

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for scanning. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of scanning are checked below.

L'Institut a numérisé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de numérisation sont indiqués ci-dessous.

- Coloured covers /
Couverture de couleur
- Covers damaged /
Couverture endommagée
- Covers restored and/or laminated /
Couverture restaurée et/ou pelliculée
- Cover title missing /
Le titre de couverture manque
- Coloured maps /
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) /
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations /
Planches et/ou illustrations en couleur
- Bound with other material /
Relié avec d'autres documents
- Only edition available /
Seule édition disponible
- Tight binding may cause shadows or distortion
along interior margin / La reliure serrée peut
causer de l'ombre ou de la distorsion le long de la
marge intérieure.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated /
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies /
Qualité inégale de l'impression
- Includes supplementary materials /
Comprend du matériel supplémentaire
- Blank leaves added during restorations may
appear within the text. Whenever possible, these
have been omitted from scanning / Il se peut que
certaines pages blanches ajoutées lors d'une
restauration apparaissent dans le texte, mais,
lorsque cela était possible, ces pages n'ont pas
été numérisées.

- Additional comments /
Commentaires supplémentaires:

There are some creases in the middle of the pages.

At the GENERAL-ASSEMBLY of the
Province of *Nova-Scotia*, begun and
holden at *Halifax*, on Monday the
2^d Day of *October*, 1758, and in
the 32^d Year of His Majesty's Reign.

A N A C T

For confirming the Proceedings on the several Reso-
lutions of the Governors and Council of this Pro-
vince, relating to the Duties of Impost on Rum
and other distilled Liquors; and enabling the late
Collector or Receiver to recover the Monies un-
paid for any Bonds or Notes remaining in his
Hands; And for establishing and regulating se-
veral Duties of Impost on Wines, Beer, Rum,
and other distilled Spirituous Liquors for the fu-
ture.

H. E. R. E. A. S. it has been thought necessary by His Majes-
ty's Governors and Council of this Province, before the
Calling a General Assembly, to lay a Duty of Three Pence
a Gallon upon all Rum and other distilled Spirituous Liquors
imported into this Province, excepting the Produce and Ma-
nufactures of Great-Britain, or of His Majesty's West-India
Plantations, imported directly from thence, which Impost
Duty enabled them to grant Bounties and Premiums from Time to Time for
clearing and fencing of Lands, catching and curing Codfish, and other necessary
Encouragements

Labour and Industry: AND WHEREAS it is thought expedient to encourage of Labour and Industry within this Province by Bounties and Premiums on the Clearing and Fencing of Land, and the Raising of Hemp, Flax, Grain, Roots, &c. and Catching and Curing of Fish, large Sums of Money will necessarily be wanting for Payment of the said Bounties and Premiums; We do hereby grant
EXCELLENT MAJESTY, his Heirs and Successors, for the Uses
several Rates, Duties, and Imposts herein after-mentioned.

Be it therefore enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted and declared, That all the Proceedings heretofore by Virtue of said Resolutions or Acts, or any Part thereof, shall be and are hereby ratified and confirmed.

And be it enacted by the Authority aforesaid, That the respective Bonds required by Virtue of the said Acts or Resolutions shall be and are hereby declared to be good and valid, and the Monies due thereon shall be recoverable in any of His Majesty's Courts of Record, pursuant to the Tenor of the said Bonds.

Be it therefore enacted by the Authority aforesaid, That from and after the Publication of this Act, there shall be paid by the Importers of Wines, Beer, Rum, and other distilled Spirituous Liquors, that shall be imported into this Province, from the Place of its Growth, or any other Place (except the Product or Manufacture of Great-Britain) the several Rates and Duties of Impost as follows:

For every Pipe of Wine of the Western-Islands	£ 1 0
For every Pipe of Canary	1 10
For every Pipe of Madeira	2 0
For every Hogshead of other Sorts of Wine not mentioned	0 15
For every Barrel of Beer	0 2
<i>And in Proportion for a greater or lesser Quantity.</i>	
For every Gallon of Rum or other distilled Spirituous Liquors	0 0

Be it therefore enacted by the Authority aforesaid, That all the Rates, Duties, and Imposts before-mentioned, shall be paid in current Money of this Province, by the Importer of any Wines, Beer, Rum, or other distilled Spirituous Liquors, unto the Collector or Receiver for the Time being, for entering and receiving the same, at or before the Landing, provided the Sum do not exceed Forty Shillings, but if the Sum shall exceed Forty Shillings, the Collector or Receiver is hereby authorized, on sufficient Security being given, to give Credit for Payment thereof, within the Term of Three Months.

And be it enacted by the Authority aforesaid, That all Masters of Ships and other Vessels, coming into any Harbour or Port within this Province, having on Board any Wines, Beer, Rum, or other distilled Spirituous Liquors, shall, before breaking Bulk, and within twenty four Hours after their Arrival, make Report in Writing, and upon Oath, to the Collector or Receiver for the Time being of the Imposts, of the Quantity of Wines, Beer, Rum, and other distilled Spirituous Liquors on Board.

A
K
N

An ACT for the better discovering and more effectually suppressing Unlicenced Houses.

WHEREAS divers idle and ill-disposed Persons in this Province, do sell and retail Rum, Brandy, Wine, Cyder, Perry, and other Spirituous and strong Liquors, and keep common Tipling-Houses, there harboursing and entertaining Soldiers, Sailors, and Servants, to the weakening and destroying His Majesty's Forces in this Province, and promoting Profaneness and Debaucheries:

Be it enacted by his Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby enacted and declared, That if any Person or Persons whatsoever within this Province, shall sell any Rum, Brandy, Wine, Ale, Beer, Cyder, Perry, or other strong Liquors, mixt or unmixt, by whatever Name or Names they are or may be called or distinguished, without Licence first had and obtained for that Purpose, as heretofore hath been used, or as shall hereafter be directed and appointed by his Excellency the Governor and General Assembly of this Province: or shall hawk, sell, or expose to Sale, any such Liquors unmixt or mixt, by whatever Name or Names they are or may be called or distinguished, about the Streets, Wharves, Highways, Lanes, or Suburbs of the Town of Halifax, or any other Town or Place whatsoever, within this Province, in any Wheelbarrow or Basket, or upon the Water, in any Ship, Boat, or Vessel, or in any other Manner whatsoever; or shall sell or expose the same to Sale on any Bulk or Bulks, Stall or Stalls, Shed or Sheds, or on, or in any other Place or Places, he, she, or they shall forfeit for every such Offence the Sum of Ten Pounds Currency of this Province. And it shall and may be lawful for any one Justice of the Peace for this Province, on his own View, or on Confession of the Party, or by Proof on the Oath of one credible Witness, to convict any Person or Persons so offending: and the Person or Persons so convicted, shall immediately on such, and every other like Conviction, pay the said Sum of Ten Pounds into the Hands of such Justice; and on such Offender or Offenders neglecting or refusing to pay the said Sum, the Justice so convicting, shall by Warrant under his Hand and Seal, commit the Offender or Offenders to His Majesty's Goal within the County where the said offence shall be committed, there to remain in close Confinement for the Space of Two Months, from the Day of the said Commitment: And such Person or Persons shall not be discharged until he, she, or they shall have paid the said Sum of Ten Pounds, or until the full Expiration of the said Two Months. And all Fines arising from the Conviction of any Person or Persons as aforesaid, in Case there be no Informer, shall be wholly paid to the Treasurer of this Province, and applied to the Use of His Majesty's Government; But if there shall be an Informer, one Moiety of such Money shall be paid to the said Informer, and the other Moiety to the said Treasurer, and applied to the Use of His Majesty's Government as aforesaid.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any Grand-Jury, Provost Marshal of this Province, his Deputy or Deputie, or Constable or Constables, in Company with any one Justice of the Peace to enter into the House or Dependencie thereof, Bulk or Shed of any Person suspected upon reasonable Grounds of retailing Spirituous Liquors without Licence, and to take with them such Assistance as they shall think needful, to make Search for Rum, Brandy, Wine, Ale, Beer, Cyder, Perry, or other strong Liquors, or mixt Drink, by whatsoever Name or Names they are or may be called or distinguished: And in case of Refusal of Entrance, the Master or other Keeper of such House, so refusing to admit of Entrance, shall forfeit and pay the Sum of *Ten Pounds*, which, upon Refusal or Neglect to pay, such Justice shall cause the same to be levied by Warrant of Distress under his Hand and Seal, and for Want thereof shall commit such Person or Persons to Goal, there to remain for the Space of two Months; and if, upon being admitted to enter, the Quantity or Quantities of such Liquors found, shall, upon View and Examination of such Justice, be judged by him to be more than for the necessary Use of the Family, or what their Condition may reasonably allow them to expend, or otherwise to have in their Custody, it shall and may be lawful for such Justice immediately to adjudge the same forfeited, and the Constable or Constables attending, shall sell the same, and the Money arising thereby shall be one Moiety to the Use of His Majesty's Government of this Province, and the other for the Use of the Justice and Officers attending: *provided* nevertheless that if any Persons shall think themselves aggrieved by such Sentence, they may Appeal from the Judgment of such Justice to the next Court of General Quarter-Sessions.

And be it enacted by the Authority aforesaid, That if any Person or Persons within this Province, shall from and after the passing of this Act, agree or contract with any Journeyman, Servant, Labourer, or other Person employed by ~~or working under him, her, or them respectively,~~ in Manner following, that is to say, If such Person or Persons shall agree to pay such Journeyman, Workman, Servant, Labourer, or other Person employed by or working under him, her, or them, or under his, her, or their Directions, so much Money for Wages, and such a Quantity of Spirituous Liquors or strong Waters, as together with such Money shall amount to the Value of the Wages as shall be ordinarily and usually paid for the Work such Journeyman, Workman, Labourer, Servant, or other Person shall be employed in, or shall set off, stop, or deduct all or any part of the Wages or Hire due to such Journeyman, Workman, Servant or Labourer, for any Spirituous Liquors or strong Waters delivered to them, or to any other Person by their Direction or Order, by him, her, or them, or any other Person; such Person or Persons so offending, shall be deemed a Retailer of Spirituous Liquors without Licence, within the Meaning of this Act, and shall for every Offence forfeit the Sum of *Ten Pounds*; And such Journeyman, Workman, Servant, Labourer, or other Person shall be entitled to his or her whole Wages, notwithstanding any such Agreement, Setting off, Stopping, or Deducting, and shall have the like Remedy in Law for the same, as if all or any part of such Wages were not paid.

Provided

Provided, That nothing in this Act contained shall extend or be construed to extend to prevent or debar any Merchant, Shopkeeper or other Person, not-licenced to Retail Rum, or other distilled Spirituous Liquors, Wine, Ale, Beer, Cyder, or Perry, from selling any Quantity of such Liquors not less than Three Gallons at one Time.

Provided also, That nothing in this Act contained shall extend or be construed to extend to debar or prevent any Person or Persons from supplying any Fishermen actually employed by such Person or Persons in the Fishery, with a necessary Quantity of Rum or other Liquors during the Time of the Fishing Seasons.

And all Officers, as well His Majesty's Justices of the Peace, Grand-Jurors, Provesl-Marshal or his Deputy or Deputies, Constables, and all other His Majesty's Lige Subjects within this Province, are hereby authorized to see that this Act be duly observed, and to present and inform of all Breaches of the same, either at the Court of the General Sessions of the Peace, or to some Justice of the Peace, for the immediate apprehending and convicting such Offender or Offenders.

This Act to continue and be in Force for two Years from the publishing thereof, and no longer.



An



An ACT for confirming the past Proceedings of the Courts of Judicature, and for regulating the further Proceedings of the same.

Enacted,
by His
in Council.

E it enacted by the Governor, Council and Assembly, and by the Authority of the same it is hereby enacted, That His Majesty's Supream Court, Court of Aſſize, and General Goal-Delivery, ſhall be held and kept at the uſual Times and Places, that is to ſay, on the laſt Tueſday in the Month of October, and on the laſt Tueſday in the Month of April, in every Year, in the Town of Halifax; and that the Court of General ſeſſions of the Peace ſhall be held quarterly as uſual in every Year, in the ſaid Town, that is to ſay, on every firſt Tueſday in the Months of December, March, June and September; and that the Inferior Court of Common Pleas, ſhall be held as uſual on ſuch firſt Tueſday in the ſaid Months of December, March, June and September.

And be it further enacted, That all Rules and Orders, Proceedings, Pleadings, Sentences, Verdicts and Judgments, in the ſaid Courts reſpectively, and all Executions awarded thereon, ſhall be, and are hereby ratified and confirmed.

And be it further enacted by the Authority aforeſaid, That all Proceſſes and Writs for the bringing any Suit into the ſaid Inferior Court of Common Pleas, ſhall iſſue out of the Clerk's Office of the ſame Court, in His Ma-
jeſty's Name, and to be directed to the Provoſt-Marſhal of this Province or his Deputy; and if ſuch Proceſs or Writ be againſt the Provoſt-Marſhal or his Deputy, then to be directed to the Coroner of the County, who is hereby impowered to execute the ſame. And all Writs, as well original as judicial, iſſuing out of the Clerk's Office as aforeſaid, ſhall run through the ſaid Province, and be executed by the Officer or Officers to whom they ſhall be directed. And that all Proceſſes and Writs, as well original as judicial, iſſuing out of the Clerk's Office of the ſaid Court, ſhall bear Teſte of the firſt Juſtice named in the Commiſſion for holding the ſaid Court, and upon any Vacancy, by his Death, Removal, or other Impediment, then of the Juſtice next named in the ſaid Commiſſion for the Time being. And all proper original Proceſſes in the ſaid Court, ſhall be Summons or Attachment, which ſhall be made returnable Twelve Days before the Sitting of the ſaid Court of Common-Pleas, according to the Order herein before preſcribed, and ſhall always bear true Teſte of the Time of iſſuing thereof, and ſhall be ſerved and executed by the proper Officer, as before in this Act is preſcribed, fourteen Days before the next Court after the Date of ſuch Writ or Proceſs, (except all Writs ſerved at Annapolis-Royal, Chignecto, Lunenburg, or any other diſtant Part of this Province, which may be returned at any Time during the Sitting of the ſaid Inferior Court.) And that the proper

Provided, That nothing in this Act contained, shall extend, or be construed to extend, to give any Power or Authority to the Clerk of the said *Inferior Court* to Administer any Affidavit or Oath to any Plaintiff or Plaintiffs, where the Cause of Action sounds in Damages only, but in such Cases such Oath or Affidavit shall be taken before two Judges of the Court, who shall mark the Writ for Bail accordingly.

Provided nevertheless, That all Goods, Chattels or Estates taken by Attachment, shall remain under such Attachments, for the Space of *Twenty* Days after final Judgment, and no longer.

Provided, That no Action under the Value of *Three Pounds*, shall be brought into the said Court of *Common-Pleas*, unless where Freehold is concerned, or upon Appeal from the Judgment of the two Justices of the Peace, as heretofore used.

And be it further enacted by the Authority aforesaid, That the Provost-Marshal of this Province for the Time being, his Deputy, or other Person by this Act qualified to execute Process or Writs, shall duly make Return thereof, with all his Doings thereon, *Twelve* Days before the Sitting of the Court to which such Process or Writ is returnable: And the Plaintiff's Attorney shall in all Cases, within *Three* Days after such Return, file with the Clerk of the said Court, a Declaration clearly setting forth the Cause of Action against the Defendant or Defendants, and shall, at the same Time, annex to or file with such Declaration, a Copy of the Bond and Condition thereof, Bill, Note, Contract, Agreement, Lease, Account, or other Writing, on which such Action is grounded; and in Case of Failure thereof, the Plaintiff shall be Nonsuit, and pay Costs, to be taxed at the next Court. And the Defendant or Defendants in any Suit, shall enter his Appearance by his ~~Attorney in Law~~ *in Seven Days* (the intervening Sunday to be excepted) after the Return of each Writ, with the Clerk of the said Court, in a Book to be kept by him for that Purpose, and take Copies, at his or their own Costs, of the Declaration, or Account, or other Papers thereto annexed, in order to make Defence; and for want of such Appearance entered within the Time aforesaid, the Clerk of the said Court is hereby empowered to enter the Default, by indorsing the same with his own Hand and Name thereto subscribed, on the Declaration, and the Defendant or his Attorney, shall, before *Twelve* of the Clock at Noon of the Thursday following, after Appearance entered as aforesaid, file with the Clerk of the said Court, the Defendant's Plea, either in Abatement to the Writ, or in Bar of the Action, or Demurrer to the Writ and Action, or the General Issue, as he may be advised, and for want thereof, the Clerk of the said Court is hereby empowered to enter the Default against any Defendant or Defendants, by endorsing the same on the Declaration, expressing the Time when, and whether for want of Appearance or Plea: And if the Defendant shall have entered his Appearance, and pleaded in any of the Ways, and within the Times before-mentioned, the Plaintiff's Attorney shall, on the Saturday next after the filing the Defendant's Plea or Demurrer as aforesaid, file with the Clerk of the said Court the Plaintiff's Replication in Writing to such Plea or Joinder in Demurrer, if any Demurrer there be, at which Time each respective Cause shall be understood and deemed to be at Issue, and no further or other Pleadings, under Pretence of bringing the same to Issue, shall be allowed of.

Provided,

Provided, That where any Judgment shall be entered by Default, for any of the Causes aforesaid, the Defendant or his Attorney may, upon Affidavit being filed the first Day of the Court, setting forth the Occasion or Means which prevented an Appearance being entered, or Plea filed in due Manner as before is prescribed, and ducking the whole Matter to the Court, and that he tells the Merits of the Cause upon Trial only, and Motion thereupon made, the said Court is hereby impowered, from the Merits and Circumstances of the Case, upon the Defendant or his Attorney agreeing to pay the Plaintiff his Costs to be then taxed, order such Default to be struck off, after which, or after an imparlance in any Case, no special Pleading shall be allowed of, but the Cause shall, without further Delay, proceed to Issue for Trial, either at such Court or at any other Court as shall be ordered.

Provided also, That no Matter of Fact shall be allowed to be pleaded in Abatement, without an Affidavit of the Truth of the Plea being thereunder made, and that no dilatory Plea be allowed to be filed, unless it be signed by some Attorney of the said *Inferior Court*.

And Whereas several Doubts and Difficulties have heretofore arisen, to the great Impediment of the Proceedings of the Inferior Court of Common Pleas, touching the Constructions of Bail in civil Actions; for preventing whereof for the future,

Be it enacted by the Authority aforesaid, That when any Person or Persons shall be arrested, by Virtue of any Writ issuing out of the said *Inferior Court*, the Provost-Marshal or his Deputy, or other Person by this Act qualified to serve Writs, shall be obliged, and are hereby respectively required, upon sufficient Bail being offered, to let such Defendant or Defendants go at large, upon his or her, or their first executing a Bond with two sufficient Surties, to the said Provost-Marshal, with Condition thereunder written for the personal Appearance only of the Defendant on the first Day of the Court to which such Writ is returnable, and according to the Tenor thereof; and if such Defendant shall not appear accordingly, or if sufficient Bail to abide the final Event of the Suit shall not then be offered in Behalf of the Defendant, Judgment shall thereupon be entered against the Defendant by Default, and the Provost-Marshal shall immediately, upon Request of the Plaintiff or his Attorney, in Court assign the Bail Bond, by indorsing his Name thereon, for the Benefit of the Plaintiff, to be put in Suit, or otherwise recover the Penalty thereof; which Assignment shall not debar the Plaintiff from proceeding to final Judgment and Execution the same Court, against the Defendant or Defendants in the said Action. And whenever it shall happen that the Defendant or Defendants shall appear according to the Tenor of the Condition of such Bail Bond, and offer Bail to the Satisfaction of the Plaintiff, and Approbation of the Court, or if the Defendant from some Impediment, shall not happen to appear, but nevertheless two sufficient Persons, to be approved of by the Plaintiff and the Court, shall offer to become Bail; in either of the said Cases, a Recognizance with Condition thereunder written, in the following Form, *Mutatis Mutandis*, shall be entered into by the Defendant (if present), and his Bail.

137

Clerk's Office, setting forth the Substance thereof, and that unless he employs an Attorney of that Court, to plead thereto before the first Day of the then next ensuing Court, Judgment will be entered against him by Default; the Service of which Notice shall be deemed sufficient, by leaving the same with the Keeper of the Prison, his Deputy, Wife, or Servant, where such Defendant is imprisoned; and upon Failure of delivering such Notice by the Keeper to such Prisoner, the said Keeper shall forfeit and pay all such Damages as the Defendant may have sustained by such Neglect. And upon the first Day of the Court the Plaintiff's Attorney, (if no Appearance be in the mean Time entered) upon producing a Copy of such Notice, and Affidavit of the due Service thereof as aforesaid, Judgment shall be entered by Default, against such Defendant or Defendants in Prison. And in all Causes whatsoever, (except Actions of Debt, or Actions grounded on Specialties) now depending, or hereafter to be brought in the said *Inferior Court*, wherein the Defendant or Defendants have or shall suffer Judgment therein to pass against him, her, or them, by Default, the said *Inferior Court* is hereby empowered and required, in lieu of a Writ of Enquiry of Damages, to order a Jury to be sworn to assess the Damages at the Bar, for which the Jury shall be paid such Fees as heretofore have been usual on Trials of Issues.

And be it further enacted by the Authority aforesaid, That all Writs of Summons hereafter to be issued, shall be indorsed by the Attorney who sues out the same; and the Defendant or Defendants therein named, shall respectively be served with a true Copy thereof, before the Return of such Writ.

And be it enacted by the Authority aforesaid, That all Debts under the Value of Three Pounds, shall be sued for and recovered before any two of His Majesty's Justices of the Peace; And all Debts under the Value of Twenty Shillings, shall be sued for and recovered before one Justice, as heretofore hath been practiced and used, Subject nevertheless to an Appeal, as heretofore hath been used. And all Proceedings and Judgments heretofore had and made, before any two Justices, or one Justice, are hereby ratified and confirmed,

This ACT to continue and be in Force for the Space of Two Years.



D

An



An ACT for confirming Titles to Lands, and quieting Possessions.

BE it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That all Persons claiming or deriving any Right or Title to any Lands or Tenements, by Virtue of any Grants or Deeds, entered in the publick Registry of this Province, or by Virtue of any Last Will or Testament, shall have, hold, and enjoy such Lands and Tenements, according to the Tenor and Effect of such Grants or Deeds registred, and of such Last Will and Testament, whether the Estate be in his or their own Right, or in Right of, or in Trust for another; and that all Possessions by Virtue thereof shall be, and are hereby confirmed, any want of legal Form in such Grants, Deeds or Wills, notwithstanding.

Provided, That no Papist hereafter shall have any Right or Title to hold, possess, or enjoy, any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, but that all Deeds or Wills, hereafter made, conveying ~~any~~ any Right, or in Trust for any Papist, shall be utterly null and void: And such Lands or Tenements shall not revert to the Persons granting the same to any Papist, or in Trust for any Papist, but such Lands or Tenements shall, upon Conviction of such Papist, be vested in His Majesty, His Heirs and Successors forever.

