may be lawful for the Lieutenant Governor, in Council, to constitute and appoint the following additional Courts, in the several Counties in this Island, namely: a Court at or near Strathalbyn, and a Court at or near Cranberry Point, township number thirty-six, in Queen's County; also, a Court in each of the Counties of Prince and King's Counties, that is to say: a Court at Summerside, in Prince County, and a Court at or near Saint Peter's Bay, in King's County, for the recovery of small debts, and to declare the precise localities, in the several Counties where each Court shall respectively be holden; and Additional Courts where to be appointed.

also, on what days of each month the said Courts shall respectively hold their sittings, and to appoint to each Court three Judges or Commissioners to adjudicate in each Court; each Court to have jurisdiction only within the County in which it is held, except as in the cases mentioned in the first hereinafter recited Act.

Jurisdiction and powers of such courts.
23 Vic. cap. 16.

II. The Courts to be appointed or constituted by virtue of this Act, shall exercise and have the same jurisdiction and powers, in all respects, as the Courts already established, and having jurisdiction under and by virtue of the Act of the twenty-third year of the reign of her present Majesty, chapter sixteen, intituled "An Act relating to the recovery of Small Debts, and to repeal certain Acts therein mentioned;" and also under the Act of the twenty-fifth year of the same reign, chapter six, intituled "An Act to alter and amend the Act relating to the recovery of Small Debts," as fully, to all intents and purposes as if the same had been established under the said recited Acts, or either of them.

Inconsistency in Acts.

III. Anything in the said recited Acts, or either of them, contrary to, or inconsistent with, the provisions of this Act, is hereby repealed.

CAP. XVII.

Repealed by
28 Vic. cap. 13.

An Act for the regulation of the Oyster Fisheries in this Island.


[Passed May 2, 1864.]

CAP. XVIII.

18 Vic. cap. 34.

An Act in addition to the Act to incorporate the Town of Charlottetown.


[Passed May 2, 1864.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XIX.

An Act for the incorporation of the Prince Edward Island Steam Navigation Company.


[Passed May 2, 1864.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XX.

An Act to continue and amend the Act of incorporation of the Bank of Prince Edward Island.

[Passed May 2, 1864.]

 This Act has been printed in the second volume of the Private and Local Acts.

CAP. XXI.

An Act to facilitate proceedings in suits in the Court of Chancery in cases where the defendants, or any of them, shall be absent from this Island.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. In all cases or suits, to be hereafter brought in the Court of Chancery of this Island, where the defendant or defendants, or any of them, reside out of this Island, and shall have been served with a subpoena to appear therein, as provided for in the eighteenth section, or other parts of the Act passed in the twelfth year of the reign of her Majesty Queen Victoria, chapter the fourteenth, then and in such case all future steps or proceedings required to be taken, and all orders, rules or papers required to carry out or give effect to the same, need not be personally served on the defendant or defendants, so residing out of this Island; but in all such cases, the publication of any order, rule, summons, or paper proceeding, in the *Royal Gazette* newspaper, published in this Island, for the space of not less than twenty days, or for such longer period as the Chancellor or Master of the Rolls shall, in each case, order or direct, shall be taken and deemed to be equivalent to the personal service on such defendant or defendants, of such order, rule, summons, or paper proceeding.

12 Vic. cap. 14, sec. 18, services of rule, &c., under, how regulated.

CAP. XXII.

An Act in addition to the Act to require Clergymen and others authorized to solemnize Marriages, to return Certificates thereof to the Surrogate of the Island, and to require Clergymen to keep a record of Baptisms.

[Passed May 2, 1864.]

WHEREAS Clergymen, in certain cases, have neglected or omitted to record the names and ages of children

Preamble.

11 Geo. 4, c. 5.

baptized by them, in manner required by the Act made and passed in the eleventh year of the reign of his late Majesty King George the Fourth, chapter five, intituled "An Act to require Clergymen and others, authorized to solemnize Marriages, to return certificates thereof to the Surrogate of the Island, and to require Clergymen to keep a Record of Baptisms," and such Clergymen have subsequently departed this life, or removed from the parishes where they have baptized children, and omitted to record such baptisms as aforesaid, and serious inconvenience may arise from such omission, and it is right and proper that every such unregistered baptism should still be recorded. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Names and ages of children baptized, to be registered

I. Every ordained clergyman is hereby authorized and required to register, in the record kept by him for the registration of baptisms, as required by the said recited Act, the names and age of every child who shall have been baptized within his parish, or the bounds of his district, either previous to or since his coming into the same, or becoming the incumbent clergyman, or minister thereof, but the registration of whose baptism shall not have been made at the time of such baptism, in manner required by the said recited Act; also the names of the parents of every such child, and the date of the celebration of the rite, upon the affidavit of the parent or guardian of every such child, or of any other witness, of the fact of the baptism of such child, and of his or her age when baptized, and the names of the parents, or upon other satisfactory proof thereof being produced and shewn to such clergyman; and every such clergyman shall be entitled to receive the sum of one shilling and six pence, for every certificate from such record.

Names of parents, &c., to be likewise registered.

Penalty for neglect.

II. Every clergyman who shall neglect or refuse to comply with the provisions of this Act shall, for each and every such neglect or refusal, forfeit and pay the sum of five pounds, to be recovered on the oath of one or more credible witnesses, and paid into the treasury of this Island.

This Act no exemption for penalties incurred under former Act.

III. Nothing in this Act shall exempt, or be construed to exempt, from liability to forfeit the penalty imposed by the said recited Act, any clergyman who shall have neglected or omitted, or who shall, or may hereafter neglect, or omit, to comply with any of the requirements of the said recited Act.

CAP. XXIII.

An Act to provide for the establishment of a Marine Court of Inquiry.

[Passed May 2, 1864.]

BE it enacted by the Lieutenant Governor, Council and Assembly as follows :

I. It shall be lawful for the Lieutenant Governor in Council, from time to time, and whenever occasion shall arise or require, by Commission under his hand and seal, to appoint such persons as he shall think suitable to form a Court, which shall be called the "Marine Court of Inquiry;" and such Court shall comprise some person or persons of judicial or legal knowledge and habits, and some person or persons of nautical skill and experience; and in the commission may be included the person to preside over the Court.

Lieut. Governor, in Council to appoint persons to form Court.

II. The proceedings of the Court shall be assimilated, as far as possible, to those of ordinary Courts of justice, with the like publicity.

Courts, how to proceed.

III. In the cases following, that is to say: whenever any ship or vessel is abandoned, or materially damaged in or near the coasts of this Island, or any island or place adjacent thereto—whenever any ship or vessel causes loss or material damage to any other ship or vessel, on or near such coasts, islands or places—whenever by reason of any casualty happening to or on board of any ship or vessel, on or near such coasts islands or places, loss of life ensues—whenever any such loss, abandonment, damage or casualty happens elsewhere, and any competent witnesses thereof arrive, or are found at any place within the Island, or any of the Islands belonging thereto—whenever a charge of misconduct or incompetency is brought by any person against any master or masters of a British ship or vessel—it shall be lawful for such Court to hear and enquire into any such charge of incompetency or misconduct, and to make enquiry respecting such loss, abandonment, damage or casualty; and for such purposes they shall have the powers given by the first part of the "Merchant Shipping Act, one thousand eight hundred and fifty-four," to inspectors appointed by the Board of Trade; and so far as relates to the summoning of parties, compelling the attendance of witnesses, the regulations of the proceedings, and the enforcing of penalties and of obedience to the judgments or orders of the Court, shall have the same powers as Justices of the Peace would have if the proceedings related to an offence, or cause of complaint,

Acts to which jurisdiction extend.

Powers of Court.

Other persons may be appointed with like powers.

upon which they have power under the laws of this Island to make a summary conviction or order, or as near thereto as circumstances shall permit; it shall be lawful for the Lieutenant Governor in Council, upon any occasion which he may see fit, and at whatever places may be necessary, to nominate and appoint any other person or persons whomsoever, to be a tribunal duly authorized to make enquiry into the several matters aforesaid, with the like powers as the Court hereinbefore mentioned.

Costs, how provided for.

IV. The Court may make such order with respect to the costs of any such investigation, or any portion thereof, as they shall deem just, and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings, before one or more Justices of the Peace; and the Board of Trade may, if in any case it sees fit so to do, pay the expenses of any such investigation.

Remuneration to Court.

V. There shall be paid to the said Court to be established under this Act or some member or members thereof in respect of services under this Act, such remuneration, whether by way of increase of salary—if a salaried official or otherwise—as her Majesty's Secretary of State for the home department, with the consent of the board of trade may direct to be paid out of the mercantile marine fund.

Decision of Court, when and how stated

Certificate, how disposed of.

VI. Upon the conclusion of the case, or as soon afterwards as possible, the Court shall state, in open Court, the decision to which they have come with respect to cancelling or suspending certificates; and shall, in all cases, send a full report upon the case, with the evidence, and of their judgment or opinion thereon, and such observations, if any, as the Court may think fit, to the Lieutenant Governor, for transmission to the board of trade; and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the board of trade with their report.

Court may order certificate to be delivered up, &c.

VII. The Court may, if they think fit, require any master or mate, possessing certificate of competency or service, whose conduct is called in question, or appears to them likely to be called in question in the course of such investigation, to deliver such certificate to them; and they shall hold the certificate so delivered, until the conclusion of the investigation, and shall then either return the same to such master or mate, or if their report is such as to enable the Board of Trade to cancel or suspend such certificate under the powers given to such Board by the third part of the "Merchants' Shipping Act, one thousand eight hundred and fifty-four," shall forward the same to the Board of Trade to be dealt with as such Board

shall think fit; and if any master or mate fails so to deliver his certificate when so required, he shall incur a penalty not exceeding fifty pounds; but no certificate shall be cancelled or suspended unless a copy of the report, or a statement of the case upon which the investigation is ordered, has been furnished to the owner of the certificate before the commencement of the investigation: provided always, that nothing in this Act contained shall be taken to affect, in any way, the jurisdiction of the Vice Admiralty Court of this Island, howsoever the same may be acquired.

Penalty on refusal to deliver up certificate.

CAP. XXIV.

An Act to enable John Robinson to obtain Letters Patent for the invention of a new mode of constructing Ships and Vessels.

[Passed May 2, 1864.]

63 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXV.

An Act to prevent the running at large of Horses, Neat Cattle, Swine, Sheep and Geese, in Saint Eleanor's.

[Passed May 2, 1864.]

64 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXVI.

An Act to incorporate the Minister and Trustees of the Presbyterian Church at Valleyfield, township number fifty-seven.

[Passed May 2, 1864.]

65 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXVII.

18 Vic. cap. 18. An Act to alter and amend the Act for facilitating the parti-
 28 Vic. cap. 7. tion of Lands held by persons as Joint Tenants, Co-parceners, or Tenants in common.

[Passed May 2, 1864.]

Preamble. **W**HEREAS many of the provisions of the Statute passed in the eighteenth year of the reign of Her Majesty, Queen Victoria, relating to the partition of lands held by persons as joint tenants, co-parceners, or tenants in common, have been found cumbersome and difficult in operation, and it is therefore deemed expedient to amend and simplify the same. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

18 Vic. cap. 18 extended. I. The application, by petition, for partition referred to in the second section of the said recited Act, may be made either to the Supreme Court in term time, or to a Judge thereof in vacation, subject to such rules and regulations respecting the proceedings in any case, consequent thereon or subsequent thereto, as in the said Act, or in this Act, are contained.

Petition. II. The petition shall be laid before a judge at Chambers, in vacation, or the Supreme Court, in term time, and shall be verified on oath, according to the best of the petitioner's knowledge, information and belief; and an order to appear and answer thereto shall be granted by the Judge of the Court, on application made for that purpose, which order shall be returnable either at Chambers before a Judge, or at a term of the Supreme Court, as the said Court or Judge shall, at the time in that behalf, order and direct; and a copy of such order shall be served on each of the parties named in the petition, as interested in the premises, if they shall be found in the Island, at least twenty days before the return day thereof; and such proceedings shall also be taken in cases where the parties interested shall be absent from the Island, as are ordained in the eighth section of the said recited Act.

Parties absent from Island. III. If in any stage of the proceedings, it shall appear to the Court or Judge that any person interested, whether named in the petition or not, is out of the Island, and has not opportunity to appear and answer to the petition, it shall be continued from time to time, until sufficient time has been allowed to enable him to appear and answer thereto; and the said Court or Judge may, in their discretion, make an order to amend the said petition, by inserting the name or names of such absent person or persons.

IV. All persons interested in the premises, of which partition is prayed for, may appear and answer to the petition, either himself or by his Attorney or Counsel; and shew, on affidavit, such cause as he can, why the petitioner ought not to have partition as prayed for, either in whole or in part; and the Court or Judge may, on all occasions where deemed just and necessary, and where the same is demanded by either party, give leave either to the petitioner or any person opposing the prayer thereof, to file affidavits or supplementary affidavits, as the case may be, in support of the petition, or the opposition thereto and adjourn the further hearing for that purpose, from time to time, for a sufficient time, in the opinion of the Court or Judge, to enable the parties to be prepared with such affidavits.

Cause to be shewn, and by whom.

V. Each party petitioning or opposing shall serve, or cause to be served, on the other party, or his attorney, copies of all affidavits intended to be made use of, at any hearing hereunder, seven days before the hearing at which the same shall be used.

Copies of affidavits to be served.

VI. If any person, not named in the petition, shall appear and oppose the partition prayed for, or otherwise shew cause against the prayer of the petition, the petitioner may object that such person has no estate or interest in the lands described in the petition; and if, upon investigation of the case by the Court or a Judge, it shall appear that the person so appearing or opposing has no estate or interest in the lands, the matter of his objection or opposition shall be no longer or further enquired of.

Parties interested only to appear.

VII. If upon the hearing by the Court or a Judge, as the case may be, it shall appear that the petitioner is entitled to have partition as prayed for, he shall be adjudged his costs of such hearing against the party who objected thereto; and shall have his remedy therefor by attachment or execution, by *fieri facias* or otherwise, as the Court or Judge shall, in each case direct; but if the decision shall be against the petitioner in whole or in part, the adverse party shall, in like manner as aforesaid, be adjudged his costs, and have the like remedy therefor; and judgment may, notwithstanding, be entered, or an order made for the petitioner to have partition, and to have assigned to him such part of the premises, if any, as he shall be entitled unto.

Costs, when granted and how recovered.

VIII. In all cases where there shall be no opposition to the petition, or where upon hearing, the opposer shall make default, or it shall otherwise appear that the petitioner is entitled to have partition, whether for the share or proportion claimed in his petition, or for a less share, an order or rule that parti-

Proceedings in default.

tion shall be made shall be granted by the Court or Judge, as the case may be ; but the Court or Judge shall have full power, in all cases where it or he shall deem the justice of the case requires it, to set aside defaults, or grant hearings, *de novo*, on such terms as to time or costs, or otherwise, as it or he shall order and ordain.

Three Com-
missioners to
be appointed.

IX. When such order or rule shall have been granted, the Court or Judge shall appoint three disinterested persons to be Commissioners to make partition, and to set off to the petitioners and other parties interested, the shares belonging to them: Provided always, that where the consent of all parties be for that purpose given, the said Court or Judge may appoint two or one Commissioners or Commissioner, with the like powers as aforesaid.

Two years al-
lowed for part
owners absent.

X. Where any person who is a part owner with any petitioner, and for whom a share is left on the partition, shall be out of the Island at the time of the partition, and shall not have been personally served with an attested copy of the petition or order, or otherwise, as provided for in the eighth section of the said recited Act, he may at any time within two years after final judgment in the return of the Commissioners appointed in the case to make partition, apply to the Court or a Judge for a new partition of the premises, who, upon hearing all parties interested, shall, if it appears that the share left for the applicant was less than he was entitled to, or that the part left for him was not at the time of the partition equal in value to his share of the premises, order a new partition thereof, by Commissioners, in manner as in the said Act, and this Act provided in other cases, and as also provided in the thirty-first and thirty-second sections of the said recited Act.

Other Acts,
where to be
construed by
this.

XI. All words and expressions made use of in those parts of the said recited Act, as shall not be hereby repealed, and which relate to suits or pleas, or replications in suits for partition brought, shall be read and used in such a sense as to apply to and effectually carry out the provisions of this Act, and of the said recited Act, as hereby altered and amended, and where any difficulties shall arise, either in practice or otherwise, in carrying out proceedings for partitions, under this or the said recited Act, then, and in all such cases, and in order to prevent delay and failure of justice, the Supreme Court, in term time, shall have power to make rules and orders, either specially, for the purpose of any particular application, or generally with respect to all applications for partition, and to repeal and alter such rules and orders, or any of them, from time to time.

XII. Persons claiming as heirs or next of kin of a deceased party, intestate, shall be held and deemed to be parties entitled to apply for partition under this or the said recited Act, if they or either of them elect to avail themselves of its provisions.

Next of kin may elect to proceed.


XIII. Sections seven, ten, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, twenty-nine and thirty, of the said recited Act, eighteenth Victoria, chapter eighteen, shall be, and the same are hereby repealed.

Repeals parts of 18 Vic. cap. 18.

CAP. XXVIII.

An Act to incorporate Saint George's Lodge, number eight hundred and sixty-six, of free and accepted Masons, of Georgetown, in Prince Edward Island.

[Passed May 2, 1864.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXIX.

An Act to continue for certain purposes the Land Assessment Act of the eleventh Victoria, chapter seven, and the several Acts in amendment thereof, and for other purposes therein mentioned.

[Passed May 2, 1864.]

WHEREAS an Act made and passed in the eleventh year of the reign of her present Majesty, intituled "An Act for levying further an Assessment on all Lands in this Colony, and for the encouragement of Education," together with the several Acts in amendment thereof, are about to expire, namely: an Act passed in the twelfth year of the reign of her present Majesty, chapter seven; an Act passed in the sixteenth year of the same reign, chapter fourteen; an Act passed in the eighteenth year of the same reign, chapter three; and an Act passed in the twenty-fourth year of the same reign, chapter thirty-five; and whereas by an Act passed during the present session of the Legislature, intituled "An Act to consolidate and amend the several Laws imposing an Assessment on all Lands in this Colony, and for the encouragement of Education," the several Acts above recited have been consolidated into one Act, which is intended to come

Preamble.

into operation so soon as, but not until her Majesty's royal allowance to the same be signified in this Colony ; and whereas divers tracts of land have, during the last term of the Supreme Court of Judicature of this Island, been proclaimed in arrear for non-payment of the land tax imposed thereon, for the year one thousand eight hundred and sixty-three, in pursuance of the terms of the first above recited Act, and it may become necessary to prosecute to judgment and execution the said lands so in arrear. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly :

11th Vic. cap.
7. &c., con-
tinued.

I. That the hereinbefore recited Act of the eleventh year of her Majesty's reign, chapter seven, intituled " An Act for levying further an Assessment on all Lands in this Colony, and for the encouragement of Education ; and also the hereinbefore recited Acts passed in amendment thereof, shall be, and the same are hereby respectively continued, in such parts or enactments thereof only, and for such time as may be necessary for the prosecution to a final end and determination of all such proceedings as shall have been or hereafter may be taken for the recovery of the said assessment in arrear, on the lands so proclaimed, in the said last term of the said Supreme Court of Judicature.

Contents of
townships to
be ascertained.

II. And whereas it is expedient that the quantity of land on each and every of the townships on this Island, on which an assessment has been imposed by the aforesaid Act passed during the present session of the Legislature, intituled " An Act to consolidate and amend the several Laws imposing an Assessment on all Lands in this Colony, and for the encouragement of Education," should be more accurately ascertained and determined : Be it therefore enacted, that the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, shall have authority and he is hereby authorized and required to nominate and appoint, within one month from the time when the last above recited Act shall receive her Majesty's assent, three Commissioners, who shall have power to ascertain, in a summary manner, by the inspection of records, plans, or otherwise, the area of the several townships in this Island, and whose duty it shall be to return, under their hands, to the Lieutenant Governor, or other administrator of the government a list or schedule of the said several townships, and the area of the land on each ; and the area so returned by the said Commissioners, or any two of them, shall be taken to be the number of acres for which taxes shall be collected under the said Act so passed in the present session of the Legislature as aforesaid : provided always, that the return to be made by such Commissioners, or any two of them, shall first be approved by the Lieutenant Governor in Council ; and the Lieutenant Gover-

Proviso.

nor in Council is hereby authorized to allow and pay to such Commissioners a reasonable sum as compensation for the services so to be performed by them as aforesaid; such sum not to exceed in the whole, the sum of fifty pounds.

C A P. X X X.

An Act to amend the Act of the third year of King William the Fourth, chapter twenty, respecting the Church of England, in this Island. 3 W. 4, cap 20.

[Passed May 2, 1864.]

~~123~~ This Act has been printed in the second volume of Private and Local Acts.

C A P. X X X I.

An Act in further amendment of the Laws relating to Education, and also to explain and amend the Act relating to the establishment of the Prince of Wales College. See 30 Vic. cap. 15, and 31 Vic. cap. 6.

[Passed May 2, 1864.]

WHEREAS it has been found more advantageous to the interests of Education in the Colony, as well as being attended with less expense, to establish a Grammar School for Charlottetown and Queen's County, in the building used as the Prince of Wales College, and in connection with that institution, rather than in the building in which the Normal School is held, or in connection therewith; and a Grammar School has been accordingly opened and established in the said College building, and the same is now in operation; and it is desirable that the same should be placed under the control of the trustees and governors of the said College, instead of under that of the Board of Education. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Preamble.

I. That the Grammar School contemplated by the eleventh, twelfth, thirteenth, fourteenth, and seventeenth sections of the Act of the twenty-sixth Victoria, chapter five, intituled "An Act to alter and amend the Act intituled 'An Act to consolidate and amend the several Laws relating to Education,'" to be established in Charlottetown, shall be, and continue to be, held in the building used as the Prince of Wales College, and in connection with that institution; and the same shall be, and continue to be, under the exclusive control and supervi-

Grammar School may be held in P. of Wales College.

sion of the trustees and governors of the said College, who are hereby declared to be the trustees of the said Grammar School, instead of the Board of Education.

Master of Grammar School, by whom appointed.

May receive a tuition fee.

Amount of, how fixed.

II. All appointments to the mastership of the said Grammar School shall be made by the Administrator of the Government for the time being, in Council, and the qualifications of the master or teacher of the said Grammar School shall be those specified in the fourteenth section of the said recited Act; and it shall be the duty of the said master or teacher to collect and receive, from the parents or guardians of the children attending such grammar school, a tuition fee, or such sum per head for every child taught in said grammar school, as shall previously have been fixed by the Board of trustees and governors of the said College in that behalf, and subject to such rules and regulations as the said Board shall prescribe; and the same in default of payment, shall and may be recovered by and in the name of the said master of the said grammar school, before the Mayor's Court in Charlottetown, or the Court for the recovery of small debts in Queen's County, which holds its sittings in Charlottetown.

Master's salary £100 per an.

III. The master of the said grammar school shall be entitled to receive from the treasury of this Island the sum of one hundred pounds per annum, payable quarterly, upon his producing a certificate signed by the first professor of the said College, and at least two of the trustees or governors of the said College, in the form prescribed in the schedule to this Act marked (A.)

Fees, how appropriated.

Second Master or Usher.

IV. The tuition fees arising or accruing from the said grammar school, shall be under the exclusive control of the trustees and governors of the said college, to be applied by them in supplementing the salary or government allowance of the master of the said grammar school to such extent as the said trustees and governors shall deem fit and necessary in that behalf, and in procuring the services, if need be, of a second master or usher in the said grammar school, and towards providing fuel, books, maps, and other requisites for the same, so that the said grammar school may, at all times, be maintained and kept in a satisfactory and efficient state.

13 sec. of 26th Vic. cap. 5, & parts of 11 and 12 secs. repealed.

V. The thirteenth section of the said recited Act of twenty-sixth Victoria, chapter five, and so much of the eleventh and twelfth sections of the said Act as relate to a grammar school, or the establishment of a grammar school in Charlottetown, shall be, and the same are hereby repealed.

Part of 15 sec. of 26 Vic. cap. 5, altered

VIII. From and after the passing of this Act, so much of the fifteenth section of the said recited Act of the twenty-sixth

Victoria, chapter five, as occurs after the word "fixed," in the fourteenth line of the said section, as printed by the Queen's Printer in the Session Laws for the year one thousand eight hundred and sixty-three, shall, in the reading, meaning and construction thereof, be omitted; and instead and in lieu of the words so omitted, the following words, namely: "By the Board of trustees and governors of Prince of Wales College, and by the Board of Education, respectively, to be paid by the parents or guardians of children attending at said schools," shall be inserted, used, taken and read, as part of the said section in all cases, and as fully and absolutely as if the same had been therein inserted at the time of the passing thereof, instead of the words in lieu of which the same are hereby substituted.

IX. And whereas practical difficulties have, in some cases arisen, in regard to the mode of granting the benefit of the thirteenth section of the Act of the 23d Victoria, chapter seventeen, to students who have been chosen by the Board of Education for scholarships in the Prince of Wales College, in consequence of the students so chosen not having attained to a sufficient degree of advancement, either in the classics or some other branch of education, to entitle them, under the rules and regulations of the said college, to matriculate or pass the examination for entry into the said college, and it is necessary to provide a remedy in such cases: Be it therefore enacted, that when and as often as any student shall be selected by the Board of Education for a scholarship in the Prince of Wales College, under the provisions of the last recited Act, and such student shall not be sufficiently advanced in any particular branch or branches of education to enable him then to enter the said college, such student shall immediately have the right, with the consent of his parent or guardian, to enter the government Grammar School of the County to which he shall belong, and to receive instruction there at the public expense, until he shall be qualified to pass his examination for entry and admission into the said college, and in that case, the period allowed under the said last mentioned Act in respect to such scholarship, shall commence to run from the time of the said student's entry into the said grammar school; or instead thereof, he may enter the said grammar school or any other institution, and qualify himself at his own expense, reserving and retaining his right and privilege to enter the said college when qualified for admission thereto, (such entry into the said college, nevertheless, to take place within twelve months after his being chosen by the Board of Education for such scholarship), the period of such scholarship in the last mentioned case, not to commence to run till the said student's entry into the said college.

13 sec. of 23d
Vic. cap. 17, as
regards scho-
larships alter-
ed.

Students when
entitled to go
to Grammar
School.

Master of
County Gram-
mar School to
receive a tui-
tion fee for
students.

X. Should the parent or guardian of such student decide upon placing him in the said grammar school of the County to which such student shall belong, at the government expense, and give notice accordingly to the master of the said school, said master shall be entitled to receive, from the treasury of the said Island, a tuition fee for such student, for so long as he shall remain therein, at the same rate per term as shall be chargeable against or in respect of other students in the said grammar school, the same to be paid upon production of a certificate signed by the first professor of the said college, and at least two of the trustees thereof, in the case of the grammar school in Charlottetown, and by the master and at least two of the trustees of the Grammar School at Summerside and Georgetown, respectively; in the cases of the two last mentioned schools, in the form or to the effect set forth in the schedules hereunto annexed, marked respectively (B) and (C).

Fees for stu-
dents at
Prince of
Wales College
clearly defined.

XI. And whereas it is necessary to define more clearly to whom the fees of tuition for students attending the Prince of Wales College shall be paid: Be it therefore enacted and declared that all fees due and payable, and hereafter to become due and payable, by any student or students, or by the parents or guardians of any student or students, for or in respect of tuition at the said college, under and by virtue of the afore-said Act of the twenty-third of Victoria, chapter seventeen, shall be paid to and recoverable by the first professor of the said college, who is hereby empowered, in case of non-payment of any such tuition fees, either to himself or to any person whom he may, from time to time, appoint to collect and receive the same, to sue for and recover the same in his own name, before the Mayor's Court at Charlottetown, or the Court of Commissioners for the recovery of Small Debts in Queen's County, which holds its sittings at Charlottetown.

* * The 6th, 7th, 12th and 13th sections of this Act have been repealed by 31st Victoria, cap. G.

SCHEDULE (A.)

Certificate for Master of Grammar School, Charlottetown, to obtain salary:

Schedule (A.)

We, the undersigned, the first or head Professor, and two of the Trustees and Governors of Prince of Wales College, do hereby certify that *A. B.*, Master of the Grammar School, at Charlottetown, has diligently, faithfully, and soberly, discharged his duties during the last _____ months as such

master ; and has duly kept a Journal of the said Grammar School during the said period, and in all other respects has complied with the requirements of the laws now in force relating to Education, and is entitled to receive the sum of _____ for his said services.

As witness our hands, this _____ day of _____ 18
First Professor.

Trustees of Prince of Wales College.

SCHEDULE (B.)

Certificate to entitle Master of Grammar School, Charlottetown, to tuition fees from Government, in respect of students entered therein for scholarships.

We, the undersigned, the first or head Professor, and two of the Trustees and Governors of Prince of Wales College, do hereby certify that *C. D.* of _____ has been entered at the Grammar School, Charlottetown, as a student, at the government charge, for a scholarship in connection with the Prince of Wales College; and that the Master of the said Grammar School has taught the said student for the period of _____ months last past, and is entitled to receive the sum of _____ for that service. Schedule (B.)

As witness our hands, this _____ day of _____ 18
A. B., First Professor.
E. F., *G. H.*,
Trustees of Prince of Wales College.

SCHEDULE (C.)

Certificate to entitle Master of Grammar School at Summerside or Georgetown, to tuition fees from Government, in regard to students entered therein for scholarships :

We, the undersigned, the Master and two of the Trustees of the Government Grammar School, at (Summerside or Georgetown, as the case may be,) do hereby certify that *C. D.*, of _____ has been entered at the said Grammar School at (Summerside or Georgetown, as the case may be), as a student at the Government charge for a scholarship in connection with the Prince of Wales College ; and that the Master of the Schedule (C.)

said Grammar School has taught the said student for the period of _____ months last past, and is entitled to receive the sum of _____ for that service.

As witness our hands, this _____ day of _____ 18

J. K., Master.

L. M., N. O.,

Two of the said Trustees.

CAP. XXXII.

An Act relating to Steam communication between Charlotte-town and certain parts of the Hillsborough and Elliot Rivers, and to repeal a certain Act therein mentioned.

[Passed May 2, 1864.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows :

I. From and after the passing of this Act it shall be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, with the advice of Her Majesty's Executive Council, to let and grant to any individual or company, for any period not exceeding ten years, the exclusive right of running one or more good and sufficient Steamboats, for the use and accommodation of the public, between Charlottetown and Mount Stewart Bridge, on the Hillsborough River, and between Charlottetown and Bonshaw Bridge, or any other point or points on the Elliot River ; and also shall have power to prescribe, how often from the opening of the navigation to the close, and the days on which such steambot or steamboats shall run or perform their trips on said Rivers ; and also to fix the points or places at which they shall call on their respective routes, and the rates of fare or charges for the conveyance of passengers luggage and freight, which shall or may be charged by the owner or owners of the steamer or steamers whose tender shall be accepted by the Executive Government.

Lt. Governor and Council empowered to grant 10 years' right to run Boat.

II. It shall be the duty of the Lieutenant Governor, or other Administrator of the Government for the time being, in Council, before entering into any contract for any of the purposes aforesaid, to notify the public, by advertisements in some one or more of the newspapers published in Charlotte-town, that the privilege of running the said steambot or steamboats in manner by this Act provided, is open to public competition for such time as in such advertisement may in that behalf be limited or expressed ; and it shall be the duty of the Lieutenant Governor in Council, to contract and agree

Notices to be published.

with such person or persons as may be willing to accept and enter into the said contract, upon the best and most favorable terms for the interests of the public; and in such contracts shall and may be contained and set forth all such clauses, stipulations and agreements as may be deemed by the Executive Government necessary or desirable for the security of the passengers and property to be conveyed in and on board of such steamboat or steamboats; and to insure regularity in the running of such boat or boats, or which may in any way or manner tend to the convenience or accommodation of the public.

Security of passengers.

III. In entering into any such contract, the Lieutenant Governor shall have power and authority to bind the party or parties agreeing to run such steamboat or steamboats, to convey any mails on board the same to and from any place or places within the several routes of such steamboat or steamboats, when and as often as may be required by any regulation of the Post Office department, or any order of the Government of this Island, or of the Postmaster General in that behalf.

Mails to be taken.

IV. The Lieutenant Governor in Council shall cause the party contracting for the service of such boat or boats, to enter into a bond, with two sufficient sureties, for the due performance of such contracts as may be entered into; and in case of non-compliance with the conditions of such contract, the Lieutenant Governor in Council shall have power to determine the same.

Bond to be given.


V. The Act made and passed in the seventeenth year of the reign of her present Majesty, chapter seven, is hereby repealed.

Act of 17 Vic. cap. 7, repealed

CAP. XXXIII.

An Act to incorporate the Grand and Subordinate Temples of the Independent Order of Good Templars of Prince Edward Island.

[Passed May 2, 1864.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXIV.

An Act to provide for the payment of certain Debentures.

[Passed May 2, 1864.]

WHEREAS under and by virtue of the Act of the General Assembly of this Island, made and passed in the

Preamble.

16 Vic. cap. 18

sixteenth year of the reign of Her present Majesty, chapter eighteen, divers townships and other tracts of land, formerly known as the "Worrell Estate," were purchased by the Government of this Island; and on or about the twenty-eighth day of December, in the year of our Lord one thousand eight hundred and fifty-four, were by deed duly conveyed by the then owners thereof to the Commissioner of Public Lands, in manner authorized and prescribed in and by the said Act; and whereas, in order to pay for the said lands the consideration or price thereof, or so much as was stipulated to be then paid, namely: eighteen thousand pounds, was paid in Government debentures, which were issued by the then Colonial treasurer of this Island, and were dated on the twenty-eighth day of December, in the said year one thousand eight hundred and fifty-four, and made out and signed in manner, and to the tenor and effect, in and by the said recited Act prescribed; and whereas the time for the payment or redemption of the aforesaid debentures will expire on the twenty-eighth day of December, in the year of our Lord one thousand eight hundred and sixty-four; and whereas the funds arising from the resale of the said lands, known as the "Worrell estate," have not, up to the present time, yielded sufficient to meet the amount of the said debentures, and it has become necessary to provide for the payment and redemption of the said debentures so issued as aforesaid; and for that purpose it is deemed expedient to authorize the Government of this Colony to issue new debentures for such amount, and payable at such time and in such manner as is hereinafter expressed and enacted. Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

Lt. Governor
and Council
empowered to
obtain a loan.

I. That so soon as convenient after the passing of this Act, it shall be lawful for the Lieutenant Governor, by and with the advice of Her Majesty's Executive Council, to order a loan account under this Act to be opened in the treasury of this Island, and to authorize and direct the treasurer to borrow and receive from any person or persons, bodies corporate or politic, and in such sums and amounts as may be from time to time required for the purposes thereof, and as may be practicable and convenient, a loan or loans of money not exceeding nineteen thousand pounds of lawful money of this Island.

Debentures to
be issued for
money bor-
rowed.

II. The moneys to be raised and borrowed, under the provisions of this Act, shall be received by the said Colonial Treasurer, for the time being, who shall, and he is hereby authorized, to cause and direct any number of debentures to be made out for any such sum or sums of money not exceeding in the whole, the said sum of nineteen thousand pounds, as any per-

son or persons, bodies corporate or politic, shall agree to advance on the credit of such debentures—which debentures shall be prepared and made out in such method and form as the said Colonial treasurer shall think most safe and convenient, and be signed by him, by the Colonial Secretary, and also by the Lieutenant Governor of this Island, and shall be made payable ten years from the date of issuing the same, bearing interest at a rate not exceeding six pounds *per centum per annum*.

Form thereof.

III. The moneys to be raised by the debentures to be issued by virtue of this Act, shall be applied by the said Colonial treasurer in or towards the payment and discharge of the hereinbefore mentioned Debentures, issued by virtue of the hereinbefore recited Act of the sixteenth Victoria, chapter eighteen, and which amount in the whole, to the sum of twenty thousand six hundred and fifty pounds; and which last mentioned debentures shall be paid off in their order according to the priority of number and date.

Appropriation of moneys raised on debentures.

IV. The interest growing due on debentures issued under this Act, shall and may be demandable in half-yearly periods, computed from the date thereof, and shall and may be paid on demand by the said Colonial Treasurer, for the time being; and such debentures issued under this Act, as shall, from time to time, be paid off, shall be cancelled and made void by the treasurer.

Interest, how payable.

V. When the said debentures issued under this Act, or any of them, shall become due according to their terms, respectively, it shall be the duty of the said treasurer to pay off the same with interest, and they shall be paid in their proper order and succession according to priority of number and date; and the payment of the principal moneys of all treasury warrants and other Government securities, save the debentures issued under the Act of the General Legislature, passed in the sixteenth year of Her said Majesty's reign, chapter eighteen, (which shall have precedence over the debentures issued under this Act, so far only however as the general revenue is concerned) shall, when necessary, from time to time, be postponed, but bearing interest, so that the debentures issued under this Act, as the same respectively become due according to the terms thereof, may be paid off on the day on which they become due as aforesaid; and the treasurer shall, from time to time, when any such debentures so become due, cause a notice to be inserted in the *Royal Gazette* newspaper, requiring the holders of such debentures to present the same for payment according to this Act; and if, after insertion of said notice, for one month, any debentures then payable shall remain outstanding for more than one month, interest shall cease, and be

Debentures how paid off.

Their priority.

Interest when to cease.

no further payable in respect to the time which may elapse before one month, and their presentment for payment.

Debentures to be issued for sums between £100 and £50.

VI. No debenture under this Act shall be issued securing any greater principal sum than one hundred pounds, nor less than fifty pounds.

Proceeds of lands, and public funds pledged for redemption of money borrowed herein. &c.

VII. For the repayment of all sums of money borrowed under this Act, and the interest thereon, the surplus moneys which may now be in hand, or which shall hereafter come to hand, arising from the sale, rents and profits of lands purchased under the hereinbefore recited Act of the sixteenth year of the reign of Her present Majesty, chapter eighteen, and paid into the treasury, shall in the first instance, be pledged and rendered liable; and the other public funds, moneys and securities, of this Island, shall be, and the same are hereby in the next place pledged and rendered liable.

Registration of debentures, how provided for.

VIII. And whereas it is necessary to provide means for enabling holders of debentures issued under the authority of this or any subsequent Act, to have the same registered: Be it further enacted, that the Treasurer shall keep a book to be called the "Debenture Register," and that it shall be the duty of the said treasurer, at the request of the holder of any such debenture, truly to copy and record the same in such register, together with the name of the owner or holder, at whose request the same shall be so received; and the said treasurer shall also endorse, on such debenture, the name of the owner or holder recording the same, together with the date of such registry, and the book and the page wherein the same is recorded; and after any debenture shall be so recorded as aforesaid, no transfer or assignment thereof shall be good or valid, so as to entitle the transferee or assignee thereof to demand payment of the interest or principal due thereby, unless an endorsement to such transferee or assignee shall be made by the registered holder of such debenture on the back thereof, and recorded in the book of registry aforesaid.

As to transfer after registration.

C A P. XXXV.

An Act in addition to and in extension and amendment of the Act authorizing a Cash Account to be opened by the Governor in Council with the Bank of Prince Edward Island.

23 Vic. cap. 42

[Passed May 2, 1864.]

WHEREAS an account hath been opened by the Government with the Bank of Prince Edward Island, under the

provisions of the Act passed in the twenty-third year of the reign of Her present Majesty, Queen Victoria, chapter the forty-second; and it has become necessary to make provision for the periodical settlement thereof, so as to prevent the same from amounting, at any one time on open account, to a greater sum than ten thousand pounds. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Preamble.

I. After the passing of this Act the Lieutenant Governor in Council shall have power, and he is hereby authorized, to cause and direct such an amount of treasury warrants to be issued as may, from time to time, be required for the payment and liquidation of any balance, (not exceeding the sum of ten thousand pounds at any one time), which, at any periodical or other settlement of accounts, shall be found to be due from the Government of this Island to the said bank.

Treasury warrants not exceeding £10,000 to be issued by Lt. Governor in Council.

II. Warrants on the treasury to be issued under this Act shall bear interest at the rate of six per centum per annum, and shall be drawn in the usual manner and form, except where the same shall require to be altered to meet the provisions of this Act; they shall be signed by the Lieutenant Governor and the clerk or assistant clerk of the Executive Council, and be made payable to the president, directors and company of the Bank of Prince Edward Island, or their order; they shall in all respects as regards presentment at the treasury and endorsement therefor interest, the periods at which interest thereon shall become due and payable, and the mode of calling in and paying off the same, be governed by the rules and regulations now in force on the same points relative to ordinary treasury warrants.

Warrants to bear interest.

Form thereof, and when payable.

III. The treasury warrants to be issued under this Act shall be made out in separate amounts, or warrants of not more than one hundred pounds, or less than fifty pounds each, as the Lieutenant Governor in Council shall order and direct; they shall be transferrable and assignable by the endorsement thereon of the signatures of the president and cashier of the said bank; but such endorsement shall not have the effect of rendering the said bank, or the president, directors and company thereof, liable or responsible for the payment thereof by the Government or otherwise, than for the fact that the same are genuine, so far as regards the signatures of the Lieutenant Governor and clerk, or assistant clerk of the Executive Council.

Warrants to be for not more than £100, nor less than £50.

How transferrable.

IV. The amounts to be drawn by the Government under the said recited Act, twenty-third Victoria, chapter forty-two, shall be drawn by cheques signed by the treasurer, or deputy

Cheques on Bank to be signed by treasurer or deputy treasurer.

Cash. how applied.

treasurer, and shall be applied by him in payment of warrants, or for services ordered in an appropriation Bill of the Legislature now passed, or hereafter to be passed; but the bank shall not be called upon or liable to see to, or enquire whether cheques, drawn by the treasurer or deputy treasurer, are justified by any such appropriation bill, or to see to the proper application thereof; and in the event of the treasurer or deputy treasurer, improperly drawing any cheques for any sums for which he shall not have a warrant of the Lieutenant Governor in Council, he and his securities shall be liable for his delinquency in that respect.

Liability of treasurer.

Account may be opened with other Banks under similar regulations.

V. The Government may, if they think fit, open a similar account with any other Bank or Banks in this Island, than the said Bank of Prince Edward Island, which account shall be on a similar basis, and liable to the same rules and restrictions as are set forth in the said recited Act of the twenty-third Victoria, chapter forty-two, and shall be redeemable in like manner, under the provisions of this Act, by warrants issued in like manner, and subject to the like limitations and rules as are herein set forth with respect to dealings with the Bank of Prince Edward Island.

23 Vic. cap. 42.

CAP. XXXVI.

An

Act relating to the fraudulent marking of Merchandize.

[Passed May 2, 1864.]

Preamble.

WHEREAS it is expedient to prevent the fraudulent marking of Merchandize, and the sale of Merchandize falsely marked, for the purpose of fraud. Be it enacted by the Lieutenant Governor Council and Assembly, as follows :

Construction of word "person."

I. In the construction of this Act the word "person" shall include any person, whether a subject of her Majesty or not; and any body corporate, or body of the like nature, whether constituted according to the law of the United Kingdom of Great Britain and Ireland, or this Island, or of any of her Majesty's colonies or dominions, or according to the law of any foreign country; and also any company, association or society of persons, whether the members thereof be subjects of her Majesty or not, or some of such persons subjects of her Majesty, and some of them not; and whether such body corporate, body of the like nature, company, association or society, be established or carry on business within her Majesty's dominions or elsewhere, or partly within her Majesty's dominions and partly elsewhere: the word "mark" shall include any

do. of word "mark."

name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, or other mark of any other description; and the expression "trade mark" shall include any and every such name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, or other mark as aforesaid, lawfully used by any person to denote any chattel, or any article of trade, manufacture or merchandize, to be an article or thing of the manufacture, workmanship, production or merchandize of such person, or to be an article or thing of any peculiar or particular description, made or sold by such person; and shall also include any name, signature, word, letter, number, figure, mark, or sign, which, in pursuance of any statute or statutes, for the time being, in force in this Island, in Great Britain, or any of Her Majesty's colonies or dominions, relating to registered designs, is to be put or placed upon, or attached to any chattel or article, during the existence or continuance of any copyright, or other sole right, acquired under the provisions of such statutes, or any of them.

do. "trade mark."

II. Every person who, with intent to defraud, or to enable another to defraud any person, shall forge or counterfeit, or cause or procure to be forged or counterfeited, any trade mark, or shall apply, or cause or procure to be applied, any trade mark, or any forged or counterfeited trade mark to any chattel or article not being the manufacture, workmanship, production, or merchandize of any person denoted or intended to be denoted by such trade mark, or denoted or intended to be denoted by such forged or counterfeited trade mark, or not being the manufacture, workmanship, production or merchandize of any person whose trade mark shall be so forged or counterfeited; or shall apply, or cause or procure to be applied, any trade mark, or any forged or counterfeited trade mark, to any chattel or article not being the particular, or peculiar description of manufacture, workmanship, production or merchandize denoted, or intended to be denoted by such trade mark, or by such forged or counterfeited trade mark, shall be guilty of a misdemeanor; and every person so committing a misdemeanor, shall also forfeit to her Majesty every chattel and article belonging to such person, to which he shall have so unlawfully applied, or caused or procured to be applied any such trade mark, or forged or counterfeited trade mark, as aforesaid; and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged, or counterfeited trade mark as aforesaid, shall have been so applied, and every instrument in the possession or power of such person, for applying any such trade mark, or forged, or counterfeit trade mark as aforesaid, shall be forfeited to her Majesty; and the Court before which any such

Forgery of trade mark deemed a misdemeanor.

Forfeiture of articles falsely marked.

misdemeanor shall be tried, may order such forfeited articles as aforesaid, to be destroyed or otherwise disposed of, as such court shall think fit.

Falsely applying trade mark to casks, bottles, &c., a misdemeanor.

III. Every person who, with intent to defraud, or to enable another to defraud any person, shall apply, or cause or procure to be applied, any trade mark, or any forged or counterfeited trade mark, to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, in, on, or with which any chattel or article shall be intended to be sold, or shall be sold, or uttered, or exposed for sale, or intended for any purpose of trade or manufacture; or shall enclose or place any chattel or article, or cause or procure any chattel or article to be enclosed, or placed in, upon, under or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeited trade mark shall have been applied; or shall apply or attach, or cause or procure to be applied or attached to any chattel or article, any case, cover, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeited trade mark shall have been applied; or shall enclose, place or attach any chattel or article, or cause or procure any chattel or article, to be enclosed, placed or attached in, upon, under, with or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing having thereon any trade mark of any other person, shall be guilty of a misdemeanor; and every person so committing a misdemeanor, shall also forfeit to Her Majesty every such chattel and article, and also every such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing as aforesaid, in the possession or power of such person, and every other similar cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing made to be used in like manner as aforesaid; and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, shall have been applied; and also every instrument in the possession or power of such person for applying any such trade mark, or forged or counterfeit trade mark as aforesaid, shall be forfeited to Her Majesty; and the Court before which any such misdemeanor shall be tried, may order such forfeited articles as aforesaid, to be destroyed, or otherwise disposed of as such Court shall think fit.

Forfeiture of chattels, &c., so marked.

Also, of the instrument used in marking.

After 31st Dec. 1864, persons selling with

IV. Every person, who, after the thirty-first day of December, one thousand eight hundred and sixty-four, shall sell, utter, or expose, either for sale or for any purpose of trade or manufacture, or cause or procure to be sold, uttered or ex-

posed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, which he shall know to be forged or counterfeited, or together with the trade mark of any other person applied or used falsely, or wrongfully, or without lawful authority or excuse, knowing such trade mark of another person to have been so applied, or used as aforesaid, and that whether any such trade mark, or forged or counterfeited trade mark as aforesaid, together with which any such chattel or article shall be sold, uttered or exposed for sale, or other purpose as aforesaid, shall be in, upon, about or with such chattel or article, or in, upon, about or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, in, upon, about or with which such chattel or article shall be so sold, or uttered or exposed for sale, or other purpose as aforesaid, shall for every such offence forfeit and pay to Her Majesty, a sum of money equal to the value of the chattel or article so sold, uttered, offered or exposed for sale, or other purpose as aforesaid; and a further sum not exceeding five pounds and not less than ten shillings.

false or forged trade marks, to forfeit value, and penalty of £5.

V. Every addition to, and every alteration of, and also every imitation of any trade mark which shall be made, applied, or used with intent to defraud, or to enable any other person to defraud, or which shall cause a trade mark with such alteration or addition, or shall cause such imitation of a trade mark to resemble any genuine trade mark, so or in such manner as to be calculated or likely to deceive, shall be, and be deemed to be false, forged and counterfeited trade mark within the meaning of this Act; and every Act of making, applying, or otherwise using any such addition to or alteration of a trade mark, or any such imitation of a trade mark as aforesaid, done by any person with intent to defraud, or to enable any other person to defraud, shall be, and be deemed to be forging and counterfeiting a trade mark within the meaning of this Act.

Alteration or imitation of trade marks.

VI. Where any person, who at any time after the thirty-first day of December, one thousand eight hundred and sixty-four, shall have sold, uttered or exposed for sale, or other purpose as aforesaid, or shall have caused or procured to be sold, uttered or exposed for sale, or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, or together with the trade mark of any other person, used without lawful authority, or excuse as aforesaid; and that whether any such trade mark, or such forged or counterfeited trade mark as aforesaid, be in, upon, about or with such chattel or article, or in, upon, about or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, in, upon, about, or with which such

Persons selling falsely marked article, to give the name of the person from whom purchased.

chattel or article shall have been sold, or exposed for sale, such person shall be bound, upon demand in writing delivered to him, or left for him at his last known dwelling-house, or at the place of sale, or exposure for sale, by, or on the behalf of any person whose trade mark shall have been so forged or counterfeited, or used without lawful authority or excuse as aforesaid, to give to the person requiring the same, or his attorney or agent, within one week after such demand, full information in writing of the name and address of the person from whom he shall have purchased, or obtained such chattel or article, and of the time when he obtained the same ; and it shall be lawful for any Justice of the Peace on information on oath of such demand and refusal, to summon before him the party refusing ; and on being satisfied that such demand ought to be complied with, to order such information to be given within a certain time to be appointed by him ; and any such party who shall refuse or neglect to comply with such order, shall, for every such offence forfeit and pay to Her Majesty, the sum of five pounds ; and such refusal or neglect shall be *prima facie* evidence, that the person so refusing or neglecting had full knowledge that the trade mark, together with which such chattel or article was sold, uttered, or exposed for sale, or other purpose as aforesaid, at the time of such selling, uttering or exposing, was a forged, counterfeited, and false trade mark, or was the trade mark of a person which has been used without lawful authority or excuse, as the case may be.

On neglect to do so, liable to a fine of £5

Persons falsely marking articles to forfeit value and fine of £5. or 10s.

VII. Every person who, with intent to defraud, or to enable another to defraud, shall put, or cause, or procure to be put upon any chattel or article, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which any chattel or article shall be intended to be, or shall be sold, or uttered, or exposed for sale, or for any purpose of trade or manufacture, or upon any case, frame, or other thing, in or by means of which any chattel or article shall be exposed for sale, any false description, statement, or other indication of, or respecting the number, quantity measure or weight of such chattel or article, or any part thereof, or of the place or country in which such chattel or article shall have been made, manufactured or produced ; or shall put, or cause, or procure to be put upon any such chattel or article, cask, bottle, stopper, vessel, case, cover wrapper, band, reel, ticket, label, or thing as aforesaid, any word, letter, figure, signature or mark, for the purpose of falsely indicating such chattel or article, or the mode of manufacturing or producing the same, or the ornamentation, shape, or configuration thereof, to be the subject of any existing patent, privilege, or copy right, shall for every such offence, forfeit and pay to Her Majesty a sum of money equal to the value of the chattel or

article so sold, or uttered or exposed for sale ; and a further sum, not exceeding five pounds, and not less than ten shillings.

VIII. Every person who, after the thirty-first day of December, one thousand eight hundred and sixty-four, shall sell, utter or expose for sale, or for any purpose of trade or manufacture, or shall cause or procure to be sold, uttered or exposed for sale, or other purpose as aforesaid, any chattel or article upon which shall have been to his knowledge, put, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which such chattel, or article shall be sold or uttered, or exposed for sale or other purpose as aforesaid, shall have been so put, or upon any case, frame, or other thing used or employed to expose or exhibit such chattel, or article for sale, shall have been so put, any false description, statement, or other indication of or respecting the number, quantity, measure or weight of such chattel or article, or any part thereof, or the place or country in which such chattel or article shall have been made, manufactured or produced, shall, for every such offence, forfeit and pay to Her Majesty a sum not exceeding five pounds, and not less than five shillings. Provided always that the provisions of this Act shall not be construed so as to make it any offence for any person to apply to any chattel or article, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing with which such chattel or article shall be sold, or intended to be sold, any name, word or expression generally used for indicating such chattel or article to be of some particular class or description of manufacture only, or so as to make it any offence for any person to sell, utter, or offer, or expose for sale any chattel or article to which, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing sold therewith, any such generally used name, word or expression as aforesaid, shall have been applied.

Persons selling articles, &c., with descriptions false, to their knowledge, liable to fine from 10s. to £5.

Proviso.

IX. In every indictment, pleading, proceeding and document whatsoever, in which any trademark shall be intended to be mentioned, it shall be sufficient to mention or state the same to be a trade mark, without further or otherwise describing such trade mark, or setting forth any copy or fac-simile thereof ; and in every indictment, pleading, proceeding and document whatsoever, in which it shall be intended to mention any forged or counterfeit trade mark, it shall be sufficient to mention or state the same to be a forged or counterfeit trade mark, without further or otherwise describing such forged or counterfeit trade mark, or setting forth any copy or fac-simile thereof.

Trade mark how set forth in any indictment, &c.

Criminal proceedings not to prejudice civil rights or remedies.

X. The provisions in this Act contained, of or concerning any Act or any proceeding, judgment, or conviction for any act hereby declared to be a misdemeanor or offence, shall not, nor shall any of them take away, diminish or prejudicially affect any suit, process, proceeding, right or remedy which any person aggrieved by such act may be entitled to at law or in equity, or otherwise, and shall not, nor shall any of them exempt or excuse any person from answering or making discovery upon examination as a witness, or upon interrogatories or otherwise in any suit or other civil proceeding: Provided always, that no evidence, statement or discovery which any person shall be compelled to give or make, shall be admissible in evidence against such person in support of any indictment for a misdemeanor at common law or otherwise, or of any proceeding under the provisions of this Act.

Intent to defraud and how alleged in indictment.

Proof of intent to defraud.

XI. In every indictment, information, conviction, pleading and proceeding against any person for any misdemeanor or other offence against the provisions of this Act, in which it shall be necessary to allege or mention an intent to defraud, or to enable another to defraud, it shall be sufficient to allege or mention that the person accused of having done any act which is hereby made a misdemeanor or other offence, did such act with intent to defraud, or with intent to enable some other person to defraud, without alleging or mentioning an intent to defraud any particular person; and on the trial of any such indictment or information for any such misdemeanor, and on the hearing of any information or charge of, or for any such other offence as aforesaid, and on the trial of any action against any person to recover a penalty for any such other offence as aforesaid, it shall not be necessary to prove an intent to defraud any particular person, or an intent to enable any particular person to defraud any particular person, but it shall be sufficient to prove with respect to every such misdemeanor and offence that the person accused did the act charged with intent to defraud or with intent to enable some other person to defraud, or with the intent that any other person might be enabled to defraud.

Accessories.

XII. Every person who shall aid, abet, counsel or procure the commission of any offence which is by this Act made a misdemeanor, shall also be guilty of a misdemeanor.

Punishment to extent of two years, and hard labor.

XIII. Every person who shall be convicted or found guilty of any offence which is by this Act made a misdemeanor shall be liable, at the discretion of the Court, and as the Court shall award, to suffer such punishment, by imprisonment, for not more than two years, with or without hard labour, or by fine, or both, by imprisonment with or without hard labor and

fine, and also by imprisonment until the fine (if any) shall have been paid and satisfied.

XIV. In every case in which any person shall have committed or done any offence or act whereby he shall have forfeited or become liable to pay to Her Majesty any of the penalties or sums of money mentioned in the provisions of this Act, every such penalty or sum of money shall or may be recovered in an action of debt, which any person may, as plaintiff for and on behalf of Her Majesty, commence and prosecute to judgment in Her Majesty's Supreme Court of Judicature in and for this Island; and the amount of every such penalty or sum of money to be recovered in any such action shall or may be determined by the jury (if any) sworn to try any issue in such action; and if there shall be no such jury, then by the Court, or some other jury, as the Court shall think fit; or instead of any such action being commenced, such penalty or sum of money shall or may be recovered by a summary proceeding before two justices of the peace, having jurisdiction in the County wherein the party offending shall reside or have any place of business, or in the county in which the offence shall have been committed, or before the Police Court of the City of Charlottetown, if the party offending shall reside or have any place of business within the jurisdiction of the said Police Court.

Penalties recoverable in Supreme Court or before two Justices of the Peace.

XV. In every case in which any such penalty or sum of money forfeited to Her Majesty as hereinbefore mentioned, shall be sought to be recovered by a summary proceeding before two justices of the peace, or before the Police Court, in and for the City of Charlottetown, the offence or act by the committing or doing of which, such penalty or sum of money shall have been so forfeited, shall be and be deemed to be an offence and act within the meaning of a statute passed in the nineteenth year of the reign of Her present Majesty, intituled "An Act to facilitate the performance of the duties of Justices of the Peace with respect to summary convictions and orders," and the information, conviction of the offender and other proceedings for the recovery of the penalty or sum so forfeited, shall be had according to the provisions of the said recited Act.

Proceedings of Magistrates to be regulated by 19 Vic. cap. 23.

19 Vic. cap. 23.

XVI. In every case in which judgment shall be obtained in any such action as aforesaid, for the amount of any such penalty or sum of money forfeited to her Majesty, the amount thereof shall be paid by the defendant to the Sheriff or the officer of the Court, who shall account for the same in like manner as other moneys payable to her Majesty; and if it be not paid, may be recovered, or the amount thereof levied, or the payment thereof enforced by execution, or other proper

Penalty on judgment to be paid to Sheriff.

Execution for same and costs.

proceeding, as money due to her Majesty; and the plaintiff suing on behalf of her Majesty, upon obtaining judgment, shall be entitled to recover and have execution for all his costs of suit, which shall include a full indemnity for all costs and charges which he shall or may have expended or incurred in, about, or for the purposes of the action, unless the Court, or a Judge thereof, shall direct that costs of the ordinary amount only shall be allowed.

Limitation of suits.

XVII. No person shall commence any action or proceeding for the recovery of any penalty, or procuring the conviction of any offender, in manner hereinbefore provided, after the expiration of three years next after the committing of the offence, or one year next after the first discovery thereof by the person proceeding.

Sale of marked articles, when deemed to be warranted genuine.

XVIII. In every case in which at any time after the thirty-first day of December, one thousand eight hundred and sixty-four, any person shall sell, or contract to sell, (whether by writing) to any other person, any chattel or article, with any trade mark thereon, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which such chattel or article shall be sold, or contracted to be sold, the sale or contract to sell shall, in every such case, be deemed to have been made with a warranty or contract by the vendor to or with the vendee, that every trade mark upon such chattel or article, or upon any such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing as aforesaid, was genuine and true, and not forged or counterfeited, and not wrongfully used, unless the contrary shall be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

Weight, quantity, &c., when deemed to be warranted.

XIX. In every case in which at any time after the thirty-first day of December one thousand eight hundred and sixty-four, any person shall sell, or contract to sell (whether by writing or not) to any other person, any chattel or article upon which, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which such chattel or article shall be sold, or contracted to be sold, any description, statement or other indication of or respecting the number, quantity, measure or weight of such chattel or article, or the place or county in which such chattel or article shall have been made, manufactured or produced, the sale or contract to sell, shall, in every such case, be deemed to have been made with a warranty or contract by the vendor to or with the vendee that no such description, statement, or other indication was, in any material respect, false or untrue, unless

the contrary shall be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

XX. In every case in any suit at law or in equity against any person for forging or counterfeiting any trade mark, or for fraudulently applying any trade mark to any chattel or article, or for selling, exposing for sale, or uttering any chattel or article with any trade mark falsely or wrongfully applied thereto, or with any forged or counterfeited trade mark applied thereto, or for preventing the repetition or continuance of any such wrongful act, or the committal of any similar act in which the plaintiff shall obtain a judgment or decree against the defendant, the Court shall have power to direct every such chattel and article to be destroyed, or otherwise disposed of; and in every such suit in a Court of law, the Court shall or may, upon giving judgment for the plaintiff, award a writ of injunction or injunctions to the defendant, commanding him to forbear from committing, and not by himself or otherwise, to repeat or commit any offence or wrongful act of the like nature as that of which he shall or may have been convicted by such judgment; and any disobedience of any such writ of injunction or injunctions, shall be punished as a contempt of Court; and in every such suit at law or in equity it shall be lawful for the Court, or a Judge thereof, to make such order as such Court or Judge shall think fit, for the inspection of every or any manufacture or process carried on by the defendant in which any such forged or counterfeit trade mark, or any such trade mark as aforesaid, shall be alleged to be used or applied as aforesaid, and of every or any chattel, article and thing in the possession or power of the defendant alleged to have thereon, or in any way attached thereto, any forged or counterfeit trade mark, or any trade mark falsely or wrongfully applied, and every or any instrument in the possession or power of the defendant used, or intended to be, or capable of being used for producing or making any forged or counterfeit trade mark, or trade mark alleged to be forged or counterfeit, or for falsely or wrongfully applying any trade mark; and any person who shall refuse or neglect to obey any such order shall be guilty of a contempt of Court.

In suits pending, Court may order article falsely marked to be destroyed &c.; and may order a writ of injunction.

XXI. In every case in which any person shall do, or cause to be done, any of the wrongful acts following, that is to say: shall forge or counterfeit any trade mark, or for the purpose of sale, or for the purpose of any manufacture or trade, shall apply any forged or counterfeit trade mark to any chattel or article, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or thing, in, or with which any chattel or article shall be intended to be sold, or shall be sold or uttered, or exposed for sale, or for any purpose of trade

Acts for which parties aggrieved shall have action for damages.

or manufacture ; or shall enclose or place any chattel or article in, upon, under, or with any cask, bottle, stopper, vessel, case, or wrapper, band, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeit trade mark shall have been applied, or shall apply, or attach to any chattel or article, any case, cover, reel, wrapper, band, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeit trade mark shall have been applied ; or shall enclose, place, or attach any chattel or article in, upon, under, with, or to any cask, bottle, stopper, vessel, case, cover, reel, wrapper, band, ticket, label, or other thing having thereon any trade mark of any other person ; every person aggrieved by any such wrongful Act, shall be entitled to maintain an action or suit, for damages in respect thereof, against the person who shall be guilty of having done such act, or causing, or procuring the same to be done, and for preventing the repetition or continuance of the wrongful act, and the committal of any similar act.

In actions *quittum*, defendant where entitled to costs.

XXII. In every action which any person shall under the provisions of this Act, commence as plaintiff for, or on behalf of Her Majesty, for recovering any penalty or sum of money, if the defendant shall obtain judgment, he shall be entitled to recover his costs of suit, which shall include a full indemnity for all the costs, charges and expenses, by him expended or incurred, in, about, or for the purposes of the action, unless the Court or a judge thereof, shall direct that costs of the ordinary amount only shall be allowed.

Security for costs where to be given by Plaintiff.

XXIII. In any action which any person shall, under the provisions of this Act, commence as plaintiff, for, or on behalf of Her Majesty, for recovering any penalty or sum of money, if it shall be shown to the satisfaction of the Court, or a Judge thereof, that the person suing as plaintiff, for, or on behalf of Her Majesty, has no ground for alleging that he has been aggrieved by the committing of the alleged offence, in respect of which the penalty, or a sum of money is alleged to have become payable ; and also that the person so suing as plaintiff, is not resident within the jurisdiction of the Court, or not a person of sufficient property to be able to pay any costs, which the defendant may recover in the action, the Court or Judge shall or may order that the plaintiff shall give security, by the bond or recognizance of himself and a surety, or by the deposit of a sum of money or otherwise, as the Court or Judge shall think fit, for the payment to the defendant of any costs which he may be entitled to recover in the action.

CAP. XXXVII.

An Act to consolidate and amend the several Laws imposing an assessment on all Lands in this Colony, and for the encouragement of Education.

Amended by
27th Vic. cap.
11, and 30 Vic.
cap. 11.

[Passed May 2, 1864.]

WHEREAS the several laws by which an assessment is levied on all Lands in this Island will shortly expire, and it is necessary that the same should be continued and consolidated, with amendments. Be it therefore enacted by the Lieutenant Governor, Council and Assembly :

Preamble.

I. That there shall be paid annually during the continuance of this Act, into the hands of the treasurer of this Island, or his deputies, the sum of nine shillings and two pence, of lawful money thereof, for every one hundred acres of wilderness or unimproved lands, contained in the several townships and the several islands belonging thereto, except as hereinafter is excepted ; and the sum of six shillings and eight pence for every one hundred acres of cultivated or improved land, in the said several townships and Islands as aforesaid ; and the sum of four shillings for each and every uncultivated or unimproved Town lot, common lot and water lot, granted in the Town and Royalty of Charlottetown, and the sum of six shillings for each and every uncultivated or unimproved pasture lot granted in the said Royalty ; and the sum of two shillings and six pence for each and every cultivated or improved town lot and water lot in the said Town ; and the sum of four shillings for each and every cultivated or improved pasture lot in the Royalty of said Town ; and the sum of two shillings for each and every cultivated or improved common lot in said Town ; and the sum of two shillings and eight pence for each and every uncultivated or unimproved Town lot and water lot granted in the Town of Georgetown ; and the sum of three shillings and four pence for each and every uncultivated or unimproved pasture lot in the Royalty of the said last mentioned town ; and the sum of one shilling and four pence for each and every cultivated or improved town lot and water lot ; and the sum of two shillings for each and every improved pasture lot granted in the said last mentioned Town and Royalty ; and so in proportion for a less quantity.

Rates of assessment.

Lots in Charlottetown and Royalty.

Lots in Georgetown and Royalty.

II. The owners or occupiers of at least eight acres of land in the Royalty of Georgetown, (called reserved lands,) shall pay the sum of two pence per acre, for each and every acre of

Georgetown reserved lands.

such land cultivated or improved ; and the sum of three pence per acre for each and every acre of such land uncultivated or unimproved.

Payment to become due in three months, &c.

III. The first annual payment of the said several sums of money, to be paid as aforesaid, under the first two sections of this Act, by the several and respective owners, proprietors or occupiers of the several and respective lands therein mentioned ; and every annual payment thereafter of the same which shall become due, and be payable after this Act shall go into operation, shall be called for, become due, and be made by the said several owners, proprietors and occupiers of the said several and respective lands, within three months next, after proclamation or advertisement by the treasurer of this Island, calling upon the said several and respective owners, proprietors or occupiers of such lands as aforesaid, to pay the sums hereinbefore respectively imposed, shall have been published in the *Royal Gazette* newspaper of this Island, in manner next hereinafter prescribed.

Treasurer to advertise before 15th Sept.

IV. The treasurer of this Island shall, and he is hereby required and directed, in respect of the assessment imposed and payable upon, and for all lands in this Island, as hereinbefore mentioned, during the continuance of this Act, annually on any day in September, (not later than the fifteenth day of September,) in every year, to cause advertisements to be posted in Charlottetown, Georgetown and Saint Eleanor's ; and also an advertisement to be published in the *Royal Gazette* newspaper, calling upon the respective owners or occupiers of land charged by this Act, to pay the sums hereby respectively imposed, within three months thereafter ; and it shall be the duty of the said treasurer *ex-officio*, and he is hereby directed, at the sitting of the Supreme Court, for Queen's County, next after the expiration of the said three months, during the continuance of this Act, on the Saturday next, before the last day of the said term, personally to make proclamation of all such lands and other property assessed by this Act, as hereinbefore mentioned, as shall then be in arrear for non-payment of the sums charged thereon by this Act, and immediately thereafter to cause further notices to be published in Charlottetown, Georgetown and Saint Eleanor's, and in the *Royal Gazette* newspaper, and some one or more of the Island newspapers, notifying the owners of the said lands so in arrear, that in case the sums charged on them by this Act, together with costs, shall not be paid before the next term of the said Supreme Court, for Queen's County, application will then be made to the said Court for judgment against the said lands and other property so in arrear ; and the said proclamation having been made, and notices published in manner as last hereinbefore directed,

And to make proclamation in Sup. Court.

the said Supreme Court, in the said last mentioned term, shall accordingly give judgment against all such lands as shall then be in arrear as aforesaid, which judgment and all future and other proceedings thereupon or thereunder shall be given and conducted in the manner prescribed by this Act; Provided always, that in case Her Majesty's Royal Allowance to this Act being given, the order signifying the same shall not arrive in this Island before the tenth day of September next, ensuing, the Land assessment hereby imposed for the current year, shall become payable on such day as shall be named by the said Colonial Treasurer, in his proclamation or advertisement to be published as aforesaid, such day not being less than twenty-one days from the day of the publication thereof; and in case such day so to be named by the said Colonial treasurer, shall or may happen to be within five days of the first day of the then next term in Queen's County aforesaid, of the Supreme Court of Judicature, then the proclamation of Lands in arrear of assessment, shall not be made at that term, but at the following term of the said Court, in the said County, and the application for judgment against such lands so in arrear, shall be made at the next following term of the said Court, in the said County.

Proviso.

V. It shall not be compulsory on the treasurer previous to proclamation being made, as hereinbefore prescribed, to receive into his hands the assessment on any quantity of land in this Island, less than one thousand acres, or the assessment on any common lot, town lot, pasture lot, or water lot in the said Island; but the said treasurer may direct all persons attending at the treasury for the purpose of paying assessment on any quantity of land, less than one thousand acres, or the assessment on any common lot, town lot, pasture lot or water lot in this Island, to make payment of such assessment into the hands of the deputy collector of assessment, appointed for Charlottetown, under the provisions of this Act, and such persons shall accordingly be bound to make such payment to the said deputy collector of assessment for Charlottetown, who shall for the purposes of receiving such assessment from all parts of the Island, keep his books open until three days next preceding the day of proclamation being so made as aforesaid, but the said deputy collector of assessment shall not on any pretence whatever exact or receive per centage for assessment on any quantity of land exceeding one thousand acres.

Treasurer not bound to receive tax in less quantity of land than 1000 acres.

VI. All informations which shall or may, after the passing of this Act, be filed in the said Supreme Court against any lands on the townships in this Island, and the islands not included in such townships in arrear of the taxes or assessments, or either of them imposed thereon by this Act, for the recovery of

Informations how laid and proceeded with against lands in arrears.

the same, shall be as follows, that is to say, one information and one only shall be filed for each county in this Island, against all the lands in arrear on all the several townships therein, together, and one information and one only shall be filed for each County in this Island, against all the lands in arrear in all the several islands therein, together not included in such townships, that is to say, all lands in arrear on all the townships in any county in this Island, shall be included in one information, and all the lands in arrear on all the islands therein, shall be included in one other information, and so with respect to the other counties; and one information only against all and singular the several lots and parts of lots in arrear in each of the Towns in this Island, town lots and water lots inclusive; and one information only against all and singular the several lots and parts of lots in arrear in each of the royalties in this Island, pasture, common and all other description of lots inclusive, and all the proceedings which shall or may be taken by virtue of this Act, against any such lands so in arrear, down to final judgment, shall follow the course of the said information against the said lands, that is to say, there shall be one judgment only on each information, and the costs thereon shall be made up, taxed and divided proportionally to the quantity of lands in arrear on each township, amongst the several townships and islands; or if in either of towns or royalties, amongst the several lots and parts of lots included in any proceedings in manner as hereinafter pointed out.

VII. In and by all such judgments as shall be given against any township lands so in arrear, or lands in arrear situated on any island not included on any township, the said Supreme Court shall order and direct that so much of the several lands against which judgment shall be given as shall be sufficient to pay the sums charged by this Act, together with reasonable costs, be sold at public auction, to the highest bidder; and in and by all such judgments as shall be given against any lots and parts of lots so in arrear, situate in either of the said towns or lots, or parts of lots in arrear, situate in either of the said royalties, the said Supreme Court shall order and direct, that the said lots and parts of lots so in arrear, or as much thereof of each class respectively as may be necessary, shall be severally sold at public auction, to the highest bidder, for the payment of the assessment due thereon, together with reasonable expenses; and the said Supreme Court, upon such several judgments, shall issue a *ieri facias*, to the sheriff or coroner of the county wherein such lands shall be situate for that purpose, who after having given thirty days' previous notice, shall proceed to the sale of the said lands pursuant to the said writ.

The Court may order lands to be sold at public auction.

VIII. It shall be in the power of the sheriff or coroner to adjourn any sale from day to day at his discretion, on giving public notice thereof; and if any purchaser shall not pay the amount declared on the day of sale, it shall be lawful for the said sheriff or coroner to resell the same on any other day to which the sale of such lands shall be adjourned.

Sales may be adjourned.

IX. The said sheriff or coroner, before proceeding to sell such lands, shall ascertain, and at the sale publicly declare the metes and bounds thereof as particularly as the same can or may be described, and shall make and execute to such purchaser or purchasers, at his, her or their expense, a conveyance thereof in the form set forth in the Schedule to this Act annexed, marked (A.), which conveyance, when registered within the time hereinafter limited for that purpose, shall be good and valid in law to all intents and purposes whatsoever: provided always, that the lands therein described have been lands in arrear for non-payment of the assessment charged thereon by this Act, and for which such judgment shall have been given as aforesaid; and the said sheriff or coroner shall, on behalf of the purchaser or purchasers of any Lot or Lots situate in any Town or Royalty in this Island, sold by the said sheriff or coroner as aforesaid, make and execute to such purchaser or purchasers, at his, her, or their expense, a conveyance thereof, in the form last aforesaid, which conveyance, when registered within the time hereinafter limited for that purpose, shall be good and valid in law, to all intents and purposes whatsoever: provided always, that no deed or conveyance executed under the authority of this Act, by such sheriff or coroner to the purchaser or purchasers of any lands whatsoever in arrear for non-payment of the assessment charged thereon by this Act, shall have any force or effect, either in law or equity, unless such deed of conveyance shall have been duly registered in the proper office appointed for the registry of deeds in this Island, within twelve calendar months from the date of such sale, anything in this Act to the contrary thereof notwithstanding.

Metes and bounds of lands to be ascertained before sold.

Proviso.

Further proviso.

X. It shall not be necessary for or incumbent on the sheriff or coroner, to whom any *fieri facias* shall be directed, under the authority of this Act, to make an actual entry on any lands whatsoever, so in arrear, or any part or portion thereof, either for the purpose of levying the said writ of execution thereon or delivering actual seizen or possession to the purchaser or purchasers thereof, after such sale; it being hereby declared that the execution of the deed of conveyance alone by the sheriff or coroner to the purchaser or purchasers being first duly registered, shall be sufficient to vest in him, her or them, a legal title and seizen of and in the lands in the said deed

No actual entry shall be necessary in executing *fieri facias*.

described, without any entry or levy having been made thereon, or actual possession given as aforesaid.

Costs, how made up, taxed and apportioned.

XI. In every case where judgment shall be given against any lands in arrear, as aforesaid, one bill of costs under each information and judgment shall be made up, which bill of costs shall be taxed by some one of the Justices of her Majesty's Supreme Court of Judicature of this Island, agreeably to the scale of fees contained in the schedule to this Act annexed, marked (B), and in every bill of costs so to be taxed the said Justice, at the time of such taxation, is hereby required and directed to divide the amount of such costs proportionately to the quantity of land in arrear, between the several lands, lots, and parts of lots, against which judgment shall be so given; and such division, with the sum apportioned to each parcel of land, lot, or part of a lot, shall be stated in the certificate or allocatur of the said Justice, subscribed or appended to the said bill of costs; and the several sums so expressed in such certificate or allocatur shall be stated on the record of the said judgment, as the amount of costs awarded against each parcel of land, lot and part of a lot, respectively: provided always, that where the lands comprised in any one information against township or island lands, filed under this Act, for the recovery of arrears of tax or assessment due thereon, shall not exceed five hundred acres, then, and in such case, the costs to be taxed thereon shall not exceed the sum of three pounds, including the Attorney General's, the Prothonotary's and Judge's fees, and other costs of Court, anything in this or any other Act of the General Assembly of this Island, to the contrary, notwithstanding.

Fees to be allowed.

XII. In proceedings to be had or taken under authority of this Act, no further or greater fees shall be taken or received by any person or persons whomsoever, than such fees and allowances as shall be contained in the bill of costs taxed and allowed by one of the Justices of the Supreme Court, agreeably to the scale in the schedule to this Act annexed, marked (B), as hereinbefore mentioned, anything in this Act to the contrary notwithstanding.

Remedy where only a part of the whole assessment due on certain tracts of land, is paid.

XIII. And whereas without express provision it may be difficult for the purchaser of township lands sold under the operation of this Act, to obtain possession of such lands from the owner or owners, occupier or occupiers of lands in the same township, who shall have made default on payment of the assessment due on a portion but not on the whole of the lands so owned or occupied: Be it therefore enacted, that in case the owner or owners, occupier or occupiers of any township lands, or any lands situate on any Island not included

in any township charged by this Act, shall pay the assessment for a lesser quantity of land than the quantity *bona fide* owned or occupied by such person or persons respectively on such township or Island, the Sheriff or Coroner may select the quantity of land by him to be sold, upon any part of the land owned or occupied by such person or persons so making default, to the extent of the quantity for which such person shall have so made default; the said Sheriff or Coroner, nevertheless, having regard to the buildings and improvements of such defaulter, in not selecting the same, in case there be remaining sufficient land in default, to realize the amount of levy and expenses; and a conveyance thereof from the said Sheriff or Coroner, to the said purchaser or purchasers, executed and registered in the manner prescribed by this Act, shall effectually pass a good and valid title therein, to the said purchaser or purchasers, anything in this Act to the contrary thereof notwithstanding: provided always, that in case of any lands being sold under the authority of this Act, an equity of redemption shall, nevertheless, be open to the former owner or owners, proprietor or proprietors, his, her, or their heirs or assigns, for the space of two years next after the day on which the same shall have been so sold; the former owner or owners, proprietor or proprietors, his, her, or their agents, heirs or assigns repaying the purchase money, with lawful interest thereon, and also all reasonable expenses attending the same, and a fair allowance for such improvements as shall or may be made thereon; the same, in case of a dispute, to be ascertained by the Supreme Court.

Proviso.

XIV. In case a part only of the lands situate on any township, or any Island not included in any township so in arrear for non-payment of the assessment charged thereon by this Act, shall be sold for the payment of the whole amount of assessment remaining unpaid on such township or Island, the former owner or owners, proprietor or proprietors of such lands as shall be so sold, his or their heirs, executors or administrators shall be entitled to receive from the owner or owners, proprietor or proprietors, of the remaining lands on the said township or island so in arrear, his, her or their agents, heirs, executors or administrators, the amount of assessment remaining unpaid for such lands respectively; and also a rateable proportion of the costs of the judgment, and expenses attending such sale, such proportion to be regulated by the quantity of land in arrear on the same township; and in case of dispute, to be ascertained by the Supreme Court.

