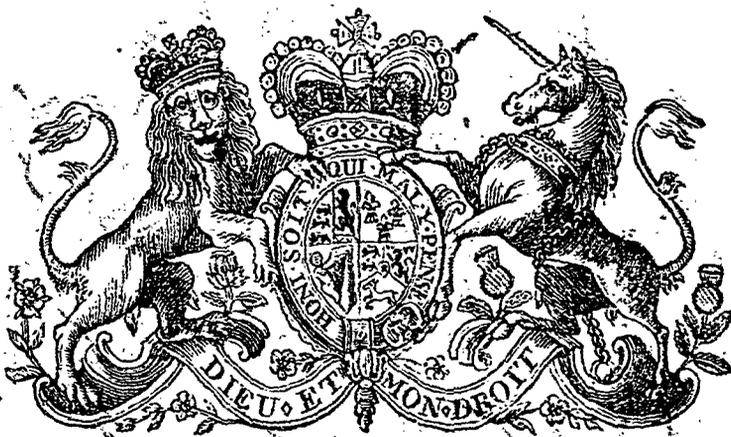


A C T S  
OF THE  
GENERAL ASSEMBLY,  
OF  
His MAJESTY'S PROVINCE  
OF  
NEW-BRUNSWICK,

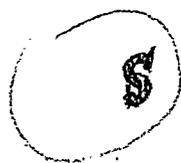
PASSED IN THE YEAR 1791.



ST. JOHN:

Printed by CHRISTOPHER SOWER, PRINTER to the  
KING'S MOST EXCELLENT MAJESTY.

MDCCXCI.



Rec. Aug. 14., 1906.

A N N O R E G N I

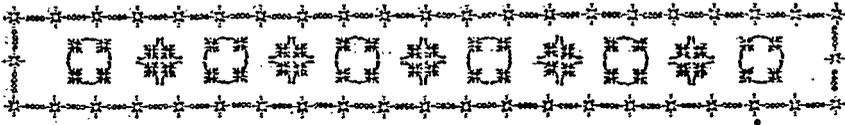
# Georgii III. Regis

*Magnæ Britannia, Franciæ, & Hiberniæ,*

TRIGESSIMO PRIMO.

**A**T the GENERAL ASSEMBLY of the Province of NEW-BRUNSWICK begun and holden at the City of SAINT JOHN, on the THIRD day of JANUARY, Anno Domini 1786, in the twenty-sixth year of the reign of our sovereign LORD GEORGE the THIRD, by the Grace of GOD, of Great-Britain, France and Ireland, KING, Defender of the Faith, &c.

And from thence continued by several prorogations, to TUESDAY the FIRST day of FEBRUARY 1791, at FREDERICTON; being the FIFTH session of the first GENERAL ASSEMBLY of NEW-BRUNSWICK.



## THE TITLES OF THE ACTS.

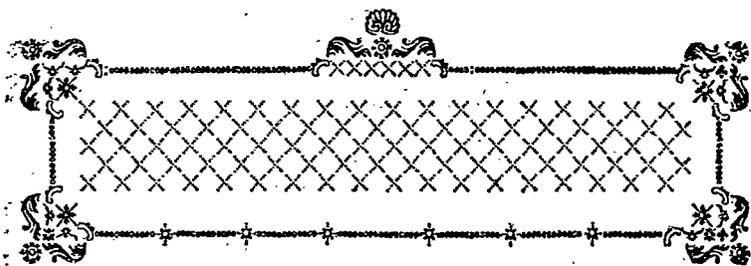
*Page.*

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*The* TITLES of *the* ACTS.

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ANNO TRIGESSIMO PRIMO

## Georgii III. Regis.

C A P. I.

An ACT to continue an Act entitled,  
 “ An ACT to authorize the erection  
 “ of FENCES and GATES across  
 “ certain ROADS in the several COUN-  
 “ TIES in this PROVINCE where the same  
 “ shall be found necessary.”



BE IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That an act made and passed in the *twenty-ninth* year of his present MAJESTY'S reign, entitled, “ An ACT to authorize the erection of FENCES and GATES across certain ROADS in the several counties in this Province where the same shall be found necessary,” shall be and continue in full force until the *first* day of *March* which will be in the year of our LORD, *one thousand seven hundred and ninety-seven*.

The Act con-  
 tinued until the  
 1st March 1797.

An

## C A P. II.

An ACT to declare that NO LAW passed in the GENERAL ASSEMBLY of the Province of NOVA-SCOTIA, before the erection of the Province of NEW-BRUNSWICK, shall be of force in this Province.

No Law of  
Nova Scotia to  
be of force in  
this Province.

BE IT ENACTED, *by the Lieutenant Governor, Council and Assembly,* That no law passed in the General Assembly of the province of *Nova-Scotia* before the erection of the province of *New-Brunswick*, shall be of any force or validity whatever in this province; or so deemed or taken in any Court of Law or Equity within the same. PROVIDED that this act shall have no retrospective force or operation.

## C A P. III.

An ACT in addition to, and in amendment of an Act entitled “ An Act  
“ for LAYING OUT REPAIRING and  
“ AMENDING HIGHWAYS, ROADS  
“ and STREETS, and for appointing  
“ COMMISSIONERS and SURVEY-  
“ ORS of HIGHWAYS within the  
“ several TOWNS or PARISHES in this  
“ Province.”

Preamble.

WHEREAS it is found expedient that some alterations should be made in, and additions to an act made and passed in the *twenty-sixth* year of His MAJESTY'S reign, entitled “ An ACT for LAYING OUT, REPAIRING and AMENDING,  
“ HIGHWAYS, ROADS and STREETS, and for appoint-  
“ ing COMMISSIONERS and SURVEYORS of HIGH-  
“ WAYS within the several TOWNS or PARISHES in this Pro-  
“ vince.”

I. BE IT ENACTED, by the Lieutenant Governor, Council and Assembly, That the exemption in the tenth section of the said herein before recited act of hired servants for a year from working upon the highways, shall not extend, or be construed to extend, to exempt any such servant from so working.

Hired Servants for a year not exempted.

II. And be it further enacted, That so much of the said herein before recited LAW as requires the said Surveyors to deliver under oath to one or more of the Commissioners of highways in their respective towns or parishes an account of the labor done on the highways within their respective districts be and the same is hereby repealed, and that no oath shall be required to be taken by the said Surveyors or either of them, but the oath mentioned in the fifth section of the said herein before recited act for the faithful discharge of their respective offices: And that the account required to be given in, by the said Surveyors to the said Commissioners in and by the said recited act shall be in writing signed by the Surveyors of the respective districts.

No oath to be required of the Surveyors but the oath of office.

The account to be given in to the Commissioners in writing.

III. And be it further enacted, That the respective Commissioners of highways, shall at the first sitting of the Court of General Sessions of the Peace in the respective counties in each year, deliver in to the Clerk of the Peace, to be by him filed in such Court, the several and respective accounts of the labor done on the highways so to be given to them by the said Surveyors, and also an account with proper vouchers of all sums of money received by them for fines or forfeitures accruing by virtue of this, or of the said recited law, and the purpose for which such sums shall have been expended, and if such sums or any part thereof remain in their hands, they shall pay the same into the hands of the County Treasurer, to be disposed of by the order of the Justices or the major part of them in their General Sessions for the making, repairing and amending the roads and bridges in the parish where such money was collected: And if any Commissioner shall neglect or refuse to deliver in such accounts, or any or either of them to the Clerk of the Peace as aforesaid, he shall forfeit and pay for every offence the sum of ten pounds to be recovered before two Justices of the Peace in such county respectively, to be paid into the hands of the Treasurer, and applied in manner herein before mentioned—and shall also be subject to an action of debt to be brought by and in the name of the Treasurer of such county, for any sum of money so remaining in his hands.

Commissioners to give in to the Clerk of the county the accounts delivered in, by the Surveyors.

and an account of monies received

and expended; and to pay the remainder to the county treasurer.

Commissioners to forfeit and pay for every offence.

IV. And be it further enacted, That every Commissioner neglecting to enter in writing any highway or road laid out or altered in manner directed by the fifteenth section of the before-mentioned act shall forfeit and pay for every such neglect or omission the sum of five pounds, to be recovered and applied in the same manner as the penalties mentioned in the last preceding section.

Commissioners neglecting to register roads laid out to forfeit 5<sup>l</sup>.

Surveyors to warn inhabitants having teams to break roads in the snow.