And it is hereby enacted, That before the Registry of any Grant or Deed of any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, the Person or Persons to whom, or for whose Use such Grant or Deeds are made, shall take the Oaths appointed to be taken instead of the Oaths of Supremacy and Allegiance, and make and subscribe the Declaration before the Register of the Province or his Deputy, who are hereby impowered to administer the same: And if any Person shall refuse to take the said Oaths, and subscribe the said Declaration, the Grants or Deeds made to such Persons, shall be null and void to all Intents and Purposes whatsoever.

And it is hereby further enacted, That all Deeds of Sale of any Lands or Tenements, made by the Provost-Marshal, under Writs of Execution to him issued, for the Satisfaction of any Judgments, shall be and are hereby confirmed.

Provided nevertheless, That it shall and may be lawful for any Person or Persons, whose Lands have been taken in Execution, and sold as aforesaid,

aid, his, her, or their Heirs; within Twelve Months from the Second Day of *October*, 1758, to sue for and recover, by Action in nature of an Action of Account, from the Person or Persons to whom the Persons intitled to such *Lands* or *Tenements* were indebted, and for Satisfaction of whose Debts the said *Lands* or *Tenements* have been sold as aforesaid, upon Payment in manner hereinafter directed, of the principal Money due, with Interest for the same, at the Rate of Six Pounds in the Hundred for each Year, and all Costs and Damages awarded or sustained by the said Judgments, and also for all Improvements of the said *Lands* or *Tenements*, and the Provost-Marshal's Proceedings thereon, with like Interest for the principal Money expended in such Improvements, upon a just Account to be taken of the same on any Trial for the Recovery of said *Lands* or *Tenements*, wherein a View, if required, shall be directed. And if upon such Trial, it shall appear in Evidence, that such Person or Persons to whom the *Lands* have been sold and conveyed, as aforesaid, have committed wilful Waste thereon, or have received Rents or Profits from the said *Lands* or *Tenements*, the said Rents and Profits, and the Value of such Waste, shall be allowed in Account to the Person so suing for the Recovery of the said *Lands* or *Tenements*, and upon Payment of said principal Money and Interest, and of all Damages and Costs, for and on Account of such Debts and Improvements, or upon taking such Account of Rents and Profits, or the Value of such Waste, and Payment of the Ballance due thereon, before any Writ of Execution shall issue upon any Judgment upon such Trial, to the Clerk of the Court where such Trial shall be had; that then and in such Case it shall and may be lawful to award such Writ of Execution for delivering Possession of such *Lands* or *Tenements* to the Persons so suing for the same: *Provided*, That if upon such Trial it shall appear that the Rents and Profits received, or the Value of such Waste committed, or both of them do exceed the Value of the Debt, Interest, Costs, and Damages, and the Value of the Improvements, that Execution shall issue for recovering the said Sum so received in Rents and Profits, or the Value of such Waste committed, beyond the Value of such Debt, Interest, Costs, and Damages, together with the Possession of the *Lands* and *Tenements* so taken in Execution as aforesaid.

Provided nevertheless, That any Debtor or Debtors, or his or her Heirs, upon Payment or Tender of Payment, within Twelve Months after said Second Day of *October*, 1758, of the Consideration-Money really and bona fide paid by the last Purchaser or Purchasers under the Provost-Marshal's Deeds, of any *Lands* or *Houses*, with all Charges for necessary Repairs, or Alterations, shall and may be entitled to recover such *Lands* and *Houses*, so taken in Execution and sold by the Provost-Marshal as aforesaid.

Provided also, That it shall and may be lawful nevertheless, to and for any Debtor or Debtors, or his or her Heirs to have and prosecute an Action of Account, against his or her Creditor or Creditors notwithstanding.

Provided also; That all subsequent Deeds and Conveyances, made and executed by any subsequent Purchaser or Purchasers under the Provost-Marshal's Deeds, since the said Second Day of *October*, 1758, within the Space of One Year only, for any greater Sum than is expressed in such Purchaser or Purchaser's Deed of Assignment, shall and are hereby declared to be null and void to all Intents and Purposes whatsoever.

Provided

⁷ Provided also, That no Sale shall hereafter be made of any Lands or Tenements, by the Provost-Marshal, by Virtue of any Writ of Execution

Effect of
by 21. Geo. 2
sec. 3. c. 2. 1671.
is by
extended
to five
instead of one
witness

Provided also, That neither this Act, nor any Thing herein contained shall extend, or be construed to extend, to bar the Title of any Feme Covert, or Person non compos mentis, imprisoned, or in Captivity; who shall be intitled to sue for and recover any such Lands or Tenements to which they are intitled, within One Year after such Impediment shall be removed. †

And be it further enacted by the Authority aforesaid, That a Resolution or Act of the Governor and Council, dated the Third of February, 1752; concerning the Registry of Lands in this Province, and that all Registers, and all Proceedings thereon, shall be, and the same are hereby ratified and confirmed.

Provided, That the Register of Deeds and Conveyances in this Province shall, for the future, in lieu of any Memorial, register all Deeds and Conveyances in Words at full Length; for which he shall demand and receive such Fees for registering, as in like Manner hath heretofore been allowed: And that upon Proof of one credible subscribing Witness, to the due Execution of such Deed or Conveyance, the same shall accordingly be registered, without any other Ceremony, or Form heretofore used; any former Use, or Custom to the contrary in any wise notwithstanding.

And be it further enacted by the Authority aforesaid, That if any Original Deed shall be lost, and Proof thereof in Court being made, that then the Registry or Record of such Deed or Deeds, shall be allowed to be good Evidence in any Court of Law or Equity. within this Province.

additions to this
a. d. c. 4



An



The Resolution or Act referred to and confirmed in the foregoing Act, is as follows.

I. *N* Council the 3^d. February 1752, Resolved, That a Memorial of all *Deeds, Conveyances, and Mortgages*, which from and after the *First Day of March* next ensuing, shall be made and executed, of, or concerning, or whereby any *Honours, Manors, Lands, Tenements, or Hereditaments*, in the Province of *Nova-Scotia*, may be any ways affected in Law or Equity, shall be registred in such manner as is herein after directed, and that every such *Deed and Conveyance* that shall, at any Time, after the said *First Day of March*, in the Year of our Lord *One Thousand, Seven Hundred and Fifty Two*, be made and executed, shall be adjudged fraudulent and void, against any subsequent Purchaser for valuable Consideration, unless such Memorial thereof shall have been registred as by this Act is directed, before the registering the Memorial of the *Deed or Conveyance*, under which such subsequent Purchaser or Mortgagee shall claim.

That a Memorial of all *Deeds, Conveyances and Mortgages*, which shall have, before the *First Day of March* aforesaid, in the Year of our Lord *One Thousand Seven Hundred and Fifty Two*, been, at any Time, made and executed, of or concerning, or whereby any *Honours, Manors, Lands, Tenements, or Hereditaments*, within the Province of *Nova-Scotia*, may be any ways affected in Law or Equity, shall be registred in such manner, as is herein after directed, and all such *Deeds, Conveyances, and Mortgages*, which shall be omitted to be so registred, shall be null and void against any subsequent Purchaser for valuable Consideration.

That all such *Deeds, Conveyances, and Mortgages*, which shall have been made and executed before the said *First Day of March*, in the Year of our Lord *One Thousand, Seven Hundred, and Fifty Two*, (and which have not been already registred in the *publick Registry* of the Province) of;

concerning

concerning, or which do any ways affect any *Honours, Manors, Lands, Tenements, or Hereditaments*, within the County of *Halifax*, within the said Province, shall be registred in manner as is herein after mentioned, on or before the *Thirtieth Day of April next*: And that all such *Deeds, Conveyances, and Mortgages*, of, concerning, or which do, any ways, affect any *Honours, Manors, Lands, Tenements, or Hereditaments*, within any other Part of the said Province of *Nova-Scotia*, shall be registred in manner as herein after expressed, on or before the *Thirtieth Day of September* next ensuing.

Provided always, That in Case any Person or Persons, possessed of any such *Deed, Conveyance, or Mortgage*, made and executed before the aforesaid *First Day of March* next, shall not be within the said Province, before the Expiration of the respective Terms before-mentioned, such further reasonable Time shall be allowed for the Registering thereof, as the Governor and Council of the said Province shall think fit.

That the Memorials of the *Deeds, Conveyances, and Mortgages*, before-mentioned, shall be registred in the Office of the *public Register* of the Province at *Halifax*.

That all Memorials to to be entered and registred, shall be put into writing, and brought to the said Office, under the Hand and Seal of some or One of the *Grantors*, or of some or One of the *Grantees*, his or their *Heirs, Executors, or Administrators, Guardians, or Trustees*, attested by *two* Witnesses, One whereof to be One of the Witnesses to the Execution of such *Deed, Conveyance, or Mortgage*, which Witness shall, upon Oath before the Register for the said Province for the Time being, or his Deputy, prove the Signing and Sealing of such Memorial, and the Execution of the *Deed, Conveyance, or Mortgage*, mentioned in such Memorials, (which Oath the said Register for the Time being, or his Deputy, are hereby empowered to administer) and the said Register, or his Deputy, shall indorse a Certificate thereof, on every such Memorial, and sign the same.

Provided nevertheless, That if it shall so happen that both or all the Witnesses to any *Deed, Conveyance, or Mortgage*, by this Act required to be registred, shall be dead, or gone out of the Province, before the Expiration of the Time hereby directed for the Registering such *Deeds, Conveyances, and Mortgages*, then the said Memorial to be registred, shall be executed by some or one of the *Grantors or Grantees* named in the Original *Deed, Conveyance or Mortgage*, his or their *Heirs, Executors or Administrators*, in the Presence of *Two* other credible Witnesses, One of which Witnesses to such Memorial shall, on his Oath, before the said Register or his Deputy prove the Signing such Memorial by some or one of such *Grantors or Grantees*, his or their *Heirs, Executors or Administrators*, (which Oath the said Register or his Deputy are hereby empowered to administer,) and the said Register or his Deputy shall indorse a Certificate thereof, on such Memorial and sign the same.

That

That every Memorial of any Deed, Conveyance, or Mortgage, shall contain the Day of the Month, and the Year when such Deed, Conveyance, or Mortgage, bears Date; the Names and Additions of all the Parties to such Deed, Conveyance, or Mortgage, and the Places of their Abode; and shall express or mention the Honours, Manors, Lands, Tenements, or Hereditaments, contained in such Deed, Conveyance, or Mortgage, and the Names of the Parishes, Townships, Hamlets, Precincts, or extra Parochial Places, within the said County, where any such Honours, Mannors, Lands, Tenements or Hereditaments, are lying or being, that are given, granted, or conveyed, or any way affected or charged by any such Deed, Conveyance, or Mortgage, in such manner as the same are expressed or mentioned in said Deed, Conveyance, or Mortgage, or to the same Effect.

And every such Deed, Conveyance, or Mortgage, of which the Memorial is to be registered, shall be produced to the said Register or his Deputy, at the Time of entering such Memorial, who shall indorse a Certificate on every such Deed, Conveyance, or Mortgage, and therein mention the certain Day, Hour and Time, on which such Memorial is so entered, which Certificate, so indorsed, shall also be signed by the said Register or his Deputy.

Which Certificates shall be taken and allowed as Evidence of such respective Registries in all Courts of Record in the said Province, and every Page of such Registry Books, and every Memorial that shall be entered therein, shall be numbered, and the Day of the Month, and the Year, and Hour or Time of the Day, when every such Memorial is registred, shall be entered in the Margin of the said Registry Books, and in the Margins of the said Memorials. And the Register or his Deputy shall keep an Alphabetical Calendar of all Parishes, extra Parochial Places and Townships, within the said County, with Reference to the Number of every Memorial that concerns the Honours, Manors, &c. in every such Parish, extra Parochial Place, or Township respectively, and of the Names of the Parties mentioned in such Memorial. And the Register or his Deputy shall duly file every such Memorial in order of Time, as the same shall be brought to the said Office, and enter or register the said Memorials in the same order as they respectively come to his Hands.

That the Register for the Time being, or his Deputy, shall be allowed, for the Entry of every such Memorial, as is by this act directed to be registred, the Sum of *One Shilling*, and no more, in Case the same do not exceed *Two Hundred Words*; and if more, then after the Rate of *Sixpence an Hundred* for all the Words contained in such Memorial, over and above the *first two Hundred Words*: And the like Fees for the like Number of Words contained in every Certificate or Copy given out of the said Office, and no more; and for every Search in the said Office, *one Shilling* and no more.

That if any Person or Persons shall, at any Time, forge or counterfeit

any Entry of the Acknowledgment of any such Memorial, Certificate or Indorsement, as is herein mentioned or directed to be made, and be thereof lawfully convicted, such Person or Persons shall incur and be liable to such Pains and Penalties, as in and by an Act of Parliament made in the Fifth Year of Queen Elizabeth, (intitl'd *An Act against Forgery of false Deeds and Writings*) are imposed upon Persons for forging and publishing of all false Deeds, Charters or Writings sealed, Court Rolls, or Wills, whereby the Freehold or Inheritance of any Person or Persons of, in, or unto any Lands, Tenements or Hereditaments, shall or may be molested, troubled or charged. And that if any Person or Persons shall, at any Time, forswear him or themselves, before the said Register for the Time being, or his Deputy, in any of the Cases herein mentioned, and be thereof lawfully convicted, such Person and Persons shall incur, and be liable to the same Penalties, as if the same Oath had been made in any Court of Record within this Province.

That in Case of Mortgages whereof Memorials shall be entered in the Register's Office as before mentioned pursuant to this Act, if at any Time afterwards, a Certificate shall be brought to the said Register or his Deputy, signed by the Mortgagee or Mortgagees, his, her, or their Executors, Administrators or Assigns, and attested by Two Witnesses, whereby it shall appear that all Monies, due upon such Mortgage, have been paid or satisfied in discharge thereof, which Witnesses shall, upon their Oaths before the said Register or his Deputy, (who are hereby respectively empowered to administer such Oath) prove such Monies to be satisfied or paid accordingly, and that they saw such Certificate signed by the said Mortgagee or Mortgagees, his, her, or their Heirs, Executors, Administrators, or Assigns, that then and in such Case, the said Register or his Deputy shall make an Entry in the Margin of the said Registry Books, against the Registry of the Memorial of such Mortgagee, that such Mortgage is satisfied and discharged, according to such Certificate to which the same Entry shall refer, and shall afterwards file such Certificate, to remain upon Record in the said Office.

That this Act shall be taken and allowed in all Courts within this Province, as a publick Act, and all Judges, Justices, and other Persons therein concerned, are hereby required to take such Notice thereof, without special pleading of the same.

—————

—————

An ACT for the Reviving and putting in full Force
several of the Resolutions or Acts of His Majesty's
Governors and Council of this Province hereto-
fore made.

B E it enacted by his Excellency the Governor, Council, and
Assembly, and by the Authority of the same, it is hereby
enacted and declared that the several Resolutions or Acts
hereafter Mentioned, and all and singular the Clauses, Ar-
ticles, Directions, Powers, Penalties, Forfeitures, Refe-
rences, Matters and Things, with the Provisional Clauses
and Additions herein inserted, Be and are hereby Revived,
Enacted, and put in full Force for the Term of Two Years from the *Second
day of October One Thousand, Seven hundred and sixty Eight*, and untill
the End of the Sessions of the General Assembly then next after (unless
sooner altered or Repealed) *That is to Say,*

1. *A Resolution or Act*, intituled, an Act that Foreign Debts should not be
pleadable in this Province unless for Goods imported into the Province:
Made the Second of *February*, 1749, in the Twenty Third Year of His
present Majesty's Reign, and Amended and Continued by a Resolution
or Act made the Fourteenth of *January*, 1751.

2. *A Resolution or Act*, intituled An Act that any person or persons Stealing
Cord Wood, Timber or Materials for Building, from the Wharves in Town
or the Beach, shall be compelled to restore Fourfold, made the Fourteenth
of *January* 1750, and amended and explained by a Resolution or Act,
made the Twenty ninth of *April* 1751, and in the Twenty fifth Year of
His present Majesty's Reign.

3. *A Resolution or Act*, intituled An Act that all the Flour imported into
the Province should be sold by Weight, made the Sixth of *March* 1752,
and in the Twenty fifth Year of His present Majesty's Reign.

A Resolution or Act, intituled An Act for the preventing and Extinguishing
fires, made the Twenty ninth of *September* 1752, and in the Twenty
sixth Year of His present Majesty's Reign.

5. *A Resolution or Act*, intituled An Act for the ascertaining Damages upon
Protested Bills of Exchange, made the First of *December* 1752, and in the
Twenty sixth Year of His present Majesty's Reign.

Received by
Geo. S. Nutt
with suspension
for the King's Confirmation
1752
1753
1754
1755
1756
1757
1758
1759
1760
1761
1762
1763
1764
1765
1766
1767
1768
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1780
1781
1782
1783
1784
1785
1786
1787
1788
1789
1790
1791
1792
1793
1794
1795
1796
1797
1798
1799
1800

6. *A Resolution or Act*, intituled An Act for the Relief of Debtors with regard to the Imprisonment of their Persons, made the Sixth of *December* 1752, and in the Twenty sixth Year of His Majesty's Reign.

7. *A Resolution or Act*, intituled An Act that the Proprietors of Lotts of Land should Fence in their Proportion or *Quota* of said Lands, or be subject to an Action on the Case on the failure of the same, made the Twenty second of *December* 1752, and in the Twenty sixth Year of His Majesty's Reign.

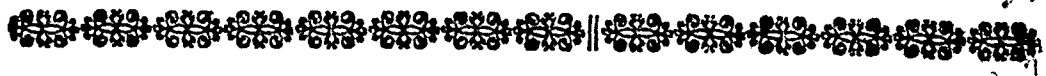
8. *A Resolution or Act*, intituled An Act to prevent the destroying or Stealing Fences within the *Peninsula* of *Halifax*, *Town* of *Dartmouth*, and other Lotts situate in and upon the Harbour of *Halifax* and *Bedford Bay*, made the Twenty sixth of *March* 1753, and in the Twenty sixth Year of His Majesty's Reign, With this Addition that the above Act extend through the whole Province.

9. *A Resolution or Act*, intituled An Act to prohibit the taking away or destroying the *Buoys* laid down in this Harbour for the benefit of *Navigation*, made the Twenty third of *April* 1753, and in the Twenty seventh Year of His Majesty's Reign, with this Addition to said Act, That the Penalty forfeited for Transgressing the same, be One half to the Informer, the other to the uses of the Government.

10. *A Resolution or Act*, intituled An Act to prevent the Exportation of unmerchantable Fish, Lumber &c. and to regulate the Affize of Casks, and for appointing Gaugers, Surveyors, and Cullers, made the Twenty fourth of *October* 1754, and in the Twenty eighth Year of His Majesty's Reign.

11. *A Resolution or Act*, intituled An Act to prevent the Cutting and Splitting of Hydes, made the Fourteenth of *April* 1755, and in Twenty eighth Year of His Majesty's Reign, with this *Proviso*, That so much of the *Preamble* of said Act as relates to the Exportation of Raw Hydes, be excluded.

12. *A Resolution or Act*, intituled An Act to prevent Frauds and Abuses in the sale of Casks of Pork and Beef, made the Fourteenth of *April* 1755, and in the Twenty eighth Year of His Majesty's Reign.



The



R

The several Resolutions or Acts referred to in the foregoing Act, are as follow, viz.

1 *In Council the Second of February, 1749, 50. RESOLVED*, That from this Day to the Second of *February 1750, 1* No Debts contracted in *England* or in any of the *Colonies*, prior to the Establishment of this Settlement, or to the Debtors Arrival here as a Settler, shall be pleadable in any Court of Judicature in this Province, Except for Goods imported or Ordered to be imported into the Province. *In Council the Fourteenth of January 1750, 51. RESOLVED*, That the aforesaid Regulation made by Authority of the Governor and Council of this Province, on the Second day of *February last*, be renewed and continued, and construed to extend to any valuable Consideration (necessary Wearing Apparel of the Person and his Family excepted) imported or ordered to be imported: And that, for the Encouragement of any such Person's Wife and Children, who by their Industry, and Frugality, may be assisting in acquiring any Substance within this Province, in which case it seems reasonable that they should not be utterly deprived of the benefit thereof, and left Destitute upon the Man's Decease: When any such Person shall, at their Decease, leave a Lawful Wife, or Legitimate Children, they shall be intitled to the same Benefit, as to any Estate, Goods, or Chattles of the Deceased, as the Deceased himself had and enjoyed during his Life time by Virtue of this Regulation, and that in such proportion as shall be by him Ordered in his *Last Will and Testament*, or if intestate, as the Law directs in Cases of Intestate Estates; but if, at his Decease, he shall not leave a Lawful Wife, or any Legitimate Child or Children, then his Estate and Effects, (after payment of all Debts contracted within this Province) shall be liable to payment of such Debts, and the Remainder, if any shall be, to his Heir or Heirs at Law.

And in order to prevent evil minded Persons from secretly Conveying their Creditors Effects into this Province, in order to defraud them of their Just Dues, so far as it may be in their power to pay the same; No Person coming into this Province, from this Time forward, shall be intitled to the Benefit of this Regulation, unless he or she shall, upon being sued for such Debt or Debts, make solemn Oath before some Magistrate, that they have not directly, or indirectly, taken any measures whereby to deprive or debar any of their Creditors, from receiving out of their Estate or Effects in any Place whatsoever, the Debts to them due, or such part thereof as the same is sufficient to pay, and if the contrary shall, at any time afterwards be proved against them, they shall be deprived of the Benefit hereof, and be liable to the utmost Rigour of the Law.

2. *In Council the Fourteenth of January 1750, 1. RESOLVED*, That for fraudulently taking any Materials for Building, or Fire Wood, or other Effects, the Property of another Person, from any part of the *Beach, or Streets, or Wharves*, of this Town and Suburbs, or from any Lott of Land granted to any Person in any Place about this Harbour, provided the same be inclosed, or if uninclosed, after Warning given the Proprietor; The Offender, upon Conviction, shall pay Fourfold, or in Case of Refusal or inability to pay the same, shall be Publickly whipt a number of Stripes not exceeding

exceeding *Forty*, as shall be Ordered by the Sessions of the Peace, or Court where the Offender shall be Convicted. And for the better preventing fraudulent Practices of this kind, all such Effects, taken up by Persons who are not the lawful Owners thereof, shall be by the Finder forthwith publicly Advertised, by the Common Cryer, and by Posting up Notifications in the most public Places of the Town, and in Case any Owner shall appear, and Prove his Claim thereunto, before any *Justice of the Peace*, within *Twenty Days* after, he shall have the same restored, paying reasonable Salvage to the Finder.

In Council the Twentyninth of April, 1751. RESOLVED, That (Whereas a Doubt has arisen whether by the late Order of the Governor and Council, of the Fourteenth January last, Persons Convicted of fraudulently taking Effects, the Property of another, from any part of the Beach, or Streets or Wharves of this Town, or from any Lott of Land granted to any Person about this Harbour &c. should upon their Conviction, be liable to pay the Charges of the Protection) such Offender shall, upon Conviction, pay Fourfold the Value of the Effects so taken, and pay the Charges of Prosecution, and further shall be publicly whipt for said Offence, at the Discretion of the Court before whom they shall be convicted; and in Case of their Refusal to make said payment, they shall be imprisoned 'till the Money shall be paid.