Contribution
by co-defaulter

XV. No *feri facias* issued under the authority of this Act shall be executed by the Coroner of this Island, or of any County within the same, unless in such case where the Sheriff

Coroner, when
he may execute
fi. fa.

or his deputy, shall be personally interested, or otherwise disqualified, anything herein contained to the contrary, notwithstanding.

Proceedings
against lands,
how stayed,

XVI. Any person owning or occupying land in this Island, within any Town, Common or Royalty, or on any Township or Island, or Reserved Lands, against which proceedings have been taken for the recovery of arrears of assessment due thereon, shall be entitled to stay the proceedings against the land owned or occupied by him, at any time before the day of sale, by paying or rendering payment of a proper proportion of the costs and expenses of the proceedings up to the day of payment or tender, according to the extent of his land, and also the tax or assessment due thereon, the same to be paid to the Sheriff after execution issued, or if before execution, to the officer in whose hands the proceedings may be, or who at the time should properly receive the same; and the Sheriff or other officer having charge of the proceedings, on application made to him by any such person as aforesaid desiring to redeem his land, shall give to the applicant the particulars of the amount to be paid by him.

Stores, shops,
mills, &c. to
pay 5s where
10 acres at-
tached.

XVII. And whereas there are many valuable establishments, stores, shops and places of business throughout this Island, which have only small tracts of land attached to them, the owners or occupiers of which would therefore contribute in respect thereof, but little towards the revenue required to carry out a system of free Education under the general assessment on lands imposed by this Act, and it is just and reasonable that they should contribute a proportion for the support of a system the advantages of which they will enjoy equally with the other inhabitants of this Island: Be it therefore further enacted, that there shall be paid annually, during the continuance of this Act, into the hands of the treasurer of this Island, or his deputies, appointed under the provisions hereof, by the owners, proprietors or occupiers of all buildings occupied as dwelling houses, stores, mills, taverns, distilleries or mercantile establishments in this Island, except within Charlottetown and Common, and Georgetown and Common, whereunto not more than ten acres of land are immediately attached, the sum of five shillings each, for all such dwelling houses, stores, mills, taverns, distilleries or mercantile establishments, in addition to any assessment paid for the land on which they stand, under this Act; and by the owners, proprietors or occupiers of all buildings in this Island, except in the Towns and Commons last aforesaid, occupied as workshops of tradesmen or mechanics, whereunto not more than ten acres of land are immediately attached, the sum of two shillings and sixpence each, for all such last mentioned buildings,

in addition to any assessment paid under the provisions of this Act, for the land on which they stand.

XVIII. It shall not be compulsory on the said treasurer to receive into his hands, any assessment imposed by the last preceding section, on any buildings in the said section mentioned; but the same shall be paid into the hands of the deputy collector of assessment, appointed for the district in which such buildings are situate.

Treasurer not compelled to receive the above.

XIX. The payment of the tax last hereinbefore imposed, shall be called for, and become due at the same time as the tax on lands imposed by the first two sections of this Act; and each and every deputy appointed by the treasurer of this Island, shall, when he makes his return, with his books and accounts of the various amounts of tax received by him to the treasurer, as hereinafter mentioned, specify and set forth in writing in such books and accounts, the names of the owners, proprietors or occupiers of buildings within his district, who are liable to pay the tax or sum in the last preceding clause imposed; and what part of said tax or sum has been paid, and what amount remains unpaid under this Act; and the treasurer shall thereupon, within ten days after receipt of such books and accounts, direct such deputy to sue the persons in arrear within his district, for the last mentioned taxes or sums; and the said deputy shall thereupon sue for, and recover the same, with costs, from the several persons liable to pay the same, before the nearest Court of Commissioners for the recovery of small debts, to the residence of such deputy; and in the summons issued out of the Court, it shall be stated that the defendant is sued under the nineteenth section of this Act, as the owner, occupier or proprietor, (as the case may be,) of any building, in respect of which a tax is imposed in the last preceding section of this Act, and this statement shall throw upon the defendant the burden of disproving the truth thereof; and if the defendant, at the return of the summons, do not appear, or fail in disapproving the statement of liability contained therein, the Court shall, without further proof than of service of the summons, proceed to give judgment, and issue execution against him; but in no case, even if the defendant shall disprove the statement, shall the Court award his costs to be paid by the deputy, unless it shall be shown to them, that the conduct of the deputy in making his return and bringing the suit, has been vexatious towards the defendant.

Tax on stores, &c., when to become due.

Treasurer's duty in respect thereof.

XX. The said deputy shall, forthwith, on closing his books, and at all events, once in every three months, account with, and

Deputy collector to account every 3 months

pay over to the treasurer of this Island, all sums of money, by him from time to time received, under the provisions of this Act.

Three pence in the pound to be levied on land in Charlottetown and Georgetown and their commons.

XXI. There shall annually, during the continuance of this Act, be charged, raised, levied, collected and paid into the hands of the Treasurer of this Island, or his collectors, to be appointed as hereinafter mentioned, upon, and for all lands, tenements, hereditaments and real estate in Charlottetown, and Charlottetown Common, and in Georgetown and Georgetown Common, for every twenty shillings of the annual value thereof, the sum, rate, or duty, of three pence on the pound, the same to become due, and to be paid annually by the several and respective owners, proprietors or occupiers thereof, when and so soon as the same shall be called for by the treasurer of this Island, by advertisement published in the *Royal Gazette* newspaper of this Island, as hereinafter mentioned.

Fractional parts.

XXII. Upon every fractional part of twenty shillings of the annual value aforesaid, the like proportion of duty at the rate before directed shall be charged ; provided that no rate or duty shall be charged of a lower denomination than one penny.

Present assessors to be retained in office. Vacancies how filled.

XXIII. The five persons appointed under and by virtue of the laws heretofore in force as assessors for each of the Towns of Charlottetown and Georgetown, and the Common thereof respectively, of the tax or assessment imposed by the Act of the twenty-fourth year of the reign of Her present Majesty, chapter thirty-five, and who shall be in office at the passing hereof, shall be the assessors under and for the purposes of this Act, in each of the towns and the common thereof respectively, of the fair annual value of the premises in their respective districts, chargeable with the rate or assessment imposed by the two last preceding clauses of this Act ; and it shall be lawful for the Lieutenant Governor in Council, and he is hereby required, from time to time, in the event of any vacancy or vacancies occurring by death, removal, resignation or otherwise, of any such assessor or assessors, to nominate and appoint one or more fit and proper person or persons, resident householders within either of said towns respectively, or the common thereof, to fill up such vacancy or vacancies, who shall have and be invested with the same powers, and shall be subject to the same rules, fines, and regulations, and liable to the same duties as the assessors whose appointment is hereby confirmed, and as are next hereinafter prescribed.

Duties of assessors for

XXIV. It shall be the duty of such assessors as aforesaid, for Charlottetown and common, and Georgetown and common, under this Act, within sixty days after their appointment, and

annually thereafter during the continuance of this Act, within their respective districts, to assess the owners, occupiers or proprietors of lands, tenements, hereditaments and real estate therein for the purposes of this Act, and to estimate and determine fairly and justly, as near as may be, what is the fair annual value of such lands, tenements, hereditaments, and real estate in the possession of each particular person or persons, and also to assess the fair annual value of all unoccupied lands, tenements, hereditaments and real estate therein; and the said assessors, within the period last aforesaid, shall also deliver in, or cause to be delivered in, to the treasurer of this Island, in writing, a correct detailed account and return of such their estimate and determination, the return for each town and common to be signed by the assessors thereof, or a majority of them, and to be accompanied and verified by an affidavit in the form in the Schedule to this Act annexed, marked (D), to be made by the assessors signing the return, and to be sworn to before any one of Her Majesty's Justices of the Peace for the said Island.

Charlottetown
and George-
town.

XXV. Any such estimate, determination or return of the annual value of lands, tenements and real estate in Charlottetown and common, or in Georgetown and common, when made and returned as required by this Act, and lodged in the treasurer's office, shall be binding and conclusive on the several persons therein named owning or occupying the same; and the several rates and sums therein specified shall be the rates and sums which the said several persons shall for the year in which such return is made be respectively liable to pay, or which, in case of the same being unoccupied, shall be the amount due and payable in respect of the said lands, tenements, hereditaments and real estate, unless appealed from as hereinafter provided for, and shall be recoverable as hereinafter mentioned.

Assessors' re-
turn, where
filed, and effect
of.

XXVI. Any assessor whose appointment is confirmed by this Act, or any person hereafter to be appointed assessor under the provisions hereof, who shall refuse to act, or refuse or neglect to be sworn as hereinafter mentioned, or to make such estimate or return as aforesaid within the period limited therefor, shall be liable to forfeit and pay a fine not exceeding one hundred pounds, nor less than five pounds, to be sued for and recovered, with costs on the oath of the said treasurer, or some other credible witness, in Her Majesty's name, before any two of Her Majesty's Justices of the Peace, for Queen's or King's County respectively; and the same, when recovered, shall be paid into the treasury of this Island for the use of Her Majesty's Government; provided always, that if the requisite majority of any such body of assessors as hereinbefore required in

Assessor who
shall refuse to
act to be fined

making a return shall join in making and verifying such return and estimate, then the remaining assessors shall not be liable to a fine in respect of their not having joined therein.

Assessors
when and how
sworn.

XXVII. Within seven days after any such assessor shall have been appointed as aforesaid, and before he shall enter on the duties of his office, he shall take the oath prescribed in the form in the Schedule to this Act annexed, marked (E), which the Prothonotary of Her Majesty's Supreme Court of Judicature, or either of his deputies, is hereby required and empowered to administer, and to file the same in his office: Provided always, that no person heretofore appointed assessor for the purposes contemplated by this Act, and holding that office at the passing hereof, and who shall have been sworn to perform the duties of such office in manner as herein pointed out, shall be required to take such affidavit a second time.

Treasurer to
appoint collec-
tors for towns
and commons.

XXVIII. It shall be lawful for the treasurer of this Island for the time being, and he is hereby required, by writing under his hand and seal, immediately after any such return or estimate of the assessors has been lodged in his office as aforesaid, or in such other way or manner, and at such time or times as he may see fit, to nominate and appoint a fit and proper person to be his collector or deputy in the town and common to which such return relates; and he shall cause an advertisement to be inserted for three consecutive weeks in the *Royal Gazette* newspaper of this Island, calling for the payment of such assessment into the hands of such collector; and for the faithful discharge of the duties of such collector the said treasurer shall be responsible; and such collector shall, and he is hereby required forthwith to demand and collect the amounts assessed from the person and persons liable to pay the same, or to take proceedings for the recovery thereof, as hereinafter mentioned, and to pay over the amounts received by him, together with an account thereof, to the treasurer; and every such collector shall be allowed for his trouble the per centage following, that is to say, seven pounds ten shillings per centum on the first fifty pounds of assessment, or any less amount in the whole received by him; and on the residue of the amount by him received beyond the said sum of fifty pounds, five per centum and no more.

Collectors' per
centage.

Collectors to
be furnished
with Collec-
tors' returns.

XXIX. The said treasurer shall forward to each collector so to be appointed, as in the last clause mentioned, a correct copy of such return or estimate of the assessors for the town and common to which such collector may be appointed; and all persons liable to be rated or assessed, or holding property liable to be rated or assessed, therein, shall be entitled to inspect such copy when so forwarded to the collector.

XXX. If any person so assessed as hereinbefore mentioned in respect of property within the Town and Common of Charlottetown, or Georgetown, aforesaid, shall, within ten days after demand made by the Collector, or in case such person be not resident in such Town or Common, or be absent therefrom, within twenty-one days after the first insertion of such advertisement by the treasurer of this Island, as aforesaid, calling for the payment of such assessment, refuse or neglect to pay his proportion of the rate or assessment so determined as aforesaid, the collector shall and may, after the expiration of the said ten or twenty days respectively, as the case may be, recover such rate or assessment, by action in his own name, in the Mayor's Court for the City of Charlottetown, or in any Court of Commissioners for the recovery of Small Debts, for the City, Town or Common wherein such assessment shall or may become due, and such Court shall give judgment for the amount of such assessment, as the same may appear on the copy of the Assessors' estimate furnished to such Collector by the treasurer for the time being, together with the costs of such action, and shall issue execution for the amount of such judgment against the goods and chattels of the defendant, which goods and chattels shall be sold under such execution for the amount of such judgment, expenses of sale, advertising, and all incidental expenses; and if any money remain in the hands of the collector, after paying the amount of such judgment and expenses, the same shall be paid to the owner or owners of the goods and chattels.

Collector of Towns & Commons, when & where to sue for assessment.

Judgment and execution, how obtained.

XXXI. Any person so assessed, or his agent, may, within the said period of ten days after demand, or twenty-one days after insertion of such advertisement as last aforesaid, as the case may be, give to the said Collector a written notice of his, her, or their intention to appeal from the said rate or assessment; and the said collector shall thereupon notify the said assessors of the Town and Common for which he is Collector, of every such notice of appeal being served upon him, within one week after the same shall have been served; and the said assessors shall appoint a time and place to meet to revise the assessment so made by them; and the Collector shall give the appellant, or his agent, in writing, or by advertisement in the *Royal Gazette* newspaper of this Island, seven days' notice of the time and place of such meeting of the assessors, to revise the assessment so made by them as aforesaid; and the determination of the said assessors, after such revision, shall be final and conclusive; and in case such revised assessment shall not be paid to the Collector within ten days after such determination thereon as last mentioned, then the said Collector shall sue for and recover the same in way and manner hereinbefore mentioned.

Appeal therefrom, how obtained.

Proceedings to recover assessment, where no goods or chattels are to be found.

Seizure and sale of real estate.

XXXII. In any case where sufficient goods and chattels cannot be found whereon to levy any such assessment so in arrear, and unpaid, as aforesaid, the Collector shall notify and make return thereof to the treasurer of this Island; and it shall thereupon be lawful for the said treasurer, and he is hereby required, to award a precept to the collector making such notification and return, in the form in the schedule to this Act annexed, marked (F), commanding him to make public sale of the lands, tenements, hereditaments and real estate in respect of which, or the ownership or occupation of which the said assessment so in arrear and unpaid as aforesaid, has been imposed or assessed; and the collector shall, under said precept, levy on such lands, tenements, hereditaments and real estate, and make public sale thereof at the Court House of the Town and Common wherein the same may be situate, after having given six months' notice thereof in the *Royal Gazette* newspaper of this Island; and out of the proceeds of such sale he shall pay into the hands of the Treasurer of this Island the amount of the assessment; and after retaining and deducting an amount sufficient to defray the expenses incurred by such advertising and sale as aforesaid, and other incidental expenses, shall pay the balance to the owner or owners of the lands, tenements, hereditaments or real estate so assessed and sold; and the Collector is hereby authorized and directed to make and execute a deed to the purchaser or purchasers of such lands, tenements, hereditaments and real estate, at his, her, or their expense, which deed, when so executed and registered, together with the precept authorizing the sale, shall vest in such purchaser or purchasers a good and sufficient title, seizen and estate, in fee simple, of and in the premises therein described, without entry or possession given against all the former holders or owners thereof, subject only to the conditions of the original grant thereof from the Crown: provided always, that in case of any such sale of lands, tenements, hereditaments or real estate, as aforesaid, under the operation of this Act, an equity of redemption shall nevertheless be open to the former owner or owners, proprietor or proprietors, his, her or their agents, heirs or assigns, for the space of two years next after the day on which the same shall have been sold, he, she or they repaying the purchase money, with interest thereon, after the rate of six pounds per centum per annum, and also all reasonable expenses attending the same, and a fair allowance for such improvements as shall or may have been made thereon, which, in case of dispute, shall be ascertained by the Supreme Court.

Town Collectors, when to account.

XXXIII. Every such Collector appointed to collect in Charlottetown and Common, and Georgetown and Common,

as aforesaid, shall, within three months after his first appointment, and once in every three months thereafter, account with and pay into the hands of the said treasurer all such sums of money as he may from time to time have received; and upon refusal or neglect to account for and pay in the same as aforesaid, or if he shall not perform his several duties hereinbefore set forth, such collector shall, for each and every offence, neglect or refusal, forfeit and pay to her Majesty, her heirs and successors, a fine not exceeding one hundred pounds, to be recovered by bill, plaint or information in the said Supreme Court, and when recovered, shall be paid into the treasury for the use of her Majesty's Government.

XXXIV. The book or books in which the assessment in Georgetown, under the Act of the fourteenth year of the reign of her present Majesty, chapter twenty-eight, and any other Act now or hereafter to be passed in lieu or amendment thereof, is, are, or shall be kept or recorded, shall at all times be open to the inspection of the said five persons appointed to, and holding from time to time, the office of Assessors for Georgetown, under this Act; and if any person, in whose legal keeping any such book or books is, are, or may be placed, shall refuse to allow the inspection of such book or books, in manner, and to such persons as aforesaid, such person shall be liable for every such offence to the fine of five pounds, to be recovered before any one of her Majesty's Justices of the Peace for this Island, on the oath and in the name of any of the aforesaid five persons, so appointed assessors for Charlottetown or Georgetown respectively, as the case may be.

Georgetown books to be open for inspection.

Consequences of refusal.

XXXV. There shall be paid out of the treasury of this Island to each of the said persons holding the office of Assessor for Charlottetown and Common, the sum of four pounds per annum; and for Georgetown and Common, the sum of twenty shillings per annum, under this Act; provided they shall well and faithfully discharge their duties, and make due return as aforesaid to the said treasurer; such respective sums to be paid in the usual manner, by warrant drawn on the treasury of this Island by the Lieutenant Governor thereof.

Town Assessors, how paid.

XXXVI. The Treasurer of this Island shall keep a separate and specific account of all moneys raised and applied by virtue of this Act, which account shall be annually laid before the House of Assembly within ten days next after the termination of the financial year.

Col. Treasurer, to keep an account.

XXXVII. The deputies appointed by the Treasurer of this Island, under and by virtue of the Act of the eleventh

Former deputies to continue under this Act.

Victoria chapter seven, and who shall be in office at the passing hereof, shall be the deputies of the said treasurer for the purposes of this Act, as next hereinafter declared; and it shall and may be lawful for the said treasurer for the time being, from time to time, in the event of any vacancy or vacancies occurring by death, removal, resignation, or otherwise, of any of such deputy or deputies by writing, under his hand and seal, to nominate and appoint one or more fit and proper persons to fill up such vacancy or vacancies, so that there shall not be less than three for each County, as to the said treasurer shall seem meet; and for the faithful discharge of the duties of such deputies, as well of those in office at the passing of this Act, as of those who may hereafter be appointed under this Act, the said treasurer shall be responsible; and which deputies shall be appointed for certain districts or sections of the Counties respectively, to be defined and published by the said treasurer; and such deputies (as well those now in office as those who shall from time to time be appointed hereunder as aforesaid), shall, and they are hereby required to open books of account for the receipt of the said assessment, and shall keep open their books until the fourteenth day next before the first day of the term, at which proceedings, by proclamation, are to be taken against the lands of any defaulter or defaulters agreeably to the provisions of this Act, and shall forthwith forward the assessment received, together with their books, or true copies thereof, to the treasurer; and each and every deputy shall be allowed for his trouble the per centage following, that is to say: the sum of ten pounds per centum on the first fifty pounds of assessment, or any less amount in the whole by him received; and upon the residue of the amount by him received beyond the said sum of fifty pounds, five pounds per centum, and no more.

Their districts or sections, and duties.

Their per centage.

Assessment on tracts over 1000 acres.

XXXVIII. No assessment for any tract of land exceeding one thousand acres, shall be paid into the hands of the Sub-Collector of assessment appointed for Charlottetown.

Receipts to be granted.

XXXIX. The said Treasurer and Deputies shall, and they are hereby required, upon receiving any sum or sums of money under and by virtue of this Act, to grant a receipt for the same, specifying therein the name of the person paying the same, and the quantity of land for which, and on what township the same has been paid; or if situate in either of the towns or royalties, specifying the number of the Lot, and whether a town, common, pasture or water Lot, also stating whether improved or unimproved, cultivated, or uncultivated, as the case may be.

XL. When the Sheriff, Coroner, or other officer who shall

have sold any lands under the provisions of this Act for non-payment of assessment and costs, and such lands shall have produced more than sufficient for the payment of such assessment and costs, the sheriff, coroner, or other officer shall, and he is hereby authorized to pay over into the hands of the treasurer of this Island for the time being, the overplus of such moneys, for the benefit of the proprietor or proprietors of such lands; and in case of dispute as to the right of any claimant to receive such overplus, the same shall be determined in a summary way by the Justices of Her Majesty's Supreme Court of Judicature; and any costs incurred thereby, shall be paid by the person or persons wrongfully claiming the same, or otherwise apportioned, as to such Justices shall seem just and equitable.

Overplus of money realized under execution how disposed of

XLII. All lands liable to the assessment as aforesaid, shall be deemed and taken to be wilderness or unimproved lands, as well in the townships as in the several towns and royalties aforesaid, and the same shall be charged with assessment as such wilderness or unimproved land, unless the owner or occupier for the time being of any such land, shall at the time such assessment shall be paid, deliver, or cause to be delivered, at the office of the treasurer of this Island, or to any of his deputies, a true return or account of such land, the same to be entered in the books of the said treasurer or receiver, in the form set forth in the schedule to this Act annexed, marked (C); and if any owner or occupier of any such lands or lots as aforesaid, shall make a false return of such lands or lots, he, she, or they shall, on conviction, forfeit and pay for every such offence, a sum not exceeding fifty pounds, the same to be recovered, with costs, in Her Majesty's Supreme Court of Judicature in this Island, and one-half of such fine and penalty shall be paid to the person who shall inform and sue for the same, and the other half shall be paid into the treasury of this Island, for the use of Her Majesty's Government; and the books of original entry of the said treasurer or receiver shall be deemed and taken as evidence of said return.

Return of the nature of lands to be made when paid for, otherwise to be deemed wilderness.

Penalty for false return.

XLIII. When by reference to the said return it shall appear that any person or persons is or are the owner or owners, lessee or lessees of any single tract or quantity of land containing three hundred acres, or any less quantity, and shall have actually settled thereon; or in case of non-residence, shall have enclosed and cultivated in the proportion of five acres for each and every hundred acres of land, of which such person or persons shall be the owner or owners, lessee or lessees, for the time being as aforesaid, and in the same proportion for any less quantity thereof, such tract of land shall be deemed cultivated or improved land within the meaning of this Act.

Tracts of 300 acres when exempt.

What to be deemed cultivation.

XLIII. No town lot in the Towns of Charlottetown and Georgetown respectively, shall be deemed to be cultivated and improved within the meaning of this Act, unless such town lot shall be wholly cleared, or unless such town lot shall have a dwelling-house, barn or stable, actually used as such, erected thereon, which said clearance and buildings, or any or either of them, shall be a sufficient improvement and cultivation; and no pasture lot or common lot within the royalty and common of Charlottetown, shall be deemed to be so improved and cultivated, unless three acres of such lot shall be cleared and enclosed under fence; and no pasture lot within the royalty of Georgetown shall be deemed to be improved or cultivated unless two acres of such lot shall be cleared and under fence as aforesaid.

Irregularity in notices, &c.

XLIV. No omission of any direction contained in this Act, relative to notices or forms of proceeding, previous to any sale made under this Act, shall extend to render such sale invalid, but the person guilty of any such omission or neglect shall be liable to punishment therefor, and shall answer the party for any damage occasioned to him thereby, in any legal proceeding that may be properly instituted for that purpose.

Appropriation of moneys received under this Act.

XLV. The moneys raised by virtue of this Act shall be appropriated to the purposes of general education, or as may hereafter be directed by any Act of the Legislature of this Island; and if the amount hereby raised shall not suffice for the purposes aforesaid, then there shall, annually, during the continuance of this Act, be paid out of the moneys from time to time being in the treasury of this Island, an amount sufficient to make good such deficiency, and to carry out the purposes of this Act, and to discharge the payments thereby required to be made.

Misappropriation by treasurer.

XLVI. If the treasurer of this Island shall issue and pay any of the said moneys arising under this Act for any other purpose than is therein mentioned, or than shall be directed by any Act of the Legislature of this Island hereafter to be passed, he shall forfeit and pay the sum of one thousand pounds, and be rendered incapable of holding the office of treasurer; the said forfeiture to be applied to and for the use of Her Majesty's Government, and to be recovered by bill, plaint or information, in Her Majesty's said Supreme Court of Judicature of this Island.

Former proceedings confirmed.

XLVII. All legal proceedings legally had or taken under all or any of the Acts for levying an assessment on all lands in this Island, which are hereby repealed, shall be and the same are hereby confirmed; and all proceedings legally pending thereunder, shall be taken to be good and valid, and shall

be prosecuted to the final termination thereof respectively, in way and manner prescribed by the said Acts hereby repealed, as if this Act had not been passed.

XLVIII. The payment of the assessment imposed on the various lands described in this Act, shall be and the same is hereby declared to be in lieu and substitution of the accruing quit rents reserved in the original grants from the Crown, of all and singular the said lands, being the same quit rents which were transferred to the local Government of this Colony in and by the Act made and passed in the fourteenth year of the reign of Her present Majesty, chapter three, intituled "An Act to commute the Crown Revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned."

Assessment under this Act in lieu of quit rents.

XLIX. In case any farm or tract of land or real estate sold by any coroner or sheriff under the directions of this Act shall be charged with or subject to any debt due to the Government of this Island under the provisions of the Act of the Legislature of this Island, passed in the sixteenth year of Her present Majesty's reign, chapter eighteen, or of any other Act of the said Legislature, every such farm, tract of land or real estate, shall continue in all respects subject to such debt, notwithstanding any sale or conveyance thereof by the said sheriff or coroner, as aforesaid; and such debt shall and may be proceeded for and recovered in like manner and with the same effect as if no such sale or conveyance had been made.

Lands sold under execution, subject to Government debts.

L. This Act shall be and continue in force for the period of fifteen years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Duration of Act.

LI. Nothing in this Act contained shall have any force or effect until Her Majesty's pleasure therein shall be known, and notification thereof published in the *Royal Gazette* newspaper of this Island.

Suspending clause.

* * This Act received Her Majesty's assent on the 29th June, 1865, and notification thereof was, on the 9th day of August, 1865, published in the *Royal Gazette* newspaper.

SCHEDULES to which this Act refers.

SCHEDULE (A).

Schedule (A.)

To all to whom these presents shall come :

I
High Sheriff of the County of
in Prince Edward Island, (or Coroner
as the case may be,) send greeting :

Whereas, by virtue of her Majesty's writ of *ficri facias* unto me directed, commanding me that I should cause to be satisfied and paid out of _____ as well a certain debt of _____ which _____ treasurer of the said Island had recovered against the said _____ in her Majesty's Supreme Court of Judicature at Charlottetown in the said Island, as also _____ which in her Majesty's same Court were awarded to the said _____ for his costs and charges, by him about his suit in that behalf expended, and that I should have that money at her Majesty's Supreme Court of Judicature aforesaid on the _____ in _____ next coming, to render to the said _____ for the debt and costs aforesaid: And whereas, by virtue of the said writ, and by force and according to the form and effect of an Act made and passed in the twenty-seventh year of the reign of her present Majesty, intituled "An Act to consolidate and amend the laws imposing an assessment on all lands in this Island, and for the encouragement of Education:" I the said Sheriff, (or Coroner, *as the case may be,*) took the said _____ in execution, and thirty days' previous notice of the sale thereof having been given, in manner and form as is prescribed in and by the said last mentioned Act, sold _____ at public auction to _____ being the best or highest bidder, at or for the sum of _____ lawful money of the said Island.

Now know ye that I the said _____ High Sheriff, (or Coroner, *as the case may be,*) as aforesaid, by virtue of the said writ, and for and in consideration of the sum of _____ lawful money aforesaid, to me in hand paid by the said _____ at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have bargained, sold and assigned, and by these presents I the said _____ High Sheriff, (or Coroner, *as the case may be,*) as aforesaid, do bargain, sell, and assign unto the said _____ described as follows: _____ being in arrear of the tax imposed upon the said _____ by the said Act firstly hereinbefore in part recited; to have and to hold all and singular _____ and every part and parcel thereof, with the appurtenances, unto the said _____ his heirs and assigns, to the only proper use and behoof of the said _____ his heirs and assigns, for ever, and to and for no other use, trust, intent or purpose whatsoever, as fully, amply, and beneficially as the original grantee or grantees of the said _____ heirs or assigns were possessed of or entitled to the same.

In witness whereof, I the said High Sheriff, (or Coroner, *as the case may be,*) have hereunto set my hand and affixed

my seal of office, this day of in the
year of the reign of our Sovereign Lady Queen Victoria, and
in the year of our Lord one thousand eight hundred and

Signed, sealed and delivered, }
in the presence of }

SCHEDULE (B.)

Schedule (B.)

SCALE OF COSTS.

Fees to be taken under this Act by the Attorney General.

Retainer,	-	£1 1 0
Every necessary motion in Court,	-	0 10 0
Term fee, each term (not more than two term fees to be allowed,)	-	0 5 0
Drawing every Information, per folio of 90 words,	-	0 1 0
Every copy thereof, per 90 words,	-	0 0 6
Brief and copy,	-	0 7 6
Every necessary attendance,	-	0 3 4
Drawing every affidavit, per folio of 90 words,	-	0 1 0
Every necessary copy thereof, per folio of 90 words,	-	0 0 6
Drawing every bill of costs,	-	0 2 6
Every necessary copy thereof,	-	0 2 6
Issuing all writs, subpoenas and executions, ac- cording to the scale at present taxable in civil cases.		

Other Fees to be taken under this Act.

Justice, taxing and apportioning costs,		0 6 0
Judge's fee signing judgment,	-	0 2 6
Sheriff or Coroner, for every deed,	-	0 10 0
For every additional tract of land on the same township described and conveyed in the same deed,	-	0 5 0
For every additional Town, Common, Water, or Pasture Lot beyond the first, described and conveyed in the one deed,	-	0 5 0
For making levy under execution,	-	0 2 6
Poundage, five per centum on account of levy, travelling per mile to be computed from the Court House in the County where the lands are situate to the place where the levy is made, and back again, but in no case shall any more miles be charged for than he can make it appear he has actually travelled, and only one journey to be allowed, fourpence; if it be necessary for the Sheriff or other officer		

to go to Charlottetown to search the land assessment Books, in the treasurer's office, he shall be allowed to charge for mileage from his place of residence to Charlottetown, to make such search, and back again, at the same rate as before, that is to say, each mile, (but only one journey to be allowed) for all lands in arrear in the County, fourpence.

Printers' fees for advertising, &c., as heretofore accustomed.

SCHEDULE (C.)

Schedule (C.)

RETURN OF TOWNSHIP LANDS AND ISLANDS.

No. of Township, or name of Island. (as the case may be.)	Owner or Occupier.	No. of acres cultivated.	No. of acres uncultivated.	Total.

RETURN FOR TOWN AND WATER LOTS.

DESCRIPTION.				Where situated.	Owner or occupier.	Improved or Unimproved.
No.	Hund.	Range.	Letter.			

RETURN FOR COMMON AND PASTURE LOTS.

No. of Common or Pasture Lots, (as the case may be.)	Where situated.	Owner or Occupier.	Improved or Unimproved.

RETURN FOR RESERVED LANDS IN THE ROYALTY OF GEORGETOWN.

Owner or Occupier.	No. of acres cultivated.	No. of acres uncultivated.	Total.

SCHEDULE (D.)

Schedule (D.)

FORM OF ASSESSORS' OATH IN VERIFICATION OF RETURN.

We *A. B., C. D., E. F., G. H.,* and *J. K.,* (or as many of the Assessors as make the return) Assessors for Georgetown and Common, (or Charlottetown and Common, as the case may be,) under the provisions of the twenty-seventh Victoria chapter (here insert the chapter of this Act), do hereby severally make oath and say, that the estimate and determination hereunto annexed is a just, fair and impartial one, to the best of our skill and belief. So help us God.

SCHEDULE (E.)

Schedule (E.)

I, *A. B.,* do swear that I will diligently, faithfully and impartially, execute and perform the duties of an Assessor (for Charlottetown and Common, or Georgetown and Common, as the case may be,) as prescribed by law, and according to the best of my knowledge and ability. So help me God.

 SCHEDULE (F.)

Schedule (F.) FORM OF PRECEPT TO COLLECTOR TO SELL REAL ESTATE.

To *A. B.*, the Collector for Charlottetown and Common, (or Georgetown and Common, as the case may be,) appointed under the Act intituled (here insert the title of this Act.)

Whereas the Assessors for Charlottetown and Common, (or Georgetown and Common as the case may be,) appointed by me under the provisions of the said Act, have assessed (here describe the property, situate in Charlottetown aforesaid, or otherwise, as the case may be,) pursuant to the said Act, and the said assessment, together with costs, amounts to the sum of currency; and the notices required by law having been duly given and the amount of the assessment remaining still unpaid, these are therefore to authorize and require you the said Collector, to take so much of the said real estate as will satisfy the said assessments, with costs, and the same to advertize, sell and dispose of according to law; and you are to make due return of this precept unto me, and also have the money ready, as directed by this Act.

Given under my hand and seal, this day of
 A. D., 18 , and in the year of her present
 Majesty's reign.

C. D., Treasurer, [L. s.]

 CAP. XXXVIII.

Executed.

An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and sixty-four.

[Passed May 2, 1864.]

ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown, the twenty-eighth day of February, *Anno Domini*, 1865, in the twenty-eighth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith :

GEO. DUNBAR,
Lt. Governor.

D. MONTGOMERY,
President
of Legislative
Council.

Being the third session of the twenty-second General Assembly convened in the said Island.

R. McAULAY,
Speaker.

CAP. I.

An Act to carry into effect certain unexecuted agreements made by the late John Hodges Winsloe, Esquire, deceased, for the sale and leasing of certain parts of his estate in this Colony.

[Passed April 3, 1865.]

☞ This Act has been printed in the second volume of Private and Local Acts.

CAP. II.

An Act to compel Masters of Vessels to exhibit a Light while in harbor, in the night time.

Repealed by
30 Vic. cap. 13.

[Passed April 3, 1865.]

CAP. III.

Expired.

An Act for raising a Revenue.

[Passed April 3, 1865.]

CAP. IV.

12 Vic. cap. 21. An Act in further amendment of the Act to incorporate the Royal Agricultural Society of Prince Edward Island.

[Passed April 3, 1865.]

~~13.~~ This Act has been printed in the second volume of Private and Local Acts.

CAP. V.

An Act to assist leaseholders in the purchase of the fee-simple of their Farms.

[Passed April 3, 1865.]

Preamble.

WHEREAS the creation and continuance of leasehold tenures on township lands in this Island, have tended to check the progress and retard the prosperity thereof, and it is deemed expedient to aid and assist leaseholders in purchasing the fee simple of their farms from their proprietors or landlords: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Lt. Governor in Council authorized to issue debentures not exceeding £50,000, for purposes of this Act.

I. It shall be lawful for the Lieutenant Governor in Council, to authorize the issue of Government debentures to an amount not exceeding fifty thousand pounds, of lawful money of this Island, in such form, and the principal and interest whereof shall be payable at such periods and places as he shall think fit, but bearing interest at a rate not exceeding six pounds per centum per annum, and redeemable at a period not exceeding ten years from the date of the issue; and to advance the sum to be raised by the issue of the said debentures as an aid by loans to any leaseholders or tenants of township lands who may be desirous of purchasing from their landlords the reversion in fee-simple of their farms, upon the terms and conditions contained in this Act.

Security for repayment of moneys borrowed

II. For the repayment of all sums of money borrowed under this Act, and the interest thereon, the surplus moneys which shall hereafter come to hand, arising from the sale of

lands purchased under this Act, and paid into the treasury, shall in the first instance be pledged and rendered liable; and the other public funds, moneys and securities of this Island, shall be, and the same are hereby in the next place pledged and rendered liable, subject, nevertheless, to any prior lien or claim thereon by any debentures previously issued by the government of this Island.

III. The total amount of the aid which any leaseholder or tenant of township lands shall loan from the government, shall not exceed one half the purchase money that he may have agreed to pay his landlord or proprietor for the purchase of the reversion in fee simple of his farm.

No leaseholder or tenant entitled to aid beyond one half the purchase money of his farm.

IV. No leaseholder or tenant shall be entitled to any aid under the provisions of this Act, who shall enter into any agreement with his landlord or proprietor to give more than sixteen shillings and eight pence, of lawful money of this Island, per acre, for the reversion in fee simple, of his farm.

No leaseholder or tenant entitled to aid who gives more than 16s. 8d., per acre for his farm.

V. Every tenant or leaseholder of township lands who has entered into an agreement with his proprietor or landlord for the purchase of the reversion of his farm in fee simple, at a rate not exceeding sixteen shillings and eight pence of lawful money of this Island, per acre, and is desirous of obtaining and receiving aid or assistance from the government to the extent of not more than one moiety or equal half part of the said purchase money, to enable him to complete the said purchase, shall make a written or printed application to that effect to the Commissioner of Public Lands.

Mode of application to commissioner of public lands for assistance.

VI. Upon receipt of the said application, the Commissioner of public lands shall cause the title and value of the said leaseholder or tenant, and that of his proprietor or landlord, to the said farm, to be investigated.

Title and value to be investigated.

VII. If upon such investigation the title and value of the said farm shall prove satisfactory, the said leaseholder or tenant shall immediately thereafter pay one moiety or equal half part of the said purchase money into the office of the said Commissioner of public lands, and, at the same time, sign and execute an assignment or surrender of his lease or agreement to the said Commissioner of public lands, and his successors in office, in the form in the schedule to this Act annexed, marked (A), or in such other form as the said Commissioner of public lands shall direct.

When & where moiety of purchase money to be paid.

Assignment or surrender of lease or agreement to be executed at same time.

VIII. The Commissioner of public lands shall, upon receipt of the said moiety or equal half part of the said purchase

Commissioner of public lands to pay the

whole of purchase money to proprietor on execution of conveyance of reversion to said Commissioner.

Form of conveyance.

Purposes, &c. for which lands are to be held by Commissioner.

Mode and form of conveying lands by Commissioner to leaseholder.

money, and the execution of the said assignment or surrender as aforesaid, pay over to the said proprietor or landlord, by a check or order on the treasurer of this Island, the full amount of the said purchase money so agreed to be paid by the said leaseholder or tenant, as aforesaid, when and so soon as the said proprietor or landlord shall duly execute a deed of conveyance of the reversion in fee simple of the said farm to the said Commissioner of public lands, and his successors in office, upon the trusts, and for the intents and purposes of this Act; and which said deed of conveyance shall be in the form or to the effect in the schedule to this Act annexed, marked (B), or in any other form which the said Commissioner may think fit, or the circumstances of each case may render necessary or advisable; and such deed of conveyance shall be good and valid in law and equity to vest the legal estate and fee simple in the said Commissioner of public lands, and his successors in office, subject only to the provisions and directions of this Act, without any entry made thereon, or possession given, any law, custom or usage to the contrary thereof in anywise notwithstanding.

IX. Immediately after the execution of the said deed of conveyance to the Commissioner of Public lands, as aforesaid, he shall execute and deliver to the said leaseholder or tenant a deed of conveyance of his said farm, in the form or to the effect set forth in the schedule (C), to this Act annexed, altered when necessary to suit the circumstances of any particular case; and on such deed of conveyance there shall be endorsed a memorandum or defeazance specifying the amount remaining unpaid, and when and how payable, in form as set forth in schedule (D), to this Act annexed, also, varied where necessary, to meet the circumstances of the case; and the amount so specified as unpaid, with interest after the rate of six pounds per centum, per annum, as therein mentioned, shall be, and the same is hereby declared a specific lien and charge on the land described in the deed for which payment is due, superior to and having priority over every other lien or charge on the said land created by the purchaser, or any claiming by, from, through, under, or in trust for him, whether before or after the date of the deed, rights of dower or otherwise, and payment thereof shall be enforced from time to time, in the same manner as mentioned and prescribed in and by the Act for the purchase of lands on behalf of the government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned, and of all Acts in amendment thereof.

Duplicate copies of deeds

X. The Commissioner of public lands shall cause duplicate copies of all deeds of conveyance executed by him under

this Act, with any memorandum or defeazance relating to the payment of the purchase money endorsed thereon, as aforesaid, to be made and executed; and he shall cause the purchaser to execute the same, and by endorsement thereon to declare it to be a true copy of the original deed of conveyance; and every such duplicate copy of any deed shall be deposited by the Commissioner of public lands in his office, and remain of record therein.

of conveyance, &c., from Commissioner, to be executed, &c.

XI. The original deed of conveyance and also the duplicate copy thereof, executed as aforesaid, and attested by the Commissioner of public lands, shall be evidence in all Courts in all actions wherein the title of the lands under this Act, or those claiming under them, shall come in question, or wherein any proceedings shall be taken under this Act for the recovery of the purchase moneys due thereon, with interest, and in all other cases wherein it shall become necessary to give such deeds in evidence.

The original deed and the duplicate copy thereof to be evidence in all Courts.

XII. The Commissioner of public lands shall be entitled to receive a fee of ten shillings from the purchaser of any lands under this Act, for preparing the deed of conveyance and the duplicate thereof.

Fee of Commissioner for deed of conveyance and duplicate.

XIII. The consideration money for all lands sold by the Commissioner of public lands under this Act shall be paid in the following proportions and instalments, that is to say, not less than a moiety or equal half part of the purchase money at the time and in the manner hereinbefore prescribed, and the remainder, with interest at the rate of six pounds per centum per annum, on the amount, from time to time remaining unpaid, in ten equal annual instalments; the said interest to be paid annually with each instalment: provided nevertheless, that any purchaser may, at any time, pay off the whole amount of the purchase money, and interest, if any be due, and obtain a full discharge of his land therefrom.

Moiety of purchase money to be paid at time of purchase, and remainder with interest, in 10 annual instalments.

XIV. All sums of money paid by any person purchasing lands under this Act, on account of the purchase money thereof, or otherwise, when required by this Act, shall be paid to the Commissioner of public lands, who shall enter the particulars of each payment in his books, and give the person making the payment, such certificate, acknowledging the same on his part, by endorsement on the back of the deed, or otherwise, as the circumstances of the case may require; and the said Commissioner of public lands, at the times and in manner set forth and directed by the Act for the purchase of lands on behalf of the government of Prince Edward Island, and to regulate the sale and management thereof, and for

All sums of money paid by persons purchasing lands to be paid to the Commissioner, &c.

Commissioner to pay over money received by him to treasurer.

other purposes therein mentioned, and of the Acts in amendment thereof, shall pay over to the treasurer of this Island, all such sums of money so paid to him as aforesaid, to and for the purpose of this Act, and for the use of the Government of this Island.

Penalty on commissioner for refusing or wilfully neglecting to pay over moneys in his hands, &c.

XV. If the Commissioner of Public Lands shall, at any time, refuse, or wilfully neglect, to account with and pay over to the treasurer all such moneys as he may receive under this Act, or to keep an account book thereof, or to allow the inspection thereof, and of all other books, documents plans and papers, by the Government, he shall for every such refusal and neglect forfeit and pay to Her Majesty the sum of fifty pounds over and above the amount of any deficiency in the said moneys so by him payable; the same to be recovered by bill, plaint or information in the Supreme Court of Judicature of this Island, to and for the use of Her Majesty's Government thereof.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Schedule (A.)

Form of assignment or surrender from lease holder to Commissioner of public lands.

Know all men by these presents that I, *C. D.*, in pursuance of the provisions of an Act passed in the twenty-eighth year of the reign of Queen Victoria intituled "An Act to assist leaseholders in the purchase of the fee simple of their farms," and in consideration of the sum of _____ advanced to me by the Government of Prince Edward Island, under and by virtue of the said recited Act for the purchase of the fee simple of the farm of land in my possession, within mentioned, and hereby assigned or surrendered, do by these presents, grant, bargain, sell, assign and surrender unto *A. B.*, the Commissioner of Public lands for Prince Edward Island, and his successors in office, all that the within mentioned and described piece or parcel of land, and all and singular other the premises in and by the within written lease, demised, or intended so to be with their and every of their rights, members and appurtenances, and all the estate, right, title, interest and term of years yet to come and unexpired; to have and to hold the said piece or parcel of land, and all and singular other the premises mentioned to be hereby assigned and surrendered, with their and every of their appurtenances unto the said *A. B.*, as such "the Commissioner of Public Lands," and his successors in office, for and during all the residue of the unexpired term of years by the within written lease, demised in trust, for such purposes, and subject to such powers, provisions, regulations and authori-

ties in every respect, and to be managed and disposed of in manner mentioned and pointed out in and by the said herebefore recited Act.

In witness whereof, I the said *C. D.*, have hereunto set my hand and seal this day of in the year of our Lord one thousand eight hundred and

Signed, sealed and delivered }
in presence of } *C. D.* (L.S)

(the above form to be altered as the circumstances of each case may require.)

SCHEDULE (B.)

Schedule (B.)

Know all men by these presents that I *A. B.*, of in consideration of the sum of paid to me by *C. D.*, Treasurer of the said Island, on behalf of the Government thereof, the receipt whereof I do hereby acknowledge, (this to be varied to meet the circumstances of each case,) do by these presents grant, bargain and sell unto the said *E. F.*, "the Commissioner of Public Lands," of Prince Edward Island, and his successors in office, all that (here describe the land and premises sold) to have and to hold the said (shortly specifying the lands, &c.) to the said *E. F.* as such the Commissioner of public lands, and his successors in office, in trust, for such purposes, and subject to such powers, provisions, regulations and authorities in every respect, and to be managed and disposed of in such modes as are set forth, declared and contained in the Act of the General Assembly of the said Island, passed in the twenty-eighth year of the reign of Her present Majesty, intituled "An Act to assist leaseholders in the purchase of the fee simple of their farms;" of and concerning lands purchased thereunder, by and conveyed to the Commissioner of public lands therein mentioned, (here insert any covenants for title, or other covenants which may have been required from the party selling or conveying.)

Form of deed from a proprietor to the commissioner of public lands.

In witness whereof, I the said *A. B.*, have hereunto set my hand and seal, this day of in the year of our Lord one thousand eight hundred and

Witness to the execution by }
the said *A. B.*, } *A. B.* [L.S.]

Schedule (C.)

SCHEDULE (C.)

Form of deed
from the Com-
missioner of
public lands to
a purchaser.

Know all men by these presents, that I *A. B.*, the Commissioner of Public Lands for Prince Edward Island, under the authority of an Act of the General Assembly, passed in the twenty-eighth year of the reign of Her present Majesty, intituled "An Act to assist leaseholders in the purchase of the fee simple of their farms," in consideration of the sum of lawful current money of the said Island, to me in hand, paid by *C. D.*, of _____ the receipt whereof is hereby acknowledged; and also in further consideration of the sum of _____ to be paid (if bearing interest, say "with interest,") by the said *C. D.*, in manner and at the times specified and set forth in the memorandum thereof, on the other side hereof, written and signed by the said *C. D.*, and according to the terms and provisions of the said recited Act, have granted, bargained, released and confirmed and by these presents do grant, bargain, release and confirm unto the said *C. D.*, his heirs and assigns, all that (here describe the premises sold) together with all and singular the rights, privileges, easements, advantages and appurtenances whatsoever, to the said land and premises belonging, or in anywise appertaining, or therewith now or heretofore holden, used and enjoyed; to have and to hold the said (briefly specify the premises,) with the appurtenances thereunto belonging, hereby granted and released unto the said *C. D.*, his heirs and assigns, to the only proper use and behoof of the said *C. D.*, his heirs and assigns forever, and to no other use, intent or purpose whatsoever, as fully, amply and beneficially as the original grantee or grantees thereof, from the Crown, were possessed of the same, or entitled thereto; subject nevertheless, to the payments to be made in respect thereof, as set forth in the said memorandum on the other side hereof written, and to be enforced as in the said recited Act set forth.

In witness whereof I the said *A. B.*, "the Commissioner of Public Lands," have hereunto set my hand and seal of office, the _____ day of _____ in the year of our Lord one thousand eight hundred and _____

Signed, sealed and delivered)
in the presence of)

A. B., "the Commissioner
of Public Lands."

[L.S.]

Receipt to be endorsed on Deed.

Received the day of A. D. 18
 from the within named *C. D.*, the sum of being
 that part of the consideration money which is expressed to be
 paid in the within written conveyance.

Witness my hand,

A. B., "The Commissioner of
 Public Lands."

SCHEDULE (D.)

Schedule (D.)

Memorandum that the amount for which the land and pre-
 mises within described and released have been sold to the with-
 in named *C. D.*, is the sum of of lawful money of Prince
 Edward Island, whereof the sum of hath been paid as
 within mentioned, and the balance thereof being (here state
 amount unpaid) with interest at the rate of six pounds *per*
centum per annum, from this is to be paid at the times and in
 the manner following, that is to say, (here set out the periods
 of payment, and the amount of principal and interest to be
 paid at each period) and the land, and premises within des-
 cribed and released, are taken, subject to such payments as
 aforesaid, the same being a specific lien and charge on the said
 land and premises, as in the within recited Act of the twenty-
 eighth year of the reign of Queen Victoria, intituled (here set
 out the title of this Act) is set forth and to be enforced in
 manner as in the said Act is mentioned.

Memorandum
 or defeasance
 to be endorsed
 on purchase
 deed.

Witness our hands and seals }
 this day of A. D. 186 } *C. D.* [L.S.]

A. B., "The Commissioner of } Seal of Office.
 Public Lands. }

CAP VI.

An Act in amendment of the Law and the better advancement
 of Justice.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and
 Assembly, as follows:

H

Form of process against a corporation.

I. The first process in every action to be brought against any corporation, in the Supreme Court, shall be by writ of summons, according to the form or to the effect following, that is to say :—

“ VICTORIA (L. S.) To the Sheriff of
County, Greeting :

“ We command you that you summon (here insert the name of corporation) that they be before, &c., to answer *A. B.*, of a plea (&c., as the case may be,) and have then there this writ.

Witness, &c.,

Mode of service of process against a corporation.

And every such writ of summons may be served on the Mayor, President or other head officer, or on the secretary, clerk, treasurer or cashier of such corporation, or of any body politic or corporate, not being established or incorporated within this Island, and which may enter into any contract or engagement, or transact any business therein, by their known or accredited agent or officer, every such writ of summons may be served on such accredited agent or officer, or on the person who at the time of such service may be the accredited agent or officer of such corporation, or body politic, or corporate, within this Island ; and such service shall have the like effect, in every respect, as the service of such summons on the officers of any corporation, as is hereinbefore provided.

Mode of procedure when no appearance entered for corporation at return of writ.

II. If any corporation should not cause an appearance to be entered, at the return of such writ of summons, or within twenty days after such return, in every such case, it shall and may be lawful for the plaintiff in the action, upon affidavit being made and filed in the Supreme Court, of the due service of such writ, to enter an appearance for such corporation, and to proceed thereupon in like manner, as in personal actions against individuals.

Executor or administrator liable for costs in actions brought by him.

III. In every action brought by any executor or administrator, in right of the testator or intestate, such executor or administrator shall, unless, the Court in which such action is brought shall otherwise order, be liable to pay costs to the defendant, in case of being non-suited, or a verdict passing against the plaintiff ; and in all other cases in which he would be liable if such plaintiff were suing in his own right, upon a cause of action accruing to himself ; and the defendant shall have judgment for such costs, and they shall be recovered in like manner.

IV. Upon all debts or sums certain, payable at a certain time, or otherwise, except where the same accrue for rent of houses or land, or upon special contracts, the jury, on the trial of any issue, or on any inquisition of damages, or the Court or Judge upon any assessment of damages, may, if they shall think fit, allow interest to the creditor, at a rate not exceeding the current rate of interest, from the time when such debts or sums certain were payable; if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor, that interest will be claimed from the date of such demand, until the time of payment, provided that interest shall be payable in all cases in which it is now payable by law.

Jury, Court or Judge to allow interest on debts in certain cases.

V. The jury on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods, at the time of the conversion or seizure; in all actions of trover or trespass *de bonis asportatis*, and over and above the money recoverable in all actions on policies of assurance.

Jury may give damages in nature of interest in trover or trespass *de bonis asportatis*.

VI. In all cases where any verdict or assessment of any debt or damages may be given or made for any party in any suit, in any such courts in which interest is, or may have been included, under the provisions of this Act, or otherwise, and the final judgment of the Court thereupon may have been delayed by the opposite party, either by a *rule nisi demurer*, or otherwise, it shall be lawful for such court in its discretion, when such verdict or assessment is sustained, to allow interest thereupon, at a rate not exceeding six per centum per annum, from the time of such verdict or assessment, until the rendering of final judgment therefor.

Court authorized to give interest in certain cases where final judgment delayed by *rule nisi demurer* &c.

VII. The Supreme Court may by general rule, prescribe the form of entry, of judgment and execution, in cases where such further interest may be so allowed.

Form of entry of judgment, where interest allowed, to be prescribed by Supreme Court.

VIII. Any action of trespass or trespass on the case, as the case may be, may be maintained by the executors or administrators of any person deceased, for any injury to the real estate of such person, committed in his life time, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person; and further, that an action of

Trespass, &c., may be brought by executors, &c., for injury to real estate of deceased.

Same actions may be maintained against executor for any wrong committed by deceased against real or personal estate.

trespass, or trespass on the case, as the case may be, may be maintained against the executor or administrator of any person deceased, for any wrong committed by him in his lifetime, to another, in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such executor or administrator shall have taken upon himself the administration of the state and effects of such person; and the damages to be recovered in such action, shall be payable in like order of administration, as the simple contract debts of such person.

Unnecessary to state Christian names in full in actions on bills of exchange, &c.

IX. In all actions upon bills of exchange or promissory notes or other written instruments, any of the parties to which are designated by the initial letter or letters, or some contraction of the christian or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declaration to designate such persons by the same initial letter or letters, or contraction of the christian or first name or names, instead of stating the Christian or first name or names in full.

Notes payable in specific articles presumed to have been given for valuable consideration.

X. All notes in writing, payable in specific articles, whether for a sum certain or otherwise, shall be deemed and held *prima facie*, to import that they were given for a valuable consideration, in like manner as promissory notes for the payment of money.

Payment of money into Court in personal actions, with certain exceptions.

XI. It shall and may be lawful for the defendant, in all personal actions, pending or to be brought in the Supreme Court, (except actions for assault and battery, false imprisonment, malicious arrest, or prosecution, criminal conversation or debauchery of the plaintiff's daughter or servant), by leave of the Court, or Judge of the Court, to pay into the said Court a sum of money, by way of compensation or amends, in such manner, and under such regulations as to the payment of costs and the form of pleading, as the Supreme Court shall, by any rule or orders by them to be from time to time, order and direct.

Preamble.

XII. Whereas the practice of requiring a rule of Court to be taken out for pleading several matters in any cause brought into the Supreme Court, is found inconvenient, and may be abolished, leaving to the Court or any Judge thereof, the power to set aside any improper or inconsistent pleas, as heretofore accustomed. In all cases where by the law or practice of the Supreme Court, a party may be authorized or required to take out a rule to plead several matters, such party may plead such several matters without actually obtaining such rule, and the leave of the Court to plead such several matters,

Unnecessary to take out a rule to plead several matters.

agreeably to the directions of the statute in such case made and provided, shall always be presumed to have been given; provided that any pleas may be set aside by the Court or a Judge, either on the ground of inconsistency or any other grounds (except for not taking out such rule) where by law or the practice of the Court, pleas can be set aside.

XIII. In all cases for partition of lands, whether now pending or hereafter to be brought under the provisions of the statute of the eighteenth year of Queen Victoria, chapter eighteen, and of any Act or Acts in amendment thereof, the Supreme Court or any Judge or Judges thereof, may receive evidence, and hear witnesses *viva voce*, on oath or otherwise, as well as by or on affidavit, in any stage of the case, and in such way, and subject to such rules and regulations as the said Court, or Judge or Judges thereof, may, from time to time, ordain and appoint.

In partition of lands under 18 Vic. cap. 18, and Acts in amendment thereof, evidence may be received *viva voce*.

XIV. Where application shall be made to the Supreme Court or a Judge thereof, for leave to enter up judgment on a warrant of Attorney, to confess judgment more than a year old, against the party or parties who gave the same, and is or are living, or supposed to be living, it shall be sufficient for the party applying, or his attorney, or other person on his behalf, to state in the affidavit on which the application shall be grounded, by the party making the same, that he believes the party against whom the judgment is sought to be entered is actually living, and also to give such other proof of the execution of the warrant of attorney, as the Judge or Court shall deem necessary.

On application to enter up judgment sufficient to state in affidavit belief that party who executed the same is still living.

XV. The service of any non-bailable writ or process, issued out of the Supreme Court, may be made, by the defendant being personally served with a true copy of the process, within the jurisdiction of the Supreme Court, and affidavit thereof duly made as heretofore accustomed; or in case the defendant has a known place of abode, within the jurisdiction of the said court, and shall be then within the same, such writ or process may be served at the usual place of abode of such defendant, by delivering a copy of the writ or process, with any requisite notice, to the wife of such defendant, or to an adult person residing in the house, being a member or inmate of the family of such defendant; provided that such last mentioned service shall not be deemed a good service, without the order of the said Court, or a Judge thereof, upon affidavit, shewing to the satisfaction of such Court or Judge, the circumstance of such service and that the place where the writ or process was

Mode of service of non-bailable process issued out of the Supreme Court.

served, was, at the time of such service, the usual place of abode of such defendant.

Perishable property attached in actions against absent debtors, may be held by order of Judge or Judges, in certain cases.

XVI. Perishable property attached in any suit against any absent debtor, may be sold by the order of any one of the Judges of the Supreme Court, where the value thereof, as stated by affidavit, shall be within one hundred pounds; and by the order of two of such Judges, where such value shall be over that sum; and the sale of such property shall be made and conducted at such time and place, and subject to such rules and conditions, and the proceeds thereof secured in such manner, as such Judge or Judges shall, by any order in writing, prescribe with regard to the interest of both parties in such suit.

CAP. VII.

An Act in addition to, and in further amendment of the Land Purchase Act.

19 Vic. cap. 18.
See, also, 29
Vic. cap. 19.

[Passed April 3, 1865.]

Preamble.

WHEREAS large portions of land on the several estates purchased by the Government of this Island, are of a very inferior quality, and in value much below the minimum prices fixed by the government at which such lands respectively may be sold, and it is advisable that the Commissioner of public lands should be empowered to dispose of such lands at prices less than the present fixed minimum prices of lands respectively.

Authority to Commissioner of public lands to sell lands at less than present fixed minimum prices.

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows: The Commissioner of public lands shall, at all times hereafter, have power absolutely to sell and dispose of all or any of such lands as aforesaid, as he shall deem of less value per acre than the minimum prices fixed upon such lands respectively, as aforesaid, at such prices per acre as he shall consider the full value of such lands; subject, always, nevertheless, to the approval of the Lieutenant Governor in Council.

CAP. VIII.

An Act in further amendment of the Laws regulating the sale by license of Spirituous Liquors.

19 Vic. cap. 2.
See, also, 31
Vic. cap. 2;
20 Vic. cap. 4;
23 Vic. cap. 12;
25 Vic. cap. 5.

[Passed April 3, 1865.]

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows:

I. If at any time hereafter, a majority consisting of not less than two thirds of the male inhabitants of any school district entitled to vote for trustees, shall by a certificate signed by the persons composing such majority, accompanied by an affidavit attesting the authenticity of the signatures thereto, set forth that the renewal of any tavern or store license then subsisting and in force within such district, is unnecessary and objectionable, and pray that no such renewal be granted; and if such certificate and affidavit be deposited in the office of the Colonial Secretary ninety days prior to the time limited for the expiration of such license, then, and in such case, it shall not be lawful for the Colonial Secretary to grant a renewal of such license, so about to expire, and no such renewal shall be granted; and notice that such certificate and affidavit have been so deposited shall be given by the Colonial Secretary, or some other competent government officer, to the party holding the license, the renewal of which shall be objected to, by posting a letter containing such notice, in the Post Office, in Charlottetown, addressed to the holder of the license, at within fourteen days after the depositing of the affidavit and certificate in the Secretary's office, as hereinbefore mentioned.

Certificate of two thirds of inhabitants required to prevent renewal of license.

II. It shall not be necessary hereafter for a party applying for a tavern license, to obtain the signatures of two neighboring magistrates to the certificate, attesting to his or her moral character, and to the necessity for the tavern, inn, or house of public accommodation, in question; but the same certificate shall be sufficient, if signed by a majority of the householders, resident in, and entitled to vote for trustees of schools for the school district wherein the proposed tavern, inn, or house of accommodation shall be situate.

Conditions of certificate of character of party applying for a tavern license.

III. No store or other license to retail spirituous liquors in any quantities less than two gallons, shall be hereafter granted, without the previous consent in writing, of a majority of the inhabitants of the school district in which the store or place where the liquor proposed to be sold, is situate, being first obtained in writing, in addition to the certificates heretofore required.

No license to sell less than 2 gallons to be granted, without consent, &c.

IV. Nothing in this Act contained shall extend to the City of Charlottetown.

Not to extend to Charlottetown.

C A P. I X.

An Act to amend the Act to promote Vaccination.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

The fees for vaccination under the Act 25 Vic. cap. 22, to be payable by the government instead of by the parties vaccinated

I. From and after the passing of this Act, the fees for vaccination, to which every medical practitioner or superintendent is entitled under the provisions of the Act of the twenty-fifth year of the reign of her present Majesty, chapter twenty-two, intituled "An Act to promote Vaccination," shall be paid by the government of this Island, instead of by the parties vaccinated; the same to be payable half yearly by warrants drawn by the Lieutenant Governor in Council, on the treasury of this Island, in favor of such superintendents or medical practitioners; but no such warrant shall be issued in favor of any such superintendent or medical practitioner, until the return and report required to be furnished by him to the Clerk of the Executive Council, be so furnished and laid before the Lieutenant Governor in Council, as prescribed by the thirteenth section of the said hereinbefore recited Act.

Lt. Governor in Council may increase the number of superintendents of vaccination.

II. The Lieutenant Governor in Council shall have power, from time to time, to increase the number of superintendents of vaccination, and to appoint them to such places or districts as shall seem advisable; and every such additional superintendent of vaccination, shall have the same powers and duties, and be entitled to the like remuneration or fees, as are prescribed and given by the said recited Act and this Act.

C A P . X .

An Act to amend the Act for constituting Boards of Health.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Collectors of Impost and Excise to collect fees due to health officer.

I. From and after the passing of this Act, all fees made payable to health officers, under and by virtue of the twelfth section of the Act made and passed in the fourteenth year of her present Majesty's reign, intituled "An Act for constituting Boards of Health," by or from, the master, owner or consignee, of every vessel visited and inspected as therein prescribed, shall be paid by such master, owner or consignee of every such vessel so visited and inspected as aforesaid, into the hands of the Collector of Impost and Excise for the district to which the health officer making any such visit and inspection shall belong; and such fees shall, in all cases, be paid by the master, owner or consignee of every such vessel, as aforesaid, before the clearing of such vessel at the Custom House, after notification by the health officer to the said Collector that such fee is due and unpaid; and upon refusal of

Mode of collection.

payment the said Collector is hereby authorized and directed to sue for and recover the same before any one of her Majesty's Justices of the Peace, which Justice is hereby directed and required, on oath being made by any such Collector, of the amount being due, to cause a *capias* to be issued for the recovery of the same, and immediately to proceed and adjudicate thereon; and if the amount of the judgment given by such Justice, together with the costs and expenses, be not at once paid, then the defendant shall be imprisoned for the same length of time, in proportion to the amount of the judgment, as if he were imprisoned under an execution issued out of any Court for the recovery of small debts.

II. Every Collector of Excise shall quarterly pay over to the health officer of his district, all fees collected by him in manner and for the purposes aforesaid, after deducting a commission of seven and a half per centum for collecting and paying over such fees.

Fees collected to be paid over quarterly by Collector of Excise to Health Officer.

CAP. XI.

An Act to regulate the salaries of the Collectors of Impost and Excise, for the districts of Bedeque and Georgetown.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, that there shall be allowed and paid to the present Collector of Impost and Excise for the district of Bedeque, and his successors in office, the sum of one hundred and seventy-five pounds per annum, as and for the salary of that office, and for the discharging the duties thereof, in lieu of all fees, per centages, emoluments and allowances whatsoever.

Collector of Excise for Bedeque to be paid a salary of £175.

II. That there shall be allowed and paid to the present Collector of Impost and Excise, for the district of Georgetown, and his successors in office, the sum of one hundred and thirty-five pounds per annum, as and for the salary of that office, and for the discharging the duties thereof, in lieu of all fees, per centages, emoluments and allowances whatsoever.

Collector for Georgetown to be paid a salary of £135.

III. That the said salaries shall be payable quarterly, on the last day of March, June, September and December, in every year, by warrants drawn by the Lieutenant Governor in Council, on the treasury of this Island, in favor of the officers aforesaid.

The said salaries to be paid quarterly.

CAP. XII.

Repealed by 29 Vic. cap. 2. An Act to repeal the Act intituled "An Act to alter and amend the Law now in force relating to the Militia," and to revive certain Acts therein mentioned.

[Passed April 3, 1865.]

CAP. XIII.

Amended by 29 Vic. cap. 16. An Act to repeal the Act relating to the Oyster Fisheries in this Island, and to make other provisions in lieu thereof.

[Passed April 3, 1865.]

Recital.

WHEREAS it is deemed desirable to prohibit the taking of Oysters in the Bays and Rivers within this Island during certain months in every year, and to make provision for the regulation of the Oyster Fishery in said Bays and Rivers, with the view to the preservation of existing Oyster Beds, and the formation of new beds. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows :

No oysters to be caught between 1st of June and 1st of September, in every year.

I. After the passing of this Act no person shall do the following things, or any of them, that is to say : fish for, catch, or attempt to catch, any oysters or oyster brood in any bay or river within this Island, between the days hereinafter mentioned, (which interval is hereinafter referred to as the "close season,") that is to say, between the first day of June and the first day of September following, (both inclusive) in every year ; and any person acting in contravention of this section, shall forfeit any oysters or oyster brood taken or caught by him, and shall in addition thereto incur a penalty of not less than two pounds and not exceeding five pounds ; and a further penalty of five shillings, for, or in respect of each bushel of oysters or oyster brood so caught.

Forfeiture and penalty for buying, selling or exposing for sale any oysters between 1st of June and 1st of September.

II. No person shall do any of the following things, that is to say : buy, sell, or expose for sale any oysters or oyster brood, between the first day of June and the first day of September following ; and any person acting in contravention of this section, shall forfeit any oysters or oyster brood so bought, sold or exposed for sale, and shall incur a penalty of not less than ten shillings for each bushel of oysters or oyster brood so bought, sold or exposed for sale.

III. No master or commander, or other person in charge of any ship or vessel, shall, during the continuance of this Act, receive on board any ship or vessel, any oysters or oyster brood, between the first day of June and the first day of September following; and every person acting in contravention of this section, shall incur a penalty of not less than five pounds, nor exceeding ten pounds, for each and every bushel of oysters, or oyster brood, so received on board his ship or vessel.

Penalty for receiving oysters on board any vessel between the 1st of June and 1st Sept.

IV. The Lieutenant Governor, or other administrator of the Government of this Island, with the consent of her Majesty's Executive Council, shall have authority to do all or any of the following acts, that is to say: to grant, under the great seal of this Island, to any person, saving the right of any person applying for a special grant by virtue of the sixteenth section of this Act, the exclusive right to fish for oysters or oyster brood, and to form new oyster beds or feeding beds, for the purpose of propagating oysters, in the following rivers, that is to say: In Prince County, in Ramsay's or Shemedie River, in Richmond Bay; this river shall include the river below ordinary low water mark, and its boundaries shall be a line drawn from Cameron's Island to Harry Compton's Creek, and from the entrance of Ramsay's Creek, on the north side, to John Ramsay's Point; the Dunk River, which shall be taken to be and include all that portion of the river below ordinary low water mark, being below Hurd's Point, the upper or eastern boundary thereof shall be a right line drawn from the extremity of Hurd's Point wharf to Wilmot Point, township twenty-five, and thence extended to the shore under or near George Darby's, township seventeen, the outer or western boundary thereof shall be a line drawn from Indian Point Reef to Welling's Point, township number seventeen. In Queen's County, the Hillsborough River, first division, which shall be taken to include the river below ordinary low water mark, between Charlottetown and the Block House, at the harbor's mouth; the boundaries of this division shall be as follows: its eastern boundary shall be a line drawn from the Queen's Wharf, Charlottetown, to the wharf at Minchen's Point, the southern boundary shall be a line drawn from Block House Point to Trout Point; its northern boundary, a line drawn from the Queen's Wharf to York Point, township thirty-two, and its western boundary, a line drawn from York Point to Canso Point; the Hillsborough River, second division, this division shall be taken to include the Hillsborough River, below ordinary low water mark, between Mount Stewart Bridge and the western boundary line of James Gillian's farm, township number thirty-six. In King's County, first division, Brudenell Point, the boundaries of which shall be a line drawn

Authority to the Governor to grant the exclusive right to fish for oysters or oyster brood, and to form new beds in certain rivers.

Boundaries of the rivers in Prince County.

Boundaries of the rivers in Queen's County.

Boundaries of the rivers in King's County

from the western boundary of Norton's Island to Aitken's Wharf, and shall include all suitable ground below low water mark between that boundary and a line drawn from the lime kiln, at Bourke's Point, Georgetown, to the Ferry Wharf at Peter's shore; the second division shall include all below low water mark, from Morrison's Beach, on the south side of Cardigan River, round to the wharf on MacLellan's Point, Thrum Cap.

Provisions to be contained in any grant.

V. Every grant of the exclusive right to fish for oysters or oyster brood, and to form new oyster beds in any of the said last mentioned rivers, shall contain the following stipulations and provisions, namely: the term of the grant shall not be less than twenty years, it shall be renewable at the option of the grantee, his executors, administrators, or assigns, for a period not exceeding forty years, from the expiration of the original term of twenty years.

If grantee fails to pay any money required to be paid by his grant, same may be declared void.

VI. If the grantee shall fail to pay any sum of money required by the grant to be paid, and the same shall remain unpaid for thirty days after such money shall thus become payable, the Lieutenant Governor, or other administrator of the government, may, by notice to be published in the *Royal Gazette*, declare such grant to be annulled, and the same shall thereby be annulled accordingly, as fully as though it had terminated by effluence of time.

Mode of exercising right conferred by any grant.

VII. The grantee, during the continuance of any grant made under the authority of this Act, shall, during the term thereof, exercise the right conferred thereby, so as not to exhaust or destroy any oyster beds in existence at the date of the grant; and shall, after the expiration of the first five years from the making of such grant, establish new oyster beds, or so treat old ones as to increase the annual yield of oysters in such river.

Mode of applying for a grant.

VIII. Any person desirous of obtaining a grant of any of the aforesaid rivers, may apply therefor by petition to his Excellency the Lieutenant Governor in Council.

A verified plan to be attached to application.

Right of fishery applied for to be sold at auction.

IX. The applicant for any such grant shall attach to his application a plan and description of the locality of which he desires a grant, which plan shall be verified by the signature of a competent land surveyor, and on receipt of such application, the Lieutenant Governor in Council shall cause the right of fishery applied for, except to such extent as shall be especially granted to or applied for by any person, by virtue of the sixteenth section of this Act, to be offered for sale at public auction, at the Colonial Building in Charlottetown, and

the person who shall offer the highest annual rent therefor shall be entitled to receive a grant thereof, in the terms of this Act.

X. Thirty days' notice of such sale shall be published in the *Royal Gazette*.

30 days' notice of sale.

XI. All grants made in pursuance of this Act shall be registered in the office of the Registrar of Deeds in this Island; and plans of the localities granted shall be deposited with the keeper of plans.

Grants to be registered and plans deposited with keeper of plans.

XII. The cost of the grant and of the registry shall be paid by the grantee.

Grant, &c., to be paid by the grantee.

XIII. The names of all grantees and descriptions of the localities over which the right to fish shall have been granted, shall be annually published in the *Royal Gazette*.

Names of grantees, &c., to be published

XIV. All oysters and oyster brood, being within the limits of any locality in which the exclusive right to fish shall be granted, under the authority of this Act, shall be the property of the grantee, and any person who shall fish for, catch, or attempt to catch, or to injure or disturb such oysters, or oyster brood, shall be guilty of a misdemeanor, and, being found guilty, shall be punished by fine or imprisonment, or both, as the Court shall award, such fine not to exceed five pounds, and such imprisonment not to exceed one month.

All oysters and oyster brood within the limits of any exclusive grant to be the property of the grantee.

XV. The Lieutenant Governor, or other administrator of the government, in Council, shall, on application, grant licences to any grantees of any of the hereinbefore described rivers, authorizing such persons to take oysters or oyster brood, during the "close season," for the purposes of propagation, or for forming new beds within the limits of the rivers granted to them under the authority of this Act.

Licenses may be granted to take oysters or oyster brood during the 'close season' for the purpose of propagation, &c.

XVI. After the passing of this Act any person owning land fronting upon any river within this Island, who may desire to form oyster beds in front of such land, shall be entitled to receive from the Lieutenant Governor in Council, a grant of the right to form such oyster beds.

Owner of land fronting on any river, entitled to receive a grant to form oyster beds.

XVII. Any oysters which may be laid down by any person so obtaining a grant from the Lieutenant Governor in Council, for the purpose of forming a bed for the propagation of oysters, shall be the property of such person, and any person trespassing upon such oyster bed, or found guilty of in any way interfering therewith, by catching, or attempting to

Penalty for trespassing on or interfering with oyster bed, after the same has been granted.

catch the same, shall be liable to the same penalties as by this Act are inflicted upon persons guilty of interfering with oysters or oyster brood within the limits of any of the rivers hereinbefore authorized by this Act to be granted.

Penalty on person not being an inhabitant of this Island, for taking oysters without authority.

XVIII. Every person not being an inhabitant of this Island, who shall, without the authority of the government thereof, take up or catch any oysters at any time or season, at any place within the limits of this Island, shall forfeit and pay the sum of five shillings for every bushel of oysters so taken up or caught by such person; such penalty, when under twenty pounds, to be recovered with costs, in her Majesty's name, before any two of her Majesty's Justices of the Peace, on the oath and information of any person who shall sue for the same; and the offender shall and may be arrested upon a warrant, to be issued by any one Justice for the said penalty, provided that the penalty imposed by this clause shall not extend to any person who shall have taken or caught such oysters by the leave or permission of any grantee of any oyster bed or ground, or other person having right to grant such leave or permission.

Exception.

Applications for grants to be accompanied by a plan.

XIX. All applications for grants of the right to form such oyster beds shall be accompanied by a plan of that portion of the bed of the river desired by the applicant, which said plan shall be duly verified by the signature of an authorized land surveyor.

Lt. Governor, &c., to define boundaries.

XX. The Lieutenant Governor in Council, shall in all cases have the power to define the boundaries of all localities to be granted for the purpose of forming oyster beds.

Expenses to be paid by grantee

XXI. All expenses attending the registry of grants and plans, shall be paid by the grantees.

Mode of recovering penalty, and appropriation.

XXIII. All penalties imposed by this Act may be sued for and recovered with cost, before any two of her Majesty's Justices of the Peace for the County wherein the penalty shall be incurred, and shall be paid one half to the complainant, and the other half into the treasury of this Island.

Repeals the Act 27th Vic. cap. 17.

XXIV. The Act made and passed in the twenty-seventh year of the reign of her present Majesty, chapter seventeen, is hereby repealed.

* * Section 22 of this Act has been repealed by 29 Vic. cap. 16.

CAP. XIV.

An Act to amend the Law of real property.

Amended by
29 Vic. cap. 12.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly as follows :

I. That from and after the passing of this Act all corporeal tenements and hereditaments, shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery.

Corporeal tenements, &c., to be in grant.

II. A feoffment made after the passing of this Act shall be void at law, unless evidenced by deed ; and that a partition and an exchange of any tenements or hereditaments, not being copyhold and a lease required by law, to be in writing, of any tenements or hereditaments, shall also be void at law unless made by deed.

A feoffment, partition, &c., required by law to be in writing

III. A feoffment made after the passing of this Act, shall not have any tortious operation, and that an exchange or partition of any tenements or hereditaments made by deed, executed after the passing of this Act, shall not imply any condition in law, and that the word "give," or the word "grant," in a deed, shall not imply any covenant in law, in respect of any tenements, except so far as the word "give," or the word "grant," may, by force of any Act of Parliament.

A feoffment not to have any tortious operation.

The words 'give' or 'grant' not to imply a covenant.

IV. Under an indenture executed after the passing of this Act, an immediate estate or interest in any tenements or hereditaments, and the benefit of a condition or covenant respecting any tenements or hereditaments may be taken, although the taker thereof be not named a party to the same indenture ; also, that a deed executed after the passing of this Act, purporting to be an indenture, shall have the effect of an indenture although not actually indented.

Under an indenture an immediate estate, &c., may be taken, although the taker not a party thereto.

V. After the passing of this Act, a contingent, an executory and a future interest, and a possibility, coupled with an interest in any tenements or hereditaments of any tenure, whether the object of the gift, or limitation of such interest, or possibility, be, or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon, any tenements or hereditaments within this Island, of any tenure, may be disposed of by deed ; but that no such disposition shall by force only of this Act defeat or enlarge an estate tail.

A contingent interest, &c., and a right of entry, may be disposed by deed.

A contingent remainder to take effect notwithstanding forfeiture, &c., of any preceding estate of freehold.

VI. A contingent remainder, existing at any time after the thirty-first day of December, one thousand eight hundred and sixty-four, shall be, and if created before the passing of this Act, shall be deemed to have been capable of taking effect, notwithstanding the determination by forfeiture, surrender or merger of any preceding estate of freehold, in the same manner in all respects as if such determination had not happened.

Effect of the surrender or merger of the reversion expectant on a lease.

VII. When the reversion expectant on a lease made either before or after the passing of this Act, of any tenements or hereditaments of any tenure, shall after the passing of this Act, be surrendered, or merge the estate, which shall for the time being, confer as against the tenant under the same lease, the the next vested right to the same tenements or hereditaments, shall to the extent and for the purpose of preserving such incidents to and obligations on the same reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the same lease.

CAP. XV.

An Act to authorize the appointment of Hog Reeves in certain Districts in this Island, and to prevent the going at large of Swine within the same.

[Passed April 3, 1865.]

Commissioner of highways, on application of a majority of inhabitants of a school district, to appoint 2 hog reeves for said district.

BE it enacted by the Lieutenant Governor, Council and Assembly, that when a majority of the inhabitants, resident householders of any school district within this Island, shall make application in writing to the Commissioner of Highways for the district wherein they reside, stating their desire or request that hog reeves may be appointed for said district, it shall and may be lawful for the said commissioner, and he is hereby required forthwith, and annually thereafter to appoint two fit and proper persons to act as hog reeves, for the space of one year, from the date of their appointment, within the limits of such school district, as at present defined and registered in the books kept by the Secretary of the Board of Education, for the purpose of registering the School districts in this Island.

Hogs or swine going at large to be seized by hog reeves.

II. It shall be the duty of such persons so appointed, and they are hereby required to seize and take up within said district, all hogs or swine going at large therein, beyond the premises or enclosures of the owner or owners thereof; and such hog reeves are hereby authorized to call upon such of the in-

habitants of said district, as they may deem necessary, to aid them in seizing and securing all swine so going at large.

Inhabitants to aid hog reeves.