V. *And be it further enacted*, That the said Surveyors of the highways by direction of the Commissioners shall have full power and authority, and they are hereby required during the winter season to summon such and so many of the inhabitants having horses, oxen, or teams in their respective districts, as they in their discretion shall think fit, to work on the highways or public winter roads, by breaking roads in the snow with their said horses, oxen or teams, whenever the depth of the snow shall render the same necessary, not exceeding *four days* in each winter and at no greater distance than *three miles* from their own houses. And such inhabitants shall perform the same work over and above the work which such inhabitants in and by the said herein before recited act are liable to perform upon the highways, roads, streets and bridges. And any person refusing, or neglecting, forthwith to perform such work in the winter season upon being summoned as aforesaid, shall be liable to the same penalties and forfeitures as in and by the said recited act they are made liable to, for neglecting to work up on the highways, roads, streets and bridges.

Not more than 4 days in a winter nor more than 3 miles from home.

Persons refusing to work in winter liable to the same penalties as persons neglecting to work on roads &c.

All sleds used for carrying heavy materials to be 4 feet 8 inches wide

VI. *And be it further enacted*, That from the *first day of November* next, all sleds made use of for the purposes of carrying or transporting wood, hay, or any other heavy materials shall not be less than *four feet eight inches* in width from outside to outside of the runners: And whosoever shall make use of any ox or horse sled of less dimensions and be thereof convicted by the oath of one or more credible witness or witnesses before any of his MAJESTY'S Justices of the Peace, or on the view of such Justice shall be fined in the sum of *twenty shillings*, the same to be levied by distress and sale of the offender's goods and chattles by warrant under the hand and seal of such Justice, rendering the overplus if any, after deducting the costs and charges of such distress and sale, to the offender—which fines shall be paid and appropriated in like manner with the other penalties mentioned in this act. And it shall be the duty of all Commissioners and Surveyors of highways and Constables in the respective parishes to prosecute all offences and breaches of this clause of the act.

under the penalty of 20s.

Commissioners, surveyors and constables to prosecute offences.

Proviso.

VII. *And be it further enacted*, That nothing herein before contained shall be construed to extend to any sled a man may use upon his own farm only, or to any single ox or horse sled or pleasure sleigh drawn by one or more horses.

Every horse-sled or sleigh to be furnished with two bells for each horse,

under the penalty of 5s.

VIII. *And be it further enacted*, That no horse-sled or sleigh shall be drawn on the high ways or public roads of this province, unless the same shall be furnished with not less than two bells for each horse drawing such sled or sleigh under the penalty of *five shillings* for every offence, to be recovered from the owner or driver thereof in the manner and to the uses herein before last mentioned.

IX.

IX. *And be it further enacted,* That no prosecution or suit for the recovery of any of the penalties mentioned in this act, shall be brought or instituted after the expiration of *twelve months* from the time of committing the offence intended so to be prosecuted.

Prosecutions to be commenced within *twelve* months.

X. *And be it further enacted,* That the said herein before recited act, and every clause, matter and thing therein contained not herein or hereby altered or repealed shall be and remain in full force, in the same manner as if this act had not been made, any thing herein before contained to the contrary notwithstanding.

C A P. IV.

An ACT for the RECOVERY of SMALL DEBTS.

WHEREAS it is necessary for the effectual administration of justice in suits for the recovery of debts to the value of *forty shillings* in the respective counties within this province that further regulations be made.

Preamble.

I. BE IT ENACTED, *by the Lieutenant Governor, Council and Assembly,* That all jurisdiction, power, authority, fees and rights given to or exercised by any Clerk or Clerks of the Clerks Courts and every of them, be fully and absolutely taken away and determined, and that all the jurisdiction, power and authority so given and exercised as aforesaid, by the several Clerks aforesaid, be transferred to, and vested in any and every Justice of the Peace in the several counties: And that such Justice of the Peace in the several counties shall have full power, authority and jurisdiction to issue any process or processes, and to hear and determine all causes whatsoever cognizable in the said Courts respectively, fully and absolutely to all intents and purposes whatsoever—PROVIDED ALWAYS, that no original process shall issue to compel the appearance of any defendant or defendants in any cause whatsoever out of the limits of the town or parish where such defendant resides, in case there be any Justice of the Peace resident in such town or parish.

The authority of the Clerk's Court taken away.

and transferred to the Justices of the Peace.

No defendant to be summoned out of the parish in which he lives,

II. *And be it further enacted,* That in case no Justice of the Peace shall reside in the same town or parish with the said defendant, then the said defendant shall be summoned to appear before the Justice residing nearest to the place of his abode.

If there shall be no Justice in the parish—defendant to be summoned before the nearest Justice.

III. *And be it further enacted,* That the Justice or Justices shall hold their court on the *first* Tuesday of every month and no oftner, unless the plaintiff shall make it appear that the defendant is about to remove from said town or parish.

Justices to hold their courts the 1st Tuesday in each month.

IV. *And be it further enacted,* That there shall be *eight* days between

To be 8 days between issuing

and 4 days between service and return of process.

between the issuing and return, and *four* days between the service and return of each writ or summons, the service of which shall be proved by the oath of any person serving the same.

Fees of the Justice.

V. *And be it further enacted*, That for every writ or summons, the Justice issuing the same shall have and receive *four pence*, and for every trial and judgment *one shilling*, and for every execution *six-pence* and no more—and no other or greater fees shall be taken by any Justice in any cause or under any pretence whatsoever, and that the whole amount of costs to be taxed in any one action shall not exceed *five-shillings*.

Parties to have a right to trial by jury.

VI. PROVIDED ALWAYS, That the right of the party to a trial by jury, shall remain as directed in and by an act passed in the *twenty-sixth* year of His present MAJESTY'S reign, entitled, "An Act for regulating the Courts of Law established in the several counties for the trial of causes to the value of *forty shillings*," any thing herein to the contrary contained notwithstanding: *And also provided*, that nothing in this act contained shall extend or be construed to extend to that part of the county of Saint John, which is within the limits and jurisdiction of the city of Saint John; but that the City Court of the city of Saint John, and the Clerk thereof shall have the same authority, power, and jurisdiction within the limits of the said city as if this act had not been made, any thing herein before contained to the contrary notwithstanding.

Act not to extend to the city of St. John.

Limitation.

VII. *And be it further enacted*, That this act shall continue and be in force for and during *two years* and no longer.

## C A P. V.

# An ACT for regulating MARRIAGE and DIVORCE, and for preventing and punishing INCEST, ADULTRY, and FORNICATION.

Preamble.

WHEREAS it is necessary in order to the keeping up of a decent and regular society, that the matrimonial union be settled and limited by certain rules and restraints; and the state of this province requires some provisions in this behalf, as also for cases of divorce and alimony.

Persons making known to any

I. BE IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That when any persons of lawful age and capacity to make a contract of marriage, shall make known to any Parson,

Parson, Vicar, Curate or other person in Holy Orders of the Church of England in the town or parish where they respectively reside, or in case there shall be no Parson, Vicar, Curate or other person in Holy Orders of the Church of England in such town or parish then to any of his Majesty's Justices of the Peace, being of the Quorum, in the county where they respectively reside, their intention of making a contract of marriage, such Parson, Vicar, Curate or other person in Holy Orders of the Church of England, shall cause proclamation to be made with an audible voice of such intention of marriage at some church, chapel, or other public place of meeting for religious worship in the town or parish, or towns and parishes where such parties and each of them respectively reside, during the time of divine service, on *three* Sundays successively, or in case there shall be no Parson, Vicar, Curate or other person in Holy Orders of the Church of England as aforesaid, such Justice of the Peace as aforesaid, shall cause a notification of such bans of matrimony in writing subscribed with the hand of such Justice of the Peace, to be affixed to some visible part of such church, chapel or other public place of meeting for religious worship, or some other public building to be directed and appointed by such Justice of the Peace and situate as aforesaid, on *three* Sundays successively: And if there shall be no lawful impediment or objection after such publication or notification of bans as aforesaid, it shall and may be lawful for such or any other Parson, Vicar, Curate or other person in Holy Orders of the Church of England, or any such Justice of the Peace as aforesaid, where there shall be no Parson, Vicar, Curate or other person in Holy Orders of the Church of England, as aforesaid, and they are hereby respectively authorized to solemnize and take the acknowledgment of marriage between such parties. PROVIDED, that in case they, or either of them are within the age of *twenty one* years, consent thereto be first had of the father or guardian of the party or parties within the age last mentioned. PROVIDED ALSO, that any marriage so to be solemnized by any such Justice of the Peace as aforesaid, shall be solemnized and performed in the manner and form which shall be directed by the Governor, Lieutenant Governor or Commander in Chief of the province.

Clergyman of the Church of England

or to any Justice of the Quorum

their intention of marrying—such Clergyman shall publish the bans *three* Sundays successively;

or such Justice shall advertise the same on *three* Sundays successively,

and if no impediment, such or any other Clergyman of the Church of England or such Justice to solemnize marriage.