3. *In Council the Sixth of March, 1752. RESOLVED, That from and after the Publication hereof, no Person or Persons within this Province, shall presume to Sell, or offer to Sale, any Flour otherwise than by Weight, upon Penalty of Three Pounds for each Barrel of Flour so sold, or offered to be sold, (and in the same proportion for any other Quantity) The said Three Pounds to be for the use and benefit of the Informer, upon Conviction, by the Oath of the said Informer, before any one of His Majesty's Justices of the Peace, to be levied by Distress on the Offenders Goods and Chattels.*

4. *In Council the Twenty ninth of September, 1752. RESOLVED, That when any Fire shall break out in the Town of Halifax, or the Suburbs thereof, Two or Three of the Magistrates of the said Town, shall and may, and are hereby impowered, to give Directions for pulling down or blowing up any such House or Houses, as shall be by them adjudged meet to be pulled down or Blown up, for the stopping and preventing the further spreading of the Fire. And if it shall so happen that the pulling down or Blowing up of any such House or Houses, by the directions aforesaid, shall be the occasion of stopping the said Fire, or that the said Fire shall stop, before it come to the same, That then all and every Owner of such House and Houses, shall receive reasonable Satisfaction, and be paid for the same by the rest of the Inhabitants of the said Town and Suburbs, (to be accounted from the River called *fresh Water River*, to *Mr. Maugers Distilling-House* inclusive) whose Houses shall not be burnt, at such Rate or Rates as shall be thought just, (in proportion to the Value of the Houses that are to be taxed) by the Justices of the said Town and County, in Court assembled at their next Quarterly Sessions; the said Tax to be levied, in case of nonpayment, by Warrant of Distress from the said Justices,*

and

acted by
3-10
Supper
Edin

acted
yes. 3
7.

and for want of sufficient Distress, the Offender to suffer one Months Imprisonment. *Provided always*, That if the House where the Fire did begin, and break out, shall be adjudged fit to be pulled down, or blown up, to hinder the Increase and further spreading of the same, that then the Owner of such House shall receive no manner of Satisfaction for the same, any thing herein contained to the contrary Notwithstanding.

That it shall and may be lawful to and for the Justices of the Peace for the Town and County of *Halsfax*, from Time to Time, annually, to appoint such number of prudent Persons of known fidelity, not exceeding Ten, in the several Parts of the said Town and Suburbs, as they may think fit, who shall be denominated and called *Fire Wards*, and have a proper Badge assigned, to distinguish them in their Office, *viz* A Staff of six Feet in length, coloured *Red*, and Headed with a *bright Brass Spar* of six Inches long: And at Times of the breaking forth of Fire, and during the continuance thereof, shall and are hereby authorized and impowered, to command and require Assistance for the extinguishing and putting out the Fire, and for removing of Household Stuff and Furniture, Goods and Merchandizes, out of any Dwelling Houses, Storehouses or other Buildings actually on Fire, or in danger thereof, and Guards to secure and take care of the same, as also to require Assistance for the pulling down or blowing up of any Houses, or any other Service relating thereto, by direction of two or three of the Magistrates of the Town as aforesaid, to Stop and prevent the further spreading of the Fire, and to Suppress all Tumults and Disorders. And the Officers appointed, from Time to Time, as aforesaid, are required, upon the Notice of Fire breaking forth, (taking their Badge with them) immediately to repair to the Place, and vigorously exert their Authority for the requiring of Assistance, and using their utmost Endeavours to extinguish and prevent the spreading of the Fire, and to preserve and secure the Estate and Effects of the Inhabitants: And due Obedience is required to be yielded unto them and each of them accordingly, for that Service. And all disobedience, neglect, or refusal in any, shall be informed of, to some of His Majesty's Justices of the Peace, within two Days next after, and the Offenders therein, upon Conviction thereof before any two of the Justices aforesaid (*Quorum unus*) shall forfeit and pay the Sum of *Forty Shillings* each, to be levied and distributed by the discretion of such Justices, among the Poor most distressed by the Fire. And in case the Offenders are unable to satisfy the Fine, then to suffer *Ten Days* Imprisonment.

That if any evil minded wicked Persons shall take the Advantage of such Calamity, to rob, plunder, purloin, embezzel, convey away, or conceal any Goods, Merchandize or Effects, of the distressed Inhabitants, whose Houses are on Fire, or endangred thereby, and put upon removing their Goods; and shall not restore, and give Notice thereof to the Owner or Owners, if known, or bring them into such Public Place as shall be appointed and assigned, by the Governour and Council, within the space of two Days next after Proclamation made for that purpose, the Person or Persons, so Offending, and being thereof convicted, shall be deemed Felons, and suffer Death, as in Cases of Felony, without Benefit of Clergy—

Robbing
Felonies
Clergy
Act

*enacted
Geo. 2.*
5. In Council the First of December, 1752. RESOLVED, That all Bills of Exchange drawn before this Day, by Persons resident within this Province, upon Persons in Europe, that are already, or may be hereafter sent back protested, be subject to Ten per Cent. Damages, and Five per Cent. per Annum Interest, from the Day of the Date of the Protest to the Time of Payment.

And all Bills drawn as above, on or after this Day, and sent back protested, be subject to Fifteen per Cent. Damages only,

And all Bills of Exchange drawn by Persons residing within this Province, on Persons in the Colonies, and sent back Protested, be subject to Damages, at the rate of Ten per Cent. per Annum; from the Day of the Date of the Protest, to the Time of payment.

*enacted by
but suspended
King's pleasure*
6. In Council the Sixth of December, 1752. RESOLVED, That if any Person or Persons now charged, or who shall or may hereafter be charged in Execution, for any Sum or Sums of Money, that from and after the Publication hereof, shall be minded to deliver up to his, her, or their Creditors, all his, her, or their Effects, towards the Satisfaction of the Debts wherewith he, she, or they stand charged; It shall and may be lawful to and for such Prisoner to exhibit a Petition to any of the Courts of Law within the said Province, or during the Intervals of the Sitting of such Courts, to any Two of the Justices of any such Courts from whence the Process issued, upon which he, she, or they was or were taken or charged in Execution, certifying the Cause or Causes of his, her, or their Imprisonment, and an Account of his, her, or their whole real or personal Estate, with the Dates of the Securities wherein any Part of it consists, and the Deeds or Notes relating thereto, and the Names of the Witnesses thereto, as far as his, her, or their Knowledge extends therein: And upon such Petition the said Court, or the said two Justices, may and are hereby required, by Order or Rule of the said Court, or by Order under the Hands and Seals of the said two Justices, to cause the said Prisoner to be brought up to the said Court, or before them the said two Justices, and the several Creditors at whose Suit he, she, or they stand charged as aforesaid, to be summoned to appear personally, or by their Attorney, in the said Court, or before them the said two Justices, at a Day to be appointed for that Purpose, and upon the Day of such Appearance, if any of the Creditors summoned, refuse or neglect to appear, upon Affidavit of the due Service of such Rule or Order of the said Court, or Order of the said two Justices, the said Court, or the said two Justices, shall and may, in a summary Way, examine into the Matter of such Petition, and hear what can or shall be alledged on either Side, for or against the Discharge of such Prisoner; and upon such Examination, the said Court, or the said two Justices, may and are hereby required to administer or tender to the Prisoner an Oath, to the Effect following; which Oath the said Court, or the said two Justices, are hereby empowered to administer.

I A. B. Do solemnly swear, in the Presence of Almighty GOD, that the Account by me delivered into

in my Petition to

doth contain a true and full Account of all my real and personal Estate, Debts, Credits, and Effects whatsoever, which I, or any in Trust for me, have, or at the Time of my said Petition had, or am, or was in any respect intitled to, in Possession, Remainder, or Reversion, (except the Wearing-Apparel and Bedding for me or my Family, and the Tools or Instruments of my Trade or Calling, not exceeding Ten Pounds in the whole) and that I have not at any Time since my Imprisonment, or before, directly or indirectly, sold, leased, assigned, or otherways disposed of, or made over in Trust, for myself or otherwise, other than as mentioned in such Account, any Part of my Lands, Estate, Goods, Stock, Money, Debts or other real or personal Estate, whereby to have or expect any Benefit or Profit to myself, or to defraud any of my Creditors to whom I am indebted.

So help me GOD.

And in case the said Prisoner shall in open Court, or before the said two Justices, take the said Oath, and upon such Examination, and his or her taking the said Oath, the Creditors shall be satisfied with the Truth thereof, the said Court, or the said two Justices, may immediately order the Lands, Goods, or Effects contained in such Account, or so much of them as may be sufficient to satisfy the Debts wherewith he or she is or shall be charged, and the Fees due to the Provost-Marshal of the said Province, and the Keeper of the Goal or Prison from which the Prisoner was brought, to be by a short Indorsement on the Back of the said Petition signed by the Prisoner, assigned to the said Creditors, or to one or more of them in Trust for the rest of the said Creditors, and by such assignment the Estate, Interest and Property of the Lands, Goods, Debts, and Effects so assigned, shall be vested in the Person or Persons to whom such Assignment is or shall be made, who may take Possession of, or sue for the same, in his or their own Name or Names, in like Manner as Assignees of Commissioners of Bankrupts, to which Suit no Release of the Prisoner, his or her Executors or Administrators, or any Trustees for him or her, subsequent to such Assignment, shall be any Barr; and immediately upon such Assignment executed, the said Prisoner shall be discharged out of Custody by order of the said Court, or of the said two Justices: And such Order shall be a sufficient Warrant to the Provost-Marshal, Goaler, or Keeper of such Prison, to discharge the said Prisoner, if detained for the Causes mentioned in such Petition, and no other; and he is hereby required to discharge and set him or her at Liberty forthwith without Fee: Nor shall such Provost-Marshal or Goaler be liable to any Action of Escape, or other Suit or Information upon that Account; and the Person or Persons to whom the said Effects shall be assigned, paying the Fees to said Provost-Marshal, Goaler or Keeper of the Prison in whose Custody the Party discharged was, shall and are hereby required to divide the Effects so assigned, among themselves and all the Persons for whom they shall be entrusted, in Proportion to their respective Debts: But in case the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the Oath of such Prisoner before the two Justices as aforesaid, and shall desire further Time to inform himself of the Matters contained therein, and shall insist upon his

or her) being detained longer in Prison at his or their Suit, then the said Justices shall and may remand the said Prisoner, and direct the said Prisoner and the Person or Persons dissatisfied with such Oath, to appear before the Court whence the Process issued as aforesaid, at a certain Day during the Sitting of the said Court then next following such Examination, and to be by them at that Time appointed for the further Examination of the Matters contained in the said Oath, provided the said Person or Persons so dissatisfied, do agree by Writing under his or their Hands, to supply and allow weekly the full Quantity of *Eight Pounds* of good and wholesome Biscuit Bread *per Week*, unto the said Prisoner, to be so supplied and allowed the first Day of every Week, from and after the Time of such Prisoner's being so remanded, until the said Day so appointed for the further Examination of the Truth of the Matters contained in the aforesaid Oath, before the said Court as aforesaid; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith, upon Application to the said Court, or to the said two Justices, be discharged by such Order as aforesaid. But in case the said Prisoner shall refuse to take the said Oath before the said two Justices, or having taken the same, shall be detected of Falstity therein, he or she shall be presently remanded.

That such Judgment, Relief, and Directions by the said two Justices so to be given as aforesaid, shall be as good and effectual, to all Intents and Purposes, as if the same had been made in the Court, out of which the Process issued on which such Prisoner was taken in Execution, and the like Proceedings shall be had thereupon, and a Record of such Judgment shall be made up in the same Form, and return'd and certified under the Hands of such two Justices before whom it shall be made, unto the Court from whence the Process, on which such Prisoner was taken in Execution, issued, to be a Record of the said Court, and to be kept as such amongst the Records there.

That if, on the Appearance of such Prisoner or Prisoners before the said Court as aforesaid, at such second Day so to be appointed by the said two Justices, the Creditor or Creditors of such Prisoner or Prisoners dissatisfied with the Truth of such Oath before the said two Justices, shall make Default in appearing, or in case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner, omitted in such his or her Petition, or to shew any probability of his or her having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his or her being detained longer in Prison at their Suit, and do agree, by Writing under his, her, or their Hands, to supply and allow Weekly the full Quantity of *Eight Pounds* of good and wholesome Biscuit Bread *per Week* unto the said Prisoner, to be supply'd and allowed the first Day of every Week, so long as he or she shall continue in Prison, at his, her, or their Suit as aforesaid; on Failure of the Supply of which weekly Allowance at any Time, the Prisoner shall forthwith, upon Application to the said Court, or during the Interval of such Courts Sitings, to the said two Justices, be discharged by such Order as aforesaid.

That in case on the Appearance of the said Prisoner before any of the said Courts of Law in this Province, on his Petition to them at any time during their Sitting Preferred as aforesaid, the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the said Prisoner's Oath at that Time made, but shall desire further Time to inform himself of the Matters contained therein, the said Court may and shall remand the said Prisoner, and direct the said Prisoner and the Person or Persons dissatisfied with such Oath, to appear at another Day to be appointed by the said Court, some Time within and during their then present Sessions for that purpose; subject in the mean Time, and until such second Day, to the same Allowance to the said Prisoner, by such Person or Persons so dissatisfied with the said Prisoner's Oath, and liable to the like Discharge in case of Default of such Allowance, as is herein before directed, upon Application to the said two Justices as aforesaid; and if at such second Day so to be appointed, the Creditor or Creditors dissatisfied with such Oath, shall make Default in appearing, or in case he, she, or they shall appear, but shall be unable to discover any Estate, or Effects of the Prisoner, omitted in such his or her Petition, or to shew any Probability of his or her having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged, upon such Assignment of his or her Effects in manner as aforesaid, unless such Creditor or Creditors do insist upon his or her being longer detained in Prison at their Suit, and do agree, by Writing under his, her or their Hands, to supply and allow weekly, the Quantity of *Eight Pounds* of good and wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he or she shall continue in Goal at his, her or their Suit; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith, upon Application to the Court, or during the Interval of such Courts Sittings, to any two of the Justices of the said Court, be discharged by such Order as aforesaid. But in case the said Prisoner shall refuse to take the said Oath, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

*And to prevent Persons who may be charged in Execution, from lying in Prison until they have spent their Substance, wherewith they should satisfy their Creditors, and afterwards taking the Benefit of this Act, when they have nothing left to deliver up to their Creditors; That, from and immediately after the Publication hereof, no Person charged or to be charged in Execution, shall be allowed or permitted to exhibit a Petition to any of the Courts of Law in this Province, or to any of the said two Justices of the said Courts from whence the Process issued, as is before provided; unless such Petition be exhibited, if before the Court, within *Four Days* next after the first Meeting of the said Court, which shall be next after such Person shall be so charged in Execution, and: if before the said two Justices, within *Ten Days* next after such Person shall be so charged in Execution.*

Provided always, That tho' the Persons of the Debtor or Debtors so discharged, shall never after be arrested for the same Debt or Debts, yet notwithstanding such Discharge, the Judgment against him or her shall stand and remain in Force, and Execution may be taken out thereon against his

or her Lands, Tenements, or Hereditaments, Goods and Chattels, (his or her Wearing-Apparel, Bedding for him or herself and Family, and necessary Tools for the use of his or her Trade or Occupation, excepted) in the same Manner as if he or she had never been taken in Execution for the said Debt.

Provided also, That if any Person who shall take such Oath as aforesaid, before the said two Justices, or before the said Court as aforesaid, shall, upon any Indictment for Perjury in any Matter or Particular contained in the said Oath, be convicted by his or her own Confession, or by Verdict of *Twelve Men*, as he or she may be by Force of this Act, the Person so Convicted, shall suffer all the Pains and Forfeitures, which by Law be inflicted on any Person Convicted of wilful Perjury, and shall be liable to be taken upon any Process, *De-Nova*, and charged in Execution for the said Debt, in the same Manner as if he or she had never been discharged or taken in Execution before, and shall never afterwards have the Benefit of this Act.

Provided also, That if the Effects so assigned shall not extend to satisfy the whole Debts due to the Persons at whose Suit, he or she was charged, and the Fees due to the said Provost-Marshal or Goaler, there shall be an Abatement in Proportion; and such Provost-Marshal or Goaler shall come in as a Creditor, for what shall be then due to him for his Fees, in proportion with the Creditors at whose Suit he or she was charged in Execution.

That where there are mutual Debts between the Plaintiff and Defendant, or if either Party sue or be sued as Executor or Administrator, where there are mutual Debts between the Testator or Intestate, and either Party, one Debt may be set against the other, and such Matter may be given in Evidence upon the *General Issue*, or Pleaded in Barr, as the Nature of the Case shall require, so as at the Time of his or her Pleading the *General Issue*, where any such Debt of the Defendant, his Testator or Intestate, is intended to be insisted on in Evidence, Notice shall be given of the particular Sum or Debt so intended to be insisted on, and upon what Account it became due; or otherwise such Matter shall not be allowed in Evidence, upon such *General Issue*.

That every Provost-Marshal or his Deputy, Bailiff or other Officer or Minister aforesaid, offending against this Act, shall (over and above such Penalties or Punishments, as he shall be liable unto by the Law now in Force) for every Offence against this present Act, forfeit and pay to the Party thereby grieved, the Sum of *Fifty Pounds*, to be recovered, with *Treble Costs* of Suit, by Action of Debt, Bill, Plaint, or Information, in any of the Courts of Law within this Province, wherein no *Essoign*, Protection, or Wager of Law, or more than one *Impar lance* shall be allowed.

That in all Cases wherein, by this Act, an Oath is required, the Solemn Affirmation of any Person, being a Quaker, shall and may be accepted and taken in lieu thereof, and every Person making such Affirmation, who shall be Convicted of wilful and false Affirming, shall incur and suffer such and the same Pains, Penalties and Forfeitures, as are inflicted and imposed, by the Laws and Statutes now in force, upon Persons convicted of wilful and corrupt Perjury.

That

That this Act, and the several Matters and Things, therein contained, shall continue in force until disapproved of by His Majesty in Council, or be repealed by the Legislature of this Province.

7. In Council the Twenty second of December, 1752. RESOLVED, That all Proprietors of Land be obliged to Fence their Quota; on failure to be liable to an Action on the Case, for the recovery of the Charges of fencing the same. *re-enacted*

8 In Council the Twenty sixth of March, 1753. RESOLVED, That from and after the Publication hereof if any Person or Persons shall cut up, break down, steal, take, carry away, or any other ways destroy, any Fence or Fences or any part thereof, which already are, or shall or may hereafter be erected by the Proprietor or Proprietors of any such Farms, Five Acre Lots, or any other Lots of Land on this Peninsula or otherwise situate as aforesaid, such Offender or Offenders being thereof lawfully Convicted before His Majesty's Court of *General Quarter Sessions of the Peace*, to be held for the Town and County of *Halifax*. shall, by the said Court, be sentenced to be publickly whipped at the common Whipping Post in the said Town, any number of Stripes not exceeding Forty at the discretion of the said Court, and shall likewise be committed to the House of Correction, for the space of *Six Months*, there to be kept to hard Labour, and to receive the Discipline of the said House, in such Manner as by the said Court shall be directed; or otherwise, and until such House of Correction shall be erected, to receive such Corporal Punishment as aforesaid, and be committed to His Majesty's Goal in *Halifax* aforesaid, there to remain for the like space of *Six Months*, without Bail or Mainprize.

9. In Council the Twenty third of April, 1753. RESOLVED, That all Persons whatsoever making fast to the said Buoys, their Vessels, Boats, Rafts, or any other Thing which may possibly tend to destroy the same, or who shall remove, attempt to remove, cut away, or otherwise damage the said Buoys, or any Thing thereunto belonging, shall forfeit and pay the Sum of *Ten Pounds* Sterling, upon Conviction before any one of His Majesty's Justices of the Peace, on the Oath of one or more credible Witnesses, to be levied by Warrant of Distress and Sale of the Goods and Chattels of the Offender or Offenders, and for want of sufficient Distress, such Offender or Offenders to suffer *Six Months* imprisonment and hard Labour.

10. In Council the Twenty fourth of October, 1754. RESOLVED, That from and after the Thirtieth Day of *December* next ensuing, all pickled Fish for Exportation, shall be put in none but full gage Barrels of *thirty two Gallons* at least, being *London Assize*; that the Fish be all of one Kind, well saved, sweet, free from Rust, and close packt, the Barrels tight, and full of sweet and strong Pickle. *Amended*
re-acted

That Herring be free from Oil.

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

That

That Boards shall be full *one-Inch* thick, and no Boards to be exported to any of the Islands or Territories commonly called or known by the Name of the *West-Indies*, but what are square-edged.

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

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

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

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

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

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

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

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

That from and after the said thirty-first Day of *December* next, all Sorts and Kinds of tight Casks used for any *Liquor*, or *Fish*, or any other Commodity within this Province, shall be of *London* Affize. *That is to say*, Butts to contain *One Hundred and twenty-six* Gallons, Puncheons *Eighty four* Gallons, Hogheads *Sixty-three* Gallons, Tercers *Forty-two* Gallons, Barrels *Thirty-two* Gallons, and to be made of sound and well seasoned Timber, and free of Sap; and that fit Persons be appointed from Time to Time in all Places needful, to view and gauge all such Casks, and such as shall be found of due Affize shall be marked with the Gauger's Mark, who shall have for his Pains *Four Pence* per Ton; and every Cooper shall set his distinct Brand-Mark on all Cask made by him, on Penalty of *Forty Shillings*.

And whosoever shall put to sale any new Cask, or any Cask new made up from old Stuff, being deficient either in Workmanship, Timber, or Affize as aforesaid, upon Proof thereof made, by one sufficient Witness, before any one of His Majesty's Justices of the Peace, he shall forfeit such Cask, and be fined and pay the Sum of *Ten Shillings* for every Cask that shall be so found defective, to be levied by Warrant of Distress and Sale of the Offender's Goods, under the Hand and Seal of such Justice, and for
want

want of sufficient Distress to be found, the Offender to suffer Ten Days Imprisonment for every Cask so found defective, provided the said Imprisonment do not, in the whole, exceed the Term of *Three Months*.

That the Grand Jury for the County of *Halifax*, summoned to appear and serve at the Supreme Court, to be held on the last Tuesday in *October*, in and for this Province, shall annually at their said Meeting, and before the Rising of the said Court, nominate and appoint fit Persons to serve in the Town and Suburbs of *Halifax*, and Places thereto adjacent, as Gaugers of Casks, Cullers and Surveyors of dry and pickled Fish, Boards, Staves, Shingles, Clapboards, Hoops and Cord-Wood; and shall report to the said Court the Names of the several Persons by them so nominated and appointed for the Service aforesaid, that they may be sworn by the said Court to the due Execution of their several Offices, which, if any so nominated and appointed shall refuse, he shall pay the Sum of *Forty Shillings*, and another shall be nominated and appointed in like Manner in his stead.

Provided always, That if it shall happen that any one of the Officers so nominated and appointed as aforesaid, should happen to die or misbehave, or depart the Province during the Interval of the Sitting of the said Court, that then another fit Person shall and may be nominated and appointed in his Stead by his Excellency the Governor, Lieutenant Governor or Commander in chief of the said Province for the Time being; such Officer so appointed shall and may be sworn to the due Execution of his Office, before any one of His Majesty's Justices of the Peace, and shall and may continue in and execute such Office, until another shall be appointed by the Grand Jury, at their next Meeting before the said Supreme Court, any thing herein contained to the contrary notwithstanding.