III. It shall be lawful for such hog reeves, or any one of them, to sell, or cause to be sold at public auction, all swine so seized and taken up as aforesaid, forty-eight hours' notice having been previously given, by written notices, posted up in three of the most public places in said district; provided always, that the owner or owners of all swine so taken up, shall be entitled to have the same returned to him, her or them, if he, she, or they shall, previous to such sale thereof, as aforesaid, tender to such hog reeve or hog reeves who shall have seized or taken up the same, the sum of four shillings of lawful money of the said Island, per head, for all swine so seized and taken up; and the proceeds of such sale as aforesaid, or the sum so to be paid by such owner or owners, shall be retained by such hog reeve or hog reeves for his or their own use and benefit.

Mode of selling swine seized.

Owner of swine to have same returned on tendering four shillings per head previous to sale.

Application of moneys.

IV. Any person so appointed hog reeve within any such district as aforesaid, and who shall refuse or neglect to perform the duties of his said office, by not taking up all swine so found going at large as aforesaid within such district, or in not disposing of the same in manner hereinbefore prescribed, shall forfeit and pay for every such refusal or neglect, the sum of twenty shillings, to be recovered before any one or more of her Majesty's Justices of the Peace for the County wherein such district shall be situate, together with the costs of suit; and to be levied, in default of payment, by warrant of distress, on the goods and chattels of such hog reeve, one half of the said fine to be paid into the treasury of this Island, for the use of her Majesty's government, and the other moiety to the person who shall prosecute such hog reeve; provided always, that no person appointed hog reeve, as aforesaid, shall be liable to serve as such more than once in every three years.

Penalty on any person refusing to act as a hog reeve, and mode of recovery thereof.

Appropriation of the fine.

No person liable to serve oftener than once in 3 years

V. All persons in any way or manner obstructing any such hog reeve or hog reeves, in the execution of his or their duty, shall forfeit and pay a fine not exceeding two pounds, and not less than five shillings; such fine to be recovered on the oath of any such hog reeve, or one or more credible witness or witnesses, and in manner last aforesaid; and in the event of the offender or offenders not having goods or chattels whereon to levy the said fine, then the said Justice of the Peace is hereby authorized and empowered to commit the said offender or offenders to the Jail of the County wherein the offence shall be committed, for a period not exceeding ten days.

Penalty on any person obstructing a hog reeve in the execution of his duty.

Continuance
of Act.

VI. This Act shall continue and be in force for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer:

C A P. X V I.

An Act to alter the time for holding certain terms of the Supreme Court in the several Counties in this Island.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Hilary Term,
Queen's Coun-
ty.

A February
Term ordained
in King's
County.

June Term,
Prince County.

I. From and after the time when this Act shall go into operation, the several terms of the Supreme Court of Judicature, hereinafter mentioned, held in the several Counties of this Island, shall commence and be holden on the respective days hereinafter mentioned, in each and every year, instead of on the days now by law appointed for the holding and commencement of the same respectively, that is to say: Hilary Term, in Queen's County, shall commence on the second Tuesday in January; March Term, in King's County, is hereby abolished, and instead thereof, a term to be called February Term, is hereby ordained, and required to be held therein, and shall commence on the last Tuesday in February; and June Term, in Prince County, shall commence on the second Tuesday in June, anything in any Act of the General Assembly now in force, to the contrary, notwithstanding.

All rules, &c.,
applicable to
the Hilary,
June, and
March Terms,
to apply to
terms as alter-
ed by this Act.

II. All the rules, regulations, and provisions, prescribed by the laws now in force, relative to the Hilary, June, and March Terms, shall be held and deemed to continue in force, and to apply to the same Terms, respectively, as hereby altered, whether with respect to the days or times appointed for the attendance of grand and petit jurors, duration and extension of terms, or for return of writs, or of times for trial of jury, summary, or appeal cases, or otherwise, howsoever.

When Act to
commence.

III. This Act shall go into operation on the first day of July next, after the passing thereof.

CAP. XVII.

An Act to amend an Act intituled "An Act to repeal an Act made and passed in the twenty-first year of the reign of King George the Third, intituled 'An Act relating to Wills, Legacies and Executors, and for the settlement and distribution of the Estates of Intestates.'" 6 Vic. cap. 26.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. From and after the passing of this Act no Administrator shall be cited before the Surrogate and Judge of Probates of this Island, to render an account of the personal estate of his intestate, (otherwise than by an inventory or inventories thereof,) unless it be at the instance or prosecution of some person or persons in behalf of a minor, or having a demand out of such personal estate as a creditor or next of kin, nor be compellable to account before the said Surrogate and Judge of Probate empowered to take the same, otherwise than as is aforesaid. No administrator to be cited to render an account unless at the instance of some person interested in said estate.

II. If after the death of a father, any of his children shall die intestate, without wife or children in the lifetime of the mother, every brother and sister, and the representatives of them, shall have an equal share with her. After death of a father, how estate divided.

CAP. XVIII.

An Act to make provisions for the regulation of seamen shipped on board of any ship or vessel owned in or belonging to Prince Edward Island, while such ship or vessel shall be within the precincts of the said Island.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. From and after the passing of this Act, if any person or persons, in this Island, shall trust or give credit to any mariner or seaman belonging to any ship or vessel registered in or belonging to this Island, while such ship shall be within the precincts of this Island, without the knowledge or allowance of the master or commander thereof, no capias or other Relates to capias for debt contracted by seaman without the allowance of master of vessel.

process of arrest of the person of such mariner or seaman, for any debts so contracted, shall be issued against or secured upon the person of such mariner or seaman, until he shall have performed the voyage which he may be then entered upon, and discharged of the same; and every such process so issued shall be deemed and adjudged utterly void in law; and any one Justice of the Court from which such process shall issue, to whom it shall be made to appear that any mariner or seaman is committed or detained upon process granted for any such debt contracted while he was engaged and actually entered and on pay on any voyage, shall forthwith order his release.

Master or owner may apprehend deserters without warrant.

II. Whenever either at the commencement or during the progress of any voyage, any mariner or seaman or apprentice, neglects or refuses to join, or deserts from, or refuses to proceed to sea, in any such ship or vessel, so within this Island, in which he is duly engaged to serve, or is found otherwise absenting himself therefrom, without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of the local police officers or constables (who are hereby directed to give the same if required) apprehend him without first procuring a warrant, and may thereupon in any case, and shall in case he so requires, convey him before any two of her Majesty's Justices of the Peace for the County wherein he shall be so apprehended, or if in Charlottetown, before the Police Court, or any two Justices, as aforesaid, to be dealt with according to law; and may, for the purpose of conveying him before such Justices or Court, detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary; or may, if he does not so require, or if there be no Justices of the Peace at or near the place, at once convey him on board; and if any such apprehension appears to such Court or Justices before whom the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same, or causes the same to be made, shall incur a penalty not exceeding ten pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Seaman, upon conviction, may be committed to prison, by Court.

III. Upon conviction of any mariner, seaman, or apprentice, for any offence, or dereliction of duty as aforesaid, it shall be the duty of such Court or Justices, to commit such mariner, seaman, or apprentice to prison, that he may be forthcoming to proceed on the voyage he has so agreed or been engaged for, to be delivered by order of the Court or Justices who committed him, or some other Justice of the Peace of the same County; and all necessary charges attending his

being so secured, and which have been actually paid by the said master, owner, ship's husband or consignee, may be deducted from such mariner, seaman or apprentice's wages, as the same may become due; and it shall be the duty of the owner, master, officer or the consignee of such ship or vessel complaining as aforesaid, to supply for the use of the said mariner or seaman, or apprentice, all necessary bedding, provisions and maintenance during the time of his detention in prison, as aforesaid, and pay to the jailer of said prison his lawful fees, on receiving and discharging such mariner or seaman, or apprentice; and in default thereof, the said jailer may make the supplies aforesaid, and maintain an action therefor, together with the fees aforesaid, against the owner of the said vessel or the officer or consignee complaining as aforesaid, in any court of record; or if the sum shall not exceed twenty pounds, before any Court of commissioners for the recovery of small debts.

To be supplied with bedding and provisions by owner, &c., and jailer's fees to be paid.

IV. If any master or commander of any such ship or vessel, or any other person or persons, shall hire or engage, harbor or conceal any mariner, seaman or apprentice, who shall have signed any former contract or articles, knowing him to have deserted from, or to belong to any other ship or vessel in this Island, registered in and belonging to the same, every such master, commander or other person or persons so offending, and being thereof convicted before any two of Her Majesty's Justices of the Peace for the County wherein the offence is committed, upon the oath or affirmation (in the case of persons allowed by law to affirm) of one or more credible witness or witnesses, or confession of the party charged, shall forfeit and pay such sum as the said Justices shall adjudge, not exceeding ten pounds and not less than two pounds, to be levied by warrant of distress, and sale of the offender's goods and chattels, under the hands and seals of such Justices; and when recovered, one moiety to be paid to the person so prosecuting for the same, and the other moiety into the treasury of this Island, for the use of Her Majesty's Government; and if there be no goods or chattels of such offender whereon to levy, it shall be lawful for such Justices by warrant under their hands and seals, to commit such offender to the common jail of the county where such offence shall be committed, for the space not exceeding sixty days, and not less than ten days; and such mariner, seaman or apprentice, who shall desert at any time during the voyage on which he is engaged by written contract or articles, shall, over and above the penalties and forfeitures to which he is now by law subject, forfeit all the wages he may be entitled to on board the vessel entered by him after such desertion, to be detained by the master or owner of such vessel, to and for the use of the owner of the vessel from which he deserted, or to be sued for and recovered from him by such last

Hiring or concealing articulated seamen, knowing them to be deserted.

Penalty.

Appropriation of penalty.

Deserting seamen to forfeit wages earned on board of vessel afterwards entered by him, in addition to the penalties.

Mode of recovery.

mentioned owner, by action of debt, or on the case in any Court of record, or before any Court of Commissioners for the recovery of small debts, if the sum claimed do not exceed twenty pounds.

A warrant to search for deserting seamen may be issued by a Justice of the Peace on application made on oath.

V. If proof be made upon oath or affirmation (in the case of persons allowed by law to affirm) by the owner, agent or master of any such ship or vessel, before any of Her Majesty's Justices of the Peace in this Island, that any seaman, mariner or apprentice belonging to such ship or vessel, and who may have deserted or absented himself from the same, be kept or concealed on board of any other ship or vessel, within any of the harbors of this Island, or in any tavern, pothouse or other house, or place within the county for which such Justice shall be appointed, or if oath or affirmation (in the case of persons allowed by law to affirm) be made, that such owner, agent or master, hath good reasons to suspect that such seaman, mariner or apprentice is so concealed as aforesaid, it shall be lawful for such Justice to issue his warrant to any of the constables or peace officers within the said county, to make search on board such ship or vessel, or in such tavern, pothouse, or other house or place; and if such seaman shall be found in such suspected place, such justice shall cause such seaman to be delivered over to the owner or master of the ship or vessel to which such seaman shall belong, to be taken on board such ship or vessel, or be committed to prison in manner directed by the second section of this Act.

Penalty on seaman for not joining ship, if ship proceeds to sea without him.

VI. If any seaman who shall have signed the articles or agreements required by this Act, shall not have joined his ship agreeably to the terms of said articles, and the said ship shall have proceeded to sea without such seaman, any Justice of the Peace near the place, shall upon complaint made upon oath by the owner, consignee or agent of such ship, by his warrant, cause such seaman to be apprehended and brought before him; and if such seaman shall not satisfy such justice, as to such neglect or default, the justice shall upon due proof, commit such seaman to the county jail, there to be kept at hard labor for a period not exceeding sixty days; and shall award to the said owner, consignee or agent the costs of such apprehension and commitment; and such seaman shall also be liable to be sued by the owner, consignee or agent, for all advances made to him in accordance with his articles, before any court of competent jurisdiction.

The giving or receiving money for procuring seamen for

VII. From and after the passing of this Act, it shall not be lawful for any owner, master or agent, of any ship or vessel registered in or belonging to this Island, or other person either directly or indirectly, to pay or give any money, hire or reward,

to any innkeeper, tavernkeeper, shopkeeper or other person or persons, for the procuring of any seaman or seamen for any ship or vessel; and it shall not be lawful for any innkeeper, tavernkeeper, storekeeper or other person or persons, to receive any money, hire or reward, either directly or indirectly, for the procuring such seaman or seamen; and that any money so to be paid, shall be considered as paid without consideration, and may be recovered back by action or suit, in any Court having competent jurisdiction; and all bonds, notes, bills, agreements, promises or engagements, for paying or giving any money, hire or reward, for the above mentioned purposes, shall be absolutely null and void to all intents and purposes whatsoever.

vessels, prohibited.

Money so paid to be deemed paid without consideration.

VIII. Provided always, that no mariner, seaman or apprentice, shall be bound by entering or shipping himself on board of any ship or vessel belonging to and registered in this Island, and of the burden of fifty tons, or upwards, new measurement, unless the agreement shall be in writing, and declare what wages such mariner or seaman is to have for so long a time as he shall ship himself for, and also shall express the voyage for which such mariner, seaman or apprentice was shipped.

No seaman to be bound by shipping himself for any vessel of 50 tons, new measurement, or upwards, unless the agreement be in writing.

IX. It shall not be lawful for any master of any ship or vessel, registered in and belonging to this Island, of the burden of fifty tons or upwards, new measurement, trading to parts beyond the seas, or out of this Island, to carry to sea on any voyage from this Island, any seaman or other person as one of his crew or complement, (apprentices excepted) without first entering into agreement in writing, with every such seaman, specifying what monthly or other wages each of such seamen is to be paid, the capacity in which he is to act, and the nature of the voyage in which the ship is intended to be employed, so that the seaman may have some means of judging of the probable period for which he is likely to be engaged; and the said agreement shall contain the day of the month and the year in which the same shall be made, and shall be signed by the master in the first instance, and by the seamen respectively, at the port or place where such seamen shall be respectively shipped; and the master shall cause the same to be by or in the presence of the party who is to attest their respective signatures thereto, truly and distinctly read over to every such seaman before he shall be required to sign the same, in order that he may be enabled to understand the purport and meaning of the engagement he enters into, and the terms to which he is bound,

Articles of agreement to be entered into between ship masters and seamen.

Particulars of such agreement.

Agreement to be read over previous to execution, &c.

X. Every such agreement shall be in the form and shall contain true entries under their respective heads, of the seve-

Form of agreement.

Agreement to be deposited with controller of customs at port of arrival.

Penalty for taking seamen to sea without such agreement.

Penalty on master for not causing agreement to be read over to seamen before execution, &c.

Enticing or aiding seamen to desert.

Penalty therefor and how to be recovered.

Penalty for detaining seaman's effects.

ral particulars, as set forth in the Schedule to this Act annexed, marked (A), so far as the same can be ascertained; and the owner and master of every such ship, or one of them, shall, on reporting his ship's arrival at her port or destination in this Island, deposit, or cause to be deposited with the controller of customs and navigation laws, at such port, a true copy of such agreement, attested by the signature of the master, to the intent that every person who may be interested in any such agreement, may at all times, have the means of knowing the terms and conditions thereof.

XI. If any master of any such ship as aforesaid, shall carry out to sea, any seaman (apprentices excepted) without having first entered into such agreement as is hereby required, he shall for every such offence forfeit and pay a sum not exceeding five pounds, for or in respect of each and every such seaman he shall so carry out contrary to this Act; and if any master shall neglect to cause the agreement to be distinctly read over to each of such seamen, as by this Act he is enjoined, he shall, for every such neglect forfeit and pay the sum of five pounds; and if any master shall neglect to deposit with the controller of customs and navigation laws, a copy of the agreement hereby required to be made, and deposited as aforesaid; or shall wilfully deposit a false copy of any such agreement, he shall for every such neglect or offence, forfeit and pay a sum not exceeding five pounds.

XII. If any person or persons shall aid, entice or assist any seaman to desert from any such ship or vessel, or shall provide or procure, or cause to be provided or procured for any seaman, the means or assistance to desert, from any such ship or vessel, or shall aid or assist any seaman in the removal of their hammocks, clothing or apparel, from on board of any such ship or vessel, or shall convey any seaman from any such ship or vessel, without the sanction of the master or commander of such ship or vessel, such person or persons so offending, shall upon conviction of any such offence, be liable to the same penalties and forfeitures as are prescribed in the fourth section of this Act, to be recovered and applied as hereinbefore provided.

XIII. If any person receives or takes into his possession, or under his control, any money documents or effects of any seaman, or apprentice to the sea service, and does not return the same, or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice, in respect of board and lodging, or otherwise, or absconds therewith, he shall incur a penalty not exceeding ten pounds; and any two Justices of the Peace, may, besides inflicting such penalty, by summary

order, direct the amount or value of such moneys, documents or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

XIV. Every person who not being in her Majesty's service, and not being duly authorized by law for the purpose, goes on board any ship or vessel about to arrive at the place of her destination in this Island, before she comes to anchor, or is moored, without the permission of the master, shall for every such offence incur a penalty not exceeding five pounds, and the master or person in charge of such ship or vessel may take any such person so going on board as aforesaid, into custody, and deliver him up, forthwith to any constable or peace officer, to be by him taken before a Justice or Justices of the Peace, to be dealt with according to the provisions of this Act.

Persons not to go on board before the final arrival of ship, without permission.

XV. If within twenty-four hours after the arrival of any such ship or vessel as aforesaid, at any port in this Island, any person then being on board such ship or vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship or vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offence, incur a penalty not exceeding five pounds.

Penalty for solicitations by lodging-house keepers.

XVI. The master or owner of every ship shall pay to every seaman his wages, within the respective periods following, that is to say, within two days after the cargo shall have been delivered, or within five days after the seaman's discharge, whichever shall first happen; and in all cases the seaman shall, at the time of his discharge, be entitled to be paid on account, a sum equal to one fourth part of the estimated balance due to him; and in case any master or owner shall neglect or refuse to make payment in manner aforesaid, he shall, for every neglect or refusal, forfeit and pay to the seaman the amount of two days' pay for every day not exceeding ten days, during which payment shall, without sufficient cause, be delayed beyond the period at which such wages, or part of wages, are hereby required to be paid as aforesaid; for the recovery of which forfeiture, the seaman shall have the same remedies as he is by law entitled to for the recovery of his wages: provided always, that nothing in this clause contained shall extend to the cases of seamen employed in ships on voyages for which by the terms of their agreement, they are compensated by shares in the profit of the adventure.

Times of payment of seamen's wages.

Forfeiture for non-payment of wages.

Proviso.

XVII. Every such payment of wages to a seaman shall be valid and effectual in law, notwithstanding any bill of sale or

Security of seamen's wa-

ges against
bills of sale, &c

assignment which may have been made by any such seaman of such wages, or of any attachment or encumbrance thereon; and that no assignment or sale of wages made prior to the earning thereof, nor any power of attorney expressed to be irrevocable, for the receipt of any such wages, shall be valid or binding upon the party making the same.

Right of wages
and provisions,
when to begin.

XVIII. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to
give up certain
rights.

XIX. No seaman shall, by any agreement, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages, to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Wages not to
be dependent
upon the earn-
ing of freight.

XX. No right to wages shall be dependent on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served, had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck, or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claims.

Seamen enti-
tled to certifi-
cate of service
on discharge.

XXI. Upon the discharge of a seaman from the ship in which he shall have served, he shall be entitled to receive from the master or owner a certificate of his service and discharge, specifying the period of service, and the time and place of the discharge of such seaman, which certificate shall be signed by the master or owner; and if any master or owner shall refuse to give such certificate to any such seaman, without having reasonable cause for his refusal, he shall for every such offence forfeit and pay to him the sum of five pounds.

Seaman may
sue for wages
in a summary
manner.

XXII. Any seaman or apprentice, or any person duly authorized on his behalf, may sue in a summary manner before any three Justices of the Peace for the County in which the owner or part owner of the ship resides; or in case the owner or owners reside abroad, then for the County wherein such ship was last in port, for any amount of wages due to

such seaman or apprentice, not exceeding fifty pounds, over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable; and every order made by such Justices, or any two of them, in the matter, shall be final; and if such order be not obeyed within two days, they shall issue their warrant to levy the amount awarded by distress and sale of the effects of the party on whom such order was made; and if sufficient distress be not found, they shall cause the party on whom the order was made, to be committed to jail, there to remain until payment of the amount awarded, and all costs and expenses.

XXIII. No suit or proceedings for the recovery of wages, under the sum of fifty pounds, shall be instituted by or on behalf of any seaman or apprentice, in any Court of Vice Admiralty, or in any superior Court of Record in this Island, unless the owner of the ship is adjudged bankrupt, or declared insolvent, or unless the ship is under arrest, or is sold by the authority of any such Court as aforesaid, or unless any Justice, acting under the authority of this Act, refer the case to be adjudged by such Court, or unless neither the owner nor master is, or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Restrictions on writs for wages in the Supreme Court.

XXIV. Every ship belonging to, and sailing from this Island, to any place out of the same, shall have and keep constantly on board the same, a sufficient supply of medicines, suitable to accidents and diseases arising on sea voyages, which shall be renewed from time to time, as shall be requisite; and in case any default shall be made in providing or keeping supplied such medicines as aforesaid, or in case any of the seamen shall receive any hurt or injury in the service of the ship, the expenses of providing the necessary surgical and medical advice and attendance, and medicines which the seaman shall stand in need of, until he shall have been cured, or shall have been brought back to some port of this Island, shall be borne and defrayed by the owner and master of the said ship, or one of them, without any deduction whatever on that account from the seaman's wages.

Vessels to be provided with medicines.

Expense of surgical and medical attendance, &c., by whom to be defrayed.

XXV. All penalties and forfeitures imposed by this Act, and for the recovery whereof no specific mode is therein provided, shall and may be recovered, with costs of suit, in manner following, that is to say: all penalties and forfeitures not exceeding ten pounds, shall be recoverable at the suit of any person, by information and summary proceedings before any two Justices of the Peace in any part of this Island, for the County where the offence shall be committed, or where the offender shall be; which Justices shall have power to levy the

Recovery of penalties, &c., where no specific remedy is given therefor by this Act.

Application of penalties, &c.

amount of any such penalty or forfeiture and costs, by distress and sale of the offender's goods and chattels, or by commitment of the offender for the non-payment of the amount; and all penalties and forfeitures exceeding ten pounds, shall and may be recovered, with costs of suit, in any of her Majesty's Courts of record, in this Island, at the suit of her Majesty's Attorney or Solicitor General; and all penalties and forfeitures mentioned in this Act, for which no specific application is otherwise provided, shall, when recovered, be paid and applied in manner following, that is to say: one moiety of every such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered, and the residue shall be paid into the treasury of this Island for the use of the government thereof: provided always that it shall be lawful for the Court before which, or Justice or Justices before whom, any proceedings shall be instituted for the recovery of any pecuniary penalty imposed by this Act, to mitigate or reduce such penalty, as to such Court or Justices respectively, shall appear just and reasonable, in such manner, however, that no such penalty shall be reduced below one half of its original amount; and provided also, that all proceedings so to be instituted, shall be commenced within two years next after the commission of the offence.

Proviso, that court of justice, &c., may mitigate penalty.

Prosecutions for penalties to be brought in name of master, &c., of vessel to which seaman belonged.

XXVI. All prosecutions instituted for the recovery of any of the penalties imposed for the breach or breaches of any of the provisions of this Act, may be brought in the name of the owner or owners, master, agent or consignee of the ship or vessel, to which such mariner or mariners at the time of such breach or breaches shall belong, on account of whom such penalty or penalties shall be incurred.

Definitions of terms in this Act.

XXVII. Every person having the charge or command of any ship belonging to this Island, shall, within the meaning and for the purposes of this Act, be deemed and taken to be the master of such ship, and every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same, shall be deemed and taken to be a seaman, within the meaning and for the purposes of this Act; and the term "ship," shall be taken and understood to comprehend every description of vessel of the burthen of fifty tons new measurement, as aforesaid, and belonging to this Island; and the term "owner," shall be understood and taken to comprehend all the several persons, if more than one, to whom the ship shall belong.

Master to have same remedies for wages as seamen.

XXVIII. Every master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages, which by this Act or by any law or cus-

tom any seaman not being a master has, for the recovery of his wages; and if in any proceeding in any Court of Vice Admiralty touching the claim of a master to wages, any right of set off; or counter claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions, and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

XXIX. It shall and may be lawful for any controller of customs and navigation laws, upon complaint made by any three or more of the crew, to survey and examine, or cause to be surveyed and examined, the provisions, water and medicines put or supplied on board any ship, for the use and consumption of the crew; and if on such survey and examination it shall be found that such provisions, water or medicines are of a bad quality or unfit for use, or not appropriate, or there shall not appear to be a sufficient quantity thereof, the surveying officer shall signify the same in writing to the master of the ship; and if such master shall not thereupon provide other fit and proper provisions, water or medicines, in lieu of any which may be signified by the said surveying officer to be of bad quality, or unfit for use, or not appropriate; or if any such master shall not thereupon procure the requisite quantity of provisions, water and medicines, or shall use any provisions water or medicines, which shall have been signified by the surveying officer to be of quality, or unfit for use, or not appropriate, he shall in each and every of such cases be guilty of a misdemeanor.

On complaint made by three or more of the crew, controller &c., to cause survey to be held on provisions, &c.

Master to be guilty of misdemeanor if he shall not procure other provisions, &c.

XXX. Nothing in this Act or in any agreement contained, shall prevent any seaman or person, belonging to any ship or vessel whatever, from entering or being received into the naval service of Her Majesty; nor shall any such entry be deemed a desertion from such ship or vessel, nor shall such seaman or other person thereby incur any penalty or forfeiture whatever, either of wages, clothes or effects, or other matter or thing; and no master or owner shall insert or introduce, or permit to be inserted or introduced into any articles or agreement, any clause or stipulation, whereby any seaman or other person shall or may incur any forfeiture or be exposed to loss in case he shall enter into Her Majesty's naval service, and if inserted the same shall be void.

Not to prevent seamen entering Her Majesty's naval service.

XXXI. When any seaman shall quit any such ship or vessel as aforesaid, in order to enter into Her Majesty's naval service, and shall thereupon be actually received into such service, not having previously committed any act amounting to and treated by the master as desertion, he shall be entitled im-

On entering Her Majesty's naval service, seamen to be entitled to

wages, clothing, &c.

mediately upon such entry, to have all his clothes and effects on board such ship or vessel delivered to him, and to receive from the master the balance of the proportionate amount of his wages up to the period of such entry, after deducting therefrom all charges such seaman may then be liable to, under the provisions of this Act, to be paid either in money or by a bill on the owner; all which clothes, effects, money or bill, such master is hereby required to deliver and pay to him accordingly, under a penalty of twenty-five pounds for every refusal or neglect; but in case the master shall have no means of ascertaining the balance, he shall make out and deliver to such seaman a certificate of the period of his service and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of Her Majesty's vessel, the agreement with the seaman; and every such master upon the delivery of such clothes and effects, and the settlement of such wages, in manner herein mentioned, shall receive from the officer in command of the vessel, into which the seaman shall have entered, a certificate of such entry, endorsed on the agreement, and signed by the said officer, which such officer is hereby required to give.

Penalty on master refusing to deliver up clothes or pay wages, &c.

Continuance of Act.

XXXII. This Act shall continue and be in force for the period of ten years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

SCHEDULES in this Act referred to.

Schedule (A.)

SCHEDULE (A.)

Form of seaman's articles.

An agreement made pursuant to the directions of an Act of the General Assembly of this Island, passed in the twenty-eighth year of the reign of Her present Majesty Queen Victoria, between the master of the ship of the port of of the burden of tons, and the several persons whose names are subscribed thereto. It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the said ship in the several capacities against their respective names expressed, on a voyage from the port of to (here the intended voyage is to be described as nearly as can be done, and the places at which it is intended the ship shall touch; or if that cannot be done, the nature of the voyage in which she is to be employed) and back to the port of and the said crew further engage to conduct themselves in an orderly, faithful, honest careful and sober manner, and be at all times diligent

in their respective duties and stations, and to be obedient to the lawful commands of the master in everything relating to the said ship, and the materials, stores and cargo thereof, whether on board such ship, in boats or on shore (here may be inserted any other clause which the parties may think proper to be introduced into the agreement, provided, that the same be not contrary to and inconsistent with this Act.) In consideration of which services to be duly, honestly, carefully and faithfully performed, the said master doth hereby promise and agree to pay to the said crew, by way of compensation or wages, the amount against their names respectively expressed.

In witness whereof the said parties have heretunto subscribed their names on the days against their respective signatures mentioned.

A. B., Master.

Place and time of Entry.			Men's Names.	Age.	Place of Birth.	Quarterly.	Amount of wages per Calendar month, share or voyage.	Amount advanced. Monthly allotment.	Time at which seamen are to be on board.	Witness to execution.	Name of ship in which seaman last served.
Day.	Month.	Year.									

SCHEDULE (B)

Schedule (B.)

You (here insert the name of the Constable) are hereby authorized to execute the within warrant within the County of

Form of endorsement of warrant.

Dated at the day of one thousand eight hundred and

CAP. XIX.

See 28 Vic. cap. 20. An Act for regulating the inspection of Pickled Fish for exportation from this Island.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. The Lieutenant Governor in Council, as soon as this Act shall go into operation, shall appoint in and for every County in this Island a chief Inspector of pickled Fish, who shall be duly sworn in the form prescribed in the schedule to this Act annexed marked (A), and shall give a bond in the form prescribed in the schedule to this Act annexed, marked (B), with two securities, in two hundred pounds, to her Majesty, for the faithful discharge of his duty.

A chief Inspector of pickled fish to be appointed for each county.

II. Every chief inspector shall appoint a sufficient number of deputies to act under him during pleasure, whose duty it shall be to carry out, faithfully, the provisions of this Act, and he shall be responsible for their official conduct, and shall take a bond from each of them, in fifty pounds, with two securities, and every such deputy shall be sworn to the faithful discharge of his duty.

Chief inspector to appoint deputies, who are to give Bonds, &c.

III. On any chief inspector ceasing to hold his office, such bonds shall be deemed to be assigned to his successor, and the deputies shall become and be the deputies of such successor.

Deputies to become deputies of his successor.

IV. All pickled fish intended for exportation, in tierces, barrels or half barrels, over and above the number or quantity of ten barrels, (which may be exported with or without such inspection, weighing and branding, as next hereinafter prescribed), shall be inspected, weighed and branded, in accordance with this Act, by a chief or deputy inspector duly appointed and sworn ; and any person who shall inspect or brand any cask of pickled fish without being duly appointed and sworn, shall be liable to a penalty not exceeding five pounds for every cask inspected or branded by him.

Pickled Fish intended for exportation exceeding ten barrels in quantity, to be inspected, &c.

V. All tierces, barrels and half barrels, in which pickled fish are intended to be packed, shall be made of sound, well-seasoned, split or sawed staves, free from sap, and in no case to be of hemlock, and the heading shall be of hardwood, pine or spruce, free from sap, and planed on the outsides, and shall be, at least, three quarters of an inch in thickness, the staves shall be five eighths of an inch in thickness ; staves for salmon

Quality and size of wood to be used in manufacture of fish barrels.

and mackerel barrels shall be twenty-eight inches in length, and the heads between the chimes, seventeen inches; staves for barrels for herring and alewives, twenty-seven inches in length, and the heads between the chimes shall be sixteen inches.

VI. The makers of all tierces, barrels and half barrels shall brand the initials of their christian name, and their whole surname, at or near the bung stave, under a penalty of one shilling and sixpence for every package not so branded.

Barrels, how to be branded.

VII. The qualities of pickled fish shall be classed as follows: Salmon to be branded number one, shall consist of the largest, best and fattest kind, being well split, the blood being well washed out before being salted, well cured in the best condition, and, in every respect, free from taint, rust, or damage of any kind. Those to be branded number two shall comprehend the best Salmon that remain after the selection of the first quality, and shall be good, sound fish, well split, and cured in good condition, and, in every respect, free from taint, rust, or damage of any kind. Those to be branded number three, shall consist of those that remain after the selection of the two first qualities, but must be good fish, fairly split, and, in every respect, free from taint, rust, or damage of any kind.

Classification of qualities of pickled fish, Salmon No. 1.

Salmon No. 2.

Salmon No. 3.

VIII. Mackerel to be branded number one shall consist of the best and fattest Mackerel, being well split, having the blood well washed out before being salted, well cured in the best condition, and free from taint, rust, or damage of any kind, and shall measure not less than thirteen inches from the extremity of the head to the crotch or fork of the tail. Those to be branded number two shall comprehend the best Mackerel that remain after the selection of the first quality, and shall be properly split and washed, well cured, and in every respect, free from taint, rust, or damage of any kind, and shall measure not less than eleven inches from the extremity of the head to the crotch of the tail. Those to be branded number three, *large*, shall consist of good, sound Mackerel, properly washed, well cured, and free from taint, rust, or damage of any kind, and shall measure thirteen inches and upwards from the extremity of the head to the crotch of the tail. Those of the next inferior quality, free from taint or damage, of not less than ten inches in length as aforesaid, shall be branded number three.

Mackerel No. 1

Mackerel No. 2

Mackerel No. 3, large.

Mackerel No. 3

IX. Herring or Alewives to be branded number one shall consist of the largest and best fish; and those to be branded number two shall be the smaller and inferior description;

Herrings or Alewives No. 1 and 2.

both qualities shall be well cleansed and cured, and, in every respect, free from taint, rust, or damage of any kind. All ripped herring shall be branded with the word "split," in addition to other brands. All herring that are not gibbed shall be branded with the word "gross," in addition to other brands.

Rusty fish to be branded 'rusty.'

X. All rusty fish of whatsoever kind or class, shall be branded with the word "rusty," in addition to other brands.

Fish to be branded 'bulk'

XI. All fish known as pickled fish that may be cured in bulk, and afterwards packed in barrels, shall be branded with the word "bulk," in addition to other brands.

Notainted fish to pass inspection.

XII. Tainted fish of any class or kind shall, on no account, whatever, be permitted to pass inspection.

Mode of salting and packing the several classes of fish.

XIII. All inspected pickled fish, whether ripped, or otherwise, shall have been well struck, or salted in the first instance, and the qualities shall be those hereinbefore prescribed in the several clauses of this Act respectively; the fish shall be very carefully sorted and classed according to their respective numbers and quality; each cask shall contain fish of the same kind and quality properly packed in separate layers, and on every layer of fish, so packed in the cask, a sufficient quantity of suitable salt shall be regularly placed, the quantity to be not less than half a bushel for a barrel, and in like proportion for other packages, at the discretion of the inspector.

Cask to be headed with clean pickle.

XIV. After the cask shall have been properly packed and headed, it shall be filled with clean pickle, sufficiently strong to float a fish of the kind packed.

Quantity of fish to be contained in a tierce, &c.

XV. Casks shall contain the quantity of fish hereinafter prescribed for each cask respectively, the fish shall be carefully weighed, perfectly clear of the salt and pickle, that is to say: a tierce, three hundred pounds, a barrel two hundred pounds, a half barrel one hundred pounds.

Casks, barrels and half barrels of pickled fish, mode and form of branding.

XVI. There shall be branded on the head of every cask, barrel and half barrel of pickled fish, in plain legible characters, after the same has been inspected, classed, weighed and packed in accordance with this Act, the description of the fish, the number and the quality, the weight contained in the package, the initials of the christian names, and the whole of the surname of the chief or deputy inspector by whom the fish was actually inspected, the name of the place where he acts as inspector, the abridged name of the County, the letters P. E. I. for Prince Edward Island, and the year of the inspection.

XVII. Every inspector who shall actually inspect and brand any cask or package of pickled fish, or any cask or package intended to contain pickled fish, in accordance with all the provisions of this Act, shall be entitled to the following fees from the owner or the person who employed him :

Inspector's fees for inspecting and branding, and by whom payable.

For every tierce, ninepence.

For every barrel of Herring or Mackerel, fourpence.

For every half barrel, the same proportion to be paid by the owner or person who employed him.

XVIII. The inspecting, classing, weighing, packing and branding any cask or casks of pickled fish shall be done in the immediate presence and sight of an inspector ; and any inspector suffering the same to be done, except in his immediate presence and sight, or who shall lend or suffer his branding irons to be taken to be used, shall be liable to a penalty of ten pounds for every offence.

Inspection to be in presence of inspector.

XIX. In every case when it may become necessary, in consequence of any casualty, to repack a cask of inspected fish, such repacking shall only be done by or in the presence of an inspector, if one be within five miles of the place of repacking ; and any other person attempting to repack or brand any such cask of pickled fish, shall be liable to a penalty of five pounds for every offence.

Repacking inspected fish to be done in presence of inspector.

XX. Every chief inspector, by himself or deputy, shall be obliged, without any unnecessary delay, to inspect all pickled fish under the provisions of this Act, when called upon so to do, under a penalty of five pounds for every default ; provided that no inspector shall be obliged to proceed more than ten miles from his place of residence for that purpose ; nor shall any inspector be compelled to act, unless, at least, ten packages shall be ready for inspection ; he shall likewise inspect all tierces, barrels and half barrels intended to contain the pickled fish that he is called upon to inspect, and condemn all such casks or packages as shall not be made conformable to the provisions of this Act.

Inspector's duties, when and how to be performed.

XXI. Whosoever shall intermix, take out or shift any inspected pickled fish in or from any package that has been inspected, packed and branded, or shall alter any brand or any cask of pickled fish, after it has been branded by a legally appointed inspector, or shall refill any package previously branded, or shift any head in any package after it has been inspected and branded, shall be liable to a penalty of five pounds for every cask.

Penalties for intermixing, &c., inspected fish, or altering any brand, &c.

XXII. Any person who shall export or attempt to export, any package of pickled fish not inspected and branded in

Penalty for attempting to ex-

port pickled fish without inspection.

accordance with this Act, over and above the quantity or number of barrels hereinbefore excepted from the provisions of this Act, shall forfeit ten shillings for every package exported, or attempted to be exported.

Any vessel having on board fish not legally inspected, for exportation, not to be allowed a clearance.

XXIII. Any vessel that shall have on board any pickled fish not legally inspected and branded, for the purpose of and with the intent of exporting such fish contrary to the provisions of this Act, over and above the quantity hereinbefore mentioned and excepted, shall not be allowed a clearance until such pickled fish shall be relanded.

Deputy inspector to account to chief inspector.

XXIV. The deputy inspectors shall account to the chief inspector under whom they act, once in every three months, or oftener, if required, for all fish inspected by them, and the fees therefor, and shall pay over to him one fifth of the same; and shall describe in their returns the different kinds and qualities of fish inspected by them.

Chief inspector to make quarterly returns to Col. Secretary.

XXV. Every chief inspector shall make a return to the Colonial Secretary, of all the pickled fish inspected by him, or his deputies, the same to be made up to the last days of March, June, September and December, in each year, and delivered within the months thereafter, under a penalty of five pounds for every month's neglect.

Casks pickled fish improperly branded by deputy, may be reinspected by chief inspector

XXVI. When any cask of pickled fish, branded by a deputy inspector, shall prove unequal in quantity or quality to that which may be indicated by the brand on the cask, or deficient in any way of the requisites prescribed by this Act, the chief inspector may cause the same to be reinspected; and if it appear that the defect arose from the condition of the fish, or the bad quality of the cask, or the bad packing or pickling of the fish at the time of the inspection, he may recover the costs and charges of such reinspection, from the deputy who branded the same.

All actions for misconduct of deputy inspector may be brought either against him or the chief inspector.

XXVII. All actions for the recovery of penalties or damages, on account of the misconduct or neglect of any deputy inspector, may be prosecuted either against such deputy or the chief inspector, under whom he acts, who shall have his remedy against the deputy, either upon the bond given by him, or by action on the case for damages; and in every such action the judgment recovered against the chief inspector, shall be evidence of damages against such deputy or his sureties, if the deputy shall have had due notice of the action brought against the chief inspector.

Penalties, who to sue for, and

XXVIII. All pecuniary penalties imposed by this Act may be recovered by and in the name of any person who shall

sue for the same, and such penalties when recovered, shall be for the use and benefit of the party so suing.

appropriation thereof.

XXIX. Actions against inspectors or their deputies, under this Act, shall be brought in the County where the offence shall have been committed and not elsewhere.

Actions to be brought in County where offence committed.

XXX. Every County inspector who may be appointed and sworn in, under the provisions of this Act, shall be furnished with six copies of the said Act.

Six copies of this Act to be furnished to every chief inspector.

XXXI. That no inspector shall be liable for any fish that may have been inspected under this Act, after twelve months, from the date of such inspection.

No inspector liable for any penalties after 12 months from date of inspection.

XXXII. This Act shall go into operation immediately on the passing thereof.

Operation of Act.

XXXIII. So much and such parts of the Act of the twenty-second year of the reign of Her present Majesty, chapter eight, intituled "An Act for regulating the size and quality of fish barrels and tierces, and the weight of fish made up therein, and for the appointment of fish inspectors; also to regulate the inspection of pickled fish, for sale within this Island, and to repeal a certain Act therein mentioned," as are contrary to or inconsistent with any of the provisions of this Act, are hereby repealed.

Such parts of the Act 22 Vic. cap. 8, as inconsistent with this Act are hereby repealed.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Schedule (A.)

Form of Inspector's Oath on taking Office.

I *A. B.*, do swear that I will faithfully, and without fear or partiality, execute and perform the duties of Fish Inspector, in pursuance of, and in manner and form prescribed by the Act of the General Assembly of this Island, in such case made and provided, and according to the best of my skill and ability.

Form of Inspector's oath on taking office

So help me God.

A. B.

Schedule (B.)

SCHEDULE (B.)

*Form of Bond to be given by Inspector.*Form of bond
to be given by
Inspector.

Know all men by these presents, that we _____ are jointly and severally held, and firmly bound unto our Sovereign Lady Queen Victoria, her heirs and successors, in the penal sum of _____ pounds, of good and lawful money of the said Island, to be paid to our said Lady the Queen, her heirs or successors, for which payment well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this _____ day of _____ in the year of our Lord one thousand eight hundred and _____

Whereas the above bounden _____ hath been duly appointed an Inspector of Pickled Fish, for the County of _____ County, under and by virtue of an Act of this Island, relating to the inspection of pickled fish, for exportation from this Island.

Now the condition of the above obligation is such that if the the above bounden _____ as such fish inspector of pickled fish as aforesaid, shall and do honestly, faithfully and skillfully demean and conduct himself in his said office, and in all things appertaining thereto, in terms of the said Act of the General Assembly of this Island, relating to the said office of Inspector of Pickled fish, then the above obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered,
in the presence of

CAP. XX.

28 Vic. cap. 19. An Act in amendment of the Act regulating the Inspection of Pickled fish for exportation from this Island.

[Passed April 3, 1865.]

Pickled fish
landed from
any foreign
Vessel and in-
tended for ex-
portation to
any foreign
country, ex-
empted from

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. All pickled fish landed on this Island from on board any vessel belonging to any foreign country (which fish have been caught for and belonging to any foreigner.) and are not to be consumed or used in the said Island, but are intended to be reshipped for exportation to any foreign country, shall be ex-

empted from the provisions of the Act passed in the present Session of the General Assembly of this Island, intituled "An Act for regulating the Inspection of Pickled Fish for exportation from this Island," anything in the said recited Act contained to the contrary notwithstanding.

provisions of the "Act for regulating the inspection of pickled fish for exportation from this Island."

C A P. X X I.

An Act to amend the Act for the establishment of a Bank of Savings, in Prince Edward Island.

Repealed by 31st Vic. cap.


[Passed April 3, 1865.]

C A P. X X I I.

An Act to amend the Act of twenty-sixth Victoria, chapter four, incorporating the Union Bank of Prince Edward Island.

26 Vic. cap. 4

[Passed April 3, 1865.]

 This Act has been printed in the second volume of Private and Local Acts.

C A P. X X I I I.

An Act for the appointment of Clerks to Justices of the Peace, and to regulate proceedings had before them.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly as follows :

I. From and after the passing of this Act, it shall be lawful for any Justice or Justices of the Peace in any district of this Island, if he or they shall deem it necessary, to appoint a Clerk, for whose act or acts he or they nevertheless shall be responsible, and who shall assist in the discharge of his or their duties, which clerk shall be sworn to execute his duties faithfully ; and being so sworn, shall be authorized to issue in his own name and style of office, summonses, being for civil injuries only, and in all cases subpoenas ; also to enter and complete all recognizances taken before such Justices, and to execute all papers of appeal, and administer the oath on such affidavits as the law requires for obtaining an appeal to draw up and sign

Authorizes Justices of the Peace to appoint Clerks.

Duties of clerk

convictions, and to prepare any other necessary instruments previous to its execution by such Justices according to law; and the said clerk shall be remunerated by such Justice of Justices in such manner and on such terms as shall be agreed upon between such clerk and the Justice or Justices who shall have so employed him; provided always that no fees in any matter, suit or process, shall be taken in addition to, or other than such as are regulated and established by any Act of the General Assembly of this Island.

Clerks how to be remunerated.

Fees to be taken by clerk.

II. It shall be lawful for any Justice or Justices of the Peace, in all cases in which they shall adjudicate, to order and direct that the costs and charges of witnesses shall be paid by either party, or apportioned, as in their discretion they shall deem just and equitable, any law, usage or custom to the contrary thereof notwithstanding.

Justices of the Peace may order costs of witnesses to be paid.

III. Any clerk to be appointed under this Act, or any Justice of the Peace now or hereafter to be appointed, issuing any summons or warrant, without the fee thereon being first paid, shall not be entitled to recover the same by any process at law.

Fee for summons to be paid before same is issued.

IV. Any such clerk so appointed shall, at the recurrence of every assize or sitting of the Supreme Court of Judicature, to be holden in the County wherein such Clerk may hold his office, make a due return to the Judges of the said Supreme Court, to be delivered to the Prothonotary of such Court, at least four clear days before the first day of its session, of all matters which have come under his office, which returns shall contain a record of all convictions before any Justice or Justices from whom he may hold his appointment, and set forth the amount of any fines which have been legally ordered, and a statement of how they have been paid, and levied and distributed, according to the schedule to this Act annexed, together with a bill of the costs awarded in every case; and such Clerk shall likewise, at least four clear days as aforesaid, prior to the commencement of such term, make a return of all recognizances entered into for the appearance of all parties bound to appear at such Court, and likewise copies of all notices of appeal, and such other papers as may be ordered by any Judge of the said Court; and it shall be the duty of any such Judge to cause the returns of all convictions so made to be published in the *Royal Gazette* newspaper of this Island.

Clerks to make return to Supreme Court, of all matters of all convictions, &c.

Judge to cause returns to be published in *Royal Gazette*.

V. In all cases where no appointment of a clerk in manner aforesaid, has been made, Her Majesty's Justices of the Peace conjointly or respectively acting, in the execution of their or his legal duties, shall themselves return such papers, records and instruments hereinbefore described and required, together with a correct copy of the bill of costs, as aforesaid, to the said Supreme Court, and transmit the same to the prothonotary

Where no clerk appointed Justice to make return.

thereof, at least four clear days prior to the first day of the term as aforesaid; and every Justice of the Peace or Clerk, neglecting or omitting to make any such return required of him, respectively, as aforesaid, shall forfeit and pay the sum of five pounds.

VI. If any Justice or Justices of the Peace shall see fit to revoke any such appointment of a Clerk, he or they are hereby authorized so to do, and all books, papers, records or other instruments in the hands of such clerk, shall in such case be handed over by him to such Justice or Justices, on his or their demanding the same; and if such clerk shall neglect or refuse to deliver over such papers and records, when so demanded, he shall forfeit and pay for every such offence, a sum not exceeding twenty pounds.

Justice may revoke appointment of clerk.

VII. All penalties under this Act shall be recovered with costs, by bill, plaint or information, in Her Majesty's Supreme Court of Judicature of this Island, and applied and paid one half to the person who shall sue for the same, and the other half into the Treasury of this Island, for the use of Her Majesty's Government.

Penalties how recovered.

VIII. In all cases of felony, where any information or depositions shall be taken by or before any Justice of the Peace, and which shall be intended to be used in the prosecution of such felony, it shall be the duty of the Justice or Justices before whom such information or depositions shall be taken or of the clerk acting on his or their behalf, to make a duplicate copy thereof, and to forward the same duly certified, under his hand or their hands, without unnecessary delay, to the Attorney General, or in his absence to the Solicitor General, for his use and inspection; and the said Justice or Justices or their Clerk, shall be entitled to the fee of six pence per folio, for such copy, and one shilling currency for certifying the same.

In cases of Felony a duplicate copy of information, &c., to be forwarded to Attorney or Solicitor General

Fees therefor.

IX. This Act shall continue and be in force for the space of ten years from the passing thereof and no longer.

Continuance of Act.

SCHEDULE.


Schedule.

NAME OF OFFENDER	OFFENCE	FINE	IF PAID	HOW DISTRIBUTED

CAP. XXIV.

An Act to incorporate the Summerside Bank.

[Passed April 3, 1865.]

 This Act has been printed in the second volume of the Private and Local Acts.

CAP. XXV.

An Act to amend the Law respecting defamatory words and libel.

[Passed April 3, 1865.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

An apology may be given in evidence in mitigation of damages.

I. For the better protection of private character, and for more effectually securing the liberty of the press, and for better preventing abuses in exercising the said liberty in any action for defamation, it shall be lawful for the defendant (after notice in writing of his intention so to do, duly given to the plaintiff at the time of filing or delivering the plea in such action) to give in evidence, in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of the action, or as soon afterwards as he had an opportunity of doing so, in case the action shall have been commenced before there was an opportunity of making or offering such apology.

In a case of newspaper libel, defendant may plead insertion of same without malice, &c.

II. In an action for a libel contained in any public newspaper or other periodical publication, it shall be competent to the defendant to plead that such libel was inserted in such newspaper or other periodical publication, without actual malice and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper, or other periodical publication, a full apology for the said libel ; or if the newspaper or other periodical publication, in which the said libel appeared, should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication to be selected by the plaintiff in such action ; and that every such defendant shall, upon filing such plea, pay into Court a sum of money by way of amends for the injury sustained by the publication of such libel, otherwise such plea shall be deemed a nullity and may be treated as such by the plaintiff in the action, and such

Payment of money into Court by way of amends, with plea,

payment into Court shall be of the same effect, and be available in the same manner and to the same extent, and be subject to the same rules and regulations as to payment of costs, and the form of pleading, except so far as regards the pleading of the additional facts hereinbefore required to be pleaded by such defendant, and that to such plea to such action, it shall be competent to the plaintiff to reply generally denying the whole of such plea.

otherwise such plea to be deemed a nullity.

III. If any person shall publish, or threaten to publish, any libel upon any other person, or shall directly or indirectly threaten to print or publish, or shall directly or indirectly propose to abstain from printing or publishing, or shall directly or indirectly offer to prevent the printing or publishing of any matter or thing touching any other person, with intent to extort any money or security for money, or any valuable thing from such or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit, or trust, every such offender, on being convicted thereof, shall be liable to be imprisoned, with or without hard labor, in the common jail of the county, for any term not exceeding three years; provided always, that nothing herein contained shall, in any manner, alter or affect any law now in force in respect of the sending or delivery of threatening letters or writings.

Publishing, &c. a libel for the purpose of extorting money, &c., how punished.

Not to alter law for sending threatening letters.

IV. If any person shall maliciously publish any defamatory libel, knowing the same to be false, every such person, being convicted thereof, shall be liable to be imprisoned in the common jail for any term not exceeding two years, and to pay such fine as the Court shall award.

Punishment for publishing a defamatory libel, knowing the same to be false.

V. If any person shall maliciously publish any defamatory libel, every such person, being convicted thereof, shall be liable to fine or imprisonment, or both, as the Court may award, such imprisonment not to exceed the term of one year.

Punishment for maliciously publishing a defamatory libel.

VI. On the trial of any indictment or information for a defamatory libel, the defendant, having pleaded such plea, as hereinafter mentioned, the truth of the matter charged may be inquired into, but shall not amount to a defence unless it was for the public benefit that the said matters charged should be published; and that to entitle the defendant to give evidence of the truth of such matters charged as a defence to such indictment or information, it shall be necessary for the defendant, in pleading to the said indictment or information, to allege the truth of the said matters charged in the manner now required in pleading a justification to an action

Mode of pleading the truth on a trial by indictment for a libel, and the effect thereof.

for defamation; and, further, to allege that it was for the public benefit that the said matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published, to which plea the prosecutor shall be at liberty to reply, generally denying the whole thereof, and that if, after such plea the defendant shall be convicted on such indictment or information, it shall be competent to the Court, in pronouncing sentence, to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove or to disprove the same: provided always, that the truth of the matters charged in the alleged libel complained of by such indictment or information, shall, in no case, be inquired into without such plea of justification: provided also, that in addition to such plea, it shall be competent to the defendant to plead a plea of not guilty: provided also, that nothing in this Act contained shall take away or prejudice any defence under the plea of not guilty, which it is now competent to the defendant to make under such plea to any action, or indictment, or information for defamatory words or libel.

Truth of matters charged not to be inquired into without plea of justification.

Nothing in this Act to prejudice any defence, &c.

Defendant to have the right of proving that libel was published without his authority.

VII. Whosoever, upon the trial of any indictment or information for the publication of a libel under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent or knowledge, and that the said publication did not arise from want of due care or caution on his part.

Costs to be allowed private prosecutor and defendant in certain cases in indictments or informations for libel.

VIII. In the case of any indictment or information by a private prosecutor for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such indictment or information, and upon a special plea of justification to such indictment or information, if the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by the prosecutor by reason of such plea; such costs so to be recovered by the defendant or prosecutor, respectively, to be taxed by a Judge of the court before which the said indictment or information is tried.

Definition of terms used in this Act.

IX. Wherever throughout this Act, in describing the plaintiff or the defendant, or the party affected or intended to be affected by the offence, words are used importing the singular number, or the masculine gender only, they shall, ne-

vertheless, be understood to include several persons as well as one person, and females as well as males, unless when the nature of the provision or the context of this Act shall exclude such construction.

X. In every case, civil or criminal, where a trial shall be had for a libel published in any printed newspaper, magazine, or other periodical publication, evidence may be given of the printing or publishing of such libel by the production of the actual newspaper, magazine or other printed publication containing the alleged libel, and which shall be proved to have been published or printed by the said defendant, or by his authority, express or implied, and it shall be *prima facie* evidence of such printing and publishing to produce any printed document containing the libellous matter complained of, and which, amongst other printed matter, contained therein, purports to be printed and published by the said defendant, together with the testimony of any competent witness, who shall, on oath, state to the effect that he knows the said defendant and verily believes that the printed paper, so offered in evidence, has been printed or published by the authority express or implied of the said defendant.

Mode of proving the printing or publishing of a libel in a newspaper, &c.


XI. The proceeding, by criminal information, for a libel on a private individual is hereby abolished.

Criminal information for a libel abolished.

CAP. XXVI.

An Act to incorporate the Minister and Trustees of the Presbyterian congregation of Woodville and Little Sands, Townships numbers sixty-two and sixty-four.

[Passed April 3, 1865.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXVII.

An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and sixty-five.

Executed,

[Passed April 3, 1865.]

CAP. XXVIII.

An Act to continue the Act of the twenty-first year of the reign of her present Majesty, intituled "An Act to continue for certain purposes the Seduction Act, and to make other provisions in lieu thereof, as regards all future actions."

[Passed April 3, 1865.]

Preamble,

WHEREAS the Act made and passed in the twenty-first year of the reign of her present Majesty, intituled "An Act to continue for certain purposes the Seduction Act, and to make other provisions in lieu thereof as regards all future actions," will shortly expire, and it is deemed expedient to continue the same.


Continues the Act 21st Vic. cap. 15, for 10 years.

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that the said hereinbefore recited Act, and every clause, matter and thing therein contained, shall be and the same is hereby continued for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly of this Island and no longer.

CAP. XXIX.

An Act to enlarge the jurisdiction of the Mayor's Court in the City of Charlottetown.

[Passed April 3, 1865.]

 This Act has been printed in the second volume of Private and Local Acts.

ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown, the third day of March, *Anno Domini*, 1863, in the twenty-sixth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith :

GEO. DUNDAS,
Lt. Governor.

D. MONTGOMERY,
President
of Legislative
Council.

And from thence continued, by several prorogations, to the ninth day of April, 1866, and in the twenty-ninth year of her said Majesty's reign ; being the fourth session of the twenty-second General Assembly convened in the said Island.

R. McAULAY,
Speaker.

CAP. I.

An Act for raising a Revenue.

Expired.

[Passed April 20, 1866.]

CAP. II.

An Act for the regulation of the Militia and Volunteer Forces.

Altered and
amended by
30 Vic. cap. 6.
See also, 27
Vic. cap. 8.

[Passed May 11, 1866.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

- Commander-in-Chief. I. The Lieutenant Governor of this Island shall, by virtue of his office, be Commander-in-Chief of the Militia.
- What the Militia shall consist of. II. The Militia shall consist of all the male inhabitants of the Island, of the age of sixteen years and upwards, and under sixty—not exempted or disqualified by law.
- Persons absolutely exempt from service. III. The following shall be exempt from service in the Militia, in any case: Clergymen, Judges of the Supreme Court, the Master of the Rolls, and the Professors of any College or University recognized by law: and the following persons; although enrolled, shall be exempt from attending muster, and from actual muster, at any time, except in case of war, invasion, or insurrection, namely: the sedentary militia, members of the Executive and Legislative Councils, and of the House of Assembly; Colonial Secretary and assistant Secretary; all civil officers appointed to any civil office in this Island, under the great seal; all persons lawfully authorized to practise physic or surgery, half-pay and retired officers of her Majesty's Army and Navy; schoolmasters, employed as such; telegraph operators, postmasters and mail carriers, ferrymen, one miller for every run of stones in every grist mill, all persons disabled by bodily infirmity, and whenever exemption is claimed, the burden of proof shall always be upon the claimant.
- Persons exempt, except in case of war or invasion. IV. Nothing, however, shall prevent any man exempted by law from serving in the militia, should he desire it.
- Exempts may serve. V. The militia shall be divided into two classes, namely: Active Militia and Sedentary Militia.
- Active and sedentary militia VI. The active militia shall be subdivided into two classes, namely, Volunteer Militia and Regular Militia.
- Two classes of active militia. VII. For purposes of enrolment and organization, each County shall be divided into as many regimental districts as may be decided upon by the Commander-in-Chief, and each such district shall be again divided into company districts; each regimental district to furnish one militia regiment; each company district to furnish one regular and one sedentary company of militia.
- Counties to be divided into regimental districts. VIII. All regiments shall be numbered; likewise, all companies in such regiments: the regular and sedentary company in each company district to bear the same number.
- Regiments and companies to be numbered. IX. The Commander-in-Chief may, from time to time, by any militia general order, alter such regimental or company district, or may divide any regiment into as many battalions
- Regimental & company districts may be altered &c.

as he may deem proper, and may disband and reorganize the militia in any district.

X. All militia districts and divisions existing before the passing of this Act shall remain in force until altered under the provisions of this Act, and such of them as are allowed to remain unaltered shall be held to have been made by the proper authority, under this Act, and for the purposes thereof.

Militia districts, &c., to remain in force until altered.

OFFICERS.

XI. All commissions of officers in the militia shall be granted by the commander-in-Chief, and during pleasure.

Officers' commissions, how granted.

XII. All non-commissioned officers shall be appointed by officers commanding their respective battalions or regiments.

Non-commissioned officers, how appointed

XIII. No person shall be an officer of militia unless he is one of her Majesty's subjects, by birth or naturalization.

Officers to be subjects of the Queen.

XIV. Commissions in the militia and volunteers, and appointments of non-commissioned officers, existing before the passing of this Act, shall remain in force—such commissions being subject to be cancelled by the commander-in-Chief, and such appointments by the officer commanding the regiment or battalion.

Commissions & appointments to remain in force until cancelled.

XV. No officer of militia or volunteers shall assume command of forces composed of imperial and militia troops, without the order or consent of the General or other officer in command of the imperial troops.

Command of imperial and militia troops.

XVI. The executive command, in time of war, of the militia and volunteers, is hereby vested in the officer commanding her Majesty's imperial forces in this Island.

Command of militia and volunteers in time of war.

XVII. Provided always, that all such officers of volunteer force appointed before the passing of this Act shall take rank and precedence in the militia, according to the date of their commissions as volunteer officers.

Rank and precedence of volunteer officers.

XIX. After the passing of this Act, no officer shall be appointed to, nor promoted to, the active force, until he shall have passed an examination as to his efficiency, before a board of three officers, consisting of a president and two other officers, to be appointed by the Commander-in-Chief.

Officers, how appointed and promoted.

XX. Provided that the Commander-in-Chief may establish schools for military instruction, and direct that a certificate

Schools of military instruction, &c.

from the commandant of such schools shall be substituted for a certificate of such boards of examination.

Promotions, how regulated. XXI. Promotion shall go by seniority, but if the senior shall not be able to qualify, the step to be given to the next in seniority, who is able to obtain a certificate of such commandant or board; and the officer unable to qualify shall be placed on the retired list; provided that the Commander-in-Chief may promote any officer of marked capacity, and, in cases of emergency, may dispense with examination.

A staff of commissioned and non-commissioned officers. XXII. The Commander-in-Chief shall have full power to appoint a staff of commissioned and non-commissioned officers of the active militia, with such rank as he shall, from time to time, think requisite or necessary for the efficiency of the militia service; and any such staff officers shall have such rank and authority in the militia, as are held, relatively, in her Majesty's service.

Fees for commission. XXIII. For every commission in the militia, issued after the passing of this Act, there shall be paid to the Adjutant General of Militia, the following fees:

Ensign, Coronet, or Second Lieutenant, five shillings.
Lieutenant, seven shillings and sixpence.
Captain, ten shillings.
Major, fifteen shillings.
Lieutenant-Colonel, twenty shillings.
Colonel, twenty-five shillings.

Appropriation thereof. And all moneys so received for commissions, shall be appropriated for the contingent expenses of the Adjutant General's office.

Volunteer militia. XXIV. The volunteer militia shall consist of volunteer troops of cavalry, troops and batteries of artillery, and battalions of infantry.

Volunteer corps, services of may be continued, &c. XXV. The Commander-in-Chief may continue the services of all volunteer corps accepted before the passing of this Act; and may also, if he see fit, accept the services of any corps of volunteers, who may be formed, after the passing hereof, under such regulations as have been or may be approved by the Commander-in-Chief, in regard to such corps.

Re-enrollment of volunteers. XXVI. Within two months after the passing of this Act, all volunteer companies shall be mustered by their captains, the provisions of this Act clearly explained to them, and they shall take the oath of allegiance, and be re-enrolled as volunteer militia, when each man shall sign a muster roll.

XXVII. Provided that any volunteer who shall have been duly enrolled as such before the passing of this Act, may, previous to, or at the time of, such muster, give the notice required by the Act of the twenty-fourth year of the reign of Queen Victoria, chapter eleven, hereby repealed, and quit his corps, after having complied with all the regulations which are specified in the twelfth clause of the said Act.

Volunteers, before re-enrollment, mode of quitting their corps.

XXIX. Every person enrolled in the volunteer militia shall take the oath of allegiance to her Majesty.

Oath of allegiance.

XXX. The establishment of volunteer companies, and their administrative organization, shall be regulated by such general orders as have been, or shall be, from time to time, promulgated by the Commander-in-Chief.

Volunteers to be governed by general orders.

XXXI. The Commanding officers of Companies shall be responsible that their companies are kept up to their full strength, as required by such regulations; and in the event of the failure of any company, as aforesaid, to maintain the complement of men so required, or in the event of any company becoming inefficient, the Commander-in-Chief may disband any such corps so incomplete or inefficient; and the Commander-in-Chief may disband any regiment, battalion, or company, if, in his opinion, necessary for the public good.

Commanding officers responsible that their companies are kept up to full strength.

Power of Commander-in-Chief to disband.

XXXIII. The Commander-in-Chief may, from time to time, prescribe the uniform of the volunteer militia, provided that the several corps in existence at the passing of this Act may continue to wear their then clothing, until the same requires to be replaced; and it shall be the duty of the officer commanding the administrative regiments or battalions, to see that the same are, upon any such replacing of clothing, uninformed according to the orders of the Commander-in-Chief, in such respects.

Uniforms of volunteer militia.

XXXIV. It shall be lawful for the Commander-in-Chief to grant an allowance, not exceeding one pound a year, to each effective volunteer militiaman so uniformed at his own expense.

Allowance to volunteer militia.

XXXV. In case a sufficiency of arms shall not be provided for the whole of the militia, the volunteer militia shall be provided with arms and accoutrements before the regular and sedentary militia.

Arms and accoutrements.

XXXVI. The volunteer militia shall, for the purposes of drill, be furnished with a sufficient quantity of blank and ball practice ammunition, in such quantity and manner as the Commander-in-Chief may direct.

Ammunition for drill.

XXXVII. Companies of volunteer militia may make by-laws for their internal government in time of peace, and may impose fines for the breach of any by-laws; but no such by-laws shall subject any person to a fine until approved by the Commander-in-Chief.

Power to make by-laws.

XXXVIII. Fines imposed under any by-law and dues and liabilities incurred by any volunteer militiaman may be sued for in the name of the officer commanding the company, as a private debt, before one or more Justices of the Peace, and the amount may be levied, with costs, by distress; and for want of goods and chattels the offender shall be committed to jail for a period of twelve hours for every five shillings of the fine and forfeiture.

Fines and dues how sued for.

THE REGULAR MILITIA.

XXXIX. The regular militia shall consist of all males from sixteen to forty-five years of age, not exempt by law, and not returned as effective members of volunteer militia by the officers commanding companies, in returns forwarded at such times as appointed by the Commander-in-Chief.

The regular militia.

XL. All males of the prescribed age, shall be accounted eligible for service in the regular militia until they shall have proved the contrary to the captain of their respective districts.

Persons eligible for service in the regular militia.

XLI. Within three months after the passing of this Act, officers commanding regimental districts shall cause the captains of company districts to enroll every man in their respective districts; the captains of regular militia companies shall further muster their companies, read to them the provisions of this Act, cause each man to take the oath of allegiance to her Majesty, and forward authenticated copies of their muster rolls to the officer commanding their respective regiments.

Mode of enrolling in the regular militia.

XLII. The officers commanding regiments shall forward authenticated muster rolls of their regiments to the Commander-in-Chief at such times as he may direct.

Muster rolls.

XLIII. After the first enrollment of the regular militia under this Act, any militiaman, who shall move from the limits of one company district into that of another; shall give notice thereof in writing to the captains of both districts, within one month after such removal; and any man neglecting to give due notice of such removal shall be liable to a fine of two pounds.

Removal from one company district to another.

XLIV. Every man after such first enrollment, liable to be enrolled under this Act in the regular militia, shall give in his

Every man to give in his

name to the captains commanding their respective companies within one month after he becomes so liable, and any man neglecting to give such notice shall be liable to a fine not exceeding two pounds.

name to the Captain under a penalty of £2.

XLV. The Commander-in-chief may make orders for the disciplining of the regular militia, prescribing the number of days for drill, not to exceed ten days in the year, and the mode and time of assembling each regiment.

Orders relative to discipline, &c.

XLVI. Nothing herein contained shall prevent officers, non-commissioned officers, or members of volunteer militia, from holding commissions as officers, or appointments as non-commissioned officers, in the regular militia; but in case of both classes being called out for actual service, the Commander-in-chief may decide with which class such persons shall be employed.

Commissions, &c., may be held by volunteer militia officers, &c., in regular militia.

SEDENTARY MILITIA.

XLVII. The Sedentary Militia shall consist of all males in the Island of the age of forty-five years, and under the age of sixty years, not exempted or disqualified by law nor enrolled in the active militia.

Sedentary militia.

XLVIII. The sedentary militia shall be carefully enrolled from time to time, in each company division, by the Captain thereof, who shall also transmit certified copies of the roll to the officer commanding the regiment at such times as shall be directed by the Commander-in-chief.

Sedentary Militia how enrolled.

XLIX. All provisions of this Act for enrollment of regular militia shall also be applicable to sedentary militia.

Provisions as to enrollment.

GENERAL PROVISIONS.

L. The Commander-in-Chief may call out the Militia, or any part thereof, whenever, in his opinion, it is advisable so to do, by reason of war, invasion, civil commotion, or imminent danger, or any of them; and in any such case the volunteer force shall first take the field, then the regular force and lastly the sedentary militia.

Militia when and how to be called out.

LI. The officer commanding any regiment may, upon any sudden emergency of invasion, civil commotion or imminent danger, or either, call out the whole or any part of the militia under his command, until the pleasure of the Commander-in-Chief is made known.

The officer commanding any regiment may call out the same in certain cases.

LII. Militia when called out by competent authority for actual service, shall, in addition to the penalties imposed by

Militia when called out to be

liable to articles of war, and the Act for punishing mutiny and desertion. &c.

this Act, be subject to the Articles of War, and to the Act of the Imperial Parliament, for punishing mutiny and desertion, and to all other laws applicable to Her Majesty's troops in this Island, except that no militiaman shall be subject to any corporal punishment, except death or imprisonment, for any contravention of such laws, and except also that the Commander-in-Chief may direct that any provisions of the said laws shall not apply to the militia.

Militia not compelled to leave the Island.

LIII. The Militia shall not be compelled to leave this Island, but the Commander-in-Chief may accept the voluntary service of any of the militia for service beyond this Island.

Duties to be regulated by roster.

LIV. All duties of Militia when called out for actual service, or for training, shall, (except in cases of emergency,) be regulated by roster.

Militia pay.

LVIII. When called out for actual service, or for training, for more than ten days in each year, the Militia shall receive such pay from the Government and allowances as are paid or allowed to the corresponding ranks of Her Majesty's service.

Wounded or disabled volunteers or militia how provided for.

LIX. If any volunteer or militiaman be wounded or disabled when on actual service, he shall be provided for at the expense of the colony during his disability.

Wives and families of officers and men when and how provided for.

LX. In case of the loss of any officer or man while on actual service within this Island, provision shall be made for his wife and family out of the public revenue, the said provision to be estimated and fixed by the Lieutenant Governor in Council.

Militia to march from any one part of the Island to the other.

LXI. It shall be lawful for the Commander-in-Chief to order militia called out for actual service, to march from any one part of the Island to any other, and to billet or encamp them as he shall see fit.

Regulations for marching and billeting militia.

LXII. All marching, billeting and encamping of militia shall be conducted in accordance with Her Majesty's regulations for the army.

Drill sheds.

LXIII. The Commander-in-Chief may cause drill sheds to be erected at Charlottetown, Georgetown and Summerside.

General orders, effect of.

LXIV. The Commander-in-Chief shall have power, by general orders to be issued under his authority, to make such regulations as he may deem necessary on any subject connected with the militia, provided that such regulations are not inconsistent with this Act.

ARMS, &c.

LXV. The Commander-in-Chief may cause arms and accoutrements to be issued under such regulations as he may, from time to time, deem necessary, subject to the thirty-fifth clause of this Act, and may prescribe such precautionary measures as he deems expedient for the safe-keeping and in good order of such arms and accoutrements, and for the re-delivery thereof to such officer as may be appointed to receive them whenever the commander-in-Chief, for any purpose, directs such re-delivery.

Regulations relative to the issuing and keeping of arms and accoutrements.

COURTS OF INQUIRY.

LXVI. The Commander-in-Chief shall, whenever he deems it necessary, order a Court of Enquiry to assemble for the investigation of any subject affecting officers, non-commissioned officers and militiamen.

Court of enquiry.

LXVII. This Court shall be composed of officers of the militia within this island, but these officers shall not be of the same company to which any member whose case may be under enquiry belongs.

Composition of court of enquiry.

LXVIII. A Court of enquiry shall not proceed to any finding except in such cases as the Commander-in-Chief may designate; and such finding, if approved by the Commander-in-Chief, shall be final.

Jurisdiction of court of enquiry.

PENALTIES, &c.,

LXIX. All contraventions of this Act, and of regulations made or given under it, when the militia is not called out for actual service, shall be punishable as hereinafter provided.

Penalties.

LXXII. Any person who interrupts or hinders any militia at drill, or trespasses on the bounds set out by the proper officer for such drill, shall thereby incur a penalty of thirty shillings for each offence, and may be taken into custody and detained by any person, by the order of the commanding officer, until such drill shall be over for the day.

Penalty for interrupting drill, &c.

LXXIII. Any officer, non-commissioned officer, or militiaman disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty not exceeding two pounds for each offence.

Penalty for disobeying orders, &c.

Penalty for unlawfully disposing of arms, &c.

LXXIV. Any person who unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him,) shall thereby incur a penalty of five pounds for each offence; but this shall not prevent any such offender from being indicted and punished for any greater offence, if the facts amount to such, instead of being subjected to the penalty aforesaid; and any person charged with any act subjecting him to the penalty imposed by this section, may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave the Island, carrying any such arms, accoutrements or articles with him.

General penalty for illegal acts not otherwise provided for.

LXXV. Any person who wilfully contravenes any enactment of this Act, when no other penalty is imposed for such contravention, shall thereby incur a penalty not exceeding two pounds for each offence; but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such.

RECOVERING OF PENALTIES AND POWER TO COMMIT TO JAIL FOR NON-PAYMENT OF PENALTY.

Time of prosecution.

LXXVII. No such prosecution shall be commenced after the expiration of three months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession arms or accoutrements delivered to the Militia.

Appropriation of penalties.

LXXIX. All penalties imposed by this Act, when recovered, shall be paid over to the treasurer of this Island for the use of the Government.

Acts repealed.

LXXX. An Act made and passed in the twentieth year of the reign of his late Majesty, King George the third, chapter one, intituled "An Act for the establishing and regulating a militia." An Act made and passed in the third year of the reign of his late Majesty King William the Fourth, chapter thirty, intituled, "An Act for repealing certain parts of "An Act intituled 'An Act for the establishing and regulating a militia and for substituting other provisions in lieu thereof.'" An Act made and passed in the ninth year of Her present Majesty Queen Victoria, chapter six, intituled "An Act to render the militia more efficient and to repeal certain parts of an Act therein mentioned." An Act made and passed in the

3 W. 4 cap. 30.

9 Vic. cap. 6.

14 Vic. cap. 14

fourteenth year of the reign of Her present Majesty Queen

Victoria, chapter fourteen, intituled "An Act to alter and amend the laws now in force relating to the militia; an Act made and passed in the twenty-fourth year of the reign of her present Majesty Queen Victoria, chapter eleven, intituled "An Act to provide for the organization of a volunteer force for the defence of this Island; an Act made and passed in the twenty-fifth year of the reign of her present Majesty Queen Victoria, chapter one, intituled "An Act to amend the Act to provide for the organization of a volunteer force for the defence of this Island;" and an Act made and passed in the twenty-eighth year of the reign of her present Majesty Queen Victoria, chapter twelve, intituled "An Act to repeal the Act intituled 'An Act to alter and amend the law now in force relating to the militia, and to revive certain Acts therein mentioned,'" shall be, and the same are all hereby repealed.

24 Vic. cap. 11.

25 Vic, cap. 1.

28 Vic. cap. 12.

CAP. III.

An Act to prevent the concealment of Arms or munitions of war, intended for unlawful purposes.

[Passed May 11, 1866.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. When and as often as it shall appear, by any information, on oath, laid before any one or more of her Majesty's Justices of the Peace, that there is sufficient reason to suspect (and of which suspicion such Justice or Justices shall be the judge or judges,) that there are concealed in the possession, actual or constructive, of any person or persons, being within the jurisdiction of, or belonging to or residing within, this Colony, any arms or other munitions of war capable of being used with danger to the persons of any of her Majesty's subjects, it shall be lawful for such Justice or Justices, by warrant under his or their hand and seal, or hands and seals, to authorize any number of constables or other peace officers, or any private persons, to search for, and after demand and refusal of admission, to break open any doors, and enter any house or building, and take and retain possession of such arms, until an order shall be made by the Lieutenant Governor, for the time being, for the restoration or other disposition of such arms; and in the event of its being made to appear to the said Lieutenant Governor, after due investigation, conducted before such person or persons, and at such time or times as he shall for that purpose appoint, that such arms or other munitions as aforesaid, were intended to be used for any treasonable purpose, or for subverting,

Justice of the Peace to issue a warrant to search for and seize concealed arms, &c.

Manner of executing warrant

Disposition of arms, &c., seized.

overawing, or disturbing the government of her Majesty the Queen of England, or the government of this Island, or for or with any intent to endanger the lives of any of her Majesty's subjects, which, by the laws either of this Colony or of Great Britain, would be a felonious intent, all such arms shall be finally disposed of in such manner as the said Lieutenant Governor shall order and direct; and all parties who shall have unlawfully used any such arms or munitions, or shall have intended to make use thereof, for any such unlawful purpose, as aforesaid, shall be dealt with as the law directs.

Penalty for unlawfully using such arms, &c.

Any person concealing, or assisting to conceal arms, &c. to be guilty of felony.

Punishment.

II. Every person who shall have concealed, or assisted in concealing, any arms or munitions as aforesaid, knowing that the same were intended to be used for any such unlawful purpose as hereinbefore expressed, shall be deemed guilty of felony, and being convicted thereof, shall be liable to suffer imprisonment for any term not exceeding two years, with or without hard labor, during the whole or such part of the time of his imprisonment as the Supreme Court of Judicature shall direct.

Onus probandi.

III. The *onus probandi* that any such arms or munitions, concealed as aforesaid, were concealed, manufactured or imported, to be used for a lawful, and not for an unlawful purpose, shall lie on the person or persons claiming the same.

CAP. IV.

26 Vic. cap. 8.

An Act for the purpose of transferring the fund raised by the sale of the Military Barracks in Charlottetown, to the purposes therein mentioned.

[Passed May 11, 1866.]

Preamble.

WHEREAS in and by an Act passed in the twenty-sixth year of her present Majesty's reign, intituled "An Act to authorize the government to sell the Military Barracks in Charlottetown," it is, amongst other things, enacted "that all moneys to arise from the sale or sales of the said lands, after defraying the expenses attending the same, shall be paid into the treasury of this Island to form a fund, the annual interest of which shall be applied and appropriated exclusively for and towards the maintenance and support of the volunteer force of this Colony, or other military purposes;" and whereas, since the passing of the said recited Act, it became necessary to purchase land and erect Barracks and other buildings for the accommodation of her Majesty's troops in this Island, and it is deemed expedient that the said fund, aris-

ing from the sale of the military barracks in Charlottetown, should be appropriated towards the repayment of the moneys advanced by the government for the erection of the said barracks and other buildings connected therewith. Be it therefore enacted by the Lieutenant Governor, Council and Assembly :

I. That the fourth section of the said hereinbefore recited Act of the twenty-sixth Victoria, chapter eight, be, and the same is hereby repealed.

Repeals 4th section of 26th Vic. cap. 8.

II. The moneys already paid, or hereafter to be paid, for and on account of the sale of the military barrack ground in Charlottetown, under the said recited Act, shall and may be applied towards the repayment of the moneys advanced and paid by the government of this Island in the erection of the barracks and other buildings in connection therewith, as aforesaid.

Appropriation of moneys arising from the sale of the barrack ground.

C A P. V.

An Act to continue certain Acts therein mentioned.

[Passed May 11, 1866.]