If either party be within 21 years, consent of the parent to be first had. Justices of the Peace to use the form directed by the Governor.

II. *And be it further enacted*, That if any Parson, Vicar, Curate or other person in Holy Orders of the Church of England, or any such Justice of the Peace as aforesaid, shall presume to solemnize or celebrate marriage between any persons whatsoever, before proclamation or notification of bans of matrimony between them made in form aforesaid, except a licence be first had and obtained therefor by and under the hand and seal of the Governor, Lieutenant Governor, or Commander in Chief of this province

Any Clergyman of the Church of England or Justice of the Peace celebrating marriage before publication,

without licence,

to forfeit 20*l*.

Prosecution to be commenced within *twelve* months.

Any person other than a Clergyman of the Church of England, or Justice of Peace

celebrating or assisting in any marriage;

contrary to the meaning of this act,

to be fined not more than 100*l*. nor less than 5*l*. for every offence and imprisoned.

Nor to extend to Ministers of the Kirk of Scotland,

nor to Quakers,

nor Clergymen of the Church of Rome.

Justices of the Peace to register marriages,

province, he shall forfeit and pay to His MAJESTY the sum of *twenty pounds* to be recovered, with costs of suit, by bill, plaint or information in the Supreme Court of Judicature. **PROVIDED** always, that every prosecution for any offence, penalty, or forfeiture in this clause contained, shall be commenced within the space of *twelve months* after such offence committed, and not afterwards.

III. *And be it further enacted,* That, if any person, other than a Parson, Vicar, Curate, or some person in Holy Orders of the Church of England, or some such Justice of the Peace where there shall be no Parson, Vicar, Curate or other person in Holy Orders of the Church of England as aforesaid, shall presume to solemnize or celebrate marriage or shall officiate, or assist in solemnizing or celebrating or making any marriage, or contract of present marriage between any persons whatsoever, or if any such Parson, Vicar, Curate or other person in Holy Orders of the Church of England, or any such Justice as aforesaid, shall solemnize or celebrate marriage or shall officiate or assist in solemnizing or celebrating, or making any marriage contrary to the provisions and the true intent and meaning of this act, every such offender who shall be thereof convicted upon indictment or information of His MAJESTY'S ATTORNEY GENERAL before the Supreme Court of Judicature or any Court of Oyer and Terminer or Goal Delivery, shall for every offence forfeit and pay a fine to the KING not exceeding *one hundred pounds*, nor less than *fifty pounds* and suffer **TWELVE MONTHS** imprisonment. **PROVIDED** always, that nothing in this act contained shall extend or be construed to extend to prevent any Minister of the Kirk of Scotland regularly ordained according to the rights thereof, from celebrating and solemnizing marriage agreeable to the forms and usages of that Church between persons of that communion. **PROVIDED** also, that nothing herein contained shall extend or be construed to extend to prohibit or restrain persons called **QUAKERS** from the full and free liberty of solemnizing marriage according to the usages, forms and customs of that sect, in case both parties to such marriage are **QUAKERS**. **AND PROVIDED** also, that nothing in this act shall extend or be construed to extend to prohibit or restrain any person regularly ordained in Holy Orders of the Church of Rome from solemnizing marriage agreeable to the forms of their Church between persons of that communion only.

IV. *And be it further enacted,* That every such Justice of the Peace as aforesaid shall register or cause to be registered in a fair or legible hand writing, subscribed with his own proper name and addition by himself, or by some other person in his presence and by his direction, in a book to be provided and kept for that purpose, all marriages and contracts of marriage by and in presence of him and them respectively celebrated, solemnized and acknowledged

knowned from time to time, and shall also within three months from and after every such celebration and solemnization of marriage, deliver or transmit to the Clerk of the Peace in the county where the marriage shall have been solemnized and made as aforesaid, a certificate or memorial thereof in writing subscribed with his proper name and addition, which certificate or memorial the said Clerk of the Peace is hereby authorized and required to enter, transcribe and enrol in and with the records of the court of General Sessions of the Peace. And such registry shall be deemed and taken in all Courts of Law and Equity in this province to be as good evidence of such marriage so registered, as the registry of such marriage would be if made by any Parson Vicar, Curate or other person in Holy Orders of the Church of England, agreeable to the Canons of the said Church.

and transmit a certificate thereof to the Clerk of the Peace within three months,

to be entered in the records of the county which shall be as good as if registered by a Clergyman of the Church of England.

V. *And be it further enacted,* That all causes, suits, controversies, matters and questions touching and concerning marriage and contracts of marriage and divorce, as well from the bond of matrimony as divorce and separation from bed and board and alimony, shall and may be heard and determined by and before the Governor or Commander in Chief of this province and His Majesty's Council: And that the Governor or Commander in Chief and Council aforesaid or any five or more of the said Council together with the Governor or Commander in Chief as President be and they are hereby constituted, appointed and established a Court of Judicature in the matters and premises aforesaid, with full authority, power and jurisdiction in the same. PROVIDED, and it is hereby declared that nothing herein contained shall deprive, diminish, control, obstruct or abridge, or be construed, deemed, or extended to deprive, diminish, control, obstruct or abridge in any manner the rights, powers, authority, judicature, or jurisdiction of the Court of Chancery or of the Supreme Court of Judicature or of any Inferior Court of this province, in and touching the matters and premises aforesaid or any of them, and that no sentence, decree, judgment, or proceeding of the said Court of Governor or Commander in Chief and Council in any information, prosecution, suit or process touching and concerning any marriage or contract of marriage or divorce or alimony shall take away, annul, bar, suspend or in any wise alter or affect the right of action of any person or persons for any injury or damage sustained for or by reason of any breach of any covenant or contract of marriage.

All controversies concerning marriage and divorce

to be determined by the Governor and Council;

who are constituted a court for that purpose.

Nothing in this act to control the rights of any court,

and no sentence of the Court of Governor and Council

to affect the right of action of any person.

VI. *And be it further enacted,* That the fixed and stated terms of holding the said Court of the Governor and Council for the purposes and causes herein mentioned, shall be and commence on the first Tuesday in February and the third Tuesday in July in each and every year and shall continue during the space of ten days.

Terms of holding the Court of Governor and Council.

C.

VII.

VII. *And whereas*, The arduous affairs of government may render it impossible for the Governor or Commander in Chief at all times to preside in person in the Court aforesaid.

The Governor or Commander in Chief to appoint a Deputy in the said Court

*Be it further enacted*, That it shall and may be lawful for the Governor or Commander in Chief by warrant or commission under his hand and seal, to depute, constitute and appoint the Chief Justice, or either of the Justices of the Supreme Court of Judicature or the master of the Rolls to preside in his place and stead in the said Court, or the Governor and Council, and to have, hold and exercise all the powers, privileges, authority and jurisdiction of the Governor or Commander in Chief in the same Court, and that such Deputy or Vice President, shall have, hold and exercise all such powers, privileges, authority and jurisdiction accordingly as are hereby given and granted to the Governor or Commander in Chief in the same Court in all the causes matters and things therein cognizable by this act.

VIII. And for the more effectually preventing and punishing of incest, adultery, fornication and all acts of lewdness and unlawful cohabitation and intercourse between man and woman.

Persons convicted of Incest &c.

to be punished at the discretion of the Court.

*Be it further enacted*, That every person who shall be hereafter lawfully convicted of any of the crimes aforesaid, before the Supreme Court of Judicature or any Court of Oyer and Terminer and Goal Delivery in this province, shall be punished by fine and imprisonment, or either of them, at the discretion of the Court in which such offender or offenders shall be convicted.

Causes of divorce.

IX. *And it is hereby declared and enacted*, That the causes of divorce from the bond of matrimony and of dissolving and annulling marriage are and shall be frigidity or impotence, adultery and consanguinity within the degrees prohibited in and by an act of Parliament made in the *thirty-second* year of the reign of KING HENRY the *eighth*, entitled "An Act for marriages to stand notwithstanding pre-contracts" and no other causes whatsoever.

In cases of divorce for adultery, the issue not to be bastardized;

nor the wife barred of dower; nor husband deprived of tenancy.

X. PROVIDED ALWAYS, *and be it further enacted*, That in case of a sentence of divorce from the bond of matrimony or marriage for the cause of adultery, the issue of such marriage shall not in any case be bastardized or in any way prejudiced or affected with any disability thereby. PROVIDED ALSO, that the wife in such case shall not be thereby barred of her dower, or the husband be thereby deprived of any tenancy by the curtesy of England unless it shall be so expressly adjudged and determined in and by such sentence of divorce.