That the Grand Jury to be summoned to appear and serve at the Supreme Court, to be held on the last Tuesday of this present Month of *October*, shall and may, and they are hereby empowered to nominate and appoint the several Officers to be appointed for the Year ensuing, to put this Act in Execution, and such Officers shall and may be sworn by the said Court, to the due execution of their several Offices.

That the Justices of the Peace, at their general Quarter-Sessions of the Peace, to be holden in and for the Town and County of *Halifax* in the said Province, shall yearly, or as often as there shall be Occasion by Means of Death, Misconduct, or Removal out of the Province, in any other Town or Place in the said Province needful thereof, nominate and appoint a fit Person or Persons to serve in such Town or Place as Gaugers of Cask, Cullers and Surveyors of dry and pickled Fish, Boards, Staves, Shingles, Clapboards, Hoops and Cord-Wood, and such Person so nominated and appointed shall and may be sworn to the due Execution of his Office, before any one of His Majesty's Justices of the Peace; and if any Person shall refuse to serve in the said Office, to which he shall be so nominated and appointed, he shall pay the Sum of *Forty Shillings*, and another shall be appointed in like manner in his Stead.

And every Gauger of Cask appointed as aforesaid, shall take care that such Cask by him viewed and marked as herein before directed, be of true and full Assize, and agreeable to the other Qualifications by this Act required, and that he mark no Cask whatsoever defective in any of the aforesaid Particulars, on Penalty of *Ten Shillings* for every Cask so by him marked, that shall be found defective in any of the aforesaid Respects.

And for preventing of Fraud and Deccit in the Packing of pickled Fish to be put to Sale, That in every Town within this Province, where such pickled Fish are packed for Sale, the Surveyor or Surveyors of Fish of such Town, or of the Town where they are put to sale or shipped, shall see that it be well and orderly performed, and that said Fish be packed all of one Kind, and that all Cask so packed be full, and in all other Respects answerable to the Regulations herein specified in that Behalf, setting his Brand or Mark on all Casks so by him examined and surveyed, and he shall receive of the Purchaser or Purchasers of such Fish, for surveying and marking, *One Penny* per Barrel, and *Three Pence* per Mile for his Travel, if out of the Town or Suburbs of *Halifax* aforesaid. And if any such pickled Fish be put to sale or shipped off without the Surveyor's Brand or Mark, they shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

That all sorts of green or pickled Fish, or that shall be put up for Transportation to a Foreign Market, shall be searched, surveyed and approved by the sworn Surveyor, who shall take strict care that the same be in all Respects agreeable to the Regulations herein before-specified, and shall and may open the Head of any one Barrel the Buyer shall chuse for that Purpose, and such as shall be so found good and merchantable, the Surveyor shall mark with such Brand-Mark as shall be assigned to him by the said Court, or by such Justices of the Peace, (where they by this Act are empowered to appoint him) and such other Cut-Mark as may denote the Kind or Fish and Time when packed. And if any Master of any Ship or Vessel, or any Officers or Mariners belonging thereto, shall receive such pickled Fish, not marked and branded as aforesaid, on board any of their Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Fish, and he or they who shall own such Fish shall forfeit the same, or the Value thereof. And if any Cooper or other Person shall shift any Fish, either on Board or on Shore, after the same hath been so marked and branded by the Surveyor, and Ship and Export the same, the Surveyor, not having allowed thereof, and a-new marked and branded the Cask whereinto such Fish shall be so shifted, all Persons acting, ordering, or assisting therein, upon Conviction thereof before any one of His Majesty's Justices of the Peace, by the Oath of one credible Witness, for the first Offence shall suffer *six Months* Imprisonment, for the second Offence *nine Months* Imprisonment, and for the third Offence *twelve Months* Imprisonment without Bail or Mainprize; and shall likewise pay double Damages to the Person wronged thereby. And if any Person or Persons shall presume to counterfeit the Brand-Mark of any Surveyor or Gauger, or Certificate of any Culler; upon due Proof or Conviction, he or they shall incur, forfeit and pay the Sum of *Ten Pounds*, and suffer one Month's Imprisonment.

That

That the Culler of Fish thereto appointed as aforesaid, shall cull all merchantable Fish that shall be sold or exported, and shall have *One Penny* per Quintal for every Quintal of merchantable Fish by him culled, to be paid by the Purchaser or Shipper, and *Three Pence* per Mile for his Travel, if out of the Town or Suburbs of *Halifax* aforesaid, and such Culler shall give a Certificate under his Hand, specifying the Quantity of Fish to be culled by him, and the Name of the Owner, Seller, or Shipper thereof, and of the Time and Place where culled: and if any dry Fish shall be put to sale, or shipped for Exportation, without having been culled by the Culler, or without having such Certificate thereof as before directed, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

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

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

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

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

That all Hoops exposed to sale by Quantities in Bundles, that do not hold out the Number they are so exposed to sale for, unless it appear that some are drawn or shaken out of the Bundle after packing, shall be forfeited: the Charge of surveying and *Three Pence* per Thousand telling, and so in Proportion for a lesser Quantity, being paid thereout. And if any Staves or Hoops shall be delivered upon sale, or shipped for Exportation to any Foreign Market, before they have been surveyed by the Surveyor, and by him found to answer the Descriptions in this Act mentioned, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

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

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

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

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

So help you G O D.

That all Fines, Penalties, and Forfeitures arising by Force and Virtue of this Act, shall be one Half to His Majesty, towards the Support of His Majesty's Government of this Province, and the other Half to him or them that shall inform or sue for the same; to be recovered in Manner following; That is to say, Where the Forfeiture or Value thereof shall not exceed the Sum of *Twenty Shillings*, the same to be recoverable before any one of His Majesty's Justices of the Peace, by the Oath of *one* credible Witness, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justice, and for want of sufficient Distress, such Offender to suffer *twenty Days* Imprisonment; and where the Forfeiture or Value thereof shall amount to above *Twenty Shillings*, but shall not exceed the Sum of *Three Pounds*, then the same to be recoverable before any two of His Majesty's said Justices, upon the like Proof as above, and to be levied by like Warrant under the Hands and Seals of such Justices, and for want of sufficient Distress, the Offender to suffer *sixty Days* Imprisonment; and in case such Forfeiture or the Value thereof shall exceed *Three Pounds*, the same to be recoverable by him or them who shall inform or sue for the same, in any of His Majesty's Courts of Record in this Province.

That this Act be read and published once every Year, at the opening of the *Supream Court*, and also at the opening of the *Court of General Quarter Sessions of the Peace* for the Town and County of *Halifax*.

11. In Council the *Fourteenth* of April, 1755. RESOLVED, That after the Publication hereof, no Butcher whatsoever, by himself or any other Person, shall gash, cut, or split any Hide of Ox, Bull, Steer, or Cow, or any Calf-Skin, in fleaing thereof or otherwise, whereby the same shall be impaired or damaged, on pain of forfeiting the Sum of *Twenty Shillings* for splitting, gashing or cutting any such Hide or Skin. Exp. but
2.

That no Tanner or other Person whatsoever, shall sell, or expose to Sale, any Leather tanned, curried, or otherwise dressed or manufactured within this Province, or imported into the same from any of the neighbouring Colonies, 'till the same has been viewed, stamped, and marked, by the Officer for that Purpose to be appointed and sworn in manner hereafter prescribed, on pain of forfeiting the Sum of *Twenty Shillings* for every Hide or Skin so sold or offered to be sold.

That the Grand Jury for the County of *Halifax*, summoned to appear and serve at the *Supream Court* to be held on the last Tuesday in *April*, in and for this Province, shall annually, at their said Meeting, and before the Rising of the said Court, nominate and appoint two fit Persons to serve in the Town and Suburbs of *Halifax*, and Places thereto adjacent, as Surveyors

ors of all such Hides and Skins; who shall be sworn by the said Court to the due Execution of their Office, in the Words following, *Viz.*

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

So help you G O D.

And every Surveyor so appointed and sworn, shall, from Time to Time, view all such Hides or Skins as aforesaid, and shall stamp and mark all such as he shall find to be sufficiently tanned, curried, or otherwise dressed or manufactured; and if any such Hides or Skins shall have been manufactured within this Province, the same shall be stamped and marked with the first Letter of the Name of the Town wherein they have been so manufactured: And such Surveyor shall be paid for his Trouble in viewing and marking such Hides and Skins at the following Rates, *That is to say, Three Pence for every Ox, Bull, Steer, or Cow-Hide; and for every Calf-Skin One Penny.*

And if any Person or Persons shall presume to counterfeit the Stamp or Mark by this Act required, and shall be thereof convicted, he shall forfeit the Sum of *Ten Pounds.*

That the Justices of the Peace, at their *General Quarter-Sessions* of the Peace, to be holden in and for the Town and County of *Halifax* aforesaid, shall Yearly, or as often as there shall be Occasion by means of Death, Misconduct, or Removal out of the Province, in any other Town or Place in the said Province needful thereof, nominate and appoint a fit Person or Persons in such Town or Place, as Surveyors of all such Hides or Skins; and such Person so nominated and appointed, shall and may be sworn to the due Execution of his Office, before any one of His Majesty's Justices of the Peace: And if any Person shall refuse to serve in the said Office, to which he shall be so nominated and appointed, he shall pay the Sum of *Forty Shillings*, and another shall be appointed, in like manner in his Stead.

All Forfeitures and Penalties arising by Force and Virtue of this Act, to be one Half to the Informer, and the other Half to the Use of the Poor; and to be recovered before any One of His Majesty's Justices of the Peace within this Province, and to be levied, upon due Conviction, by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justice; and for want of sufficient Distress, the Offender to suffer *Twenty Days* Imprisonment.

Were-enacted 12. In Council the Fourteenth of April, 1755. RESOLVED, That all Casks of Pork and Beef which shall be sold, exposed to Sale, or bartered or bargained for in any Way, within this Province, from and after the Publication of this Act, shall contain at the Rate of *two Hundred and twenty Pounds* of nett Meat per Barrel or Cask of *Thirty two Gallons.*

And

And for the better preventing any Deceit or Imposition upon Purchasers, who may be unskilled in the just and proper Methods of packing Meat in Casks for Sale.

That all Persons exposing to Sale, or bartering any Casks of Pork or Beef within the said Province, shall (when so required by the Person or Persons purchasing, bartering or bargaining therefor) suffer the said Cask or Casks of Meat to be opened and inspected by such Person as shall be appointed to, and sworn to Justice and Fidelity in the said Service in manner hereafter prescribed ; which Person shall, after careful Inspection and Examination, ascertain any Deficiency of the before-mentioned Weight, which shall to him appear to be therein.

That all Persons selling, offering to Sale, or bartering away any such Casks of Pork or Beef, shall deduct and allow to the Purchaser thereof at the Rate of One Penny on every Twenty Shillings of the Purchase Money, for each Pound weight of Meat, which shall, upon such Inspection and Examination, appear to be wanting in the said Cask or Casks, at the aforesaid Rate of Two Hundred and Twenty Pounds per Barrel.

That any Person or Persons selling, exposing to Sale, or bartering away any Casks of Pork or Beef within this Province, who shall refuse to suffer such Inspection and Examination, or that shall, after the same may have been made, refuse to deduct and allow to the Purchaser at the Rate herein before-mentioned, for the Deficiency of the Weight thereof, the Person or Persons so offending shall forfeit and pay the Sum of Twenty Shillings for each such Cask.

That the next Grand Jury of the County of Halifax, may and shall, at some Time during the next Sitting of the Supreme Court, nominate some one or more suitable Person or Persons for the Service of inspecting, examining and ascertaining the Deficiency in the Weight of such Cask of Pork or Beef at Halifax; who shall in the said Court, take an Oath for the just and faithful Performance of the said Service, in the Words following, Viz.

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

And that future Grand Juries may and shall, as Occasion may require, nominate other Persons to the said Service, to be sworn at the then next to be holden Supreme Court or Quarter-Sessions. And at the other Ports within this Province, where His Majesty has or shall have Troops or Settlements, the Commanding-Officer for the Time being, in each such Port

Port, may and shall appoint some suitable Person to that Service, who shall take such Oath as before-mentioned, in Presence of the said Commanding-Officer.

That if such Person or Persons as shall be nominated for the aforesaid Service, shall refuse to be sworn thereunto, he or they shall forfeit the Sum of *Forty Shillings* for the Uses of this His Majesty's Government. And if such Person or Persons, after having been nominated and sworn in manner before-mentioned, shall refuse or neglect the said Service when thereunto required, he or they shall (without reasonable Cause appearing for his or their Refusal or Neglect) forfeit the Sum of *Five Shillings* for each Offence, to the Person or Persons aggrieved, and complaining thereof within the Term of *three Days* after the same. The said Offence to be enquired of and determined before any One of His Majesty's Justices of the Peace within the said Province.

That such Person or Persons as shall be nominated and sworn to the aforesaid Service, shall, when employed therein, by any Person or Persons, be paid therefor in manner following, *Viz.*

For a single Cask, *Eight Pence.*

For any other Number not exceeding Ten, *Four Pence Half-Penny* each.

For any Number exceeding Ten, *Four Pence* each.

The same to be paid by the Seller, on each Cask which shall be found deficient in Weight, and by the Purchaser on each Cask which shall be found not deficient in Weight, at the Rate herein before affixed. Any Dispute arising herein, to be enquired of and determined before any one of His Majesty's Justices of the Peace within the said Province.

That all the Penalties and Forfeitures arising by Force and Virtue of this Act (excepting those, the Recovery and Disposition whereof are in the said Act already provided for) shall be divided and disposed of in manner following, *Viz.*

One Moiety for the Use of this His Majesty's Government, and the other Moiety to the Person or Persons who shall inform or sue for the same, and shall be recovered, with Costs, by Action of Debt, Bill, Plaint or Information, in any Court of Record within this His Majesty's Province, in which no Essoign, Protection or Wager of Law shall be allowed.



An ACT for the granting *Bounties* and *Premiums*, on the fencing and improving Lands, raising *Grain, Roots, Hay, Hemp, Flax*, and catching and curing *Fish*.

HEREAS altho' this Colony is unable under its present Circumstances, to provide for the necessary Expence of His Majesty's Government here, yet as the granting of Bounties for the encouragement of Industry &c, may influence many of His Majesty's Subjects to become Settlers in the Province, to the increase of the Wealth thereof. Be it therefore Enacted by the Governor, Council and Assembly, and by the Authority of the same it is Enacted. That the following Bounties and Premiums be paid by the Treasurer of this Province, out of the Monies already granted, or that shall hereafter be granted by the General Assembly, by Duties on Wine, Beer, Rum and other Spirituous Liquors, or any other Duty, which shall be found necessary to be laid, in order to discharge the same, To the Person or Persons producing Certificates in manner hereafter mentioned.

Cap. 6.
Repealed
as to

That the Sum of *Two Shillings and Six Pence* this Currency, be paid by the Treasurer for every Rod of good and sufficient *Stone-Wall*, erected on the *Peninsula of Halifax*, being *Sixteen and a half Feet* long, *Four Feet* in height, and *Two Feet and a half* thick at Bottom; and containing not less than *Twenty Rods*. This Bounty to continue for the space of *Two Years*.

That there be paid; by the Treasurer, the Sum of *Two Shillings*, for every *Gross Hundred Weight* of good and sufficient *English Hay*, which shall be cut and made within the *Peninsula of Halifax*, This Bounty to be continued for *Three Years*.

That there be paid by the Treasurer, the Sum of *Eighteen Pence* for every Bushel of *Wheat, Barley, Rye and Peas*, *Six Pence* for every Bushel of *Potatoes*, and *Three Pence* for every Bushel of *Turnips*, raised upon the Lands of *Halifax, Lunenburg and Dartmouth*. This Bounty to continue for the space of *Two Years only*.

That there be paid by the Treasurer, *One Penny* for every Pound of merchantable *Hemp* (that is to say) Bright, well cured, of *Four Feet* in length, Water rotted, and fitted for the Hatchel; and *One Penny* for every

Pound of merchantable *Flax*, fitted for the Hatchel: said *Hemp* and *Flax* to be raised from the Lands of *Halifax*, *Lunenburg*, and *Dartmouth*. *This Bounty to continue for the space of Two Years.*

And be it further enacted by the Authority aforesaid, That any Person or Persons, who shall claim any of the Bounties or Premiums on Grain, Roots Hemp, Flax, and Hay, or Stone-Wall, shall be obliged to make Oath before any one of His Majesty's Justices of the Peace, that such Grain, Roots, Hemp, Flax and Hay, or Stone-Wall, were raised in this Colony, within the Districts as in this Act are before prescribed, and since the granting the Bounties thereon, and that no part of the said Bounty or Premium has been paid; the Quantity whereof, as also the Number of Rods of Stone-Wall, shall be ascertained by the Oath of Two credible Persons, who saw the same respectively Measured or Weighed: Upon complying wherewith, such Justice is hereby required to give such Person or Persons a Certificate as in this Act is prescribed; upon producing whereof to the Treasurer of this Province, such Bounty or Premium shall respectively be paid, at such Times as hereafter in this Act are respectively prescribed. The Form of which Certificates shall be in the Words (Mutatis Mutandis) following, Viz.

Nova-Scotia, ff

I do hereby Certify, That A. B. of _____ *in the Province aforesaid,*
both complied with an Act of this Province for granting Bounties and Pre-
miums, and that it appeared to me, as well upon the Oath of the said A. B. as
of C. D, and E. F. two credible Persons, that the said A. B. both raised
Bushels of
Pounds of
Rods of Stone-Wall;
within the District of _____ *or* _____ *Hundred*
of Hay within the Peninsula of Halifax, since the granting such Bounties
and Premiums and that no part of the said Bounty or Premium hath been paid.
Given under my Hand this _____ *Day of* _____ *175*
To the Treasurer of }
the said Province. }

That, for the further encouragement of the Fishery in this Province, there shall be paid by the Treasurer, the Sum of Eighteen Pence for every Quintal of-dryed Cod-Fish, Culled and Weighed off, which shall be caught and cured during the Fishing Season by Vessels, the Property whereof shall belong to, and be owned by Persons who shall have resided in this Province for the space of Twelve Months, at the Time of receiving the Bounty; the Crews thereof to consist, at least the one Half of Persons living or residing within the Province, for the space of Twelve Months. The Proof of Fishermen or their Owners residence in the Province, to be by their Oath or other Proof before one of His Majesty's Justices. The Condition on which the Bounty shall be demanded, shall be on the Oath of the Owner, as to the Property, and of the sworn Culler, as to the Quantity. And this Bounty to extend through the whole Province, and to continue for the space of Five Years from the first of January next, with this Proviso, That at the Expiration of the Third Year, there shall be One Shilling only per Quintal

Bounty paid by the Treasurer as aforesaid, for every Quintal of dried Cod-Fish, caught and cured in the Province in manner aforesaid.

That there be paid by the Treasurer, in manner and Form aforesaid, One Shilling per Barrel, for every Barrel of Pickled Mackarel, Herring or Salmon, shipped for Exportation. This Bounty to be continued for Five Years.

And be it further enacted by the Authority aforesaid, That any Person or Persons who shall claim any of the Bounties or Premiums on dried Cod-Fish, pickled Mackarel, Herring or Salmon, shall be obliged to make Oath before any one of His Majesty's Justices of the Peace, that such Cod-Fish were caught during the Fishing Season, by Vessels, the Property whereof is in him or them, and by him or them owned, and that he or they have resided in this Province for the space of Twelve Months, and that the Crews thereof are, at least one Half, of such Persons that have resided as aforesaid for the same Time; and that the same were cured, culled, and Weighed off during the Fishing Season, and were caught, cured, culled, and Weighed off in this Province, since the granting the Bounties and Premiums thereon. And the sworn Culler in said Province, shall likewise swear to the Quantity of Fish by him culled and Weighed off, and by him or them owned as aforesaid; And that he or they have received no part of the Bounties or Premiums thereon. And in like manner any Person or Persons who shall claim any of the Bounties or Premiums on pickled Mackarel, Herring, or Salmon, shall be obliged to make Oath in manner aforesaid, that such pickled Mackarel, Herring, or Salmon, is or was the Property of him or them, who have resided in the Province for the Term aforesaid, and that the same were caught, cured and well packed in good and sufficient Barrels, and by him or them shipped for Exportation in Quantity

Barrels, which Quantity and Quality to be sworn to by the Surveyor. And that the same were caught, cured, packed and shipped in this Province, since the granting the Bounties and Premiums thereon, and that he or they have received no Part of said Bounties or Premiums; and shall bring a Receipt for the Quantity so shipped, from the Shipper thereof: Upon complying wherewith, such Justice is hereby required to give such Person or Persons a Certificate as in this Act prescribed: upon producing wherewith to the Treasurer of this Province, such Bounty or Premiums shall respectively be paid at such Times as hereafter in this Act are respectively prescribed: The Form of which Certificate, shall be in these Words, (*Mutatis Mutandis*) following *Viz.*

Nova-Scotia, ff

I do hereby Certify that A. B. of _____ in the Province aforesaid, hath complied with an Act of this Province for granting Bounties and Premiums, and that it appeared to me, as well upon the Oath of the said A. B. as upon the Oath of C. D. sworn Culler, that the said A. B. hath caught, cured, culled, and Weighed off _____ Quintals of dried Cod-Fish, caught, cured, culled, and Weighed off in the Province, during the Fishing Season, since the granting of such Bounties and Premiums, and no Part of said Bounty or Premium hath been to him paid. And that in like manner the said A. B. (or any other) hath caught, cured, well packed, &c.

in good and sufficient Barrels, and hath produced Receipt thereof from the Shipper thereof, and the Oath of the Surveyor to the Quantity and Quality thereof,

Barrels of pickled Mackarel.
Ditto of Herring.
Ditto of Salmon.

being caught, cured, and packed in this Province, during the Fishing Season, since the granting of such Bounties and Premiums, and that no Part of the said Bounty or Premium, hath been to him paid. Given under my Hand this Day of 175

To the Treasurer of }
the said Province. }

And be it further enacted by the Authority aforesaid, That all Bounties payable by Virtue of this Act, shall be paid on or before the Twenty fifth Day of March Annually; And that all Premiums payable by Virtue of the same, shall be on the Twenty fifth Day of March Annually; and be extended to each District as in the Act mentioned.

And it is further enacted by the Authority aforesaid, That for the further Encouragement of the Fishery, Labour, and Industry, over and above the before mentioned Bounties, there shall be paid by the Treasurer, in manner and form aforesaid, the following Premiums, for the space of Five Years.

To every Person who shall raise the greatest Quantity of merchantable Hemp, on the Lands of Halifax, Lunenburg, and Dartmouth, exceeding Six hundred Weight, the Sum of Six Pounds; and to every Person who shall raise the next greatest Quantity of Hemp, exceeding Four hundred Weight, the Sum of Four Pounds; and to the Person who shall raise the next greatest Quantity of Hemp, exceeding Two hundred Weight, the Sum of Two Pounds. The said Hemp to be bright, well cured, and Water rotted, and fit for the Hatchel. The said Premiums to be paid for the Three first Years, in manner as aforesaid, and for the remaining Two Years, the Quantity to be doubled.