WHEREAS the several Acts hereinafter mentioned will shortly expire, and it is deemed expedient to continue the same :

14 Vic. cap. 11,
18 Vic. cap. 15,
18 Vic. cap. 17,
continued for
10 years, &c.

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that the Act of the fourteenth year of the reign of her present Majesty Queen Victoria, chapter eleven, intituled "An Act relating to Emigrants," the Act of the eighteenth year of the same reign, chapter fifteen, intituled "An Act to continue and amend the Act relating to Emigrants," and the Act of the eighteenth year of the same reign, chapter thirteen, intituled "An Act to consolidate and amend the Acts now in force relating to the public wharf of Georgetown, and other wharfs, and the Act of the eighteenth year of the same reign, chapter seventeen, intituled "An Act to consolidate and amend the laws relating to the manner of proceeding upon controverted elections of members to serve in the General Assembly"—shall be, and the same are hereby severally continued in force for the period of ten years from the time of the passing hereof, and from thence to the end of the then next session of the General Assembly of this Island, and no longer.

CAP. VI.

Repealed by
30 Vic. cap. 13.

An Act to compel masters of vessels to exhibit a light while
in harbor in the night time.

[Passed May 11, 1866.]

CAP. VII.

An Act for settling doubts relative to titles acquired under
the several laws of this Island, for levying an assessment
on lands.

[Passed May 11, 1866.]

Preamble.

WHEREAS divers tracts of lands have been sold by the
Sheriffs of the various Counties in this Island, under
the Acts from time to time passed and in force, for levy-
ing an assessment on lands in this Island, and it has been
the custom of the Sheriffs, in advertising lands to be sold
under executions issued on judgments recovered against them
for arrears of assessment, to advertise the same as so many
acres of land, on such a township, or otherwise, in a general
and indefinite way, without defining the actual position or
metes and bounds of the lands in question, and doubts have
arisen as to the validity of titles under deeds given by Sheriffs,
of land after sale, under execution, where the advertisements
have been general and indefinite, as aforesaid; and whereas a
large area of land is now held under such deeds, and it is
desirable that said doubts, in respect to the title, should be
set at rest. Be it therefore enacted by the Lieutenant Govern-
or Council and Assembly:

Deeds not to be
deemed invalid
because not ad-
vertised by
metes and
bounds.

I. That no deed of lands sold by sheriffs in this Island
for arrears of land assessment, under any Act of the General
Assembly, now, or heretofore in force, shall be held or deemed
to be invalid because the Sheriff may not have advertised the
same for sale by metes and bounds, or otherwise than gener-
ally or indefinitely, as aforesaid; provided that all other
requisites of the law, with respect to such sales or deeds of
conveyance, or the proceedings prior to such sales or the proof
thereof required in any case by the law, as it now stands,
shall have been complied with, or shall be given; and provid-
ed always, that this Act shall not extend to, or in any man-
ner affect any suits which were commenced, or were pending,
on the seventeenth day of April last.

Proviso.

Suspending
clause.

II. Nothing in this Act contained shall have any force or
effect until Her Majesty's pleasure therein shall be known, and

notification thereof be published in the *Royal Gazette* newspaper of this Island.

*** This Act received Her Majesty's assent on the 8th day of March, 1867, and notification thereof was, on the 3d day of April, 1867, published in the *Royal Gazette* newspaper.

CAP. VIII.

An Act to prevent the clandestine training of persons to the use of Arms, and to the practice of military evolutions.

[Passed May 11, 1866.]

WHEREAS the clandestine and unlawful assembling of men for the purpose of practising military training and exercise would create terror and alarm in the minds of her Majesty's peaceable and loyal subjects, and endanger the public peace: Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

Preamble.

I. That all meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercise, movements or evolutions, without any lawful authority from her Majesty, or the Lieutenant Governor, or Commander-in-Chief, or two Justices of the Peace of any County, by commission or otherwise, for so doing, shall be, and the same are hereby prohibited, as dangerous to the peace and security of her Majesty's liege subjects, and of her government; and every person who shall be present at, or attend any such meeting or assembly, for the purpose of training and drilling any other person or persons to the use of arms, or the practice of military exercise, movements or evolutions, or who shall train or drill any other person, or persons, to the use of arms, or the practice of military exercise, movements or evolutions, or who shall aid or assist therein, being legally convicted thereof, shall be liable to be punished by imprisonment, not exceeding three years; and every person who shall attend or be present at any such meeting or assembly, as aforesaid, for the purpose of being, or who shall, at any such meeting or assembly, be trained or drilled to the use of arms, or the practice of military exercise, movements or evolutions, being legally convicted thereof, shall be liable to be punished by fine or imprisonment, not exceeding two years, at the discretion of the Court in which such conviction shall be had.

Drill meetings, without authority, illegal.

Penalty for training and drilling without authority.

Penalty for being trained or drilled without authority.

II. It shall be lawful for any Justice of the Peace or for any constable or peace officer, or for any other person acting in their

Authority to disperse drill

meetings, and to arrest persons thereat, &c.

aid or assistance, to disperse any such unlawful meeting or assembly, as aforesaid, and to arrest and detain any person present at, or aiding, assisting or abetting any such assembly or meeting as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person, or before whom any person so arrested shall be brought, to commit such person for trial for such offence, under the provisions of this Act, unless such person can and shall give sufficient bail for his appearance at the next sitting of the Supreme Court of Judicature, to answer to any indictment which may be preferred against him for any such offence against this Act.

This Act not to interfere with any right of prosecution that existed before the passing thereof.

III. Nothing in this Act contained shall extend to prevent any prosecution, by indictment or otherwise, for anything which shall be an offence within the intent and meaning of this Act, and which might have been so prosecuted if this Act had not been made, unless the offender shall have been prosecuted for such offence, under this Act, and convicted or acquitted of such offence.

Actions against Justices of the Peace, &c., to be brought within 6 calendar months.

Venue local.

General issue may be pleaded in defence.

Defendant in certain cases to be entitled to double costs.

IV. Any action or suit, which shall be brought or commenced against any Justice of the Peace, constable, peace officer or other person, for anything done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and the venue, in every such action or suit, shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant, in every such action or suit, may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the Jury shall find a verdict for the defendant; and in such case, or if the jury shall find a verdict for the defendant, upon the merits; or if the plaintiff shall become non-suit, or discontinue his action after appearance; or if, upon demurrer, judgment shall be given against the plaintiff, the defendant shall have double costs, which he shall and may recover in such and the same manner as any defendant, can by law, in other cases.

Prosecutions when to be commenced.

V. No person shall be prosecuted, by virtue of this Act, for anything done or committed contrary to the provisions hereinbefore contained, unless such prosecution shall be commenced within six calendar months after the offence committed.

CAP. IX.

An Act for the better security of the Crown and Government of the United Kingdom, within this Island.

Repealed by
31 Vic. cap. 12.

[Passed May 11, 1866.]

* * This Act has been repealed by the Act of 31 Victoria, chapter 12.

CAP. X.

An Act to amend the Laws relating to Elections.

[Passed May 11, 1866.]

WHEREAS the Act of the General Assembly of this Island, passed in the nineteenth year of the reign of her present Majesty Queen Victoria, intituled "An Act to increase the number of members to serve in the General Assembly, and to consolidate and amend the laws relating to elections," provides that all sheriffs and other officers appointed under the provisions of the said recited Act might severally poll all their votes, as well for the town and royalty, and for the several electoral districts for which they may severally be entitled to vote in the polling division in which they might severally be employed in taking or assisting to take the poll, although the same should not be the polling division in which they reside, or their property might be situated, if they should be otherwise qualified to vote; but the said recited Act makes no provision for the transmission of such voters' names, or the names of the candidates for whom they have polled such votes, to the sheriff of any county other than that in which such votes may have been polled, in order to enable such sheriff to add such votes to the poll, previously to his casting up the votes and finally declaring the state of the poll; and whereas it is deemed expedient to make provision for the transmission of such special votes, and all other special votes authorized by this Act, to the sheriffs of the counties wherein such property may be situated, when such vote has been polled out of such county. Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

19 Vic. cap. 21.

Preamble.

I. That every male person of the age of twenty-one years and upwards, being a British subject, and qualified to vote

Elector may
poll all his

votes where he polls on a property qualification.

upon any property qualification required by any acts of the General Assembly of this Island, either for members to serve in the Legislative Council or House of Assembly, shall be entitled to vote for the election of a member or members for the town and royalty or district, respectively, wherein such property qualification may be situated, by polling all his votes at the polling division in any other town or district wherein such person may be entitled to vote for the election of a member, although such polling division be not situated in the town or royalty, or electoral district, or county in which such first mentioned qualification lies.

Qualification to vote to be set forth in a signed schedule.

II. Every elector, so entitled to vote as aforesaid, shall set forth his qualification so to do, in a schedule, to be signed by such elector, in manner hereinafter mentioned, and which said schedule shall contain such elector's name and residence, a true description of such property on account of which he claims to vote, and where it is situated, and if the same is held by lease or agreement for lease, by parol, or in writing, the annual rent payable for the same; and if freehold, the yearly value thereof; or if a water lot, common lot, town lot or pasture lot, the number or designation thereof, and where situated; and in all such cases that he has been possessed of the same for not less than twelve months previous to the day of the teste of the writ of election, according to the form of the schedules of this Act annexed, or as near thereto as the circumstances of the case permit, and which said schedule shall be signed and sworn to by such elector, before the presiding officer at any such polling division where such elector may now be entitled to vote as aforesaid.

Contents of schedule.

Duties of presiding officer and clerk.

III. Every presiding officer is hereby required to swear every such elector claiming to vote as aforesaid, to the truth of the matters contained in such schedule, upon the same being produced to such presiding officer; and the presiding officer shall sign his name to the foot of the jurat thereof; and the poll clerk is hereby required to enter the name of such elector claiming to vote as aforesaid, in the poll book, together with the candidate's name for whom such vote may be given, in such place in the said poll book as the presiding officer shall direct, or in like manner as special votes are, at the time of the passing of this Act, usually recorded.

Affidavit to be taken by presiding officer.

IV. Every presiding officer shall, after the closing of the poll in his polling division, and before making his return to the precept for taking such poll, take and subscribe the following affidavit, which affidavit shall be written, or partly printed and partly written, and sworn to before any Justice

of the Peace for the County, or any two electors for the town and royalty, or district, being freeholders, who are hereby authorized, and, on request, required to administer :

Before whom sworn.

" I, *A. B.*, presiding officer for polling division, in the electoral district in the County of (or town and royalty of) do solemnly swear that the schedules of special votes of *C. D.*, *E. F.*, *G. H.* and *I. K.*, were sworn to before, and filed with me as such presiding officer, for the said polling division, pursuant to the statute; and that no further schedules of special votes, other than those set forth, were sworn to before me, or filed with me."

Form of affidavit.

X. Y.,
Presiding Officer.

Sworn to the day of A. D., 186
M. N., J. P. for County.
or *P. Q.*,
R. S.,
Electors and freeholders for

V. Every presiding officer after he shall have taken the oath in the last preceding section prescribed, shall enclose and seal such schedules, together with his said affidavit, in a parcel or packet, separate from the poll books, and shall endorse them "schedules of special votes;" and shall sign his name underneath such endorsement; and shall, forthwith, transmit said parcel or packet, so sealed and endorsed as aforesaid, to the Sheriff of the County from whom such presiding officer shall have received his precept.

Duties of presiding officer after taking the oath aforesaid.

VI. The Sheriff shall keep the said packets of special votes unopened until the same day of the week next after that upon which such poll shall have been held; and the Sheriff shall, upon such day, in his office, in the presence of one or more persons, openly break the sealed packets of special votes, and shall transmit such schedules in a sealed packet, endorsed "schedules of special votes—*A. B.*, Sheriff of County,"—to the Sheriffs of the Counties wherein the property qualification may be situated, upon which such voters claim to vote, and shall re-seal and enclose, as aforesaid, the schedules of such voters whose property qualification shall be situated in the county of such sheriff

Sheriff's duty with respect to packets of special votes.

VII. The Sheriff shall keep the schedules of special votes unopened, until the re-assembling of his Court on the day to which the same shall have been adjourned, and then he shall openly break the seals of the packets of special votes resealed

Mode of procedure by sheriff relative to

breaking the seals of packets of special votes and adding same to poll books.

by him as aforesaid, as also the packets containing the special votes transmitted to him by the sheriffs of the other counties; and he shall then proceed to add such special votes to the poll books, in like manner as he is now directed to add the special returns thereto, previously to declaring the state of the poll; provided always, that it shall be the duty of the Sheriff to adjourn his Court to such a time that at least three clear days shall have elapsed since the day in which the packets of schedules of special votes were opened and transmitted, as aforesaid.

Special votes may be scrutinized although not marked "objected."

VIII. At any scrutiny or investigation of votes, which may be held under the provisions of any Acts of the General Assembly of this Island, any special vote polled in manner hereinbefore required, may be scrutinized as in such manner as in such Acts, may be directed; and every such special vote may be so scrutinized, although it may not have been marked "objected," in the sheriff's poll book.

Penalty on presiding officer for neglect of duty relative to special votes

IX. Any presiding officer who shall refuse to swear any elector to such schedule of his qualification to vote, as aforesaid, or who shall neglect or delay to return such schedules of special votes to the sheriff before the same day of the week next after that upon which such poll shall have been held, as hereinbefore directed, or who shall alter, vary, or destroy such schedules of special votes, shall be liable to an action for damages at the suit of any party aggrieved; and shall also forfeit for each and every such offence the sum of five hundred pounds; and shall also forfeit the further sum of fifty pounds for every day after the said day during which the said schedules of special votes shall not be returned, and made to the sheriff, as herein required, together with costs of suit.

Penalty on Sheriff for neglect of duty relative to special votes.

X. Any Sheriff who shall neglect or refuse to open any schedules of special votes, which may be in accordance with this Act, transmitted to him by any presiding officer, or to transmit the same, as hereinbefore directed, or shall alter, vary or destroy any of such schedules of special votes, or who shall neglect or refuse to add such votes to the poll books, as hereinbefore directed, shall be liable to the like pains and penalties as are hereinbefore given against any presiding officer, in the last preceding section.

Any person taking a false oath under this Act to be guilty of perjury.

XI. If any person shall wilfully, falsely and corruptly take any of the oaths appointed and required by any of the provisions of this Act, and be thereof lawfully convicted by indictment or information, or if any person shall corruptly

procure or suborn any other person to take the said oaths, or any of them, and the person so procuring or suborning shall be thereof convicted by indictment or information, every such person so offending, shall be guilty of wilful and corrupt perjury, and shall for every such offence, incur and suffer such penalties, forfeitures, and disabilities, as persons convicted of wilful and corrupt perjury are, or may be, liable to; and upon every such trial for perjury, when it shall or may be necessary to prove any fact or other matter, required by the twenty-eighth section of the Act of the General Assembly, passed in the twenty-fourth year of her present Majesty Queen Victoria, chapter thirty-four, intituled "An Act to repeal certain parts of the Act consolidating the Election Laws, and to make other provisions in lieu thereof," such fact may be proved in like manner as is declared and set forth in the said section of the last recited Act.

Subornation of perjury.

Mode of proof.

XII. Provided always, that nothing in this Act contained shall be construed to prevent any elector entitled to vote for any town and royalty, or district, upon any property qualification now or hereafter to be acquired, from polling his vote in the polling division wherein such property qualification is situated.

Proviso.

XIII. Nothing in this Act contained shall be held to limit or effect the right of any Sheriff or presiding officer to vote in the polling division in which he may be employed, in taking or assisting in taking the poll, although the same shall not be the polling division in which he resides, or his property lies, if he shall be otherwise qualified to vote, or to alter the mode or manner of recording such vote, under the provisions of the fortieth section of the Act of the General Assembly of this Island, passed in the nineteenth year of the reign of her present Majesty Queen Victoria, chapter twenty-one, intituled "An Act to increase the number of members to serve in the General Assembly, and to consolidate and amend the Laws relating to elections." Provided always, that every poll clerk or candidate, and the inspector, agent or clerk of each candidate qualified to vote upon any property qualification, as aforesaid, shall poll their votes for the election of any member or members for any town or royalty, or electoral district, wherein such property qualification may be situated, in any part of this Island by filing a schedule of their vote, duly sworn to, as hereinbefore required, although they may not be entitled to vote for the election of a member in such district, wherein they may be so employed as aforesaid.

Sheriffs, &c., where and how to poll their votes.

Proviso relative to poll clerks, &c., polling their votes.

Resignation of office and acceptance of others not to vacate seat of member of House of Assembly, &c.

XIV. Where any person holding the office of Colonial Secretary, Attorney General, Solicitor General, Colonial Treasurer, Commissioner of Public Lands, Postmaster General, Financial Secretary, or Collector of Impost and Excise and Controller of Customs and Navigation Laws for Charlotte-town, and being at the same time a member of the House of Assembly or Legislative Council, shall resign his office, and within one month after his resignation, accept any other of the said offices, under the same administration, he shall not thereby vacate his seat in the said Assembly or Council.

SCHEDULE

Schedule.

Of Special vote of Elector claiming to vote as a freeholder, for the election of any member or members, to serve in the House of Assembly, for any Town or Royalty.

Form of Schedule for a freehold special vote for any town or royalty for the House of Assembly.

I A. B., of in County, in Prince Edward Island, do swear that I am, by law, qualified to vote at this election, for the town, common and royalty of in right of (here describe the property,) situate in of the said Town; that the said property has been bona fide owned and possessed by me, for the space of twelve months, from the day of now last passed (here insert the day of the teste of the writ of election;) that I have not polled or given a vote at this election, either in this polling division or in any other polling division, for any candidate for the town and royalty.

A. B.

Sworn before me this day of A. D. 18 } J. K., Presiding officer for Town and Royalty. Polling Division, for

Notice to presiding officer,

To the Presiding Officer at the Polling Division at in Town:

Sir:

I hereby require you to record my vote for

A. B.

SCHEDULE

Of Special Vote of Elector claiming to vote as a *bona fide* occupier or actual possessor of a building or land, of the yearly value of forty shillings, for the town wherein the same is situated. Schedule.

I *A. B.*, of _____ in _____ County in Prince Edward Island, do swear that I am by law qualified to vote at this election, for the town, common and royalty of _____ in right of my use and occupation, or actual possession, held in good faith of (a dwelling-house, warehouse, shop, or other building, or any farm or piece of land, —as the case may be,—situate (here describe situation,) of the yearly value of forty shillings; that the said property has been *bona fide* in my actual use and occupation, or possession, for the space of twelve months from the _____ day of _____ now last past, (here insert the day of the teste of the writ of election;) that I have not polled or given a vote at this election, either in this polling division or any other polling division, for any candidate for the said town and royalty.

Form of schedule for any special voter claiming to vote as a *bona fide* occupier or possessor of a building or land of the yearly value of forty shillings for the town wherein the same is situated.

A. B.

Sworn before me this _____ day of _____ A. D. 18 _____ }

J. K.,
Presiding Officer for _____ Polling Division for
Town and Royalty.

To the Presiding Officer at the Polling Division at
in _____ Town:

Notice to presiding officer.

Sir :

I hereby require you to record my vote for

A. B.

SCHEDULE

Schedule. Of Special Vote of elector claiming to vote as a freeholder, for the election of a member or members to serve in the House of Assembly, for any electoral district wherein such property is situated.

I A. B., of in County, in Prince Edward Island, do swear that I am, by law, qualified to vote at this election, for the electoral district of County, in right of, and as owner of a freehold estate, consisting of acres, situate at on Township number and of the yearly value of forty shillings; that the said freehold estate has been bona fide owned by me for the space of twelve months from the day of now last past, (here insert the day of the teste of the writ of election;) and that I have not polled or given a vote at this election, either in this polling division or any other polling division, for any candidate for the said electoral district.

Form of schedule of a freehold special voter for any electoral district of the House of Assembly wherein such property is situated.

A. B.

Sworn before me this day of A. D. 18 } J. K.

Presiding officer for polling division, in Electoral district in County.

Notice to presiding officer. To the presiding officer at the polling division at in the Electoral district for County. Sir; I hereby require you to record my vote for

A. B.

SCHEDULE

Schedule. Of Special vote of elector claiming to vote as an occupier or actual possessor of a building or land of the value of forty shillings, for the election of any member or members to serve in the House of Assembly, for any electoral district wherein such property is situated.

I A. B., of in County, in Prince Edward Island, do swear that I am, by law, qualified to vote, at this

Form of schedule of special

election for the electoral district of County,
 in right of my use and occupation, or actual possession, held
 in good faith at situate at c. Township
 Number and of the yearly value of forty shillings ;
 that I hold the same by lease (in writing, or by parol, or by
 agreement for a lease, as the case may be,) at the annual rent
 of per annum ; that the said property has been
bona fide in my actual use and occupation, or possession, for
 the space of twelve months from the day of
 now last past, (here insert the day of the teste of the writ
 of election ;) that I have not polled or given a vote at this
 election, either in this polling division, or any other polling
 division, for any candidate for the said electoral district.

voter claiming
 to vote as an
 occupier or ac-
 tual possessor
 of a building
 or land of the
 value of forty
 shillings for
 any electoral
 district of the
 House of As-
 sembly where-
 in such proper-
 ty is situated.

A. B.

Sworn before me this)
 day of A. D. 18)
 J. K.

Presiding officer for polling division, for
 electoral district in County.

To the presiding officer at the polling division at
 in the electoral district for County.
 Sir;

Notice to pre-
 siding officer.

I hereby require you record my vote for

A. B.

SCHEDULE

Of Special Vote of elector claiming to vote as a freeholder or
 leaseholder, or partly freeholder and partly leaseholder, for
 the election of any member to serve in the Legislative Coun-
 cil of this Island, for the town, common and royalty of
 Charlottetown.

Schedule.

I A. B., of in County, in Prince Ed-
 ward Island, do swear that I am, by law qualified to vote at
 this election for the town, common and royalty of Charlotte-

Form of sche-
 dule of special

voter for Legislative Council for Charlotte-town, its common and royalty. town in right of (here describe the property,) situate in of the said town ; that the said property has been *bona fide* owned and possessed by me, for the period of twelve months, from the day of now last past, (here insert the day of the teste of the writ of election ;) that I have not polled or given a vote at this election, either in this polling division, or any other polling division, for any candidate for the said town and royalty.

A. B.

Sworn before me this day of }
A. D., 18

I. K.,
Presiding officer for town and Royalty.

Notice to presiding officer. To the presiding officer at the polling division in electoral district in County :

Sir ;

I hereby require you to record my vote for

A. B.

SCHEDULE

Schedule.

Of special vote of elector claiming to vote as a freeholder or leaseholder, or partly freeholder or partly leaseholder, for the election of any member or members to serve in the Legislative Council of this Island, for any electoral district wherein such property is situated.

Form of schedule of a special voter for any Legislative Council district wherein his property is situate

I, A. B., of in County, in Prince Edward Island, do swear that I am by law, qualified to vote at this election, for the electoral district of County, in right of and as owner of a freehold estate (or a leasehold estate, or of a freehold and leasehold estate, as the case may be,) consisting of acres, situate at on township number (here describe situation,) and of the value of one hundred pounds ; that the said property (or properties as the case may be, has (or have) been owned by me for the space of twelve calendar months, from the day of now last past, (here insert the day of

the teste of the writ of election,) and that I have not polled or given a vote at this election, either in this polling division or any other polling division, for any candidate for the said electoral district.

A. B.

Sworn before me this day }
of A. D., 18 }

I. K.,
Presiding officer for polling division
in electoral district in County.

To the presiding officer at the polling division at
the electoral district for County :

in Notice to pre-
siding officer.

Sir ;

I hereby require you to record my vote for

A. B.

C A P. X I.

An Act to amend the Act intituled " An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned."

5 W.4, cap. 10.

[Passed May 11, 1866.]

WHEREAS the Act of the General Assembly of the said Island, passed in the fifth year of the reign of his late Majesty, King William the Fourth, intituled " An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned," contains no provision compelling the sheriffs of the several counties to serve any citations, writs or orders, or to execute any process of contempt, in case they should decline or refuse, when ordered or directed by the said Court so to do : and whereas it is expedient that the sheriffs of the several counties should execute the process of the said Court, when required so to do : Be it therefore enacted, by the Lieutenant Governor, Council and Assembly :

Preamble.

I. That it shall be the duty of the sheriffs in the several counties, to serve any citations, writs, orders or decrees, and to execute any process of contempt, or any other process of the said court, within their respective counties, that may be sent to them for that purpose.

Sheriff to execute writs, &c. of Divorce Court.

Sheriffs, &c., to aid and obey the Court of Divorce.

II. All sheriffs, deputy sheriffs, jailors, constables, and other officers shall be aiding, assisting and obeying the said Court, in the exercise of its jurisdiction, whenever required so to do.

Queen's County Jail to be the prison of said Court.

III. The common jail of the County of Queen's shall be the prison of the said Court: provided always, that in case it shall be expedient, and it shall seem to the said Court that the ends of justice require it, any prisoner of the Court may be committed to the common jail of any County within which he may reside, in case the Court or the Lieutenant Governor shall so order or direct.

Proviso.

CAP. XII.

An Act to amend the Act to amend the Law of Real Property.

[Passed May 11, 1866.]

Preamble.

28 Vic. cap. 14.

WHEREAS it is deemed expedient to amend the Act passed in the twenty-eighth year of the reign of her present Majesty Queen Victoria, chapter fourteen, intituled "An Act to amend the Law of Real Property," by giving the first section thereof a retrospective effect. Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

Corporeal tenements, &c., to be deemed to have lien in grant.

I. That all corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, before the passing of the said recited Act, be deemed to have lien in grant, as well as in livery.


This Act to be deemed part of 28 Vic. cap. 14.

II. This Act shall be taken to be and shall be read as part of the said recited Act, except and in so far as the same may relate to any suit now pending in any Court of law or equity within this Island.

CAP. XIII.

An Act to continue the Act to prevent the running at large of Hogs within the town, common and royalty of Charlottetown, in so far as relates to the said royalty.

[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XIV.

An Act to authorise the Commissioner of Highways for district number four, in Queen's County, to place a gate at the northern extremity of certain roads therein mentioned.

[Passed May 11, 1866.]

~~is~~ This Act has been printed in the second volume of Private and Local Acts.

CAP. XV.

An Act to authorise the establishment of an additional Small Debt Court in Prince County.

See, also, 30 Vic. cap. 4, and 27 Vic. cap. 16.

[Passed May 11, 1866 |

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. After the passing of this Act, it shall be lawful for the Lieutenant Governor in Council to constitute and appoint an additional Small Debt Court in Township number Eight, in Prince County, and to declare the precise locality in which the same shall be holden, and the day of each month on which the same shall hold its sittings, and to appoint to such Court three Judges or Commissioners to adjudicate in such Court, which Court shall have jurisdiction only within Prince County, except as in the cases mentioned in the first hereinafter recited Act.

A Small Debt Court to be appointed for township 8.

II. The Court to be appointed or constituted by virtue of this Act, shall exercise and have the same jurisdiction and powers in all respects as the Courts already established, and having jurisdiction under and by virtue of the Act of the twenty-third year of the reign of her present Majesty, chapter sixteen, intituled "An Act relating to the recovery of Small Debts, and to repeal certain Acts therein mentioned," and of all Acts in amendment thereof, as fully, to all intents and purposes, as if the same had been established under the said recited Act, or other Act in amendment thereof.

Jurisdiction and powers of such court.

23 Vic. cap. 16.

CAP. XVI.

28 Vic. cap. 13. An Act to amend an Act to repeal the Act relating to the Oyster Fisheries in this Island, and to make other provisions in lieu thereof.

[Passed May 11, 1866.]

Preamble. **WHEREAS** it is deemed expedient to amend the Act passed in the twenty-eighth year of the reign of her present Majesty Queen Victoria, chapter thirteen, intituled "An Act to repeal the Act relating to the Oyster Fisheries in this Island, and to make other provisions in lieu thereof." Be it enacted by the Lieutenant Governor, Council and Assembly:

I. That nothing in the said recited Act contained shall prejudice the right of any person to take from any river, whether within the boundaries of any oyster fishery, which, under the said recited Act shall have been, or may be created or granted, or otherwise, any mud, mussels, or mud mixed with shells of any description, *bona fide* intended for the purpose of manure, to be used within this Island, or to dredge, scour, cleanse, or improve any navigable river or rivers, within this Island, although some of the oysters or oyster brood should be thereby unavoidably taken, removed or disturbed.

The right to take mud, &c., from any river not to be prejudiced by anything contained in the Act 28th Vic. cap. 13.

II. The Lieutenant Governor in Council shall, in all cases, have the power and is hereby required, on application of the present grantee or grantees, within six months after the passing of this Act, to cancel or revoke any grant or grants which may have been issued under the provisions of the said recited Act, by paying compensation to the person or persons whose grant or grants shall be so cancelled or revoked—such compensation to be fixed by three Commissioners, to be appointed by the Lieutenant governor in Council, for the purpose of estimating and fixing the damage which the grantee or grantees, in such case, shall have suffered.

Note and time of cancelling oyster fishery grants.

Compensation to grantees.

III. Provided always, that every such grantee who may feel aggrieved by the decision or award of the Commissioners to be appointed in manner and for the purpose aforesaid, shall and may appeal therefrom to the Supreme Court of Judicature, in manner prescribed by law for appeals in matters of Small Debts (the notice of appeal in every such case, to be served on the Attorney General, or, in his absence, on

Proviso for an appeal from award of Commissioners.

the Solicitor General; and the Supreme Court, on hearing such appeal, may annul, vary, increase or limit the amount of the award to such Commissioners, as aforesaid, as to such Court shall seem just and proper; provided also, that the decision or judgment of the said supreme Court of Judicature shall not be deemed to deprive the grantee or grantees of the right which, according to the laws or regulations in force in this Colony, he or they would be entitled to, of an appeal to his Excellency the Lieutenant Governor and her Majesty's Council.

IV. The twenty-second section of the said recited Act shall be, and the same is hereby repealed.

Repeals 22d
sec. of 28 Vic.
cap. 13.

V. This Act shall be taken to be, and shall be read as part of the said recited Act.

This Act to be
deemed part of
28 Vic. cap. 13.

CAP. XVII.

An Act to continue and amend a certain Act therein mentioned. 23 Vic. cap. 6.

[Passed May 11, 1866.]

WHEREAS the Act of the twenty-third year of the reign of her present Majesty, chapter six, intituled "An Act to authorize the appointment of a harbor and ballast master for Hillsborough Bay, and that part of the port of Charlotte-town, not within the control of the City Council," will shortly expire, and it is deemed advisable to continue and amend the same. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Preamble.

I. That from and after the passing of this Act, so much of the first section of the hereinbefore recited Act as defines the amount to be paid annually to the person holding the appointment of harbor and ballast master, under the provisions of the said recited Act, shall be, and the same is hereby repealed; and, instead of the sum therein named, there shall be paid annually, out of the moneys in the public treasury, to the person holding such appointment, as aforesaid, the sum of seventeen pounds and ten shillings for his services.

Harbor & bal-
last master's
salary to be
£17 10s. an-
nually.


The Act 23d
Vic. cap. 6,
continued as
amended for
5 years.

II. The said recited Act of the twenty-third Victoria, chapter six, as amended by this Act, shall be, and the same is hereby continued for the space of five years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

C A P. X V I I I.

An Act to carry into effect certain unexecuted agreements made by the late John Hodges Winsloe, Esquire, deceased, for the sale and leasing of certain parts of his Estate in this Colony.

[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

C A P. X I X.

An Act in addition to and in further amendment of the Land Purchase Act.

[Passed May 11, 1866.]

Preamble.

WHEREAS it is deemed advisable to give the Lieutenant Governor in Council power further to increase the amount of money authorized to be loaned for the purchase of lands in and by the twelfth section of the Act passed in the sixteenth year of the reign of her present Majesty, chapter eighteen: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly:

Authorizes an additional sum of £110,000 to be loaned under the provisions of the Act 16th Vic. cap. 18.

I. That in addition to the sum or loan of thirty thousand pounds mentioned in the said twelfth section of the above recited Act, as well as in addition to the sum of ten thousand pounds directed to be loaned by the Act of the twenty-third year of the reign of her present Majesty, chapter twenty-five, it shall be lawful for the Lieutenant Governor in Council, to authorize and direct the treasurer of this Island to borrow and receive from any person or persons, bodies corporate or politic, the further sum of one hundred and ten thousand pounds of lawful money of this Island for the like purposes, and under and subject to the same rules, conditions and en-

actments as are prescribed in the said first hereinbefore recited Act of the sixteenth Victoria, chapter eighteen, and of all Acts in amendment thereof.

II. In any purchases of lands under the authority of the said first hereinbefore recited Act, and of all Acts in amendment thereof, the debentures which may be issued for raising the purchase money for the same, may for one half of the said purchase money, bear interest at the rate of six pounds, per centum, per annum, and for the other half at the rate of five pounds, per centum, per annum, as provided by the thirteenth section of the said first hereinbefore recited Act.

Rate of interest.


III. The debentures to be issued in future under the authority of the said first recited Act, and of all Acts in amendment thereof, may be for any sum not exceeding three thousand pounds, and not less than fifty pounds, anything in the nineteenth section of the said recited Act of the sixteenth Victoria, chapter eighteen, to the contrary notwithstanding.

Debentures may be issued in sums not exceeding £3000 nor less than £50.

C A P. X X.

An Act to prevent the running at large of Swine within the town and Royalty of Princetown.

[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

C A P. X X I.

An Act relating to the office of Solicitor General of this Island.

[Passed May 11, 1866.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. From and after the passing of of this Act, there shall be allowed and paid unto the Solicitor General of this Island, for the time being, as and for the salary of that office, the sum of two hundred pounds, of lawful current money of this

Salary of Solicitor General to be £200 per annum.

Island, per annum, instead of one hundred pounds as prescribed in and by the second section of the Act made and passed in the sixteenth year of the reign of her present Majesty Queen Victoria, chapter three, the same to be in lieu of all fees of office, charges, allowances and emoluments, paid or payable by the government of this Island to the Solicitor General, on account of Crown prosecutions, or for opinions, or for any other miscellaneous services performed by him for the government in his official capacity, and such salary shall be paid quarterly, as and in manner provided by the fourth section of the said recited Act.

Repeals 2d sec.
of 16 Vic. cap.
3.

II. The second section of the said recited Act of the sixteenth Victoria, chapter three, shall be, and the same is hereby repealed.

C A P. XXII.

Repealed by
31 Vic. cap. 24.

An Act further to amend the Act for the establishment of a Bank of Savings in Prince Edward Island.

[Passed May 11, 1866.]

* * * This Act and all other Acts at the time in force regulating the Bank of Savings have been repealed and consolidated by the Act 31 Victoria, chapter 24.

C A P. XXIII.

See 30 Vic.
cap. 12.

An Act to exempt property belonging to her Majesty, or to the Government of this Island, from duties or assessments.

[Passed May 11, 1866.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Exempts all
Crown or
Government
lands, &c., from
assessment or
duties, &c.

I. From and after the passing of this Act, all lands, tenements and hereditaments, goods, chattels and effects, belonging to her Majesty, her heirs or successors, or to the government of this Island, shall be exempt from all rates, duties, imposts and assessments whatsoever, whether the same be imposed on such real and personal estate, as aforesaid, by any Statute of this Island, or by any by-law of any corporate body, or otherwise, howsoever.

II. When any goods or chattels shall have been taken possession of, or distrained for non-payment of rates, duties, imposts or assessments, by any officer belonging to the customs, impost or excise office, or by any collector, bailiff or other officer in the employ of the Government, or belonging to any corporation duly empowered to levy rates or assessments, the same shall be delivered up to the person entitled to receive them, upon his making affidavit that the same are really and *bona fide* the property of Her Majesty, her heirs or successors, or the property of the Government of this Island.

Affidavit
where required
to shew pro-
perty belongs
to Crown, &c,

CAP. XXIV.

An Act to incorporate the Souris Bank.

[Passed May 11, 1866.]

* * This Act not having been acted upon within one year after the passing thereof, is deemed to have expired, and therefore has not been reprinted.

CAP. XXV.

An Act to incorporate the Western Bank.


[Passed May 11, 1866.]

* * This Act not having been acted upon within one year after the passing thereof, is deemed to have expired, and therefore has not been reprinted.

CAP. XXVI.

An Act to incorporate the Ministers and Trustees of the Presbyterian Church of Cascumpec.


[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXVII.

An Act to amend the Act relating to the Presbyterian Church at Valleyfield.


[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXVIII.

An Act to amend the Acts incorporating the Minister and Elders of St. John's Church in the district of Belfast.

[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXIX.

Amended by 30 Vic. cap. 17. An Act to consolidate and amend the laws relating to the conveyance and transfer of real and personal Property vested in mortgages and trustees.

[Passed May 11, 1866.]

Preamble.

WHEREAS it is expedient to amend the laws relating to the conveyance and transfer of real and personal estate vested in mortgages and trustees. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows :

Defines the meaning of certain words.

I. Whereas it is expedient to define the meaning in which certain words are hereinafter used, it is declared that the several words hereinafter named are herein used and applied in the manner following respectively, that is to say: The word "lands" shall extend to and include manors, messuages, tenements and hereditaments, corporeal or incorporeal, of every tenure or description, whatever may be the estate or interest therein.

Word "stock."

II. The word "stock" shall mean any fund, annuity or security, transferable in books kept by any company or society established, or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any shares or interest therein.

Word "seized."

III. The word "seized" shall be applicable to any vested estate for life, or of a greater description, and shall extend to estates at law and in equity, in possession or in futurity in any lands.

Word "possessed."

IV. The word "possessed" shall be applicable to any vested estate less than a life estate at law or in equity in possession or in expectancy in any lands.

V. The words "contingent right," as applied to lands, shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent.

Words "contingent right."

VI. The words "convey" and "conveyance" applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another, lands whereof such person is seized or entitled to a contingent right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of the Acts of the General Assembly of the said Island relating thereto, and including also surrenders and other acts which a tenant of customary or copyhold lands can himself perform preparatory to or in aid of a complete assurance of such customary or copyhold lands.

Words "convey and conveyance."

VII. The words "assign" and "assignment" shall mean the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring lands of which such person is possessed, either for the whole estate of the person so possessed, or for any less estate.

Words "assign and assignment."

VIII. The word "transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock can transfer such stock from himself to another.

Word "transfer."

IX. The word "Chancellor" shall mean as well the Chancellor of the Court of Chancery for the said Island, as the Master of the Rolls, acting in and about any manner or thing, which under the provisions of any statute either of them are required to act.

Word "chancellor."

X. The word "trust" shall not mean the duties incident to an estate conveyed by way of mortgage, but with this exception, the words "trust" and "trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of personal representative of a deceased person.

Word "trust."

- Word "lunatic." XI. The word "lunatic" shall mean any person who shall have been found to be a lunatic upon a commission of enquiry in the nature of a writ *de lunatico inquirendo*.
- Expression "person of unsound mind." XII. The expression "person of unsound mind" shall mean any person, not an infant, who, not being found to be a lunatic, shall be incapable, from infirmity of mind, to manage his own affairs.
- Word "devisee." XIII. The word "devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the lands of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent.
- Word "mortgage." XIV. The word "mortgage" shall be applicable to every estate, interest or property in lands, or personal estate, which would, in a Court of equity, be deemed merely a security for money.
- Word "person." XV. The word "person," used and referred to in the masculine gender, shall include a female as well as a male, and shall include a body corporate.
- Singular number when to include the plural, and *vice versa*. XVI. And generally, unless the contrary shall appear from the context, every word importing the singular number only shall extend to several persons or things, and every word importing the plural number shall apply to one person or thing, and every word importing the masculine gender only shall extend to a female.
- Lunatic trustee, order for conveyance of land in his name. XVII. That when any lunatic or person of unsound mind shall be seized or possessed of any lands, upon any trust, or by way of mortgage, it shall be lawful for the Chancellor to make an order that such lands be vested in such person or persons in such manner and for such estate as he shall direct, and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance or assignment of the lands in the same manner for the said estate.
- Lunatic's contingent right to lands upon trust, how released. XVIII. That when any lunatic or person of unsound mind, shall be entitled to any contingent right in any lands upon any trust, or by way of mortgage, it shall be lawful for the Chancellor to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the Chancellor shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

XIX. That when any lunatic or person of unsound mind shall be solely entitled to any stock, or to any chose in action upon any trust, or by way of mortgage, it shall be lawful for the Chancellor to make an order vesting in any person or persons the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof; and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or chose in action upon any trust or by way of mortgage, it shall be lawful for the said Chancellor to make an order vesting a right to transfer such stock, or to receive the dividend or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last mentioned person or persons, together with any other person or persons the said Chancellor may appoint.

Stock or chose in action, mortgaged to or standing in name of lunatic how ordered.

XX. That when any stock shall be standing in the name of any deceased person whose personal representative is a lunatic or person of unsound mind, or when any chose in action shall be vested in any lunatic or person of unsound mind, as the personal representative of a deceased person, it shall be lawful for the Chancellor to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or in any interest in respect thereof, in any person or persons he may appoint.

Lunatic representative of a deceased person, how stock in his name to be transferred.

XXI. That when any infant shall be seized or possessed of any lands, upon any trust or by way of mortgage, it shall be lawful for the Court of Chancery to make an order, vesting such land in such person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the infant trustee or mortgagee had been twenty-one years of age and had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Infant trustee or mortgagee. Order of chancellor to trustee lands in his name to other persons.

XXII. That when any infant shall be entitled to any contingent right in any lands, upon any trust, or by way of mortgage, it shall be lawful for the Court of Chancery to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the infant had been twenty-one years of age, and had duly executed a deed so releasing or disposing of the contingent right.

Infant trustee entitled to any contingent right in lands, or mortgage estate how to be transferred.

Trustee of lands out of jurisdiction of Court, &c., how to proceed.

XXIII. That when any person solely seized or possessed of any lands upon any trust, shall be out of the jurisdiction of the Court of Chancery, or cannot be found, it shall be lawful for the said Court to make an order vesting such lands in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

Joint tenant, of lands, &c., out of jurisdiction of Court, may make order, &c.

XXIV. That when any person or persons shall be seized or possessed of any lands, jointly with a person out of the jurisdiction of the Court of Chancery, or who cannot be found, it shall be lawful for the said Court to make an order vesting the lands in the person or persons so jointly seized or possessed, or in such last mentioned person or persons, together with any other person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Owner of contingent right, when out of jurisdiction of Court, proceedings thereupon

XXV. That when any person solely entitled to a contingent right in any lands, upon any trust, shall be out of the jurisdiction of the Court of Chancery, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance so releasing or disposing of the contingent right.

Joint trustee seized of contingent right, when out of jurisdiction, order to dispose of such right, how made.

XXVI. That when any person, jointly entitled with any other person or persons to a contingent right in any lands upon any trust, shall be out of the jurisdiction of the Court of Chancery, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last mentioned person or persons, together with any other person or persons; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

Survivor, where doubtful of joint tenants in trust.

XXVII. That where there shall have been two or more persons jointly seized or possessed of any lands upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the Court of Chancery to make

an order vesting such lands in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

XXVIII. That where any one or more person or persons shall have been seized or possessed of any lands upon any trust, and it shall not be known as to the trustee last known to have been seized or possessed, whether he be living or dead, it shall be lawful for the Court of Chancery to make an order vesting such lands in such person or persons, in such manner, and for such estate as the said Court shall direct; and the order shall have the same effect as if the last trustee had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Trustee last seized, where doubtful whether he be dead or living.

XXIX. That when any person, seized of any lands upon any trust, shall have died intestate as to such lands, without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the Court of Chancery to make an order vesting such lands in such person or persons, in such manner and for such estate, as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the lands in the same manner for the same estate.

Trustee dying intestate without an heir, &c. order to be made to vest land.

XXX. That when any lands are subject to a contingent right in an unborn person, or class of unborn persons, who, upon coming into existence, would, in respect thereof, become seized or possessed of such lands upon any trust, it shall be lawful for the Court of Chancery to make an order which shall wholly release and discharge such lands from such contingent right in such unborn persons, or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person, or class of unborn persons would, upon coming into existence, be seized or possessed in such lands.

Contingent right in persons unborn, order how made to discharge such right.

XXXIII. That when any person to whom any lands have been conveyed by way of mortgage shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last mentioned person shall consent to an order for the reconveyance of such lands, then, in any of the following cases it shall be lawful for the Court of Chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said Court

Where mortgage money has been duly paid, after death of mortgagee, Court of Chancery may make order, &c

When heir of mortgagee out of jurisdiction.

When heir or devisee of mortgagee refuses in writing to convey.

Uncertainty of survivor.

Uncertainty whether heir of mortgagee living or dead.

Death of mortgagee without heir.

Order of Court of Chancery same effect as if a conveyance had been executed.

Court of Chancery, if it be deemed more convenient, in place of making an order to convey may make an order appointing a person to convey.

Effect of conveyance so made.

shall direct, that is to say:—when an heir or devisee of such mortgagee shall be out of the jurisdiction of the Court of Chancery, or cannot be found; when an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such lands, or a duly authorised agent of such last mentioned person have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such lands shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last mentioned person; when it shall be uncertain which of several devisees of such mortgagee was the survivor; when it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee, whether he be living or dead; when such mortgagee shall have died intestate as to such lands, and without an heir, or shall have died, and it shall not be known who is his heir or devisee; and the order of the said Court of Chancery, made in any one of the foregoing cases shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

XXXIV. That in every case when the Chancellor or the Court of Chancery shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance or assignment of any lands, or having the effect of a release or disposition of the contingent right of any person or persons born or unborn, it shall also be lawful for the Chancellor or the Court of Chancery, as the case may be, should it be deemed more convenient, to make an order appointing a person to convey or assign such lands or release or dispose of such contingent right; and the conveyance or assignment, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect in conveying or assigning the lands, or releasing or disposing of the contingent right, as an order of the Chancellor or the Court of Chancery would, in the particular case, have had under the provisions of this Act; and in every case where the Chancellor or the Court of Chancery shall, under the provisions of this Act, be enabled to make an order, vesting in any person or persons the right to transfer any stock transferable in the books of any joint stock or other company or society established, or to be established; it shall also be lawful for the Chancellor, or the Court of Chancery, if it be deemed more convenient, to make an order directing any officer of such joint stock, or other company or society, at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full

and complete indemnity and discharge to the joint stock or other company, or societies, and their officers and servants, for all acts done or permitted to be done pursuant thereto.

XXXV. That when any person or persons shall be jointly entitled with any person out of the jurisdiction of the Court of Chancery, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or chose in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for or recover such chose in action, on any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last mentioned person or persons, together with any person or persons the said Court may appoint. And when any sole trustee of any stock or chose in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

Joint Trustees of stock, &c., and one out of jurisdiction of the Court, or not to be found, Court may make order, &c.

Sole trustee of stock, &c., when out of jurisdiction of Court, &c., order to be made, &c.

XXXVI. That when any sole trustee of any stock or chose in action shall neglect or refuse to transfer such stock, or to receive the dividends or income thereof, or to sue for or recover such chose in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the Court of Chancery to make an order vesting the sole right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

Sole trustee of stock, &c., who neglects or refuses to transfer, &c., Court after 28 days may make order, &c.

XXXVII. That when any one of the trustees of any stock or chose in action shall neglect or refuse to transfer such stock, or to receive the dividends or income thereof, or to sue for or recover such chose in action, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him or her by such person, it shall be lawful for the Court of Chancery to make an order vesting the right to transfer such stock, or to receive the dividends or incomes thereof, or to sue for and recover such chose in action in the other trustee or trustees of the said stock or chose in ac-

Where one of several trustees, &c., shall neglect or refuse to transfer, &c., for 28 days, Court may make order, &c.

tion, or in any person or persons whom the said Court may appoint jointly with such other trustee or trustees.

Stock standing in sole name of a deceased person whose representative out of jurisdiction of Court, &c., or neglects &c., order then to be made.

XXXVIII. That when any stock shall be standing in the sole name of a deceased person, and his or her personal representative shall be out of the jurisdiction of the Court of Chancery, or cannot be found, or it shall be uncertain whether such personal representative be living or dead, or such personal representative shall neglect or refuse to transfer such stock, or receive the dividends or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the Court of Chancery to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, in any person or persons whom the said Court may appoint.

Legal right to stock shall vest in persons appointed by Court and their requisitions then to be complied with.

XXXIX. That when any order shall have been made, under any of the provisions of this Act, vesting the right to any stock in any person or persons appointed by the Chancellor or the Court of Chancery, such legal right shall vest accordingly; and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all Acts relating to the transfer of such stock into his or their own name or names or otherwise, or relating to the receipt of the dividends thereof, to the extent and in conformity with the terms of such order; and all joint stock companies, and all companies and associations whatsoever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons, so appointed as aforesaid, to the extent and in conformity with the terms of such order as the said joint stock companies or such other companies, associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons, so appointed, as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made; and after notice in writing of any such order of the Chancellor or of the Court of Chancery, concerning any stock shall have been given, it shall not be lawful for any joint stock or other company or association whatever, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made in any matter whatever relating to the transfer of such stock or the payments of the dividends or produce thereof.

Persons complying with requisitions to be indemnified.

XL. That when any order shall have been made under the provisions of this Act, either by the Chancellor or by the Court of Chancery, vesting the legal right to sue for or recover any chose in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly, and thereupon it shall be lawful for the person or persons so appointed to carry on, commence and prosecute, in his or their own name or names, any action, suit, or other proceedings at law or in equity for the recovery of such chose in action in the same manner, in all respects, as the person in whose place an appointment shall have been made could have sued for or recovered such chose in action.

When the Court makes order, the right shall vest accordingly, and persons authorized by order may take proceedings at law or in equity.

XLI. That whensoever under any of the provisions of this Act an order shall be made either by the Chancellor or the Court of Chancery, vesting any copyhold lands in any person or persons, and such order shall be made with the consent of the lord or lady of the manor whereof such lands are holden, then the lands shall, without any surrender or admittance in respect thereof, vest accordingly; and whenever under any of the provisions of this Act, an order shall be made either by the Chancellor or the Court of Chancery appointing any person or persons to convey or assign any copyhold lands, it shall be lawful for such person or persons to do all acts and execute all instruments for the purpose of completing the assurance of such lands; and all such acts and instruments so done and executed shall have the same effect; and every lord or lady of a manor, and every other person shall, subject to the customs of the manor and the usual payments, be equally bound and compellable to make admittance to such lands, and to do all other acts for the purpose of completing the assurance thereof, as if the person in whose place an appointment shall have been made, being free from any disability, had duly done and executed such acts and instruments.

Order respecting copyhold lands.

XLII. That when any decree shall have been made by any court of equity directing the sale of any lands for the payment of the debts of a deceased person, every person seized or possessed of such lands, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed to be so seized or possessed or entitled, as the case may be, upon a trust within the meaning of this Act; and the Court of Chancery is hereby empowered to make an order wholly discharging the contingent right under the will of such deceased debtor of any unborn person.

Decree of Court of chancery where made for sale of lands for payment of debts of a deceased person.

XLIII. That when any decree shall be made by any court of equity for the specific performance of a contract concerning any lands, or for the partition or exchange of any lands, or

Where decree made for specific perform-

ance of a contract or for partition, exchange, &c.

Court may declare parties trustees within meaning of this Act, or concerning the interests of unborn persons, &c.

generally when any decree shall be made for the conveyance or assignment of any lands either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said court to declare that any of the parties to the said suit wherein such decree is made, are trustees of such land, or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person, deceased, who was, during his lifetime, a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons, who upon coming into existence, would be trustees within the meaning of this Act, and thereupon it shall be lawful for the said Chancellor, or the Court of Chancery, as the case may be, to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said Court or the said Chancellor might, under the provisions of this Act, make concerning the estates and interests of trustees, born or unborn.

Chancellor or Court may give directions as to exercise of right to stock, &c., vested by this Act

XLIV. That it shall be lawful for the Chancellor, or the Court of Chancery, to make declarations and give directions concerning the manuer in which the right to any stock or chose in action vested under the provisions of this Act, shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be capable to obey such directions and declarations by the same process as that by which other orders, under this Act, are enforced.

When Court of Chancery may appoint a new trustee or new trustees.

XLV. That whenever it shall be expedient to appoint a new trustee or new trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the Court of Chancery, it shall be lawful for the said Court of Chancery to make an order appointing a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees.

Persons so appointed to have full powers as if appointed by virtue of a decree of Court

XLVI. That the person or persons who, upon the making of such order as last aforesaid, shall be trustee or trustees, shall have all the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

The order for the appointment of a trustee may contain directions for vesting lands, &c.

XLVII. That it shall be lawful for the said Court of Chancery, upon making any order for appointing a new trustee or new trustees, either by the same or any subsequent order, to direct that any lands, subsequent to the trust, shall vest in the person or persons who, upon the appointment, shall be the trustee or trustees for such estate as the Court shall direct, and such order shall have the same effect as if the person or persons who, before such order, were the trustee or trustees (if any)

had duly executed all proper conveyances and assignments of such lands for such estate.

XLVIII. That it shall be lawful for the said Court of Chancery, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock, subject to the trust, or to receive the dividends or income thereof, or to sue for or recover any chose in action, subject to the trust or any interest in respect thereof in the person or persons who, upon the appointment, shall be the trustee or trustees.

Upon making such order, Court may vest the right to call for transfer of Stock, &c., in the trustee.

XLIX. That any such appointment by the Court, of new trustees, and any such conveyance, assignment or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have done.

Appointment of new trustees not to operate as a discharge to any former trustee, &c.,

L. That an order under any of the hereinbefore contained provisions for the appointment of a new trustee or trustees, or concerning any lands, stock, or chose in action, subject to a trust, may be made upon the application of any person beneficially interested in such lands, stock, or chose in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof, and that an order, under any of the provisions hereinbefore contained concerning any lands, stock or chose in action, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by such mortgage.

Order for the appointment of a trustee may be made by any person beneficially interested, &c.

As to lands, &c. by any person interested in equity of redemption.

LI. That when any person shall deem himself entitled to an order under any of the provisions herereinbefore contained, either from the Chancellor or from the Court of Chancery, it shall be lawful for him to exhibit, before any one of the masters of the Court of Chancery, a statement of the facts whereon such order is sought to be obtained, and adduce evidence in support thereof, and if such evidence shall be satisfactory to the said master, he shall, at the request of the person adducing such evidence, give a certificate, under his hand, of the several material facts found by him to be true, and of his opinion that such person is entitled to an order in the form set forth in such certificate.

To obtain order, statement of facts to be exhibited before master.

Who to grant a certificate.

LII. That any person, who shall have obtained such certificate, may apply, by motion to the Court of Chancery, or to the Chancellor, for an order to the effect set forth in such cer-

Certificate to entitle party

for order from Court.

ificate, or for such other order as such person may deem himself entitled to upon the facts found by the master.

Persons entitled to apply for an order as above may apply to chancellor in the first instance.

LIII. That any person or persons, entitled in manner aforesaid, to apply for an order from the said court of chancery, or from the chancellor, may, should he think fit, present a petition, in the first instance, to the court of chancery, or to the chancellor, for such order as he may deem himself entitled to, and may give evidence, by affidavit or otherwise, in support of such petition before the said court or the chancellor, and may serve such person or persons, with notice of such petition as he may deem entitled to service thereof.

On the hearing of the application, chancellor, &c., may direct a reference to a master.

LIV. That upon the hearing of any such motion or petition, it shall be lawful for the said court, or for the chancellor, should it be deemed necessary, to direct a reference to one of the masters of the said court to enquire into any facts which require such investigation; or it shall be lawful for the said court, or for the chancellor, to direct such motion or petition to stand over to enable the petitioner or petitioners to adduce evidence, or further evidence, before the said court, or before the chancellor, or to enable notice or any further notice of such motion or petition to be served upon any person or persons.

On hearing such application, Court or Chancellor may dismiss motion.

LV. That upon the hearing of any such motion or petition, whether any certificate or report from the master shall have been obtained or not, it shall be lawful for the court or the chancellor to dismiss such motion or petition, with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

When by admission or evidence adduced, &c., Court may make order.

LVI. That whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by a report of one of the masters of the court of chancery, the facts necessary for an order under this Act shall appear to such court to be sufficiently proved, it shall be lawful for the said court, either upon the hearing of the said cause, or of the petition or motion in the said cause or matter, to make such order under this Act.

Order of Court in certain cases to be conclusive evidence.

LVII. That whenever any order shall be made under this Act, either by the chancellor or by the court of chancery, for the purpose of conveying or assigning any lands, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the jurisdiction of the Court of Chancery, or cannot be found, or that it is uncertain which of several trustees, or which of seve-

ral devisees of a mortgagee, was the survivor, or whether the last trustee, or the heir or last surviving devisee of a mortgagee be living or dead, or on allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then, in any of such cases the fact that the Chancellor or Court of Chancery has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of law or equity, upon any question as to the legal validity of the order: provided always, that nothing herein contained shall prevent the Court of Chancery directing a reconveyance or reassignment of any lands conveyed or assigned by any order under this Act, or a redistribution of any contingent right conveyed or disposed of by such order, and it shall be lawful for the said Court to direct any of the parties to any suit concerning such lands, or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

Proviso as to reconveyance or re-assignment of any lands.

Authority of Court as to costs when order improperly obtained

LVIII. That it shall be lawful for the Chancellor or the Court of Chancery to exercise the power herein conferred for the purpose of vesting any lands, stock or chose in action in the trustee or trustees of any charity or society over which charity or society the said Court of Chancery would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any person contained in any deed or instrument, or by the decree of the said Court of Chancery, or by order made upon a petition to the said Court under any statute authorizing the said Court to make an order to that effect, in a summary way, upon petition.

Power of Court to extend to lands, &c., of any charity or society.

LIX. That no lands, stock, or chose in action, vested in any person upon any trust, or by way of mortgage, or any profits thereof, shall escheat or be forfeited to her Majesty, her heirs or successors, or to any corporation, lord or lady of a manor, or other person, by reason of the attainder or conviction for any offence of such trustee or mortgagee, but shall remain in such trustee or mortgagee, or survivor to his or her co-trustee, or descend or vest in his or her representative, as if no such attainder or conviction had taken place.

Attainder or conviction of any trustee, &c., not to work forfeiture, &c.

LX. That nothing contained in this Act shall prevent the escheat or forfeiture of any lands or personal estate vested in any such trustee or mortgagee, so far as relates to any beneficial interest therein, of any such trustee or mortgagee, but such lands or personal estate, so far as relates to any such beneficial interest, shall be recoverable in the same manner as if this Act had not been passed.

Forfeiture, &c. may take effect as regards any beneficial interest of trustee.

Moneys in discharge of lands &c, due to any infant or person of unsound mind, how and to whom payable.

LXI. That when any infant or person of unsound mind shall be entitled to any money payable in discharge of any lands, stock, or chose in action, conveyed, assigned, or transferred under this Act, it shall be lawful for the person by whom such money is payable, to pay the same into the colonial treasury, in such manner as shall or may be directed by the said Court of Chancery, in trust, in any cause then depending, concerning such money; or if there shall be no such cause, to the credit of such infant or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for the said Court, upon petition, in a summary way, to order any money so paid, to be invested in the public funds, and to order payment or distribution thereof, or payment of the dividends thereof, as to the said Court shall seem reasonable; and the treasurer of the said Island, or his deputy, who shall receive any such money, is hereby required to give to the person paying the same, a receipt for such money, and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received.

Defendant trustee, when not found after diligent search to serve process, Court may proceed, &c.

LXII. That when in any suit commenced, or to be commenced, in the Court of Chancery, it shall be made to appear to the Court, by affidavit, that diligent search and inquiry has been made after any person, made a defendant, who is only a trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein, against every person who shall appear to them to be only a trustee, and not otherwise concerned or interested in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the Court, and had appeared and filed his answer thereto, and had also appeared by his counsel and solicitor, at the hearing of such cause; provided always, that no such decree shall bind, affect, or in anywise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators, for, or in respect of, any estate, right or interest, which such person shall have, at the time of making such decree, for his own use and benefit, or otherwise, than as a trustee, as aforesaid.

Proviso.

In applications to master, when he may order service of such application, &c., and payment of costs of dismissal.

LXIII. That when any person shall, under the provisions of this Act, apply to one of the masters of the Court of Chancery, in the first instance, and adduce evidence for the purpose of obtaining the certificate of such master, as a foundation for an order of the said Chancellor, or the Court of Chancery, it shall be lawful for the said master to order service of such application upon any person, and to dismiss such application, and to direct that the costs of any persons,

consequent thereon, shall be paid by the person making the same; and all orders of the master, under this Act, shall be enforced by the same process as orders of the Court made in any suit against a party thereto.

LXIV. That the Chancellor and the Court of Chancery may order the costs and expenses of, and relating to, the petitions, orders, directions, conveyances, assignments, and transfers, to be made in pursuance of this Act, or any of them, to be paid and raised out of, or from the lands or personal estate, or the rents or produce thereof, in respect of which, the same respectively, shall be made, or in such manner as the said Chancellor or Court shall think proper.

Power of Court generally as to costs in proceedings under this Act.

LXV. That upon any petition being presented under this Act to the Chancellor, concerning a person of unsound mind, it shall be lawful for the said Chancellor, should he so think fit, to direct that a commission, in the nature of a writ *de lunatico inquirendo*, shall issue, concerning such person, and to postpone making an order upon such petition until a return shall have been made to such commission.

Commission *de lunatico inquirendo*, when to be directed by Chancellor.

LXVI. That upon any petition under this Act being presented to the Chancellor, or to the Court of Chancery, it shall be lawful for the said Chancellor, or the said Court of Chancery, to postpone making any order upon such petition, until the right of the petitioner or petitioners shall have been declared, in a suit duly instituted for that purpose.

The making of any order may be postponed until petitioner's right be declared by suit.

LXVII. That in citing this Act in other Acts of the General Assembly of this Island, and in legal instruments, and in legal proceedings, it shall be sufficient to use the expression "the Trustee Act, 1866."

Title of Act, how to be cited.

LXVIII. That this Act shall come into operation on the first day of June, one thousand eight hundred and sixty-six.

Commencement of Act.

LXIX. That from and after the day when this Act shall commence and take effect, all other Acts, and parts of Acts contrary to, or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.


Repeals former Acts where contrary to this.

* * Sections 31 and 32 of this Act have been repealed by 30 Vic. cap. 17.

CAP. XXX.

An Act to alter, add to, and amend the Act to incorporate the Town of Charlottetown, and the Acts in amendment thereof.


[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXI.

An Act to incorporate the Minister and Trustees of Saint Andrew's Church, Cardigan, Township number fifty-three.


[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXII.

An Act to incorporate the Minister and Trustees of Saint Andrew's Church, Brackley Point Road, township thirty-three.


[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXIII.

An Act to incorporate the Summerside Fishing Company.


[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXIV.

An Act to incorporate the Mechanics' Fishing Company of Charlottetown.

[Passed May 11, 1866.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXV.

An Act to incorporate the Charlottetown Woollen Factory Company.

[Passed May 11, 1866.]

This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXVI.

An Act to incorporate the Grand Lodge of the British Order of Good Templars of Prince Edward Island, and to provide for the incorporation of the County and Primary Lodges in connection therewith.

[Passed May 11, 1866.]

This Act has been printed in the second volume of Private and Local Acts.

CAP. XXXVII.

An Act for the regulation of Benefit Building Societies.

[Passed May 11, 1866.]

WHEREAS certain Societies, commonly called Building Societies, have been established in different parts of the United Kingdom of Great Britain, and in the Provinces of British North America, principally amongst the industrious classes, for the purpose of raising, by small periodical subscriptions, a fund to assist the members thereof in obtaining a small freehold or leasehold property; and it is expedient to afford encouragement and protection to such societies, and the property obtained therewith in this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly:

Preamble.

I. That it shall and may be lawful for any number of persons in this Island to form themselves into and establish societies for the purpose of raising, by the monthly or other subscriptions of the several members of such societies, shares not exceeding the value of one hundred and fifty pounds for each share; such subscriptions not to exceed in the whole twenty shillings per month for each share, or stock or fund, for the purpose of enabling each member thereof to receive out of the funds of such society the amount or value of his

Societies may be formed.

Value of shares &c., how raised.

Object of association.

Power to frame and amend rules, impose fines, &c.,

or her share or shares therein, to erect or purchase one or more dwelling house or dwelling houses, or other real or leasehold estate, to be secured by way of mortgage to such society until the amount or value of his or her shares shall have been fully repaid to such society, with the interest thereon, and all fines and other payments incurred in respect thereof; and to and for the several members of such society, from time to time, to assemble together and to make, ordain and constitute such wholesome and proper rules and regulations for the government and guidance of the same as to the major part of the members of such society, so assembled together, shall seem meet, so as such rules shall not be repugnant to the express provisions of this Act and to the general laws of this Island; and to impose and inflict such reasonable fines, penalties and forfeitures upon the several members of any such society who shall offend against any such rules, as the members may think fit, to be respectively paid to such uses for the benefit of such society, as such society, by such rules, shall direct; and also, from time to time, to alter and amend such rules as occasion shall require, or annul or repeal the same, and to make new rules in lieu thereof, under such restrictions as are in this Act contained: provided that no member shall receive, or be entitled to receive, from the funds of such society, any interest or dividend, by way of annual, or other periodical profit, upon any shares in such society until the amount or value of his or her share shall have been realized, except on the withdrawal of such member, according to the rules of such society then in force.

No dividend until share realized, unless on withdrawal.

The rules may prescribe forms of instruments.

II. It shall and may be lawful to and for any such society, in and by the rules thereof, to describe the form or forms of conveyance, mortgage, transfer, agreement, bond, or other instrument which may be necessary for carrying the purposes of the said society into execution, and which shall be specified and set forth in a schedule to be annexed to the rules of such society, and duly certified and deposited as hereinafter provided.

Two transcripts of rules and amended rules

III. There shall be made two transcripts, fairly written on paper or parchment, of all rules made in pursuance of this Act, signed by three members, and countersigned by the Secretary of any such society, (accompanied, in the case of an alteration or amendment of rules, with an affidavit of the Secretary or one of the officers of the said society, that the provisions of this Act have been duly complied with,) with all convenient speed after the same shall be made, altered or amended; and so, from time to time, after every making, altering or amending thereof, shall be transmitted to her Majesty's Attorney General of this Island, for the purpose of

For the Attorney General.

ascertaining whether the said rules of such society, or alteration or amendment thereof, are calculated to carry into effect the intention of the parties framing such rules, alterations or amendments, and are in conformity to law and to the provisions of this Act; and that the said Attorney General shall advise with the Secretary, if required, and shall give a certificate on each of the said transcripts, that the same are in conformity to law and to the provisions of this Act, or point out in what part or parts the said rules are repugnant thereto; and that the Attorney General, for advising as aforesaid, and perusing the rules or alterations, or amendments of the rules of each respective society, and giving such certificates as aforesaid, shall demand no further fee than the sum of one guinea, which shall be defrayed by each society respectively; and one of such transcripts, when certified by the Attorney General, shall be returned to the society, and the other of such transcripts shall be transmitted by the Attorney General to the Supreme Court of Judicature, at Charlottetown, during the term next after the time when such transcript shall have been so certified as aforesaid; and the Justices of the said Supreme Court are hereby authorized and required, upon motion of counsel, to allow and confirm the same; and such transcript shall be filed by the prothonotary of the said Court, with the records of the said Supreme Court in his custody, without fee or reward; and that all rules, alterations and amendments thereof, from the time when the same shall be certified by the Attorney General, shall be binding on the several members and officers of the said society, and all persons having interest therein.

To advise thereon and give certificate.

His fee.

How transcripts disposed of.

To be confirmed by Supreme Court and filed

Certified rules to bind society.

IV. In case the Attorney General shall refuse to certify all or any of the rules, so to be submitted for his perusal and examination, it shall then be lawful for any such society to submit the same to the said Supreme Court, together with the reasons assigned by the Attorney General, in writing, for any such rejection or disapproval of any one or more such rules; and that the said Supreme Court shall and may, if deemed fit, confirm and allow the same, notwithstanding any such rejection or disapproval by the Attorney General.

On refusing to certify, rules may be submitted by society to Supreme Court.

V. The Attorney General shall be entitled to no further fee for or in respect of any alteration or amendment of any rules upon which one fee has been already paid to the Attorney General, within the period of three years; provided also, that if any rules, alterations or amendments are sent to the Attorney General, accompanied with an affidavit of being a copy of any rules or alterations or amendments of the rules of any other society which shall have been already enrolled under the provisions of this Act, the Attorney General shall

Attorney General's further fees.

certify and return the same, as aforesaid, without being entitled to any fee for such certificate.

Rules must be entered in book to be kept by Secretary and open to members' inspection.

Nothing to prevent amendments.

But not to be in force, until, &c.

VI. No such society, as aforesaid, shall have the benefit of this Act unless all the rules for the management thereof shall be entered in a book to be kept by the Secretary of such society, and which book shall be open at all reasonable times for the inspection of the members of such society; but, nevertheless, nothing contained herein shall extend to prevent any alteration in or amendment of any such rules, so entered or transmitted and filed as aforesaid, or repealing or annulling the same, or any of them, in the whole or in part, or making any new rules for the management of such society, in such manner as by the rules of such society shall, from time to time, be provided; but such new rules, or such alterations in or amendments of former rules, or any order annulling or repealing any former rules, in the whole or in part, shall not be in force until the same respectively shall be entered in such book, as aforesaid, and certified, when necessary, by the Attorney General, and until a transcript thereof shall be transmitted to the Supreme Court, as aforesaid, and the Prothonotary shall file and certify the same as aforesaid.

And so entered and confirmed by Supreme Court, to be binding.

What copies, &c., to be evidence.

No legal process to remove rules into any Court.

VII. All rules from time to time made and in force for the management of such society as aforesaid, and duly entered in such book, as aforesaid, and confirmed by the said Supreme Court as aforesaid, shall be binding on the several members and officers of such society, and the several contributors thereto and representatives, all of whom shall be deemed and taken to have full notice thereof, by such entry and contribution as aforesaid; and the entry of such rules in such book as aforesaid, or the transcript thereof, transmitted to the said Supreme Court, and filed with the Prothonotary thereof, as aforesaid, or a true copy of such transcript examined with the original, and proved to be a true copy, shall be received as evidence of such rules respectively in all cases; and no legal process whatever shall be brought or allowed to remove any such rules into any Court of law or equity within this Island; and every copy of any such transcript, transmitted and filed as aforesaid, shall be made without fee or reward, except the actual expense of making such copy.

Confirmed rules to be altered only by special general meeting.

VIII. No rule, confirmed by the Supreme Court, as aforesaid, shall be altered, rescinded or repealed, unless at a general meeting of the members of such society, as aforesaid, convened by public notice, written or printed, signed by the Secretary or President of such society, in pursuance of a requisition for that purpose by seven or more of the members of such society; which said requisition and notice shall be

publicly read at the two usual meetings of such society, to be held next before such general meeting, for the purpose of such alteration or repeal, unless a committee of such members shall have been nominated for that purpose at a general meeting of the members of such society, convened in manner aforesaid; in which case such committee shall have the like power to make such alterations or repeal, and unless such alterations or repeal shall be made with the concurrence and approbation of three-fourths of the members of such society then and there present, or by the like proportion of such committee as aforesaid, if any shall have been nominated for that purpose.

Or specially appointed committee.

IX. The rules of every society formed under the authority of this Act, shall specify the place or places at which it is intended such society shall hold its meetings, and certain provisions with respect to the powers and duties of the members at large, and of such committees or officers as may be appointed for the management of the affairs of such society; provided always, that it shall and may be lawful for any such society to alter their place or places of meeting whenever they may consider it necessary, upon giving notice thereof in writing to the Supreme Court during the next term before or after such removal, and signed by the Secretary or other principal officer, and also by three or more of the members of the said society; and which said notice shall be filed in like manner as is hereinbefore directed concerning the said rules, or the alterations or amendments.

Rules to specify places to hold Society's meeting.

How such places to be altered.

X. That every such society shall and may, from time to time, at any of their usual meetings, or by their committee, if any such shall be appointed for that society, elect and appoint such person into the office of trustee, president, secretary, surveyor or treasurer of such society as they shall think proper, and also shall and may, from time to time, elect and appoint such other officers as shall be deemed necessary to carry into execution the purposes of such society for such space of time, and for such purposes as shall be fixed and established by the rules of such society, and from time to time to elect and appoint others in the room of those who shall vacate or die; and such trustee, treasurer, and all and every other officer or other person whatever, who shall be appointed to any office, in anywise touching or concerning the receipt, management or expenditure of any sum of money collected for the purpose of any such society, before he, she or they shall be admitted to take upon him, her or them, the execution of any such office or trust, (if required so to do by the rules of such society to which such officer shall belong), shall become bound in a bond according to the form prescribed in the schedule to this Act annexed, marked (A), with two suffi-

Society may appoint its officers.

Fill vacancies, &c.

Those officers receiving or expending its moneys, to give bond with two sureties under penalty.

To whom as obligee.

Provision in case of forfeiture.

cient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules of such society, and in all matters lawful, to pay obedience to the same in such penal sum of money as by the major part of such society at any such meeting, as aforesaid, shall be thought expedient, and to the satisfaction of such society; and that every such bond to be given by or on behalf of such trustee or treasurer, or of any other person appointed to any other office or trust, shall be given to the keeper of the rolls of the commission of the peace in the county wherein such society shall be established for the time being, without fee or reward; and in case of forfeiture it shall be lawful to sue upon such bond, in the name of such keeper of the rolls of such commission of the peace, for such county, as aforesaid, for the time being, for the use of the said society, fully indemnifying and saving harmless such keeper of the rolls, as aforesaid from all costs and charges in respect of such suit.

Society may appoint committee and delegate powers.

Powers delegated to be declared in rules.

Committee's transactions to be subject to review.

XI. Every such society shall and may, from time to time, elect and appoint any number of the members of such society to be a committee, the number thereof to be declared in the rules of every such society; and shall and may delegate to such committee all or any of the powers given by this Act to be executed, who, being so delegated, shall continue to act as such committee for and during such time as they shall be appointed, for such society for general purposes, the powers of such committee being first declared in and by the rules of such society confirmed by the Supreme Court, and filed in the manner hereinbefore directed; and all acts and orders of such committee, under the powers so delegated to them, shall have the like force and effect as the acts and orders of such society, at any general meeting thereof, could or might have had in pursuance of this Act: provided always, that the transactions of such committee shall be entered in a book belonging to such society, and shall be, from time to time, and at all times, subject and liable to the review, allowance or disallowance, or control of such society, in such manner and form as such society shall, by their general rules, confirmed by the Supreme Court and filed as aforesaid, have directed and appointed, or shall in like manner direct and appoint.

Persons receiving moneys or securities to render account on notice, and pay over moneys to trustee or treasurer.

XII. Every person who shall have or receive any part of the moneys, effects or funds of or belonging to any such society, or shall in any manner have been or shall be entrusted with the disposal, management or custody thereof, or of any securities, books, papers or property relating to the same, his or her executors, administrators and assigns, respectively, shall, upon demand made, or notice in writing given or left

at the last or usual place of residence of such persons, in pursuance of any order of such society or committee to be appointed as aforesaid, give in his or her account at the usual meeting of such society, or to such committee thereof, as aforesaid, to be examined, and allowed or disallowed, by such society or committee thereof; and shall, on the like demand or notice, pay over all the moneys remaining in his or her hands, and assign and transfer, or deliver all securities and effects, books, papers and property taken or standing in his or her name as aforesaid, and being in his or her hands or custody, to the trustee or treasurer for the time being, or to such other person as such society or committee thereof shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to assign, transfer or deliver such securities and effects, books, papers and property in manner aforesaid, it shall and may be lawful to and for every such society, in the name of the trustee or treasurer or other principal officer thereof, as the case may be, to exhibit a petition to the said Supreme Court, who shall and may proceed thereon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion, shall seem just, which order shall be final and conclusive, and all assignments, sales and transfers made in pursuance of such order, shall be good and effectual in law, to all intents and purposes whatsoever.

On default, society may petition Supreme Court which will proceed in summary way and make final order.

XIII. When and so often as any person seized or possessed of any lands, tenements or hereditaments, or other property, or any estate or interest therein, as a trustee of any such society, shall be out of the jurisdiction of or not amenable to the process of any of the Courts of law and equity of this Island, or shall be idiot, lunatic, or of unsound mind, or it shall be unknown or uncertain whether he or she be living or dead, or such person shall refuse to convey or otherwise assure such lands, tenements, hereditaments or property, or estate or interest to the person duly nominated as trustee of such society in their stead, either alone or together, with any continuing trustee, as occasion shall require, then, and in every or any such case, it shall be lawful for the Judges of the said Supreme Court to appoint such person as to such Court shall seem meet, on behalf and in the name of the person seized or possessed as aforesaid, to convey, surrender, release, assign, or otherwise assure the said lands, tenements, hereditaments or property, or estate or interest to such trustee so duly nominated as aforesaid; and every such conveyance, release, surrender, assignment or assurance shall be as valid and effectual to all intents and purposes as if the person being out of the jurisdiction, or not amenable to the process of the said Court, or not known to be alive, or having refused,

Supreme Court may appoint person to convey society's property in place of trustee out of jurisdiction, &c.

Judges of Supreme Court to appoint persons, &c.

or as if the person being idiot, lunatic, or of unsound mind, had been, at the time of the execution thereof, of sane mind, memory and understanding, and had, by himself or herself executed the same.

No fee to officers of the Court.

Court to assign counsel.

XIV. No fee, reward, emolument or gratuity whatsoever shall be demanded, taken or received by any officer of such Court, for any matter or thing done in such Court in pursuance of this Act; and that, upon the presenting of any such petition, it shall be lawful for the Judges of the said Court to assign Counsel learned in the law on behalf of such society, who are hereby respectively required to do their duties therein without fee or reward.

Society's claims in respect of moneys &c., in possession of officer, by virtue of his office who shall die or become insolvent &c., to have priority.

XV. If any person who may hereafter be appointed to any office in any such society, and being instructed with the keeping of the accounts, or having in his hands or possession, by virtue of his said office or employment, any moneys or effects belonging to such society, or any deeds or securities relating to the same, shall die, or become bankrupt or insolvent, or have any execution or attachment, or other process, issued against his lands, goods, chattels or effects, or property or estate, heritable or moveable, or make any disposition, assignment, or other conveyance thereof, for the benefit of his creditors, his heirs, executors, administrators, or assigns, or other person having legal right, or the Sheriff or other officer executing such process, shall within forty days after demand made in writing by the order of any such society or committee thereof, or the major part of them assembled at any meeting thereof, deliver and pay over all moneys and other things belonging to such society to such person as such society or committee shall appoint, and shall pay out of the estate, assets or effects, heritable or moveable of such persons, all sums of money remaining due which such person received by virtue of his said office or employment before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid, or which may be recovered or recoverable under the same, is paid over to the party issuing such process; and all such assets, lands, goods, chattels, property, estates and effects shall be bound to the payment and discharge thereof accordingly.