XI. *And be it further enacted,* That an act made and passed in the *twenty-seventh* year of His present MAJESTY's reign, entitled "An Act for regulating marriage and divorce and for preventing and punishing Incest, Adultery and Fornication" be and the same is hereby repealed, and declared to be utterly null and void.

The act passed in the 27th year of His Majesty's reign repealed.

C A P. VI.

An ACT in addition to an Act, entitled, "An Act for REGULATING JURIES and DECLARING the QUALIFICATION of JURORS."

I. **B**E IT ENACTED, by the Lieutenant Governor, Council and Assembly, That the Sheriffs of each county shall once a year, viz. on or before the *first* day of *May* make out a list of all persons qualified to serve upon Juries, who have resided within the said county for *three months* preceeding, with their titles and additions, between the age of *twenty-one* years, and the age of *sixty* years, and return the same into the office of the Clerk of the Peace in their respective counties, which Clerks respectively shall cause the same to be fairly entered in a book to be by them provided and kept for that purpose, among the records of the Sessions of the said county: And each and every Sheriff who shall neglect to make out and return such list shall forfeit and incur the penalty of *ten pounds*, to be paid into the hands of the Treasurers of the respective counties, for the use of the county, to be recovered by bill, plaint or information in any Court of Record, having jurisdiction thereof. And no Sheriff shall impanel or return any person or persons to try any issue joined in any Court of Record in this province, that shall not be named and mentioned in such list.

Sheriffs of the counties once a year to make out a list of Jurors,

and return it in to the Clerks office,

to be entered in a book kept for the purpose.

penalty on Sheriffs neglecting

Sheriffs not to return persons not named in the list.

II. *And be it further enacted,* That each Sheriff shall have and receive such sum of money for his expenses and trouble in making out and returning such list, as the Justices in their General Sessions shall deem to be an adequate compensation therefor, and they shall thereupon order the same to be paid by the Treasurer of the county, out of the monies in his hands belonging to such county respectively, and such sum so to be allowed to the Sheriff shall be deemed a county charge and shall be provided for as other county charges are or may be by law.

Sheriffs to be paid for making out such lists.

## C A P. VII.

An ACT to DEFINE and DESCRIBE the  
crime of PETIT LARCENY.

Persons convicted of stealing Goods &c. to the value of 20s. to be punished for Grand Larceny, under 20s. for Petit Larceny.

**B**E IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That if any person shall feloniously take and carry away any goods, chattles, money or effects to the value of *twenty shillings*, and be thereof duly convicted, such offence shall be deemed, adjudged and punished as GRAND LARCENY: And if the value shall be found by verdict on trial to be less than *twenty shillings*, then such offence shall be deemed, adjudged and punished as PETIT LARCENY.

## C A P. VIII.

An ACT for fixing PERMANENTLY the  
BOUNDARY LINES between the  
different GRANTS in this Province.

Preamble.

**W**HEREAS, great confusion, uneasiness and disquiet have arisen among the settlers in some parts of this province from the uncertainty that exists about the true extent and limits of their freeholds, particularly on Grants made some years ago; which uncertainty has been partly occasioned by running out the lateral boundary lines of the said Grants at different times by the magnetic needle, the deviation of which from the meridian or the true line of North and South is in a continual state of variation; partly from the custom which many of the said settlers have been in of employing persons not properly deputed, nor acting under oath, and with inaccurate instruments to run out the side lines of their respective lots: and partly from the practice which has been generally pursued in setting off even recent Grants, of merely marking the extent or limits of the fronts of the said Grants without running back at all their lateral boundaries from the banks of the rivers, creeks or other fronts on which they lie; to prevent all such confusion, uneasiness and uncertainty in future, and the growth and increase of those evils and inconveniencies which if not remedied must soon give rise to an endless variety of disputes.

Any proprietor of land in any

**I.** BE IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That whenever one or more Grantees of the Crown of any lands already granted or hereafter to be granted in  
this

this province either on *one* or both of *two* separate Grants adjoining each other or comprised in any one Grant, or one or more freeholders on the said Grant or Grants, shall be desirous of having the direction of the lateral boundary line or lines of such Grant, or between such Grants, ascertained, fixed and rendered permanent, he, she or they shall give notice thereof to the other Grantees or Proprietors therein concerned, by advertising the same in writing, posted up for *one* month in *three* at least of the most public places in the town or parish where such lands lie, whereupon it shall and may be lawful for the Surveyor General of the province, by himself, or his sufficient deputy or deputies thereunto authorized and under oath, upon the application of such Grantee or Grantees, Freeholder or Freeholders, to run the said lateral boundary line or lines of such Grant or between such Grants, with proper instruments to be examined and approved of by the Surveyor General, at least *five hundred* yards back from the bank of the river, creek or other front on which the said Grants lie, and by the magnetical needle as expressed in the said Grants, and that in the said line or lines and each of them *two* small pillars of stone, where stones can be conveniently procured, or otherwise *two* stout posts of durable or lasting wood and cleared of sap, one near the bank or other front or only at a sufficient distance therefrom to be in no danger of being washed away, and the other at least *five hundred* yards back from the same, each reaching *four* feet below the surface of the Ground and *four* feet above the same, shall be erected under the direction of the Surveyor General or his Deputy or Deputies acting under oath as aforesaid, who shall carefully examine the said pillars or posts and see that the line formed by the intersection of the vertical plane passing through their centers (or so as to divide them equally) with that of the horizon, shall exactly coincide with the above mentioned line run out by the needle: Which pillars or posts shall be considered as permanent land marks for fixing and ascertaining the direction of the said boundary line or lines of the said Grant or between the said Grants in all time to come, without any attention or regard whatsoever had to any future variation of the needle—The expence of running the said line or lines, and of erecting the said pillars or posts to be defrayed by the party or parties so applying: The Surveyor General when he acts himself to be paid at the rate of *fifteen shillings* per diem, and his Deputies as is customary at the rate of *ten shillings* per diem respectively.

Grant being desirous of having the side lines run

may on public notice being given, have the same run out by the Surveyor General or any of his deputies

and have pillars of stone or posts erected—

for permanent land marks.

Expence defrayed by the party applying.  
Fees for surveying.

II. *And be it further enacted*, That the direction of all the lateral lines between lots already laid out, or that shall be laid out hereafter on Grants of land throughout this province, shall be regulated and fixed by a reference to the above mentioned permanent land marks, ascertaining the direction of the boundary line

The direction of all lines to be ascertained by the said land marks.

D.

or

or lines between the Grants on which said lots lie, without any regard whatsoever had to the future variation of the needle; except only in such case or cases as are herein after mentioned.

Grants of land made by the true meridian projected for—

III. *And whereas* certain Grants have been passed under the seal of the province of Nova-Scotia, the boundary lines represented on the plans annexed to which, differ from those expressed in such Grants, by the projectors of the said plans mistaking the true for the magnetic meridian. AND WHEREAS great inconvenience and confusion will arise to the proprietors of the lots comprehended in such Grants if their boundary lines should be run by the courses expressed in the said Grants:—*Be it enacted*, That the boundary lines of all such Grants shall form the same angles with the meridian that are expressed on the plans annexed to the said Grants, without any reference whatsoever had to the lines or courses specified in the said Grants.

Provido.

IV. PROVIDED ALWAYS, That nothing herein contained shall extend or be construed to extend to fix or ascertain the points where the boundary lines between any lots in any Grants shall commence, but that such points shall be left to be agreed on between the proprietors of such lots, or be settled by a due course of law.

Proceedings to be registered in the Surveyor-General's office.

V. *And be it also further enacted*, That all proceedings relative to the fixing of permanent land marks as aforesaid shall be registered by the Surveyor General in his office: Which registry shall be deemed and taken, in all Courts of Law, good evidence of the manner in which the direction of such boundary lines was ascertained in case any of the said pillars or posts shall be at any time hereafter removed lost or destroyed.

Persons destroying land marks,

VI. *And be it further enacted*, That if any person or persons shall at any time or times hereafter wilfully deface, pull down, remove or destroy any of the land marks erected as above described for fixing permanently the direction of the boundary lines between Grants as aforesaid, it shall and may be lawful for any two or more of His MAJESTY'S Justices of the Peace residing near the place where such offence shall be committed, and such Justices are hereby respectively authorized and required, upon complaint or information upon oath of such offence, to summon the person or persons so complained of, or to issue the warrant or warrants to apprehend and bring before them the person or persons so accused, complained of or suspected, and upon his, her or their appearance, or neglect to appear, to proceed to examine the matter of fact with which such person or persons are charged and upon due proof thereof made, either by confession, or upon the oath or oaths of one or more credible witness or witnesses to determine

determine the same, and to convict the offender or offenders, and every person offending herein and being thereof convicted as aforesaid, shall forfeit the sum of *five pounds* to be paid to the Overseers of the Poor, to the use of the poor of the town or parish wherein such offence shall be committed, the same to be levied by distress and sale of the offenders goods and chattels, together with the charges of such distress and sale, rendering the overplus (if any be) to the owner or owners thereof: And for want of sufficient distress the said Justices are hereby required to commit the person or persons convicted as aforesaid to the Common Gaol of the county, town or place where the offence shall be committed; there to remain for the space of *one month*.

to forfeit 5l. on conviction.