To the Person who shall raise the greatest Quantity of Grain exceeding Fifty Bushels, of any Species, on the Lands of Halifax, Lunenburg, and Dartmouth, the Sum of Five Pounds. This to be paid for the Three first Years, in manner as aforesaid, and for the remaining Two Years, the Quantity to be doubled.

To the Person who shall catch and cure in this Province, under the Restrictions before-mentioned, the greatest Quantity of *Cod-Fish*, exceeding *Seven Hundred Quintals*; the Sum of *forty Pounds*; and to the Person who shall cure the next greatest Quantity of *Cod-Fish*, exceeding *Five Hundred Quintals*, the Sum of *Twenty Pounds*; and to the Person who shall catch and cure the next greatest Quantity, exceeding *Three Hundred Quintals*, the Sum of *Ten Pounds*. The said *Premiums* to be paid for the *Three* first Years in manner as aforesaid; and for the remaining *Two* Years, the Quantity to be doubled.

To the Person who shall catch and cure in this Province, the greatest Quantity of merchantable pickled *Fish* (that is to say) *Mackarel*, *Herring*, or *Salmon*, exceeding *Two Hundred Barrels*, the Sum of *Five Pounds*. The said *Premium* to be paid in manner aforesaid for the first *Three* Years; and for the remaining *Two* Years, the Quantity to be doubled.

An A C T for the better Observation and Keeping of the LORD'S Day.

*E*t it enacted by his Excellency, the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That in order that all Persons may on the *Lord's Day*, apply themselves to Duties of Religion and Piety, both publickly and privately, That no Tradesman, Warehouse-keeper, Shop-keeper, or other Person whatsoever, shall for the future open his, her, or their Shop or Warehouse, or either by himself, or herself, or by his or her Servant or Servants, Child or Children, Sell, expose or offer to Sale, upon any Bulk, Stall or Shed, or send or carry out, any manner of Goods or Merchandize on the *Lord's Day*, or any Part thereof. *Provided* neverth. less, that this Act shall not extend to prohibit any Persons from selling or exposing to Sale, *Milk* and *fresh Fish*, before the Hour of *nine* of the Clock in the Morning, and after *five* of the Clock in the Afternoon, on the said Day.

And be it further enacted by the Authority aforesaid, That no Truckman, Labourer, or other Person whatsoever, for the future, shall do or exercise any Labour, Work or Business of his or their ordinary Callings, or other worldly Labour, or suffer the same to be done by his or their Servant or Servants, Child or Children, either by Land or by Water, (works of Necessity and Charity only excepted) or use, or suffer to be used any Sport, Game, Play, or Pastime, on the *Lord's Day*, or any part thereof; upon pain that every Person or Persons, so offending, in any of the particulars before-

Cap.
Exp.
Keenae

before-mentioned, upon Conviction thereof, upon the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace of this Province, or upon view of any Justice of the Peace, for every such Offence shall forfeit and pay the Sum of *Ten Shillings*.

And be it further enacted by the Authority aforesaid, That no Tavern-keeper, Retailer of Spirituous Liquors, Vintner, or other Person, keeping a Publick-house of Entertainment within this Province, shall for the future, on any pretence whatsoever, entertain or suffer any of the Inhabitants or Town-dwellers of *Halifax*, or any of the Towns respectively where such Tavern-keepers, Retailers of Spirituous Liquors, Vintners, or other Persons keeping Publick-houses of Entertainment respectively dwell, or others not being Strangers or Lodgers in such Houses, or such as come thither for necessary Dieting and Victualling only, to abide or remain in their Dwelling-houses, Out-houses or Yards, drinking, or idly spending their Time on the *Lord's Day*; but shall keep their Doors shut during the Time of Divine Service, on penalty of forfeiting and paying the Sum of *Ten Shillings*, for every Person and Persons respectively so found drinking or abiding in such Publick-houses or dependencies thereof as aforesaid; and every such Person and Persons who shall be found so drinking or abiding in any such Publick-house or dependencies thereof as aforesaid, shall respectively forfeit and pay the Sum of *Five Shillings*:

And be it further enacted, That the Church-Wardens, when any shall be appointed, and the Constables, or any one or more of them, shall once in the Forenoon, and once in the Afternoon, in the Time of Divine Service, walk through the Town, to observe, suppress, and apprehend, all Offenders whatsoever contrary to the true intent and meaning of this Act: And they are hereby Authorized and Impowered, to enter into any Publick-house of Entertainment, to search for any such Offenders, and in case they are denied Entrance, they are hereby impowered to break open, or cause to be broke open, any of the Doors of the said House, and enter therein; and all Persons whatsoever are strictly required and Comanded to be aiding and assisting to any Constables or other Officers, in their execution of this Act, on the penalty of *Ten Shillings*, current Money, for every Neglect.

And be it further enacted by the Authority aforesaid, That if any Person or Persons whatsoever, being of the Age of *Twelve Years* or upwards, being able of Body, and not otherwise necessarily prevented by real Sickness, or other unavoidable Necessity, shall, for the space of *Three Months* together, absent himself or herself, from the publick Worship on the *Lord's Day*, upon Complaint thereof being made to any one of His Majesty's Justices of the Peace, such Justice is hereby required to grant a Warrant, under his Hand and Seal, to apprehend such Offender or Offenders, and to require sufficient Sureties for the Personal appearance of such Offender or Offenders at the next *General Court of Sessions*, then and there to answer such Complaint, and upon Conviction thereof, the Justices of the said Court of *Sessions* may impose a fine of *Five Shillings*, and upon refusal,

or neglect of payment thereof, to levy the same by Warrant of distress, upon the Offenders Goods, or Chattels. And all Ministers, Masters and Governors of Plantations, are hereby strictly required to use their utmost endeavours; that their Wives, Children, Servants, and others under their immediate Government, do not Transgress any of the particulars in this Act mentioned.

All Fines and Penalties incurred by this Act, are to be to the use of the Poor of the Town where such Offence is committed: And the Justice and Justices before whom any Person or Persons shall be Convicted of offending against this Act, are required to make a Record thereof, in a Book to be kept by him or them.

Provided That no Persons shall be prosecuted for any Offence before-mentioned, unless they be prosecuted for the same within Ten Days after the Offence committed.

And be it further enacted, That every Justice of the Peace shall have full Power and Authority, either upon his own view, or other legal Conviction, of any Offender or Offenders against this Act or any part thereof, to levy the Penalties herein before respectively mentioned, in case the same shall not, upon such Conviction, be paid by the Offender or Offenders, by distress of Sale of the Offender or Offender's Goods and Chattels with Costs; and in default of distress, to commit such Offender or Offenders to the common Goal of the County, there to remain in close Confinement for a Time, not exceeding Forty eight Hours, nor less than Twenty four Hours.

Be it further enacted, That this Act shall be publicly read, four Times in every Year, Viz, at the opening of every Court of General Sessions of the Peace, immediately after the Grand Jury are sworn; And also twice every Year, Viz, on every first Sunday of December, and on every first Sunday in June, in all publick Places of Worship within this Province immediately after Divine Service.

This Act to be in Force for the space of Two Years from the Publication hereof.

An A C T directing the Proceedings against forcible Entry or Detainer.

Be it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That upon complaint on Oath, made to any Justice of the Peace of this Province, of any wrongful and forcible Entry made into any Houses, Lands, Tenements, or other Possessions, lying within any Town or Place in this Province, where such Justice resides, or if any wrongful Detainer, or with holding with Force after Possession demanded, of any Houses, Lands, Tenements, or other Possessions, every such Justice, shall, by Warrant under his Hand and Seal, directed to the Constables of such Town, cause such Offender or Offenders to be arrested and detained in Custody, until he, she, or they, find sufficient securities for his, her or their Personal appearance, at the next *General Sessions of the Peace*, there to answer such Complaint, and for want of such security, to be committed to Prison.

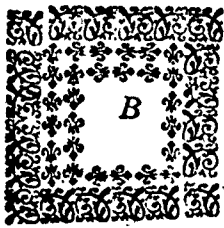
And be it further enacted, That the Justices of the said *General Court of Sessions*, shall have full Power and Authority, by virtue of this Act to enquire by the Oath of the Party grieved, and other credible Proof, as well of him, her, or them as make such forcible Entry into Houses, Lands, Tenements or other Possessions, as of him, her, or them, as detain and hold the same with force as aforesaid: And if it shall be found by the Jury, then and there returned and Sworn, that a forcible Entry is made into any Houses, Lands, Tenements or Possessions, or that the same are detained and held with force as aforesaid, then the said Justices, by Warrant under the Hand of the Clerk of the said Court, directed to the ~~Provoost Marshal or his Deputy~~, shall cause the same Houses, Lands, Tenements or other Possessions, within *fourteen Days* after such Trial had, to be re-seized, and thereof the Party to be again put into Possession, who in such sort was put out or holden out, wherein no Appeal shall be allowed to such Offender or Offenders. And moreover the Party grieved shall and may by Action of Trespass, recover treble Damages and Costs of suit against such Offender or Offenders, any Law, Usage or Custom to the contrary *notwithstanding*.

Provided

Provided always, That this Act shall not extend or be construed to extend unto any Person or Persons, that have had the Occupation, or have been in quiet Possession of any Lands, Tenements or Possessions, by the space of *three* whole Years together next before, and his, her, or their Estate or Estates therein not ended or determined.



An A C T to prohibit the Erecting of Distilling-houses, or setting up Stills within the Town of *Halifax*, or within one Quarter of a Mile of the present Lines or Pickets of the said Town.



E it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the Publication hereof, no Person or Persons whatsoever, shall erect any Distilling-houses, or set up any Stills for distilling of Cordial Waters, or any Spirituous Liquors, within the Town of *Halifax*, or within one Quarter of a Mile of the present Lines or

Pickets of said Town; on pain of forfeiting the Sum of *One hundred Pounds*, for every Still so set up, and Distilling-house so erected; to be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record within this Province; one fourth part to the Informer or Prosecutor, the remainder to the Uses of the Government; and the said Stills shall be deemed and adjudged to be a publick Nuisance, and shall be accordingly removed.



M

An



An ACT for the granting to His Majesty, an Excise upon *Wine, Rum, and other distilled Spirituous Liquors* sold by retail.

10.
Ad.

W H E R E A S by an Act of the Governor, Council, and Assembly, intituled, An Act for the granting Bounties and Premiums, on the fencing and improving Lands, raising Grain, Roots, Hay, Hemp, Flax, and catching and curing Fish, certain Bounties and Premiums are thereby promised for the encouragement of Labour and Industry; In order therefore to render the Fund for the payment of the same more effectual, We do hereby grant unto His most Excellent Majesty, His Heirs and Successors, an Excise upon *Wine, Rum, and other distilled Spirituous Liquors,* sold by retail.

And be it accordingly enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the fifth Day of December, one Thousand seven Hundred and Fifty eight, for the Term of two Years, every Person, licenced for retailing *Wine, Rum, and other distilled Spirituous Liquors,* shall pay the Duties following, (*that is to say,*) for all *Rum, Wine, or other distilled Spirituous Liquors* by them sold, mixt. or unmixt, after the rate of *nine Pence* per Gallon,

And be it further enacted, that all Persons licenced to retail *Wine, Rum,* or other distilled Spirituous Liquors, shall deliver in Monthly, to such Person as shall be appointed by his Excellency the Governor to receive the same, a just Account, upon Oath, of the Quantity of *Wine, Rum* and other distilled Spirituous Liquors sold, during the Month then last past, by them or any Person or Persons under them or by their Orders, sold and delivered, mixt or unmixt, and shall, at the same Time, pay to the Person appointed to receive the same, the Duty due thereon; which Oath such Person is hereby impowered to Administer in the following Words.

a.
he
26
ded

YOU A. B do swear that the Account now delivered in by you, contains a just and true Account of all the Wine, Rum, or other distilled Spirituous Liquors, that has been sold by you, or any Person or Persons, under you, or acting for you, or by your Orders, between the Day of
and the Day of mixt or unmixt,
to the best of your Knowledge and Remembrance.

So Help you GOD.

And be it further enacted, That the Collector to be appointed to take Charge of this Duty of Excise, shall have Power to inspect the Houses of all such as already are, or shall hereafter be Licenced, to take an Account from Time to Time, at his Discretion, of all Wine, Rum, or other distilled Spirituous Liquors, in the Possession of such licenced Person or Persons, in order the better to ascertain the Justice of their Monthly Accounts. And the said Collectors are hereby also empowered to enter the Houses of all Persons suspected of selling without Licence, for the better discovery of any Sale by Retail without Licence, that the Offenders may be prosecuted and punished according to Law.

And be it further enacted, That such Collector or Collectors, shall for the faithful Execution of his Office and of this Act, before the Treasurer of this Province, if at *Halifax*, and if at any other distant Place, before the commanding Officer at such Place, take the following Oath; which Oath they are hereby respectively empowered to Administer.

YOU A. B do swear that you will diligently and faithfully discharge the Office of Collector of Excise, according to the Tenor of an Act intituled, An Act for granting unto His Majesty an Excise upon Wine, Rum, and other distilled Spirits sold by Retail.

So Help you GOD.

And that said Collector or Collectors shall, by virtue of the above Oath, exhibit to the Treasurer an Account of all Monies by him or them received, distinguishing the Names of the Persons from whom he, or they, collected the respective Duties as aforesaid. And all such Collector or Collectors, so appointed, shall pay into the publick Treasury of this Province, all such Sum or Sums of Money as they shall respectively receive, arising from the aforesaid Duties, within thirty Days after the end of the first Quarter, which is to commence from the said fifth Day of December next; and so from Time to Time every three Months, as long as they shall continue in said Office: And that each Collector before he enters into the said Office, shall give Bond with sufficient security in the penal Sum of three Hundred Pounds, to be paid to His Majesty or his Successors, unless he shall faithfully discharge his Duty; and duly pay in or remit the Money that he shall collect, to the Treasurer of the Province for the Time being, before it shall be lawful for any Collector to exercise his said Office; and the said Treasurer shall put in writ, the Bonds of all such Collectors who neglect to make due payment every three Months.

And

And be it further enacted, That it shall be lawful for such Collectors to make an Allowance of *Ten per Cent*, for Leakage and Wastage of all Rum, Wine, or other distilled Spirituous Liquors, to any Tavern-keeper, common Victualer and Retailer.

And whereas, it has been thought necessary by His Majesty's Governors and Council of this Province, by several Resolutions or Acts before the calling a General Assembly, to lay a Duty of six Pence per Gallon on all Rum and other distilled Spirituous Liquors sold by retail within the Province, which Duty enabled them to grant Bounties and Premiums, from Time to Time, for clearing and fencing of Lands, catching and curing of Cod-fish, and other necessary encouragements to Labour and Industry, Be it therefore enacted, That all Proceedings by virtue of the said Resolutions or Acts, shall be, and are hereby ratified and confirmed: And all and every Person or Persons who now are, or on the *fifth Day of December* next aforesaid, may be indebted or in Arrear by virtue of the said Resolutions or Acts, shall forthwith Account with and pay to the Collectors respectively, all such Arrears; and in default thereof, the several Bonds entered into by them and their Sureties respectively as a security for the payment of the said Duty, shall and are hereby declared to be forfeited, and the same shall be put in suit against them or their Sureties accordingly.



An ACT for the Establishment of *Religious Publick* Worship in this Province, and for suppressing of *Popery*.

FOR AS MUCH as His Majesty upon the Settlement of the Province, was pleased, in his Pious concern for the Advancement of GOD's Glory, and the more decent Celebration of the Divine Ordinances amongst us, to erect a Church for Religious Worship, according to the usage of the Church of England; In humble Imitation of His Royal example, and for the more effectual attainment of His Majesty's Pious intentions, that we might in the exercise of Religious Duties, be seeking for the Divine Favour and Protection, Be it therefore enacted by his Excellency the Governor, Council, and Assembly, That the Sacred Rites and Ceremonies of Divine Worship, according to the Liturgy of the Church established by the Laws of England, shall be deemed the fixed Form of Worship amongst us, and the Place wherein such Liturgy shall be used, shall be respected and known by the Name of the Church of England as by Law established. And that for the preservation of Purity and Unity of Doctrine and Discipline in the Church,

and the right Administration of the Sacraments, (no Minister shall be admitted to officiate as a Minister of the *Church of England*, but such as shall produce to the Governour, a Testimonial, that he hath been licenced by the *Bishop of London*, and shall publickly declare his Assent and Consent to the Book of *Common Prayer*, and shall subscribe to be conformable to the Orders and Constitutions of the *Church of England*, and the Laws there established; upon which the Governour is hereby requested to induct the said Minister into any Parish that shall make Presentation of him. And if any other Person pretending himself a Minister of the *Church of England*, shall, contrary to this Act, presume to teach or preach publickly or privately, the Governour and Council are hereby defined and impowred to suspend and silence the Person so offending,

Provided nevertheless, and it is the true Intent and meaning of this Act, That Protestants, dissenting from the *Church of England*, whether they be *Catharists*, *Lutherans*, *Quakers*, or under what Denomination soever, shall have free liberty of Conscience, and may erect and build Meeting-houses for publick Worship, and may choole and elect Ministers for the carrying on Divine Service and Administration of the Sacraments, according to their severall Opinions; and all Contracts made between their Ministers and their Congregations for the support of the Ministry, are hereby declared Valid, and shall have their full Force and Effect, according to the Tenor and Conditions thereof; and all such Dissenters shall be excused from any Rates or Taxes to be made and levied for the Support of the Established *Church of England*.

And be it further enacted, That every *Popish* Person, exercising any Ecclesiastical Jurisdiction, and every *Popish Priest* or Person exercising the Function of a *Popish Priest*, shall depart out of this Province on or before the *Twenty fifth Day of March*, 1759. And if any such Person or Persons shall be found in this Province after the said Day, he or they shall, upon Conviction, be adjudged to suffer perpetual Imprisonment; and if any Person or Persons so Imprisoned, shall escape out of Prison, he or they shall be deemed and adjudged to be guilty of *Felony* without Benefit of Clergy.

And be it further enacted, That any Persons, who shall knowingly harbour, relieve, conceal, or entertain any such Clergyman of the *Popish Religion*, or *Popish Priest*, or Persons exercising the Function of a *Popish Priest*, shall forfeit *fifty Pounds*, one Moiety to His Majesty for the support of His Government in this Province, and the other Moiety to the Informer, and shall be also adjudged to be set in the Pillory, and to find Sureties for his good Behaviour at the Discretion of the Court.

And be it enacted, That every Offence against this Act, shall and may be inquired of, heard and determined, at His Majesty's *Supream Court*, *Court of Assize*, and *General Goal Delivery*, or by a special Commission of *Oyer and Terminer*.

And be it further enacted, That it shall and may be lawful for any Justice of the Peace, upon Information by Oath, or any reasonable Cause of Suspicion, to issue his Warrant for apprehending any such *Popish Ecclesiastic*.

ecclesiastical Person, Popish Priest, or Person exercising the Function of a Popish Priest, or any Persons knowingly harbouring, relieving, concealing or entertaining, them or any of them, and to commit any such Person or Persons respectively, who shall so offend against this Act, to His Majesty's Goal for Trial as aforesaid, and to require Sureties for the Appearance of the Witness or Witnesses, against any Offender or Offenders, u. o. t. t. Trial, and to make Return of his Proceedings to such Court on the Information of such Witnesses, and the Examination of any Offender or Offenders.

Provided nevertheless, That this Act shall not extend, or be construed to extend to any such Romish Ecclesiastical Persons, who shall be sent into the Province as Prisoners of War, or who shall by Shipwreck or any other Distress or Necessity, be driven into the Province, so as that such Prisoners of War do not escape before they can be sent out of the Province, or that such Persons arriving through Necessity as aforesaid, depart out of the Province as soon as there may be Opportunity, and that they also forthwith after their arrival, attend the Governor or Commander in chief of the Province for the Time being, if near the Place of his Residence, or otherwise a Justice of the Peace, and represent the Necessity of their Arrival, and obey such Directions as the said Governor, Commander in chief, or Justice shall give them for their Departure, and so as that neither the said Prisoners of War, nor the said Persons arriving through such Necessity, shall exercise any Ecclesiastical Jurisdiction, or any part of the Function of a Popish Priest, during his or their Abode in the Province, in which Case he or they shall be liable to the Penalties of this Act.

An ACT for Establishing and Regulating a
MILITIA.

W *H E R E A S* by His Majesty's Royal Instructions to his Excellency the Governor of this Province, he is directed to cause a Militia to be established as soon as possible: AND WHEREAS the Security and Preservation of this Province greatly depends upon the said Militia being put into Methods, and under such Rules as may make the same most useful for the Support and Defence thereof, and that the Inhabitants should be well armed and trained up in the Art Military, as well for the Honour and Service of His most Sacred Majesty, and the Security of this His Province, against any Violence or Invasion whatsoever, as for the Preservation of their own Lives and Fortunes, and that every Person may know his Duty herein, and be obliged to perform the same:

Cap. 12
Amended

B *E* it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the first Day of December, 1758. All Male Persons, Planters, and Inhabitants and their Servants, between the Ages of Sixteen and Sixty, residing in and belonging to this Province, shall bear Arms and duly attend all Musters and Military Exercises of their respective Companies where they shall be enlisted or belong, allowing three Months Time to every Son after coming to sixteen Years of Age, and every Servant so long after his Time is out, to provide themselves with Arms and Ammunition.

And the Clerk of each Company, once a Quarter Yearly, shall take an exact List of all Persons living within the Precincts of such Company, and present the same to the Captain or chief Officer, on pain of forfeiting Forty Shillings for each Default, to be paid to the Captain or chief Officer to the Use of the Company, and in Case of Non-payment to be levied by Distress and Sale of the Offenders Goods, by Virtue of a Warrant from the Captain or chief Officer, who is hereby empowered to grant the same.

That every Person enlisted in any Company, shall so continue and attend all Duty in such Company, or otherwise suffer the Penalty by Law provided, until orderly dismissed or removed out of the Town or Precinct of such Company, and in Case of Removal into the precinct of another Company in the same Town, to produce a Certificate under the Hand of the Captain or chief Officer of the Precinct whereunto he is removed, that he is enlisted there

Any Person liable to be enlisted as aforesaid, do exempt himself by shifting from House to House or Place to Place, to avoid being so enlisted, he shall pay as a Fine for every such Offence, to the Use of the Company to which he properly belongs, *Ten Shillings*, being thereof convicted before any one of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed.

That every Militia enlisted Soldier and other Householder residing as aforesaid, shall be always provided with proper and sufficient Fire Arms, consisting of a Musket, Gun, or Fuzil, not less than *three Feet* long in the Barrel, two spare Flints, and Twelve Charges of Powder and Ball suitable to their respective Fire Arms, and to the Satisfaction of the Commission-Officers of the Company to which he belongs, on Penalty of *Forty Shillings* for want of such Arms as is hereby required, and *Two Shillings* for each other defective Appurtenant, and the like Sum for every *Four Weeks* he shall so remain unprovided or deficient: The Fine to be paid by Parents for their Sons under Age and under their Command, and by Masters or Heads of Families for their Domesticks or Servants, other than Servants upon Wages; to be levied on the Goods and Chattels of the Offender or Offenders, their Parents or Masters, by Warrant under the Hand and Seal of one or more of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed, and for want of sufficient Distress, such Offender or Offenders to suffer *one Month* Imprisonment and hard Labour.