Property to vest in trustee or treasurer, and on death or removal, in succeeding one

XVI. All real and heritable property, moneys, goods, chattels and effects, whatever, and all titles, securities for money, or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to or had by such society, shall be vested in the trustees or treasurer of such society for the time being, for the use and benefit of such society and the respective

members thereof, their respective executors or administrators, according to their respective claims and interest; and after the death or removal of any trustee or treasurer, shall vest in the succeeding trustee or treasurer for the same estate or interest as the former trustee or treasurer had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall, for all purposes of action or suit, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding, (when necessary), be stated to be, the property of the person appointed to the office of trustee or treasurer of such society for the time being, in his or her proper name, without further description; and such person shall, and he or she is hereby respectively authorized to bring or defend, or cause to be brought or defended, any action, suit or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by such society, provided that such person shall have been thereunto duly authorized by the consent of the majority of members present at any meeting of the society or committee thereof; and such person so appointed, shall and may, in all cases concerning the property, right or claim aforesaid, of such society, sue and be sued, plead and be impleaded, in his or her proper name, as trustee or treasurer of such society, without other description; and no such suit, action or prosecution shall be discontinued or abate by the death of such person, or his or her removal from the office of trustee or treasurer, but the same shall and may be proceeded in by the succeeding trustee or treasurer in the proper name of the person commencing the same, any law, usage or custom to the contrary notwithstanding; and such succeeding trustee or treasurer shall pay or receive like costs as if the action or suit had been commenced in his or her name for the benefit of, or to be reimbursed from the funds of such society.

without assignment, and in all proceedings to be stated as their property, &c.

Succeeding officer's costs.

XVII. The trustee or treasurer, or any officer of any society established under the authority of this Act, shall not be liable to make good any deficiency which may arise in the funds of such society, unless such persons shall have respectively declared, by writing, under their hands, transmitted and registered in like manner with the rules of such society, that they are willing so to be answerable; and it shall be lawful for each of such persons, or for such persons collectively, to limit his, her or their responsibility to such a sum as shall be specified in any such instrument or writing; provided always, that the said trustee and trustees or treasurer, and every the officer of any such society, shall be and they are hereby declared to be, personally responsible and

Trustee or treasurer not to be liable for deficiency of funds unless by declared consent.

May limit responsibility to a definite sum.

Liable for moneys actually received.

liable for all moneys actually received by him, her or them on account of, or to or for the use of the said society.

Provision for security of trustees on payment of money to the apparent representatives of member dying intestate,

XVIII. Whensoever the trustees of any society established under this Act, at any time after the decease of any member, have paid and divided any sum of money to or amongst any person or persons who shall at the time of such payment appear to such trustees to be entitled to the effects of any deceased intestate member, the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate member against the funds of such society, or against the trustees thereof; but, nevertheless, such next of kin or representative, shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.

Member dying entitled to a sum not exceeding £20, and Trustee or Treasurer satisfied of intestacy, and that administration will not be taken out, have to pay the same.

XIX. In case any member of any society shall die, who shall be entitled to any sum not exceeding twenty pounds, it shall be lawful for the trustees or treasurer of such society, and they are hereby authorized and permitted, if such trustees or treasurer shall be satisfied that no will was made and left by such deceased member, and that no letters of administration will be taken out of the funds, goods and chattels of such depositor, to pay the same at any time after the decease of such member, according to the rules and regulations of the said society; and in the event of their being no rules and regulations made in that behalf, then the said trustees or treasurer are hereby authorized and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate, and that without administration.

Officers or members, &c., fraudulently obtaining Society's moneys and no special provision in the rules, proceedings before Justices of the Peace.

XX. For the more effectually preventing fraud and imposition in the funds of such societies, if any officer, member or any other person, being or representing himself or herself to be a member of such society, or the nominee, executor, administrator or assignee of any member of such society, or any other person whatever, shall, in or by any false representation or imposition, fraudulently obtain possession of the moneys of such society, or any part thereof, or having in his or her possession any sum of money belonging to such society, shall fraudulently withhold the same, and for which offence no especial provision is made in the rules of such society, it shall be lawful for any one Justice of the Peace residing within the County within which such society shall be held, upon complaint made on oath by an officer of such society, to summon such person against whom such complaint shall be made to appear at a time and place to be named in such summons; and upon his or her appearance,

or in default thereof, upon due proof upon oath of the service of such summons, it shall and may be lawful for any two Justices, residing within the County aforesaid, to hear and determine the said complaint according to the rules of the said society, confirmed as directed by this Act; and upon due proof of such fraud, the said Justices shall convict the said party, and award double the amount of the money, so fraudulently obtained or withheld; to be paid to the treasurer, to be applied by him to the purposes of the society so proved to have been imposed upon and defrauded, together with such costs as shall be awarded by the said Justices, not exceeding the sum of ten shillings; and in case such persons against whom such complaint shall be made, shall not pay the sum of money so awarded to the person and at the time specified in the said order, such justices are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress and sale of goods of such person on whom such order shall have been made, or by other legal proceeding, together with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings; and also the costs and charges attending such distress and sale, or other legal proceeding, returning the overplus (if any) to the owner; and in default of such distress being found, the said Justices of the Peace shall commit such person, so proved to have offended, to the County jail, there to be kept to hard labour for such a period not exceeding three calendar months, as to them shall see fit; provided, nevertheless, that nothing herein contained shall prevent the said society from proceeding, by indictment or complaint, against the party complained of; and provided also that no party shall be proceeded against, by indictment or complaint, if a previous conviction has been obtained for the same offence under the provisions of this Act.

On conviction, double the amount to be awarded and paid to the Treasurer.

Proceedings in case of non-payment on default of distress found, committed to jail and hard labor.

XXI. Provision shall be made by one or more of the rules of every such society, to be confirmed as required by this Act, specifying whether a reference of every matter in dispute between any such society or any person acting under them, and any individual member thereof or persons claiming an account of any member, shall be made to such of Her Majesty's Justices of the Peace as may act in and for the County in which such society may be formed; or to arbitrators to be appointed in manner hereinafter directed; and if the matter so in dispute shall be referred to arbitration, certain arbitrators shall be named and elected at the first meeting of such society or committee thereof that shall be held after the enrolment of its rules, none of the said arbitrators being beneficially interested, directly or indirectly, in the funds of the said society, of whom a certain number, not less than three, shall be chosen by ballot; in each such case of dispute, the number of the said arbi-

Rules to declare whether disputes shall be referred to Justices or to Arbitrators.

How arbitrators to be appointed.

trators, and mode of ballot, being determined by the rules of each Society respectively; the names of such arbitrators shall be duly entered in the book of the said society in which the rules are entered as aforesaid, and in case of the death, or refusal or neglect of any or all of the said arbitrators to act, it shall and may be lawful to and for the said society, or committee thereof, and they are hereby required, at their next meeting, to name and elect one or more arbitrator or arbitrators, as aforesaid, to act in the place of the said arbitrator or arbitrators so dying, or refusing or neglecting to act as aforesaid; and whatever award shall be made by the said arbitrators, or the major part of them, according to the true purport and meaning of the rules of such society confirmed by the Supreme Court according to the directions of this Act, shall be in the form of this Act annexed, and shall be binding and conclusive on all parties, and shall be final to all intents and purposes without appeal or being subject to the control of one or more Justices of the Peace, and shall not be removed or removable into any Court of law, or restrained or restrainable by the injunction of any Court of equity; and should either of the said parties in dispute refuse or neglect to comply with or conform to the decision of the said arbitrators, or the major part of them, it shall and may be lawful for any one Justice of the Peace residing within the County within which such society shall be held, upon good and sufficient proof being adduced before him of such award having been made, and of the refusal of the party to comply therewith, upon complaint made by or on behalf of the party aggrieved, to summon the person against whom such complaint shall be made, to appear at a time and place to be named in such summons; and upon his or her appearance, or in default thereof, upon due proof upon oath of the service of such summons, any two Justices of the Peace may proceed to make such order thereupon as to them may seem just; and if the sum of money so awarded, together with a sum for costs not exceeding the sum of ten shillings, as to such Justices shall seem meet, shall not be immediately paid, then such Justices shall, by warrant under their hands and seals cause such sum and costs, as aforesaid to be levied by distress or by distresses and sale of the moneys, goods, chattels, securities and effects belonging to the said party, or to the said society, or other legal proceeding, together with all future costs and charges attending such distress and sale, or other legal proceeding, returning the overplus (if any) to the said party or to the said society, or to one of the trustees or treasurer thereof; and in default of such distress being found, or such other legal proceedings being ineffectual, then to be levied by distress and sale of the proper goods of the said party, or of the said society, so neglecting or refusing as aforesaid by other legal proceedings, together with such further costs and charges as aforesaid, re-

In case of death, &c.

Form of award.

Which shall be final.

On refusal to perform, reference to Justices.

Course of proceeding.

Justices will cause sum to be levied by distress.

turning the overplus (if any) to the owner; provided always that when the rules of any society provide for a reference to arbitrators of any matter in dispute, and it shall appear to any Justice of the Peace; on the complaint on oath of a member of any such society, or of any person claiming on account of such member, that application has been made to such society, or the trustees or treasurer, or other officer thereof, for the purpose of having any dispute so settled by arbitration, and that such application has not, within forty days, been complied with, or that the arbitrators have neglected or refused to make any award, it shall and may be lawful for such Justices to summons the trustee, treasurer or other officer of the society, or any one of them against whom the complaint is made, and for any two Justices to hear and determine the matter in dispute in the same manner as if the rules of the said society had directed that any matter in dispute, as aforesaid should be decided by Justices of the Peace, anything herein contained to the contrary notwithstanding.

How arbitration provision to be enforced against society

XXII. If by the rules of any such society, it is directed that any matter in dispute, as aforesaid, shall be decided by Justices of the Peace, it shall and may be lawful for any such Justice, on complaint being made to him of any refusal or neglect to comply with the rules of such society by any member or officer thereto, summon the person against whom such complaint shall be made, to appear at a time and place to be named in such summons, and upon his or her appearance, or in default thereof, upon due proof on oath of the service of such summons, it shall and may be lawful for any two Justices to proceed to hear and determine the said complaint according to the rules of the said society; and in case the said Justices shall adjudge any sum of money to be paid by such person against whom such complaint shall be made, and if such person shall not pay such sum of money to the person, and at the time specified by such Justices, they shall proceed to enforce their award in the manner hereinbefore directed, to be used in case of any neglect to comply with the decision of the arbitrators appointed under the authority of this Act.

If rules direct reference of disputes to Justices, course of proceedings to be followed.

XXIII. A minor may become a member of any such society, and shall be empowered to execute all instruments, give all necessary acquittances, and enjoy all the privileges and be liable to all the responsibilities appertaining to members of matured age, notwithstanding his or her incapacity or disability in law to act for himself or herself; provided always that such minor be admitted into such society by and with the consent of his or her parents, masters or guardians.

Minors may become members, with consent of parents, &c.

XXIV. It shall and may be lawful to and for any such society to have and receive, from any member or members thereof,

Society may receive bonus

for shares advanced and interest,

any sum or sums, by way of bonus, on any share or shares for the privilege of receiving the same in advance prior to the same being realized, and also any interest for the share or shares so received on any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any of the Act or Acts of the General Assembly of this Island.

Rules to provide for yearly general statements of account.

XXV. The rules of every such society shall provide that the trustees, treasurer or other principal officer thereof, shall once in every year, at least, prepare, or cause to be prepared, a general statement of the funds and effects of or belonging to such society, specifying in whose custody or possession the said funds or effects shall be then remaining, together with an account of all and every the various sums of money received and expended by or on account of the said society since the publication of the preceding periodical statement, shall be attested by two or more members of such society appointed auditors for that purpose, and shall be countersigned by the secretary of such society; and every member shall be entitled to receive from the said society a copy of such periodical statement on payment of such sum as the rules of such society may require, not exceeding the sum of six pence.

Members to have copies.

Members admissible as witnesses in legal proceedings notwithstanding interest.

XXVI. On the trial of any action, indictment or other proceeding, respecting the property of any society enrolled under the authority of this Act, or in proceedings before any Justice of the Peace, any member of such society shall be a competent witness, and shall not be objected to on account of any interests he may have as such member in the result of such action, indictment or other proceeding.

Persons aggrieved by order of Justices may appeal to Supreme Court.

Course of proceedings.

Act of 19 Vic. cap. 29.

XXVII. If any person shall consider himself or herself aggrieved by any sentence, order and adjudication made or given by any such Justices under this Act, it shall and may be lawful for such person to appeal to the next sitting of the Supreme Court of Judicature to be holden in the County in which such Justice or Justices shall have jurisdiction; provided always, that such appeal shall be appealed for, and everything relating thereto shall be had and done in like manner as is appointed for appeals from the judgments of Justices of the Peace, under the provisions of the Act of the Assembly of this Island; passed in the nineteenth year of the reign of Her present Majesty Queen Victoria, Chapter twenty-nine, intituled "An Act to facilitate the performances of the duties of Justices of the Peace with respect to summary convictions and orders;" and in every such appeal the Justices of the said Supreme Court are required to affirm, quash or otherwise vary such sentence, order or adjudication as may seem to them meet, and

to enforce judgment in manner and form prescribed by the Act of the twenty-third year of the reign of her present Majesty Queen Victoria, chapter sixteen, intituled "An Act relating to the recovery of Small Debts, and to repeal certain Acts therein mentioned," or by any other Act for the recovery of small debts then in force.

XXVIII. All Building Societies hereafter to be established shall be entitled to the protection and benefit of this Act; but no such society shall be entitled thereto until their rules shall have been certified and deposited in the manner hereinbefore directed by this Act.

Future Building Societies to have benefit of Act, on rules being certified, &c.

XXIX. Every person or persons who shall execute a mortgage, or further charge to the trustees of such society, shall also execute, under his or their hands and seals, a memorial thereof, which memorial shall specify the nature of the instrument, the names and additions of the parties thereto, the day and year when the same bear date, the description of the messuages, lands, tenements, hereditaments and premises comprised in and effected by such mortgage or further charge, the amount of money secured thereby, the amount of and the date when the last instalment is due and payable, whether such instrument contain a power of sale, and when such power of sale may be exercised, and which said memorial shall be in the form prescribed in the schedule to this Act annexed marked (B), or as near thereto as circumstances permit, and which said memorial shall be witnessed by one or more witnesses; provided always, that it shall not in any case be necessary for the wife of any mortgagee, who may have executed any such mortgage or further charge, to execute or join in such memorial.

Memorials of mortgagees (form schedule B) to be executed by mortgagors.

Reference to schedule (B.)

XXX. The memorial of such mortgage may be registered in the office of the Registrar of Deeds, at Charlottetown, upon the oath of the subscribing witness, or the acknowledgment of the parties who have executed the same; and the registrar shall thereupon, and upon the back of each memorial, certify the proof or acknowledgment thereof in the form prescribed in the schedule to this Act annexed, marked (C); provided always, that no memorial be registered by the Registrar of Deeds, as aforesaid, unless the mortgage or further charge referred to in the said memorial, be produced to the said Registrar of deeds, which said mortgage shall be endorsed across the face thereof by the said registrar, in the form of the schedule to this Act annexed, marked (D), and shall be delivered to the party producing the same; and such mortgage or further charge, of which a memorial shall have been so registered, shall in all respects be held to come within the

May be registered.

Mortgage deed being produced to and endorsed by registrar.

Have benefit of Registry Acts.

provisions of the Act of the General Assembly, passed in the third year of his late Majesty King William the Fourth, chapter ten, intituled "An Act to regulate the registry of deeds and instruments relating to the title of land," and all other acts relating thereto or affecting the same, as though such mortgage, or further charge, had been duly entered and recorded under the provisions of the said last mentioned Act or Acts; and the registrar of deeds shall take and receive for the recording of such memorial and such certificates as aforesaid, the sum of one shilling.

Society not authorized to invest in Savings Bank.

XXXI. Nothing herein contained shall authorize any Building Society, established under this Act, to invest its funds, or any part thereof in any Savings' Bank.

Interpretation clause.

XXXII. Whenever in this Act, in describing or referring to any person, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties, as well as one person or party, and females as well as males; and the words mortgage and further charge, shall be held to apply to any instrument taken to secure the payment of any sum to such society, unless in all such cases there be something in the subject or context repugnant to such construction.

Letters post free within this Island.

Provisions.

XXXIII. The officers of any such society shall and may receive and send by the general post from and to places within this Island, all letters and packets, having relation to the business of such society, free from the duty of postage, provided that such letters and packets as shall be sent to such officers, be directed to them as such, specifying the office held by such officer, on the covers thereof; and all such letters and packets as shall be sent by any of the officers, having relation to the business of such society, shall have written or printed on the covers thereof the name of the office held by such officer sending the same, and shall be signed on the outside thereof with the name of such officer (such name to be from time to time transmitted to the General Post Office at Charlottetown); and such officers are hereby strictly forbidden to subscribe or permit their names to be subscribed to any cover or packet except such as shall have relation to such business; and if such officer shall knowingly cause or permit to be sent under any such cover any letter, paper or writing, or any enclosure having no relation to any such business connected with such society, the officer so offending shall forfeit and pay a sum not exceeding the sum of one hundred pounds, which may be sued for and recovered in her Majesty's Supreme Court of Judicature, at Charlottetown, and which

Names to be transmitted to the General Post Office.

Penalties for evasions.

shall be forfeited to her Majesty, her heirs and successors; and if any letter, paper or writing, or other enclosure, shall be sent under cover to any of the said officers of such society, the same having no relation to the business of such society, such officer so receiving the same is hereby strictly required to transmit the same forthwith to the Postmaster General, with the covers under which the same shall be sent, in order that the contents thereof may be charged with the full rates of postage.

XXXIV. It shall be lawful for any witness to swear to the execution of any mortgage or further charge, or memorial, or for any mortgagee to acknowledge the execution of any mortgage, further charge, or memorial, before any Commissioner appointed for the purpose of taking acknowledgments of deeds; and the registrar of deeds is hereby required to register such memorial, and to endorse such certificate upon every mortgage or further charge so sworn to or acknowledged before any such commissioner.

Proof of mortgages and memorials.

Duty of registrar thereon.

FORM OF AWARD.

We the major part of the arbitrators, duly appointed by the society established at in the County of do hereby award and order that *A. B.*, (specifying by name the party or the officer of the society), do on the day of pay to *C. D.* the sum of ; or we do hereby reinstate in or expel *A. B.* from said society (as the case may be.)

Award.

Dated this day of one thousand eight hundred and

E. F.
G. H.

SCHEDULE (A).

Schedule (A.)

Know all men by these presents, that we *A. B.* of treasurer (or trustee) of the society established at in the county of and *C. D.* of and *G. H.* of (as sureties on behalf of the said *A. B.*) are jointly and severally bound to *J. K.*, the present keeper of the rolls of the Commission of the Peace for County of in the sum of to be paid to the said *J. K.*, as such keeper of the rolls, or his successor, keeper of the rolls of the said county for the time being, or his certain attorney, for which payment, well and truly to be made, we jointly and severally bind ourselves, and each of us by himself, our and each of our heirs, executors and adminis-

Form of trustee or treasurer's bond with sureties, for due execution of office, duly accounting, &c.

trators, firmly by these presents, sealed with our seals, dated the day of in the year of our Lord

Whereas the above bounden *A. B.* hath been duly appointed treasurer (or trustee) of the society established as aforesaid, and he, together with the above bounden *C. D.* and *G. H.*, as his sureties, have entered into the above written bond, subject to the condition herein after contained; now, therefore, the condition of the above written bond is such that if the said *A. B.* shall and do justly and faithfully execute his office of treasurer (or trustee) of the said society established as aforesaid, and shall and do render a just and true account of all moneys received and paid by him, and shall and do pay over all the moneys remaining in his hands, and assign and transfer or deliver all securities and effects, books, papers and property, of or belonging to the said society in his hands or custody, to such person or persons as the said society shall appoint, according to the rules of the said society, together with the proper or legal receipts or vouchers for such payments, and likewise shall and do in all respects well and truly and faithfully perform and fulfil his office of treasurer (or trustee, &c.) to the said society according to the rules thereof, then the above written bond shall be void and of no effect, otherwise shall be and remain in full force and virtue.

Signed, sealed and delivered in the presence of

A. B. [L. s.]
C. D. [L. s.]
G. H. [L. s.]

SCHEDULE (B.)

Schedule (B.)

Form of memorial of mortgage.

Memorial to be registered pursuant to the statute, of a deed of mortgage (or further charge) between *A. B.* and *C. D.*, his wife, of the one part, and *E. F.*, *G. H.* and *J. K.*, trustees of the Benefit Building Society (designating the name of the society), bearing date the day of one thousand eight hundred and by which the said mortgagee thereby conveyed all his right and title (or assigned all his leasehold interest, or further charge, all his right and title) in and to all that tract, piece and parcel of land, situate to secure the payment of the sum of pounds, the last instalment of which is pounds, and will be due on the day of one thousand eight hundred and and which said mortgage (or further charge) contains a power of sale which may be exercised months after default of any of the conditions in the said mortgage by the mortgagee.

SCHEDULE (C.)

Schedule (C.)

I hereby certify that the within memorial was duly registered on _____ day of _____ in the year of our Lord one thousand eight hundred and _____ at the hour of _____ of the clock, upon the oath of _____ (or upon the acknowledgment of the within named _____)

H. Y., Registrar.

Certificate of registration of memorial.

SCHEDULE (D.)

Schedule (D.)

I hereby certify that this mortgage was duly proved pursuant to the provisions of the "Benefit Building Society Act," on _____ day of _____ in the year of our Lord one thousand eight hundred and _____ at the hour of _____ of the clock, upon the oath of _____ (or upon the acknowledgment of the within named _____)

H. Y., Registrar.

Registrar's certificate of proof of mortgage.

CAP. XXXVIII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and sixty-six. Executed.

[Passed May 11, 1866.]

ANNO TRICESIMO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown, the eighteenth day of April, *Anno Domini*, 1867, in the thirtieth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith :

GEO. DUNDAS,
Lt. Governor.

D. MONTGOMERY,
President
of Legislative
Council.

Being the first session of the twenty-third General Assembly convened in the said Island.

J. WIGHTMAN,
Speaker.

CAP. I.

An Act for raising a Revenue.

Expired.

[Passed April 29, 1867.]

CAP. II.

An Act to alter a certain Act therein mentioned, relating to the Revenue.

Expired.

[Passed May 17, 1867.]

CAP. III.

An Act to authorize the Government to raise a loan of Money for the public services of this Island.

[Passed May 17, 1867.]

Preamble.

16 Vic. cap. 18.

WHEREAS by virtue of the Act of the General Assembly of Prince Edward Island, passed in the sixteenth year of the reign of her present Majesty, chapter eighteen, the Lieutenant Governor, with the advice of her Majesty's Executive Council, is authorized to raise and borrow thirty thousand pounds for the payment of the purchase money of lands purchased by the Commissioner of Public Lands under the said Act, and other purposes thereof, as therein set forth and specified, which right to raise money has, since the passing of the said Act, been enlarged and increased by various statutes passed by the said General Assembly: and whereas it is deemed necessary for the public good, and for the benefit of all classes of her Majesty's subjects in this Island, yet further to increase the amount of money to be raised and expended by the government, as well as for the purpose of enabling them, from time to time, as opportunity offers, to make still more extensive purchases than have yet been made, of lands, in order that all parts of this Island may, if possible, equally share in the benefits to be derived from a gradual extinguishment of proprietary claims. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Loan account to be opened at treasury, and moneys raised to amount of £100,000 sterling, in Great Britain, or P. E. Island, or elsewhere, as ordered, &c.

I. That so soon as convenient after the passing of this Act, it shall be lawful for the Lieutenant Governor, by and with the advice of her Majesty's Executive Council, to order a loan account under this Act, to be opened in the treasury of this Island, and to authorize and direct the treasurer to borrow and receive from any person or persons, bodies politic or corporate, and in such sums and amounts as may be from time to time required for the purposes thereof, and as may be practicable and convenient, a loan or loans of money, not exceeding one hundred thousand pounds sterling money of Great Britain, or one hundred and fifty thousand pounds of lawful money of this Island, to be raised wholly in this Island or in Great Britain, or elsewhere out of the Island, or partly in this Island and partly in Great Britain, or elsewhere out of this Island, as the Lieutenant Governor of this Island, with the advice and consent of the Executive Council thereof, shall from time to time order and direct.

Treasurer to receive moneys raised in P. E. Island, and

II. Any moneys to be raised and borrowed within this Island, under the provisions of this Act, shall be received by the Colonial Treasurer for the time being, who shall, and he

is hereby authorized to cause and direct any number of debentures to be made out, for any such sum or sums of money, not exceeding in the whole the said sum of one hundred thousand pounds sterling, or one hundred and fifty thousand pounds, of lawful money of this Island, (including any amounts which may be raised in Great Britain or elsewhere out of this Island, under the subsequent provisions of this Act), as any person or persons, bodies politic or corporate, shall agree to advance on the credit of this Island; and such bonds or debentures shall be prepared and made out in such method and form as the said Colonial Treasurer shall think most safe and convenient, and be signed by him, by the Colonial Secretary, and also by the Lieutenant Governor of this Island, and shall be made payable at ten years from the date of issuing the same, bearing interest at a rate not exceeding six pounds per centum; per annum, payable yearly or half yearly, as may be arranged and specified.

issue debentures, from time to time, as required.

Debentures to be payable in 10 years at rate of interest not exceeding six per cent per annum.

III. Such person or persons as shall be from time to time appointed, in that behalf, by the Lieutenant Governor of this Island, with the advice and consent of Her Majesty's Executive Council, shall be, and he or they are hereby declared to be, agent or agents in Great Britain and Ireland, or elsewhere, out of this Island, under this Act, for the purpose of raising and managing the moneys hereinafter proposed to be raised out of this Island.

Agents to be appointed to raise moneys in Great Britain, &c.

IV. The agent or agents, for the time being, under this Act shall have full power and authority to borrow and raise in Great Britain and Ireland, or elsewhere out of this Island, by bond, debenture or otherwise, such sum or sums, not exceeding in the whole the sum of one hundred thousand pounds sterling, as he or they may, from time to time, be called upon or requested to raise and borrow, for the purposes of this Act, by warrants under the hand of the Lieutenant Governor of this Island, to which shall be also affixed the great seal of this Island, and the signature of the Colonial Secretary thereof for the time being, in the form set forth in the schedule to this Act, or to a similar effect; in each of which said warrants shall be expressly stated the amount thereby required to be raised; and each of said warrants may, if thought necessary, be issued in duplicate or triplicate, that is to say, there may be one, two or three copies thereof, if deemed advisable, and in such case one copy shall be styled on the face thereof "original," "duplicate" or "triplicate," as the case may be, as also specified in said schedule, and all bonds and debentures to be granted by such agent or agents under this Act shall be in such form as he or they shall deem fit and proper, and shall be transferable and negotiable, and shall be made re-

Such Agents to have power to raise such sums not exceeding £100,000, sterling, as may be authorized by express warrant.

Form of Warrant.

Warrants may be issued in triplicate, &c.

Debentures issued thereunder, to be negotiable, &c.

Each debenture to be for not more than £100 sterling, and bear interest at rate not exceeding six per cent., &c.

deemable at the expiration of twenty years from the date of such bonds or debentures respectively; and shall be made payable at some place to be for that purpose named in said bond or debenture; and every such bond or debenture to be granted under this section, shall be drawn for a sum not less than one hundred pounds sterling, and shall bear interest at a rate not exceeding the yearly rate of six pounds per centum per annum, which interest shall, by each bond or debenture be made payable half yearly at the treasury of this Island, or at some place, or by some person, in London, or elsewhere out of this Island, to be named for that purpose; and such bonds or debentures bearing such interest and payable as aforesaid, shall and may be sold and disposed of in Great Britain or elsewhere out of this Island, at the best and highest rates or prices which can or may be gotten or obtained for the same, and the state of the money market, and the credit of this Island therein at the time, may permit.

Public funds and moneys of Prince Edward Island expressly pledged for money borrowed under this Act.

V. For the repayment of all sums of money borrowed under this Act, and the interest thereon, and for the payment of all sums of money contracted to be paid under this Act, and expenses incurred thereunder, the public funds, moneys and securities of this Island, shall be, and the same are hereby pledged and rendered liable.

Treasurer to remit to Agent amount required to pay interest, &c.

VI. For the payment of the interest to accrue on such moneys as may, from time to time, be raised out of this Island under this Act, and of the principal moneys or any amount for which any bond or debenture shall be issued, under this Act, the treasurer of this Island shall, from time to time, on the warrant of the Lieutenant Governor, issue from the public moneys and remit to such agent as aforesaid, such moneys as may from time to time, be requisite for the payment of such interest and principal.

When any debenture becomes due, sinking fund shall be converted into money, &c.

VII. When any such bond or debenture for moneys raised out of this Island shall become due, then the sinking fund formed under the provisions of this Act, or so much thereof as from time to time may be required, shall be sold and converted into money, under the order of his Excellency the Lieutenant Governor in Council, and applied to paying off the bonds and debentures becoming due as aforesaid.

Agents appointed, empowered to pay incidental expenses, &c.

VIII. Such agents and also the Lieutenant Governor, with the advice of the Council, shall have full power and authority to pay from time to time out of any moneys which may be raised under the provisions of this Act, all incidental charges attendant upon the execution of this Act, and the raising or application of such moneys.

IX. Such agent shall, on the thirtieth day of June and the thirtieth day of December, in each year, make up a full and particular account of all moneys received by or remitted to them under this Act, and shall transmit such accounts to the Lieutenant Governor, to be laid before the Legislature of this Island.

Agent half yearly to make up and furnish accounts, to be laid before Legislature.

X. Such agents shall hold all sums of money raised by virtue of this Act at the disposal of the government of this Island, and shall accept and pay bills, remit and pay money, as such agents may from time to time be directed by the Lieutenant Governor, with and by the advice and consent of her Majesty's Executive Council of this Island.

Such Agents to hold moneys raised to order of government, &c.

XI. The moneys to be raised under this Act shall be applied to the payment of the purchase money of lands purchased by the Commissioner of Public Lands, under the Act hereinbefore referred to, namely, the Act of the General Assembly of this Island, passed in the sixteenth year of the reign of her present Majesty, chapter eighteen, and for other purposes of the said Act, or to the redemption or payment of treasury warrants or debentures, or any part of the public debt or securities of this Island, as the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council of this Island, may, from time to time, order or direct; and all or any moneys to be so raised under this Act shall at once be applied to some one or other of the purposes or payments in this Act defined and pointed out.

Application of moneys raised.

XII. For the gradual redemption of the principal moneys to be raised under this Act, out of this Island, there shall be established a sinking fund, to which sinking fund there shall be carried and appropriated at the expiration of one year from the date of each bond or debenture respectively, and each succeeding year thereafter, from and out of the general revenues of this Island, the sum of five pounds for each sum of one hundred pounds from time to time borrowed and secured by such bonds or debentures, by which means the repayment of the principal moneys secured by such bond or debenture will be secured at the expiration of twenty years from the date thereof respectively; and such annual sums of money, and the interest or dividends to accrue upon the same when invested, shall be invested under the directions of the Lieutenant Governor of this Island, by and with the advice and consent of Her Majesty's Executive Council, in any of the public funds of Great Britain, or of any of her Colonies, or of this Island, or in buying up debentures or bonds issued under this Act, in such manner as the said Lieutenant Governor, by and with the advice and consent aforesaid, shall, from time to time, order and direct.

A sinking fund of 5 per cent per annum, established to secure repayment of moneys raised hereunder.

Amount of sinking fund to be invested in public funds of Great Britain, &c.

SCHEDULE to which this Act refers.

[G. S.]

A. B.,
Lieutenant Governor,

No.

£.....Sterling,

By His Excellency Lieutenant Governor and
Commander-in-Chief in and over Her Majesty's Island,
Prince Edward, and the territories thereunto belong-
ing, Chancellor, Vice-Admiral and Ordinary of the
same, &c., &c., &c.

Form of war-
rant to be
issued to agent,
authorizing
moneys to be
raised under
Act.

Under and by virtue of the Act of the General Assembly of
the said Island, intituled "An Act to authorize the Govern-
ment to raise a Loan of Money for the public services of this
Island," I do hereby authorize and require you (name of agent
or agents duly appointed under the said Act), to borrow and
raise, in accordance with the provisions thereof, in Great Bri-
tain or elsewhere, by bond or debenture, or otherwise, the sum
of _____ pounds, sterling money of Great Britain, for the
purposes of the said Act, and for your so doing this shall be
unto you and unto all whom it may concern a sufficient war-
rant and authority.

Dated the _____ day of _____ 18

("This is the original warrant,") or ("this is the duplicate,")
("triplicate warrant," as the case may be.)

Name of agent's addition,
and residence of agent or agents,
C. D., Colonial Secretary,
Prince Edward Island.

C A P . I V .

Sec. 23 Vic.,
Cap. 16.

An Act authorizing the establishment of additional Small
Debt Courts at Somerset and Montague Bridge, and for
other purposes.

[Passed May 17, 1867.]

BE it enacted by the Lieutenant Governor, Council and
Assembly, as follows:

I. After the passing of this Act it shall and may be lawful for the Lieutenant Governor in Council to constitute and establish an additional Small Debt Court at Somerset, in township Number Twenty-seven, in Prince County, and another additional Court at Montague Bridge, in King's County, and to declare the precise localities in the said places in which such Courts shall be respectively holden, and also on what days of each month the said Courts shall respectfully hold their sittings, and to appoint to each Court three Commissioners to adjudicate in each Court, and each Court to have jurisdiction only in the County in which it is held, except as in cases mentioned in the hereinafter recited Act.

Lt. Governor empowered to establish additional Small Debt Courts at Somerset and Montague, in King's County,

and prescribe days of sitting, &c.

II. The Courts to be appointed under and by virtue of this Act shall exercise and have the same jurisdiction and powers in all respects as the Courts already established, and having jurisdiction under and by virtue of the Act of the twenty-third Victoria, chapter sixteen, intituled "An Act relating to the recovery of Small Debts, and to repeal certain Acts therein mentioned," and of all Acts in addition to or in amendment thereof, as fully to all intents and purposes as if the same had been established under the said recited Acts, or either of them.

Jurisdiction of new Courts, under this Act.

23 Vic., cap. 16.

III. From and after the passing of this Act it shall be lawful for the Lieutenant Governor in Council, from time to time, and at such time or times as he shall deem fit, to remove from office all or any one or more of the Commissioners of all or any one or more of the Small Debt Courts in this Island, now or hereafter to be established, and to appoint a Commissioner or Commissioners in the place of him or them so removed, and from time to time to fill up any vacancy or vacancies which may at any time or times hereafter occur, by reason of death or resignation, in the office of any commissioner or commissioners of Small Debts in this Island; and so soon as a new commissioner or new commissioners shall have been so appointed by the Lieutenant Governor in Council, under and by virtue of this Act, the powers and authority of the commissioner or commissioners in whose place or places such new commissioner or commissioners shall be appointed shall cease and determine, and such last named commissioner or commissioners shall have and exercise the same powers and authority as if appointed under and by virtue of the said recited Act of the twenty-third Victoria, chapter sixteen, or any Act or Acts in amendment thereof.

General power to Lt. Governor, &c., to remove small Debt Commissioners, &c., and appoint others in their place, &c.

and fill up vacancies, &c.

Authority of old Commissioners when to cease, &c.

New Commissioners to have all powers under 23 Vic. cap. 16.

IV. All and every the powers and authorities, provisions, rules, directions, penalties, clauses matters and things in the said recited Act of the twenty-third Victoria, chapter sixteen, or of any Act or Acts in amendment thereof (except in so far

All powers and provisions, &c., of 23 Vic., cap. 16, extended to

commissioners to be appointed under this Act.

as the same may be inconsistent with this Act), shall severally relate and apply to, and be observed, practised and enforced by the said commissioners to be appointed under this Act, as fully and effectually as if the same powers and authorities, penalties, clauses, matters and things were particularly repeated and re-enacted in the body of this Act, with reference to the said commissioners.

This Act to be deemed part of 23 Vic., cap. 16, &c.

V. This Act shall be construed as one Act with the said recited Act of the twenty-third Victoria, chapter sixteen, and all Acts in amendment thereof, and all the provisions of the said recited Act and of all Acts in amendment thereof, except in so far as the same are inconsistent with this Act, shall extend to this Act, and to all things done in execution of this Act.

C A P. V.

An Act to continue certain Acts therein mentioned.

[Passed May 17, 1867.]

Preamble.

WHEREAS the several Acts hereinafter mentioned will shortly expire and it is deemed expedient to continue the same. Be it therefore enacted by the Lieutenant Governor Council and Assembly, as follows:

3 Vic., cap. 20.

14 Vic. cap. 15.

15 Vic. cap. 33.

15 Vic. cap. 41

Save as amended, &c., by 20 Vic. cap. 12.

The Act of the eighth Victoria, chapter twenty, intituled, "An Act for the regulation of the Mackerel Fishery." The Act of the fourteenth Victoria, chapter fifteen, intituled "An Act to incorporate certain persons trustees of the Princetown Royalty Church," save and except, and in so far as the same is repealed, altered or amended by the Act of the twentieth Victoria chapter nine, intituled, "An Act to continue and amend the Princetown Royalty Church incorporation Act, and to repeal a certain Act therein mentioned." The Act of the fifteenth Victoria, chapter thirty-three, intituled "An Act authorizing the harbor and ballast masters of the various harbors and rivers in this Island to superintend the laying down, erection and maintenance of buoys and beacons therein." The Act of the fifteenth Victoria, chapter forty-one, intituled "An Act to prevent the going at large of swine and geese, at all seasons, and horses at certain seasons of the year, in the squares and streets of Georgetown," save and except and in so far as the same is repealed, altered and amended by the Act of the twentieth Victoria, chapter twelve, intituled "An Act to continue and amend the Act to prevent horses, swine and geese from going at large in Georgetown." The Act of the nine-

teenth Victoria, chapter fourteen intituled "An Act to repeal the Act relating to the light and anchorage duties, and to make other provisions in lieu thereof." The Act of the twenty-fifth Victoria, chapter seventeen, intituled "An Act to incorporate the Minister and Trustees of the Presbyterian Church at Bedeque,"—be, and the same are hereby severally continued for ten years from the passing hereof, and from thence until the end of the then next session of the General Assembly of this Island, and no longer.

Also, Act of
19 Vic. cap. 14

And 25 Vic.,
cap. 17.

Continued for
ten years, &c.,
thence to end,
&c.

CAP VI.

An Act to add to and amend the Act for the regulation of the Militia and Volunteer Forces.

29 Vic. cap. 2.

[Passed May 17, 1867.]

WHEREAS it is deemed expedient to add to and amend the Act of the twenty-ninth Victoria, chapter Two, intituled "An Act for the regulation of the Militia and Volunteer Forces," as hereinafter mentioned. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows, that is to say:

Preamble.

I. The Commander-in-Chief may appoint officers with acting rank who shall have the powers and authority of their rank, and shall be subject to the same penalties as commissioned officers for every breach of duty.

Commander-in-Chief to appoint acting officers.

II. The Commander-in-Chief shall from time to time, and at such time or times as he shall see fit, appoint a board of three competent persons to examine all officers whose commissions are by the said recited Act continued, and may transfer any officer failing to pass such examination to the Sedentary Force, or place him on a retired list with or without a step of honorary rank.

Board to be appointed to examine officers continued by 28 Vic., cap. 2.

III. Effective members of Volunteer companies, of all ranks, shall be exempt from serving on juries or in the office of constable, except such volunteers who have already been appointed constables for the current year, but who shall also be exempt after the termination of their present office of constable.

Exemption of volunteers from serving on juries and as constables.

IV. The members of the several Charlottetown, Summerside and Georgetown Fire Engine Companies shall be exempt from attending Muster, and from actual muster at any time,

Members of certain Fire Companies ex-

empt from muster except in case of war, &c.

Number exempt not to exceed certain number.

Members of fire companies not exempt until certificate of exemption, signed by chief engineer, be filed, &c.

Fire wardens exempt from militia duty.

Qualifications of effectives to be prescribed by Commander-in-Chief.

Volunteer companies of less than 40 members not entitled to any privilege or exemption.

No drill to count unless diaries kept, and returned to the inspecting field officer.

Volunteer in possession of arms, &c., absenting him-

self except in case of war, invasion or insurrection; and that whenever such exemption is claimed, the burden of proof shall always be upon the claimant, provided that the number so exempted shall not exceed eighty for the Charlottetown companies, and twenty for the Summerside company, and twenty for the Georgetown company; and that the senior members of the said companies shall have the first privilege of such exemption; and each company shall have a just proportion according to number exempted.

V. All members of fire engine companies, claiming exemption under this Act shall not be entitled to the same until they have filed a certificate, signed by the chief engineer of the fire department in Charlottetown, or the head officer of the fire companies in Summerside and Georgetown, in the office of Adjutant General of Militia in Charlottetown, at least fourteen days previous to the time appointed for muster.

VI. Fire wardens of Charlottetown, Georgetown and Summerside shall be exempt from Militia duty or training.

VII. The qualifications of effectives shall, from time to time, be prescribed by the Commander-in-Chief, but no volunteer who is not uniformed, or who has not taken the oath of allegiance, or not perfected himself in training as far as instruction has been offered, or who shall not maintain his efficiency in training to the satisfaction of the Commander-in-Chief, the Inspecting Field Officer and his commanding officer, or who shall fail to attend any inspection in uniform, or who shall not have attended sixteen drills in the year, of not less duration than one and a half hours each drill, irrespective of target practice, without leave of absence, shall be returned as effective or claim any exemption as an effective.

VIII. No volunteer company, under the strength of forty members, exclusive of officers and non-commissioned officers, shall be entitled to any privileges or exemptions, nor shall more than eighty men, inclusive of officers and non-commissioned officers, be entitled to any privileges or exemptions in any one company; and no volunteer drill or training shall count unless diaries of the particulars of the same, in the form prescribed by the Commander-in-Chief, be returned by the officer commanding the company to the office of the inspecting field officer.

IX. Any volunteer in possession of arms, accoutrements or clothing, the property of Government, who shall absent himself from the inspection parade of the inspecting field officer, or other officer appointed for this duty, shall incur a fine of

not less than ten shillings, and not exceeding two pounds, besides being liable for the full cost of such arms, accoutrements and clothing, unless he shall satisfactorily account for the same to the inspecting officer; and the officer commanding the company neglecting to give due notice of such inspection, shall incur a penalty of not more than ten shillings.

self from parade to incur a fine unless absence accounted for.

X. No member of a volunteer militia company enrolled under this or the said herein recited Act, shall be permitted to retire from his company, without giving three months' notice of his intention to the officer commanding the company to which he belongs; and the officer commanding such volunteer company shall notify the same to the inspecting field officer, giving the place of abode of the person thus ceasing to be a volunteer.

No volunteer militia man to retire from his company without 3 months' notice to his officer.

XI. The oath of allegiance to Her Majesty may be administered by any officer or acting officer, duly authorized by the Commander-in-Chief, at such time or times after the passing of this Act as the Commander-in-chief shall see fit to direct. Officers commanding regimental districts shall cause the captains of county districts to enrol every man in their respective districts. The captains of regular militia shall further muster their companies, read to them the provisions of this and the said recited Act, cause each man to take the oath of allegiance, and forward authenticated copies of their muster rolls to the officer commanding their respective regiments.

Oath of allegiance, by whom administered.

Duty of captains of regular militia.

XII. Any man claiming exemption from training on account of sickness shall forward to the officer commanding the company to which he belongs, a certificate to that effect, signed by the surgeon, or in his absence the assistant surgeon of the regiment to which he belongs, or in their absence, by some duly qualified surgeon or practising physician, Justice of the Peace, or clergyman in this Island, on or before the day of training which he shall have been notified to attend.

Any man claiming exemption through sickness, to furnish certificates.

XIII. Temporary absentees on account of transient absence, sickness, or any other cause, shall be liable to make up for such absence from training or duty within the year, in such way and manner, and at such time or times as their superior officers, under the direction of the Commander-in-Chief, shall limit and direct.

Temporary absentees to make up for such absence within the year.

XIV. Every man liable to exemption from training in the regular militia on account of infirmity, sickness, becoming over age, or being regularly enrolled in a volunteer company, shall give due notice thereof to the officer commanding the company district in which he resides, on or within two days of

Every man liable to exemption to give two days' notice to officer commanding.

the day appointed for training or drill; and any man neglecting to give such notice, and being in consequence of such neglect sued for absence from muster or training, shall be subject to the full costs attending such summons.

Persons permanently disabled, entitled to standing certificates of exemption.

XV. Persons permanently disabled by accident, deformity, or confirmed chronic disorder, shall be entitled to standing certificates of exemption, issued by the surgeon of the regiment, or some practising surgeon or physician in this Island, who shall certify the nature and extent of such sickness or infirmity; any officer refusing or neglecting to obey any order given to him by superior authority, concerning musters, training, parades or the making up of returns, shall be subject to a fine of not less than ten shillings, and not exceeding two pounds, in addition to any measure which the Commander-in-Chief may think fit to take, in virtue of the powers conferred by the fourteenth clause of the said recited Act.

Officers disobeying orders of superior officers, to be fined, &c.

Drills, &c., to be conducted according to army regulations.

XVI. All duties, parades, drills, target practices, and so forth, shall, so far as local circumstances will permit, be conducted in conformity with her Majesty's regulations and field exercises for the army and the usage of the service.

Four days' notice of musters to be given.

XVII. Every man shall receive at least four days' notice of the musters and training at which he shall be required to attend, under the authority of this Act; such notice to be given to him in person by any commissioned or non-commissioned officer, or under the written orders of the captain of the company by any person whomsoever, or by being left at his abode; but in the latter case, if the man shall not receive the notice he may prove his ignorance.

Commanding officer to name a day for re-assembling, &c. &c.

XVIII. The commanding officer at any muster may name another day for reassembling; and his orders thus given shall be a notice to every man who shall have been duly notified of the first day of meeting, whether he be present or not at such muster.

Persons having charge of government property to be responsible therefor.

XIX. Persons having charge of any government property shall be responsible for the same in full value as for ordinary debts, and officers commanding companies shall be legally liable in full for the safety and condition of all arms, as well as other public property given over to their charge; and should any man's arms or accoutrements be in a dirty or un-serviceable condition, he shall be answerable in full for cleaning, repairs, and all expenses of the same.

Militiaman refusing to fur-

XX. Any militia man refusing or neglecting to give any notice or information necessary for correcting or making the

roll of any company, when demanded by the officer commanding, or under his authority, at any reasonable hour and place, shall incur a penalty of not less than five shillings, and not exceeding two pounds.

nish information for making rolls, to be fined.

XXI. Any militia officer, non-commissioned officer or man, not exempted by this Act, who neglects or refuses to attend muster or training at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such muster or training, shall thereby incur a penalty of not less than five shillings, and not exceeding two pounds for each offence; and in case of training, absence for each day shall be a separate offence, and the fine for absence from training for the first day shall not be less than five shillings, and for the second and every subsequent day within the year, shall not be less than ten shillings, and shall not exceed two pounds.

Militia officer or man refusing or neglecting to attend muster, to be fined.

Penalty.

XXII. If any person shall misbehave or interrupt the proceedings in any way, at any meeting for militia purposes or duty, the commanding officer by verbal order, without issuing any warrant, may place him in confinement until the duties of the day are over.

Any person misbehaving at militia meeting may be confined.

XXIII. Any militia man being drunk when on parade or duty may be confined by the verbal order of the senior officer or non-commissioned officer present, until the dismissal of the men; and any person who shall sell, or introduce any intoxicating drink on any parade, practice or exercise ground, or adjacent thereto, during the drill, shall be fined in a sum of not less than ten shillings, and not exceeding fifty shillings, and the liquor may be spilled on the ground by any commissioned or non-commissioned officer.

Militiaman being drunk on parade to be confined. &c.

XXIV. All prosecutions, suits or actions, against any officer, non-commissioned officer or private of militia, under this Act, or the said recited Act, shall be brought by the Adjutant General or officer appointed for this duty, or by the Commander-in-Chief, on the complaint of the commanding officer of the regiment, corps or company to which such officer, non-commissioned officer or private belongs, or by the adjutant of such regiment.

All prosecutions under this Act, to be brought by Adjutant Gen., &c.

XXV. All fines and penalties, sum and sums of money, incurred, due or payable under this Act or the said recited Act, or under any regulations, orders, or articles of engagement made and entered into under this Act, or the said recited Act, when no other mode is provided for the recovery thereof, shall be recoverable with costs on the evidence of one credible

Fines penalties &c., how recovered.

witness, on complaint, information, or summons, before one Justice of the Peace, if the amount do not exceed one pound, and before two Justices of the Peace if the amount exceeds that sum; and the amount of such fine and costs, or debt, or sum of money and costs shall be levied by warrant of distress on the goods and chattels of the offender, and for want of such distress, the offender shall be committed to the county jail for twenty-four hours, for every five shillings of the penalty, or sum of money sued for as aforesaid; and this commutation shall, in time of peace, be applicable to all pecuniary dues or penalties under this or the said recited Act.

Certain sections of the 29th Vic. cap. 2, repealed.

XXVI. Sections eighteen, twenty-eight, thirty-two, fifty-five, fifty-six, fifty-seven, seventy, seventy-one, seventy-six, and seventy-eight, of the said recited Act of the twenty-ninth Victoria, chapter two, and all other parts thereof which are contrary to or inconsistent with this Act shall, and the same are hereby respectively repealed.

Certain words in this Act, how construed

XXVII. In the construction of this Act, or the said recited Act, the word "Lieutenant Colonel" shall be held and construed to mean any officer commanding a regiment or battalion, and the word "Captain" to mean any officer commanding a troop or company.

CAP. VII.

Executed.

An Act for appropriating certain moneys therein mentioned, for the service of the year one thousand eight hundred and sixty-seven.

[Passed May 17, 1867.]

CAP. VIII.

Repealed by 31 Vic. c. 6.


An Act to continue and amend certain Acts therein mentioned, relating to Education.

[Passed May 17, 1867.]

CAP. IX.

An Act for the incorporation of a Flax Company in Prince Edward Island.


[Passed May 17, 1867.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. X.

An Act to incorporate an Hotel Company in Charlottetown.

[Passed May 17, 1867.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XI.

An Act to amend the Act relating to Land Assessment.

[Passed May 17, 1867.]

WHEREAS the Act of the twenty-seventh Victoria, chapter thirty-seven, intituled "An Act to consolidate and amend the several laws imposing an assessment on all lands in this Colony, and for the encouragement of Education," does not mention or include the land comprised and situate in Princetown and royalty; and it is expedient that such defect and omission should be remedied, and the said land be made liable to assessment, as in fact intended; and whereas the owners of the said land have been divested of the right to return two members of the General Assembly, formerly exercised by them, and it is just that the said land should be assessed as township lands. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:—

Preamble.

27 Vic. cap. 37

I. From and after the passing of this Act, the land being and comprising the town lots and pasture lots in Princetown and royalty shall annually be assessed for, and subject to, and the owners of such town and pasture lots shall be liable to pay the same rates of assessment, under and by virtue of the said recited Act, as if the said town and pasture lots in the said town and Royalty, were portions of, and included in, the township lands of this Island, and at the same rate per acre as is now or may hereafter be chargeable under the said recited Act on township lands in this Island; and the said acreable tax or assessment, in respect of the lands comprising the said town and royalty of Princetown, shall first become due and payable at the period at which the first annual payment of land tax shall become due and payable next after the passing of this Act.

Town lots and pasture lots in Princetown and royalty subject to same assessment as township lands.

When assessment payable.

II. All and every the powers and authorities, provisions, rules, regulations, directions, clauses, proceedings, matters, and things mentioned and set forth in the said recited

All provisions of Act 27 Vic., cap. 37, to ex-

tend to the recovery, &c., of assessment under this Act.

Act of the twenty-seventh Victoria, chapter thirty-seven, shall severally and respectively be duly observed, practised and applied to and put in execution in relation to the land assessment hereby imposed on the said lands in the said town and royalty, and for the recovery thereof, as fully and effectually, to all intents and purposes, as if the same powers and authorities, rules, regulations, directions, proceedings, clauses, matters and things were particularly repeated and re-enacted in the body of this Act, with reference to the said assessment hereby imposed, and as if the said lands in the town and royalty aforesaid had been and were now in and by the said recited Act declared to be part of the township lands of this Island, and had been and were by the said recited Act assessed as such township lands.

Land on barrack square, Ch'town, made subject to land assessment.

III. The land in Charlottetown, formerly occupied as the barrack square, and the owners and occupiers thereof, shall be liable hereafter to pay land assessment under the said recited Act, in proportion to area, on the same footing and to the same extent as town lots in Charlottetown.

Provisions of Act 27th Vic., cap. 37, &c., to apply to recovery of assessment imposed by last preceding section.

IV. For recovery of the said last mentioned assessment, hereby imposed, the aforesaid Act of the twenty-seventh Victoria, chapter thirty-seven, and all other Acts of the Legislature in force in any way relating to the recovery of land assessment, shall in all their provisions, and in all respects where applicable, extend to and be binding on the said last mentioned land; and the assessment thereon for the current year shall become due and be payable on the same day as the assessment on the town lots liable to assessment in Charlottetown aforesaid.

Continuance of Act.

V. This Act shall continue in force so long as the said recited Act of the twenty-seventh Victoria, chapter thirty-seven, shall be in force and operation, and no longer.

CAP. XII.

An Act to add to the Act exempting property belonging to Her Majesty and the Government from duties or assessment.

[Passed May 17, 1867.]

Preamble.

WHEREAS it is expedient that the provisions of the Act of the twenty-ninth Victoria, chapter twenty-three, intituled "An Act to exempt property belonging to her Majesty or the Government of this Island from duties or assessments," be extended to property belonging to any department of the Imperial Government. Be it therefore enacted by the Lieutenant Governor, Council and assembly as follows:

I. The several provisions of the said recited Act, and every clause, matter and thing therein contained, shall be extended to, and be held and construed to extend to, any property whatever, real or personal, belonging to any department or service of the Imperial Government, in the same way and manner as if the same were particularly mentioned in the said recited Act.

Provisions of 29 Vic. cap. 23 extended to any property whatsoever, real or personal, belonging to Imperial Government service.

CAP. XIII.

An Act to repeal two certain Acts, compelling masters of vessels to exhibit a light while in harbor at night time, and to make other provisions in lieu thereof.

[Passed May 17, 1867.]

WHEREAS the Act of the twenty-ninth Victoria, chapter six, intituled "An Act to compel masters of vessels to exhibit a light while in harbour at night time," is in some respects inconsistent with the "Regulations for preventing collisions at sea," issued in pursuance of the Imperial Act intituled "The Merchant Shipping Act Amendment Act, 1862," and of an order in Council, dated the ninth of January, A. D. 1863, and it is deemed expedient to repeal and amend the same; and whereas collisions and other accidents have occurred, and may occur, in consequence of Vessels, while lying at anchor in the night time in the several harbors in this Island, not exhibiting lights. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Preamble.

29 Vic., cap. 6.

I. Every ship or vessel, whether steamship or sailing ship, and whether foreign or otherwise, shall, while at anchor in any harbor, roadstead or fairway in this Island, exhibit between sunset and sunrise, where it can be best seen, but at a height not exceeding twenty feet above the hull, a white light, in a globular lantern of eight inches in diameter, and so constructed as to shew a clear, uniform, and unbroken light, visible all round the horizon, and at a distance of at least one mile.

Every vessel at anchor in harbor to exhibit a white light between sunset and sunrise.

II. If in any case of collision it shall appear to the Court before which the case is tried, that such collision was occasioned by the non-observance of the above rule, the owner of the ship or vessel by which such rule has been infringed shall not be entitled to recover any recompense whatever for any damage sustained by such ship or vessel in such collision; and if any damage is sustained by any other ship or vessel, the owner of such ship or vessel infringing such rule

If rule as to light not observed, owner of vessel deprived of claim for damages, and liable to make good

damages done to other vessels.

shall make such recompense as shall be awarded by the Court before which the case is tried.

Justices of the Peace, &c., authorized to adjudicate to extent of £20, and levy am't of judgment, &c.

III. In cases of collision where the damages claimed shall not exceed twenty pounds, the same may be tried and recovered, if in the country, before any two Justices of the Peace, in the same way and manner as actions of trespass are triable; and if in Charlottetown, before the Police Court thereof; and the amount of the judgment given may be levied by distress upon the tackle, apparel and furniture of the vessel against which the decision shall have been given; and if the owner or owners be absent from the Island, or not within twenty miles of the place where the collision or accident may happen, the master, or in his absence, the chief mate of such vessel or vessels, may be summoned in the place of such owner or owners or master.

Act 29 Vic. cap. 6, and 28. Vic., cap. 2, repealed.

IV. The said recited Act of the twenty-ninth Victoria, chapter six, and the Act of the twenty-eighth Victoria, chapter two, intituled "An Act to compel masters of vessels to exhibit a light while in harbour in the night time," shall be and the same are hereby severally repealed.

C A P. X I V.

An Act to revise, continue and amend the Act relating to the limits and rules of Jails in this Island.

[Passed May 17, 1867].

Preamble.

12 Vic., cap. 1.

WHEREAS the Act of the twelfth Victoria, Chapter one, intituled, "An Act relating to the limits and rules of jails in this Island," expired at the end of the last session of the General Assembly, contrary to the expressed intention of the said General Assembly, in consequence whereof parties confined in jail, under process of the Supreme court of Judicature, obtained the limits of the several jails in this Island, the Sheriffs of the respective Counties in the said Island not being aware that the said Act had expired: For remedy whereof, be it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Statute 12 Vic. cap. 1, revived and continued.

I. That the said recited Act of the twelfth Victoria, chapter one, intituled "An Act relating to the limits and rules of jails in this Island, and every clause, matter and thing therein contained, shall be and the same is hereby revived from the last day of the last session of the said General Assembly, and shall be and continue in force for the period hereinafter mentioned, in

all its force and effect, save and except as hereby amended, as if the said recited Act, and every clause, matter and thing therein contained had been enacted by this Act, and as if the same had never expired.

II. All bonds entered into by any person or persons whomsoever, to any sheriff of this Island, under or in supposed relation to the provisions of the said recited Act, either before or since the expiration of the same as aforesaid, shall be as good, valid and effectual, and as fully binding on the parties thereto, as if the said recited Act had never expired.

All bonds taken since 12 Vic. cap. 1, expired, confirmed. &c.

III. No action for an escape or any other suit or proceeding, whether brought or commenced before or after the passing of this Act, shall be maintained or maintainable in any Court in this Island, against any person now being or heretofore having been sheriff for any county in this Island, for or by reason of such sheriff having, before or since the expiration of the said recited Act, permitted any person or persons whomsoever confined as in the said recited Act mentioned to have his liberty, within the limits and rules of the several jails in manner or form, and according to the regulations in the said recited Act mentioned and described: Provided always, nevertheless, that such sheriff, and the person or persons so obtaining such limits, and his or their sureties, have complied with the provisions of the said recited Act.

Relieves sheriff from actions of escape incurred on account of expiring of 12 Vic. cap. 1.

Proviso.

IV. In case any action shall be commenced against any person now holding or having heretofore held the office of sheriff in this Island, for any thing done by him as if in pursuance, and according to the true intent and meaning of the said recited Act, since the expiration thereof, he may plead the general issue, and give this Act and the matter necessary to his defence in evidence under that plea.

Where such actions shall be brought, Sheriff may plead general issue and give this Act in evidence.

V. And whereas doubts have arisen as to the true construction of the condition of the bond directed to be given by the said recited and hereby revived Act, and it is expedient that such doubts should be removed. Be it therefore further enacted by the Lieutenant Governor, Council and Assembly, as follows:

Supplementary preamble.

When any person who has already entered into, or who shall hereafter enter into any bond or bonds, as in the said recited and hereby revived Act mentioned and prescribed, shall at any time, or for any space of time, go or be at large or escape from the boundaries in the said recited Act set forth and described as the jail limits, for any or either of the several county jails in this Island, no plea or evidence of a return within such limits before or after action brought, shall be ad-

Parties having given bonds for limits, (where principal go beyond same,) to be liable to action altho' principal returns within limits before action brought.

mitted as a defence to any such action against himself and sureties, or any or either of them, on the said bond, it being the intention of this Act that in any case where a defendant who shall have given bond as prescribed by the said recited Act, as aforesaid, shall afterwards go beyond the limits referred to in such bond, for any space of time, or for any distance whatsoever, such defendant, as well as his sureties, shall be liable absolutely for a breach of the said bond, anything in the said recited and hereby revived Act to the contrary, notwithstanding.

Act 12 Vic. cap 1, continued for 10 years, &c.

VI. The above recited Act of the twelfth Victoria, chapter one, as amended by this Act, shall be and the same is hereby revived and continued for the period of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

CAP. XV.

23 Vic. cap.17. An Act in addition to, and to amend the Act for establishing the Prince of Wales College.

[Passed May 17, 1867.]

Preamble. **WHEREAS**, for the more efficient management of the Prince of Wales College, it is necessary to give the principal or head professor more direct superintendence over the other masters. Be it enacted by the Lieutenant Governor, Council and Assembly :

I. That the principal or head professor shall, subject to the by-laws, rules and regulations made by the trustees and governors of the College, and to such special directions as they shall, from time to time, see fit to make, have the entire superintendence and control of the institution, including the other professor, and the master of the Grammar School, and be responsible to the said trustees and governors for the maintenance of due order, regularity in the attendance of teachers, and efficient teaching in all the departments of the said College; and for that purpose, in addition to such general superintendence, it shall be his duty, and he is hereby required, on some one Saturday in every month, to examine all the scholars taught in the Grammar School, and shall once in every quarter examine all the scholars taught by the second professor.

Principal to have control of the entire institution, subject to certain restrictions.

Responsibility of principal.

Monthly duty of principal.

II. That the arrangement of classes, the particular branches to be taught by the professors and the master of the Grammar school, and the time allotted to each class, shall be arranged

The arrangement of classes

and fixed by the said principal or head professor, and from time to time altered and varied as he shall see fit, subject always to approval, alteration or modification by the said trustees and governors. &c., shall be made by principal.

III. There shall be two public examinations of the students and scholars in all departments of the said College in each year, namely, a general examination in all branches immediately before the midsummer vacation, and an examination in English composition, orthography, writing arithmetic, mathematics, history and geography, immediately before the Christmas vacation. Two examinations in each year.

CAP. XVI.

An Act to diminish the delay and expense of proceedings in the Court of Chancery in this Island.

[Passed May 17, 1867.]

WHEREAS proceedings in the Court of Chancery in this Island are sometimes attended with delay and expense which it is expedient to diminish. Be it therefore enacted, by the Lieutenant Governor, Council and Assembly :

I. That it shall be lawful for persons interested, or claiming to be interested, in any question cognizable in the said Court, as to the construction of any Act of Parliament, will, deed, or other instrument in writing, or any article, clause, matter or thing therein contained, or as to the title, or evidence of title, to any real or personal estate contracted to be sold or otherwise to be dealt with, or as to the parties to, or the form of, any deed or instrument for carrying such contract into effect, or as to any other matter falling within the original jurisdiction of the said Court as a court of equity, or made subject to the jurisdiction or authority of the said Court by any statute, and including among such persons all lunatics, married women and infants, in the manner and under the restrictions hereinafter contained, to concur in stating such question in the form of a special case for the opinion of the said Court ; and it shall also be lawful for all executors, administrators and justices to concur in such case. Power to persons interested in questions cognizable in Court of Chancery to state special case for the opinion of the Court.

II. The committee of the estate of any lunatic interested, or claiming to be interested, in any such question as aforesaid, may, after having been authorized in that behalf by the Chancellor or Master of the Rolls of this Island, concur in such case, in his own name, and in the name and on the behalf of the lunatic. How lunatic may concur.

How married women may concur.

III. A husband interested, or claiming to be interested, in right of his wife, in any such question as aforesaid, may concur, in such case, in his own name and in the name of his wife where the wife has no claim to any interest distinct from her husband, and that a married woman having or claiming any interest in any such question as aforesaid, distinct from her husband, may in her own right, concur in such case, provided that her husband also concurs therein.

How infant may concur.

IV. The guardian of any infant interested, or claiming to be interested in any such question as aforesaid, may concur in such case in the name and on behalf of the infant, unless such guardian has an interest in such question adverse to the interest of the infant therein.

How special guardian to be appointed for a lunatic not found such by commission and for infant.

V. It shall be lawful for the said Court, by order to be made in the matter of any lunatic not found such by inquisition or by such other mode as is directed by any statute of this Island, or in the matter of any infant upon the application of any person on behalf of such lunatic, or upon the application of such infant, by motion or petition, to appoint any person, shewn by affidavit to be a fit person and to have no interest adverse to the interest of the lunatic or infant, to be the special guardian of such lunatic or infant, for the purpose of concurring in such case in the name and on behalf of the lunatic or infant, and any such person so appointed may lawfully so concur; provided always, that it shall be lawful for the said Court to require notice of such application to be given to such person, if any, as the Court shall think fit.

Order to appoint special guardian of an infant may be discharged by Court if made without notice.

VI. In any case in which any such order as aforesaid shall have been made by the said Court in the matter of any infant, without notice to the guardian of the infant, it shall be lawful for the said Court, if it shall think fit so to do, to discharge such order upon the application of such guardian, by motion or petition, and the said Court if it shall think fit, may thereupon appoint some other fit person to be the special guardian of such infant for the purpose of such special case, and may also give such directions as may be necessary for substituting, in such special case, either the name of the guardian so applying or of the special guardian so appointed in lieu of the name of the special guardian so displaced: provided always, that the discharge of any order appointing a special guardian shall not invalidate any thing which shall, in the meantime, have been done by such special guardian, unless the Court shall upon notice to all parties, specially so direct.

How such special cases to be entitled.

VII. Every such special case shall be entitled as a cause between some or one of the parties interested, or claiming to be

interested, as complainants or plaintiffs, and the others or other of them as defendants or defendant, and that in the title to such cases, lunatics and infants shall be described as such, and their committees, guardians, or special guardians, named; and that where in any such case a married woman is named as a complainant or plaintiff, and her husband as a defendant thereto, a next friend of such married woman shall be named in the title to such case.

VIII. Every such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby, and that upon the hearing of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated in any such special case, any inference which the Court might have drawn therefrom if proved in a cause.

Form of special case.

IX. Every such special case to which an infant or lunatic is a party, by his guardian or special guardian, shall also state how such guardian or special guardian was constituted, and that where any married woman, having or claiming any interest distinct from her husband, is a party to such case, it shall be stated therein that she concurs in such case in her own right.

Special case to state how guardian constituted, &c.

X. Every such special case shall be signed by counsel for all parties, and shall be filed in the same manner as bills are filed; and the defendants may appear thereto in the same manner as defendants appear to bills; and that no defendant shall be required to take an office copy of the special case, but an office copy thereof shall be taken by the plaintiff.

Special cases to be signed by counsel and filed, &c.

XI. After a special case shall have been filed, and the defendant shall have appeared thereto, all the parties to such special case shall be subject to the jurisdiction of the Court, in the same manner as if the complainant or plaintiff in the special case had filed a bill against the parties named as defendants thereto, and such defendants had appeared to such bill, and upon the special case being filed and appearances entered thereto, as aforesaid, all parties to such special case, other than married women, infants and lunatics, shall, for the purposes of such special case, be bound by the statements therein, and that married women, infants and lunatics, made parties to a special case, shall, for the purposes of such special case, be bound by the statements therein, when, and not before, leave shall have been given by the Court to set down such special case in manner hereinafter provided.

After a special case filed, parties to be bound by statements after defendants have appeared, &c.

How case to be set down for hearing.

XII. So soon as all the defendants shall have appeared to the special case the same may be subject to the provisions hereinafter contained, and be set down for hearing according to the practice of the said Court.

When a married woman, infant or lunatic is a party, application to be made to the court for leave to set the case down.

XIII. When any married woman, infant or lunatic is party to a special case, application may be made to the Court by motion for leave to set down the same, of which motion, notice shall be given to every party of such case in whom, as executor, administrator or trustee, any property in question therein is or is alleged to be vested in trust for or for the benefit of such married woman, infant or lunatic; and also if such application be not made by or on behalf of such married woman, infant or lunatic, to such married woman and her husband, or to such infant, or to such lunatic and his Committee, if any, as the case may be, and that upon the hearing of such motion the said court may give leave to set down such case, if it shall be of opinion that it is proper that the question raised therein shall be determined thereon, and shall be satisfied by affidavit or other sufficient evidence that the statements contained therein, so far as the same affect the interest of such married woman, infant or lunatic, are true, but otherwise may refuse such application; provided always, that in case the said court upon the hearing of such application shall be of opinion that it is proper that the question raised in such case shall be determined thereon, but shall not be satisfied that the statements contained therein, so far as they affect the interests of such married woman, infant or lunatic, are true, it shall be lawful for the said court to refer it to one of the masters thereof, to make such enquiries as to the court shall seem proper; and upon further application being made by motion, as aforesaid, upon the said master's report, to give or refuse leave to set down such case as to the said court shall seem fit.

Upon hearing. Court to determine question, and make declaration.

XIV. It shall be lawful for the said Court, upon the hearing of any such special case, as aforesaid, to determine the questions raised therein or any of them, and by decree to declare its opinion thereon; and so far as the case shall admit of the same upon the right involved therein, without proceeding to administer any relief consequent upon such declaration; and that every such declaration of the said court, contained in any such decree, shall have the same force and effect as such declaration would have had, and shall be binding to the same extent as such declaration would have been, if contained in a decree made in a suit between the same parties instituted by bill: Provided always that it shall be lawful for the said court, if it shall see fit so to do, before proceeding to make such decree as aforesaid, to send any case or cases for the opinion of the Supreme Court of Judicature, reserving the consideration of all

Proviso that a case may be sent to Supreme Court.

further directions, and of the costs, and to make such decree as aforesaid upon such further directions; provided, also, that, if upon the hearing of such special case, as aforesaid, the court shall be of opinion that the questions raised thereby, or any of them, cannot properly be decided upon such case, the said court may refuse to decide the same.

Proviso that Court may refuse to decide.

XV. Every executor, administrator, trustee or other person making any payment, or doing any act in conformity with the declaration contained in any decree made upon a special case, shall, in all respects, be as fully and effectually protected and indemnified by such declaration as if such payment had been made or Act done under, or in pursuance of the express order of the said court, made in a suit between the same parties, instituted by bill, save only as to any rights or claims of any person in respect of matters not determined by such declaration,

Protection to be afforded to Justices by declaration.

XVI. When any person shall be desirous to have a special case reheard, or to appeal from the decision thereon, it shall be lawful for the said court, upon application for that purpose, at the time of the decree upon such special case being made, or at any time afterwards, and upon such conditions, if any, as the court shall think fit, to order that the declaration contained in such decree shall not be acted upon for such time as the said court shall think just.

The Court may suspend the acting upon declaration.

XVII. Any documents referred to in a special case, and any copies thereof, or extracts therefrom, identified by the signatures of the solicitors for all parties, or of the agents of such solicitors, may be produced and read at the hearing of such case without further proof, and that it shall be lawful for the said court, at any time after the filing of the special case, and the entering of appearances thereto, by the persons named as defendants therein, to order any document which may be admitted thereby to be in the possession of any party to such case, to be deposited and produced in such manner, and for such purposes as the court shall think fit.

Mode of identifying documents, and Court may order production.

XVIII. And whereas it is expedient to provide means for enabling executors or administrators of deceased persons to ascertain whether there are any outstanding debts or liabilities affecting the personal estates of such persons without the delay and expense of suits to administer such estates: Be it therefore enacted that it shall be lawful for the said court, upon the application of the executors or administrators of any deceased person, by order to be made upon motion or petition, of course, and to be in the form or to the effect set forth in the schedule hereto with such variations as circumstances may require, to

Court, on application of executors or administrators, may, by order, of course, direct to be referred to a master to take an account of debts and liabilities.

refer it to one of the masters of the said Court, to take an account of the debts and liabilities affecting the personal estate of such deceased person, and to report thereon; provided always, that no such order shall be made until the expiration of one year next after the death of such deceased person, or pending any proceedings to administer the estate of such person; and that, in case at any time after making of such order, any decree or order for administering the estate of such deceased person shall be made by the said Court, it shall be lawful for the said Court by such decree or order, to stay or suspend the proceedings, under such order, of course, on such terms and conditions, if any, as to the said Court shall seem just.

Master's report may be objected to by motion to the Court, of which notice shall be given.

XIX. It shall be lawful for any person who may have come in before the master, under any such order, and claimed to be a creditor upon the estate of the deceased person, or to have any demand upon such estate by reason of any liability, and whose debt or claim may not have been wholly allowed by the said master, to apply to the said Court by motion, of which notice shall be given within fourteen days after the filing of the master's report to have such claim allowed by the Court, either wholly or partially; and it shall be lawful for the said executors or administrators, and for any creditor of the deceased person, who may be authorized by special leave of the said Court so to do, to apply to the said Court by motion, of which notice shall be given within the time aforesaid, to have any debt or claim allowed by the said master, disallowed by the Court, either wholly or partially, and at the expiration of fourteen days after the filing of the said report, the same shall, except as to any debt or claim as to which any such notice as aforesaid may have been given, be absolute, as if the same had been confirmed by order of the Court.

Proceeding of the Court on such motion.

XX. Upon the hearing of any such motion as aforesaid, the said Court may either dismiss such motion or may order the debt or claim to which such motion relates, to be allowed or disallowed, as the case may be, and either wholly or partially, or may direct further inquiry or further proceedings, by way of action or otherwise, touching such debt or claim; and after such inquiry or proceedings, may, upon further motion, deal with such debt or claim as to the said Court shall seem just; provided always, that no new evidence shall be received by the said Court upon the hearing of any such motion without special leave of the said Court.

If debts or certain liabilities allowed and

XXI. In case any debt or any certain liability shall have been allowed as aforesaid, and shall not within fourteen days after the report has become absolute as to such debt or lia-

bility, or after the same shall have been allowed by the said Court, be paid or provided for by appropriation to the satisfaction of the person who has established such liability, it shall be lawful for the said Court, by order to be made in case of any debt remaining due upon the application, by motion or petition of the person to whom the debt remains due, and on notice to the executors or administrators; and in case of any certain liability remaining unprovided for by appropriation, upon the application by motion or petition of the person by whom such liability has been established, or of the executors or administrators, and on notice by the party applying to the other of them, to order payment of the debts which may have been allowed and remain unpaid, and to provide for the certain liabilities which may have been allowed and remain unprovided for, in like manner as the same could or might have been paid or provided for in a suit for that purpose, instituted by bill, or to refer it to the master to take an account of the debts and certain liabilities allowed as aforesaid, which remain unpaid or unprovided for, and also the usual accounts of the personal estate of the deceased person, with all usual and proper directions; and every such order shall have the same force and effect, and shall be prosecuted and carried on in like manner, as a decree in a creditor's suit instituted by bill.

not paid or provided for, order may be made for payment of accounts.

XXII. In case any contingent liability shall be allowed by the said report or by the said Court, it shall be lawful for the said Court, by order to be made upon the application of the executors or administrators, by motion or petition on notice to the person who may have established such contingent liability, to order such sum of money, part of the estate of the deceased person, as to the said Court shall seem just, to be set apart and appropriated for answering such contingent liability, and to give such directions as the said Court shall think fit, touching the payment of such sum of money into Court, and the investment thereof, and the payment, application or accumulation of the interest or dividends thereof, in the meantime, and until the same shall be required to answer such liability; and when such liability shall be ascertained or determined, to give such directions as to the payment of such sum out of Court as the said Court shall deem right; provided always, that no order to be made as aforesaid, shall in any manner bind the assets so appropriated as against the persons entitled to the estate of the deceased, subject to the contingent liability, and any person interested in such appropriated assets may apply to the Court, touching the same as he may be advised.

Court, on application of executors or administrators, may direct appropriation of money to answer contingent liability.

XXIII. After the filing of such report as aforesaid, it shall be lawful for the said Court, upon the application of the

Court may restrain proceedings

against executors and administrators.

executors or administrators of the deceased, by order to be made on motion, to restrain by injunction any proceeding at law against them by any person having or claiming to have any demand upon the estate of the deceased, by reason of any debt or liability, other than the persons who may have established contingent liabilities under the said order for which no appropriation may have been made.

Protection to be afforded to executors and administrators

XXIV. In case no debt or liability, or no debt or liability other than a contingent liability, shall have been allowed as aforesaid, or in case any debt or liability other than as aforesaid, shall have been allowed as aforesaid, then after the same shall have been paid or provided for by appropriation as aforesaid, all payments made by the executors or administrators, or any of them, on account of the estate of the deceased person, and all dispositions of such assets made by them or any of them on account of such estate, shall, as against all persons having or claiming to have any demand upon such estate by reason of any debt or liability, other than persons who may have established under the said order any contingent liability, for which no such appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a decree of the said Court; provided always that nothing herein contained, shall in any manner affect or prejudice the rights of any creditor, or other person having any demand or claim upon the estate of the deceased, against any assets so paid or disposed of, or against the persons to whom such payment or disposition may have been made, or against any assets appropriated under the provisions of this Act, and the appropriation of which, if made under a decree of the said Court, in a suit to which he was not a party, would not have been binding upon him.

Exception for scandal and impertinence and insufficiency to be heard by the Court.

XXV. All exceptions for scandal, impertinence and insufficiency, in any proceedings under this Act, which, according to the existing practice of the said Court, would have been referred to the masters of the said Court, shall not be so referred, but shall be heard and determined by the said Court in the first instance.

Power of Court notwithstanding any rule, &c. to the contrary, to receive proof by affidavit.

XXVI. Notwithstanding any rule or practice of the said Court to the contrary, it shall be lawful for the said Court, at the hearing of any cause or any further directions therein, to receive proof by affidavit of all proper parties being before the Court, and of all such matters as are necessary to be proved for enabling the said Court to order the payment of any moneys belonging to any married woman, and of all such other matters not directly in issue in the cause, as in the opinion of the said Court may safely and properly be so proved.

XXVII. In all matters and proceedings, under the provisions of this Act, the rules in practice of the High Court of Chancery, in England, as now established, regulating the proceedings in like matters and similar cases, shall be in force, subject to such alterations, to be made by the Chancellor of the said Island, with the advice and consent of the master of the rolls, as the local circumstances of this Colony and construction of the Court of Chancery may require; provided always that nothing herein contained shall be construed to limit or affect the power of the Chancellor, by and with the advice and consent of the master of the rolls, to direct and declare the forms and proceedings to be observed in all matters in the said Court, under the provisions of the Act of the General Assembly of the said Island, passed in the twelfth year of the reign of her present Majesty, Queen Victoria, chapter fourteen (14), intituled "An Act for the improvement of the practice of the Court of Chancery of this Island;" and provided also, that for any matter or proceeding required to be done, or had under the provisions of this Act, and for which no provision has been made in the table of fees to the said recited Act annexed, the masters of the said Court are hereby required, upon the taxing of any costs, to allow such charges therefor as to them shall be deemed fair and reasonable.

Practice of High Court of Chancery to regulate proceedings under this Act, &c.

Not to limit powers of the Chancellor to make rules, &c.

Proceedings not provided for in table of fees, to be charged for at discretion of masters.

XXVIII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something in the subject or in the context repugnant to such construction. Words importing the singular number only, shall include the plural number, and words importing the plural number only, shall include the singular number. Words importing the masculine gender only, shall include females. The word "master," shall include as well the masters in ordinary as masters extraordinary of the Court of Chancery of this Island. The word "lunatic," shall include idiots, and persons of unsound mind, whether found such by inquisition or under the provisions of any statute or not. The word "guardian," shall mean father or testamentary guardian, or guardian appointed by the Court of Chancery, (not being a special guardian appointed under the provisions of this Act.)