C A P. IX.

An ACT for ALTERING the times of holding the COURT of GENERAL SESSIONS of the PEACE, and INFERIOR COURT of COMMON PLEAS in the COUNTIES therein mentioned.

WHEREAS, the times appointed for holding the Court of General Sessions of the Peace and Inferior Court of Common Pleas in the county of Westmorland, King's county and Queen's county, have been found inconvenient.

Preamble.

I. BE IT ENACTED, by the Lieutenant Governor, Council and Assembly, That the said Courts shall be holden hereafter as follows, to wit: For the county of *Westmorland* on the *third Tuesdays* in *January* and *June*; for *Queen's county* on the *fourth Tuesdays* in *January* and *June*; for *King's county* on the *second Tuesday* in *February* and *first Tuesday* in *July*; and for the *City and County of Saint John* on the *third Tuesday* instead of the *first Tuesday* of *March*, in each and every year, any law or ordinance to the contrary notwithstanding.

Times of holding the courts in Westmorland in Queen's and King's counties and the city and county of Saint John.

II. And be it further enacted, That no writ or process of any kind whatsoever shall abate or be discontinued by reason of the alteration of the times of holding the said Courts as aforesaid; but that all writs and processes which are or shall be returnable to the said Courts respectively on the days and times heretofore established, shall be proceeded upon in the same manner as if the same were made returnable on the same days herein established and appointed.

No writ to abate by reason of the alteration.

## C A P. X.

An ACT to enable the JUSTICES  
of the SUPREME COURT to issue  
COMMISSIONS for the examining of  
Witnesses out of the Province.

Justices of the  
Supreme Court  
to issue commis-  
sions for taking  
depositions,

to be read as de-  
positions *de bene*  
*esse*.

**B**E IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That in all civil causes depending and at issue in the Supreme Court of this province, in which either party shall be desirous to take the depositions of witnesses residing out of this province to be read as evidence in such causes—it shall and may be lawful for the Justices of the said Court upon sufficient cause being shewn by affidavit on the behalf of the party desiring the same, to issue a commission under the seal of the said Court, for taking such depositions, in such manner, and under such restrictions and regulations as the said Court by any rules and orders, for that purpose made, shall direct and appoint: And such depositions, so taken, shall be read in evidence as depositions taken *de bene esse*, at the trial of such causes. And the costs attending the issuing and taking such depositions shall be regulated by rule or order of the said Court for that purpose to be made.

## C A P. XI.

An ACT for the SECURITY and PRO-  
TECTION of CERTAIN ISLANDS  
in the River SAINT JOHN.

Justices of the  
General Sessions  
in the county of  
York on applica-  
tion of the  
Grand Jury  
may declare wa-  
ters a lawful  
fence.

Public notice to  
be given.

**I.** **B**E IT ENACTED, *by the Lieutenant Governor, Council, and Assembly*, That it shall and may be lawful for the Justices of the General Sessions of the Peace in the county of York, upon the application of the Grand Jury, if such Justices or the major part of them shall think fit, to declare, by any order or orders for that purpose to be made, that the waters surrounding the Islands lying in the river Saint John above the town of Fredericton shall be a lawful fence. And upon public notice being given by affixing such order or orders in the most public places in each town or parish in the said county the water so declared to be a lawful fence, shall from thenceforth be deemed and taken to be a lawful fence, any law, usage or custom to the contrary notwithstanding.

Limitation.

**II.** *And be it further enacted*, That this act shall continue and be in force *two years* ... longer.

C. A. P. XII.

An ACT to CONTINUE an Act, entitled  
 "An Act for laying an IMPOST."

**B**E IT ENACTED, by the Lieutenant Governor, Council and Assembly, That an act made and passed in the *twenty ninth* year of His present MAJESTY's reign, entitled "An Act for laying an Impost" be and the same is hereby declared to be in full force until the *first* day of *April*, in this year of our LORD *one thousand seven hundred and ninety one*, any law to the contrary notwithstanding.

The Impost Act continued for one month.

C. A. P. XIII.

An ACT for REGULATING the FISH-  
 ERIES in the different RIVERS,  
 COVES and CREEKS of this  
 Province.

**I.** **B**E IT ENACTED, by the Lieutenant Governor, Council and Assembly, That if any person or persons after the publication of this act, shall presume to erect or set up any hedge, wear or fish garth or other incumbrance, or place any seine or seines, net or nets, across any river, cove or creek in this province, in such manner, as to obstruct, injure or hurt the natural course of the fish in any river or place where they usually go, such person or persons shall forfeit and pay the sum of *ten pounds* upon due conviction thereof, by the oath of one or more witness or witnesses before any *two* of His MAJESTY's Justices of the Peace in the county where such offence shall be committed, to be levied by warrant of distress and sale of the offenders goods, rendering the overplus if any, to such offender; and *twenty pounds* for the *second* offence, to be recovered with costs, by action of debt, bill, plaint or information in any Court of Record in this province, and *fifty pounds* for the *third* and every subsequent offence, to be recovered with costs in the manner last mentioned; one half of which penalties shall on conviction be paid to the informer, and the other half to the Overseers of the Poor of the parish or town where such offence shall be committed, to be applied to the use of the poor. **PROVIDED ALWAYS,** That nothing herein before contained shall extend or be construed to extend, to prevent the erection

Any person setting up incumbrances or placing nets to obstruct the natural course of the fish,

to forfeit on conviction 10l. for the first,

20l. for the second,

and 50l. for every other offence.

Penalties how applied.

Provide.

of wears upon the flats between high and low water marks, or drawing seines upon the shores or setting nets under the regulations herein after mentioned, in any such rivers, coves or creeks.

Justices in the  
General Sessions  
to appoint Over-  
seers of Fisheries

II. *And be it further enacted*, That the Justices of the Peace in their General Sessions held in the several counties in this province, may and are hereby required to appoint one or more fit person or persons, inhabitants, not being employed as fishermen, to be Overseers of the Fisheries for each town or parish within their respective counties, who shall be sworn to the faithful discharge of their duty, and shall have power to remove any net, hedge, wear, fish garth, seine or other incumbrance that shall be found in any river, cove or creek contrary to the provisions of this act.

Powers of Over-  
seers.

Overseers to seize  
nets &c.

and sell them.

III. *And be it further enacted*, That if any net, hedge, wear, fish garth, sein or other incumbrance shall be found in any river, cove or creek in this province, contrary to the provisions of this act, and no owner shall appear to claim the same, it shall and may be lawful for such Overseers of the Fisheries, and they and each of them are hereby required respectively forthwith to seize the same, and if no owner shall appear to claim the same in *ten days*, such net, seine or fish garth, shall, together with the fish, if any found therein be forfeited and sold by the said Overseers to satisfy the respective penalties in this act mentioned and inflicted, and the overplus if any, shall be paid to the Overseers of the Poor for the use of the Poor of the town or parish where such offence shall be committed.

Fees of the Over-  
seers.

IV. *And be it further enacted*, That the said Overseers of the Fisheries shall be intitled to demand and receive *one shilling*, and no more for each net to be set in the districts to which they shall be respectively appointed, from the proprietors of such nets as a compensation for their trouble.

Penalty of Over-  
seers neglecting  
their duty.

V. *And be it further enacted*, That if any such Overseer of the Fisheries shall at any time wilfully and knowingly delay, neglect, or refuse to perform the duty in and by this act enjoined, such offender shall forfeit and pay for every offence the sum of *five pounds* to be sued for, recovered and applied in the same manner as the penalty of *ten pounds* herein before mentioned can or may be sued for, recovered and applied.