That Regimental Musters shall be made once in every *Six Months*, or as often as shall be required by the Governor or Commander in Chief of this Province for the Time being, and every Captain or Chief Officer of any Company or Regiment, shall be obliged, on Penalty of *Five Pounds*, to draw forth his Company, or cause them to be drawn forth once every *Three Months* and no more, to exercise them in Motions, the Use of Arms, and Shooting at Marks, or other Military Exercises, which every Person liable to be trained, having *three Days* Notice thereof, and not appearing and attending the same, shall, for each Day's Neglect, pay a Fine of *Five Shillings*.

That the Commission Officers of any Company, or the major Part of them, may order the correcting and punishing Disorders and Contempt on a Training Day, or on a Watch; the Punishment not being greater than Commitment to hard Labour, not exceeding *Forty Eight Hours*, or *Five Shillings* Fine.

That there be *Military Watches* appointed and kept at such Times, in such Places, in such Numbers, and under such Regulations, as the Governor or Commander in Chief of this Province for the Time being shall appoint; and that all Persons able of Body, and that are of Age, shall by themselves, or some proper Person in their Stead, to the Satisfaction of the Commanding Officer of the Watch, attend the same, on Penalty of *Ten Shillings* for each Defect, there having been due Warning given.

Every

Every Militia Soldier or other Person liable by Law, refusing or neglecting to attend Military Exercises on Training Days, or Military Watches, that shall not pay or have any Estate to be found whereon to levy the Fine, it shall be in the Power of the Captain or chief Officers of such Company, on the next Training Day after such Neglect, (he not having satisfied the Clerk) to punish him for such Offence by Commitment to hard Labour, not exceeding *Five Days*; and if such a Delinquent shall absent himself the *Second Day*, without giving sufficient Reason to the Captain or chief Officer for such Absence, it shall be in the Power of the chief Officer of the Company to direct a Warrant to any of the Constables of the Town wherein the said Offence shall be committed, requiring him to apprehend such Delinquent, and bring him into the Field, that he may be punished as by this Law is provided; and all Constables are hereby required to execute such Warrants accordingly.

That the Persons hereafter named be exempted from all Trainings, except such as shall receive Commissions in the Militia, *viz.* The Members of His Majesty's Council, the Members of the Assembly for the Time being, the chief Justice, and other Judges of Courts, Justices of the Peace, Attorney General, Treasurer of the Province, Register of the Province, chief Surveyor of Lands, Naval-Officer, and his Deputy or Clerk, the Secretary, Ministers, Provost-Marshal, Field Officers, the Collector and Surveyor of His Majesty's Customs, and the Waiter, constant Ferry-Men, one Miller to each Grist-Mill, constant Herdsmen, and Lame Persons or otherwise disabled in Body, producing a Certificate thereof from two able Chirurgeons.

That the Members of His Majesty's Council be, and hereby are exempted from Military Watches and Warding.

That the Captain and Commission Officers of each Company, shall and hereby are fully impowered to nominate and appoint proper Persons to serve as *Serjeants* and *Corporals* in their respective Companies, and to displace them and appoint others in their Room, as they shall see Occasion.

That twice every Year, or oftner if required, every Captain or chief Officer of each Company, shall give Order for a diligent Enquiry into the State of his Company, and for taking an exact List of the Names of his Soldiers, and other Inhabitants within the Limits of his Company, and of the Defects of Arms or otherwise, and Names of the defective Persons, that they may be prosecuted as the Law hath provided, and that such Care may be taken as is proper to remedy the same.

That if any Person who is by Law obliged to provide Arms and Ammunition, cannot purchase the same by such Means as he hath, if he bring to the Clerk of the Company the full value thereof, according to the Apprisement of the Clerk and two other Persons mutually chosen, he thereupon shall be excused from the Penalties for want of Arms and Ammunition, until he can be provided, which the said Clerk shall provide as soon as may be, by Sale of such Goods, and render the Overplus, if any be; but the Party shall notwithstanding give his personal Attendance upon all Occasions.

Occasions as other Militia Soldiers until he be supplied, and at such Times shall perform any proper Service he may be put upon by the Captain or chief Officer of the Company he belongs to: But if the Person be adjudged unable to buy Arms, or to lay down the Value proposed, if he be a single Man, he shall be put out to Service by any two of His Majesty's Justices of the Peace, to earn wherewith to buy Arms and Ammunition.

That such proper Person as by the Commission Officers of any Company shall be appointed Clerk, and shall refuse to serve, shall pay *Forty Shillings* Fine, and another be chosen in his Room, and so until one do accept; which Person shall be under Oath for the faithful Discharge of his Office, to be administered unto him by a Justice of the Peace of the County, in the Words following.

*Y*O U do swear truly to perform the Office of Clerk of the Military Company under the Command of A B Captain, to the utmost of your Skill and Power, in all Things appertaining to your Office according to Law.

So help you G O D.

And for every Distraint made for any Fine not exceeding *Forty Shillings*, he shall have one Quarter Part for his Pains and Trouble, and for such Fines he may distrain *ex officio*, and in such Distrets shall observe such Rules as the Law hath provided in other Cases; and upon *Ten Days* Notice shall account with, and pay the Captain or chief Officer what Fines he hath received, his own Part being deducted.

The chief Military Officer of the Regiment, as often as he shall see cause, shall require the Captain or chief Officer of each Company in the Regiment, to meet at such Time and Place as he shall appoint, and there with them, to confer and give in charge such Orders as shall by them, or the major Part of them, be judged meet for the better ordering and setting their several Companies, and for the better promoting Military Discipline amongst them; and the chief Officer is hereby Impowered by his Warrant directed to any Clerk or Officer of his Regiment, to summon or cause to be brought before them any Offender against this Act, and according to Law to hear and determine all Matters proper for their Cognizance, and to give Sentence, and to grant Mittimus or Warrants of Distrets to the Clerk of the Company where the Offence is committed; for executing which Warrant, if above *Forty Shillings* he shall have *Ten Shillings* out of the same for his Pains and Trouble therein, and no more.

That no Clerk *ex officio* make Distraint for any Fine until *six Days* after the Offence committed, that so the Party may have Opportunity to make Excuse, if any he hath, why he should not pay the Fine, and every Clerk that neglects or refuses to account or make Payment as by this Law is provided, he, by a Warrant from the chief Officer of the Company directed to the Constable, may be distrained on for so much as he hath or should have collected or distrained for.

That all Officers yield Obedience to the Warrants or Commands of their superior Officers, on Penalty of *Five Pounds*, to be heard and determined at the next Meeting of the chief Officers and Captains of the Regiment, and the Fine to be taken by Distress and Sale of the Offender's Goods, (returning the Overplus if any be) by Warrant from the chief Officer of the Regiment, directed to the Clerk of the Company to which such Offender belongs, and to be applied to the Use and Benefit of such Company as the Officers so met shall agree, their Expences being first defrayed out of the same, not exceeding *Twenty Shillings*.

That an Alarm at the Citadel in the Town of *Halifax*, being made upon such Causes as are agreeable to Instructions to be given by the Governor or Commander in chief for the Time being, to the Officer commanding at the said Citadel, shall be by firing a Beacon at the Summit of the Citadel Hill, or such other Place as the Governor or Commander in chief for the Time being shall hereafter appoint, and by firing four Guns at the Parade in the said Town of *Halifax*, or at such other Place as the Governor or Commander in chief for the Time being shall appoint, distinctly one after the other, and also by firing four Guns at *Georges Island*, distinctly one after the other, and at the Distance of *Five Minutes* after the Firing the Four first mentioned Guns at the Parade, or such other Place as aforesaid, all Persons being called up to Arm, upon which all the trained Officers, Soldiers, and others capable to bear Arms, that are then resident in the said Town, Suburbs, or Peninsula of *Halifax*, in case the Alarm should be made, shall forthwith appear compleat with their Arms and Ammunition according to Law, at such Place or Places of Rendezvous as may from Time to Time, be appointed by the Governor or Commander in chief for the Time being, there to attend such Commands as shall be given for His Majesty's Service, and That, on the Penalty of *Five Pounds*, or *Three Months Imprisonment*. The Members of His Majesty's Council, Justices, and Provoost-Marshal to attend upon his Excellency the Governor, if at *Halifax*, and in other Places to appear and advise with the chief Military Officers of the Place where such Alarm shall be made, and to be assisting in His Majesty's Service according to their Quality. And if any Person shall wilfully make any false Alarm, he shall be fined to His Majesty *Fifty Pounds*, for Support of the Government, or suffer *Twelve Months Imprisonment*. And all Alarms in other Parts of the Province, to be according to Instructions given by the Governor or Commander in chief for the Time being, to the Officers Commanding there.

And for the better preventing of false Alarms, *Be it further enacted by the Authority aforesaid*, That no Captain, Master or Commander of any Ship or Vessel, riding at Anchor or being within the Harbour of *Chebuoto*, or any other Person or Persons whatsoever, either afloat or on shore, within the Town, Suburbs, or Peninsula of *Halifax*, the Town or Suburbs of *Dartmouth*, or Places adjacent, shall presume to fire any Guns or small Arms, or beat any Drum, after Sunset, unless on some lawful Occasion, under the Penalty of *Forty Shillings* for every Gun or small Arm so fired or Drum beaten, to be levied by Warrant from any one of His Majesty's Justices of the Peace for the County of *Halifax*, (who is hereby empowered to issue the same and to give Judgment thereupon) by Distress and Sale of the Offender's Goods, and for want of such Distress, to commit such Offender to the Goal, there to remain until Payment be made of the same.

Provided

Provided always, That this Clause shall in no wise be construed to extend to any Captain or other Officer of any of His Majesty's Ships of War for their firing at setting the Watch, nor to any of His Majesty's Troops on Shore or on Board, in the Execution of their Duty.

That all Persons exempted by this Law from Training, shall, notwithstanding, be provided with Arms and Ammunition compleat, upon the same Penalty as those that are obliged to Train.

Provided, That no Person or Persons whatsoever shall be sued, prosecuted, or his Goods and Chattels liable to any Seizure by Virtue of any Clause in this Act before-mentioned, but within the Space of *Three Months*, after the committing the respective Facts hereby made Offences, and not at any Time after the said *Three Months*.

All Fines, Penalties, and Forfeitures arising by Virtue of this Act or any Breach thereof, (not otherwise disposed of therein) shall be for the Use of the Regiment or Company respectively wherein the same doth arise, (*that is to say,*) for the procuring and repairing Drums, Colours, Banners, Halberts, pay of Drummers, or other Charge of the said Company, and the Overplus, (if any be) to be laid out in Arms and Ammunition for a Town Stock: and be recoverable by Action, Bill, Complaint, or Information in any of His Majesty's Courts of Record.

And it is hereby humbly requested of his Excellency the *Captain General*, by the Assembly, *And be it enacted,* That whilst there is a sufficient Number of regular Troops within the Town of *Halifax*. for its Defence, the *Militia* of the Town shall be spared from Watching and Warding without the Picketted Lines of the Town.



An





An ACT for Establishing the Rate of *Spanish Dollars*, and *the Interest* of Money within this Province.

Be it enacted by his Excellency the Governour, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the first Day of January, which shall be in the Year of our Lord One Thousand seven Hundred and Fifty nine, all Spanish Dollars, (that is to say) Seville, Pillar, and Mexico Pieces of Eight, Weighing seventeen Penny halt Penny Weight, shall be a Tender at Five Shillings, in payment of all Debts and Contracts that have been, or shall, after the said first Day of January, be made within this Province, where there shall be no special Agreement to the contrary.

Cap.
Res.
Act
Hist.
in
Cous

And be it further enacted, That in any Debt or Contracts, whereon Interest arises, and may, by Law, be demanded and recovered, No greater Sum than Six Pounds by the Hundred for the Year, and so in proportion for a less Sum, shall be allowed in any Court of Law or Equity; and all Contracts, Mortgages, Bonds, and Securities, for any higher Interest, shall be Null and Void.

Provided That nothing in this Act, shall Extend to Maritime Contracts among Merchants, as Bottomry or Course of Exchange.



An ACT for erecting a *Lighthouse* at the Entrance of the Harbour of *Halifax*.

B *E it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That a Publick Lighthouse of Stone Masonry shall, with all convenient Expedition, be erected on the Island commonly called, and known by the Name of Sambrough Outer-Island, at the Entrance of the Harbour of Halifax, of such Dimensions, as shall be agreed on and directed by the Commissioners hereinafter appointed; and that a Dwelling-House for the Keeper or Tender of such Publick Lighthouse, shall be also erected according to the Directions of the said Commissioners.*

And for the erecting of such *Lighthouse*, and *Dwelling-house*, it is hereby requested of His Excellency the Governor, *And it is further enacted, That the Sum of One Thousand Pounds be appropriated out of the Money, now in the Treasury, collected from the Duties on Spirituous Liquors.*

And be it further enacted, That until such Lighthouse be erected, the said Commissioners be impowered, out of the said One Thousand Pounds, to cause a Light and Beacon to be erected on the said Island, as they shall judge convenient, for the use of Vessels coming into the said Harbour.

And for the better carrying this Act into Execution, *Be it further enacted, That the Honourable Benjamin Green, John Collier, Charles Morris, and Robert Sanderson Esquires, and Joseph Gerrish, Malachy Salter, and Henry Newton Esquires, Be and are hereby appointed Commissioners for contracting for the Materials, and Workmanship, and for the Direction of the said Buildings*

An ACT for erecting a *House of Correction* or *Workhouse*, within the Town of *Halifax*.

Be it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That a House of Correction or Workhouse of Stone Masonry, shall be erected within the Town of Halifax, of the following Dimensions, (that is to say) That the said Building be sixty Feet in length, and twenty five Feet in breadth, on the inside, and twelve Feet in height, and furnished in such manner, as the Commissioners hereinafter appointed, shall direct.

Cap. 15
Executed

And for the erecting of such House of Correction, or Work house, it is hereby requested of his Excellency the Governor, And it is further enacted, That the Sum of five Hundred Pounds be appropriated out of the Money, now in the Treasury, Collected from the Duties on Spirituous Liquors.

And for the better carrying this Act into Execution, Be it further enacted, That the Honourable Benjamin Green, John Collier, Charles Morris, and Robert Sanderson Esquires, and Joseph Gerrish, Malachy Salter, and Henry Newton Esquiress, Be and are hereby appointed Commissioners for Contracting for the Materials and Workmanship, and for the Direction of the said Building.

An



An ACT to prevent *forestalling the Market.*

b.
Annual Act
c. 3.
HEREAS
 large Quantities of live Stock, fresh Provision, and other Articles are imported into this Province for Sale from the neighbouring Colonies, and divers Persons make a Practice of engrossing the same immediately upon the Arrival thereof, to the great prejudice of the Inhabitants;

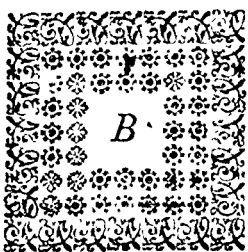
Be it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That all Kinds of live Stock, (Oxen and Sheep excepted) all dead fresh Provision, Grain, Hay, Roots, or Garden Stuff, which shall be Imported for Sale into any Port of this Province, after the Publication hereof, shall by the Importers thereof, be brought to some Publick Wharf, and there openly exposed to Sale, for forty eight Hours; and public Notice shall be given thereof through the Town or Place where the same shall be so Imported, by the Common Cryer: And no such live Stock, or dead fresh Provision whatsoever, Grain, Hay, Roots, or Garden Stuff, shall during the said forty eight Hours, be sold, or contracted for in Gross, to or with any Person or Persons whatsoever, on Penalty of the Forfeiture of the Article or Articles so sold or bought, or contracted for, or the Value thereof, upon Conviction by the Oath of one Credible Witness before any two of His Majesty's Justices of the Peace, to be levied by Warrant of Distress, under the Hands and Seals of the said Justices; One Half of such Forfeitures to be to the Use of the Informer, and the other Half to the Use of the Poor of the Place where such Forfeiture shall be incurred.

Provided always, That nothing in this Act shall be construed to extend to the Importation of Flour of all Kinds, Biscuit-Bread, or Fish.

Provided also, That in Case any dead fresh Provision shall, at any Time be imported, which by the length of the Passage, or other Accident, shall be perishing, or in a decaying Condition, That then, upon application of the Importer to Two of His Majesty's Justices of the Peace, letting forth upon Oath, such the Condition of the Provision so Imported, such Justices may, and they are hereby impowered, under their Hands and Seals, to Grant permission to such Importer, immediately to Sell and dispose of such Provision in the speediest manner, any thing in this Act contained to the contrary notwithstanding.

And be it further enacted, That all Prosecutions under this Act, shall be within ten Days after the Offence committed.

An ACT for granting and establishing an Allowance to the Collectors of the Impost and Excise Duties.



Be it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That, out of the Money arising from the Duties on Impost and Excise, His Excellency the Governor or Commander in chief of the Province for the Time being, shall be and is hereby impowered, to grant and allow unto any Collector or Collectors of such Duties on the Impost and Excise, who may be, from

6
24

Time to Time, appointed by such Governor or Commander in Chief, for all the Expence, Charges and Trouble of such Collector, or Collectors, and of any Officers to be by such Collectors appointed, for assisting such Collectors, any Sum, not exceeding Ten Pounds for each Hundred Pounds, that may be collected of such Impost and Excise Duties; and that the said Grant and Allowance of Ten Pounds in the Hundred, shall be full of all Claims, Expences, Charges and Demands whatsoever, for or on Account of Collecting such Impost and Excise Duties as aforesaid.

Provided that before such Collector of Impost shall enter upon his said Office, he shall give such Security and take the like Oath, as are directed for the Collector of Excise by an Act, intitled An Act for granting unto His Majesty an Excise upon Wine, Rum, and other distilled Spirituous Liquors sold by Retail.

And be it further enacted, That this Act shall continue and be in force for the space of Two Years.



Q

An



An ACT relating to *Wills, Legacies, and Executors*, and for the Settlement and Distribution of the Estates of *Intestates*.

BE it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That every Person shall have Power to give and devise, by his or her last *Will and Testament* in Writing, and signed by the Party so giving and devising, or by some other Person in his presence, and by his express directions, and Attested and Subscribed, in the presence of the Devisee, or by three or more credible Witnesses, any *Lands, Tenements, or Hereditaments*, whereof he or she shall, at the Time of his or her so giving or devising the same by such *Will*, be lawfully seized, either of a sole Estate in Fee simple, or of any Estate in Coparcenary, or in Common in Fee simple, in Possession, Reversion, or Remainder, as much as in him of Right is, to the said *Lands, Tenements, and Hereditaments*, or in like manner to devise any *Rents or Profits* out of the same at his pleasure. *Provided* that *Wills* made of any *Lands, Tenements or Hereditaments*, or any *Rents or Profits* out of the same, by any *Woman Covert*, or Person within the Age of *Twenty One Years, Idiot or of unsound Mind*, shall not be good in Law.

And be it further enacted, That no *Devise* in Writing of any *Lands, Tenements or Hereditaments*, shall be revocable, otherwise than by some other *Will or Codicil* in Writing, or other *Writing* signed in the Presence of *Three* or more Witnesses, declaring the same, or by burning, cancelling, tearing or obliterating the same by the *Testator* himself, or in his Presence, and by his Directions and Consent.

And be it further enacted by the Authority aforesaid, That from and after the *First Day of January*, in the Year of Our Lord, *One Thousand, seven Hundred, and Fifty nine*, no *Nuncupative Will* shall be good, where the Estate thereby bequeathed, shall exceed the Value of *Thirty Pounds*, that is not proved by the Oath of *Three Witnesses* (at the least,) that were present at the making thereof, nor unless it be proved that the *Testator*, at the Time of pronouncing the same, did bid the Persons present, or some of them bear Witness, that such was his *Will*, or to that Effect; nor unless such *Nuncupative Will*, was made in the Time of the last *Sickness* of the Deceased, and in the House of his or their Habitation or Dwelling, or where he or she hath been resident, for the Term of *Ten*

Days or more, next before the making of such *Will*, except where such Person was surprized or taken Sick, being from his own House, and dyed before he returned to the Place of his or her Dwelling.

And be it further enacted, That after *Six Months* past after the Speaking of the pretended *Testamentary Words*, no Testimony shall be received to prove any *Will Nuncupative*, except the said Testimony or the Substance thereof, be committed to Writing, within *Six Days* after making the said *Will*.

And be it further enacted, That no Letters *Testamentary*, or *Probate* of any *Nuncupative Will*, shall pass the Seal of any Court, till *Fourteen Days*, at the least, after the Decease of the *Testator* be fully expired, nor shall any *Nuncupative Will* be at any Time received to be proved, unless Process have first issued to call in the Widow, or next of Kindred to the Deceased, to the End they may contest the same. And all such Witnesses as ought to be allowed to be good Witnesses upon Trials at Law, shall be deemed good Witnesses to prove any *Nuncupative Will*, or any Thing relating thereunto.

And be it further enacted, That no *Will* in Writing, concerning any *Personal Estate*, shall be repealed, nor shall any Clause, Devise, or Bequest therein, be altered or changed by Words or *Will*, by Word of Mouth only, except the same be, in the Life of the *Testator*, committed to Writing, and after the Writing thereof, read unto the *Testator* and allowed by him, and proved to be so done, by *Three Witnesses* at the least. *Provided nevertheless*, That any Soldier, being in actual Military Service, or any Mariner or Seaman, being at Sea, may dispose of his *Moveables*, *Wages*, and *Personal Estate*, as they might have done before the making this Act, and that nothing in this Act shall alter the Jurisdiction or Right of *Probate of Wills* concerning *Personal Estates* vested in the Governor, or Commander in Chief for the Time being, who shall retain the same Right and Power as they had before in every respect, subject nevertheless to the Rules and Directions of this Act.

And be it further enacted by the Authority aforesaid, That if any *Executor* or *Executors* of the *Will* of any Person deceased, knowing of their being so named and appointed, shall not, within the Term of *Thirty Days* next after the Decease of the *Testator*, cause such *Will* to be proved, and recorded in the Registers Office, of the same County where the deceased Person last dwelt, or present the said *Will*, and declare his or their Refusal of the *Executorship*; every *Executor* so neglecting his or her Trust and Duty in that behalf, (Without just Excuse made and accepted for such Delay) shall forfeit the Sum of *five Pounds* every *Month*, from and after the Expiration of the said *Thirty Days*, until he or they shall cause *Probate* of such *Will* to be made, or present the same as aforesaid: Every such Forfeiture to be had and recovered by Action of Debt, in the *Inferior Court of Common Pleas*, in the same County, at the Suit of any of the Heirs or Creditors, and for the Use of him or them that shall inform and sue for the same. And upon any such Refusal of the *Executor*, or *Executors* the Judge shall commit Administration of the Estate of the Deceased, with the *Will*

annexed, unto the Widow or next of Kin to the Deceased, and upon their Refusal, to one or more of the Principal Creditors as he shall think fit.

And be it further enacted, That if any Person or Persons shall be found guilty of suppressing any *last Will and Testament*, such Person or Persons shall be subject and liable to the same Penalty, as by this Act is prescribed for Persons neglecting to prove any *last Will and Testament*.