Interpretation of terms.

SCHEDULE within referred to.

In the matter of *A. B.* of _____ in _____ County, in Prince Edward Island, merchant, (as the case may be), deceased.

Upon motion this day made unto this Court by Mr. of counsel for *C. D.*, of the executor or administrator of the above named *A. B.*, or upon the humble petition of *C. D.*, of the executor or administrator of the said *A. B.*, this day preferred unto his Excellency the Chancellor or his Honor the Master of the Rolls, for the reasons therein contained :) It is ordered that it be referred to one of the Masters of this Court to take an account of the debts and liabilities affecting the personal estate of the said *A. B.*, and to compute interest on such of the said debts and liabilities as carry interest, after the rate of interest the same respectively carry, and the said master is to cause an advertisement to be published in the *Royal Gazette*, and such other public papers as he shall think fit, for the persons claiming in respect of any such debts or liabilities, to come in before the said master and prove their debts and claims; and he is to fix a peremptory day for that purpose; and such of the said creditors as shall not come in and prove their debts and claims by the time so to be limited are to be excluded from the benefit of this order; and it is ordered that the said master do distinguish debts from liabilities, and liabilities certain from liabilities contingent; and it is ordered that the personal estate of the said *A. B.* be applied in payment and satisfaction of such debts and liabilities of the said *A. B.* in due course of administration; and for the better taking the said accounts and discovery of the matters aforesaid, the parties are to produce before the said master, upon oath, all deeds, books, papers and writings in their custody or power, relating thereto, and are to be examined as the said master shall direct; and any of the parties are to be at liberty to apply to the Court as there shall be occasion.

CAP. XVII.

29 Vic. cap. 29,
and 24 Vic. cap.
5.

An Act to amend the Act of the twenty-ninth Victoria, chapter the twenty-ninth, relating to trustees, and the Act relating to judgments in the Supreme Court binding leaseholds.

[Passed May 17, 1867.]

WHEREAS it is expedient to extend the provisions of the Trustee Act, one thousand eight hundred and sixty-six: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

- I. That when any decree or order shall have been made by any Court of Equity, directing the sale of any lands, for any purpose whatever, every person seized or possessed of such

Court of Chan-
cery may make

land, or entitled to a contingent right therein, being a party to the suit or proceeding in which said decree or order shall have been made, and bound thereby, or being otherwise bound by such decree or order, shall be deemed to be so seized or possessed, or entitled, as the case may be, upon or in trust within the meaning of the trustee Act, one thousand eight hundred and sixty-six, and in every such case it shall be lawful for the Court of Chancery, if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such lands, or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct; and every such order shall have the same effect as if such person so seized or possessed, or entitled, had been free from all disability, and had duly executed all proper conveyances and assignments of such lands for such estate.

an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

II. That the sections numbered thirty-one and thirty-two, in the Queen's Printer's copy of the trustee Act, one thousand eight hundred and sixty-six, be repealed; and in every case where any person is or shall be jointly or solely seized or possessed of any lands, or entitled to a contingent right therein, upon any trust, and a demand shall have been made upon such trustee by a person entitled to require a conveyance or assignment of such lands, or a duly authorized agent of such last mentioned person requiring such trustee to convey or assign the same, or to release such contingent rights, it shall be lawful for the Court of Chancery, if the said Court shall be satisfied that such trustee has wilfully refused or neglected to convey or assign the said lands for the space of twenty-eight days after such demand, to make an order vesting such lands in such person, in such manner and for such estate as the Court shall direct, or releasing such contingent right, in such manner as the Court shall direct; and the said order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands, or a release of such right in the same manner, and for the same estate.

Power to make an order for vesting the estate on refusal or neglect of a trustee to convey or release.

III. When any infant shall be solely entitled to any stock upon any trust, it shall be lawful for the Court of Chancery to make an order vesting in any person or persons the right to transfer such stock, or to receive the income or dividends thereof; and when any infant shall be entitled jointly with any other person or persons to any stock upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, either in the person or persons jointly entitled with the infant, or in him or them together with any other person or persons the said Court may appoint.

Power to make an order for the transfer or receipt of dividends of Stock in name of an infant trustee.

On neglect to transfer stock for 28 days, order may be made vesting right to transfer in such person as the Court shall appoint.

IV. Where any person shall neglect or refuse to transfer any stock, or to receive the dividends or income thereof, or to sue for or recover any chose in action or any interest in respect thereof, for the space of twenty-eight days next after an order of the Court of Chancery for that purpose shall have been served upon him, it shall be lawful for the Court of Chancery to make an order vesting all the right of such person to transfer such stock or to receive the dividends or income thereof, or to sue for and recover such chose in action or any interest in respect thereof, in such person or persons as the said Court may appoint.

On like neglect by executor, similar order may be made.

V. When any stock shall be standing in the sole name of a deceased person, and his personal representative shall refuse or neglect to transfer such stock or receive the dividends or income thereof for the space of twenty-eight days next after an order of the Court of Chancery for that purpose shall have been served upon him, it shall be lawful for the Court of Chancery to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, in any person or persons whom the said Court may appoint.

Banks and companies to comply with such orders.

VI. When any order, being or purporting to be under this Act, or under the trustee Act, one thousand eight hundred sixty-six, shall be made by the Chancellor or the Court of Chancery, vesting the right to any stock, or vesting the right to transfer any stock, or vesting the right to call for the transfer of any stock, in any person or persons, in every such case the legal right to transfer such stock shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock into his or their own name or names, or otherwise, to the extent, and in conformity with the terms of the order; and all banks, companies and associations whatever, and all persons shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such banks, companies associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Indemnity to banks and companies so obeying.

VII. Every order made or to be made, being or purporting to be made under this or the trustee Act, one thousand eight hundred and sixty-six, by the Chancellor or Court of Chancery, and duly passed and entered, shall be a complete indemnity to all banks, companies and associations whatsoever, and all persons for any act done pursuant thereto; and it shall not

be necessary for any such bank, company or association, or person to enquire concerning the propriety of such order, or whether the Chancellor or the Court of Chancery had jurisdiction to make the same.

VIII. When any person is or shall be jointly or solely seized or possessed of any lands, or entitled to any stock upon any trust, and such person has been or shall be convicted of felony, it shall be lawful for the Court of Chancery, upon proof of such conviction, to appoint any person to be a trustee in the place of such convict, and to make an order for vesting such lands, or the right to transfer such stock and to receive the dividends or income thereof, in such person to be so appointed trustee; and such order shall have the same effect as to lands as if the convict trustee had been free from any disability, and had duly executed a conveyance or assignment of his estate and interest in the same.

Power to appoint new trustees in lieu of persons convicted of felony

IX. In all cases where it shall be expedient to appoint a new trustee, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the Court of Chancery, it shall be lawful for the said Court to make an order appointing a new trustee or new trustees, whether there be any existing trustee or not at the time of making such order.

Power to the Court to appoint new trustees where there is no existing trustee.

X. In every case in which the Chancellor has jurisdiction under this Act, or the trustee Act, one thousand eight hundred and sixty-six, to order a conveyance or transfer of land or stock, or to make a vesting order, it shall be lawful for him also to make an order appointing a new trustee or new trustees, in like manner as the Court of Chancery may do in like cases, without its being necessary that the order should be made in Chancery, as well as in lunacy, or be passed and entered by the Registrar of the Court of Chancery.

Chancellor may make orders for appointment of trustees without it being necessary that it should be made in chancery, &c.

XI. That the jurisdiction conferred by this Act on the Chancellor, relating to the care of persons and estates of lunatics, shall and may be had, exercised and performed by the person or persons for the time being interested, as aforesaid.

As to power of persons intrusted with the care of lunatics.

XII. The preceding sections of this Act shall be read and construed according to the definition and interpretations contained in the first fifteen sections of the trustee Act, one thousand eight hundred and sixty-six; and the provisions of the said last mentioned Act, except so far as the same are altered by, or are inconsistent with this Act, shall extend and apply to the cases provided for by this Act, in the same way as if

Act to be construed as part of trustee Act, 1866.

this Act had been incorporated with, and had formed part of the said trustee Act, one thousand eight hundred and sixty-six.

XIII. And whereas it is declared in and by the ninth section of the Act passed in the twenty-fourth year of the reign of Queen Victoria, chapter five, that leasehold estates and interests in land shall be bound by judgments entered up of record in Her Majesty's Supreme Court of Judicature, in the same way and manner, and to the same extent as freehold estates and interests therein are bound or affected thereby, under the provisions of the ninth section of the said Act, in all cases wherein the party defendant should consent in manner therein specified; and whereas it is deemed expedient to define more clearly the manner in, and extent to which such leasehold estates and interests are bound by such judgments: Be it therefore enacted that all such judgments, wherein the defeazance to the warrant of attorney on which such judgments shall be entered, it shall be declared by the party defendant who executed the same, that it is his intention and desire that his leasehold property should be bound by the judgment, such judgment shall be deemed and held to operate as an assignment of all the leasehold interest of such party defendant wanting one or the last day of his term or interest therein, in as full and ample a manner as though a demise, assignment, or conveyance had been executed to the party plaintiff of such leasehold interest, by way of mortgage wanting one day thereof, as aforesaid; and the entry of a warrant to acknowledge satisfaction, upon the record of the said judgment shall be deemed and held to operate as a re-assignment, re-demise or re-conveyance of the said leasehold estate and interest of the party defendant, or to his executors, administrators or assigns entitled to the same; provided always, that under any execution issued, or hereafter to be issued out of the Supreme Court upon any such judgment, where the sheriff shall have levied upon such leasehold estate so bound by such judgment as aforesaid, the whole interest of the said plaintiff, as well of the said defendant, shall pass to the party purchasing the same under such execution, and the same shall be conveyed to him under the sheriff's deed executed to such purchaser, in conformity with this and all other Acts relating to the sale of lands or interests therein, under executions issued out of the Supreme Court.

Recital of expediency to define certain sections of 24th Vic. cap. 5.

Definition of the effect of party executing warrant of attorney agreeing to levied leasehold estate.

Effect of entry of satisfaction.

Proviso.

XIV. The last preceding section of this Act shall be read and construed according to the definition and interpretations contained in the Act passed in the twenty-fourth year of the reign of Queen Victoria, chapter five; and the provisions of the last mentioned Act, except so far as the same are altered

Last section to be read as part of 24th Vic., cap. 5.

by, or are inconsistent with the said last preceding clause of this Act, shall extend and apply to the cases provided for by this Act, in the same way as if the said last two sections of this Act had been incorporated with, and had formed part of the said last mentioned Act.

CAP. XVIII.

An Act relating to practice and pleading in the Supreme Court.

[Passed May 17, 1867.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. Current gold and silver coin may be taken in execution, and may be paid to the creditor as money collected, government debentures, treasury warrants and notes, and bank notes, and all bills or evidences of debt issued by any corporation, and calculated as money, may be taken in execution and paid to the creditor at their par value, as money collected, if he will accept them, otherwise they shall be sold after giving two calendar months' notice of sale thereof in the *Royal Gazette* newspaper.

Gold and silver may be taken in execution.

II. The necessary wearing apparel and bedding of the debtor and his family, and the tools or instruments of his trade or calling, five pounds in money, and his last cow, shall be exempted from execution.

What exempt from execution.

III. All distinction of suing or being sued as an attorney shall be abolished.

Distinctions abolished.

IV. Upon the trial of any cause, civil or criminal, the addresses to the jury shall be regulated as follows: The party who begins, or his counsel, shall be allowed, in the event of his opponent not announcing at the close of the case of the party who begins, his intention to adduce evidence to address the jury a second time, at the close of such case, for the purpose of summing up the evidence, and the party on the other side, or his counsel, shall be allowed to open the case, and also to sum up the evidence, if any, and the right to reply shall be the same as at present.

When counsel may address jury twice.

V. It shall be lawful for the presiding Judge, at the trial of any cause where he may deem it right for the purposes of justice, to order an adjournment for such time, during the same term or sittings, and subject to such rules and conditions as to costs or otherwise, as he may think fit.

Judge at trial may order an adjournment.

Interlocutory costs.

VI. When interlocutory costs shall be taxed against any party, execution may be issued for the recovery thereof.

Judge may grant a rule nisi.

VII. When a Judge has power to grant an order, he may, in place thereof, grant a rule *nisi*, returnable in term, and the Court, in term, may make a rule returnable at chambers.

Judgment of Court may be pronounced at chambers.

VIII. When cases shall have been fully argued, and the several judges who heard the argument have decided upon the judgment to be delivered, and have reduced their opinion to writing, the judgment of the Court may be pronounced at Chambers, after the several opinions have been read.

Affidavits allowed to answer new matter.

IX. Upon motions, founded upon affidavits, it shall be lawful for either party, with leave of the Court, or a Judge, to make affidavits, in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to such rules as may be made by the said Court or Judge, respecting such affidavits.

Court may order the production of documents and examination of witnesses.

X. Upon the hearing of any motion or summons, it shall be lawful for the Court or a Judge, at their discretion, and upon such terms as they shall think reasonable, from time to time, to order such documents as they may think fit, to be produced, and such witnesses as they may think necessary, to appear and be examined, *viva voce*, before such Court or Judge, and upon hearing such evidence, to make such rule or order as they may deem just.

Execution may issue against lessor of plaintiff for defendant's costs.

XI. In all actions of ejectment in the Supreme Court, where the plaintiff or lessor of the plaintiff, has a verdict pass against him, or becomes nonsuit or nonprossed, or otherwise, the action goes against him, or in case the action be discontinued, then, and in such case, execution by *feri facias* or otherwise, may be issued out of the said Court, against the lessor of the plaintiff, his lands, goods, chattels and person, for the recovery of the defendant's costs, as in other suits which do not relate to land.

Mode of procedure against party residing out of Island being a British subject.

XII. In case any defendant, being a British subject, is residing out of this Island, it shall be lawful for the plaintiff to issue a writ of summons, in the form contained in schedule (A) to this Act annexed, containing the declaration, according to the practice now adopted in summary causes, and which writ shall bear the endorsement contained in the said form, purporting that such writ is for service out of this Island; and the time for appearing and pleading by the defendant to such writ shall be regulated by the distance from this Island of the place where the defendant is residing, and it shall be

lawful for the Court or Judge, upon being satisfied by affidavit that there is cause of action, which arose within this Island, or in respect of a breach of a contract made within the Island, in whole or in part, or intended to be executed in whole or in part, within this Island, or in respect of a contract made and entered into between parties, one of whom, at the time of making such contract, shall reside within this Island, and that the writ was personally served upon the defendant, or that reasonable efforts were made to effect personal service thereof upon the defendant, and that it came to his knowledge, and either that the defendant wilfully neglects to appear and plead to such writ, or that he is living out of the Island, in order to defeat or delay his creditors, to direct, from time to time, that the plaintiff shall be at liberty to proceed in the action, in such manner and subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed for the defendant to appear and plead, being reasonable, and to the other circumstances of the case; provided always, that the plaintiff shall, and he is hereby required to prove the amount of the debt or damage claimed by him in such action, either before a jury, upon a writ of inquiry, or before a Judge; and the making such proof shall be a condition precedent to his obtaining judgment.

XIII. In any action against a person residing out of this Island, and not being a British subject, the like proceedings may be taken as against a British subject resident out of this Island, save that in lieu of the form of the writ of summons in the schedule (A) to this Act annexed, the plaintiff shall issue a writ of summons according to the form contained in the schedule (B) hereto annexed, and shall, in manner aforesaid, serve a notice of such last mentioned writ upon the defendant therein mentioned, which notice shall be in the form contained in the said schedule (B), and such service shall be of the same force and effect as the service of the writ of summons in any action against a British subject resident abroad, and by leave of the Court or a Judge, upon their or his being satisfied by affidavit as aforesaid, the like proceedings may be had and taken thereupon.

Procedure
against party
out of Island
not being a
British subject

XIV. Any affidavit of service of writ or notice, or any other affidavit for the purpose of enabling the Court or a Judge to direct proceedings to be taken against defendants out of the Island, may be sworn before any Judge of a Court of record or Justice of the Peace, in any of her Majesty's dominions, or before any consul general, or consul, vice consul, or consular agent, appointed by her Majesty at any foreign port or place, whose official character and signature shall be certified under the hand and seal of a notary public; provided always, that if any

Affidavit of
service of writ
upon party out
of the Island,
where to be
sworn before.

person shall, within this island, use or tender in evidence any such affidavit with a false or counterfeit signature thereto, knowing such signature to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to be imprisoned for a term not exceeding three years, nor less than one year, with hard labor.

SCHEDULE (A.)

Schedule (A.) Writ where the defendant, being a British subject, resides out of the jurisdiction of this Island.

[*L.S.*] VICTORIA, by the grace of God, &c.

To *C. D.*, of in the of

We command you that, within (here insert a sufficient number of days within which the defendant might appear, with reference to the distance he may be at from this Island,)

days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Supreme Court of Prince Edward Island, at in an action at the suit of *A. B.*, who says that the said *C. D.* is indebted to him (for work done and materials provided by the plaintiff for the defendant at his request, or as the case may be,) and take notice that, in default of your so doing, the said *A. B.* may, by leave of the Court or a Judge, proceed therein to judgment and execution, and he claims £

Issued the day of A. D. 18

E. F., Prothonotary.

G. H., Plaintiff's Attorney (or in person.)

Memorandum to be subscribed on the Writ.

N. B.—This writ is to be served within calendar months, from the date hereof, or if renewed, from the date of such renewal, including the day of such date, and not afterwards.

Endorsement to be made on the writ before service thereof :

This writ is for service out of the jurisdiction of the Court, and was issued by *G. H.*, of Attorney for the said plaintiff, (or this writ was issued in person by *A. B.*, who resides at (mention plaintiff's place of residence.)

SCHEDULE (B.)

Writ where a defendant not being a British subject resides Schedule (B.)
out of the jurisdiction of this Island.

[L. S.] VICTORIA, by the grace of God, &c.

To C. D., of in

We command you that, within (here insert a sufficient number of days within which the defendant might appear, with reference to the distance he may be at from Prince Edward Island,) days after the notice of this writ is served on you, inclusive of the days of such service, you do appear, or cause an appearance to be entered for you, in our Supreme Court of Prince Edward Island, at in an action at the suit of A. B., who says that the said C. D. is indebted to him (for work and material provided by the plaintiff for the defendant at his request, or as the case may be,) and take notice that, in default of your so doing, the said A. B. may, by leave of the Court or a Judge, proceed therein to judgment and execution, and he claims £

Issued the day of A. D. 18

E. F., Prothonotary.

G. H., Plaintiff's Attorney, (or in person.)

Memorandum to be subscribed on the Writ.

N. B.—Notice of this writ is to be served within six calendar months from the date thereof, including the day of such date, and not afterwards. Endorsements as in schedule (A.)

Notice of the foregoing Writ.

To C. D. of in

Take notice that A. B., of in Prince Edward Island, has commenced an action at law against you C. D., in the Supreme Court of Prince Edward Island, at by a writ of that Court, dated the day of A. D. 18, in which he says that you are indebted to him (for work done and materials provided by the plaintiff for the defendant at his request, as the case may be,) and you are required, within days after receipt of this notice, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action, and, in default of your doing so, the said A. B. may, by leave of the Court, or a Judge, proceed thereon to judgment and execution.


The following are the particulars of the said A. B's. claims, &c. (Signed)

E. F., Plaintiff's Attorney, (or in person.)

CAP. XIX.

An Act to incorporate the Alberton Masonic Hall Company.


[Passed May 17, 1867.]

 This Act has been printed in the second volume of the Private and Local Acts.

CAP. XX.

An Act to enable George C. Stiles to obtain Letters Patent for the invention of a new and useful improvement in the construction of Spinning Wheels.

[Passed May 17, 1867.]

 This Act has been printed in the second volume of Private and Local Acts.

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown, the eighteenth day of April, *Anno Domini*, 1867, in the thirtieth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith:

GEO. DUNDAS,
Lt. Governor.

D. MONTGOMERY,
President
of Legislative
Council.

And from thence continued, by several prorogations, to the fourth day of March, 1868, and in the thirty-first year of her said Majesty's reign; being the second session of the twenty-third General Assembly convened in the said Island.

J. WIGHTMAN,
Speaker.

C A P. I.

An Act for raising a Revenue.

[Passed April 24, 1868.]

WHEREAS it is deemed expedient to further continue and amend the hereinafter recited Act. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. The Act made and passed in the nineteenth year of the reign of her present Majesty, intituled "An Act for raising a Revenue, and to consolidate and amend the several Acts therein mentioned," save and except such clauses and parts thereof

19 Vic. cap. 1
continued until
1st May, 1869,
with amendments.

as are hereby repealed, shall be and the same is hereby continued, with certain amendments hereinafter mentioned, from the passing hereof and until the first day of May, which will be in the year of our Lord one thousand eight hundred and sixty-nine.

Duties imposed according to table.

Duties to be calculated on invoice reduced into currency.

Rate of dollar, how fixed.

II. From and after the passing of this Act, and until the said first day of May one thousand eight hundred and sixty-nine, there shall be raised, levied and paid on the several articles hereinafter mentioned, imported or brought into this Island from any place or country whatsoever, the several impost duties, rates or impositions inserted, described and set forth in figures in the table of duties hereinafter contained, denominated "Table of Impost Duties," opposite to and against the said respective articles as therein mentioned, described and enumerated, and according to the value, number and quantity thereof, as therein specified, the first column of duties in the said table denoting the *ad valorem* duty or amount payable on every one hundred pounds worth of the article imported, which shall be in like proportion for any less amount than one hundred pounds worth, and the second column denoting the specific duty on each article, and the said duties shall be calculated on the actual value or amount of the invoice, when reduced into the lawful current money of this Island, which said several duties, rates and impositions, shall be in lieu of all duties rates and impositions imposed by the hereinbefore recited Act; and the amount of any invoice of dutiable goods imported from the United States of America into this Island, made out in dollars and cents, shall, for all the purposes of this Act, be reduced into the current money of this Island, by allowing for each dollar the sum of six shillings of the said current money, or such other sum as the Lieutenant Governor of this Island, in Council, shall, from time to time, fix and determine, the rate so fixed by the government to be published in the *Royal Gazette*, weekly, and in like proportion for any smaller part or fraction of a dollar.

TABLE OF IMPOST DUTIES REFERRED TO IN THE PRECEDING
CLAUSE OF THIS ACT.

ARTICLES.	1st column.			2d column.		
	Per centago <i>ad-valorem</i> duty on eve- ry £100 cur- rency value per Invoice.			Other Duties		
	£	s.	d.	£	s.	d.
Anchors and Chain Cables,	1	0	0			
Almonds, Jordan and shelled, per lb.				0	0	3
Ale, Porter and Beer, per gallon,				0	0	5
Blocks and Dead Eyes,	5	0	0			
Bar Iron, Bar and Spring Steel,	5	0	0			
Buffalo Robes,	10	0	0			
Boots and Shoes of all kinds,	12	10	0			
Bread, fine, and Crackers of all kinds, except Ship and Navy Bread,	10	0	0			
Butter, the cwt.				0	10	0
Bread, Ship and Pilot, per 100 lbs.				0	1	0
Bacon, the cwt.				0	10	0
Beef, the barrel,				0	6	0
Brooms (corn,)	12	10	0			
Books, being the reprints of British authors, under the Imperial Act 11th Vic. cap. 28.	20	0	0			
Burning Fluid, Kerosene, Parafine, Rock, combination and all other descriptions of Oils manufactured from coal, per gallon,				0	0	7½
Canvas and Sailcloth,	2	0	0			
Copper, Brass and composition Bars, Bolts, Rudder Braces, Clinch Rings, Sheets and Sheathing Nails,	2	0	0			
Clothes, ready made, namely, Coats, Overcoats, Vests, Jackets and Trou- sers,	12	10	0			
Carriages of all kinds,	12	10	0			
Cigars,	20	0	0			
Clocks,	25	0	0			
Coffee, roasted or ground, per lb.				0	0	3
Coffee, green, per lb.				0	0	2
Chocolate, Cocoa Paste, or Bro.na, the lb.				0	0	3
Cider, per gallon,				0	0	5

Table of
Duties.

Table of Duties.

ARTICLES.	1st column.			2d column.		
	Per centage <i>ad valorem</i> duty on every £100 cur- rency value per Invoice.			Other Duties.		
	£	s.	d.	£	s.	d.
Confectionary of all kinds, per lb.				0	0	4
Currants, Raisins, Prunes, Figs, and all other kinds of dried Fruit, per lb.				0	0	1
Cheese, the cwt.				0	5	0
Cordage, (see Rigging)						
Flour, Wheat and Rye and Cornmeal, per bbl.				0	1	6
Hams, the cwt.				0	10	0
Fruit and Vegetables, undried,	5	0	0			
Gypsum, ground and unground,	5	0	0			
Iron Bars and Straps, intended for strap- ping Riders and Knees of Ships,	2	0	0			
Jewellery of all kinds,	10	0	0			
Leather of all kinds except Sole Leather	5	0	0			
Leather (Sole) the lb.				0	0	1
Looking Glasses,	12	10	0			
Lard, per cwt.				0	10	0
Matches,	12	10	0			
Molasses per gallon,				0	0	4
Machinery, all wheel machinery, and machinery for manufacturing, or to be used in the formation of Clocks,	20	0	0			
Medicines, patent,	30	0	0			
Onions, per 100 lbs.				0	3	0
Oakum,	2	0	0			
Pork, per barrel,				0	6	0
Rigging and Cordage,	2	0	0			
Rosin, Pitch and Tar,	2	0	0			
Rice,	5	0	0			
Steam Engines and Boilers,	2	0	0			
Sails,	2	0	0			
Sails, Rigging, and Ship materials saved from vessels wrecked on the coast of this Island, duty payable on account sales,	10	0	0			
Hulls of wrecked ships not belonging to this Island,	10	0	0			
Ships Stores and Cargoes saved from wrecks or sold in vessels stranded, to pay the same duty as in cases of im- portation,						

ARTICLES.	1st column.			2d column.		
	Per centage <i>ad valorem</i> duty on every £100 cur- rency value per invoice.			Other duties.		
	£	s.	d.	£	s.	d.
Sugar, refined, per lb.				0	0	3
Sugar, brown and Muscavado, per cwt.				0	7	0
Trunks, Valises, Portmanteaus,	12	10	0			
Tea per lb.,				0	0	4
Tobacco, manufactured, per lb.,				0	0	6
Tobacco, unmanufactured, the pound, three pence duty on the same, to be levied on the quantity imported, without any reduction for stems or otherwise.				0	0	3
Watches and all machinery to be used in the formation thereof,	10	0	0			
Wood, articles manufactured from, and such articles of which wood forms the principal part not hereinbefore mentioned,	12	10	0			
WINES, SPIRITS, &c.,						
Wines, Claret and all other light Wines, except Port and Sherry, the first cost of which is under twenty pounds sterling per pipe.	25	0	0			
Port and Sherry Wine and all other Wines costing twenty pounds ster- ling per pipe, per gallon, in addition to five per cent. <i>ad valorem</i> duty.	5	0	0	0	4	0
Spirits, namely Brandy, imported into this Island at the ports of Charlotte- town, Georgetown, Summerside and Souris, not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength than the strength of proof per gallon,				0	4	6
Spirits, namely brandy, imported into this Island at any other ports, for every gallon thereof of any strength under and not exceeding the strength of proof 28 by the bubble				0	4	6
And for every bubble below 28 in num- ber by the bubble, an additional 3d per gallon,				0	0	3

ARTICLES.	1st column.	2d column.
	Per centage <i>ad valorem</i> duty on every £100 currency value per invoice.	Other Duties
	£ s. d.	£ s. d.
Spirits, namely Gin, Cordials and Whiskey, imported into this Island at the ports of Charlottetown, Georgetown, Summerside and Souris, not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength than the strength of proof per gallon,		0 4 0
Spirits, namely Gin, Cordials and Whiskey, imported into this Island at any other ports, for every gallon thereof of any strength under and not exceeding the strength of proof of 28 by the bubble,		0 4 0
And for every bubble below 28 in number by the bubble, an additional 3½d per gallon,		0 0 3½
Rum or other distilled Spirituous Liquors, imported into this Island, not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength than the strength of proof and landed at the ports of Charlottetown, Georgetown, Summerside and Souris, per gallon.		0 2 0
Rum, or other distilled Spirituous Liquors, imported into this Island at any other ports, for every gallon thereof of any strength under and not exceeding the strength of proof 28 by the bubble,		0 2 0
And for every bubble below 28 in number by the bubble, an additional 2d per gallon,		0 0 2
Lemon Syrup, Shrub, Santa and Gingerett, per gallon,		0 1 0
Tinctures per gallon,		0 2 0
Spirituous Liquors, on all manufactured or distilled in this Island, per gallon.		0 0 6

Table of Duties.

ARTICLES.	1st column.	2d column.
	Per centage <i>ad valorem</i> duty on every £100 currency value per invoice.	Other Duties
	£ s. d.	£ s. d.
On all Goods, Wares and Merchandize, not above enumerated, except as hereinafter mentioned and excepted, saving and excepting all exemptions reserved and contained in and by the 8th section of the Act 19th Vic., cap. 1,	10 0 0	

Table of Duties.

TABLE OF EXEMPTIONS.

III. All articles in the following table, imported from any country or colony whatsoever, shall be exempt from duty, to wit :

Table of exemptions.

All articles imported by the Lieutenant Governor, for his own use. Ashes, namely—pot ashes, pearl ashes, and soda ashes,

Baggage, apparel, household effects, working tools and implements, used and in use of persons or families arriving in this Island, if used abroad by them, and not intended for any other person or persons or for sale.

Barrels and half barrels of all kinds, books, printed of all kinds, not prohibited to be imported into the United Kingdom.

Maps and Charts.

Blocks, rigging and sails which may have been used to take new vessels from this Island to a market for sale, if such blocks, rigging and sails shall be returned forthwith, after the sale of the vessel, direct to this Island, by the exporter thereof, and shall have previously paid and shall have been charged with the duties by law imposed thereon on the first importation thereof into this Island.

Broom Corn and Bark.

Coal.

Dye woods of all kinds (ground and unground.)

Engines, (fire.)

Flax.

Fish of all kinds, and products of fish and all other creatures living in the water.

Furs, Skins and Tails, (undressed.)

Table of ex-
emptions.

Grindstones hewn, (wrought or unwrought.)
Hemp and Tow, (unmanufactured)
Hides.
Horns.
Iron, (pig.)
Lime,
Manures,
Fish Oil.
Organs and Bells imported expressly for any Church, Chapel
or sacred edifice in this Island and intended to be placed
therein.
Ores of metals of all kinds.
Ordnance or Commissariat stores or war munitions of any
kind, or military baggage or clothing brought into this Island
for the use of Her Majesty's army, navy or militia by any
commissary or other person in Her Majesty's service.
Military clothing and accoutrements for the use of Her Majes-
ty's volunteer corps in this Island.
Printing paper, royal and demy, in use for newspapers.
Poultry and Eggs.
Pelts.
Plants, Shrubs and Trees.
Rags.
Salt.
Seeds.
Slate.
Stone or Marble, sawn or in its crude or unwrought state.
Burr or limestone.
Stock, live of all kinds, for breeding purposes.
Seines, nets for the use of the fisheries.
Staves.
Tallow.
Teazels.
Timber and lumber of all kinds, round, hewn and sawed, (un-
manufactured.)
Firewood.
Wool.

Enactments in
19 Vic., cap 1,
to apply to the
collection of
duties under
this Act.

IV. All and every the powers and authorities, provisions, rules, regulations, directions, penalties, forfeitures, clauses, matters and things in the said recited Act of the nineteenth Victoria, chapter one, shall severally and respectively be duly observed practised and applied to, and put in execution in relation to the duties thereby and hereby imposed, and granted, as well during the time hereby limited, as after the expiration thereof, for securing levying, collecting and recovering the said duties, and all arrears thereof, and all penalties and forfeitures that may have heretofore been incurred under and by virtue of the said recited Act ; and for suing for and recovering all

such penalties as shall have been or may be incurred in relation to the said duties, as fully and effectually, to all intents and purposes, as if the same powers and authorities, rules, regulations, directions, penalties, forfeitures, clauses, matters, and things were particularly repeated, and re-enacted in the body of this Act, with reference to the said duties hereby or thereby granted and imposed.

V. No rum, brandy, gin or alcohol shall be imported or brought into this Island in any cask or package not capable of containing at least sixty gallons (except as hereinafter excepted,) and any person offending against the provisions of this section shall forfeit ten pounds for every cask or package, and the liquors shall be forfeited, provided that nothing in this section contained shall apply to any such liquors imported into this Island from Europe, the British West Indies or any British possession in North America.

Importation of spirituous liquors in casks of less than 60 gallons prohibited, except &c.

VI. On the seizure of any goods wares and merchandize by the landwaiter or preventive officer, under the provisions of the said hereinbefore recited Act, the duties on such goods, wares and merchandize shall be first paid into the public treasury, within thirty days after the sale thereof, and the balance or residue of the proceeds arising from such sales, after the payment of the duties as aforesaid, shall be paid to, or equally divided between, the officer or officers making the seizure, together with three-fourth parts of all fines relating to such seizure, which shall be sued for and recovered in the name or names of such officer or officers making the seizure, or by an information filed by the Attorney or Solicitor General.

Duties on goods seized to be paid into the treasury and balance of proceeds, with fines to go to seizing officer.

VII. No goods, wares or merchandize shall be liable to forfeiture by reason of the same not having been duly entered by the master of the ship or vessel in which the same shall have been imported, provided always that such goods, wares or merchandize shall have been duly entered, according to law by the importer or consignee thereof, or other person interested in the same.

Forfeiture not incurred for default of master's entry, if entry made by Importer.

VIII. No ship or vessel shall be liable to seizure, detention or forfeiture under the provisions of the said recited Act, by reason of any breach or violation of the said Act having been committed by the master, (not being the owner) of such ship or vessel, unless the owner or owners of such ship or vessel shall, either directly or indirectly, be privy or accessory to, or in some way concerned in the breach or violation of such Act as aforesaid.

No ship liable to seizure for offence of charter where he is not also owner.

IX. All masters of ships coasting, fishing, and of all other vessels whatsoever, whether laden or in ballast, coming into

Masters of ships to report

to Collector
within 24
hours after
arrival.

any harbor, port, river or creek, or any other part of the coasts of this Island, shall, before breaking bulk, or landing passengers or baggage, and within twenty-four hours after their arrival, make report in writing, upon oath, to the Collector of Impost for the harbor or district wherein such vessel shall have arrived, and the masters of all vessels having on board any wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares or merchandize, of what nature or kind soever, shall also specify, in such report, the kinds of casks, packages, parcels, boxes, trunks, bales, and all other manner of things in which such wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares and merchandize, shall or may be contained, together with the marks and numbers thereof, and that they have not landed or suffered to be landed, sold, bartered or exchanged, any wine, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares or merchandize, at any port or place within this Island, or on the coast thereof, since their sailing from the port or place where the same were laden on board any ship or vessel for exportation, which oath the said Collector is empowered to administer, in the form following:—

Form of mas-
ter's oath on
reporting car-
go.

You, *A. B.* do swear that the report which you have made, (read or heard read, as the case may be,) and subscribed, contains a just and true account of all wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, goods, wares or merchandize, laden on board the _____, at the port of _____ or any other port or ports, or elsewhere, before _____ or since your sailing from _____, and that you have not landed, nor suffered to be landed, sold or delivered, bartered or exchanged, any wine, gin, brandy rum, or other distilled spirituous liquors, tea, tobacco, goods, wares or merchandize, at any port or place within this Island, or on the coast thereof, since your sailing from _____, or since your sailing from any other place. _____ So help you God.

When goods
seized, a list to
be furnished to
Collector of
Impost.

Form of notice
of sale of seized
goods.

X. When any landwaiter or preventive officer shall have made a seizure of any goods prohibited or unlawfully imported, or attempted to be unlawfully imported or landed in this Island, it shall be the duty of such officer, and he is hereby required to furnish to the nearest Collector of Impost, a list or account of the goods so seized, before proceeding to the sale thereof, and which sale should be made known by posting a notice thereof in the form prescribed in the schedule marked (A), to this Act annexed, in twelve of the most public places at and in the vicinity of the place where such sale is to take place, at least fifteen days previous to such sale, and the Collector or Collectors of Impost who may receive such list of seizures as aforesaid, are hereby required to furnish the same

annually, to the treasurer of this Island, who shall lay the same before the House of Assembly at the next session thereof.

XI. For the better and more effectually securing the several duties, fines, forfeitures, and penalties arising by virtue of this, or any other Act relating to the revenue, now or hereafter to be in force, the Chief Justice, or in his absence any Judge of the Supreme Court, is hereby authorized and empowered, on application made by the Attorney General or any other officer prosecuting on the part of the Crown for that purpose, to grant a bailable writ or warrant against any person liable for the said duties, penalties, fines and forfeitures, and such person shall be imprisoned or detained in the County jail, until he shall have given bail to answer the judgment and costs in any action to which he shall have rendered himself liable, or then commenced or pending against him for such duties, fines, forfeitures, and penalties.

Bail may be required for duties or penalties.

XII. There shall be allowed and paid on all wines, gin, brandy, rum, or other distilled spirituous liquors, tea, tobacco, and all goods, wares, and merchandize, that have already been or that shall hereafter be imported into this Island or manufactured therein, on exportation of the same therefrom, a drawback equal in amount to the whole duty paid or secured to be paid on such, on the importation thereof.

Drawback on exportation of dutiable articles.

XIII. Any revenue officer having reasonable cause to suspect goods liable to forfeiture to be in any particular building, may, in company with any Justice of the Peace for the County where the building is situate, who is hereby required to accompany him, enter such building at any time between sunrise and sunset, but if the doors are fastened, then admission shall first be demanded, and the purpose for which such entry is required, when declared, if admission shall not be given, the Justice shall order the officer forcibly to enter, and when in either case entry shall be made, the officer shall search the building and seize all forfeited goods.

Revenue officer and Justice of the Peace authorized to enter buildings to make search &c.

XIV. Duties on goods imported before the coming into operation of an Act imposing new duties, and whereon the duties have not been paid or secured, shall be collected under the new law, but forfeitures shall be recovered under the law under which they were incurred, notwithstanding such law may have expired.

Old duties to be collected by new law, but penalties under old Act.

XV. During the continuation of this Act, it shall be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, to grant licenses to distil, extract, or manufacture Spirituous Liquors in this Island,

License to distil spirituous liquors, how obtained.

Bond to be given.

which licenses shall be in force from the date thereof respectively, until the first day of May, one thousand eight hundred and sixty-nine, and the rate or price of every such license shall be twenty-five pounds for each and every distillery, which sum shall be paid into the treasury of this Island for the use of her Majesty's government; and every person who shall pay the said sum of twenty-five pounds, or shall enter into, sign, seal and execute a bond and warrant of attorney, with one good and sufficient surety, before the Collector of Impost for the district wherein the distillery of the person so seeking such license shall be situate, conditioned to pay such sum within six months, with interest thereon, from the date thereof, and shall produce to the treasurer of this Island a certificate from such Collector of the fact of such bond and warrant of attorney having been given for the amount aforesaid, (which bond and warrant of attorney the Collector is hereby required to take before granting such certificate), such person shall be entitled to receive a license to distil, extract or manufacture any spirituous liquors during the period for which such license shall be granted; the bond and warrant of attorney to be given as last hereinbefore prescribed, shall be of like form and effect as the bond and warrant of attorney hereafter to be given by the importers of goods, wares, and merchandize, to secure the payment of duties thereon under the provisions of the said recited Act of the nineteenth Victoria, chapter one, as amended by this Act.

Penalty for distilling without license.

XVI. It shall be unlawful for any person, during the continuation of this Act, to distil, extract or manufacture spirituous liquors in this Island, without having first obtained such license as aforesaid; and any person or persons who shall so distil, extract or manufacture spirituous liquors, without having first obtained a license therefor, for every distiller, as hereinbefore required, shall, for each and every offence, forfeit and pay to Her Majesty a fine not exceeding one hundred pounds, to be paid into the treasury of this Island for the use of her Majesty's government.

Owners, &c. of distilleries, to account, on oath, each alternate month as to quantity of liquors distilled.

XVII. The owner or owners of any distillery, or other person or persons who shall manufacture any distilled spirituous liquors in this Island, and in case such distillery shall be conducted or carried on by any servant or servants having the care and management of the same, such owners, masters or servants, respectively, shall, on the first Monday in June, and on every first Monday in every alternate month thereafter, in each year, during the continuance of this Act, render a just and true account, in writing, to the nearest Collector of Impost and Excise, of the quantity of all Spirituous Liquors distilled or manufactured by him or them for the two months

then last past; and shall also, in such account, state whether the spirituous liquors therein referred to, have been distilled from molasses, or barley, or grain, and how much from each, respectively, and shall make and subscribe, before the said Collector, the following oath, which oath the said Collector is hereby required to administer:—

I, *A. B.*, do swear that the account which I have now rendered and subscribed, contains a just and true account of all the rum, brandy, gin or whiskey distilled by me, (or, if entry be made by foreman or servant, for any person or persons, since the day of last past), and also that the substances from which the same have been extracted or manufactured are truly mentioned and stated in the said account.

Form of oath

So help me God.

XVIII. And the said owner, master or servant after making and subscribing the before mentioned oath, shall forthwith pay or secure unto the said Collector of Impost and Excise, the amount of duty imposed and due on such liquor so manufactured, as aforesaid, during the two months then last past, the same to be paid or secured as directed by this Act, in the case of liquors or other goods and merchandize imported into this Island.

Owner, &c., to pay to Collector duty imposed.

XIX. If any person shall neglect or refuse to make such return, or shall make a false return of the quantity of spirituous liquors so manufactured or distilled by him, or of the substances from which the same have been manufactured, or shall refuse to pay or secure the amount of duties on such liquors, such person shall, for each and every offence, forfeit and pay the sum of twenty pounds, and shall likewise forfeit the license to manufacture or distil, *æ* granted to him as aforesaid, and no license shall or may be granted to any person whomsoever to manufacture or distil in the distillery of any person whose license shall be so forfeited and cancelled, for the period of six months next after the same shall have been so cancelled.

Penalty for false return of home distilled spirits, or neglect of return.

XX. For the better detecting persons distilling, extracting, or manufacturing spirituous liquors, without license as aforesaid, and also the better to enable the officers of the revenue, collecting the duties imposed by this or any other Act of the Legislature on the distillation, extraction, manufacturing or importation of such spirituous liquors, or other dutiable articles, it shall be lawful for any Collector of Impost, Controller of the navigation laws, preventive officer, or other person appointed for collecting, securing, or protecting the revenue, and he is hereby authorized to enter into and upon all

Power given Revenue officers, &c., to enter suspected premises to discover illicit distilling.

Power to seize and sell illegally manufactured liquors.

Share of remuneration to officers.

Distillers, after conviction of certain breaches of Act, to be prohibited from distilling for six months.

Treasurer to publish list of licensed distillers in Royal Gazette.

Informers of unlicensed

houses or other buildings and premises wherein he may have suspicion, and of the sufficiency of such suspicion the officer shall be the sole judge, that spirituous liquors may have lately been, or are being distilled, extracted, or manufactured without license, or without the duties imposed by this, or any other Act, having been paid or secured therefor, or wherein he may suspect any goods, articles, or spirituous liquors liable to duty under this Act, or any other Act of the Legislature of this Island, and illegally manufactured, distilled or extracted, imported or landed, are, and if, on investigation, he shall find such to have been, or to be the case, he shall and he is hereby authorized and required to seize and carry away the same and sell the same at public auction, within fifteen days after such seizure, unless the owner of the spirits, or other dutiable articles, shall prove to the satisfaction of the officer making seizure, that no breach of this or any other Act in force relating to the importing, distilling, extracting or manufacturing of spirituous liquors, has been made, or that the duties payable in respect thereof have been paid, and the officer making the seizure shall be entitled to the same proportion of the amount of the sale as in the fifty-fourth section of the Act of the nineteenth Victoria, chapter one, is awarded to preventive officers and landwaiters making seizure, and a similar amount to that also pointed out in the said section of the said last recited Act, shall be paid into the treasury of this Island for the use of her Majesty's government.

XXI. Any distiller, or his agent or servant, or other person, who shall be convicted of having wilfully and fraudulently made a return short of the real quantity of liquor made by him, or shall make a false return of the substances from which the same has been made, or who shall be convicted of having refused to account or pay, or secure the duties at the times prescribed by law, or who shall have delayed his return or payment, or security therefor, for more than ten days after the expiration of the two months from the day wherein he last accounted, shall, on conviction thereof, over and above the aforesaid penalty, be held not entitled to distil for six months from and after the day of such conviction, under the penalty of five pounds for each and every day he or those employed by him shall so distil after such conviction.

XXII. The treasurer shall publish a list of the persons licensed to distil spirituous liquors in the *Royal Gazette* newspaper once in each and every month, instead of quarterly, as prescribed in and by the sixty-fifth section of the hereinbefore recited Act of nineteenth Victoria chapter one.

XXIII. Any person or persons who shall, after the passing of this Act, give to any Collector of Excise or preven-

tive Officer, or to any Justice of the Peace in this Island, information of any unlicensed distillation being carried on within this Island, or of any spirituous liquors which have not paid the duties imposed upon the same by the laws of this Island, and which shall be liable to seizure, such person or persons shall, on the conviction of the parties so carrying on unlicensed distillation, or of the condemnation and sale of any such spirituous liquors, which shall have been seized in consequence of the non-payment of the duties payable thereon, be entitled to receive the half of the fine which shall be imposed on any such distiller, or one-half of the proceeds of any spirituous liquors which may be condemned and sold as aforesaid.

distillation to have half proceeds of condemned liquors.

XXIV. From and after the passing of this Act, instead of the credit mentioned in the seventy-eighth section of the said recited Act of the nineteenth Victoria, chapter one, to be given for duties on goods, wares and merchandize to the importer thereof, as therein mentioned, the following terms of credit for duties shall be given, that is to say: If the said duties shall exceed the sum of ten pounds and not amount to more than thirty pounds, a credit of three months shall be given therefore; and if the said duties shall exceed thirty pounds, a credit of six months shall be given for the payment thereof; and no longer time than six months shall in any case be given, and all bonds and recognizances hereafter to be entered into for securing the payment of duties on goods, wares and merchandize of any kind whatsoever shall bear interest on the amount thereof at the rate of six pounds per centum per annum, and such interest shall be computed and paid and payable from the day of the date of such bond or recognizance until the payment thereof; provided always, that nothing in this or any other Act contained shall be held or construed to entitle or give any person or persons any right or claim to a longer term of credit, for the amount of any bond or recognizance than the time therein mentioned for the payment thereof.

Terms of credit for duties regulated.

3 months.

6 months.

Interest payable on bonds.

Extreme limits of credit.

XXV. The warrant of attorney by law required to be taken by the collector of impost, in addition to the recognizance directed to be entered into as security for the payment of duties of impost and excise, shall, as well as the defeasance thereon to be endorsed, be in the form of the Schedule to this Act annexed marked (B), or in such other form as the Lieutenant Governor, or other administrator of the Government for the time being, in Council, may from time to time, direct.

Form of warrant of attorney for duties.

XXVI. It shall be competent and lawful for any of Her Majesty's Queen's Counsel in this Island, when called upon so to do, in the absence or in the event of the incapacity from ill-

Queen's Counsel authorized to sign judgment papers.

ness of the Attorney or Solicitor General, or when either of those offices shall be vacant, to sign all necessary declarations, pleas, bail pieces and other papers required to be signed, in order to enter up judgment in Her Majesty's Supreme Court of Judicature, on any warrant of Attorney heretofore taken by collectors of impost and excise, in addition to the recognizance by law directed to be taken as security for the payment of duties of impost and excise, notwithstanding that such warrant of attorney shall be directed to the Attorney and Solicitor General only; also to issue execution on the same, to take all necessary steps to perfect execution, and to acknowledge satisfaction under any such circumstances as aforesaid, when payment has been recovered or received.

All warrants of Attorney, heretofore taken for duties, to be good, notwithstanding defects.

XXVII. All warrants of attorney which have heretofore been taken by collectors of impost and excise, in addition to the recognizance by law directed to be taken as security for payment of the duties of impost and excise, shall, notwithstanding that the same shall not in all cases, be found to have been strictly taken in accordance with the directions contained in the statutes in force respecting the same, or the taking or form of such warrants of attorney be held and deemed to be good and valid, and to be sufficient to enable and authorize judgment to be entered up thereon in Her Majesty's Supreme Court of Judicature, as of the term of the said Supreme Court in Queen's County, next preceding the date of entering up judgment or otherwise, as the case may be, and execution to be issued thereon for the recovery of the amount purporting to be secured thereby and by the recognizance taken at the same time therewith.

Certain sections of 19 Vic. cap. 1, repealed.

XXVIII. The tenth, twenty-fourth, forty-fourth, fifty-third, fifth-fourth, sixty-first, sixty-second, sixty-seventh, sixty-eighth, seventy-fifth and eighty-first sections of the said hereinbefore recited Act of the nineteenth Victoria, chapter one, shall be and the same are hereby repealed.

Penalties on collector neglecting to administer oaths, &c.

XXIX. Any collector of impost and excise who shall neglect or omit to administer any of the oaths prescribed in and by the twenty-fifth, thirty-seventh, forty-ninth, seventieth and seventy-second sections of the hereinbefore recited Act of the nineteenth Victoria, chapter one, and in and by any of the sections of this Act, shall for each and every such neglect or omission, forfeit and pay into the treasury of this Island the sum of fifty pounds for the use of Her Majesty's Government, to be recovered in the Supreme Court of Judicature, in Her Majesty's name, in an action of debt on the oath of a credible witness.

Collectors' commissions

XXX. All Collectors of Impost, now or hereafter to be appointed, shall, on rendering a just and true account of, and

paying into the treasury of this Island all moneys received by them under and by virtue of the provisions of this Act, and on their accounts being certified as correct by the auditors of public accounts, be paid by warrant drawn by the Lieutenant Governor in Council on the treasury of this Island, an amount equal to five pounds per centum on all moneys received and paid over by such Collectors of Impost under this Act, except the Collectors of Impost for Charlottetown, Georgetown and Bedeque, who are already provided for by salary.

to be paid by
warrant.

XXXI. All goods, wares and merchandize imported into this Island in steam vessels may be landed by the masters or officers thereof without previous entry of such steam vessel, or the goods, wares and merchandize so imported in them at the Impost Office, or permit to land the same being had, provided all such goods, wares and merchandize be, on landing, placed by such master or other officer, in the custody of the preventive or other revenue officer; and all such officers receiving goods, wares or merchandize, so landed from any steamer without previous entry, shall retain possession thereof, on behalf of the Collector of Impost for the port in which the same shall be landed, until the duties due in respect thereof shall have been paid or secured, any law to the contrary notwithstanding.

Goods import-
ed in steam
vessels may be
landed in cer-
tain cases with-
out entry.

XXXII. It shall be unlawful for any person or persons to import into this Island any indecent or obscene paintings, books, cards, lithographs, or other engravings, or any other indecent or obscene articles, and if imported the same shall be seized and destroyed by any Collector of Impost and Excise, or preventive officer.

Importation of
obscene paint-
ings, &c., pro-
hibited.

XXXIII. All fines, penalties and forfeitures imposed under or by virtue of any of the provisions contained in the hereinbefore recited Act of the nineteenth Victoria, chapter one, or of this Act, may be prosecuted and sued for by information of her Majesty's Attorney or Solicitor General, filed in the Supreme Court of this Island.

Penalties im-
posed by 19
Vic. cap. 1,
how recovered.

XXXIV. Materials used for manufacturing purposes, and which form the basis or principal ingredient or component in the manufacture of any article, may be imported into this Island in original casks or packages of not less capacity than thirty-five gallons, when imported solely for manufacturing purposes, and entered at the Customs in this Island as such.

Materials for
manufacturing
may be import-
ed in casks not
less than thir-
ty-five gallons.

XXXV. The importer of any such materials shall take the following oath before the Collector :

Importer's
oath.

I, *A. B.* do swear that the [mentioning the articles] imported by me in the [vessel's name] [name master] from [name of place] are intended to be used by me for manufacturing purposes.
So help me God.

Discretionary power given to Lt. Governor in Council, to admit machinery, &c., duty free.

XXXVI. When any person shall signify to the Lieutenant Governor in Council that he intends importing into this Island machinery for the purpose of setting up, or putting in operation, any factory or manufacturing establishment therein, the said Lieutenant Governor, in Council, if he think fit so to do, may make an order to admit any such machinery free of duty, subject to such rules and regulations as the said Lieutenant Governor in Council shall see fit to make concerning the same.

Drawback upon exportation allowed on complying with provisions of 19 Vic. cap. 1.

XXXVII. Drawback on exportation to the amount of the original duty paid or secured thereon, shall be allowed on materials imported into this Island, or manufactured therein, and forming part of articles manufactured therein, on the exporter complying with the provisions of the said recited Act of the nineteenth Victoria, chapter one, relating to drawback on the articles therein mentioned.

Duration of Act.

XXXVIII. This Act shall go into operation and be in force immediately on the passing thereof, and from thence shall continue and be in force until the first day of May in the year of our Lord one thousand eight hundred and sixty-nine.

Act may be altered, &c., during session.

XXXIX. This Act may be repealed, altered or amended by any Act or Acts to be passed during the present session.

Repeals 30 Vic. cap. 1.

XL. So soon as this Act shall go into operation, the Act of the thirtieth Victoria, chapter one, intituled "An Act for raising a Revenue," and the Act of the thirtieth Victoria, chapter two, shall be, and the same are hereby severally repealed.

Preventive officers to look after steamships, to be appointed at certain ports, and their duties.

XLI. Preventive officers, not exceeding more than one for each place, shall be appointed for Charlottetown, Summerside, Georgetown, Souris, and Murray Harbor, whose duty it shall be, on the arrival of any of the mail steamers, or the Boston, Halifax, or any other steamship, to go on board same and demand from the captain or person in command a manifest of the cargo on board (passengers' effects excepted,) and such manifest shall be prepared and delivered on demand, by the captain or commandant, to the preventive officer who shall, as soon as possible, forward the same to the Collector of Customs for the port; provided that any captain or commandant of any such steamship who shall wilfully deliver a false manifest of the

cargo on board his steamship, shall be liable to a penalty of one hundred pounds, to be recovered in the way and manner provided by the said recited Act of the nineteenth Victoria, chapter one, or by this or any other law relating to the revenue.

Penalty on master, &c., for delivering false manifest.

XLII. All goods, wares and merchandize, for which no permit shall have been procured, shall be delivered, if landed by the captain or commandant of any such steamship, to the preventive officer for the port, who shall store the same in some convenient warehouse, at the risk and expense of the owner, who, on production of a permit and payment of all expenses and the freight thereof, shall be entitled to have the said goods delivered to him.

Goods, &c., for which no permit obtained, to be delivered to preventive officer, &c.

XLIII. All vessels proceeding up any river in this Island and passing a port of entry, shall make an entry of their cargoes at such last named port of entry before proceeding further, under a penalty of fifty pounds, to be paid by the master or owner of said vessel, and recovered in the way and manner directed for the recovery of penalties under the said recited Act of the nineteenth Victoria, chapter one.

Vessel going up a river to enter at first port of entry arrived at.

SCHEDULES to which this Act refers.

Form of Notice of Sale of Goods.

SCHEDULE (A.)

Schedule (A.)

NOTICE.

Form of notice of sale of goods.

A sale of goods (as mentioned below) seized by me, will take place at _____ on _____ the _____ day of _____
A. B., Landwaiter, or
Preventive Officer.

[Here insert the list of Goods.]

SCHEDULE (B.)

Schedule (B.)

To Her Majesty's Attorney General of Prince Edward Island, and Her Majesty's Solicitor General of the said Island, or to any of Her Majesty's Queen's Counsel of the said Island, or to any Attorney of the Supreme Court of Judicature therein.

These are to desire and authorize you, or any of you, or any Attorney of the Supreme Court of Judicature of this Island,

Form of warrant of attorney.

to appear for us in the said Court, as of _____ term, or any other subsequent term, and then and there to receive a declaration for us in an action of debt for the sum of _____ of lawful current money, for money borrowed at the suit of our Sovereign Lady the Queen, and thereupon to confess the said action, or else suffer a judgment by *nil dicit* or otherwise, to pass against us in the said action, and to be thereupon forthwith entered up of record against us in the said court, for the said sum of _____ besides costs of suit; and we do hereby further authorize and empower you, or any one of you, or any attorney as aforesaid, after the said judgment shall be entered up as aforesaid, for us and in our names, and as our act and deed, to sign, seal and execute a good and sufficient release in the law to our Sovereign lady the Queen, her heirs and successors, of all and all manner of error and errors, writ and writs of error, and all benefit and advantage thereof, and misprison of error or errors, defects and imperfections whatsoever, had, made, done, committed or suffered, in, about, touching or concerning the aforesaid judgment, or in, about, touching or concerning any writ, warrant, process, declaration, plea, entry or other proceeding whatsoever, of or in any way concerning the same, and for what you or any of you, shall do or cause to be done in the premises, or any of them, this shall be to you, and each of you, a sufficient warrant.

In witness whereof we have hereunto set our hand and seals this _____ day of _____ in the year of our Lord One Thousand eight hundred and _____

Signed, sealed and delivered, }
in the presence of }

Defeasance to be endorsed on Warrant of Attorney.

This Warrant of Attorney is given and intended to secure unto our Sovereign Lady the Queen, her heirs and successors, the payment of the sum of _____ of lawful current money of Prince Edward Island, on the day of _____ next ensuing with lawful interest thereon, from this date, at the rate of six pounds per centum per annum, and no execution is to issue unless default be made in the payment of the said sum of _____ and lawful interest thereon in the meantime, as aforesaid, on the said _____ day of _____ next ensuing.

Form of defeasance to warrant of attorney.

Witness our hands this _____ day of _____ 186
Witness.

CAP. II.

An Act in further amendment of the laws regulating the sale
by License of Spirituous Liquors.

[Passed 24th April, 1868.]

BE it enacted by the Lieutenant Governor, Council and
Assembly as follows :

I. From and after the passing of this Act, no tavern or store license to retail spirituous liquors in less quantities than two gallons, (except in Charlottetown, Summerside and Georgetown,) shall be granted, unless on the production, by the applicant for such license, of a certificate signed by one of the two Justices of the Peace nearest to the proposed tavern or store of the applicant, setting forth that, at a public meeting called by the said Justice of the Peace, a majority of the inhabitants present at such meeting, qualified to vote for School trustees, in the school district where such tavern or store is situate, were desirous of having such tavern or store in operation.

Conditions of licenses to retail less than 2 gallons.

II. Provided, nevertheless, that no more than two of such meetings as aforesaid shall be convened in any one district in any one year, unless any licensed store or tavern shall have ceased to be used as such, owing to the death or removal from the district of the licensed owner or occupier of such tavern or store, within the said year.

No more than 2 meetings to be held in a district in one year, &c.

III. Such Justice of the Peace shall, if required, call and preside at such meeting in any such school district and shall give notice thereof at least eight days prior thereto, by posting on the school-house of such district a notice of such meeting, and a like notice at two other of the most public places in the said district, and shall therein set forth the purpose, time and place of such meeting, in form of schedule (A) to this Act annexed, and if a majority of the inhabitants of such district present at such meeting, qualified to vote for trustees, shall be in favor of such tavern or store licence being granted, said Justice of the Peace shall grant a certificate, as in schedule (B) to this Act annexed.

Justice, if required, to preside at, and call meeting, &c.

Form of notice.

Form of certificate.

IV. No Government office hereafter to be established, or Court of Justice now established, or hereafter to be constituted, shall be kept or held in any public house or tavern by law licensed to sell spirituous liquors.

No Government office hereafter established to be held in tavern, &c.

How meeting
to be convened. V. No meeting shall be convened by any such Justice of the Peace unless upon a requisition in writing, addressed to him, and signed by at least three resident house-holders, stating the name of the party or parties professing to apply at such meeting for a tavern or store license.

Fees of Jus-
tice of the
Peace. VI. The Justice of the Peace shall be entitled to the following fees under this Act, viz :

For writing and posting notices,	£0 2 6
Presiding at meeting,	0 2 6
Certificate.	0 1 6

to be paid by the party applying for license.

Taverns to be
open to travel-
lers at all
hours.

VII. That licensed tavern keepers shall be compelled to open their houses to travellers at any hour of the night or day.

Schedule (A.)

SCHEDULE (A.)

NOTICE.

Form of notice
of meeting. A public meeting of the Householders in _____ district will be held at _____ on _____ day of 186 _____ for the purpose of deciding, by a majority of said meeting, whether _____ shall have a certificate to obtain a tavern (or store) license.

Dated at _____ } _____
186 } A. B.,
J. P.

Schedule (B.)

SCHEDULE (B.)

Form of ma-
gistrate's cer-
tificate. I, the undersigned, do certify that at a public meeting, held according to law, at _____ on _____ a majority of the resident householders of _____ school district, present at said meeting, were favorable to Mr _____ getting a tavern (or store) license.

Dated at _____ this _____ day of _____ 186
(Signed) _____ C. D.,
J. P.

CAP. III.

An Act further to amend and explain the Land Purchase Bill. 16 Vic. cap 18. ✓

[Passed April 24, 1868.]

WHEREAS it is deemed advisable to further amend and to explain the provisions of the Act of the General Assembly of Prince Edward Island, passed in the sixteenth year of the reign of Her Majesty Queen Victoria, intituled "An Act for the purchase of Lands on behalf of the government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and hereinafter in this Act, called the Land Purchase Bill, so far as the same relates to estates which have or may hereafter prove self-sustaining, purchased by the government under its provisions. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. If at any time it shall appear, from the receipts and books of account kept in the office of the Commissioner of Public Lands, or otherwise, that any estate already or hereafter to be purchased by the government, under the said Land Purchase Act, has proved self-sustaining, it shall be the duty of that officer, at once, in writing, to give notice thereof to his Excellency the Lieutenant Governor in Council, who shall thereupon, by such persons and means, and in such way as shall appear most proper and efficient, cause a full, careful and thorough investigation to be made into the matter, and an accurate statement, account and estimate of the position of the estate to be drawn up, and if it shall then clearly appear that the estate in question has proved self-sustaining, the Lieutenant Governor, with the advice of the Executive Council, shall issue an order to the Commissioner of Public Lands requiring him not to exact any further payments from those tenants or occupants of the estate who have paid up their full proportion or share of the sum required to make the same self-sustaining ; but the said Commissioner of Public Lands shall, nevertheless, still continue and proceed to collect and require payment from those tenants or occupants who shall not have paid up their full share or proportion, until they shall have paid the same, or been otherwise, on account of any peculiar circumstances, discharged therefrom by order of the Lieutenant Governor in Council ; no such order by the Lieutenant Governor in Council to the Commissioner of Public Lands shall be issued until, on investigation, it shall be clearly ascertained that there has actually been received by the government, from the tenants or occupants of the estate,

When any estate purchased shall have proved self-sustaining, Land Commissioner to notify same to government.

If self-sustaining, no further payments to be made by those tenants who have paid their full proportion.

an amount in money equal to the sum required to make the estate self-sustaining, after giving reasonable credit to it for the value of unsold lands, as hereinafter provided for.

Investigation respecting estate may be ordered on application of occupants, &c.

II. The investigation respecting any estate, in order to ascertain whether it has proved self-sustaining, authorized by the first section of this Act, may be ordered by the Lieutenant Governor in Council, on the petition of any tenants or occupants of the estate, heretofore or hereafter, to be presented or sent in, in the absence of any notice of the Commissioner of public lands, or otherwise, if it shall appear just and reasonable.

How account and estimate of position of estate to be ascertained and calculated.

III. In making such investigation and statement, account and estimate of the position of the estate, all losses to the government for land tax or otherwise, and all other losses, costs, charges and expenses connected with the estate and the working thereof, or which can be fairly chargeable against it, as well as the amount of its purchase money and interest thereon, shall be taken into consideration, and a reasonable credit and allowance shall also be given to it and the tenants and occupants thereof, for any wilderness or other lands connected with or belonging to it, remaining on hand unsold, and the Lieutenant Governor and Council may, if in their discretion they shall think it necessary, obtain information as to the reasonable value of the wilderness and unsold lands, by causing the same to be valued, and a report thereof, in writing, on oath, to be made by the Commissioner of Public Lands, in conjunction with two other fit and proper persons, to be appointed for the purpose by the Lieutenant Governor in Council, and after receipt of such report, or without any such report, if it shall not be deemed necessary to require one to be made, the Lieutenant Governor in Council shall make such order as shall appear just and proper in the premises, and declare the amount of the credit and allowance to be given to the estate on account of such unsold lands, which shall be final and conclusive on the point, and binding on all parties interested.

Order as to credit to be allowed for unsold lands, &c.

When estate shall have proved self-sustaining, repayment may be made to those who have overpaid.

IV. Whenever, by the payment generally, (after such investigation as in the first section of this Act referred to), of all the tenants and occupants of the estate, the government shall have been fully reimbursed and sustained in regard to the purchase of the same, and shall have a sufficient amount in hand in excess thereof to enable them to do so, it shall be lawful for the Lieutenant Governor in Council to order the return to such tenants or occupants as may have paid the same (or their executors or administrators) of any amount paid by them in excess of their own due and proper share or

proportion of the sum required to make the estate self-sustaining, such return to be made in such way and under such regulations as may be ordained for the purpose by order of the Lieutenant Governor in Council, and a warrant or warrants on the treasury, in the usual form, shall be issued in accordance with such order, and a receipt or discharge from further instalments or payments shall also, if required, be signed and endorsed by the Commissioner of Public Lands, upon the deeds of those tenants or occupants who shall have fully paid up their share or proportion, whenever he shall be authorized by order of the Lieutenant Governor in Council, to sign and endorse the same.

Discharge to be signed by Commissioner, if required.

V. The Commissioner of Public Lands shall demand and receive from each tenant, occupant or purchaser requiring such endorsement of discharge, the sum or five shillings, to be paid into the treasury of this Island for the use of the government.

Fee to be paid for discharge, &c.

VI. The unsold lands belonging to the estate shall, nevertheless, still remain vested in the Commissioner of Public Lands, as before, to be managed and disposed of in accordance with the said Land Purchase Act, or otherwise, as may, from time to time, be by law ordained.

Unsold lands of estate still to be vested in Commissioner, &c.

VII. The provisions of this Act shall extend to all estates heretofore purchased, as well as to those which may hereafter be purchased by the government under the Land Purchase Bill.

This Act to extend to estates purchased or to be purchased.

CAP. IV.

An Act to encourage the settlement and cultivation of public wilderness Lands.

[Passed April 24, 1868.]

WHEREAS it is deemed expedient to encourage the settlement and cultivation of the public Wilderness Lands in this Island, by selling the same on terms advantageous to persons desirous of settling thereon. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows, that is to say:

Preamble.

I. So soon as it can conveniently be done, after the passing of this Act, the Lieutenant Governor in Council shall cause so much and such parts of the wilderness Lands in this Island belonging to the government thereof, as they may deem expedient, to be, from time to time, and at any time or times hereafter, as they may see fit and proper, surveyed and set out in

Governor in Council to cause wilderness lands from time to time to be surveyed.

farms or locations of not less than fifty or more than one hundred acres to each farm or location, in such way and manner as the said Lieutenant Governor in Council may deem most expedient, for the purpose of selling the same to any person or persons desirous of purchasing the same under the provisions of this Act.

II. When the said wilderness lands, or any part thereof shall have been so surveyed and set out, as aforesaid, the Lieutenant Governor of this Island, for the time being, in Council, shall, from time to time, fix the price to be charged per acre for such wilderness lands.

Price per acre, how to be fixed.

Commissioner to advertise lands, with particulars.

III. The Commissioner of Public Lands shall advertise for sale in the *Royal Gazette* newspaper of this Island, the said Lands so surveyed and set out as aforesaid, briefly describing and specifying therein the lands offered for sale, and giving such other particulars relating thereto as he may think necessary. Any person or persons applying to the Commissioner of Public Lands and consenting or agreeing to purchase a farm or location, at the price fixed thereon, as aforesaid, and complying with the terms and provisions of this Act, shall, if the said Commissioner shall consider him or them eligible, be entitled to have a farm or location conveyed to him or them, in manner and form as hereinafter mentioned, subject to the provisoes, conditions and restrictions in the Deed of Conveyance of such farm or location, and in this Act set forth and contained with respect to such land, and on paying to the said Commissioner five shillings for the survey of said land, and five shillings for the deed of conveyance and duplicate thereof, provided always that no greater quantity than one hundred acres of such land shall be conveyed to any one person under this Act.

Fee for survey and deed.

Form of deed and defeasance

16 Vic. cap. 18.

IV. When a farm or location is so sold by the said Commissioner of Public Lands, under this Act, the said Commissioner shall execute and deliver to the purchaser a deed of conveyance of the same, on payment of the fees in the last preceding section mentioned, and such deed shall be in the form (D), and the endorsement or defeasance thereon shall be in the form (E), in the schedules to the Act of the sixteenth Victoria, chapter eighteen, annexed, the said deed and defeasance thereon endorsed, being altered if necessary, to suit the particular circumstances of the case, and the said defeasance to contain a proviso that the said purchaser shall erect a house or buildings on such land, and improve one acre of the same yearly, as hereinafter provided, and pay all taxes and assessment payable for such land, under any Act of this Island; and the amount of purchase money in such defeasance ex-

pressed, with interest as therein mentioned, shall be and the same is hereby declared to be, a specific lien and charge on the land described in the said deed, superior to and having a priority over every other lien or charge on the said land created by the purchaser thereof, or any one claiming under him and having a priority over any right of dower or any claim whatever, and payment of such purchase and interest shall be enforced, as hereinafter mentioned.

Purchase money to be a specific charge on the land sold.

V. The commissioner of public lands shall cause duplicate copies of all deeds of conveyance executed by him under the provisions of this Act, with the defeasance endorsed thereon, as aforesaid, to be made and executed by the purchaser of the land therein described, and shall cause such purchaser, by endorsement thereon, to declare the said duplicate deed to be a true copy of the original deed of conveyance, and the same shall be deposited by the said commissioner in his office, and shall remain of record therein.

Deed and defeasance to be executed in duplicate.

VI. The consideration money for any farm or location sold by the commissioner under this Act, shall be payable as follows, that is to say, until the expiration of eight years from the date of the deed of conveyance of any land sold under this Act, no part of the said purchase money nor interest for the same shall be demanded or payable but at the expiration of that term the said purchase money shall begin to be payable, and be paid in ten equal annual instalments, with interest thereon, at the rate of five per centum, per annum, on the amount from time to time remaining unpaid, the said interest to be paid annually, together with each instalment.

No purchase money or interest demandable for 8 years.

After which, same shall be payable with interest by ten annual instalments.

VII. Every purchaser of a farm or location under the provisions of this Act shall, within two years from the date of his Deed of conveyance from the said commissioner, as aforesaid, build and erect on his farm or location a dwelling house, not less than twenty feet square, nor less than eight feet in height of post; or, in lieu of such dwelling house, shall erect on said farm or location buildings to the value of twenty pounds, and shall also, during the first eight years, as aforesaid, clear and cultivate, at least one acre of ground on his said location in each year, besides paying, yearly and every year, all land assessment payable in respect of his location under any Act of this Island.

Every purchaser to erect dwelling house within 2 years of certain size or value.

Pay assessment and clear one acre per annum during first 8 years.

VIII. All moneys arising under this Act from the sale of wilderness land shall be paid to and received by the commissioner of public lands, and applied for the purposes mentioned in the Act of the sixteenth Victoria, chapter eighteen.

Moneys received hereunder to be applied to purposes of 16 Vic., cap.18.

Expense of working this Act how to be paid.

IX. The Lieutenant Governor may, with the advice and consent of the Executive Council, out of the moneys arising under this Act, and being in the treasury of this Island, pay the necessary expenses attendant on the working of this Act, the same to be paid by warrant drawn on the treasurer in the usual manner.

Certain sections of 16 vic. cap. 18, to be put in force in relation to lands hereunder to be sold.

X. Sections twenty-two, twenty-five, twenty-nine, thirty, thirty-one, forty, forty-one, forty-seven, forty-eight and fifty of the said recited Act of the sixteenth Victoria, chapter eighteen, and all other parts and sections of the said recited Act, shall be observed, applied to, and put in force with respect to the lands mentioned in this Act and sold hereunder, in so far as the said sections herein recited, and other parts of the said Act, may be applicable to the lands so sold under the provisions of this Act.

Deed of purchaser failing to perform conditions as to clearing land & building house to become void and he may be ejected.

XI. Should any purchaser or purchasers of land under this Act fail in erecting a house or buildings, as hereinbefore provided, on the land or location purchased by him or them, as aforesaid, or in clearing one acre thereof yearly, and cultivating the same for the first eight years, as aforesaid, the deed of conveyance granted to such purchaser or purchasers, by the said commissioner under this Act, shall, as soon as one or more default or defaults, or failure in performing any of said conditions shall be made, at once be, and is hereby in every such case declared to be, void and of no effect; and it shall, thereupon, be lawful for the Lieutenant Governor in Council, if he shall see fit so to do, to direct the commissioner of public lands to cause the said purchaser or purchasers and all others being thereon, to be ejected therefrom, and thereupon the said commissioner shall direct a precept in the form in Schedule (A) to this Act annexed, to the sheriff of the County wherein the said land may be situate, and the said Sheriff shall thereupon enter into and upon the said lands, and put out and remove therefrom the said purchaser or purchasers, and any person claiming under him or them, without any action of ejectment or writ of *habere facias possessionem* being prosecuted for that purpose, and the said lands may be resold, to any new purchaser or purchasers, as in the first instance under the provisions of this Act.

Precept to Sheriff for that purpose and mode of enforcing same.

Purchase money, &c., in arrears to be levied as prescribed in 16 Vic cap. 18.

XII. In case default be made in the payment of the purchase money or the interest thereof, or any part thereof, of any lands sold by the commissioner of public lands under this Act, such purchase money and interest shall be levied and recovered in the same way and manner, and under and subject to the same regulations, notices, forms and provisions, as the purchase money of lands sold under the Act of the sixteenth Vic-

toria, chapter eighteen, is levied and recovered, any form or notice in the said Act contained or provided being altered to suit the circumstances of the case.

XIII. Nothing herein contained shall be held or construed to prevent any person or persons from purchasing from the commissioner of public lands any number of acres of wilderness lands as he may desire to purchase under the provisions of the said recited Act of the sixteenth Victoria, chapter eighteen.

Persons may still purchase wilderness lands under provisions of 16 Vic. cap. 18.

SCHEDULE (A.)

Schedule (A.)

To the Sheriff of County

Office of Commissioner of Public Lands,
Charlottetown.

Whereas, *C. D.*, of , in Prince Edward Island, formerly—under and by virtue of an Act passed in the thirty-first year of the reign of Her present Majesty, intituled, “An Act to encourage the settlement and cultivation of public wilderness lands”—purchased from the commissioner of public lands a certain tract of land, situate on Township No.

Form of precept to sheriff.

in County, and hath failed to erect a house or buildings thereon, or otherwise to improve the same, as required by the terms of his deed and of the said Act: Therefore, I, the Commissioner of Public Lands, by order of His Excellency the Lieutenant Governor in Council, and by virtue of the authority of the said Act, do command you, the said Sheriff, that you do put out and remove the said *C. D.*, and all others, from the said land, and that you do make return of this precept, and certify in what manner you have executed the same to the office of the commissioner of public lands, on or before the day of next ensuing.

A. B.,
Commissioner of Public Lands, [Seal of
Office.]

CAP. V.

An Act to revive and continue a certain Act therein mentioned. 22 Vic. cap. 8.

[Passed 24th April, 1868.]

WHEREAS the Act made and passed in the twenty-second year of the reign of Her present Majesty, chapter eight, intituled “An Act for regulating the size and quality of fish

Preamble.

barrels and tierces, and the weight of fish made up therein, and for the appointment of fish inspectors, also to regulate the inspection of pickled fish for sale within this Island, and to repeal a certain Act therein mentioned," has been allowed to expire, contrary to the intention of the Legislature, and it is deemed expedient to revive and continue the same :

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, that the said recited Act of the twenty-second year of the reign of her said Majesty Queen Victoria, chapter eight, shall be, and the same is hereby revived and continued for the space of ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly of this Island, and no longer.

Continues for
10 years Act
22d Vic. cap.
8.

33 X. C. 11

CAP VI.

An Act to consolidate and amend the several Laws relating to Education.

[Passed April 24, 1868.]

Preamble.

WHEREAS the laws now in force establishing a system of free Education in this Island require consolidation and amendment. Be it therefore enacted by the Lieutenant Governor, Council and Assembly :

✓ Repeals 24 Vic.
cap. 36, 26 Vic.
cap. 5, 30 Vic.
cap. 8, (except
as hereinafter
excepted) and
sections 6, 7,
12 and 13 of
27 Vic. cap. 31.

I. That from and after the passing of this Act, the several Acts hereinafter mentioned, that is to say : an Act made and passed in the twenty-fourth year of the reign of her present Majesty, chapter thirty-six : an Act made and passed in the twenty-sixth year of the same reign, chapter five : an Act made and passed in the thirtieth year of the same reign, chapter eight, (except as hereinafter excepted, and for the purposes hereinafter mentioned,) and the sixth, seventh, twelfth and thirteenth sections of the Act of the twenty-seventh Victoria, chapter thirty-one, shall be, and the same are hereby severally and respectively repealed.

Board of Edu-
cation of 11
persons to be
appointed, in-
cluding Secre-
tary and 2 per-
sons.

II. From and after the passing of this Act, the Lieutenant Governor in Council shall nominate and appoint eleven fit and proper persons to be and constitute a Board of Education, one of which number shall be appointed by the Lieutenant Governor in Council to be the Secretary of the Board, and two other members thereof shall, in like manner, be appointed as examining members, whose duty it shall be to examine candidates for licenses to teach, under the orders and regulations of the Board, and to attend the meetings of such Board as ordinary members thereof.

III. Five members of the Board shall be a quorum, and the Board shall meet on the last Thursday in each month, and shall give notice of the place and time of every such monthly meeting by advertising the same in the *Royal Gazette* newspaper of this Island, at least ten days previous to such meeting, and the said Board may meet on such other and further days as they may deem necessary, from time to time, without such notice being required to be given.

Board to meet monthly and 5 members to be a quorum.

IV. The regular examination meetings of the Board shall be once in every two months, on the last Thursday in the month, commencing with the month of January in each year, and in each case, for the purpose of examination, the Board may adjourn from day to day, and also hold special meetings for the same purpose, as may be arranged or ordered by the Board from time to time.

Examination meetings to be once in two months.

V. The Secretary so appointed by the Lieutenant Governor in Council shall be paid the sum of seventy-five pounds for his services and to provide necessary stationery and pay other contingent expenses.

Salary of Secretary.

VI. Each member of the Board shall receive nine pounds yearly for his services, except the two examining members, who shall be paid twenty pounds a year each; the salary of each member to be subject to a deduction of fifteen shillings for every time he shall be absent from any monthly sitting of the Board without sufficient excuse.

Allowance to members of the Board.