Regulations re-  
specting nets in  
the river Saint  
John, Kene-  
beckacis and  
their branches,

VI. *And be it further enacted*, That no net shall be set longer than *thirty* fathoms in the main river Saint John or extend more than *thirty* fathoms into the same river or the broad part of the Kenebeckacis river; and in any of the branches of the said rivers not more than *one fourth* part of the width of the branch where such net shall be so set: And that no drag net or seine shall

shall be used in either of the same rivers or the branches thereof to sweep the same rivers or the branches thereof or either of them, more than *one fourth* part of the width of such river or branch: And that no net shall be set in the river *Saint John* below the *Boar's Head* or in the harbour of *Saint John* more than *twenty* fathoms in length or shall extend into the water more than *twenty five* fathoms from the water's edge: And that no net shall be set or remain in the water, nor any seine be drawn in any of the places in this clause mentioned between the time of sun set on Saturday night and sun rise on Monday morning between the *first* day of *April* and the *first* day of *August* in each and every year; under the penalty of *ten pounds* for each and every of the said offences to be sued for, recovered and applied in the manner herein last before mentioned.

below the Boar's Head and in the harbour of Saint John.

No net to remain in the water between Saturday night and Monday morning.

Penalty.

VII. *And be it further enacted*, That the Justices of the Peace in their General Sessions in the counties of Charlotte and Westmorland shall and may make such further rules and regulations for the fisheries in those counties as they shall think fit, P R O V I D E D the same be not contrary to, or inconsistent with the provisions herein before contained; and the Overseers of the Fisheries in those counties are hereby required to see that such rules and regulations so to be made are observed and enforced in the same manner and under the like penalties as any of the rules and regulations in this act are required to be observed and enforced.

Justices of the General Sessions in Charlotte and Westmorland to regulate their fisheries.

VIII. *And be it further enacted*, That nothing herein before contained shall extend or be construed to extend to the county of *Northumberland*, but that the fishery of the river *Miramichi* and its branches shall be regulated in manner herein after mentioned, that is to say—no net shall be set in the said river *Miramichi* on either side thereof, between *Sheldrake Island* and lot number *fifty* inclusive, on the north side of the said river, now or late in the occupation of *Alexander Stuart*, more than *eighty* fathoms from low water mark into the said river, nor between the said lot number *fifty* and lot number *thirty nine*, or the lower end of *Middle Island* more than *forty* fathoms, nor upon any lot opposite to *Middle Island* more than *thirty* fathoms, nor any net extending from *Middle Island* to the North side of the river more than *thirty* fathoms, nor from the upper end of *Middle Island* to lot number *twenty four* more than *sixty* fathoms, nor from the said lot number *twenty four* to lot number *one* inclusive more than *fifty* fathoms, nor from lot number *one* to *Beaubert's Point* more than *forty* fathoms, and no net shall be set between the said point and *Tittle Island*. P R O V I D E D ALWAYS, that no net to be set in the said river shall extend into the water more than *ten* fathoms where the water in the said river shall be deeper than *four* fathoms.

Regulations for the fishery in the river Miramichi.

Proviso.

Nets in Miramichi Bay not to exceed 100 fathoms.

IX. *And be it further enacted*, That no nets shall be set or seines drawn in *Miramichi Bay*, that is from *Bay du Vin Island* to point *Cheval* longer than *one hundred fathoms*.

Regulations for the branches of the river *Miramichi*.

X. *And be it further enacted*, That no net shall be set in either of the branches of the said river *Miramichi* above *Beaubert's point* more than *one third* part of the width of the river at low water on either side into the said river. PROVIDED, That no net to be set in either of the said branches shall exceed *forty fathoms* in length.

Penalties,

how recovered

and applied.

XI. *And be it further enacted*, That if any person or persons shall set or place, or cause to be set or placed any net in the said river *Miramichi* or its branches, or the Bay of *Miramichi* contrary to the true intent and meaning of this act, such offender or offenders shall respectively forfeit and pay for the *first* offence the sum of *ten pounds*, for the *second* offence the sum of *twenty pounds* and for the *third* and every subsequent offence the sum of *fifty pounds*, to be recovered by action of debt, bill, plaint or information in any Court of Record in this province, by any person who shall inform or sue for the same, together with costs, one half of such penalties and forfeitures to be to the use of the poor of the town or parish where such offence shall be committed, and be paid into the hands of the Overseers of such poor for that purpose, and the other half to the person who shall inform and sue for the same.

No Salmon to be taken or killed in *Miramichi* or *Restigouche* rivers after the 30th August.

Penalty of taking or purchasing.

XII. *And be it further enacted*, That no Salmon shall be taken or killed in any manner whatever, in the river *Miramichi* or in the river *Restigouche* or in any of the branches of the said rivers from the *thirtieth* day of *August* to the *first* day of *April* in every year, nor shall any person purchase any fish so killed or taken under the penalty of *five shillings* for each fish so killed, taken or purchased, to be recovered before any of His MAJESTY'S Justices of the Peace of the county of *Northumberland* to the uses aforesaid.

Proviso, not to interfere with the rights of fishery.

Proprietors of lands to have the exclusive right of fishery to low water mark.

XIII. PROVIDED, That nothing in this act or in the rules and regulations to be made by virtue thereof, shall extend or be construed to extend to abridge, diminish or interfere with the rights of fishery or the regulation thereof already granted to any person or persons whomsoever, any thing herein contained to the contrary thereof notwithstanding. PROVIDED ALSO, *And be it further enacted*, That all and every of His MAJESTY'S Subjects owning or lawfully possessing lands, bounding on any river, cove or creek in this province shall have and be deemed to have the sole and exclusive right of taking fish on the shores thereof to low-water mark; and no person or persons whatever shall or may lawfully set or erect any net, wear or fish garth, or draw

draw any seine, on the said shores of such rivers, coves or creeks between high and low water marks, except the owner or owners, or lawful possessor or possessors thereof, or persons by virtue of their leave or license, any law, usage or custom to the contrary notwithstanding.

XIV. *And be it further enacted*, That this act shall continue and be in force *two years* and no longer. Limitation.

C A P. XIV.

An Act for the SUPPORT and RELIEF of  
CONFINED DEBTORS.

I. **B**E IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That when ever any person, committed to any Goal in this province, for debt not exceeding *one hundred pounds* at the suit of any creditor, shall be incapable to provide or secure their necessary support, it shall be lawful for such debtor after *fourteen* days confinement, to make application to any Justice of the Court out of which the process issued, upon which such debtor shall be confined, for a weekly support or maintenance: And such Justice, after *fourteen* days previous notice to such creditor or his attorney, shall examine on oath such confined debtor or any witness produced, as to the ability of such debtor to support him or herself, and if on examination to be taken in writing on oath as aforesaid, which shall be filed in the office of the Clerk of the Court out of which such process issued as aforesaid, it shall appear to such Justice that such debtor is utterly unable to support him or herself, it shall and may be lawful for such Justice to make an order for such creditor to pay such debtor a weekly sum to be applied for the support of such debtor; which sum shall be paid weekly, and from the *first* day of *November* until the *last* day of *March* shall be *three shillings and six pence* per week, and the remainder of the year *two shillings and six pence* per week; And after such order it shall be the duty of such creditor to pay such weekly support, and in case of failure thereof it shall and may be lawful for any such Justice as aforesaid, on such failure being made known to him to make an order under his hand and seal to the Sheriff or Gaoler to discharge the said debtor out of confinement. P R O V I D E D, That nothing in this act shall prevent such creditor from prosecuting his suit (if on mesne process) to final judgment; or from taking out his *Fieri Facias*

Persons committed to Goal for debt and being unable to support themselves

may apply for a weekly maintenance to a Justice of the Court from which process issued. Justice to examine debtors or witnesses

and order a weekly support to be paid such debtors by the creditors,

and in case of failure the debtor to be discharged.

Proviso.

*Facias* against the goods and chattels, lands and tenements of such debtor in the same manner as if no application or order had been made in manner aforesaid.

Penalty of taking a false oath.

II. *And be it further enacted*, That every person who shall be convicted of making or taking a false oath to any of the facts herein before directed or required to be sworn, shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

Limitation.

III. *And be it further enacted*, That this act shall continue and be in force *three* years and no longer.

### C A P. XV.

## An ACT for laying an I M P O S T.

I. **B**E IT ENACTED, *by the Lieutenant Governor, Council and Assembly*, That from and after the *first* day of *April* next, there be, and hereby is granted to His MAJESTY his Heirs and Successors for the use of this province and for the support of the government thereof, the several rates and duties on the articles hereafter mentioned, which shall or may be brought or imported into any port or place within this province, except the produce or manufacture of *Great-Britain* or *Ireland*, directly imported from thence, to be paid by the importers thereof, that is to say, for every gallon of *Rum* or other distilled spirituous liquor *two-pence*, for every gross *hundred weight* of brown *Sugar* when landed, allowing *twenty* per cent for tare *two shillings*, for every pound of *Coffee*, *one-penny* and for every barrel of *Wheat* or *Rye Flour* the growth, produce or manufacture of any or either of the United States of *America*, *two shillings*, and so in proportion for a greater or less quantity.