And be it further enacted, That where any certain Legacy is or shall be bequeathed, and given by any Person in his or her last *Will and Testament*, as also where any residuary or uncertain Legacy is or shall, by the Account of any Executor, be reduced to a Certainty, every such Legacy and Legacies as aforesaid, may be sued for and recovered at the Common Law; any Law, Custom or Usage to the Contrary notwithstanding.

And be it further enacted, That henceforth every Executor named in any *Will*, taking upon him that Charge by proving such *Will*, within the Space of *three Months* next after Probate thereof, (or at such further and longer Time, as the *Judge of Probate* shall see meet to allow, the Circumstances of any Estate requiring the same) shall exhibit into the Registers Office, upon Oath, a full and true Inventory of the whole Estate of the Deceased, so far as is then come to his Hands and Knowledge; and shall add thereto what and so much as may further afterwards appear, on pain of forfeiting *Five Pounds* for every *Month's* Neglect thereof afterwards, as is by Law provided for not presenting a *Will*, and to be recovered in like Manner. *Provided nevertheless*, That in *Wills* where, after the Payment of Debts, and of any certain particular Legacy or Legacies, the Residue or Remainder of the Estate, is bequeathed generally to any one or more Persons, other than the Executors themselves; in every such Case, an Inventory of the Estate shall be presented upon Oath as aforesaid, and the Executors shall be liable to Account as Administrators are, by Law, obliged to do.

And any Executor being a residuary Legatee, may bring his Action of Account against his *Co-Executor* or *Executors*, of the Estate of the *Testator*, in their Hands, and may also sue for and recover his equal and rateable Part thereof. And any other residuary Legatee shall have like Remedy against the Executors.

And be it further enacted, That when and so often as it shall happen that any Person dies *Intestate*, upon Application of the Widow or next of Kin to the *Intestate*, within *Thirty Days* after the Death of such *Intestate*; the said *Judge of Probate* shall grant *Letters of Administration* to such Widow or next of Kin: And in Case they neglect to apply within the said *Thirty Days*, upon first citing such Widow or next of Kin, and their Refusal to accept the same, such *Judge of Probate* shall grant Administration to such Person or Persons as he shall judge fit; and he shall thereupon take Bond with Sureties, in Manner as is directed by the Statute of the *Twenty Second and Twenty third of Charles the Second*, Chapter the *tenth*, intitled *An Act for the better settling Intestates Estates*; and shall and may proceed to call such Administrators to Account for, and touching the

Goods of the *Intestate*: And upon due Hearing and Consideration thereof, (Debts funeral and just Expences of all Sorts being first allowed) the said *Judge* shall, and hereby is fully impowered to order and make a just Distribution of the *Surplusage*, or remaining Goods and Estate, as well *Real* as *Personal*, in manner following, *That is to say*, *One third* Part of the *Personal Estate*, to the Wife of the *Intestate* for ever, besides her Dower in the *Houses* and *Lands* during *Life*, where such Wife shall not be otherwise Endowed before Marriage; and the said *Judge*, having appointed *Guardians* in Manner as hereafter may or shall be by Law prescribed for all *Minors*, shall then, out of all the Residue of such *Real* and *Personal Estate*, distribute *two* Shares or a *double Portion* to the *Eldesst* Son then Surviving, (where there is no Issue of the *First* born, or of any other *Elder* Son) and the Remainder of such Residue equally to and amongst his other Children, and such as shall legally represent them; *Provided* that Children advanced by Settlement or Portions not equal to the others Shares, shall have so much of the *Surplusage*, as shall make the Estate of all to be equal, except the *Eldesst* Son then Surviving, (where there is no Issue of the *First* born, or of any other *Elder* Son) who shall have *two* Shares or a *double Portion* of the whole.

And be it further enacted, That such Estate, wherewith such Child or Children, have been advanced in the Lifetime of the *Intestate*, shall be accounted for upon the Oath of such Child or Children, before such *Judge of Probate of Wills*, and for granting *Letters of Administration*, or by other Evidence to the Satisfaction of the *Judge*; and in Case of Refusal to Account upon *Oath*, such Child or Children, so refusing, shall be debarred of any Share in the Estate of the *Intestate*.

And it is hereby enacted, That the Division of such *Lands* or *Tenements*, shall be made by *five* sufficient Freeholders upon Oath, or any *three* of them, to be, for that Purpose, appointed and sworn by the *Judge*. *Provided nevertheless*, that if all the Parties interested in such *Lands* or *Tenements*, being of lawfull Age shall, by *Deed*, agree to a Division, such Agreement, being acknowledged before the *Judge* by the Parties subscribing and sealing the *Deed*, the said *Deed* being entered on Record in the *Probate Office*, shall be deemed a legal and valid Partition and Settlement of such Estate, as effectually to all Intents as if the same had been divided and settled by *Writ of Partition*, and be received and allowed in Evidence, on any Trial against the Parties so interested in the said *Lands* and *Tenements*.

Provided nevertheless, That where any Estate in *Houses* and *Lands* cannot be divided among all the Children, without great Prejudice to the Whole, the said *Judge* may, on Evidence of the same, order the Whole unto the *Eldesst* Son, or upon his Refusal, to any other of the Sons Successively: He paying unto the other Children of the Deceased, their Equal and proportionable Parts or Shares of the true Value of such *Houses* and *Lands*, upon a just Apprisement thereof, to be made by *three* sufficient Freeholders upon Oath, to be appointed and sworn as aforesaid, or giving good Security to pay the same in some convenient Time, as the said *Judge* shall limit, making reasonable Allowance in the mean Time, not exceeding

exceeding *six Pounds* by the *Hundred* in the Year. And if any of the Children happen to die, before he or she come of Age, or be married, the Portion of such Child deceased, shall be equally divided among the Survivors. And in Case there be no Children, nor any legal Representatives of them, then *One Moiety* of the *Personal Estate* shall be allotted to the Wife of the *Intestate* for ever, and *one Third* of the *Real Estate* for *Term of Life*. The Residue both of the *Real and Personal Estate*, equally to every of the next of Kin of the *Intestate* in equal Degree, and those who legally represent them. No Representatives to be admitted among Collaterals after Brothers and Sisters Children. And if there be no Wife, all shall be distributed among the Children, and if no Child, to the next of Kin to the *Intestate* in equal Degree, and their legal Representatives as aforesaid, and in no other manner whatsoever. And every one to whom any Share shall be allotted, shall give Bond with Sureties before the said *Judge of Probate*, if Debts afterwards be made to appear, to refund and pay back to the Administrator, his or her rateable Part thereof, and of the Administrators Charges.

And it is hereby enacted, That the *Lands and Tenements* wherewith any Widow shall be so endowed as aforesaid, shall, after the Decease of such Widow, be divided in like manner as by this Act is directed.

Saving to any Person aggrieved at any Order, Sentence or Decree made for the Settlement and Distribution of any *Intestate Estate*, their Right of Appeal unto the *Governor and Council*: Every Person so appealing, giving Security to prosecute the Appeal with Effect. Provided that such Appeal be made within *Thirty Days* after Sentence by the *Judge of Probate*.

And be it further enacted, That all such Estate, *Real or Personal*, as is not comprized in any *last Will and Testament*, or is not plainly devised or given by the same, shall be distributed in the same manner as *Intestate Estates* are directed to be distributed by this Act.

And be it further enacted, That in Case that *Personal Assets* shall be deficient for the Payment of any Debts or Legacies, and it shall be found necessary by any Executor or Administrator to make Sale of any Part of the *Real Estate* of the Deceased, for the Payment of any Debts or Legacies, such Executor or Administrator shall apply to the *General Assembly* to grant a Licence for the Sale of such Part of such *Real Estate*, as may be most convenient for the Payment of such Debts or Legacies, and before any Sale be made of any *Real Estate*, the Executor or Administrator shall give *Thirty Days* publick Notice, by Posting up Notifications in the most publick Places in the Town where the deceased Person last dwelt, and in the *publick Prints*, if any such there be; and whoever will give most shall have the Preference in such Sale. And in Case the Estate of such *Intestate* shall be *Insolvent*, the Executor or Administrator shall make like Application to the *General Assembly* for an *Inquiry*, and for the Appointment of Commissioners to inquire into such *Insolvency*, and to examine and settle the Claims of all Creditors, and the Amount of the Estate of such *Insolvent*, and to Authorize such Executor or Administrator to sell all the *Lands and Tenements* of such *Insolvent*; and to divide the Produce of the Whole of such Estate, in due Proportion to and among the Creditors.

added - Gen. 2. c. 7
Section to be good by special Act

An ACT to prevent the Sale of *Slop-Cloathing*,
and for punishing the Concealers or Harbourers
of *Seamen* or *Marines* deserting from the *Royal*
Navy.

HEREAS for the better carrying on the present War, it has been His Most Gracious Majesty's Royal Will and Pleasure, from Time to Time, to send large Squadrons of His Ships of War into North-America: And whereas the Harbour of Halifax in this His Majesty's Province of NOVA-SCOTIA from its Situation, great Convenience, and Safety for Capital Ships, hath always hitherto been, and probably during the War, will continue to be the Rendezvous of His Majesty's Fleet in that Part of His American Dominions. And whereas many and great Inconveniences have arisen to the Service of the Royal Navy, by Persons enticing, assisting, harbouring and concealing Seamen deserting from His Majesty's Ships, and by buying the Slop-Cloaths issued to Seamen on board His Majesty's Ships; by means whereof they become subject to Impositions, and are induced to sell their necessary Cloathing to procure Spirituous Liquors, whereby they are rendered unfit for Duty, become Diseas'd and Die for want of proper Apparell to defend them against the Inclemencies of the Weather, and by Means of such Practices the Commanders of His Majesty's Ships of War have been under a Necessity of detaining such Seamen on board, not only to the great Prejudice of their Health by such Confinement and Want of Exercise, but also to the Disadvantage of the Province, from the Want of the Assistance and Labour of such Seamen. For Remedy whereof, Be it enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby enacted, That if any Person shall entice any Seaman or Marine to desert, or harbour, conceal, or assist any Deserter from any Ship of War, knowing him to be such, the Person so offending shall forfeit the Sum of Twenty Pounds, on Conviction by one or more Credible Witnesses, before any three Justices of Peace, (quorum unus) for the Use of His Majesty's Government, to be levied by Distress, and for Want of such Distress, the Person so offending shall be committed to His Majesty's Goal, there to remain without Bail or Mainprize for the Space of six Months, or till such Time as the said Fine shall be paid.

And be it further enacted, That if any Person shall buy or receive as a Pledge, or exchange any Slop Cloaths from any Seaman or Marine belonging to any of His Majesty's Ships of War, upon Conviction thereof or Confession, or by the Oath of one Credible Witness, or if such Cloaths shall be

Cap. 19
Exp. 19
per. 19
Ac. 19
Made per
17. 8. 17
p. 35.

found in the Possession of any Person, upon Complaint that they were bought from, or pledged or exchanged by such *Seamen* or *Marines*; in such Case the Party offending shall pay a Fine of *five Pounds*; *Forty Shillings* of which to the Informer, and *three Pounds* to the Use of His Majesty's Government; and the *Cloaths* shall be taken from such Person and returned to such *Seaman* or *Marine*, and he to be utterly debarred from Recovering in any Action, the Purchase or Loan Money for the same. Any Person offending may be convicted of such Offence before any *One* or more of His Majesty's Justices of the Peace, who are hereby impowered to levy the Penalty by Distress, and in Default of Distress to commit the Offender to His Majesty's Goal, there to remain without Bail or Mainprize for the Space of *two Months*, or till such Time as the Penalty shall be paid.

Be it further enacted, That it shall and may be lawful for any Person, upon seeing or knowing of any *Seaman* or *Marine* belonging to any of His Majesty's *Ships of War*, selling or exposing to Sale any of his or their *Cloathing* or *Slops*, to apprehend such *Seaman* or *Marine*; and carry him or them immediately to some Justice of the Peace of the County, who is hereby impowered to commit such *Seaman* or *Marine* to His Majesty's Goal, and to deliver him or them over to the Captain, or other Officer of the Ship to whom he or they may belong.

Be it further enacted by the Authority aforesaid, That on Information made on Oath, before any of His Majesty's Justices of the Peace, by any of the Officers of His Majesty's *Ships of War*, That one or more of the *Seamen* in His Majesty's Service have deserted or absconded, who there is Reason to believe lie concealed in some Dwelling or Outhouse, where the said Officer has been refused Admittance; that then it shall and may be lawful for such Justice of the Peace, before whom such Complaint is made, to issue his Warrant to some one or more Constables impowring him or them, in the Day Time, to search for said Deserters or Absconders, in any Dwelling or Outhouse that shall be suspected for Concealing said Deserters or Absconders, accompanied by *One Officer* only, either *Lieutenant* or *Midshipman*, and no other *Seaman* or *Marine* with him, and in Case any Master or Mistress of any Dwelling house or Outhouse in this Province, shall refuse Entrance to said Constable or Constables, so impowered by Warrant as aforesaid to search for said Deserters or Absconders, they shall forfeit the Sum of *Twenty Pounds*; upon Conviction, to be levied by Warrant of Distress under the Hand and Seal of *two* of His Majesty's Justices of the Peace, from off the Offenders Goods; and for Want of such Distress, shall be committed to His Majesty's Goal for *six Months*; and that it shall and may be lawful for any of His Majesty's Justices of the Peace, who are hereby required upon information on Oath as aforesaid, in the Night Time in his own Person, attended with the Constables, accompanied by *One Officer* either *Lieutenant* or *Midshipman*, and no other *Seaman* or *Marine* with him, to demand Entrance into any Dwelling or Outhouse in this Province, on Suspicion of Deserters or Absconders being concealed there, and the Master or Mistress refusing Entrance to such Justice of the Peace so demanding Entrance in the Night Time, shall forfeit the Sum of *Twenty Pounds* to be levied as aforesaid upon Conviction; and for Want of such Distress, to be committed to His

or to maim or disfigure any such Person, the Persons so offending, their Counsellors, Aiders and Abettors, privy to the Offence, shall be *Felons* without Benefit of Clergy. *Provided* that no Attainder of such *Felony*, shall work Corruption of Blood, or Forfeiture of Dower, Lands or Goods of the Offender.

And be it further enacted, That every Person, who shall stab or thrust any Person that hath not then any Weapon drawn, or that hath not then, first stricken the Party who shall so stab or thrust, so as the Persons, so stabbed or thrust, shall thereof die within the Space of *six Months*, altho' it cannot be proved that the same was done of Malice forethought, yet the Party so offending and being thereof convicted, shall be excluded from the Benefit of Clergy.

Provided that this Act shall not extend to any Persons, who shall kill any Person in his own Defence or by Misfortune, or in any other manner than as aforesaid, nor shall extend to any Persons who in keeping the Peace, shall chance to commit *Manslaughter*, so as the said *Manslaughter* be not committed wittingly and of Purpose, under pretext and colour of keeping the Peace; nor shall extend to any Person who, in chastising or correcting his Child or Servant, shall, besides his Purpose, chance to commit *Manslaughter*.

And be it further enacted, That if any Woman be delivered of any Issue of her Body, Male or Female, which being born alive, should by the Laws of the Realm of *England*, be a Bastard, and that she endeavour privately, either by Drowning or secret Burying thereof, or any other Way, either by herself, or the procuring of others, so to conceal the Death thereof, as that it may not come to Light whether it were born alive or not, but be concealed, the Mother so offending shall suffer Death as in Case of *Murder*, except such Mother can make Proof by *One Witness*, that the Child whose Death was by her so intended to be concealed, was born dead.

And be it further enacted, That the detestable Sin of *Buggery* committed with Mankind or Beast, shall be adjudged *Felony*, and such Process therein be used as in Cases of *Felony* at *Common Law*, and the Offender or Offenders being convicted by Verdict, Confession or Outlawry, shall suffer the Pains of Death, and Loss of their Goods, Lands and Tenements, as *Felons*, and no Person guilty of such Offence shall be admitted to his Clergy: And Justices of the Peace shall have power to inquire of the said Offence as in other *Felonies*. And if any Person or Persons, shall make an Assault, with an Intent to commit the Sin of *Buggery*, such Offender or Offenders, shall, on due Conviction thereof, be adjudged to stand in the Pillory, and may for further Punishment, be fined, imprisoned, or be bound in Sureties for his or their good Behaviour, at the Discretion of the Court.

And be it further enacted, That if any Person or Persons shall, by Force, and against the Consent of any Woman, or Infant above the Age of *Twelve Years*, have Carnal Knowledge of her Body, every such Offender

der or Offenders shall, on due Conviction of such Ravishment, suffer as a *Felon* without Benefit of Clergy. *Provided always* that if Complaint shall not be made of a Ravishment within *ten Days* afterwards, before one of His Majesty's Justices of the Peace or other Magistrate, that then such Fact shall be adjudged to have been committed by and with the Consent of such Woman or Infant.

And be it further enacted, That if any Person shall unlawfully have Carnal Knowledge of any Female Child under the Age of *Twelve Years*, tho' with her Consent, every such unlawful and Carnal Knowledge shall be *Felony*, and the Offender being thereof duly convicted, shall suffer as a *Felon*, without Benefit of Clergy. And every violent Assault and Battery committed on the Body of such Woman or Infant, with Intent to ravish, shall be punished by adjudging the Offender or Offenders, upon due Conviction thereof, to stand in the Pillory, and the Judge or Judges of the Court, wherein he shall be so convicted, may for further Punishment, Fine and Imprison, and require Sureties for the good Behaviour, at his or their Discretion.

And be it further enacted, That if any Person or Persons shall by Night break open and enter any Dwelling House, Shop or Warehouse, or any Vessel lying so near the Land that it be adjudged within the County, with an Intent to commit any *Felony*, whether such felonious Intent be executed or not, or shall rob any Dwelling House in the Day Time, any Person being therein, or break any Dwelling House, Shop or Warehouse thereunto belonging, or therewith used, in the Day Time, and feloniously take away any Money or Goods of the Value of *five Shillings* therein being, altho' no Person shall be within such Dwelling House, Shop, or Warehouse, or shall rob any other, or feloniously take away any Goods in any Dwelling House, the Owner or any other Person, being therein and put in Fear; or if any Person or Persons shall by Night or by Day, rob or by violence take Money, or Goods, from any Person putting him in Fear, in any High Ways, or in any Streets or Lanes of a Town, or shall feloniously take Money or Goods from the Person of any other, privily without his Knowledge, each and every of the Offenders aforesaid, their Aiders and Abettors, shall, upon due Conviction, suffer as *Felons*, without Benefit of Clergy.

And be it further enacted, That if any Person or Persons shall steal, or take by Robbery, any Bills of Exchange, Bonds, Warrants, Bills, or Promissory Notes for the Payment of Money; being the Property of any other Person, notwithstanding any of the said particulars are termed in Law a *chose in Action*, it shall be deemed *Felony* of the same Nature, and with or without the Benefit of the Clergy or of this Act, in the same manner as it would have been if the Offender had stolen or taken by Robbery, any other Goods of the like Value with the Money due on such Bills of Exchange, Bonds, Warrants, Bills, or Notes, or secured thereby, and remaining unsatisfied, and shall suffer such Punishment as if he, she or they, had stolen other Goods of the like Value. *Provided* that no Attainder for any such Offence, so made *Felony*, shall work any Corruption of Blood, Loss of Dower, or Disinheritance of Heirs.

And be it further enacted, That if any Person or Persons shall buy or receive any Goods that shall be stolen, knowing the same to be stolen, he she; or they shall be deemed Accessaries to the *Felony* after the Fact, and that it shall be lawful to prosecute and punish Persons buying or receiving stolen Goods, knowing the same to be stolen, or that shall be Accessary to such *Felony* before or after the Fact, as for a *Misdemeanor*, to be punished by Fine and Imprisonment, altho' the principal *Felon* be not before convicted of the said *Felony*, which shall exempt the Offender from being punished as Accessary, if the Principal shall be after convicted.

And be it further enacted, That if any Person or Persons shall take away with an Intent to steal, imbezil, or purloin, any Goods, Chattels, or Furniture, which by Agreement they are to use, or shall be let to them to use in his, her, or their Lodging, such taking, imbeziling, or purloining, shall be adjudged to be *Larceny* and *Felony*.

And be it further enacted, That if any Servant or Servants shall go away with the Caskets, Jewels, Money, Goods or Chattels, delivered to him, her or their Keeping, by his, her or their Master or Mistress, with Intent to steal the same, and defraud his, her or their Master or Mistress thereof, contrary to the Trust and Confidence in them reposed, or being in Service, without Assent or Commandment of his, her, or their Master or Mistress, shall imbezil or convert the same to his, or her Use, with Purpose to steal the same, being of the Value of *Forty Shillings* or above, every such Offender or Offenders shall, upon due Conviction, suffer Death as in Cases of *Felony*, without Benefit of Clergy.

Provided that any Apprentice or Apprentices, within the Age of *Fifteen Years*, shall be intitled to the Benefit of Clergy, for the first Offence.

And be it further enacted, That if any Person or Persons shall wilfully and maliciously, burn, or cause to be burned, any Dwelling House, Barn, Outhouse, or Warehouse, of another, or any Publick Building, or any Hovel, Cock, Mow, Rick, or Stack of Corn, Straw, Hay or Wood, of another, all and every such Person or Persons so offending, and their Aiders, Abettors, and Counsellors, shall, upon due Conviction, suffer as *Felons*, and be excluded from the Benefit of Clergy.

And be it further enacted; That whosoever shall maliciously Shoot at any Person or Persons, in any Dwelling House or other Place, or shall knowingly send any Letter without any Name, or signed with a fictitious Name, demanding from any Person or Persons, Money or other valuable Thing, such Offender or Offenders, being duly convicted thereof, shall suffer as *Felons*, without Benefit of Clergy.

And be it further enacted, That whosoever shall feloniously take and carry away any Money or Goods, in any other manner than is herein before declared and provided for, or shall imbezil any of His Majesty's Stores, or the Untensils, Furniture or Cloathing, in any Storehouse or Hospital of His Majesty, if such Offender or Offenders shall be found guilty of such felonious Taking or carrying away of such Money, or Goods, or of im-

imbezilling any of His Majesty's Stores, or the Untensils, Furniture or Cloathing in any Storehouse or Hospital of His Majesty, as aforesaid, to the Value of *Twenty Shillings* or more; Every such Offence shall be *Larceny* and *Felony*; and if the Value shall be found by Verdict on Trial to be less than *Twenty Shillings*, then such Offence shall be punishable as *Pett Larceny*, by such publick Whipping as the Court, before whom such Offender shall be convicted, shall direct, and it shall and may be lawful for such Court to order the Offender to make full Restitution, and in Default thereof to commit such Offender to the House of Correction, there to be put to hard Labour, for a Term not exceeding *three Months*, as the Judges, in their Discretion, shall think fit.

1. Hawk. Hist. Sect. 36
Subject by Co. for Pett Larceny
Whipping or Corporal Punishment of
Whip.
Note. Punishable Larceny.