VII. The Lieutenant Governor in Council may, at any time, and from time to time, remove or supersede any member or members of the Board, and nominate and appoint a new member or members thereto, instead of the member or members so removed or superseded, and when and so often as any vacancy or vacancies shall occur in such Board by death or otherwise, the said Lieutenant Governor in Council shall appoint a fit person, or fit persons, to fill such vacancy or vacancies.

Lt. Governor may remove members of Board and fill up any vacancies, &c.

VIII. No school master or mistress licensed to teach under this Act, or under the said hereby repealed Acts, or any former law relating to education, who shall have been, or may or shall hereafter be, absent from this Island, or who shall have discontinued the practice of teaching, or not been employed therein under any agreement to teach under this Act, or any present Act relating to education, for the space of two consecutive years, shall hereafter be permitted or qualified to teach under this Act, unless he or she shall again appear before the Board and be examined and receive from the Board a new license or certificate to teach.

Teacher who has ceased teaching for two years must again submit to examination

Candidates for office of teacher, to be examined, and if found competent receive certificate.

Certificate of character, &c. to be produced.

Board, on report of school visitor, may require teacher to be re-examined.

Board to obtain forms of returns, &c., for teachers.

Copy of Act, &c., to be kept in schoolhouse.

Board empowered in certain cases to cancel teacher's certificate.

IX. Any person who may be a candidate to become a district teacher or school master or mistress, in this Island, shall, on one of the bi-monthly meetings of the Board, or any other day which the said Board shall appoint, submit himself or herself to an examination before the examiners of the Board, and if the Board shall, on receiving the report of the examiners, be satisfied with the qualifications of such candidate, they shall give him or her a certificate of his having passed such examination; provided that no such certificate shall be granted to any person who shall not have produced to the Board a certificate of good moral character, signed by at least two persons of respectability, one of whom shall be a clergyman or Justice of the Peace, resident in the neighborhood where the applicant may have last resided or usually resides.

X. If any school visitor shall report to the Board of Education, that any teacher licensed to teach under any of the former Acts relating to education, is unqualified to teach, the Board of Education may, at its discretion, order such teacher to be re-examined before the Board, and upon such re-examination, shall grant, or refuse, a certificate or license to teach to such person, and if a new certificate or license as aforesaid be refused to such person by the Board, his former certificate or license shall be deemed to be cancelled.

XI. It shall be the duty of the Board of Education, assisted by the visitors of schools, if they require it, to prepare suitable forms and regulations for making all returns required by this Act, and conducting all necessary proceedings thereunder, and to cause a copy of the same, with such instructions as they shall deem necessary for the guidance of district and other schools, the same not being inconsistent with this Act, as also a copy of this Act, to be furnished to each teacher having an engagement to teach under this Act, which Act and documents shall be at all times kept in each schoolhouse by the teacher, and shall be open to the inspection of the trustees of such school and all persons by law authorized to visit the same.

XII. Upon complaint made to the Board, of gross misconduct or neglect of duty on the part of any person holding a certificate as a district teacher, the said Board, after due investigation and satisfactory proof of such misconduct or neglect of duty, shall have power to cancel or revoke the certificate held by such district teacher as aforesaid, and shall also have the same power if any such teacher as aforesaid, having entered into an engagement to teach in any district as hereinafter mentioned, do not complete the whole term of his engagement, unless such teacher be prevented from so doing

by sickness or other incapacity, or unless the said engagement be dissolved by order or permission of the Board.

XIII. In the event of any dispute between any of the trustees or the inhabitants of any district and the teacher, as to his conduct as teacher, the trustees or inhabitants intending to prosecute such complaint, with the view of removing him from the school before the expiration of his agreement, shall be obliged to lodge with the Board a written statement of such complaint, and, at the same time to send a copy thereof to the teacher, and the Board may inquire into such complaint in such way as to them may seem most fit, and the evidence as well on the part of the trustees or inhabitants in support of the charge or complaint, as on the part of the teacher in answer thereto, may be taken by affidavit or written depositions before any Justice of the Peace for the County, to be nominated by the said Board for that purpose, and transmitted to the said Board for their consideration and final decision thereon; provided always, that the Board may, if they think fit, require the parties and their witnesses to appear personally before them, in or touching the matter of such investigation, and, on such complaint being established, the said Board may, in their discretion, supersede such teacher, and authorise the trustees of the district to engage another teacher in his place, although the term of the agreement with the teacher so suspended may not have expired, but such last mentioned teacher shall, nevertheless, be entitled to receive the proportion of his salary up to the time of his dismissal.

Trustees, &c. wishing to remove teacher, to lodge complaint with Board, who may enquire into same and receive evidence.

Board may require personal attendance of parties, and if deemed necessary, remove teacher, &c.

XIV. The Secretary of the Board of Education shall, as heretofore, keep a book or register in which, from time to time, shall be entered the several school districts in this Island, properly constituted and in operation, and having teachers therein entitled to support under this Act, and the inhabitants or teachers of all school districts claiming support under this Act shall cause the particulars and extent thereof to be forwarded to the Secretary of the Board of Education, who shall enter the same in rotation, as they come into his office, in the said book or register, and all such school districts erected after this Act shall go into operation shall be entered and registered within three months after the day when the determination of the said Board shall be notified respecting the same, as herein-after mentioned, and no new school district, in addition to those in existence and established at the time of the passing of this Act, shall be sanctioned by the said Board, nor shall any such new district, or the teacher therein, be entitled to any allowance under this Act until the same has been referred to the Lieutenant Governor in Council, and the erection of such new district and the granting of such allowance shall

Register of districts to be kept by Secretary of Board.

Special assent of Lt. Governor or in Council essential to establish new school district.

have been sanctioned by special order made by the Lieutenant Governor in Council directed to the Board of Education.

Board may receive conveyances of school sites, &c.

Mode of changing sites of school houses.

XV. The Board of Education may receive and take to themselves, and their successors in office, in cases where the owners of the lands refuse conveying them to the trustees of the district, or will not otherwise secure them to the inhabitants of the district, by conveyance deeds and conveyances of the pieces of land whereon the schoolhouses now or hereafter to be erected shall be situate, and shall hold the same in trust for the inhabitants of the district where the same lands are situate for the purposes of education and of this Act. When and so often as at least two-thirds of the inhabitants, resident house-holders within any school district, now registered or hereafter to become registered under this Act, shall desire to alter the site of the schoolhouse therein, and shall signify such their desire, in writing, to the Board of Education, specifying therein the site to which the schoolhouse is proposed to be removed, and being also accompanied by a written memorandum from the owner or lessee of the contemplated site, offering to execute a deed or lease thereof to the Board of Education, or to the trustees of such school for the purpose thereof, it shall be lawful for the said Board, if they see fit so to do, to make an order for such alteration to be made when and so soon as the contemplated site shall be conveyed to the Board of Education, or otherwise, in accordance with the last preceding section of this Act.

Board may alter boundaries of School districts, &c., and change sites of schoolhouses therein.

XVI. The Board of Education, for the time being, with the consent of the administrator of the Government in Council, and without appointing commissioners for that purpose, as hereinafter mentioned, may alter, enlarge or diminish the size or boundaries of any school district or districts now or hereafter established, and also may re-arrange the boundaries and diminish the number of districts where necessary or desirable, and, at the same time, change the site of the schoolhouse or houses therein, so as to meet the altered circumstance of the district or districts, and may make all orders necessary for effecting and perfecting such change of site or other alterations hereinbefore mentioned, and in any case where an application shall be made in writing to the Board, signed by at least ten inhabitants, householders, in any such district or districts in which any such alteration or re-arrangement is proposed to be made, requesting such alteration or re-arrangement, so as to render such district or districts more suited to the convenience of the respective inhabitants therein, it shall be lawful for the Board, in their discretion, if they deem it necessary, to nominate and appoint three competent persons, not resident in the district or districts respecting which the application may have

Board may appoint 3 persons

been so made, to examine into the particulars, and such persons so appointed as aforesaid, after notice of their intention so to do shall have been posted for at least six days previous on the schoolhouse in the district, or if the application shall concern more than one district, then on the respective schoolhouses in the several districts in question, shall attend at such time and place in such district, or either of such districts as shall in such notice be specified, and shall personally then and there proceed to make enquiry in such manner and to such extent as they, or a majority of them, shall deem requisite, and if they should be of opinion that the interest or convenience of the inhabitants would be promoted by an alteration in the boundaries of such district or districts respectively, or should deem it expedient that such districts should be merged into one, or otherwise re-arranged, they shall fix and decide upon the manner or define the extent of such alteration, and shall thereupon report such their opinion and determination under their hands, or the hands of a majority of them, to the said Board, whose order or decision thereon, when sanctioned by the Administrator of the government in Council, shall be final and conclusive, and, upon such order of the Board being so confirmed, the same shall be duly notified to the inhabitants of the district or districts respectively, regarding the boundaries or extent of the alterations respecting which such determination shall have been made, by letter addressed and mailed in the general Post Office, in Charlottetown, by the Secretary of the Board of Education, to one of the trustees of any district so altered, or wherein the site of any schoolhouse shall be changed.

to enquire into and report on proposed alterations. &c.

XVII. Every person who shall be appointed for the purpose in the last preceding clause mentioned, shall receive from the public treasury eight pence per mile for every mile necessarily travelled by him for the purposes therein mentioned, and also the sum of ten shillings collectively for the report in writing and transmitting the same to the Board, the same to be paid on producing a voucher and certificate thereof, signed by the Secretary and three members of the Board, who shall therein state that the application on which the commission has been issued was reasonable, and if otherwise, then the expenses shall be borne by the applicants.

Fees of Commissioners.

To be paid on certificate of Board.

XVIII. In all cases where the site of a schoolhouse, within any established district, is or has been legally altered under the provisions of this Act, or any present or former law relating to Education, and such schoolhouse is situated upon land held under lease, deed, or otherwise, the trustees of such school district shall be and they are hereby authorised and empowered to remove the schoolhouse or building from its

When site of schoolhouse altered, trustees may remove building, unless, &c.

former site, unless there be a special clause in such lease or other instrument prohibiting such removal.

XIX. All school districts as now registered by the Board of Education are hereby declared to be established and confirmed as school districts, and shall be entitled to all the rights and benefits conferred upon or belonging to school districts, to be established by this Act, notwithstanding any want of form or any error or irregularity whatsoever in the mode of making any original application for the laying off, defining or establishing of any such districts, or in any other proceeding, act, matter, or thing necessary to be had, done or performed under this Act, or any former law relating to Education, prior to or in respect of, any such registration whatsoever, and a certificate of any such registry as aforesaid, or of any school district hereafter to be registered under or pursuant to this Act, granted under the hands of a majority of the Board of Education, or under the hand of the Secretary of the Board for the time being, shall be evidence sufficient and conclusive of the establishment and boundaries of such district respectively, in all actions, suits or other proceedings in any Court of law or equity, or before any Court or tribunal whatsoever, in all matters touching or relating to such school district or the school therein, or where it may be necessary to prove the establishment and boundaries of such district.

All school districts formerly registered confirmed, notwithstanding want of form, &c.

Certificate of registry, &c. to be conclusive evidence of establishment of schoolhouse, &c.

Mode of proceeding where schools are within three miles, and scholars insufficient in number.

Disputes how settled

XX. If any school in a district established by the laws heretofore enforced and claiming maintenance under this Act shall be nearer to any other school established, or to be established, than three miles, and it shall appear to the Board of Education, either from the paucity in the number of scholars attending the same, or either of them, or other local circumstances, that both the said schools should not receive such maintenance at the same time, or if a dispute should arise between the inhabitants of such districts as to which is entitled to maintenance, or most entitled to receive the same, and an application shall be made in writing to the Board of Education, signed by at least five inhabitants, householders, in such district, or either of them, to have the dispute decided, then, and in either of such cases, it shall be lawful for the Board of Education, if it think the circumstances of the case require it, to nominate and appoint three persons, being Justices of the Peace or Commissioners for the recovery of small debts, resident near to, but not being resident or interested in either of the districts, to examine into the particulars, and such Justices or Commissioners, after notice of their intention so to do shall have been duly posted for at least six days previous,

on each of the schoolhouses, shall attend at such time and place in either of the said districts, as shall in such notice be specified, and shall personally then and there proceed to make enquiry in such manner and to such extent as they, or a majority of them, shall deem requisite, and shall thereupon fix and determine which of the said schools in the district in dispute is most entitled to maintenance, and if they think that either of the schoolhouses should be removed to any particular site so as to form a new district entitled to maintenance, they shall fix upon the same and report such their opinion and determination under their hands, or the hands of a majority of them, to the Board of Education, whose decision thereon shall be conclusive, and the said Board of Education shall be and they are hereby empowered to withhold or suspend the maintenance claimed by such schools, or either of them, and either entirely or until such time as the schoolhouse shall have been removed in accordance with the opinion or recommendation contained in the report of the Justices or Commissioners, or to make such other order therein as to the said Board shall seem meet, and such order and determination of the Board of Education shall be duly notified to the inhabitants of the district in dispute, in manner as pointed out in the sixteenth section of this Act.

Schoolhouse may be removed in order to form new district.

Power of Board.

XXI. Each Justice of the Peace or Commissioner of Small Debts nominated and appointed for the purpose in the last preceding section mentioned, shall be entitled to receive from the treasury of this Island the sum of eight pence per mile for each mile necessarily travelled by him to and throughout such school district, and also the sum of ten shillings collectively for the report in writing and for transmitting the same to the Board, the same to be paid on producing a voucher or certificate therefor, signed by the Secretary and three members of the Board.

Mileage to be allowed to Justices, &c., under preceding section.

XXII. When and so often, after the passing of this Act, as the inhabitants of any settlement, township or district shall desire the erection of a new school district near to their places of residence, and when not less than five of such inhabitants, being householders, shall make request in writing intimating such their desire to the Board of Education, then it shall be the duty of the Board of Education to nominate and appoint a Justice of the Peace or Commissioner of Small Debts, residing near to, but not being a party interested in such proposed district, to examine into the same, and it shall be the duty of such Justice or Commissioner, after notice of his intention for such purpose having been duly posted for six days, in three of the most public places in the settlement or district where such inhabitants reside, to attend at the place in each district

Mode of proceeding to establish new school districts and sites for schoolhouses

named in the notice, and there personally to make such enquiry in such manner and to such extent as by him shall be deemed requisite, and thereupon to fix and determine upon the most proper and eligible site or sites for such schoolhouse, or schoolhouses, and the proper limits and boundaries of the district or districts thereof, and shall report such his opinion and determination, in writing, under his hand, to the said Board of Education, whose decision thereon shall be conclusive, and if the said Board shall approve of the erection of any such school district and the special order and sanction of the Lieutenant Governor in Council for that purpose, as hereinbefore required in such cases can be obtained, they shall notify the same to the said inhabitants, and, on the other requisites for school districts being complied with, shall cause the said district to be registered in the book to be kept by the secretary, as hereinbefore mentioned, and the Justice of the Peace or Commissioner of Small Debts shall be entitled to the same fees as in the twenty-first section of this Act mentioned.

Allowance to districts requiring assistance to build schoolhouses.

XXIII. When any new school district shall be hereafter applied for and erected, and the school visitor for the county wherein the said district is situate shall certify that the inhabitants thereof are in poor circumstances and require pecuniary assistance to enable them to build a schoolhouse therein, then it shall be lawful for the Lieutenant Governor in Council to grant the sum of five pounds to the trustees of such district to be expended in erecting such schoolhouse.

Dimensions of schoolhouse.

XXIV. Every schoolhouse hereafter to be erected and used as such, within any district now or hereafter established under this Act, and not already contracted to be built, shall not be less in clear area than four hundred square feet, nor in the height of post than ten feet clear between the floor and ceiling, or be built nearer to the highway than ten yards.

Schoolhouse erected on church grounds, how to obtain benefits of this Act.

XXV. In all cases where a schoolhouse is now or shall hereafter be erected on Church grounds, and the trustees or managers of such church property are desirous of obtaining the benefits of this Act, and of having such school established as a district school, a lease of such schoolhouse shall be given by the parties in whom such property is vested, or who shall have the legal control over the same, to the Board of Education for the time being, to hold to them and their successors in office for such term as may be required for the purposes of this Act, or as may be agreed upon in that behalf.

Schoolhouse may, with as-

XXVI. The public schoolhouse in every district established or regulated under this or any former Act relating to education may, with the consent of the majority of the trustees there-

of, be used by the licensed teacher thereof for the purpose of teaching night or evening classes therein, for his or her own benefit, and such schoolhouse may be used as a place of worship, or for any other lawful public meeting, with the consent of the trustees, as aforesaid, and at such time as they may appoint; provided always, that in no case shall it interfere with the duties of such licensed teacher, and provided further, that the board of education shall have full power to prevent any such public schoolhouse being used at any time during the regular school hours in each day for any other purpose, or by any other person than such licensed teacher, for teaching a public school therein under this Act.

Consent of majority of trustees, be used by master for night classes.

XXVII. The average number of Scholars for daily attendance at district schools shall hereafter be in the following proportion to the number of children, between the ages of five and sixteen years, in such districts respectively, that is to say, in districts where there are forty children and upwards, but less than fifty within the ages aforesaid the average number of scholars for daily attendance shall be twenty. In districts where there is the number of fifty children, and less than sixty within the ages aforesaid, the average daily attendance shall be twenty-five scholars, and in districts where there are sixty children and upwards, the average daily attendance at the school therein shall be thirty, and in all cases where the average daily attendance of scholars at such schools shall hereafter be found to be less than the numbers hereinbefore prescribed for such schools, respectively, the salary allowed by this Act, to the teachers of such schools shall be reduced; such reduction to bear the same proportion to the number of scholars deficient of, or less than the aforesaid averages respectively, as the said teacher's salary bears to such average, which said average shall be reckoned half yearly, and all parents of children within the bounds of such district, shall be liable to make up and contribute towards such deficiency in proportion to the number of children within the said ages, which such parents may have respectively, and in default of such contribution, after the same shall have been duly demanded, the said amount so to be deducted from the said salary shall be raised by an assessment to be levied by the trustees, on the parents or guardians of all children in the said school district; such assessment to be apportioned as to them, or a majority of them, shall, under the circumstances of the case, and due regard being had to the means of the various parties, appear just and reasonable, and to be levied, raised and recovered in such manner, and subject to such rules, conditions and regulations, as are prescribed for levying or recovering assessment by this Act.

Average number of scholars in daily attendance to be 20, where children number 40.

Where average to be 25.

Where 30.

Reduction of teacher's salary for deficiency.

How reduction to be made up by parents, &c.

XXVIII. No schoolmaster or teacher shall be entitled to any allowance by virtue of this Act, unless the inhabitants of

No schoolmaster entitled

to allowance unless school-house be first provided.

his or her school district shall have first provided a sufficient schoolhouse to be exclusively used for that purpose, (except as in this Act provided), and also that there have been at the least forty children between the ages of five and sixteen, resident within his or her school district for the six months immediately preceding the period of his or her claiming his allowance, and that the average daily attendance of scholars during the said six months, shall not have been less than twenty. Provided always that this provision shall not extend to schools districts now or hereafter to be registered under this Act, in which there shall not be the number of forty scholars within the aforesaid ages residing, if the daily average attendance of such children at the school therein amount to twenty.

Proviso.

Provision for settlements where 40 children cannot be found.

XXIX. And whereas there are certain settlements in this Island not included within the limits of school districts heretofore established, and where the requisite number of forty children, within the ages of five and sixteen, cannot be found within one and a half miles of a central part, then and in every such case on a written requisition made by the inhabitants thereof, to the visitor of schools for the county wherein the said settlement is situate, it shall be the duty of the said visitor, to enquire into the circumstances of such application, and as to the number of children within the ages aforesaid within the said limit, and the said visitor shall make a report in writing to the Board, who having duly considered the circumstances of the case, may if they think proper so to do, and subject to the approval of the Lieutenant Governor in Council, authorise the erection of such settlement into a minor school district, and the registration thereof as such, and building committees and trustees may thereupon be appointed for such minor district in the same manner as in other cases, and such trustees may be annually elected, and shall have the same powers as trustees in those districts where the requisite number of forty scholars can be found, and the teacher engaged to teach in such minor district where the number of scholars is less than forty, shall also be subject to the same rules and regulations as in cases where there are forty scholars, and shall be entitled to receive from the treasury of this Island, on production of certificates signed as in other cases under this Act by the trustees of the district and the secretary of the Board of Education, if such teacher be a male, the sum of thirty shillings per annum for each scholar taught by him, calculating the same according to the daily average attendance, as shewn by his register or journal; and if a female teacher, the sum of twenty shillings per annum for each scholar taught by her in like manner; such certificate to state the number of scholars actually taught according to such daily average.

Board, on report of visitor, may establish minor district.

To be registered, &c., as other districts.

Teacher to receive thirty shillings for each scholar.

Qualification of teachers.

XXX. There shall be only two classes of district school teachers or masters, exclusive of grammar school masters, who

shall be licensed to teach in this Island, of whom the first or lowest class shall be competent to teach book-keeping, English grammar, reading, arithmetic, and geography, without the use of the globes; and of whom the second or highest class shall, in addition thereto, be competent to teach algebra, geometry, trigonometry, mensuration, land surveying, navigation, and geography, with the use of the globes; and candidates for either class shall prove their capability to teach to the satisfaction of the Board of Education, who shall in their discretion grant a certificate or license to any such candidate.

1st class.

2d class.

XXXI. All schools claiming allowance to teachers therein under this Act, wherein the books, regulations, and system of education prescribed, or to be prescribed by the school visitor for the county where the same are situate, or the Board of Education, shall not be observed and adopted, shall, if the said Board shall see fit and make an order to that effect, be refused or deprived of such allowance until such time as such books, regulations, and system of Education shall be observed and adopted.

School allowance may be withheld until prescribed regulations are observed, &c.

XXXII. All teachers while conforming to the provisions of this Act, shall be exempt from statute labour and militia duty, and attending on juries and assessment for educational purposes under this Act.

Exempts teacher from statute labor, &c.

XXXIII. Any teacher under the age of twenty-one years, shall not be permitted to enter into an engagement with the trustees of the school district in which he may have been brought up, without first obtaining the consent of the Board of Education thereto.

Teachers under 21 years of age where allowed.

XXXIV. No teacher while receiving pay under this Act, shall be allowed to embark in any mercantile pursuit, or follow the occupation of a tavern keeper.

Teacher not to embark in mercantile pursuits, &c.

XXXV. When any child shall not reside within any school district, the school of which is not in operation, such child shall be entitled to attend at the nearest school district the teacher whereof shall be receiving pay under this Act, and such teacher shall be bound to receive and instruct every such child, unless the number of children already in attendance at his school shall exceed fifty.

Child not in any district may go to nearest school.

XXXVI. The trustees of any school constituted or regulated under this Act, or under any former Act relating to education, shall have and be vested with full power and authority to expel any scholar for gross misconduct or misbehaviour.

Expulsion of scholars when authorized.

XXXVII. All males and females over five years, and not exceeding seventeen years of age, residing in any school district in this Island, shall be entitled to attend the school therein the teacher whereof shall receive pay under this Act, and the said teacher shall be bound to receive and instruct all such children.

All children over five and not exceeding 17, may attend.

XXXVIII. In all cases the vacation of each school constituted and regulated under this Act or now in operation, excepting always the schools in Charlottetown and Georgetown, shall be two in number in each year, that is to say, a spring vacation extending from the tenth day of May to the thirty-first day of the same month, and an autumnal vacation, of twenty-one days, to take place in the month of October, and which shall be fixed by the respective trustees of the several schools, and no deduction shall be made from the salary of the teacher, nor any time added to the period of his service on account of such vacations being allowed, and every alternate Saturday shall be allowed as a holiday to the teacher in each district school.

Number of vacations in each year.

XXXIX. The inhabitants of any school district within this Island, who shall have provided a schoolhouse therein, in conformity with all the provisions of this Act, shall, and they are hereby required to nominate and appoint five trustees, such nomination and appointment to take place at a meeting of the inhabitants of such district, called by a written or printed notice, signed by at least three resident householders within said school district, and posted in at least three of the most public places within the same, seven days prior to such meeting, which notice may be in the form of the schedule to this Act annexed, marked (D), and a majority consisting of at least nine persons, of the resident householders present at such meeting, shall be competent to appoint such trustees and it shall be the duty of such trustees, three of whom shall be a quorum, to examine the school of said district quarterly in each year, and at all times in conjunction with the visitor of schools for the county, to inquire into the order and direct the discipline and regulations of such school, and also to give any licensed teacher who has had the management thereof, the necessary certificates required by this Act; and it shall be the further duty of such trustees to forward a notice of their appointment immediately after such appointment, to the Board of Education, provided always that where the appointment of the trustees of the school in any school district, shall have been made under and by virtue of the laws heretofore in force relating to education, and such trustees shall be in office at the passing of this Act, they shall continue and be held to be the trustees of such school, under and for the purposes of this Act.

Inhabitants of a district to appoint trustees.

Duties of trustees.

Trustees in office at passing of Act confirmed.

XL. In order to obviate the necessity and consequent expense of a more formal proof of the calling of any meeting, for the appointment of trustees under this Act, or any former Act relating to Education, an affidavit of the posting of notices for the calling of such meeting, shall, in all cases of the appointment of trustees which shall hereafter take place, be made by the person posting such notices, or other person who can prove the fact of the several notices having been duly posted, before any Justice of the Peace for the County wherein the school district is situate; which affidavit shall be in the form or to the effect, prescribed in schedule (E), to this Act annexed, and shall be affixed to the register or books of record kept by the trustees of the school therein; and a copy of such affidavit, certified by any two of the trustees of said school for the time being, shall be *prima facie* evidence in any Court of law or equity, or before any court or tribunal, or persons whatsoever, of due notice of such meeting having been given.

Mode of proving proceedings to elect trustees, &c., pointed out and simplified.

Schedule (E.)

XLI. In each school district now erected, or hereafter to be constituted by virtue of this Act, a majority of the trustees thereof shall have power to assess all the inhabitants, householders, resident therein, who shall have a child or children within the ages of five and seventeen years, of his own, or under his care and guardianship, and who shall have been so resident for six months previous to the making of the assessment, and no other person or persons whomsoever, in a sum to provide the necessary books and maps directed to be found by the school visitor, and the fuel required therein, and such trustees as aforesaid, or the majority thereof, are hereby empowered to apportion the said assessment between such resident householders, according to the number of children within the ages aforesaid, respectively, belonging to them; the assessment upon each parent to be increased in proportion to the number of his or her children within such ages; and such assessment shall be recoverable with costs, as hereinafter, in the forty-ninth section of this Act directed, and when recovered shall be applied for the purposes for which the same shall have been levied.

Trustees may assess householders, being parents or guardians of children, for books, maps and fuel.

Power to apportion assessment.

XLII. The trustees of any district school, or a majority of them, shall have power to order books or maps to be provided for the use of such schools; and shall have power to assess the resident householders having children, as in the last preceding section mentioned, within the said district, for the cost of such books and maps; and which assessment shall be recoverable with costs, in the manner pointed out by the forty-ninth section of this Act.

School books or maps may be ordered by trustees.

XLIII. No parent or guardian, or other person shall be liable, or required to pay any sum or amount, per head or

No sum to be paid by pa-

rents, &c. for children going to school hereunder. Proviso.

Voluntary subscription to support of teacher.

Master, &c. may enforce payment of voluntary subscriptions.

Two trustees to go out in rotation annually, and two others to be elected in their stead.

Vacancies in board of trustees by death, absence, &c., how filled up.

otherwise, for or on account of any child attending any school, the teacher whereof shall receive pay under the authority of this Act; provided always, that nothing herein contained shall extend, or be construed to extend, to prevent the inhabitants, or any one or more of the inhabitants of any school district in this Island from voluntarily subscribing any sum or sums of money whatsoever, towards the pay or support of the teacher of the school therein, in addition to the allowance to which such teacher may be entitled under this Act; and in all cases where any such voluntary subscription may be entered into, and signed by any inhabitant or inhabitants as aforesaid, either as an inducement to any efficient master to take charge of a school, or for any other reason whatsoever, the master or teacher of the said school shall be entitled to demand and receive from the person or persons respectively signing the same, the amount of his or their respective subscriptions, in accordance with the terms thereof; and in default of payment such teacher shall be entitled to sue for the same, in manner by law provided for the recovery of small debts.

XLIV. Two of the trustees of every school appointed by virtue of the laws heretofore in force, or hereafter to be appointed by virtue of this Act, shall, in rotation, go out of office in the month of July in each year, commencing with the two members first nominated and appointed; and the inhabitants, resident householders in such district wherein is the school to which they shall be appointed trustees, at a meeting to be held on any day in the month of July, yearly, and to be called by the trustees of said school after notice thereof given in the manner provided by the thirty-ninth section of this Act, shall elect two new trustees in their stead, having the like power and authority; and until such election shall be had, the two retiring trustees shall remain in office; provided, nevertheless, that if the said inhabitants think fit, they may re-appoint, at the bottom of the list, such trustees going out by rotation; and immediately after such election or re-election, and whether new appointments be made or not, the trustees of said school shall notify the proceedings to the Secretary of the Board of Education.

XLV. In the event of any vacancy or vacancies occurring from time to time, in any board of trustees for any school district, appointed or elected by virtue of the laws heretofore in force, or hereafter to be appointed or elected under this Act, by reason of the death, absence or refusal to act, of any trustee or trustees after his or their appointment or election; the inhabitants, householders of such district, are hereby empowered to proceed to call a meeting in the same manner as provided for the first or annual meeting of the trustees, and

to choose or elect one or more person or persons to supply such vacancy or vacancies ; and the trustee or trustees so chosen or elected, during the currency of any year, shall have the same power in all respects, as if he or they had been elected at the commencement of the year, or at the last previous general election of trustees.

XLVI. In the event of any disputes or doubts arising or existing as to the legal election or resignation of any school trustee or trustees, or the right of any person or persons to assume the office or exercise the duties of trustee or trustees of such school, the Board of Education are hereby authorized and empowered to inquire into and determine the same, and, if they deem it advisable on any account, to order a new election of the whole, or any less number of the said trustees, and for the better ascertaining the truth in such case, to require the personal attendance before the said Board, and to examine, on oath, any witness or witnesses whose evidence may be deemed necessary on such enquiry, and any witness who shall refuse to attend so to be examined, after his reasonable expenses for doing so shall have been tendered to him, shall be liable to pay to the party complaining, a fine of not more than five pounds, nor less than one pound, the same to be recovered, with costs, in such manner as debts under the Act relating to small debts are now recovered.

In cases of doubt, &c., board may order new election of trustees, examine evidence, &c.

XLVII. In case the said Board shall order a new election of trustees, a day, hour and place shall be named in such order for that purpose, and a copy thereof shall be posted on the schoolhouse of the district, at least six days before the day so named, and the inhabitants who shall thereupon assemble, shall then and there elect the necessary number of trustees, who, on being confirmed by the Board of Education, shall be deemed to be in office until the first day of July next, after the date of such election, or until some new election duly authorized, shall take place.

Time and manner of holding new election of trustees.

XLVIII. In all cases when it may be necessary to prove the appointment of trustees appointed by virtue of the laws heretofore in force, or hereafter to be appointed by virtue of this Act, in any Court of law or equity, or before any Court, tribunal, or persons whatsoever, a certificate stating the facts of such appointment, signed by the Secretary of the Board of Education, shall be good and sufficient *prima facie* evidence of such appointment in all matters and questions touching the school district or the school respecting which such appointment shall have been made, or in any manner in which such appointment shall come in question.

Proof of appointment of trustees, how made.

Board of trustees to keep record of proceedings.

Mode of recovering assessment, &c.

Inequality of assessment, how pleaded, &c.

XLIX. Every board of trustees of school districts, appointed under or by virtue of the laws heretofore in force, or to be appointed under this Act, shall keep a book or record in which their proceedings shall be entered, and the minutes of each appointment hereafter to be made of trustees in any district after their election as aforesaid, and their names shall be entered and signed by the chairman of the meeting of inhabitants at which such trustees shall have been elected in such book or record, which shall afterwards be so kept by the trustees as aforesaid, and when so signed, such appointment shall be held and be deemed to be good and valid, and minutes of future meetings and proceedings, elections and re-elections, shall be entered therein, signed by any three of the trustees for the time being, and the particulars of all assessments made by any such trustees, shall be also duly entered and signed by any three of them, and the said book or register shall be open to the inspection of all resident householders of the district, and the school visitor of the County, and if any such assessment shall not be paid by any party liable to pay the same, within ten days after a demand thereof made upon, or at the residence of the debtor, by one of the trustees, or some party authorised by a majority of said trustees in writing, to collect the same, and produced to the debtor, then and in every such case, the said trustees or any one or more of them, or such other person as the majority of them may appoint, and in the name of any one or more of the said trustees, may sue the debtor before any Court for the recovery of small debts, or Justice of the Peace, by summons or otherwise, under such regulations as may at the time be by law prescribed for the recovery of small debts; and it shall be lawful at the hearing of such cases, for the defendant, if he shall see fit, to plead the inequality of the rate, provided he give notice of his intention so to do in writing, to the trustee or trustees, or other person in whose name the summons shall have been taken out, within twenty-four hours after the serving of the same; and if he shall so plead, then it shall be lawful for the said Court for the recovery of small debts, or Justice of the Peace before whom the summons shall be returnable, to hear such evidence as may be adduced by either party, and to vary the amount of rate, and make an order for such amount of payment as justice may require; provided nevertheless, that if the defendant making such plea shall have, at any time theretofore, acquiesced in the justice or equality of such rate, by having on occasion of any former assessment, paid his proportion or quota thereto, or any part thereof, at a similar rate or proportion, then such Small Debt Court or Justice of the Peace shall not permit the same to be heard, or any evidence connected therewith to be adduced, but shall order the reasonable costs incurred by the plaintiff or plaintiffs, to be paid by the defendant.

L. The book or record to be kept by the trustees of the several school districts constituted under the several laws heretofore in force, or this Act, and signed by the persons and in manner mentioned and set forth in the last preceding section, shall be good and *prima facie* evidence of the truth of all statements, minutes, matters, and things therein contained and set forth, in any Court of law or equity, or before any Court, tribunal, or persons whatsoever, whether such statements, minutes, matters or things shall relate to meetings of the inhabitants, the appointment or election of trustees, or re-elections thereof; assessments upon the inhabitants, or other proceedings whatsoever, of such trustees, and of the regularity and correctness of all acts, matters and things relating to, or connected with such proceedings so entered and set forth in such book or record.

Book kept by trustees to be *prima facie* evidence, &c. of matters therein recorded.

LI. Where the erection of a new school district shall be sanctioned by order of the administrator of the government in Council, under this Act, or in any school district already established, if the majority of the inhabitants, resident householders therein, respectively, shall decide upon erecting a new schoolhouse within the same, or enlarging or completing any schoolhouse already erected, or re-building or repairing the same when decayed, or procuring furniture for the schoolhouse, it shall be lawful for such majority of resident householders to meet together and appoint a committee of five persons—if in a newly erected district, or if in a previously established district—to make an order to give directions to the trustees of such district for the time being, to assess the several resident householders within the same, respectively, for the erection of such schoolhouse, or for enlarging, completing, re-building, or repairing the same, as aforesaid, or for procuring furniture for the schoolhouse, as the case may be, and to superintend the same; and which schoolhouse, as to size, shall be in conformity with, and not of less dimensions than those prescribed by the provisions of this Act, but may be larger if a majority of said resident householders shall so order at such meeting, and a plan and specification of such schoolhouse, so to be erected, or of the contemplated enlargement, manner of completing, re-building or repairing the same, or of the furniture required, having been submitted to, and approved of by a majority of such resident householders, the said committee of trustees, as the case may be, shall thereupon have full power to make such assessments as aforesaid, for any of the purposes above mentioned—due regard being had in apportioning the amount of assessment to be paid by each resident householder under this section, to his or her circumstances and means, and the benefit to be received by him or her from the same.

Trustees may assess householders to build or repair schoolhouse, or procure furniture.

Plan, &c. of proposed schoolhouse, to be first submitted to meeting, &c.

Committee or trustees empowered to levy and sue for assessment, &c.

LII. In the event of any one of such resident householders in any such district as aforesaid, refusing to pay the amount for which he shall be so assessed, within fifteen days after the same shall be demanded of him or her, by or on behalf of such committee or trustees, respectively, as aforesaid, or after a memorandum of the amount of such assessment signed by a majority of said committee, or trustees, as the case may be, or a copy thereof, shall be left at the dwelling-house of such inhabitant, it shall be lawful for the said committee or trustees, or any one or more of them, respectively, in the name of the whole, to sue for, and prosecute the debtor before any Court for the recovery of small debts, or Justice of the Peace, by summons or otherwise, under such regulations as are by law prescribed for the recovery of small debts; and it shall be lawful at the hearing of any such case, for the defendant to plead the inequality or excessive amount of the rate, provided he or she gives notice of his or her intention to do so, in writing, to such committee or trustees as aforesaid, as the case may be, or to one or more of them in whose name or names the summons shall have been taken out, within forty-eight hours after the serving of the same, and if he or she shall so plead, then it shall be lawful for the said Court before which the summons shall be returnable, to hear such evidence as may be adduced by either party, and to vary the amount of the rate, and make an order for such amount of payment as justice may require.

Clergymen, judges, &c., may visit public schools, &c.

LIII. All clergymen, judges, magistrates, and members of the Legislature, shall have power to visit any public school under this Act, and to inquire into the management thereof, or any other object connected with its prosperity, and may note down in a visitor's book, which shall be kept by every teacher for that purpose, any omission observed in any department, or other remarks relating to the school.

Teacher to keep a register open to inspection of visitor, &c.

LIV. Every licensed teacher shall hereafter keep a register journal of his school, which shall be kept in the schoolhouse (until sent in as hereinafter mentioned) containing the names and ages, with notes of the progress and attendance of the pupils; and the said journal shall at all times be open to the inspection of the school visitor of the County, and trustees of said school, and other persons authorised to visit the same, as in the last preceding section mentioned, and also of any member of the Board of Education, who may visit such school, and such journal shall, at the termination of the teacher's engagement, be by him or her forwarded to the Secretary of the Board of Education.

Where a school house has been

LV. Where any schoolhouse within the meaning of this Act, or any former law relating to Education, has been, or

shall hereafter be erected on any site or piece of ground, with the consent of the owner, occupier or tenant of such land; and such site and schoolhouse have also been recognized by the Board of Education, as the legal site and schoolhouse for the district, wherein the same are situate, then, and in such case, it shall be illegal for the original owner, tenant or occupant of such land, or any person or persons in trust for such owner, tenant or occupant, by deed or otherwise, whether registered or unregistered, in any manner to interfere with such site or schoolhouse thereon erected, or to prevent the free and peaceable possession and use thereof, and access thereto and thereover, by or to the trustees, masters or children, or the inhabitants of the district, or Board of Education, or others, for the purposes of Education, unless such interference shall be expressly sanctioned by the terms of any deed, lease or agreement given by the owner, tenant or occupant of, or person entitled to the land, on which the schoolhouse is, or shall be erected, and any conveyance or deed of the site, heretofore made, or hereafter to be made, shall be ineffectual to pass any estate therein, so as to enable the grantee, or re-leasee, or person to whom it is or shall be conveyed, to interfere with such site or schoolhouse thereon, or any of the aforesaid parties in the free and peaceable use, occupation and possession of the same as aforesaid.

built and re-organized by Board of Education, it shall be illegal for original owners, &c., to interfere with the same. &c.

LVI. From and after the passing of this Act, the number of male district schools for Charlottetown and the common and royalty thereof shall not exceed nine, and it shall be the duty of the resident householders within such districts respectively, having children under the age of seventeen years, to meet together, from time to time, as the necessity shall arise, for the purpose of electing trustees in the same manner, in all respects, as is provided by this Act for the election and re-election of trustees for the ordinary school districts.

Number of male schools in Charlottetown and royalty.

Householders to elect trustees.

LVII. The Board of Education shall have power, from time to time, when they shall deem expedient, to divide the city of Charlottetown, and the common and Royalty thereof, into school districts, the whole not to exceed the number of nine, including those now established, and to alter such division from time to time, and re-arrange such districts as occasion may require, and such division or alterations shall be notified by advertisement in the *Royal Gazette* newspaper, from time to time, immediately after the same shall have been made. Provided always, nevertheless, that, until any new division or alteration be made and announced, the districts as now constituted and in operation shall continue and be in force.

Board may divide Charlottetown and royalty into districts, and re-arrange the same when necessary.

Old districts confirmed until alteration. &c.

Three teachers of highest class in Charlottetown.

LVIII. There shall be allowed in Charlottetown, and the common and royalty thereof, not more than three masters of the highest or second class, who shall be assigned by the board of Education to such districts, (with the consent of the trustees thereof,) within the said city, as they may deem advisable, having a regard to the ages and state of proficiency of the children in the several districts, and giving preference to the districts, in which shall reside those most advanced or proficient, and for each of the other districts in the said city, common and royalty, there shall be employed a master or teacher of the first or lowest class; provided always, that, if the inhabitants of any one of said districts, instead of sending their children to the school in their own district, if such shall be in operation, shall send them to the school in any other district of the town, common or royalty, they may do so, unless the children at such last mentioned school shall exceed sixty in number, in which case, upon a representation made by the trustees of such last mentioned school, or other persons interested therein, or who shall desire to send their children thereto, of the necessity of having an additional master or teacher, as an assistant therein, it shall be competent for the Board of Education to inquire into the matter, and if they see fit so to do, to appoint an additional master or teacher, of either class, as an assistant teacher in such school; provided further, that the Board shall not have power to appoint such assistant master or teacher if the number of masters and assistants in Charlottetown, common and royalty then actually engaged and receiving government pay, exclusive of the masters and teachers of the normal and female schools, shall amount to twelve; provided further, that no teacher in Charlottetown, under this Act, shall be entitled to a salary unless he or she shall have taught at least thirty scholars, and shall produce certificates to that effect.

Proviso.

Board, where required, may appoint assistant under certain limitations. &c.

No teacher in Charlottetown to draw salary unless he shall have taught 30 scholars.

LIX. The scholars receiving instruction in Charlottetown, and the common and royalty thereof, at any of the schools therein receiving support from the Government, shall pay, at the time of their first admission into said schools, and thereafter quarterly, in advance, each the sum of one shilling and six pence, to be collected by the teacher of each school and paid over, if a district school, to the trustees thereof, and if a female school, to the Secretary of the Board of Education, and to be applied by such trustees or the Secretary of the said Board, respectively, to the purchasing of fuel and the payment of rent, and the cost of repairs of such schoolhouses, and other necessary purposes, and if such trustees, or the Board of Education, respectively, shall find that the said quarterly payment is not sufficient in amount for the purchase of fuel and other purposes as aforesaid, then the said trustees, or Board of

Amount to be paid for scholars, in Charlottetown schools to procure fuel, &c.

Education, respectively, may order and require a further payment to be made by each scholar, not exceeding, however, in any case, the sum of three shillings, quarterly, in addition to the first mentioned quarterly payment of one shilling and six pence, and if the said sums, or either of them, be not paid, the scholars in default shall be debarred from further instruction until the same is paid, and the same shall be recovered by the teacher, in the name of any one or more of the trustees, or of the Secretary of the Board of Education, respectively, before the Court of Commissioners for the recovery of small debts, in Charlottetown, from the parents or guardians of the children so in default; provided always, that it shall be the duty of the Board of Education, from time to time, to inspect the rooms in which the various schools receiving support under this Act, in Charlottetown, shall be conducted or placed, and if they shall find the accommodation afforded, in any case, insufficient for the number of children taught, or the condition or position of the schoolhouse or room otherwise objectionable, on the score of situation, ventilation or otherwise, the Board shall be authorized to order the school to be removed to some other house or room which they may be able to secure, and shall think more fitting for the purpose, and the quarterly fees in such case shall be paid by the teacher of the school to the Secretary of the Board of Education, to be applied to the payment of rent, fuel and other necessary purposes, and the Board shall, in each case have power, if they find it necessary, to increase the quarterly payment to be made by each scholar, up to, but not exceeding the full amount prescribed by the present section of this Act, and the Board shall also have power to ordain two schools, to be kept in one building, if they deem it necessary, and can procure one sufficiently capacious for the purpose; and in any case where the trustees of any school in Charlottetown or Royalty shall neglect to appoint a proper teacher, the Board shall have power to nominate and appoint one on its own responsibility.

Mode of recovering same, &c.

Board to inspect school-rooms, and, if unfit, may order removal and provide others, and receive fees paid by scholars, &c.

Power of Board to increase fee charged.

LX. The Board of Education shall have power to include the farms of township lands fronting on the back royalty road of Charlottetown Royalty in the same district or districts with the royalty district schools, or one or other of them, according to their situations; and the inhabitants of such farms, in accordance with the terms of any such order by the Board of Education, shall be entitled to send their children to the school named in such order, and be liable to pay the same assessments and rates, or charges for fuel, furniture, and books, for such school, or for keeping up or repairing the same, as the inhabitants of the royalty are liable to.

Board may include township lands adjoining royalty, in districts with royalty schools.

Six female schools in Charlottetown, if necessary, exclusive of orphan schools

Assistants when allowed.

Orphan and destitute school, Charlottetown, continued.

Salary of teacher.

Orphan school teacher to be examined by board, &c.

Orphan children to have preference for admission, &c.

Expense of orphan school to be defrayed out of treasury.

Orphan school to be conformable to ordinary school regulations. &c.

LXI. There shall be allowed for Charlottetown, under this Act, six female schools, if found necessary, exclusive of the orphan school, with female teachers; and when, so soon as there shall be more than fifty scholars in attendance at each of the said female schools, and it shall appear to the said Board that there is a sufficient number of scholars above said number to render it desirable or requisite to have further assistance, then the said Board may establish one or two more schools, and appoint one or two female teachers thereto.

LXII. The school heretofore established in Charlottetown for the benefit of orphans and children of destitute parents resident in Charlottetown, shall be continued, as now, in operation, and shall be open, as heretofore, free of charge, to such children; and the Board of Education shall, from time to time, appoint a competent teacher of either sex for such school, who shall be entitled to receive therefor a salary of not more than fifty pounds per annum, payable out of the public treasury of this Island, in such manner and under and subject to such restrictions and regulations as shall be prescribed by the Board of Education.

LXIII. The teacher of such school shall be first examined by the Board, and, if found competent, shall receive a certificate to teach the primary branches of Education, whether he or she shall or shall not be able to qualify as a first class teacher under this Act, and the said Board may cancel and revoke such certificate for such reasons and in such manner as mentioned in the twelfth section of this Act.

LXIV. Orphan children shall have preference of admission to said school, and no child shall be admitted thereto, if under the age of four years, nor continued therein if above the age of twelve years, nor shall any child be admitted unless recommended by a certificate in writing, to be signed by a clergyman resident in the said town, and also by a member of the Board of Education.

LXV. A sum of money sufficient to defray the expenses of fitting up said orphan schoolhouse, or room, and the rent thereof, with books and fuel for the same, shall be paid annually out of the public treasury of this Island, into the hands of the Secretary of the Board of Education for such purposes, and said Secretary shall account for the same to the Board.

LXVI. The said school, and the teacher thereof shall, in all respects, as far as circumstances shall admit, be conformable and subject to the several enactments, rules and regulations prescribed for other schools and teachers in and by this

Act, and the number of scholars to be limited for the said school, either as regards sex or the aggregate of both sexes, as well as the superiority of claims for admission thereto, shall, from time to time, as occasion may require, be ordered and regulated by the said Board of Education.

LXVII. It shall be the duty of the senior of her Majesty's Justices of the Peace, resident for the time in Georgetown, and he is hereby required annually during the continuance of this Act, on the first Tuesday in June, in each year, to convene a public meeting of the inhabitants, householders in Georgetown, its Common and Royalty, having children between five and sixteen years, to be holden at the Court House in said town; such meeting to be convened by such Justice giving, or causing to be given, at least eight days' notice thereof in writing, the same to be published by being posted in three or more public places in said town and common, and three or more public places in the said royalty, and the inhabitants, householders, or a majority present at such meeting, shall elect five fit and proper persons, being also such resident householders as aforesaid, to be trustees of the male and female schools in Georgetown now established or to be established under this Act; and such trustees so to be elected shall have the control of said schools, and the selection of the teachers, and make regulations respecting the location thereof, and the teachers thereof shall be entitled to receive payment of their salaries quarterly, by warrant on the treasury of this Island, on producing a certificate that the same is due, signed by a majority of the trustees and certified by the School Visitor and the Secretary of the Board of Education, and that the teacher has been actually teaching the number of scholars required by law, in the case of district schools, during the period for which the sum specified in the certificate is payable.

Duty of senior Justice, Georgetown, to call meetings to elect trustees, &c.

Election and duties of trustees.

LXVIII. The children of the inhabitants of Georgetown, Common and Royalty may attend the schools in Georgetown mentioned in the last preceding section, but this privilege shall not interfere with the erection of district schools in Georgetown Royalty, in the same manner as in other districts under this Act.

Children in royalty, &c., may attend school in Georgetown.

LXIX. The scholars receiving instruction at the said schools in Georgetown, shall pay quarterly, each the sum of two shillings and six pence, to be collected by the teachers and paid over to the trustees of the said school, appointed as hereinbefore mentioned, and to be applied by them to the purchasing of books and fuel, and to pay for rent and repairs of schoolhouses and other necessary purposes connected with

Scholars in Georgetown to pay quarterly, 2s. 6d. each.

If this found insufficient, trustees may require more to be paid.

the school, and if the trustees shall find that the said quarterly payment is not sufficient for the purposes aforesaid, then they may order a further payment to be made by each scholar, not exceeding in any case the sum of two shillings and six pence quarterly, in addition to the first mentioned quarterly payment, and if the said sums, or either of them, or any part thereof, be not paid, the scholar in arrear may be debarred from further instruction at said school until the same be paid, and the said quarterly payment, or any part thereof, shall be recoverable by the teacher in the name of the trustees, or a majority of them, before a Court of Commissioners for the recovery of small debts, at Georgetown, from the parents or guardians of the scholars.

Mode of recovering same.

Two trustees Georgetown schools to go out of office annually.

LXX. Two of the trustees of the Georgetown schools shall go out of office annually, on the first Tuesday in July, in rotation, in the manner provided in respect to district schools, that is to say: the two persons first nominated shall go out, and the inhabitants of the said Town and the Common and Royalty thereof, at their annual meeting, as hereinafter provided, shall elect two persons to supply their places, power being, nevertheless, given to the said inhabitants to re-elect such two retiring trustees, or either of them, if they shall see fit so to do; their names or the name of such one of them being then placed at the bottom of the list, and in all cases of the election or re-election of trustees, notice thereof shall be thereupon immediately forwarded by the trustees of said school to the Secretary of the Board of Education.

Mode of electing others.

The Bible authorized, under certain conditions, to be read in schools, &c.

LXXI. The introduction of the Bible to be read in all the public schools in this Island, of every grade, receiving support from the public treasury, is hereby authorized, and the teachers are hereby required, to open the school on each school-day with the reading of the sacred Scriptures, by those children whose parents or guardians desire it, without comment, explanation or remark thereupon by the teachers; but no children shall be required to attend during such reading as aforesaid, unless desired by their parents or guardians.

Teacher who can teach French to receive £5 additional salary, &c.

LXXII. Any teacher, male or female, who shall in addition to the qualifications required by this Act, be qualified to teach the French language, and who shall have taught in his school, French, to a class of not less than ten pupils, shall, on producing from the Board of Education a certificate of his competency to teach the French language, be entitled to receive five pounds over and above the salary to which such teacher may be entitled under this Act, provided the trustees of such school district do raise the like sum of five pounds for such teacher by voluntary subscription from the inhabi-

Provided trustees contribute £5 annually.

tants, and provided further, that the number of teachers receiving the aforesaid increase of salary, shall not amount to more than twenty.

LXXIII. The Normal School at present established in Charlottetown for the training of male and female teachers, shall be continued under this Act, and shall be held in the building now used for that purpose.

Normal School continued.

LXXIV. The mode in which such Normal School shall be continued, unless when otherwise provided for by this Act, shall be ordained by proper rules and regulations from time to time, to be made for that purpose by the Board of Education, subject to the control, alteration, supervision and approval of the Government.

Board to regulate management of Normal School.

LXXV. The teacher of the Normal School shall be appointed and at pleasure removed by the Lieutenant Governor in Council, and shall by himself and the teachers being trained by him, teach the children in attendance there, the ordinary branches of education usually taught in district schools, and shall also train in the art of teaching such teachers and candidates as may attend under certificate of admission from the Board, giving to the latter a thorough and competent knowledge of the best method of conducting a common district school, and especially teaching them the art of communicating the several branches of common school education, in a manner best suited to the capacities, ages, and conditions of the pupils who may thereafter be under their care.

Normal School teacher to be appointed by Lt. Governor, &c.

His duties.

LXXVI. All students or scholars attending the Normal School (except scholars of the female school connected with the said Normal School, and persons attending the Normal School, for the purpose of qualifying themselves as district and school teachers under the provisions of this Act) shall pay a fee of two pounds per annum to the principal master of said school, which said fee shall be payable quarterly in advance, and when collected, paid into the public treasury of this Island by the said principal master of the Normal School.

Scholars attending Normal School, except those qualifying for teachers, and certain others, to pay £2 annually.

LXXVII. Whenever the number of scholars attending the Normal School, liable to pay the sum of two pounds mentioned in the last preceding section, shall be sufficient to make the total of their respective fees equal to the sum of not less than sixty pounds per annum, then, and in such case, the Lieutenant Governor in Council shall appoint an assistant master to the said school, who shall be paid the salary of eighty-five pounds a year, and the amount of such fees shall be applied

Assistant master in Normal School may be appointed when £60 per annum raised for fees, &c.

Salary of Assistant, and how paid.

towards the payment of such salary, and the balance of such salary shall be paid out of the public treasury by warrant drawn quarterly in the usual manner.

Number of scholars, &c., to be regulated by Board.

LXXVIII. The number of scholars, in addition to teachers or those desirous to be trained as such, who shall be entitled to attend at such Normal School shall be regulated by order of the Board of Education, subject to the consent and approval of the Lieutenant Governor in Council.

One of the female schools may be held in Normal School building, &c.

LXXIX. The Board of Education may, if they think fit, as heretofore, cause one of the Charlottetown female schools to be held in the aforesaid schoolhouse, in a room to be fitted up apart from the School for male scholars, to be held therein, and place the said female school and the teacher thereof under the supervision of the principal master of the Normal School, who shall train (if approved by the Board) teachers and candidates to be teachers therein; and the Board shall have power to prescribe and ordain what children shall have the right to attend as pupils of the female department of the Normal School.

Candidates for teachers entitled to attend Normal school free of charge, &c.

LXXX. Every teacher, whether male or female, or person who shall be a *bona fide* candidate for the office of teacher, of whose qualification the Board shall be the judge, upon being examined by the said Board, and on producing a certificate thereof, certifying to the proficiency of such candidate, and to his or her being qualified to become a student for the office of school teacher, shall, if he or she desire, be entitled to attend at the Normal School, and receive instruction and training in the art of teaching, free of all fees and charges, for a period not exceeding five months.

Salary of Normal School teacher.

LXXXI. The sum of two hundred pounds shall be paid to the teacher of the Normal school, by warrant on the treasurer, in the usual manner, payable in quarterly payments, from the date of his appointment, on his producing from the Board of Education a certificate of his being entitled to the same.

Three school visitors, (one for each county) to be appointed.

LXXXII. From and after the passing of this Act, there shall be three visitors of schools for this Island, that is to say, one for each of the Counties of King's, Queen's and Prince Counties, and it shall and may be lawful for the Lieutenant Governor, for the time being, in Council, as soon as this Act shall go into operation, to appoint three fit and proper persons to such offices, and to displace any such person or persons so appointed, at pleasure, and to appoint another person or persons to fill such vacancy or vacancies; and one of such three persons so appointed, shall be visitor of schools for

King's County, one other shall be visitor of schools for Queen's County, and the third shall be visitor of Schools for Prince County.

LXXXIII. Neither of such school visitors shall engage in trade or business, whilst holding the office of visitor; and it shall be the duty of each school visitor to visit all the schools in the county for which he shall have been appointed, twice in every year, and to assist the Board of Education in prescribing the course of education to be pursued in such schools, and the books, diaries, lists of attendances, and other records to be kept therein, and in ordering what books shall be used in the schools, what shall be the hours of attendance for the scholars, and commencement of terms, and other necessary details connected with the management of the schools; and each of such visitors shall have power, and he is hereby directed whenever he shall see fit, to call a meeting of the trustees connected with the respective schools within his county, and to make to the Board of Education a quarterly report in writing, of his visits, stating therein the condition of every school, the method of teaching practised therein, the number of scholars, state and description of schoolhouses, and whether in such schools the provisions of this Act, and the orders of the Board of Education relating to such schools have been complied with, and such other information as he may deem it necessary to give, and it shall be the duty of the Board to furnish each branch of the Legislature, within fourteen days after the meeting thereof, with such parts of said visitor's reports, including the statistics thereof, as they may deem necessary, together with, if they deem fit, their own remarks thereon, and a copy of such extracts and remarks shall be published annually in one of the public newspapers of the Colony.

Visitor not to engage in trade, &c.

His duties.

Report to Board.

Duty of Board with reference to visitor's reports.

LXXXIV. The school visitor of each county for the time being is hereby required, at each and every visitation made by him, to the schools of his county, to enter his name and the date of his visitation in the book or record kept by the trustees of such schools for that purpose.

Visitor to enter his name and date of visit in trustees' book.

LXXXV. It shall be the duty of the school visitors to visit frequently the Normal School, and to assist the Board of Education in directing the management thereof.

Visitors to visit frequently the Normal School.

LXXXVI. The salary of each school visitor under this Act shall be one hundred and fifty pounds per annum, to be paid quarterly from the date of his first appointment, by warrant drawn in the usual manner on the treasurer of this Island, on producing the certificate of a quorum of the Board of Education, of his being entitled to receive the same.

Salary of visitors.

No clergyman, teacher, &c., to be liable to assessment.

LXXXVII. No clergyman or minister having charge of a congregation of religion, or teacher, or head of any educational establishment, whether such establishment shall be in operation under this Act, or otherwise, in this Island, shall be liable to pay any assessment imposed by this Act for the purposes of education.

Teacher within 20 days to send notice of his engagement to secretary of Board.

LXXXVIII. Every school teacher is hereby required, within twenty days after his entering into his engagement as teacher, to transmit to the Secretary of the Board of Education a notice thereof, in writing, in the form in the schedule of this Act, annexed, marked (B), stating the date at which he shall have entered into such engagement, and the day on which the school under his charge shall have been opened, and such engagement as aforesaid shall in no case be entered into for a longer or shorter period than twelve months from the commencement thereof, and every such agreement and engagement shall be duly made and entered into in writing between the said teacher and the school trustees, to be appointed as by this Act directed, and shall be in the form or to the effect prescribed in the Schedule to this Act annexed, marked (A).

Form of teacher's agreement.

Trustees on entering into an agreement, to set forth number of scholars in the district, &c.

LXXXIX. It shall be the duty of the trustees of all schools in this Island, and they are hereby required in all cases, when entering into an engagement or agreement with any teacher, to state and set forth in every such agreement what is the total number of scholars or children within the age of five and seventeen years in their district, and also the average daily attendance of scholars required by this Act for such school when the same is a district school.

Teacher to verify journal on oath.

XC. The journal or register required by the fifty-fourth section of this Act to be kept by every licensed teacher, and forwarded by him or her to the secretary of the Board of Education, shall, before being so forwarded, be certified to as to the correctness thereof, upon oath, by every such teacher, before a Justice of the Peace.

When a grammar school may be substituted for two district schools

XCI. When and as often as the resident householders in any two adjoining country school districts in this Island, having children within the age of five and seventeen years, or the trustees of such districts, shall be desirous of obtaining the establishment of a grammar school in lieu of the two district schools within their districts, and the trustees of both of said districts, on behalf of such resident householders therein as aforesaid, shall signify such, their desire, in writing to the Board of Education, and shall provide a suitable building for the purpose of such grammar school, the same to be of not less area than six hundred square feet, and to be at least ten feet in

the height of the post, that then, and in every such case, the said Board of Education shall have power, and they are hereby required to merge said two districts into one and to establish therein a grammar school, in lieu of the two district schools theretofore in operation in such districts, and to appoint a teacher to such grammar school who shall be qualified to teach the various branches hereinafter specified, and the Board of Education shall have power at any time, upon the application of the trustees of any such grammar school as aforesaid, to appoint an usher or assistant teacher to such school.

When Board may merge 2 districts for the purpose, and appoint teacher, &c.,

XCVII. The Board of Education shall likewise have power at their discretion, subject to the proviso as to the number of Grammar schools in the next section set forth, to establish in any country school district in this Island, a grammar School in lieu of the district school, should it appear to them to be necessary or advisable, and an application be made to them by the trustees or householders of the district, and the said Board of Education shall appoint to such grammar school a teacher possessing the qualifications hereinafter prescribed.

Other grammar schools when allowed.

XCVIII. The number of grammar schools in each of the counties of this Island, to be allowed or recognized under this Act, over and above those grammar schools formed by the junction of two districts schools under this Act, or in Charlottetown, Georgetown, or Summerside, shall not exceed the following number, that is to say, in Prince County three, in King's County three, and in Queen's County five, unless the establishment of an additional grammar school, or additional grammar schools shall, on recommendation of the Board of Education, be sanctioned by order of the Lieutenant Governor in Council.

Number of grammar schools in counties (except where formed by merger of district schools) limited.

XCVI. The Board of Education, at any time, if they, on examination, or the report of the examiners, find that a candidate for a teacher's license is not likely to become fitted to be a teacher without attending at the Normal School, shall require such candidate to attend at such Normal School for any period they may think fit, not exceeding five months before they will again allow such candidate to offer himself again for examination.

If Board find a candidate clearly unfitted, may require attendance at Normal School.

XCV. From and after the passing of this Act, the Board of Education shall have power to continue in Georgetown a grammar school, in addition to the male and female schools which are hereby authorized to be established and provided for therein, and in Summerside a grammar school in addition to the district school already established therein, respectively ;

Board may continue grammar school in Georgetown and Summerside, &c.

and the Administrator of the Government for the time being, in Council, shall, from time to time, appoint the teachers to such grammar schools, whose qualifications for teaching shall be those in this Act prescribed, and such teacher shall charge, collect, and receive from the parents or guardians of the children attending such schools, a tuition fee, or such sum per head for every child taught by him, as shall be fixed by the Board of Education in that behalf, and subject to such rules and regulations as they shall prescribe, and the same, in default of payment, shall and may be recovered as in other cases under this Act; provided always, that no such teacher, as last aforesaid shall be entitled to draw the government allowance payable to him under this Act, until he shall first have produced a certificate of the Secretary of the Board of Education, and one other member of the said Board, as herein prescribed and required in regard to district school teachers, or until he shall have filed with the said Secretary of the Board of Education, a certificate, under the hands of a majority of the trustees of his school, certifying to the effect, as in the form in schedule (C), to this Act annexed.

Fee payable by children attending.

Conditions precedent to teacher obtaining his salary.

Tuition fees to be applied by trustees for purchase of fuel, &c.

XCVI. The tuition fees to be collected by the said respective grammar school teachers in Georgetown and Summerside, shall be duly applied and appropriated under the directions of the respective trustees of said schools, in the purchase of books and fuel, and in repairing the respective schoolhouses or buildings; and an account of such fees and of the appropriation thereof, shall be duly kept and laid before the Board of Education, regularly, at least once in every year after the establishment of such respective grammar schools.

Grammar school teacher must be able to teach Latin, French and Greek, as required by Board, &c.

XCVII. The teacher to be appointed to each and every grammar school now established, or to be established, under this Act, shall, in addition to the qualifications of second or higher class teachers by this Act, be qualified to teach the Latin, Greek, and French languages, in such proficiency as the Board of Education shall deem requisite, and shall hold the certificate of the said Board, of such his qualifications.

Lt. Governor, &c. to appoint trustees of Grammar schools in Georgetown and Summerside.

XCVIII. At the time of making the appointment of teacher to each of the grammar schools to be established in Georgetown and Summerside, under this Act, the Lieutenant Governor in Council shall likewise appoint trustees to each of such schools respectively, whose powers and duties shall be the same as those of the trustees of ordinary school districts under this Act.

Children in the County may go to Georgetown

XCIX. The parents or guardians of any child or children residing within any of the respective counties in which the said respective grammar schools of Georgetown and Summer-

side shall be situate, shall have the privilege of sending such child or children to be taught in the grammar schools established in any such county towns, respectively, and such parents or guardians shall not be liable to pay any assessments or contributions towards the salary of the teacher of the school of the district wherein such child or children may reside (so far as such child or children are concerned) so long as such child or children shall be in attendance at such grammar school, provided such parents or guardians shall have given notice of their intention to send any such child or children to such grammar school at the time of any such district school assessment aforesaid, being levied for the year.

or Summerside
grammar
schools, &c.

C. Trustees for the said grammar schools to be established under this Act, save and except the grammar schools in Georgetown and Summerside, shall be appointed in the same manner as provided by this Act for the appointment of trustees of ordinary district schools, and all the provisions of this Act prescribing the duties and powers of trustees of said district schools shall apply to and regulate the duties and powers of the trustees of such grammar schools, save and except the two grammar schools in this clause excepted.

Other gram-
mar school
trustees ap-
pointed in or-
dinary manner.

CI. Every teacher, before he shall be entitled to draw the government allowance under this Act, except the teachers of the grammar schools in Georgetown and Summerside, shall deposit, or cause to be deposited with the Secretary of the Board of Education, one part of the original agreement made by him, or on his behalf, with the trustees or inhabitants of any school district, or a true copy thereof, attested on oath, which said agreement shall be in the form or to the effect prescribed in the schedule to this Act annexed, marked (A), and a certificate in the form in the schedule to this Act annexed, marked (C), shall be endorsed thereon or thereto annexed, under the hands of a majority of the trustees of his school, in the manner prescribed by this Act (which said certificate shall be signed by the said trustees in presence of a Justice of the Peace) certifying that the provisions of this Act, in all respects, have been duly complied with, and also certifying to the good conduct, attention and sobriety of such master, during the term he shall have kept his school, pursuant to such agreement, which conduct shall also be thereon certified by one or more Justice of the Peace, and the said Secretary, with the concurrence of one other member of the said Board of Education, shall certify the class to which such teacher shall belong, and the amount to which, by law, and as shall satisfactorily appear by such certificate, the said teacher shall be entitled, and shall also certify that the said agreement, or an attested copy thereof, as aforesaid, has been

Teacher apply-
ing for salary,
to deposit copy
of agreement,
with certificate
&c.

Form of cer-
tificate

Secretary of
Board to cer-
tify class of
teacher, and
amount of his
salary, &c.

Which shall be paid quarterly by warrants.

duly filed, and that the same has been framed in accordance with the provisions of this Act hereinbefore expressed, and on the production of such certificate last mentioned, such teacher shall be entitled to receive from the treasury of this Island such amount as he or she, according to his or her class and qualifications, shall be by law entitled to, the same to be paid by quarterly payments, on production of the certificates and other requisites prescribed by this Act, by warrants under the hand and seal of the Lieutenant Governor for the time being, with the advice of her Majesty's Executive Council.

Trustees may sign certificate separately.

CII. It shall not be necessary that the trustees shall sign the certificate mentioned in the last preceding section, collectively, and in the presence of each other, provided the same be signed by them individually at different times.

Anglo-Rustico schools, Lot 24, continued under control of Board.

CIII. The two schools which were established and are now in operation in the district known as the Anglo Rustico District, on township number twenty-four, in this Island, (one school having been found insufficient to afford the means of education to all the children therein) shall be continued as now in operation, and the Board of Education are hereby authorized to divide and alter the said district in such way and manner as they may deem expedient, so as to meet the exigency of the case, anything herein contained to the contrary notwithstanding; provided always, that no teacher appointed to take charge of any such school or schools in the said Anglo Rustico District, shall at any time be recognized as a district teacher or be entitled to a salary, unless such person shall have obtained a license as a first or second class teacher from the Board of Education, and shall comply with the provisions of this Act relating to district teachers.

Teacher therein to hold license.

Districts found similarly circumstanced as Anglo-Rustico district, may be dealt with in same manner.

CIV. In case any other established school district in this Island shall be found similarly circumstanced with the said district, hereinbefore designated the Anglo Rustico District, it shall be in the power of the Board of Education to apply the same remedy in relation thereto, by dividing or altering the same and establishing an additional school therein, as is mentioned and set forth in the last preceding section, in regard to the said Anglo Rustico District, and with the like restrictions in all respects as therein prescribed in regard to the teacher of any such additional school, being a duly licensed teacher, and the trustees of his school shall conform in all respects to the provisions of this Act.

Salaries of teachers annually.

CV. There shall be paid as salaries to the several classes of teachers, assistant teachers and ushers of grammar schools in the several districts and towns in this Island, (save and

except the teacher and usher of the Charlottetown grammar school) hereinafter mentioned, the respective yearly salaries following, that is to say: to male district teachers of the first or lowest class, the sum of fifty-five pounds per annum; to male district teachers of the second or highest class, the sum of sixty pounds per annum; to female district teachers, the sum of forty pounds per annum; to male district teachers of grammar schools, when two districts combine to form a grammar school, as hereinbefore mentioned and provided, the sum of one hundred pounds per annum; to male district teachers of grammar schools, where districts are not so combined, the sum of ninety-five pounds per annum; to ushers of such first named grammar schools, the sum of ten pounds per annum; to teachers of grammar schools in Georgetown and Summerside, the sum of one hundred pounds each per annum; and to the ushers of Georgetown and Summerside grammar schools, the sum of fifteen pounds per annum; to male teachers of schools in Charlottetown, of the first or lowest class, the sum of seventy-seven pounds per annum; and to the assistant of such last named teacher, the sum of sixty-six pounds per annum; to teachers of the second or highest class of schools in Charlottetown, the sum of one hundred pounds per annum; and to the assistant of such last named teacher, the sum of sixty-six pounds per annum; to female teachers of female schools in Charlottetown, the sum of forty-nine pounds ten shillings per annum; to teachers of the female schools in Georgetown, the sum of forty pounds per annum; and lastly, to the male teachers of the first or lowest class, licensed by, and holding a certificate from the Board of Education, previous to the passing of the Act of the twenty-third Victoria, chapter fourteen, since repealed, but who shall not have passed an examination, and obtained a certificate from the said Board subsequently to the passing of the said repealed Act, and who shall have heretofore declined or refused to submit to be re-examined by the said Board, or having so submitted shall not have been deemed entitled to a certificate of qualification, the sum of forty-five pounds per annum; provided always, that until a teacher of any district or town school shall have been actually engaged as a teacher in conformity with the provisions of this Act, or the hereby repealed laws relating to education, for a period of three years, he shall not be entitled to the full salary hereby directed to be paid to the teachers of the class to which he may belong, but the salary of such teacher shall be reduced yearly, and every year, until he shall have completed three years of teaching under this Act, or the former Acts, relating to education, by deducting the sum of five pounds therefrom in every case.

Teachers, until they have served three years, to receive, in each case, £5 less of salary annually.

CVI. The several and respective salaries aforesaid, shall be paid by warrant, on the public treasury, at such time or

Teachers' salaries to be paid

by warrant on usual certificates, &c.

times, and under and subject to the same provisos, restrictions and qualifications, and on the production of the certificates, attestations and papers, and, performance of the services hereinbefore mentioned, and shall also be subject to be reduced in amount for want of the daily average attendance of scholars as hereinbefore provided.

Former Acts, orders, &c., of Board of Education and others, sustained as if repealed Acts were continued in force &c.

CVII. All acts, orders, deeds transactions, matters and things whatsoever, made, done, had or executed by the Board of Education, or by or under their direction, sanction, priority or authority, under and by virtue of any Act or Acts hereby repealed or heretofore in force, relating to education, and all appointments of trustees and other persons whomsoever, under and by virtue of the said Acts, and all agreements, contracts, arrangements, obligations, liabilities, matters and things whatsoever, had, made, done, executed, incurred, entered into or subsisting by or between the inhabitants or householders or school trustees in any school district, town, place or locality whatsoever, in this Island, and any teacher or teachers, or by and between any other person or persons, at the time of the passing of this Act, in pursuance, or under or by virtue of the Acts hereby repealed, or any law heretofore in force, relating to education, are hereby expressly declared to be, and the same shall continue to be in all respects good, valid, absolute, binding, and effectual, both at law and in equity, under the operation of this Act, as if the said recited Acts, and every one of them, still remained in full force, and not in any manner repealed.

Act to go in force on first June, 1868.

CVIII. This Act shall go into force and operation on the first day of June next, and not before that time.

Schedule (A.)

SCHEDULE (A.)

FORM OF AGREEMENT WITH TEACHER.

Form of teacher's agreement.

These presents witness that *A. B.*, licensed teacher, doth hereby agree and engage with *C. D., E. F., G. H., I. J.* and *K. L.*, trustees of the _____ district school, or _____ grammar school, Township No. _____ in Prince Edward Island, to conduct the said school duly, faithfully and punctually, in accordance with the law, and the rules and regulations of the Board of Education for, and during the term of one year from the _____ day of _____ according to the best of skill and ability, and the said trustees, on their part, agree and engage to keep the schoolhouse in said district in substantial repair and comfortable for the teacher and scholars, to provide

sufficient fuel, cut at all times for the use of said school, to provide such books and school furniture as may be prescribed by the Board of Education and visitor of schools, to visit and inspect said school, to direct the discipline thereof, to keep in as regular attendance as possible all the scholars resident in said district, amounting to _____ in number; * and that the said parents shall also make good any reduction in the amount of the salary of the said *A. B.*, which may be occasioned by a deficiency in the average daily attendance of scholars as required by law for the said district, which said average is _____ scholars; * and on the performance of the said teacher of his part of this agreement, to give him the certificate necessary to enable him to receive the allowance to which he shall be entitled from the treasury of this Island. (if there be any further agreement between the parties as to any allowance to the teacher for his board or otherwise, insert the same here.)

In witness whereof, the said parties to these presents have hereunto set their hands and seals the _____ day of _____ A. D., 186_____

Signed, sealed and executed }
in the presence of *M. N.* }

A. B., (seal) Teacher.

C. D., (seal) }
E. F., (seal) } Trustees.
G. H., (seal) }
I. J., (seal) }
K. L., (seal) }

N. B.—When the school is a grammar school, the words between the asterisks, in the preceding form to be left out.

SCHEDULE (B.)

Schedule (B)

NOTICE FROM TEACHER OF HIS ENGAGEMENT.

I hereby give notice that I have entered into an agreement, bearing date the _____ day of _____ 18_____ to teach the school (or grammar school) in the settlement of _____ in Township number _____ (or in the town or royalty of _____) for the term of _____ and that the said school was opened on the _____ day of _____ 18_____

Teacher's notice of engagement.

A. B., Teacher.

We do certify that the foregoing statement is correct.

C. D., }
E. F., } Trustees.
G. H., }

Schedule (C.)

SCHEDULE (C.)

TEACHER'S CERTIFICATE TO OBTAIN SALARY.

Teacher's certificate to obtain salary.

We the undersigned trustees of the school at _____ township number _____ do hereby certify that *A. B.*, teacher of the _____ class (or if a grammar school, say teacher of the grammar school on township number _____) (or as the case may be), has diligently, faithfully, and soberly discharged his duties during the last _____ months as teacher of our school, and has during the said period duly kept a journal of the said school, and in all other respects has complied with the laws now in force relating to education, and is entitled to receive the sum of _____ for his said services, and that a school house, in accordance with the provisions of the laws now in force, has been provided, and that the average attendance at this school during the past six months has been _____ in number, as witness our hands this _____ day of _____ 18 _____

} Trustees.

I certify that the foregoing statements, to the best of my knowledge and belief, are correct, and that this certificate has been signed by the said trustees in my presence.

J. P.

Schedule (D.)

SCHEDULE (D.)

FORM OF NOTICE OF MEETING TO APPOINT TRUSTEES.

Notice.

Form of notice of meeting to appoint trustees.

A meeting of the inhabitants, resident householders within school district number _____ on Township number _____ (describe the district according to its registered name, or usual designation) will be held at the schoolhouse, in said district, (or as the case may be), on the _____ day of _____ next (or instant as the case may be) at _____ o'clock, in the _____ noon, for the purpose of electing trustees for the said school district, according to law.

A. B. }
C. D. } Trustees.
E. F. }
G. H. }

SCHEDULE (E.)

FORM OF AFFIDAVIT OF NOTICE BEING POSTED.

Schedule (E.)

County }
to wit. }

J. K. of _____ in the said County, maketh oath and saith that a true copy of the notice or paper writing hereunto annexed, was, on the _____ day of _____ instant (or last as the case may be) duly posted at each of the three following places within school district number _____ on township number _____ (or as the case may be) that is to say: one copy thereof on Mr. _____'s forge, (or as the case may be) another copy thereof at _____ and the third copy at _____ being three of the most public places within the said school district.

Affidavit of notice being posted.

J. K.

Sworn to before me this _____ day of _____ 18____
L. M., J. P.

CAP. VII.

An Act for appropriating certain moneys therein mentioned, for the service of the year of our Lord one thousand eight hundred and sixty-eight.

[Passed April 24, 1868.]

* * * This Act being for the most part already executed is not published in this volume.

CAP. VIII.

An Act to repeal the Acts now in force, establishing and regulating the rate of interest, and to make some provisions on the same subject.

25 G. 3, c. 6,
and 24 Vic. c.
28.

[Passed April 24, 1868.]

WHEREAS the laws establishing and regulating the rate of interest, have of late years been materially relaxed, in so far as the same relate to loans or forbearance of money upon all other securities except those upon lands, tenements, or hereditaments, or any estate or interest therein: and whereas it is desirable that the distinction between the rates of interest allowed to be taken upon the security of lands, and other securities, should be abolished, and that in order to induce as much as possible, the influx of capital into this Island, the various restrictions heretofore placed upon the rate

Preamble.

of interest, should be abolished: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:

Repeals statutes 25 Geo. 3. c. 6. 24 Vic. c. 28.

I. That the statute, twenty-fifth George the third, chapter six, intituled "An Act for establishing the rate of interest," and also the statute twenty-fourth Victoria, chapter twenty-eight, intituled "An Act to exempt certain bills of exchange, promissory notes, contracts and agreements from the operation of the laws relating to usury," be, and the same are hereby respectively repealed.

No greater rate than 6 per cent. per annum allowed on contract, &c., unless agreement in writing.

II. Provided always, nevertheless, that no person shall be entitled to claim or recover, in any Court of law or equity more than six pounds, per centum, per annum, interest on any account, or on any contract or agreement, unless it shall appear to the Court that any different rate of interest was agreed to in writing between the parties.

Existing rights, &c. protected.

III. And provided always, that nothing herein contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person in respect of any act done previously to the passing of this Act.

Rate of interest on contracts heretofore made, still recoverable.

IV. Where interest is now payable upon any contract heretofore made, express or implied, for the payment of the legal or current rate of interest, or where, upon any debt or sum of money, interest is now payable by any rule of law, the same shall be recoverable as if this Act had not been passed.

Act to commence on 15th of April, 1870.

V. This Act shall come into operation on the fifteenth day of April, in the year of our Lord one thousand eight hundred and seventy.

C A P. IX.

An Act to prevent accidents to persons travelling on the ice in this Island.

[Passed April 24, 1868.]

Preamble.