Duties to be paid on Rum, brown Sugar,

Coffee, and Flour.

Duties to be paid at the time of importation,

unless they amount to, or upwards,

II. *And be it further enacted*, That the rates, duties and imposts to be raised and paid by virtue of this act, shall be paid at the time of the importation of such articles into the city and county of *Saint John*, unto the *Treasurer* of the province or his *Deputy* to be appointed in the manner hereafter mentioned, and at every other port or place unto his *Deputy* or *Deputies* in such county respectively where the same shall be imported, unless such duties on any one cargo shall amount to upwards of *ten pounds*, in which case the *Treasurer* or his *Deputy* upon such importer or owner giving bond with good and sufficient security in double the sum of the duties payable upon the articles as specified in the report estimating each hoghead of *sugar* at *fifteen hundred weight*,  
may

may take the same payable in *three* months, and if the said duties shall amount to *fifty pounds* and upwards, bonds may be so taken payable in *six* months.

or sol. or upwards.

III. *And be it further enacted*, That every master of any ship or vessel coming into any port or harbour of this province, shall within *twenty four* hours after his arrival, and before breaking bulk, make report in writing by him subscribed, and upon oath, to the said Treasurer or his Deputy of all the articles on board his ship or vessel whether dutiable or not, and shall also make oath that he has not landed or permitted to be landed, or taken from on board such ship or vessel any such articles within this province or any of the coasts thereof, since his sailing from the port or place where such articles were laden on board for exportation: And in case of refusal and neglect by any such master, every such ship or vessel shall be and hereby is declared to be forfeited, and if any dutiable goods shall be landed in any part of this province before entry and report made as aforesaid, or not being duly entered as aforesaid, shall be found on board any ship or vessel after such entry made, or if any such articles shall have been landed from any ship or vessel after report made as aforesaid, other than such as were specified in such report or manifest, or for which a permit shall not have been obtained agreeable to the provisions of this act, such ship or vessel, together with the dutiable articles so landed or found on board contrary to the true intent and meaning of this act, shall be and the same are hereby declared to be forfeited, and shall and may be seized by such Treasurer or his Deputy and information made and proceedings to condemnation had in the Supreme Court or any Court, of Oyer and Terminer or the Court of Vice Admiralty at the option of the prosecutor, and all forfeitures incurred by virtue of this act, after deducting the costs and charges of prosecution, shall be paid as follows, that is to say, *one third* part to the officer seizing and prosecuting the same to condemnation and the residue into the hands of the Treasurer of the province for the use thereof.

Masters of vessels to report to the Treasurer in 24 hours.

Penalty of neglect.

mode of prosecution.

Forfeitures how applied.

IV. *And be it further enacted*, That for all merchandize of what nature or kind soever, imported by, or belonging to any person or persons not resident in this province, there shall be paid a duty of *five pounds* for every *one hundred pounds* value prime cost at the place from whence the same shall be imported, and so in proportion for a greater or less quantity, except such goods belong to some person or persons subjects and inhabitants of *Great-Britain* or *Ireland* and are imported directly from thence; or are of the produce of the provinces of *Quebec* or *Nova-Scotia*, or the Islands of *St. John* and *Cape Breton* and their dependencies and are imported directly from thence, which prime cost shall be ascertained by a manifest of the cargo to be lodged in the Treasurer's

All merchandize, not owned by residents in the province to pay 5l. per cent.

except belonging to subjects of Great-Britain or Ireland,

or the produce of Quebec, &c.

Manifest to be

lodged in the Treasurer's office,  
 within 24 hours.  
 Penalty for neglect.  
 Proviso.

furor's office, or that of his Deputy, by the master, owner or agent of any vessel importing such goods or merchandize, who shall enter at such office and their report his whole cargo and make oath to the truth of his manifest within *twenty four* hours after his arrival at such place or port, and make true report of every parcel of goods or commodities he may have on board, enumerating the quantity and quality of the same, to whom belonging and to whom consigned, and in case of refusal or neglect of such owner, master or agent all goods not so reported shall be liable to forfeiture, and may be seized and proceeded with to condemnation and divided and applied in the manner herein before directed. **PROVIDED ALWAYS**, that in case the master cannot make oath to the property the burthen of proof shall lie upon the consignee.

Treasurer to issue process for duties remaining unpaid,

V. *And be it further enacted*, That for the recovery of such of the duties as are imposed by this act and shall not be paid within *three* months or *six* months as aforesaid respectively after the entry thereof, the said Treasurer shall be empowered to cause process to be issued against all and every person and persons who shall stand indebted for duties longer than the said respective times allowed for the payment thereof.

or be liable therefor.

VI. *And be it further enacted*, That if the said Treasurer shall not cause process to be made for any duties to arise by virtue of this act at the end of the said respective times hereby limited for the payment thereof, he shall be answerable for the same within *one month* after, as though the same had been actually paid.

Treasurer to appoint deputies,

who are to give security, and be accountable for all duties received. Powers of the deputies.

Allowance to the deputies.

VII. *And be it further enacted*, That the Treasurer of the province for the time being, shall nominate fit persons (to be approved of by the Lieutenant Governor or Commander in Chief) in the several counties in this province, to receive the several duties laid and imposed by this act, which persons so appointed shall give good and sufficient security to such Treasurer for the faithful discharge of their duty and be accountable for all sums so to be received by virtue of this act, to the Treasurer when thereunto required, which persons so appointed shall have the same powers to make seizures and proceed to condemnation as are given to the Treasurer by virtue of this act, and may retain *ten pounds* for every *hundred pounds* they shall so receive in full for their trouble and services:

Monies to remain in the treasury until disposed of.

VIII. *And be it further enacted*, That all the money to arise by virtue of this act, shall remain in the Treasury until the same shall be disposed of by an act or acts of the legislature of this province to be passed for that purpose.

IX. *And be it further enacted,* That it shall and may be lawful for the Treasurer of the province in case of sickness or necessary absence from the city and county of *Saint John*, to appoint a fit person to act as his Deputy in the same city and county, for whose acts the said Treasurer shall be responsible, which Deputy shall have the same power and authority to act in every respect as any Deputy of the said Treasurer in any other county of this province can or may have by virtue of this act. PROVIDED ALWAYS, that such Deputy shall not be intitled to the allowance of *ten per Cent* hereby given to the other Deputies, any thing herein before contained to the contrary in any wise notwithstanding.

Treasurer to appoint a Deputy in the city of St. John.

His powers.

Profits.

X. *And be it further enacted,* That from and after the commencement of this act, after entry of any ship or vessel at the Treasurer's office there shall be a permit or permits made out and delivered by the Treasurer to some person to be by the Lieutenant Governor or Commander in Chief appointed for that purpose, (who shall be sworn to the faithful discharge of his duty) expressing the quality and quantity of the several dutiable articles contained in the said ship or vessel as entered at the Treasurer's office: And if after such entry made at the Treasurer's office as aforesaid, there shall be found landed from, or on board such ship or vessel any dutiable goods not duly entered at the Treasurer's office agreeable to the directions of this act, or if any such dutiable goods shall at any time be found to have been landed from any ship or vessel contrary to the provisions of this act or without a permit for that purpose obtained as aforesaid, then the said person so to be appointed is hereby authorized and required to seize such ship or vessel and all such goods as aforesaid: And such ship or vessel and all such goods so seized are hereby declared to be forfeited, and shall be proceeded against as directed in the third section of this act; and such person so seizing such ship or vessel or goods, shall have and receive *one moiety* of the *third part* of such forfeiture herein before directed to be paid to the officer seizing and prosecuting the same, and the Treasurer shall have and receive the other moiety thereof.

Permits to be made out by the Treasurer after entry at his office.

Dutiable goods found landed on board any vessel not entered,

or found landed without a permit,

such vessel and goods to be seized,

and forfeited.

Forfeitures how applied.

XI. *And be it further enacted,* That every master or owner of every ship or vessel coming into any port or harbour of this province, shall, before bulk shall be broken, pay or give security as aforesaid, for the payment of the duties imposed by this act, upon all and every the dutiable articles on board such ship or vessel. PROVIDED ALWAYS, That if any part of the *Rum* imported in any ship or vessel shall at the time of the entry thereof as aforesaid at the Treasurer's office, be reported for exportation in the same vessel, that the duty shall not be required to be paid or secured to be paid for such *Rum* so reported.

Duties to be secured to be paid before breaking bulk.

Proviso.



ed at any time within *one* year after the drawback shall be so received upon the exportation of any *Rum* as aforesaid, that such *Rum* hath been landed contrary to the condition of the bond given for the exportation thereof as aforesaid—the owner of such *Rum* shall and may be prosecuted therefor by His MAJESTY'S ATTORNEY GENERAL, by bill, plaint, or information in the *Supreme Court*, and upon due conviction thereof, shall forfeit and pay for each and every offence the sum of *fifty pounds*.