WHEREAS persons in search of musselmud, and for other reasons, make holes or openings in the ice on the various bays, rivers and creeks in this Island, and it is necessary for the prevention of accidents to persons travelling on such ice, to cause such holes or openings to be marked as herein-after mentioned: Be it enacted by the Lieutenant Governor, Council and Assembly, as follows:

Persons opening ice to pro-

I. From and after the passing of this Act, any person or persons who shall make or cut holes or openings in the ice on

any of the bays, rivers, creeks, or inlets in this Island, for the purpose of procuring musselmud, or for any other reason or purpose whatsoever, shall mark such holes or openings by placing bushes at or immediately beside or adjoining the same, in such way and manner as to attract the attention of persons travelling on the ice of such bays, rivers creeks and inlets; the bushes placed around any such opening to be not more than ten feet apart, or less than six feet in height, and in order, as much as possible, to warn persons so travelling that there is a hole or opening at or near such bushes.

cure Mussel-mud, to mark same by placing bushes, &c., in manner defined.

II. Any person or persons making holes or openings in the ice on any bay, river, creek or inlet in this Island, without marking the same as in the last preceding section provided and directed, shall forfeit and pay a fine not exceeding two pounds, nor less than ten shillings and costs of prosecution, to be recovered, on the oath of one credible witness, before any Justice of the Peace for the County where the offender or offenders may reside, which said fine, if not paid within six days after the same shall have been adjudged to be paid by such Justice, be levied on the goods and chattels of the person or persons offending, and in default of such goods and chattels, or goods and chattels sufficient to pay the fine and costs adjudged as aforesaid, such Justice of the Peace shall commit the said offender or offenders to jail, by warrant, in the usual form, under his hand and seal, for such period as such Justice shall ordain, not exceeding one calendar month.

Penalty for breach of this Act.

How penalty to be recovered, &c.

III. One half of such fine or penalty shall, if recovered, be paid into the treasury of this Island, for the use of her Majesty's government, and the other half to the person prosecuting the offender.

Appropriation of penalty.

C A P . X .

An Act to amend and explain the Act passed in the second year of his Majesty King William the Fourth relating to the celebration of marriages, so far as the same relates to the Bible Christian Church.

2 Will. 4.

[Passed April 24, 1868.]

BE it enacted by the Lieutenant Governor, Council and Assembly, that every clergyman or minister of the sect of Christians known as Bible Christians, or the Bible Christian Church, upon producing to the Lieutenant Governor, or other Commander-in-Chief for the time being, satisfactory proof of his appointment, ordination, or constitution, and that he is

Minister of Bible Christian Church, on proof of his appointment,

&c., to have power to solemnize marriages, &c.

Minister may solemnize marriage according to forms, &c. of Bible Christian Church.

All marriages heretofore solemnized by ministers of Bible Christian Church, confirmed, &c.

actually employed by the said denomination or sect, and receiving a certificate to that effect under the hand and seal of the Lieutenant Governor or Commander-in-Chief for the time being, shall hereafter have power and authority to solemnize marriage, either by license from the Lieutenant Governor, or after publication of banns in his church, chapel, or other place of public worship, on three successive Sundays during divine service; provided always, that nothing herein contained shall extend, or be construed to extend, to prevent any clergyman, or minister regularly ordained, or appointed according to the rules and regulations of the said Bible Christian Church, and having spiritual charge of a congregation within this Island, from solemnizing marriage according to the forms of the said Bible Christians, or Bible Christian Church, without having obtained such certificate as is hereinbefore mentioned.

II. All marriages which have been heretofore solemnized within this Island, by any clergyman or minister of the said Bible Christian Church, or the said sect of Bible Christians, either by virtue of license from any Lieutenant Governor, or Commander-in-Chief of this Island, or by publication of banns, or otherwise, where the parties so married have cohabited together, shall be, and the same are hereby declared to be legal and valid, and the issue of all such marriages are hereby made legitimate, to all intents and purposes whatsoever, providing the parties so married shall not have been within the degrees of kindred prohibited by the imperial statute passed in the thirty-second year of King Henry the Eighth, intituled "An Act concerning precontracts and touching degrees of consanguinity."

C A P. X I.

An Act for the incorporation of Societies for the sale and distribution of Seed Grain, on credit.

[Passed April 24, 1868.]

Preamble.

WHEREAS certain persons in this Island have formed themselves into clubs or societies for the sale and distribution of Seed Grain, on credit, to persons not having the means of procuring the same at seed time, and it is necessary that such clubs or societies as are now formed, or may hereafter be formed for the said purposes, be incorporated from time to time, as such clubs may be formed: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

Societies may be formed.

I. Societies or clubs, for the sale of seed grain, on credit, as aforesaid, may be formed by any number of persons, not less than nine in number.

II. The persons forming, or having formed any such society, shall make and severally sign a certificate or minute, which shall contain the name of the society, the names of the members thereof, and their respective residences, the quantity of grain each party has respectively contributed, or intends to contribute, and that the society is formed for the purpose mentioned in this Act; and the said certificate or minute shall be registered in the office of the prothonotary, or deputy prothonotary of the Supreme Court for the County where the principal place of business of the society is held.

Members of Society to sign certificate of name of society, &c.

Certificate to be registered, &c.

III. No such society shall be deemed to be formed until a certificate or minute containing the particulars mentioned in the last preceding section set forth, signed by the members thereof before a Justice of the Peace, be registered in the office of the prothonotary or deputy prothonotary of the Supreme Court, as aforesaid, in a book to be kept for that purpose, and which shall be open to public inspection.

Society not to be deemed established, until registry of certificate, &c.

IV. Notice of the formation of such society shall be published in the *Royal Gazette* newspaper of this Island, for at least three insertions, signed by at least three members of said society, and such society shall thenceforth be deemed in operation, and incorporated with the powers and authority herein-after mentioned.

Notice of formation of society, to be published in Royal Gazette.

V. On the due registry of said certificate or minute, executed and attested as aforesaid, the persons named in such certificate or minute, as well as all future members of such society, shall be, and they are hereby declared a body corporate, and shall have perpetual succession and a common seal, and the name of such society set forth in such certificate or minute as aforesaid, shall be the corporate name of such society or body corporate, and the said society shall in such name sue and be sued, implead and be impleaded in any Court of law or equity, and be for ever capable in the law to purchase, receive, possess and enjoy to them and their successors, any goods and chattels whatsoever, and to act in all the concerns of the said body corporate, for the business or purposes for which it is hereby constituted as aforesaid, and also, that any such society, so formed as aforesaid, shall from time to time, and at all times hereafter, have full power and authority to make and ordain such by-laws, rules and regulations as may be deemed necessary for the good rule and government thereof, and for the management and transaction of the affairs and business of the said society, provided that such by-laws, rules and regulations be not repugnant to the laws of this Island or this Act.

On registry of certificate, society to be incorporated with usual powers of corporation, &c.

May make by-laws, &c.

Meetings of members for election of officers, &c.

VI. At the expiration of thirty days from the due registry of such certificate or minute as aforesaid, and from time to time thereafter, as may be determined by the by-laws of such society, the members thereof so registered shall hold a meeting at a time and place to be notified by at least three members of such society, for the election of officers, the enactment of by-laws and regulations, the admission of new members and the transaction of such business as may be necessary for putting the said society in effective operation.

Only share of each member liable to be taken under execution against him, and 20 bushels of his share, be always free from such execution.

VII. No more than the share or quantity of grain belonging to each member in such society shall be liable to be attached or taken in execution for the debts of any member of such society; provided always that when such share or quantity does not exceed twenty bushels, it shall not be so liable to be attached or taken in execution as aforesaid, nor in any case shall any greater amount of the share of any one shareholder to be taken in execution or attached than the surplus amount of his share over and above twenty bushels, thus always allowing to each shareholder to retain twenty bushels in the fund.

Grain given out to be recovered by suit in small debt Court, &c.

VIII. Any quantity of grain delivered out on credit by such society, or the authorized agent or officer thereof, may be sued for in any Court for the recovery of small debts in this Island, in the same way and manner as small debts are now recovered under the laws of this Island relating to small debts, and conformable to any by-law or laws, rules or regulations of the said society, not inconsistent with this Act or the laws of this Island.

Society may hold property to extent of £1000, &c.

IX. It shall be lawful for the said society to acquire and hold lands and immovable or real and personal property; provided that the real estate to be held by the said society, shall at no time exceed in value the sum of one thousand pounds, and it shall be lawful for the said society to sell, lease, or otherwise dispose of the said property and estate as they may see fit.

Prothonotary's fee for certificate and registry.

X. The prothonotary or deputy prothonotary shall be entitled, for registering the certificate as aforesaid, to a fee of one shilling for every hundred words, and for a certificate of such registry the sum of two shillings and three pence.

CAP. XII.

An Act for the better security of the Crown and Government of the United Kingdom within this Island.

[Passed April 24, 1868.]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. The Act of the General Assembly of this Island, passed in the twenty-ninth year of the reign of Her present Majesty Queen Victoria, chapter nine, shall be, and the same is hereby repealed. Repeals 29 Vic., cap. 9.

II. If any person whatsoever, after the passing of this Act, shall, within this Island, compass, imagine, invent, devise or intend to deprive or depose our most gracious Lady the Queen, her heirs or successors, from the style, honor or royal name of the Imperial Crown of the United Kingdom, or of any of Her Majesty's dominions and countries, or to levy war against Her Majesty, her heirs or successors, within any part of the United Kingdom, or within any other of Her Majesty's dominions or countries, or this Island, in order, by force or constraint, to compel her or them to change her or their measures or counsel, or in order to put any force or constraint upon, or in order to intimidate or overawe, the General Assembly of this Island, or either branch of the Legislature, or to move or stir any foreigner or stranger with force to invade the United Kingdom or any other of Her Majesty's dominions, or this Island, under the obeisance of Her Majesty, her heirs or successors, and such compassings, imaginations, inventions, devices or intentions, or any of them, shall express, utter or declare, by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, every person so offending shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with or without hard labor, as the court shall direct. Definitions of offences with- in this Act.

Every offender to be guilty of felony.

Punishment.

III. Provided always, and be it enacted, that no person shall be prosecuted for any felony by virtue of this Act in respect of such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared, by open and advised speaking only, unless information of such compassings, imaginations, inventions, devices and intentions, and of the words by which the same were expressed, uttered or declared, shall be given, upon oath, to one or more Justices of the Peace within six days after such words shall Limitation of time as to prosecution of persons for offences under this Act.

have been spoken, and unless a warrant for the apprehension of the person by whom such words shall have been spoken, shall be issued within ten days next after such information shall be given as aforesaid, and that no person shall be convicted of any such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared by open or advised speaking as aforesaid, except upon his own confession, in open court, or unless the words so spoken shall be proved by two credible witnesses.

Any number of offences under this Act may be charged in the same indictment.

IV. It shall be lawful in any indictment for any felony under this Act, to charge against the offender any number of the matters, acts or deeds by which such compassings, imaginations, inventions, devices or intentions as aforesaid, or any of them shall have been expressed, uttered or declared: Provided always, that nothing herein contained shall lessen the force of, or in any manner affect, any thing enacted by the imperial statute, passed in the twenty-fifth year of King Edward the third, a declaration which offences shall be adjudged treason.

If facts alleged in indictment amount to treason, same not to be void, or party to be acquitted, &c.

V. Provided also, and be it enacted, that if the facts or matters alleged in an indictment for any felony under this Act, shall amount in law to treason, such indictment shall not, by reason thereof, be deemed void, erroneous or defective, and if the facts or matters proved on the trial of any person indicted for any felony under this Act, shall amount in law to treason, such person shall not, by reason thereof, be entitled to be acquitted of such felony, but no person tried for such felony shall be afterwards prosecuted for treason upon the same facts.

Principals in second degree & accessories before and after fact, how punished.

VI. In the case of any felony punishable under this Act, every principal in second degree and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable, and every accessory after the fact to any such felony shall, on conviction, be liable to be imprisoned with or without hard labor for any term not exceeding two years.

CAP. XIII.

An Act to empower the Government of Prince Edward Island to expend ten thousand pounds in the purchase of lands within the said Island.

[Passed April 24, 1868.]

BE it enacted by the Lieutenant Governor, Council and Assembly, that it shall and may be lawful for the Lieute-

nant Governor, by and with the advice of Her Majesty's Executive Council, at any time and from time to time, after the passing of this Act, to purchase lands in this Island, to the amount of ten thousand pounds, of the lawful money of the said Island, and to pay for any lands so purchased such price per acre as the said Lieutenant Governor in Council may deem advisable, notwithstanding that such price shall exceed the price or sum per acre as limited by and mentioned in the Act of the sixteenth Victoria chapter eight.

Government empowered to expend £10,000 in purchasing lands at such price as they deem advisable.

16 Vic. cap. 8.

II. All lands purchased under the provisions of this Act shall (except with regard to the price per acre to be paid therefor) be purchased, held, paid for, sold, transferred, and in all respects dealt with and managed in the same way and manner as lands purchased under the provisions of the said recited Act, or any Act in amendment thereof, and as if the same (except as to price as aforesaid) were purchased thereunder.

Lands so purchased to be held, transferred, &c. according to provisions of Land Purchase Bill, &c.

CAP. XIV.

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

20 Geo. 3, cap. 3.

[Passed April 24, 1868.]

WHEREAS the first section of the twentieth George the third, chapter three, intituled "An Act for the due observance of the Lord's day," contains a provision permitting the sale of fresh fish before the hour of nine o'clock in the morning and after five o'clock in the afternoon, on the Lord's Day, and it is deemed expedient to repeal such provision. Be it therefore enacted by the Lieutenant Governor, Council and Assembly as follows:

Preamble.

I. From and after the passing of this Act, it shall not be lawful for any person or persons, whomsoever, in this Island, to sell or vend fish of any kind or description at any hour on the Lord's Day, and any person who shall so sell fish on the Lord's day shall be subject to the same penalty as is imposed by the second section of the said recited Act for the offences therein mentioned, and the said penalty shall be recovered and applied as in the said second section mentioned and directed.

Sale of fish on the Lord's day prohibited under penalty as imposed by 2d section of 20 Geo. 3, cap. 3.

CAP. XV.

An Act for the relief of unfortunate debtors.

[Passed April 24, 1868.]

BE it enacted by the Lieutenant Governor, Council and Assembly as follows :

I. When any debtor shall be owing debts to the amount of one hundred pounds or upwards, and unable to pay the same, he may apply by petition, to the judge or commissioner in insolvency hereinafter referred to, setting forth upon oath in his application, a full statement of his real and personal property, assets and liabilities, the names and residences of his creditors, and the sum due to each of them, the nature of each debt, and whether founded on written security or otherwise.

Debtor owing more than £100, may apply to commissioners, &c., and file petition stating his property, debts, &c.

II. It shall be lawful for the Lieutenant Governor in Council to appoint a fit and proper person to be commissioner of the insolvent Court, to be established under this Act, who shall receive, as a remuneration for his trouble, the several fees ordained by this Act to be paid to him, and which commissioner shall have power and jurisdiction as in this Act hereinafter set forth.

Lt. Governor to appoint commissioner of insolvent court.

III. The Lieutenant Governor in Council shall also appoint a clerk to the said insolvent debtor's Court, and such clerk when duly appointed shall be sworn for the due and faithful performance of the duties of his office, and for his services he shall be allowed such fees as are hereinafter mentioned, and whose designation of office shall be "Clerk of the Insolvent Debtor's Court," and the commissioner and the sheriffs of the different counties shall be paid the fees set forth in the schedule of fees hereunto annexed.

Also a clerk to insolvent court, who shall be sworn to discharge his duty, &c.

Fees of commissioner and sheriffs.

IV. The Clerk, upon such petition being filed, shall call a meeting of the creditors of such debtor, to be held before the said commissioner, and shall give three months' public notice, as in schedule (A), thereof in the *Royal Gazette* newspaper, therein specifying the time, place and object of such meeting, and copies of the said *Gazette* shall be forwarded through the General Post Office to the creditors of the said debtor.

Clerk to call meeting of creditors before commissioner, and give notice thereof in *Royal Gazette*.

V. Upon any debtor filing any such statement as aforesaid, the said commissioner shall nominate a fit and proper person as assignee of the estate of the said debtor, and upon the consent of such assignee being obtained, the debtor shall execute in duplicate, to such assignee, an assignment of his estate and effects,

Commissioner on filing statement by debtor to nominate Assignee of Estate.

both real and personal, in the form as in schedule (B) to this Act annexed, one copy whereof shall be retained and filed by the clerk, and the other copy thereof shall be delivered to, and kept by the said assignee.

Form of assignment to be executed by debtor.

VI. The execution of such assignment shall vest in the assignee all the property and effects of the said debtor, whether real or personal, in as full and ample a manner as the said debtor held and possessed the same previously to his filing such petition as aforesaid, together with all his deeds, books and papers relating thereto, and shall also vest absolutely in such assignee, all stock or preferential shares in any incorporated company, and shall entitle the said assignee to receive the dividends thereof, and also to assign such stock to any person to whom he as such assignee may sell or dispose of the same by public auction, after advertising the same for at least ten days previous to the sale, in some newspaper published in this Island.

Assignment to vest debtor's property in assignee, &c.

VII. If any person indebted to, or having the possession or control of any property of such debtor, shall, after such assignment and publication of notice thereof as aforesaid, pay any debt, or deliver or dispose of any property to any person but the assignee, to be appointed as hereinbefore mentioned, such payment or transfer shall be deemed fraudulent, and such person shall be liable for the same, or the value thereof, to the assignee, and all sales or conveyances of property, and all assignments of debts, or rights of action by the debtor after such publication, shall be void; but sales and levies made under any execution issued out of any Court before such publication, shall not be affected by this Act, but the provisions of this section shall not extend or apply to any case where the composition offered by the debtor shall be accepted as hereinafter mentioned.

Payment by party indebted to debtor to any but assignee, after notice, to be void, &c.

Proviso as to sales under execution before publication of notice of assignment.

VIII. The said commissioner shall preside at a meeting of the creditors, and after proof of the notice required by the fourth section of this Act, which proof shall be by producing an affidavit of the said Clerk, of the publication of such notices, and posting the same as aforesaid, the petition of the said debtor shall then be exhibited to the creditors, together with the said assignment, and the said debtor may then be examined under oath, by any creditor, his agent or attorney, or person interested, as to the subject matter of such application, and the state of his affairs, which examination, as also that of any creditor or witness produced, shall be taken down in writing by the said clerk and filed with him, and the minutes of the proceedings shall be entered in a book kept by him for that purpose, and such meeting may be adjourned from time to time as often as occasion may require.

Commissioner to preside at creditors' meetings.

Debtor may be examined, and his statements taken down in writing.

Creditor may be required to prove his claim &c.

IX. Any person named in the petition filed by the debtor, and claiming to be a creditor, may be required to prove his debt; and debts not due at the time of the meeting may be treated as payable upon a rebate or discount of interest.

Subpœnas may be had to compel attendance of witnesses and production of books, &c.

X. The debtor, creditor, or any person interested, may obtain from the clerk a subpœna in the form as in schedule (C), directing the parties therein named to appear before the said Commissioner upon a day therein named, and (if occasion shall require) to produce any books, papers or documents, as may be required, and the parties served with copies thereof, shall obey such subpœna, and shall be entitled to receive the like fees as witnesses in the Supreme Court, and in case any of the parties named in such subpœna, and being served with copies thereof, do not obey subpœna, the said Commissioner shall, upon an affidavit of the facts, upon motion to be made by counsel before him, issue an attachment (D) against such parties, returnable before him upon a day therein to be named, and shall, upon enquiry, inflict such punishment by fine or imprisonment, and payment of the costs of the application, as he may deem fit and proper.

Fees of witnesses.

Who shall be liable to attachment for non-attendance.

If debtor in jail, &c., commissioner may issue order to bring him before him for examination, &c.

XI. If the debtor shall be a prisoner confined for debt in any jail or the limits of any jail at the time appointed for the meeting, the said Commissioner may make an order (E), directed to the sheriff of the county wherein the debtor may be confined, to bring such debtor before him, and such sheriff shall not only be not liable to any action for obeying such order, but in case the said debtor shall be in custody in any county other than Queen's County, the sheriff in whose county the said debtor may be confined, shall by such order be compelled to bring such debtor before the said Commissioner, although the said place of meeting may be beyond the jurisdiction, or out of the bailiwick of such sheriff, and such debtor shall be remanded forthwith to the custody of the Sheriff of Queen's County, who shall be bound to receive him and place him in Queen's County jail; provided always, that the said commissioner may, upon application of the said debtor at the time of the filing of his said petition, and executing such assignment as aforesaid, grant to the said debtor a certificate (F) protecting from arrest from thenceforth for the space of four calendar months.

Certificate to free from arrest, to be granted in certain cases.

Debtor may be held to bail, if creditor swears he believes he is about to abscond.

XII. If any creditor, or person interested in the estate of the said debtor, shall produce an affidavit that he the said creditor, or person interested has probable cause for believing and does believe that the debtor is about to leave the Island for the purpose of absenting himself from such examination of his creditors, it shall be lawful for the said Commissioner

to grant a fiat (G) suspending the protection hereinbefore directed to be given to the said debtor, until he shall enter into a bond (H) with two good and sufficient sureties, in such amount as the said Commissioner may direct, payable to the assignee, his executors or administrators, conditioned that the said debtor shall not leave the Island at any time during the continuance of his said protection, and upon such bond being filed by the clerk, the said clerk shall endorse upon the said protection granted to the said debtor, a memorandum that such bond has been duly executed and filed, in accordance with the terms of the said fiat; provided always that no fiat shall be granted on more than one occasion against the same debtor.

Debtor then to give bond for appearance.

Proviso.

XIII. Upon any breach of the condition of any such bond, the assignee shall have an action thereon and shall recover the full amount of the penalty thereof with costs, which penalty, when recovered, shall form part of the debtor's estate.

Assignee, on breach of condition, may sue on bond.

XIV. If any debtor who has received such certificate of protection shall be arrested upon any civil process, the Commissioner shall order his discharge from custody; provided always that nothing herein contained shall exempt any debtor from imprisonment under an attachment for contempt of any Court.

Protected debtor to be discharged if arrested, &c.

XV. The debtor may at any such meeting offer a composition to his creditors, and if such composition be accepted by a majority of such creditors in number and amount of the creditors then present, (whose debts have been duly proved or allowed) or their agents duly authorised, a deed or instrument in writing, setting forth the terms and conditions of such composition, shall then and there be entered into between such debtor and the said creditors, and such composition shall be paid within one year, and shall be secured by the bond of the debtor, with one or more sufficient sureties, to the satisfaction of the said Commissioner, and the said bond shall be filed, and the assignee shall immediately thereupon re-assign the said estate to the debtor in form (I).

If debtor offers, and creditors accept composition, commissioner to re-assign estate on security being given, &c.

XVI. The assignee shall upon his acceptance of his appointment, be sworn to the faithful discharge of his duty in form (K), and shall forthwith give notice of his appointment in form (L) in the *Royal Gazette* newspaper, which said notice shall be advertised for at least three calendar months.

Assignee to be sworn and give notice of his appointment

XVII. The assignee shall, without delay, proceed to convert the real estate and moveable personal estate of the debtor into money, by selling the same at public auction, after such advertisement thereof in the *Royal Gazette* newspaper, as the

Assignee at once to realise estate, and

divide amongst creditors under direction of commissioner. &c.

Book of account to be kept and be open to inspection.

Assignee may sell any part of estate and employ brokers, agents, &c.,

Assignee not liable for involuntary losses.

How assignee shall sue or defend in actions.

Judgment recovered against assignee to be paid out of estate.

Certificate of judgment to be sent by Supreme Court to commissioner. &c.

commissioner shall in each case direct, and the assignee shall also collect the debts, and shall have the like remedies to recover all such estate debts and effects in his own name as the debtor might have had if no assignment had been made, and also under the direction of the commissioner, shall distribute the proceeds thereof (after deducting all costs and expenses) amongst the creditors in proportion to their respective debts or claims, and he shall enter in a proper book an account of all his transactions, which book shall be open at all times to the inspection of any creditor or person interested in the estate, free of charge.

XVIII. The assignee may at any time under the direction of the Court, direct any part of the debtor's estate to be sold by public auction, and for that purpose may employ a commission merchant, auctioneer or broker, and the assignee may also by power of attorney under his hand and seal, appoint any person to receive the money due and owing to debtor's estate.

XIX. The assignee shall not be liable to any involuntary losses, nor for the loss or destruction of any property not in his custody or under his control, and in all actions commenced by him under this Act, he shall in addition to his name be described assignee of *A. B.*, an insolvent debtor, and in all actions commenced against him for any matters connected with, or relating to the debtor or his estate under this Act, he shall, at the time of his appearing to any writ, summons or process served upon him, cause to be delivered to the plaintiff's Attorney, a notice to the effect that he defends the said suit as "assignee of *A. B.*, an insolvent debtor," and he shall thereafter in all subsequent proceedings, be described in addition to his name as "assignee of *A. B.*, an insolvent debtor."

XX. In case any judgment for any cause of action which has arisen since the filing of any such petition, except for any debt or sum of money due by the insolvent) shall be recovered against any assignee, as such assignee, he shall not be personally liable therefor, or for the costs of such suit, but the same shall be paid out of the said insolvent's estate, and the Supreme Court shall transmit to the said commissioner a certificate that such judgment has been recovered against the assignee, as "assignee of *A. B.*, an insolvent debtor," which certificate shall also specify the amount of judgment and costs, and the said commissioner shall thereupon direct the payment of such judgment and costs, by the assignee, out of the insolvent estate.

XXI. If at the time of the execution of the assignment, an action is pending in any Court in the name of the debtor, for the recovery of any debt or other or any cause of action, matter or thing, the suit shall not abate, but the assignee shall cause application to be made to the judge of the Court in which such action is pending, who shall order that the assignee be admitted to further prosecute such suit or action, and shall further order that from thenceforth in all subsequent proceedings, the name of the assignee shall be inserted as the assignee of the said plaintiff or insolvent debtor, and such notice thereof shall be given to the defendant's Attorney, as the said Court shall see fit to direct.

Actions pending in debtor's name at date of assignment to be continued in name of assignee, &c.

XXII. All actions commenced against an assignee who shall be entitled to defend as such, shall not be commenced against him after the expiration of six months after the cause of action arose against him.

Limitation of actions against assignee.

XXIII. An assignee shall always be entitled to defend any action, as such, when he acts in any matter believing that as such assignee he was empowered so to act.

When assignee may defend action in his official capacity.

XXIV. Upon an execution of the composition, or after the meeting of creditors, whereat their several debts shall be proved or admitted, the debtor may apply to the said commissioner for an order, (M), that unless cause be shewn on a certain day, the said debtor will be discharged from all his debts contracted before the said meeting, except the said composition, which order shall be published in the *Royal Gazette* for four successive weeks previous to the day appointed therein for shewing cause.

Debtor may apply to commissioner for order nisi for discharge.

Order to be published in *Royal Gazette*.

XXV. It shall be the duty of the said commissioner, unless sufficient cause be shewn to the contrary by any of the creditors of such debtors, such as fraud, undue preference, insufficient proof of any claims, want of full disclosure of his estate, or that the said debtor did, within three months previous to the filing of his petition, or after the commencement of any proceedings by any creditor against him, pawn, pledge, or dispose of, other than by *bona fide* transactions in the ordinary way of his trade, any of his goods, chattels, lands, tenements, moneys or effects, or of due publication of notice of any of the meetings of creditors, or other substantial irregularity, to make an order (N) under his hand and seal, discharging such debtor from all his debts contracted before the meeting of creditors, except the said composition, in cases where a composition has been accepted, as provided by the fifteenth section of this Act, provided that the expenses attending the procuring such certificate shall be first paid by the debtor.

Commissioner may make order absolute for debtor's discharge, unless cause shewn, &c.

Proviso.

Order for discharge to be registered, certified copy to be evidence, &c.

XXVI. The order for discharge shall be registered at full length by the clerk, with the other proceedings, and a certificate or examined copy thereof shall be evidence of such order and of the proceedings of such meetings in all courts.

Where creditors name, omitted in debtor's statement, he may apply to prove claim, and on proof be allowed share of the estate

XXVII. If the name of any creditor shall be omitted from the statement filed, as provided by the first section of this Act, such creditor may, at any time within six months after the first publication of the notice of the meeting, give to the assignee the particulars of his debt, with notice of his intention, on a day to be therein named, to prove the same before the said commissioner, and if such debt shall be proved to the satisfaction of such commissioner, such party shall be entitled to participate with the other creditors under the composition or assignment, as the case may be, and in no case shall the estate of the debtor be distributed among the creditors until after the expiration of six months from the first publication of such notice as aforesaid.

Debtor may retain furniture, &c., to extent of £25.

XXVIII. Any debtor may retain wearing apparel, household furniture and the tools or implements of his trade or calling, to the value of twenty-five pounds in the whole, and the same shall not pass by the deed of assignment.

✓ If debtor, in contemplation of insolvency, make preferential transfer or payments, same to be void.

XXIX. If any debtor in contemplation of insolvency, shall, before the execution of the deed of assignment hereinbefore mentioned and provided for, make any payment or transfer, to give a fraudulent preference to any creditor, such payment or transfer shall, as to his other creditors, be void, and the assignee may recover from the person so preferred, the amount of such payment or the value of property so transferred, or the property itself, provided such person, when accepting such preference, had reasonable cause to believe the said debtor made such payment or transfer with intent to give a fraudulent preference.

Proviso.

Creditors may obtain order and sue on composition bond, &c.

XXX. Any person interested may apply to the said commissioner, who, upon sufficient cause shewn, may make an order to put in suit the bond given to secure the payment of the composition agreed upon, which order shall vest in the creditor a right to bring an action on the bond in his own name, and recovery may be had to the amount of the composition secured to such creditor, and such bond may be put in suit at the instance of any other creditor as often as is necessary, provided that the several amounts to be recovered shall not exceed the penalty of the said bond, and the successful party shall also recover the costs taxed by the proper officer.

Proviso.

XXXI. A certified copy of the bond and of the commissioner's order, certified by the clerk, shall be evidence of such bond and order respectively in all Courts.

Certified copy of bond and order to be evidence.

XXXII. If any debtor shall wilfully make any false statement of his affairs in his petition filed as aforesaid, or secrete or conceal any property belonging to his estate; or part with, cancel, alter, mutilate or falsify, or cause to be cancelled, altered, mutilated or falsified, any bond, deed, document or writing relating thereto, or remove, or cause to be removed the same or any part thereof, or so dispose thereof with intent to prevent it from coming into the possession of the assignee, or to hinder, impede or delay him in recovering or receiving the same, or shall make any payment, gift, sale, assignment, transfer or conveyance of any property belonging to his estate, with the like intent, or shall, with intent to defraud, wilfully and fraudulently conceal from his assignee, or omit from his schedule any property or effects whatsoever, or if, in case of any person having, to his knowledge or belief, proven a false or fictitious debt against his estate, he shall fail to disclose the same to his assignee within one month after its coming to his knowledge or belief thereof, or shall attempt to account for any of his property by any fictitious losses or expenses, or shall, within three months before the commencement of proceedings under this Act, make the false colour and pretence of carrying on business and dealing in the ordinary course of trade, obtain on credit from any person, any goods or chattels with intent to defraud, or shall, within three months next before filing his petition as aforesaid, pawn, pledge or dispose of, otherwise than by *bona fide* transaction in the ordinary way of his trade, any of his goods or chattels which have been obtained on credit and remain unpaid for, he shall be guilty of a misdemeanor, and upon conviction thereof before the Supreme Court, shall be imprisoned for a period not exceeding two years.

Debtor making false statement, &c., to be guilty of misdemeanor.

XXXIII. The discharge granted to the said debtor, under the provisions of the twenty-fifth section of this Act, shall be held to free the said debtor from all liability for, or in respect of all debts due by him at the time of the filing of his said petition as aforesaid; provided always, that nothing herein contained shall be held or construed to change, alter or vary, or in any manner to affect any mortgage, judgment, or bill of sale (except such as may be deemed fraudulent, as hereinbefore provided for) given or executed by or obtained against the debtor, and duly entered, registered, or filed in the proper offices, so far as they respect any real or personal estate then owned by the said debtor, nor shall anything herein contained be construed to release the debtor from the performance of

Discharge to free debtor from all liability for debts, &c.

Proviso.

Debtor still liable on covenants, but not

liable to arrest on mortgages, &c.

any covenant for further assurance; but no debtor shall, after obtaining such discharge, or while holding any certificate of protection, be arrested upon such judgment, mortgage, or bill of sale, or any document or security executed before the filing of his said petition.

20 days' notice of action to be given to assignee.

XXXIV. No person shall be entitled to maintain any action against any assignee for anything done by him, as such assignee, without previously giving him twenty days' notice of such action, specifying the cause thereof, to the end that such assignee may have an opportunity of tendering amends, should he see fit so to do.

Commissioner on sufficient cause may remove assignee and appoint another.

XXXV. The said Commissioner, after due notice to the assignee, and hearing cause, may remove him for any cause which in the judgment of the Court renders such removal necessary or expedient, and such assignee shall execute a conveyance to the person selected by the Commissioner to fill the vacancy caused by the removal of such assignee, and in case of refusal so to do, the said commissioner shall issue an attachment (D) against him, directed to the Sheriff of Queen's County.

Executors of deceased assignee to convey to the new assignee.

XXXVI. In the case of the death of any assignee his executors or administrators shall execute to the assignee appointed by the said commissioner in his place, a conveyance of the debtor's estate, upon pain of an attachment issuing against such executors or administrators.

Assignee may resign and convey to successor.

XXXVII. Any assignee may, by and with the consent of the Commissioner, resign his office, and shall execute an assignment of the debtor's estate to the person selected by the Commissioner to fill the vacancy occurring by such resignation.

Assignee so appointed, to have full power, &c.

XXXVIII. Any assignee appointed in the room or place of an assignee dying, removed from office, or resigning his trust, shall have the same power and rights and authorities as if originally appointed assignee in manner hereinbefore mentioned.

Commissioner may punish for contempt of Court.

XXXIX. The said Commissioner shall have the power of punishing, by fine or imprisonment, or both, any contempt shewn to him or any officer of the said Court, and shall make such order and direct such proceedings to be had as shall to him, in his discretion, seem meet.

Assignee to be allowed for dis-

XL. The assignee shall be allowed and may retain out of the moneys in his hands, all the necessary disbursements made by him in the discharge of his duty, and such reason-

able compensation for his services as the said Commissioner in his discretion shall, with regard to the circumstances of each case, permit and allow.

bursments and his own trouble.

XLI. The Sheriffs of the different Counties shall be aiding and assisting the said Commissioner, and shall execute and obey all documents and orders transmitted and directed to him by the said Commissioner through the Clerk, and shall make due returns of their doings therein.

County Sheriff to execute Commissioner's orders, &c.

XLII. This Act shall not apply to debts due to the Crown, nor restrain any landlord from distraining for arrears of rent not exceeding one year's rent.

Act not to affect Crown debts or distress for one year's rent.

XLIII. The said Commissioner shall have power to make rules and orders, and settle the practice of all proceedings and form of all documents not herein provided for, and such rules, when signed by the Commissioner, shall have the same force and effect as if they constituted a portion of this Act.

Commissioner may regulate practice by rules, &c.

XLIV. All proceedings before the said Commissioner, under this Act, or in anywise relating thereto, shall be entitled "In the Court of Insolvent Debtors. In *re A. B.*, an insolvent debtor."

How proceedings to be entitled.

XLV. The said Commissioner may at any time, in his discretion, remove the Clerk and appoint another Clerk in his place.

Clerk may be removed at any time.

XLVI. The said Commissioner shall appoint under his hand and seal, Commissioners for the purpose of taking affidavits in all matters necessary to be done under this Act, and such affidavits shall have the same effect as if sworn to before the said Commissioner or the Clerk. Whenever the words "Commissioner," or "Commissioner in Insolvency" occur in this Act, they shall be held to mean the Judge or Commissioner of the Insolvent Court established by this Act, and the word "Clerk" shall be held to mean the Clerk of the Insolvent Debtor's Court, appointed under this Act.

Commissioner may appoint persons to take affidavits.

Meaning of words "Commissioner," "Clerk," &c.

XLVII. The several forms in the schedule contained and referred to by corresponding letters of the alphabet, or forms to the like effect, shall be sufficient for the purposes of this Act; provided that such forms, or any one of them, may be altered or wholly set aside by the Commissioner, and other forms issued by him in lieu thereof, if he deem it necessary, to carry out the provisions of this Act, and such new or altered forms shall be entered by the Clerk in a book for that purpose, and signed by the said Commissioner.

Forms in schedules to be sufficient, unless altered by Commissioner.

Party aggrieved may appeal to the Supreme Court.
 Proviso.

XLVIII. If any person shall consider himself aggrieved by any order or judgment of the said Commissioner, he may appeal to the then next sitting of the Supreme Court of Judicature of this Island, to be holden at Charlottetown; provided always, that such appeal shall be applied for within ten days next after giving of the said order or judgment, and the Clerk on such application is hereby required to enter the same in the register or record book of the said Insolvent Debtor's Court.

Appellant to enter into appeal bond.
 Form, &c. of bond.

XLIX. The party appellant shall, before the expiration of the said ten days, by himself or his agent, enter into a bond with two sufficient sureties (who shall be made to justify if required) before the said Commissioner, in the form in the schedule to this Act annexed, marked (O), conditioned, as therein set forth, to abide the judgment of the said Supreme Court, which condition shall be read over by the said Clerk to the parties, before execution, and shall be attested by the clerk, and by him transmitted to the Supreme Court, with all papers and documents relating to the matter in question, in manner hereinafter provided.

Appellant to publish notice of appeal in Gazette ten clear days before Supreme Court sits, &c.

L. The party appellant, or his agent, shall also cause to be published in the *Royal Gazette* newspaper, of this Island, ten clear days at least before the sitting of the Supreme Court at which the said appeal is to be heard, a notice of appeal in the form the said Commissioner shall direct; provided that when the then next sitting of the Supreme Court in Charlottetown, within ten days next after the granting of any such appeal, or so soon that notice of appeal cannot be published in the said *Royal Gazette* within ten days before the first day of such Court, then such appeal shall be granted and notice published in the said *Royal Gazette* for the then next sitting of the said Supreme Court; provided that no more than ten days' notice of appeal shall in any case be necessary.

Supreme Court to hear appeal, &c., and give final judgment.

LI. The said Supreme Court is hereby required and empowered, upon any appeal made as aforesaid, to cause all defects of form in the original order or judgment to be amended, and shall then proceed to hear, examine and consider the truth and merits of all matters concerning the said appeal, and the original order or judgment appealed from, and likewise to examine all witnesses and parties upon oath, and to hear all other proofs relating to the matter, and to make such final order or decision thereon, as to the said Supreme Court shall appear to be in accordance with the provisions of this Act.

Clerk of Insolvent Court to

LII. The Clerk of the said Insolvent Debtor's Court shall, within at least ten clear days before the sitting of the Supreme

Court, at which such appeal is to be heard, file in the office of the Clerk of the Supreme Court the said appeal bond, together with all other papers and documents relating to the matter in question, under a penalty for each and every neglect, of the sum of fifty pounds to the person aggrieved, to be recovered in the said Supreme Court.

file appeal papers in office of Clerk of Supreme Court.

LIII. The Supreme Court shall award to the successful party on such appeal, the full costs of such appeal, and such costs when taxed as in other costs in the Supreme Court, shall be recoverable in the same way and manner as interlocutory costs may now be recovered in the Supreme Court; provided that when such costs are awarded against any appellant, such costs shall be recoverable against such appellant and his sureties in the same way and manner as costs are directed to be recovered against an appellant and his sureties in cases of appeal, under the Act of the twenty-third Victoria chapter sixteen, relating to the recovery of small debts; provided that the said Supreme Court may order the costs either of the appellant or respondent on such appeal, to be paid or recoverable by attachment or otherwise, as the said Supreme Court may direct, anything herein contained to the contrary notwithstanding. If the judgment or decision of the Commissioner shall be confirmed by the said Supreme Court on appeal as aforesaid, and such judgment so confirmed shall be in favor of the debtor, then the Supreme Court shall make such order therein, granting to the debtor his certificate of discharge, or otherwise, as the position and circumstances of the case shall require, on the debtor complying with the provisions of this Act.

Supreme Court may award costs on appeal under certain rules and regulations,

And grant discharge or otherwise, according to circumstances.

LIV. In cases of appeal from the Commissioner's judgment or decision, the term of protection (mentioned in the certificate of protection hereinbefore directed to be granted by the said Commissioner to debtors) shall be extended until after the decision of the Supreme Court on any appeal, and the said Commissioner shall, in cases of appeal, and on the request of any debtor, endorse on the original certificate of protection, a memorandum to that effect, and the said debtor shall thereupon be entitled to protection from arrest until after such final decision; provided that any creditor may cause the debtor to give security for such extended term of his protection, if he shall make it appear that such debtor is about to leave the Island, as hereinbefore in the twelfth section of this Act mentioned and provided.

Form of protection to hold good till appeal determined, and be endorsed on certificate.

Except where debtor is stated to be about to leave the Island.

LV. If more than one creditor shall appeal against the decision of the Commissioner, the parties appellant shall consolidate their appeals under the order of the Commissioners,

Appeals to be consolidated

where more than one taken out by creditors.

in such way and manner as he shall deem for the interest of all parties, and most calculated to save costs and expenses to them.

How Act to be cited.

LVI. This Act shall be cited as "The Unfortunate Debtors' Act, 1868."

Act to commence 1st Nov. 1868.

LVII. This Act shall commence and go into force and operation on the first day of November next.

Continuance of Act.

LVIII. This Act shall continue and be in force for the space of five years from the passing thereof, and from thence to the end of the next session of the General Asssmbly, and no longer.

(A.)

Schedule (A.)

In the Court of Insolvent Debtors.
In re A. B., an insolvent debtor.

Notice of application of debtor for relief, &c.

Notice is hereby given, that on application of A. B., of in the County of in Prince Edward Island, made to his honor the Commissioner in insolvency, pursuant to "The Unfortunate Debtors' Act, 1868," I do, by his honor's directions, hereby appoint the day of next at in Charlottetown, at o'clock in the forenoon (or as the case may be) as the time and place for a meeting of the creditors of the said A. B., for the purpose of examining into the state of his affairs, and considering the terms of a compromise to be offered by him under the said Act.

Dated the day of 18

C. D.

Clerk of Insolvent Debtors' Court.

(B.)

Schedule (B.)

Assignment by debtor to assignee.

These presents made the day of Anno Domini one thousand eight hundred and between A. B., of in Prince Edward Island, an insolvent debtor, of the one part, and of in the said Island assignee of the said A. B., witnesseth that the said A. B., for the purposes and trusts of the Unfortunate Debtors' Act, 1868, hereby grants and assigns all his estate and effects, both real and personal, unto the said assignee, as aforesaid, in like manner as the said A. B. could; but for this assignment, hold and possess the same. In witness whereof the said parties have hereunto their hands and seals subscribed and set, the day and year first above written.

A. B., (L. s.)

(Assignee's name) (L. s.)

Schedule of property above conveyed.

No. 1.

Real estate, (description.)

Leasehold (do.)

No. 2.

(Here particularly specify personal property.)

No. 3.

Debts due the said A. B., specifying the amounts and what are and how secured.

(C.)

Prince Edward Island Queen's County, to wit. { Victoria by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, defender of the Faith. Schedule (C.)

[L. s.]

To

We command you that you appear before us in our Insolvent Court, at in Charlottetown, on the day of at the hour of o'clock, noon of the same day, to testify what you know, or to produce () and all other papers and documents (as the case may be), in re A. B., an insolvent debtor.

Subpoena or summons to testify.

Hereof fail not under pain of attachment to issue against you.

(Commissioner.)

Witness at Charlottetown, this day of A. D., 18

C. D.

Clerk of Insolvent Debtors' Court.

(D.)

Prince Edward Island, Queen's County. { Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith. Schedule (D.)

(Commissioner's Signature.)

[L. s.]

To the Sheriff of Queen's County, greeting.

Attach and bring him before us in our Insolvent Debtors' Court, in Charlottetown, on the day of at the hour of o'clock noon, to

Attachment for contempt in not obeying subpoena, &c.

answer for a contempt in disobeying an order made by his honor (the Commissioner in Insolvency in said Court) requiring the said _____ to give evidence (as the case may be,) in *re A. B.*, an insolvent debtor.

(the Commissioner's name.)

Witness this _____ day of _____ A. D. 18

C. D.

Clerk of Insovent Debtors' Court.

(E.)

Schedule (E.)

Prince Edward Island,)

Queen's County.) In *re A. B.*, an Insolvent Debtor.

[L. s.]

Commissioner's Signature.

Warrant to
bring up insol-
vent.

To the Sheriff of _____ County.

I command you to bring the said *A. B.* before me at _____ in Charlottetown, on _____ the _____ day of _____ at _____ o'clock in the _____ noon, to be dealt with as I shall direct.

(the Commissioner's name.)

Witness at Charlottetown, the _____ day of _____ 18

C. D.,

Clerk of the Insolvent Debtors' Court.

(F.)

Schedule (F.)

Prince Edward Island,)

Charlottetown, to wit.) In *re A. B.*, an insolvent Debtor.

Form of pro-
tection to in-
solvent debtor.

Know all men, that I do hereby, under and by virtue of the Unfortunate Debtors' Act, 1868, grant unto *A. B.* of _____ in Prince Edward Island, an insolvent debtor, protection from arrest under any process or execution issuing in any civil suit against him out of any court in this Island, and this protection shall continue until the expiration of four calendar months from the date hereof, unless suspended by order of the Commissioner, as directed in and by the Unfortunate Debtors' Act, 1868.

Given under my hand and seal this _____ day of *
A. D. 18

E. F. [L. s.]

Commissioner of the Insolvent Debtors' Court.

(G.)

Schedule (G.)

Prince Edward Island }
Queen's County, to wit. } In re A. B., an Insolvent Debtor.

Suspension of protection till bond entered into.

The certificate of protection granted to the said insolvent debtor is hereby suspended until the said insolvent shall enter into a bond with two sufficient sureties as directed by the section of the Unfortunate Debtors' Act, 1868.

Dated this day of A. D. 18

E. F.

Commissioner of the Insolvent Debtors' Court.

(H.)

Schedule (H.)

Know all men by these presents that of
are jointly and severally held and firmly bound unto (assignee)
his executors, administrators or assigns, in the sum of
of lawful money of the said Island, to be paid to the said
(assignee), his executors, administrators or assigns, for which
payment well and truly to be made we bind ourselves, our and
each of our heirs, executors and administrators, jointly and
severally, firmly by these presents, sealed with our seals and
dated the day of one thousand eight hundred
and

Bond that debtor shall not depart from the Island, &c.

Whereas protection from arrest hath been granted to the above named A. B., an insolvent debtor, for four calendar months from the date of his said protection, the condition of the above bond or obligation is such that if the said A. B. shall not depart from this Island at any time during the said four months mentioned in his certificate of protection, then the above written bond shall be void, but otherwise shall remain in full force.

Signed, sealed and delivered }
in the presence of }

(I.)

Schedule (I.)

I assignee of A. B., an insolvent debtor, do hereby re-assign unto the said A. B., all the property, real or personal, debts and effects whatsoever, mentioned in the schedule hereunder written, or hereto annexed, so that the same shall be held by the said A. B. in the same way and manner, and as fully and completely as he possessed and was entitled to the same before he assigned the same to me.

Re-assignment to debtor by assignee.

As witness my hand and seal this day of A. D., 18

G. H., (L. S.)

Assignee.

(K.)

Schedule (K.)

Oath to be taken by assignee. I assignee of *A. B.*, an insolvent debtor, do swear that I will faithfully and honestly deal with the estate of the said insolvent in all matters relating thereto, in the manner most conducive to the interest of his creditors, to the best of my knowledge and ability, and that I will render a just and true account thereof on oath when thereto required by the Commissioner of the Insolvent Debtors' Court of this Island, and that I will, as far as in my power, obey all orders to be made by the said Commissioner therein.

(Signature of Assignee.)

Sworn this day of A. D. 18 before me.

(Commissioner or Clerk of Insolvent Debtors' Court.)

(L.)

Schedule (L.)

Notice by assignee of his appointment.

Prince Edward Island, }
 Charlottetown, to wit. } In *re A. B.*, an Insolvent Debtor.

Notice is hereby given to all parties concerned, that I have been this day appointed assignee of *A. B.*, an insolvent debtor, in terms of the Unfortunate Debtors' Act, 1868, and do hereby require all persons having any property of the said insolvent debtor, or being in any way indebted to him, to deliver and pay the same to me.

Dated this day of A. D.

J. K.,
 Assignee of *A. B.*, Insolvent Debtor

(M.)

Schedule (M.)

Order nisi for discharge of insolvent debtor.

Prince Edward Island, }
 Queen's County, to wit. } In *re A. B.*, an Insolvent Debtor.

Unless cause be shewn to the contrary on the day of at in Charlottetown, the above named *A. B.*, will be discharged under and by virtue of the provisions of the Unfortunate Debtors' Act, from all debts contracted by him prior to his application for the benefit of the said Act.

Dated day of A. D. 18

E. F.
 Commissioner of the Insolvent Debtors' Court.

(N.)

Prince Edward Island, }
Charlottetown, to wit. }

Schedule (N.)

Know all men that *A. B.*, of _____ County, in the said Island, an insolvent debtor, is hereby, by virtue of the Unfortunate Debtors' Act, 1868, released and for ever discharged from all debts and claims contracted by him on or before the day of _____ A. D. 18

Order final and absolute for debtor's discharge.

Given under my hand and seal this _____ day of _____ A. D. 18
G. H.

Commissioner of the Insolvent Debtors' Court,
of _____ Prince Edward Island.

(O.)

APPEAL BOND.

Schedule (O.)

Prince Edward Island, }
Queen's County. }

In re *A. B.*, an insolvent debtor.

Appeal bond.

C. D. is delivered to bail to prosecute his appeal at the sitting of the Supreme Court, to be holden at Charlottetown on the _____ day of _____ next (or instant.)

To *E. F.* of _____ in
and *G. H.* of _____ in

We, *E. F.* and *G. H.* do jointly and severally undertake, that if *C. D.*, the above named appellant, be condemned in the appeal in this matter, and judgment shall be given against him by the Supreme Court, he or they shall satisfy the costs of such appeal, or we will do it for him. This we do severally acknowledge and undertake.

Taken and acknowledged before me, } *E. F.*
Clerk of Insolvent Debtors' Court, } *G. H.*

(P.)

NOTICE OF APPEAL.

Schedule (P.)

Prince Edward Island, }
Queen's County. }

In re *A. B.*, an insolvent debtor.

Notice of appeal.

Notice is hereby given, that an appeal has been entered by the undersigned against the judgment of the Commissioner of the Insolvent Debtors' Court, in this matter, and that such appeal is made to, and will be heard by, the Supreme Court to be held at Charlottetown on the _____ day of _____

next, A. D. 18

Dated the _____ day of _____ A. D. 18

L. M., Appellant.

Table of Fees.

TABLE OF FEES.

		COMMISSIONER'S FEES.		
		£	s.	d.
Commissioner's fees.	Oath.	-	-	0 1 0
	Presiding at every meeting,	-	-	2 6 8
	Attachment, Protection, or other documents signed by him,	-	-	0 2 6
		CLERK'S FEES.		
Clerk's fees.	Administering oath,	-	-	0 1 0
	Filing any document,	-	-	0 1 0
	Notice of meeting, and copies,	-	-	0 3 4
	Every document signed by him as Clerk,	-	-	0 2 6
	Attending every meeting,	-	-	0 6 8
	Entering all proceedings in book, per folio of 90 words,	-	-	0 2 0
	Copies of all proceedings, when required, per folio,	-	-	0 1 0
	Each certificate,	-	-	0 1 0
		SHERIFF'S FEES.		
Sheriff's fees.	For bringing up debtor from Queen's County jail,	-	-	0 2 6
	Mileage, per mile,	-	-	0 0 8

CAP. XVI.

An Act for shortening the language of Sheriffs' Deeds.

[Passed April 24, 1868.]

Preamble.

WHEREAS, the number of statutes relating to the execution of deeds of lands sold by sheriffs under execution for the payments of debts, is very great, and the recital of such statutes in such deeds tends to great prolixity, and unnecessary expense. Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

Sheriff's deed need not recite titles of Acts under which it may be executed.

I. That any deed already executed by any sheriff, of any lands sold under and by virtue of any execution issued forth on any judgment in the Supreme Court, or any deed hereafter to be executed, shall be valid, although the several Acts relating thereto be not recited and particularly set forth in such deed, provided that it appear therein that such deed was executed by the said sheriff as sheriff.

Deed to set forth its exo-

II. In all deeds to be executed after the passing of this Act, it shall be declared therein that such deed is executed by

the said sheriff, as such sheriff, by virtue of, and in obedience to the execution therein recited, and of all Acts of the General Assembly, and of all other powers and authorities in any-wise in that behalf enabling him.

Execution by sheriff officially, &c.

III. The recitals in such deed shall be made as short and concise as is consistent with a clear and distinct statement of the facts intended to be set forth, and the said several deeds shall be in the form and to the effect of the schedules to this Act annexed, marked (A), or as near thereto as the circumstances of the case permit.

Form of sheriff's deed.

IV. Any deed now or hereafter to be executed by any sheriff shall be valid, although the same has been executed by the deputy sheriff, and it shall not be necessary to prove a power under the hand and seal of the said sheriff to the said deputy sheriff, authorising him to execute such deeds; but general evidence of such under or deputy sheriff having acted as such in the execution of writs or other process, shall be sufficient evidence of his appointment as deputy sheriff, and of his authority to execute such deed for and in the name of the sheriff.

Deed executed by deputy sheriff, valid.

V. The deputy sheriff of any late sheriff may execute any such deed for and in the name of the said sheriff in like manner as if his principal then held the office of sheriff.

Deputy of late sheriff may execute deed.

VI. Appraisements of land, and all returns to executions shall shortly set forth the facts required to be stated therein, and shall, as far as the circumstances of the case permit, be to the effect of schedules hereunto annexed, marked (B) and (C) respectively, and all appraisements and returns now made shall be deemed to be as valid as if they had been made subsequently to the passing of this Act, and had then complied with this section.

Form of appraisements.

VII. No such deed already executed or hereafter to be executed by any such sheriff shall be void by reason of the misrecital or non-recital of any statute or of any matter required to be done by such sheriff in the premises; but if the said sheriff, or late sheriff, or deputy sheriff, (if such deed be executed by him,) shall at any time make oath to be indorsed upon said deed, and sworn before a Commissioner for taking affidavits in the Supreme Court, or the Registrar of Deeds, that the said lands and premises therein mentioned were regularly seized, appraised, advertised and sold in every respect as by law directed, (according to the schedule hereunto annexed marked (D), then such deed, whether executed before or after the passing of this Act, when produced in any Court, shall be

No deed void for misrecital.

Affidavit by sheriff indorsed on deed, to be *prima facie* evidence of regular proceedings, &c.

prima facie evidence of all the facts therein stated, and that all things were done according to law, and the *onus* of proving any defect in any proceeding or matter required to be done, or any neglect or malpractice shall henceforth lie on the parties disputing the same, any law, usage or custom to the contrary notwithstanding, and such deed shall be registered before any action shall be commenced therein in any Court within this Island.

Affidavits of appraisement not to be void for want of place in jurat

VIII. No affidavit of any appraisement of any property, or any other affidavit now or hereafter to be made in relation to any proceedings to the sale of lands under any execution, shall be void by reason of no place being mentioned in the jurat thereof, or for any formal defect in such affidavit.

Postponement of sale not to be for less than three weeks

IX. From and after the passing of this Act, when any postponement of any sale is made by the sheriff, such sale shall not take place within three weeks from the time from which such postponement takes place.

Prothonotary specially to endorse executions issued on judgments entered under 24 Vic. cap. 5.

X. When any execution is issued against the lands of any defendant against whom judgment has been entered up, upon a warrant of attorney, under the eighth section of the twenty-fourth Victoria, chapter five, the prothonotary shall endorse upon the said execution, when requested by the party issuing the same so to do, the words and figures following, that is to say: "Under the 8th section 24th Victoria, cap. 5;" and which said endorsement shall be notice to the sheriff that the time for the advertisement of such sale shall be according to the requirements of the eighth section of the Act passed in the twenty-fourth year of the reign of her present Majesty Queen Victoria, chapter five, intituled "An Act in amendment of, and in addition to, the Acts relating to judgments entered of record in the Supreme Court of Judicature."

Act to apply to sales under execution of leaseholds.

XI. This Act shall be held to apply to the sale of any leasehold interest in land, provided that nothing herein contained shall be held to require the performance of anything not now required to be performed in the levying, execution upon, and selling leasehold estate, and in all sales of leasehold estate the schedules to this Act shall be varied to meet the requirements of the same.

Act not to affect provisions for sale of lands under Land Assessment Acts.

XII. Nothing herein contained shall be held to apply to, alter, vary, or in anywise affect the statutory provisions of any sales of land under the Act intituled "An Act for levying further an Assessment on all lands in this Colony, and for the encouragement of Education," and all other Acts in amendment thereof, or of any proceedings had, or to be had hereunder.

SCHEDULE (A.)

To all to whom these presents shall come, I, (E. F.) of in Prince Edward Island (High Sheriff) or (late High Sheriff) of County, greeting.

Schedule (A.)

Whereas judgment was entered of record in her Majesty's Supreme Court of Judicature as of term, in the year of our Lord one thousand eight hundred and wherein (A. B.) was plaintiff and (C. D.) was defendant, for the sum of pounds, debt, and pounds, costs, or (pounds damages, as the case may be) and whereas the said (C. D.) having died, the said Court did direct that execution would issue against his lands and tenements; and whereas her Majesty's writ of was afterwards issued upon the said judgment under the 8th section 24th Victoria, cap. 5, whereby I, the said (E. F.) as such sheriff, as aforesaid, was commanded that of the goods and chattels, lands and tenements of the said (C. D.) in my bailiwick, I should cause to be paid and satisfied unto the said (A. B.) the said sum of pounds and pounds costs, and which said execution was marked (here insert levy); and whereas by virtue of the said writ, and of my said office as such sheriff as aforesaid, and of all powers and authorities in anywise in that behalf enabling me, I, the said (E. F.) as such sheriff as aforesaid, having given the notice of sale, required by law, did on the day of in the year of our Lord one thousand eight hundred and sell and dispose of the land and premises hereinafter described, to one (G. H.) he appearing to be the best and highest bidder. Now, know ye, that I, the said (E. F.), by virtue of my said office as such sheriff, and by virtue of the aforesaid execution, and of all Acts of the General Assembly of the said Island, and all other powers and authorities in anywise in that behalf enabling me, and in consideration of the sum of pounds, paid by the said (G. H.) the receipt whereof is hereby acknowledged, have granted, bargained, sold and assigned, and by these presents do grant, bargain sell and assign unto the said (G. H.), his heirs, executors, administrators and assigns, all the estate, right, title and interest whatsoever, both at law and in equity, of the said (C. D.) in and to [here insert description], to have and to hold the same unto the said (G. H.) his heirs and assigns, to the only proper use and behoof of the said (G. H.) his heirs and assigns forever, (or to have and to hold the same unto the said (G. H.) his executors, administrators and assigns for all the rest, residue and remainder of a term of years yet to come, of him the said (C. D.), in and to the said piece of land, under and by virtue of a certain indenture of lease, made between (J. K.) of the one part, and one (L. M.)

Form of Sheriff's Deed.

X And the notice of sale of the same
and the notice of sale of the same
Hence -

of the other part, of which the said (*C. D.*) is now the assignee. In witness whereof, I, the said (*E. F.*) have hereunto set my hand, and affixed my seal of office this _____ day of _____ A. D. 186____ or, in witness whereof, I the said (*E. F.*) by (*G. L.*) my deputy, for that purpose lawfully authorized, have hereunto my hand set and affixed my seal of office this _____ day of _____ A. D., 186____

Signed, sealed and delivered }
in the presence of }

SCHEDULE (B.)

APPRAISEMENT OF REAL ESTATE.

Schedule (B.)

Between *A. B.*, Plaintiff, } (Or against the lands and tenements of *C. D.*, deceased, as the case may be.)
vs. }
C. D., Defendant, }

Form of appraisal of lands for sale under execution.

We, *E. F.*, of _____ in _____ County in Prince Edward Island, and *G. H.* of the same place, make oath and say that we are acquainted with the piece and parcel of land pointed out to us as the property of *C. D.*, above named, and that such land is worth the sum of _____

E. F.
G. H.

Sworn to before me at _____ in _____ County, this _____ day of _____ A. D. 186____ }
J. K., Sheriff. }

SCHEDULE (C.)

RETURN TO EXECUTION.

Schedule (C.)

Between { *A. B.* Plaintiff,
and
C. D., Defendant.

Return by sheriff to execution.

I, *J. K.*, Sheriff (or late Sheriff) of _____ County, by virtue of the within writ to me directed, did seize, advertise and appraise the lands and tenements of the said *C. D.*, and did, on the _____ day of _____ A. D. 186____ sell the same to _____ who was the highest bidder therefor, for the sum of _____ and which lands and premises are more particularly described in a deed executed by me to the said _____ dated the _____ day of _____ A. D. 186____

The answer of

J. K., Sheriff, or late Sheriff.

SCHEDULE (D.)

(To be endorsed upon Deed.)

Schedule (D.)

County, to wit.

I, J. K., Sheriff, (or late Sheriff, or Deputy Sheriff to Sheriff,) make oath and say, that the above mentioned lands were regularly seized, appraised, advertised and sold in every respect as by law directed.


Affidavit by
sheriff of re-
gularity of
sale, &c.

Sworn to before me at in }
County, this day of A. D. 1868 }

CAP. XVII.

An Act to amend the Act incorporating the Summerside Bank.


[Passed April 24, 1868.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XVIII.

An Act to incorporate the Saint Peter's Bay Agricultural Society.


[Passed April 24, 1868.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XIX.

An Act to incorporate the Prince County Agricultural Society.


[Passed April 24, 1868.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XX.

An Act to incorporate the Minister and Trustees of the Baptist Church, of Long Creek, West River.

[Passed April 24, 1868.]

 This Act has been printed in the second volume of Private and Local Acts.

CAP. XXI.

An Act in further addition to and amendment of the Act to incorporate the town of Charlottetown.

[Passed April 24, 1868.]

~~1868~~ This Act has been printed in the second volume of the Private and Local Acts.

CAP. XXII.

An Act to incorporate the Minister and Trustees of the Baptist Church of North River, Lot 32.

[Passed April 24, 1868.]

~~1868~~ This Act has been printed in the second volume of Private and Local Acts.

CAP. XXIII.

An Act to continue and amend certain Acts therein mentioned, relating to Summerside.

[Passed April 24, 1868.]

~~1868~~ This Act has been printed in the second volume of Private and Local Acts.

CAP. XXIV.

An Act to consolidate and amend several Acts therein mentioned, relating to the Savings' Bank.

[Passed April 24, 1868.]

Preamble.

27 Vic. cap. 4.

28 Vic. cap. 21.

29 Vic. cap. 22.

WHEREAS the Act of the twenty-seventh Victoria, chapter four, intituled "An Act for the establishment of a Bank for Savings in Prince Edward Island," the Act of the twenty-eighth Victoria, chapter twenty-one, intituled "An Act to amend the Act for the establishment of a Bank of Savings in Prince Edward Island," and the Act of the twenty-ninth Victoria, chapter twenty-two, intituled "An Act further to amend the Act for the establishment of a Bank of Savings in Prince Edward Island," require consolidation and amendment. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, as follows:

I. The said hereinbefore recited Acts shall be, and the same are hereby severally and respectively repealed.

Repeals Acts before recited.

II. From and after the passing of this Act, the Savings' Bank, in the said hereinbefore recited Acts mentioned, and all the rules, orders and regulations heretofore made for the management thereof, by the Lieutenant Governor in Council, under and by virtue of the said hereinbefore recited Acts, or any of them, shall be continued and remain as now constituted and established, and the said Lieutenant Governor, or other Administrator of the Government, in Council, shall have full power and authority as heretofore, to make such rules, orders and regulations for the management of the said Savings' Bank, not inconsistent with this Act, as to the said Lieutenant Governor, or other Administrator of the Government in Council, may appear necessary or expedient in that behalf, with power from time to time, to revoke, alter, add to and amend any such orders, rules and regulations now made, or hereafter to be made, as occasion may require.

Rules formerly made by Lt. Governor respecting Savings' bank, continued.

Power to make new rules, &c.

III. All farmers, tradesmen, mechanics, laborers, servants, and other classes of her Majesty's subjects in this Island, may deposit their respective savings with the treasurer or deputy treasurer of this Island, which deposits the said treasurer or deputy treasurer is hereby authorized and required to receive as hereinafter mentioned.

Who may deposit with treasurer.

IV. It shall be the duty of the treasurer or deputy treasurer to attend at the usual place where he keeps his office, or in some other convenient apartment in the Colonial Building to be provided for that purpose, on each Tuesday and Friday in every week, from ten o'clock in the forenoon to three o'clock in the afternoon, for the purpose of receiving any such deposits and making payments of sums to be drawn out, provided that the said treasurer or deputy treasurer shall not be bound to pay out any moneys so deposited, unless he shall have received at least one week's previous notice of the depositor's desire to draw out the same, and provided that no less a sum than one shilling and sixpence shall be received, nor less than twenty shillings paid out at any one time from or to any such depositor, except in cases where the sum actually deposited shall be less than twenty shillings.

Treasurer to attend each Tuesday and Friday at savings' bank.

Notice of withdrawal of deposits.

Amount allowed to be deposited at any one time.

V. When the whole amount deposited shall be required to be paid out, interest thereon, according to the regulations hereinafter made, shall be calculated and allowed, up to the day of payment.

Interest how paid where whole deposit withdrawn.

VI. The treasurer or deputy treasurer shall open a separate account with each depositor, and all deposits and payments

Separate account to be kept with each depositor, &c.

Pass book to be supplied gratis.

Interest on deposits five per cent. per annum.

Accounts to be kept on monthly system, &c.

When interest to be made principal.

Optional to depositor to draw interest at end of year.

One week's notice thereof required.

£100. maximum amount deposited to carry interest, excess to remain for safe custody only.

shall be regularly entered in a book in the office at the time when made, and each depositor shall receive gratis, at the time of his or her first deposit, a bank or pass book for containing a duplicate of his or her account, which said pass book shall be produced to the treasurer or deputy treasurer, upon all occasions of depositing or withdrawing moneys, in order that a duplicate entry may be made therein.

VII. Every depositor in the said savings' bank shall be entitled to receive for the moneys so deposited therein, interest at the rate of five pounds per centum, per annum, on all deposits which in the whole may amount to twenty shillings, or upwards, but no interest shall be calculated on any fractional part of a pound.

VIII. In order to simplify the keeping of the books of the said savings' bank, and the mode of calculating the interest to be paid on deposits, the accounts thereof shall be kept by a monthly system, the commencement of the monthly accounts shall be on the first day of every month in each and every year, and interest shall be allowed from the first day of every month respectively on the amount deposited in each preceding month, and all interest which may be due to the several depositors on the thirtieth day of November in every year, shall from that time be made principal.

IX. Provided always, that each depositor shall have the right to receive the interest payable on his or her deposit account at the end of every or any year, if he or she shall so require, instead of having the same added or made part of the principal, but in all cases where a depositor shall be desirous to receive payment of such interest at the end of a year, it shall be necessary for said depositor to give notice to that effect to the treasurer or deputy treasurer, at least one week before the end of such year, unless the depositor shall have the full amount of one hundred pounds on interest, in which case such depositor shall be entitled to receive his or her yearly interest, at any time after the close of the year, on application on business hours for that purpose, without previous notice.

X. No person making deposits in the said savings' bank, shall at any time have more than the sum of one hundred pounds bearing interest in the funds thereof, but any person of the description permitted to make deposits, may have any sum which may be in excess of the said sum of one hundred pounds in the funds of the savings' bank, for the purpose of safe custody, without being allowed interest thereon; provided

nevertheless, that any charitable, benevolent, or friendly society may, through their treasurer, or other proper officer or officers, duly authorised thereto, deposit their funds, not in any case to exceed one hundred pounds, at interest in the funds of the said bank, and may leave therein any excess above the said sum of one hundred pounds for safe custody.

Proviso in favor of funds of charitable societies.

XI. The treasurer of the said Island shall superintend the said savings' bank, and it shall be his duty to see that the same is conducted in accordance with the provisions of this Act, and the rules, orders and regulations from time to time made by the Lieutenant Governor or other administrator of the government in Council, in relation thereto.

Colonial treasurer to be superintendent of Bank, his duties, &c.

XII. Neither the said treasurer, deputy treasurer, nor any other officer or person having the management or employed in or about the management or business of the said savings bank, shall derive any benefit from any deposit made in such institution, but that the persons depositing money therein shall have the sole benefit of such deposits, and the produce thereof, save only and except such salaries and allowances, or other necessary expenses as shall, by law, or according to such rules, orders and regulations to be made as aforesaid, be provided for the charges of managing such institution, and for remuneration to officers employed in the management thereof.

Treasurer, &c. to derive no benefit from deposits:

XIII. It shall be lawful for the said treasurer, or deputy treasurer, to receive deposits for the benefit of any person under the age of twenty-one years, being of the class and description of persons permitted by the second section of this Act to make deposits in the said bank, and to pay to such person his or her share or interest in the funds of the said institution, and the receipt of such person shall be a sufficient discharge, notwithstanding his or her incapacity or disability in law to act for him or her self.

Persons under 21 years of age may be depositors.

XIV. Should any depositor lose his or her pass book, upon notice thereof being given to the treasurer or deputy treasurer, and upon payment of the original cost of the said book, such depositor shall receive a new one, containing a certified duplicate of his or her account, but after the loss of such book, the amount of moneys belonging to such person in the said bank shall not, under any circumstances, be drawn out without a month's notice.

Loss of pass book, how remedied.

XV. No sum of money deposited in the said savings' bank, nor the interest thereof, shall be transferable in the books of the said institution, nor shall any person, save the depositor (unless

Mode of transferring deposits.

Power of At-
torney where
requisite.

in case of death, as hereinafter provided) be allowed to receive the same unless authorized by power of attorney in the form set forth in the schedule to this Act annexed, which said power of attorney shall be written underneath a fair copy or transcript of the whole account, taken from the depositor's book, and shall be executed by the depositor in the presence of at least one subscribing witness.

Treasurer may
pay amount
deposited by
married wo-
man to her,
unless he re-
ceive husband's
written notice
to the contrary

XVI. It shall be lawful for the said treasurer or deputy treasurer to pay any sum of money in respect of any deposit already made or to be made by married women, or by women who may marry after such deposit, to any such woman, unless the husband of such woman shall give to the said treasurer or deputy treasurer, notice, in writing, of his marriage with such woman, and shall require payment to be made to him.

Dispute be-
tween treasu-
rer and deposi-
tor, &c., to be
settled by re-
ference to a
barrister of
Supreme Court

XVII. If any dispute shall arise between the said treasurer and any individual depositor therein, or any executor, administrator, next of kin, creditor, or assignee of any depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor or assignee, or to be entitled to any money deposited in such savings' bank, then, and in every such case the matter in dispute shall be referred, in writing, to a barrister of the Supreme Court of this Island, to be appointed for that purpose by a judge of the said court, and such barrister shall have power to proceed, *ex parte*, on notice in writing to the said treasurer, left at the said saving's bank, and whatever award, order or determination shall be made by the said barrister, shall be binding and conclusive on all parties, and shall be final to all intents and purposes without any appeal.

Referee may
inspect all
books of bank,
and take evi-
dence on oath,
&c.

XVIII. On any such reference it shall be lawful for the said barrister, and he is hereby authorised, to inspect any book or books belonging to the said savings' bank relating to the matter in dispute, and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath, and if, upon such oath or affirmation, any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

When deposi-
tor dies pay-
ment may be
made to exe-
cutor, or other
party entitled,
&c.

XIX. In case any depositor in the funds of the said savings' bank shall die, it shall be lawful for the said treasurer or deputy treasurer, and he is hereby authorised and required, if no will shall be proved, or no letters of administration shall be taken out within six calendar months after the death of the said depositor, to pay and divide the same to and amongst

the person or persons entitled to the effects of the deceased intestate, according to the Act of Assembly for the distribution of the estates of intestates.

XX. All moneys deposited in the said savings' bank, under the operation of this Act, or of any of the hereinbefore recited Acts hereby repealed, shall, by the treasurer or deputy treasurer, be paid into the public treasury of this Island, to be invested in government securities, or other good and sufficient securities, in such way and manner as the Lieutenant Governor, or other administrator of the government in Council shall, by order in that behalf, from time to time direct and require, and in the meantime, and until any such order in Council shall be made, the same shall be applied to and for the general uses and purposes of the government, but the whole amount of such deposits shall not exceed the sum of thirty thousand pounds.

Moneys deposited under this Act to be paid into treasury and invested in government securities.

XXI. It shall be the duty of the treasurer to furnish to the Lieutenant Governor in Council, four times in each year, that is to say: on the first day of December, the first day of March, the first day of June, and the first day of September, in each and every year, an abstract of the state of the savings' bank, specifying therein the amount of moneys on deposit in such bank at the commencement of the preceding quarter, with the amounts received and paid out during the same, and the total amount then on deposit in said bank, and the said treasurer shall, as soon as may be, after the first day of December in each year, make a general return or abstract of the accounts of said savings' bank for the preceding year, which shall be presented to the Lieutenant Governor in Council, to be laid before the Legislature at its next session.

Abstract of state of savings' bank to be furnished quarterly to Lt. Governor in Council.

XXII. All orders, rules or regulations which shall or may from time to time be made by the Lieutenant Governor, or other administrator of the government, in Council, touching the said savings' bank, or the management thereof, as well as all orders, rules and regulations abrogating any present or future orders, rules or regulations so made, or to be made, as aforesaid, shall be forthwith transmitted by the Clerk of the Executive Council to the said treasurer, whose duty it shall be to file the same in his office, and also to cause such rules, orders or regulations to be entered and transcribed in a book to be kept by him in his office for that purpose, which said book containing such orders, rules or regulations, shall at all times, in business hours, be open to the inspection of depositors in the said bank, and the said orders, rules and regulations, as now made, or as they may be hereafter made or abrogated, shall be binding on the treasurer, deputy treasurer,

Rules, &c., made by Lt. Governor in Council to be forwarded to treasurer.

Duty of treasurer thereupon.

What to be deemed notice of such rules.

and all other officers of the said bank, and several depositors therein, and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry as aforesaid, and the entry and transcript of such rules, orders or regulations in such book as aforesaid, or a copy of the same, so transmitted to the said treasurer or deputy treasurer, certified under the hand of the said treasurer or deputy treasurer, shall be received as legal evidence of such rules, orders or regulations respectively, in all causes or suits, and before all courts of law or equity whatsoever.

Lt. Governor in Council may change day for receiving deposits.

XXIII. The Lieutenant Governor, or other administrator of the government in Council, shall have power, if he shall find it expedient or necessary so to do, by order in that behalf, establish and appoint any other day, or portion of a day, besides Tuesday and Friday in each week, for the receipt of deposits, or payment of moneys to depositors, or the transaction of other the business of the said bank.

All former rules made to regulate savings' bank to be in force till altered, &c.

XXIV. All orders, rules and regulations now existing and heretofore made by the said Lieutenant Governor, or other administrator of the government in Council, as well as every act, matter and thing done or transacted under and by virtue of the said hereinbefore recited Acts, or under and by virtue of such rules, regulations and orders, shall be, and the same shall continue to be, in full force and effect (until altered, amended, abrogated or annulled under the provisions of this Act), as good, valid and effectual both at law and in equity, under the operation of this Act, as if the said recited Act still remained in full force and effect.

Depositors under repealed Acts to have all former privileges and rights continued to them, &c.

XXV. All depositors who have deposited in the savings' bank, under the provisions of the said recited Acts hereby repealed, shall have the same rights and privileges under this Act, with respect to the moneys or deposits made by them, as if they had paid in or deposited under this Act, subject to any rules, orders or regulations with respect to the management of the said bank, as may hereafter be made by the Lieutenant Governor in Council, under this Act.

Schedule.

SCHEDULE to which this Act refers.

Form of power attorney.

FORM OF POWER OF ATTORNEY.

I, *A. B.* do authorise and empower *C. D.*, to receive back the sum of _____ or the entire sum of _____ together with the interest due thereon, (as the case may be,) deposited by me, as per account above stated.

(Signed) *A. B.*

Witness *E. F.*

CAP. XXV.

An Act to amend the Laws establishing the salaries payable to the Attorney and Solicitor General.

[Passed April 24, 1868.]

WHEREAS by the Act of the sixteenth Victoria, chapter three, it is enacted, that the salary of two hundred pounds per annum, thereby made payable to the Attorney General, shall be in lieu of all fees, of office charges, and allowances and emoluments paid or payable by the government of this Island to the Attorney General and Advocate General, on account of Crown prosecutions, or for opinions, or for putting marginal notes to the Statutes, or for any other miscellaneous services performed by him in his official capacity, and that the said salary should be in addition to the annual salary of one hundred and fifty pounds, payable to the Attorney General under the provisions of the Act passed in the fourteenth year of the reign of her present Majesty Queen Victoria, intituled "An Act to commute the Crown revenues of Prince Edward Island, and to provide for the civil list thereof, as well as for certain compensations therein mentioned," it being intended that the full salary of the Attorney General should be three hundred and fifty pounds, and no more; and by the Act of the twenty-ninth Victoria, chapter twenty-one, it is enacted that the sum of two hundred pounds per annum, thereby made payable to the Solicitor General for the salary of that office, shall be in lieu of all fees of office, charges, allowances and emoluments paid or payable by the government of this Island to the Solicitor General, on account of Crown prosecutions, or for opinions, or for any other miscellaneous services performed by him for the government in his official capacity; and whereas it is deemed advisable that said Acts should be so explained and amended as to prevent any person holding either of the above offices, recovering from the government, on any account whatsoever, for services performed, whether in his strictly official capacity, or in his professional character as a barrister, attorney, solicitor, proctor, conveyancer, or notary public, any greater amount than the amount of the salary, so as aforesaid belonging to his office: Be it therefore enacted by the Lieutenant Governor, Council and Assembly:

Preamble.
16 Vic. cap. 3.
14 Vic. cap. 3.
29 Vic. cap. 21.

I. That no person now holding or who hereafter shall hold either of the above offices of Attorney or Solicitor General, shall be entitled to demand or receive from the government, or out of the treasury of this Island, any greater amount or salary per annum, than the amount of salary attached to, and

Attorney and Solicitor Generals not to receive more than salaries by statute al-

lotted to them for any service whatsoever, performed for the government.

belonging to his office, under and by virtue of the said recited Act; but such salaries shall in each case be in lieu and in full of all claims, fees, allowances or charges and emoluments, paid or to be payable by, or which can be demanded from the government of this Island by the Attorney General, Advocate General, or Solicitor General, on account of Crown prosecutions, or for opinions, or for putting marginal notes to the Statutes, or for any other miscellaneous services performed by them or either of them, for the government, or for any public officer of the government in their or his strictly official capacity, or in their or his professional capacity as barrister, proctor, solicitor, attorney, advocate, conveyancer, or notary public.

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