Owner to be prosecuted.

XVII. *And be it further enacted*, That the quantities of *Rum* so imported shall be ascertained by the instrument commonly called by the name of *Gunter's Callipers* and by no other instrument whatever, and shall be so gauged by a sworn Gauger legally appointed or to be appointed for that purpose in the City of *Saint John* by the *Lieutenant Governor or Commander in Chief* of this province for the time being. PROVIDED, that no Gauger shall gauge any dutiable article his own property or consigned to him, within this province.

*Rum* imported to be gauged by *Gunter's Callipers*.

by a sworn Gauger.

Proviso.

XVIII. *And be it further enacted*, That every person who shall be convicted of making or taking a false oath to any of the facts herein before directed or required to be sworn, shall be deemed guilty of perjury and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

Penalty of taking a false oath.

XIX. *And be it further enacted*, That from and after the first day of *March* which will be in the year of our L O R D *one thousand seven hundred and ninety-two*, neither the Treasurer nor any of his Deputies, nor any person or persons concerned in the collection of the duties of impost made payable by this act, shall own any vessel or vessels or any share or shares in any vessel or vessels trading to and from any port or ports in this province, or shall, trade or deal either directly or indirectly in any article or articles made dutiable as herein described under the penalty of *fifty pounds* to be recovered by bill, plaint, or information in the *Supreme Court* of this province, and of being forthwith dismissed from his office.

No person concerned in collecting the impost duties, to own vessels, &c.

or deal in dutiable articles,

under penalties.

Limitation.

XX. *And be it further enacted*, That this act shall continue and be in force until the first day of *April* which will be in the year of our L O R D *one thousand seven hundred and ninety-two* and no longer—except for the recovery of any penalties inflicted in and by the *sixteenth* section of this act.

## C A P. XVI.

## An ACT for APPROPRIATING and DISPOSING of the PUBLIC MONIES.

I. **B**E IT ENACTED, by the Lieutenant Governor, Council and Assembly, That there be allowed and paid out of the Treasury of this province unto the several persons hereafter mentioned the following sums: To *Richard Seaman* Esquire for his services as Treasurer from the *first* day of *October* one thousand seven hundred and eighty-nine, to the *thirty-first* day of *January*, one thousand seven hundred and ninety-one, one hundred and thirty three pounds, six shillings and eight pence; to the *Speaker of the House of Assembly*, twenty shillings per diem during the Session, and going and returning from the General Assembly; to the *Clerk of the House of Assembly*, ten shillings, per diem, and for other services during the present Session, forty pounds; to the *Clerk of the Council in General Assembly*, forty pounds for his services for the present Session; to the *Members of the House of Assembly*, ten shillings per diem for defraying their expences of travelling and actual attendance in the present Session, allowing *twenty miles* travel for one day, the days of such attendance to be certified by the Speaker; to the *Chaplain of the House of Assembly*, twenty five pounds; to the *Doorkeeper of the House of Assembly*, five shillings per diem; to the *Messenger* three shillings per diem during the present Session; to *Godfrey Leydick, Sergeant at Arms* for travelling and attending the *House of Assembly*, twenty pounds and for his services as *Tide Surveyor* under the Treasurer of the province twenty one pounds six shillings and eight pence; to the *Clerk of the House of Assembly* for monies disbursed by him for house rent, fuel, stationary and other expences of the General Assembly, twenty nine pounds, eight shillings and six pence; to the *Surveyor General* in advance towards completing a plan of the province for the use of the House of Assembly, fifty pounds; to *Thomas Hanford* for gauging rum imported into the city of *Saint John*, eight pounds, eighteen shillings and six pence; to *Godfrey Leydick* for the like services eleven pounds, two shillings and two pence, and for expences actually incurred by him seven pounds, four shillings and nine pence; to *Charles M<sup>r</sup> Pherfon* for weighing dutiable articles six pounds two shillings and two pence; to *John Ryan* for printing manifests and permits for the Treasurer's office, four pounds ten shillings; to the *Justices of the Peace* for the county of *Sunbury* towards enabling them to defray the expences incurred in building a *Goal* previous to the erection of this province, one hundred pounds; to *James Fraser* and *Samuel Lee* Esquires, for the purpose of opening a road from the forks of the river *Miramichi* to *Nipisquit Harbour*.

Monies to be paid out of the Treasury.

To the Treasurer.

To the Speaker.

To the Clerk of the House of Assembly.

To the Clerk of the Council.  
To the Members of the House of Assembly

To the Chaplain.  
To the Doorkeeper.

To the Messenger.

To the Sergeant at Arms,

and Tide Surveyor,

To the Clerk of the House of Assembly for expences, &c.

To the Surveyor General.

To Thomas Hanford.

To Godfrey Leydick.

To Charles M<sup>r</sup> Pherfon.

To John Ryan.

To the county of Sunbury.

To James Fraser and Samuel Lee Esquires.

Harbour in the Bay of Chaleur, fifty pounds; to the Members of the county of York in General Assembly, the Honorable Jonathan Odell, Esquire and John Davidson, Esquire, for the purpose of laying out, opening and amending the road from Fredericton to the river Meductinicick, one hundred and fifty pounds; to Peter Clinch and James Campbell, Esquires, for the purpose of opening a road from L' Etang portage to the city of Saint John by Musquash cove, fifty pounds; to the Honorable Daniel Bliss, Esquire, John Hazen and Benjamin Ward, Esquires, thirty pounds; to the Members for Queen's county in General Assembly, thirty pounds and to the Members for King's county, thirty pounds for the purpose of completing the road from Fredericton to the city of Saint John through or near the settlements over the highlands on the western side of the river Saint John; to the Members of the counties of York and Northumberland in General Assembly for the purpose of completing the road from Fredericton to the river Miramichi by the settlements on the river Nashwaack, seventy five pounds; to the Honorable George Leonard, Esquire, for the purpose of completing the road as now laid out from the city of Saint John to Westmorland, one hundred pounds; to such person as the Lieutenant Governor or Commander in Chief shall appoint for the purpose of completing the road from Fredericton to Saint Andrew's, one hundred pounds; to the Commissioners appointed for erecting a Light House on Partridge Island to enable them to complete the same, two hundred and fifty six pounds ten shillings and ten pence; to Daniel Lyman, Esq; the sum of twenty five pounds to be laid out in the purchase of a yoke of oxen and two cows to be delivered to such person as shall settle on the portage from the Nashwaack to Miramichi, such settler first giving security that he will not sell or slaughter the said oxen and cows or either of them; and in case of his removal from the place where he shall settle, that he will return a yoke of oxen and two cows of equal value to those he shall receive as aforesaid.

To the members of York, the Hon. J. Odell, and Jno. Davidson.

To P. Clinch and J. Campbell Esquires.

To the Hon. D. Bliss, J. Hazen and B. Ward. To the members for Queen's; and members for King's counties.

To the members of York and Northumberland.

To the Hon. Geo. Leonard.

To such person as the Lt. Governor shall appoint.

To the commissioners for building a Light-house on Partridge Island. To Daniel Lyman, Esq.

II. And be it further enacted, That the sum by which the amount of the above sums herein before ordered to be allowed and paid to the several and respective persons herein before mentioned, shall exceed the sum now remaining in the hands of the Treasurer unappropriated, be allowed and paid in the manner herein-after mentioned out of such monies as shall hereafter be in his hands arising from the collection of the Impost duties.

The sum, exceeding the monies now in the treasury, to be paid from the collection of impost duties.

III. And be it further enacted, That all the aforesaid several sums of money shall be paid by the Treasurer by warrant issued by the Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of his Majesty's Council of this Province, and the receipt of the several persons intitled to the said sums indorsed on the said warrants, shall be to the Treasurer good

Monies to be paid by warrant from the Lieut. Governor.

Receipts to be indorsed on the warrants.

H, vouchers

vouchers and discharges for so much as shall thereby be acknowledged to be received.

For contingencies to the 1st April, 1792, warrants may issue on the Treasurer's

not to exceed £100.

IV. *And be it further enacted*, That for answering the contingencies and expences that shall or may happen for the service of this province to the first day of *April*, which will be in the year of our LORD *one thousand seven hundred and ninety-two*, warrants may issue on the *Treasurer* from time to time drawn by the *Lieutenant Governor* or *Commander in Chief* for the time being, with the advice and consent of his MAJESTY'S COUNCIL; which the *Treasurer* is hereby ordered and directed to pay. PROVIDED, the amount of the said warrants do not exceed the sum of *one hundred pounds* during that time.