And be it further enacted, That all Monies, Goods, Chattels, Merchandizes, or Stores, found in Possession of any *Burglar, Housebreaker, Robber, Thief, or Purloiner*, shall be delivered by the Justice of Peace who shall take the Examination of such Offender, into the Custody of the Provost Marshal or his Deputy, or Constable of the Town where the Offence shall be committed, who shall be answerable for the same until the Offender be convicted; and the Judge or Judges of the Court, wherein such Offender shall be convicted, shall order the said Money, Goods or Stores, to be restored to the lawful Owners thereof; and where no Owner shall appear to claim the same, they shall be adjudged to be forfeited; and in Cases where the Evidence shall not be sufficient to convict of a *felonious Intent*, and the Jury shall declare that the Property of such Money, Goods, or Stores, is in the Prosecutor, it shall and may be lawful for the Court to order such Money, Goods, or Stores, to be delivered to such Prosecutor; *Provided nevertheless* That such Delivery shall not debar the Party so acquitted, or any other Person who may claim the same, from his or her Action for the Detainer of such Money, Goods, or Stores, so delivered to the Prosecutor.

And be it further enacted, That notwithstanding the Allowance of Clergy, and burning in the Hand of any *Principal Offender*, the *Accessories* to such Offender shall be arraigned and tried in the same manner, as if such Clergy had not been allowed.

And be it further enacted, That every Person which once hath been admitted to the Benefit of his Clergy, being afterwards arraigned, shall not be admitted to the Benefit of his Clergy, and that every Person convicted for *Manslaughter*, shall be marked with an *M*, upon the Brawn of the left Thumb, and for any other *Felony*, the Person convicted shall be marked with a *T*, in the same Place: These Marks shall be made by the Goaler in open Court. And if any Person convicted of any *Felony*, for which he ought to have the Benefit of his Clergy, shall pray to have the Benefit of this Act; he shall not be required to read, but without any reading shall be allowed to be, and punished as a Clerk Convict, which shall be as effectual and as advantageous to him as if he had read as a Clerk, and after Allowance of such Clergy and Burning in the Hand, such Person shall be enlarged and delivered out of Prison, by the Judge or Judges of

the Court before whom such Clergy shall be granted; *Saving* that such *Judge* or *Judges* may for the further Correction of such Persons to whom Clergy shall be allowed, keep them in Prison, or send them to the House of Correction, for such convenient Time as the said *Judge* or *Judges* in their Discretions, shall think fit, so as the same do not exceed *One Year's* Imprisonment, or to punish them by publick Whipping. And that where a Man, convicted of any *Felony*, may demand the Benefit of his Clergy, a Woman convicted for the like Offence, upon her Prayer to have the Benefit of this Act, Judgment of Death shall not be given against her upon such Conviction, or Execution awarded upon any Outlawry for such Offence, but such Woman shall suffer the same Punishment as a Man that has the Benefit of his Clergy allowed him in the like Case, (*that is to say*) shall be burned in the Hand by the Goaler in open Court, and may, for further Punishment, be kept in Prison, or sent to the House of Correction, for such Time as the *Judges* shall think fit, so as the same do not exceed *One Year*, or be ordered to be publickly whipped, as the *Judge* or *Judges*, before whom such Woman is convicted, shall, from the Quality of the Offence, think meet. And the *Clerk* of the *Court* or *Affises* where such Man or Woman shall be convicted, shall, at the Request of any in His Majesty's behalf, certify a *Transcript* containing the Tenor of every *Indictment* and *Conviction* of such Man or Woman, of his having the Benefit of the Clergy, or her having the Benefit of this Act, and the Addition of every such Person, and the Certainty of the *Felony* and *Conviction*, to the *Judge* or *Judges* of the *Court* or *Affises* where such Man or Woman shall be indicted; which Certificate, being produced in *Court*, shall be a sufficient Proof that such Man hath before had the Benefit of his Clergy, and that such Woman hath had the Benefit of this Act, in the same manner as if the Record had been produced. And if any Person or Persons indicted of any Offence, for which, by Virtue of this Act, they are excluded from the Benefit of Clergy or of this Act, shall, if they stand mute or will not answer directly to the *Felony*, or shall challenge peremptorily above *Twenty* of the Jury, or shall be outlawed thereupon, be ousted of the Benefit of the Clergy or of this Act, and Judgment shall be pronounced and Execution awarded, as if such Person or Persons had been convicted of such Offence by Verdict or Confession.

And be it further enacted, That in all Cases where the Benefit of Clergy or of this Act shall be allowed, if the Prisoner shall not, upon his Arraignment, answer directly according to Law, or shall willfully stand mute, or shall peremptorily challenge above *Twenty* Jurors, or if any Person be outlawed on any Indictment for such *Felony*, such Person or Persons shall be proceeded against by the Court, in the same manner as if he, she, or they had been convicted by Confession or Verdict.

Provided nevertheless, That no Man who hath had the Benefit of the Clergy allowed him, nor any Woman who hath had the Benefit of this Act, shall have the Benefit of Clergy or of this Act, for any *Felony* committed since his or her having had the Benefit of Clergy or of this Act as aforesaid, and that no Person shall be allowed the Benefit of Clergy or of

this Act, more than once, but shall, for any *Felony* by him or her committed after being allowed the Benefit thereof, be utterly debaired from having the Benefit of the same again. *Provided* also That if any Man admitted to his Clergy, or any Woman admitted to the Benefit of this Act, shall, before such his or her Admission, have committed any Offence, whereupon Clergy is not allowable by this Act, and not being thereof indicted and acquitted, convicted or attainted, or pardoned, shall and may be indicted or appealed for the same, and put to answer as if no such Admission to the Benefit of Clergy or of this Act had been.

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

And be it further enacted, That all Indictments, Procces, Pleadings, and Trials, and the Rules of Evidence upon any Trials for any *Felonies* or *Misdemeanors*, either by the common Law of *England*, or by virtue of this Act, shall be according to the Usage, Practice and Laws of *England*, and that all convictions, Attainers, Judgments, and Executions, for any *Felonies* or *Misdemeanors*, before the making of this Act, shall be good and valid in Law, and the same are hereby ratified and confirmed; *Saving* to all and every Person and Persons, all such Advantages in Law, upon any Judgment that may be depending in any Court of Record, at the Time of making this Act, in the same manner as if this Act had not been made.

*Trial
Eng. 3
Cap. 3*





An Act for preventing *Trespasses*.

Be it enacted by His Excellency the Governor, Council, and Assembly, and by Authority of the same it is hereby enacted, in Order to regulate Fences, and to prevent Damages being done to the Proprietors of inclosed Lands by unruly Cattle, That all Fences belonging to any inclosed Lands shall be built or made with Stone, Pickets, Boards, or Posts and Rails, or Log Fence, unless the Lands are bounded by Ponds, waterdable Rivers or the Sea; and such Fences shall be, at least, four Feet and an half high: And if any Damage be done by breaking such Inclosures, and destroying any of the Product thereof by Horses, Sheep, Hogs, and Neat Cattle, if such Inclosures shall, at the Time of such Damage, be inclosed by a good and sufficient Fence, agreeable to this Law in the Judgment of the Fence Viewer, who is hereby appointed to view the same, the Owners of such Trespassing Cattle, shall pay to the Party injured, the Value of all such Damages, to be ascertained, on the Appraisement thereof, by three credible Persons, living in the Neighbourhood, being first sworn before One of His Majesty's Justices of the Peace of the County where such Lands lie, truly to Value the same; and in Case the Owner of the said Cattle or Hogs, shall refuse to pay the Value of such Appraisement, upon Notice thereof given him, the injured Party may have and maintain his Action therefor, before any One or more of the said Justices, or before the Inferior Court of Common Pleas, according to the Value of such Damage.

And Whereas the Owners and Proprietors of Fields, lying and being adjoining to other inclosed Fields, do neglect to fence in their proportionable Part of such Fields, Be it enacted by the Authority aforesaid, That the Proprietor of any Field, adjoining to another inclosed or improved shall build up and maintain his Part or Proportion of Fencing, with good and sufficient Fence of four Feet and an half high, on that Part of such Land as is adjoining to his own; and in Case he neglects so to do within the Space of Ten Days after Notice given him it may and shall be lawfull, and any One of the Fence Viewers, upon Application being

made to him, in such Case is hereby impowered forthwith to cause such deficient Fence to be raised or made, or otherways to repair any Fence already made, if, in his Judgment, the same is insufficient; and the Person or Persons that of Right ought to build and maintain the same, shall pay double the Costs and Charges expended for the doing thereof; and in Case of Refusal, such Fence Viewers may recover the same by Action on the Case, according to the Value in manner aforesaid. *Provided* always that no Fence Viewer shall be allowed more than *three Shillings per Day*, in his Account, for his own Trouble and Time expended therein. And if any Fence Viewer, when notified, shall neglect his Duty herein, he shall forfeit *Forty Shillings* for every Offence.

And be it further enacted, That no Swine shall be permitted to go at large within the Streets, Lanes, or Suburbs of *Halifax*: And it shall and may be lawful for the *Hogreaves*, so often as they shall find any Swine going at large within the Streets, Lanes or Suburbs of the said Town, to impound them, and as soon as may be, cause the same to be publicly cried; for which he shall be paid *two Shillings and six Pence per Head*, and *three Pence per Day* for supporting each Swine, whilst impounded; and if the Owner thereof doth not appear, or refuses, within *three Days*, to claim the said Swine, and pay the Charges, that then the *Hogreaves* are hereby authorized to sell such Swine at publick Auction, and after deducting all Charges, the *Overplus* shall be paid to the Owner, when demanded.

And be it further enacted, That the Surveyors of Highways, by this Act appointed, shall have the Care and Supervisal of all the Streets, Lanes, and Highways of the Town and Suburbs of *Halifax*, and are hereby impowered to prevent the same from being obstructed or incumbered, and to cause the same to be mended, at the Charge of the Proprietors of Land bordering thereon: And they are hereby required to present all *Nuisances* in the said Streets, Lanes, and Highways, within the Limits above-mentioned, at the next *General Quarter Sessions* of the Peace, which is hereby impowered to proceed against such Offences according to the Laws of *England* in such Cases made and *Provided*.

And be it further enacted, That the Committee of the *General Assembly*, to be appointed for that End, shall and are hereby impowered to nominate *four* suitable *Overseers* of the Poor, *two* Persons for *Clerks of the Market*, *two* Persons for *Fence Viewers*, *two* Persons for *Hogreaves*, and *four* Persons for *Surveyors of Highways*, to serve for the Town of *Halifax*, till the *Sessions* of the *Supream Court, Court of Assize and General Goal Delivery*; to be held in *October* next, at which Time the *Grand Jury* of said Court are hereby impowered to choose other meet Persons to serve in their Room, and so from *Year to Year*; and the said Persons, so nominated or chosen, shall be sworn to the faithful Discharge of the Duty of their several Offices; and the Person or Persons who shall refuse to serve in the laid Offices to which they are respectively nominated or chosen as aforesaid, shall forfeit and pay the Sum of *Forty Shillings* each, and the said Committee or *Grand Jury* are hereby authorized to nominate or choose other Persons to serve in their Stead.



An Act for making *Lands and Tenements* liable to the Payment of *Debts*.

BE it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the Publication hereof, when any Person or Persons shall recover Judgment in any of His Majesty's Courts of Record within this Province, for any Sum or Sums of Money, or for Costs of Suit, and the Person or Persons against whom Judgment shall be recovered, shall be either unwilling or unable to satisfy such Judgment, by Money or otherwise, or sufficient *Personal Estate*; whereon to levy Execution on such Judgment, shall not be found, then and in such Case Execution shall and may be extended on the *Real Estate* of such Debtor or Debtors; and the Provost Marshal or his Deputy, upon Request to either of them made by the Creditor or Creditors, his or their Attorney or Agent, shall give Notice in Writing to the Debtor or Debtors, or in their Absence to their Attorney or Agent, to nominate an Appraizer, and the Creditor or Creditors shall have like Notice to nominate another on their behalf, and the said Provost Marshal or his Deputy shall name a *Third*, being all discreet indifferent Men and Freeholders; and in case such Debtor or Creditor or either of their Agents or Attorneys shall, for the Space of *three Days* after such Notice, refuse or neglect to nominate an Appraizer on their respective behalfs, or in case such Debtor or Debtors, shall be absent from the Province, and have no known Attorney or Agent, then and in such case the Provost Marshal or his Deputy shall and may nominate an Appraizer for such Debtor or Creditor respectively: And the Provost Marshal or his Deputy shall cause the said Appraisers, so nominated, to be sworn before some of His Majesty's Justices of the Peace, faithfully and impartially to the best of their Skill and Knowledge, to appraise such *Real Estate* as shall be shown to them. And the said Appraisers with the Provost Marshal or his Deputy shall forthwith repair to the *Lands or Tenements* of such Debtor, and view and examine the State and Condition thereof, and if upon such View and Examination, the said Appraisers, or any two of them, shall judge that the annual Rent of such *Lands or Tenements*, will be sufficient to pay such *Debt, Costs, and lawful Interest* for the same, together with the *necessary Repairs*, within

two Years, then the Provost Marshal or his Deputy shall extend the said *Execution* on the Rents only, and cause the Person or Persons in Possession, whether Debtor or Debtors, or their Tenant or Tenants, to attorn and become Tenant to such Creditor or Creditors, and shall pay Rent Quarterly to such Creditor or Creditors, who may distrain for the same, if in Arrear, according to the *Laws* of *Great Britain*; and the Person in Possession, refusing or neglecting to pay such Rent, when due, may be removed from such *Lands* or *Tenements*, by the Provost Marshal or his Deputy. And the Creditor or Creditors shall and may hold over and receive the Rents of such *Lands* or *Tenements*, until such *Judgment*, *Cost* and *Interest*, shall be fully Satisfied and paid.

And be it further enacted, That if upon such View and Examination as aforesaid, the said Appraisers or the major Part of them, shall be of Opinion that the Yearly Rents of the *Lands* or *Tenements* of such Debtor or Debtors are not sufficient to satisfy such *Debt* with *Cost* and *Interest*, together with the Charge of *needful Repairs*, within the Space of *two Years*, then the said *Execution* shall and may be levied on Part of such Estate, if in the *Judgment* of the said *three* Appraisers it can conveniently be done; but if not, then on the Whole of the *Lands* or *Tenements* of the said Debtor or Debtors. And the Provost Marshall or his Deputy shall immediately deliver Seizen and Possession thereof to such Creditor or Creditors, and cause the Person or Persons in Possession or Improvement thereof, to attorn and become Tenants to such Creditor or Creditors in manner aforesaid, and pay their Rent to him or them accordingly. And such Person or Persons, so in Possession, shall be subject to be removed, and be under such Rules and Regulations as are herein before prescribed.

And be it further enacted, That in all Cases where an Appraisement, as herein before directed, shall be made, whether the same be of *Lands* or *Tenements* in Part or in Whole, or of the Rents thereof only; the Appraisers shall make and subscribe a true and impartial Appraisement thereof, which said Appraisement being annexed to the *Execution*, and duly returned by the Provost Marshal or his Deputy, and filed and recorded therewith by the Clerk of the Court from whence the same issued, in a Book to be kept by him for that Purpose, and the Provost Marshal or other Officer serving such *Execution*, shall immediately execute a Deed of Sale of such *Lands* or *Tenements*, to such Creditor or Creditors, in Consideration of the Value found by such Appraisers, to be therein mentioned, who by Virtue thereof or of said Return, shall make a good Title to such Creditor or Creditors, his or their Heirs or Assigns in *Fee*. *Subject nevertheless* to an Equity of Redemption, as is herein after prescribed; and any Clerk refusing or neglecting his Duty herein, shall forfeit the Sum of *five Pounds*, to be recovered by Action of Debt by the Party grieved.

Provided always, and it is hereby further enacted, That it shall and may be lawful for any Debtor or Debtors, whose Estate is taken in *Execution*, or their Heirs, Executors, Administrators, or Assigns, at any Time, within the Space of *two Years* next following the Levying such *Execution* thereon, to redeem his or their *Lands* or *Tenements* so extended, and may

have his Action of Account against the Creditor or Creditors or their Assigns, in manner as is provided by Law. And upon paying the Original Debt with the *Cost* and *Interest*, and the Charges of such *necessary Repairs*, as the Creditor or Creditors or their Assigns have been obliged to expend; *Provided* that they do not exceed *One-half* of the Rents, which the Creditor or Assigns, if he or they see cause, are hereby allowed to expend and lay out, and as much more as the Debtor shall consent to, (who is hereby obliged to accept the same,) such Creditor or Creditors or their Assigns shall immediately surrender all such Estate to the Debtor or Debtors, their Heirs, Executors, Administrators, or Assigns, and deliver up and quiet peaceable Possession thereof,

And be it further enacted, That when any Estate shall be found by the Appraisers, to be of greater Value than the *Debt* and *Cost*, the Creditor or Creditors shall be obliged, at the Expiration of *Thirty Days* next after the End of the said *two Years*, (if not sooner redeemed) to give publick Notice by Advertisement, that the *Lands* or *Tenements*, so extended, are to be sold at publick Auction by the Provost Marshal or his Deputy, who are hereby impowered to sell the same, and to execute to the Person or Persons purchasing the same, a Deed thereof as of a *Fee Simple*, which Deed being registred as by Law required, shall be good and valid in the Law; but in the mean Time and until such Sale shall be made, the Equity of Redemption of such *Lands* or *Tenements*, shall be open in Favour of such Debtor or Debtors, their *Heirs*, *Executors*, *Administrators*, or *Assigns*, to recover the same, and if, upon such Sale, the said *Lands* or *Tenements* do sell for more than the original *Debt*, *Cost*, *Charges*, and *Interest*, the Creditor or Creditors, or their Attorney or Agent or Assigns, shall pay the Overplus into the Hands of the Debtor or Debtors or their Heirs, Executors, Administrators, or Assigns, the said Creditor or Creditors accounting to such Debtor or Debtors, for all Rents and Profits, first deducting for all *necessary Repairs*. But if the said *Lands* or *Tenements* do sell for less than the *Debt*, *Cost*, *Charges*, and *Interest*, then the Creditor or Creditors, or their Heirs or Assigns, in such Case, shall and may have an *Alias Execution* against the Debtor for the Residue.

And be it further enacted, That when the *Real Estate* of the Debtor upon Appraisalment, or when the *Yearly Rent* of the *Lands* or *Tenements* extended upon, at the End of the said *two Years*, shall be found insufficient to satisfy the *Judgment*, with *Cost*, *Charges*, *Interest*, and *needful Repairs*; That in either Case, an *Alias Execution* may issue on the said *Judgment* for the Remainder, and be levied on such other *Effects* or *Estate* as can be found of the Debtor, or his *Body* may be taken and detained until Satisfaction be made of such *Judgment*, with *Cost*, *Charges*, and *Interest*: any Law, Usage, or Custom to the contrary notwithstanding.

Provided that nothing herein contained shall extend or be construed to extend to the Detaining in Prison any poor *Insolvent Debtor*, contrary to the Law of this Province in that Case made and provided.



An Act for preventing Frauds by *Butchers*
and *Fishmongers*.

Be it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That every Butcher and other Person, who shall kill or slaughter any Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, for Sale, shall slaughter and flea the same in the most clean and plain manner, and shall not on any pretence, raise, or blow, or use any Fraudulent or Deceitful Art to set off the same; and no Butcher or other Person, shall sell or expose to Sale any Cattle killed, but what shall be killed or dressed in the most plain manner, and according to the Meaning of this Act; and if any Butcher or other Person shall offend in any of the Premises, and be convicted of the said Offence, before One Justice of the Peace of any County, by One Witness or Confession of the Offender, or on View by such Justice, he shall forfeit such Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, or Part thereof, killed or dressed contrary to this Act, to be disposed of, by such Justice, among the Poor of the Town, where such Offence shall be committed, or among the Prisoners; and shall further forfeit the Sum of five Shillings to and for the Use of the Informer, to be levied by Warrant of Distress under the Hand and Seal of such Justice.

*And be it further enacted, That no Butcher or other Person shall sell or expose to Sale, any tainted Flesh or Fish unfit for Sale, under the like Forfeiture and Penalty, to be prosecuted and recovered, and to be disposed of in manner aforesaid, unless the said tainted Flesh or Fish, be wholly unfit for Food, in which Case, the Justice before whom such Conviction shall be had, shall cause such tainted Flesh or Fish to be burnt or otherwise destroyed. **

And be it further enacted, That the Clerks of the Market shall and are hereby impowered, ex Officio, to seize and take all such Flesh blown, or fraudulently or deceitfully set off, or Fish tainted and unfit for Sale, and to proceed against and convict such Offenders in manner aforesaid, and the Fines arising therefrom shall be to and for their own Use.

An Act concerning *Marriages*, and *Divorce*,
and for punishing *Incest* and *Adultery*, and de-
claring *Polygamy* to be *Felony*.

B *Be it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That any Person presuming to officiate in Solemnizing any Marriage, before Notice of the Parties Intention of Marriage shall be publicly given, on three several Sundays or Holy Days, in Time of Divine Service, in some Congregation within the Town or Towns, where each of the Parties do reside, or for which Marriage Licence shall not have been obtained, under the Hand of the Governor or Commander in Chief of the Province for the Time being, shall forfeit and pay to the Use of His Majesty's Government, Fifty Pounds, to be recovered by Bill, Plaint or Information, in any of the Courts of Record within this Province.*

And be it further enacted, That if any Clergyman, officiating as such in any Congregation in the Town or Towns, where the Parties reside, shall neglect or refuse to make or cause to be made such Publication when thereunto reasonably requested, he shall forfeit the Sum of Fifty Pounds, to be recovered in manner aforesaid: And be subject nevertheless to an Action of Damages, to be brought by any of the Parties aggrieved.

And be it further enacted, That if any Clergyman shall refuse to marry any Persons requesting him thereto, and making known to him that they have been duly published, or have obtained a Licence as aforesaid, he shall forfeit the Sum of Fifty Pounds, to be recovered in manner aforesaid, and be subject to the like Action of Damages.

And be it further enacted, That if any Person, being married, do marry again the former Husband or Wife being alive, such Offence shall be Felony.

Provided nevertheless That the foregoing Clause of this Act, shall not extend to any Person whose former Marriage has been declared void, who has obtained a Divorce by any Sentence had before the Governor,

and Council ; nor shall any Attainder for this Offence work any Corruption of Blood, Loss of Dower, of Disinheriton of Heirs.

And be it further enacted, That all Matters relating to prohibited *Marriages* and *Divorce*, shall be heard and determined by the Governor, or Commander in Chief for the Time being, and His Majesty's Council of this Province.

And be it further enacted, That no *Marriage* shall be declared null and void, except for the Cause of *Impotence*, or of *Kindred* within the Degrees prohibited in an Act made in the *Thirty Second Year of King HENRY the Eighth*, intituled *An Act concerning Precontracts and touching Degrees of Consanguinity*; And that no Decree for *Divorce* shall be granted for any other than the *two* foregoing and the *two* following Causes, viz. That of *Adultery*, and That of *wilful Desertion* and withholding *necessary Maintenance for three Years* together; in any of which Cases every Person suing for a *Divorce*, shall be intituled to a Decree for that Purpose, to be obtained from the Governor or Commander in Chief for the Time being, and His Majesty's Council, who shall have full Power and Authority to grant the same.

And be it further enacted by the Authority aforesaid, That every Man and Woman who shall Carnally know each other, being within the Degrees of *Kindred* forbidden in the aforesaid Act, and shall be convicted thereof before His Majesty's *Supream Court of Judicature*, *Court of Assize and General Goal Delivery*, or *Court of General Quarter Sessions of the Peace*, shall be set in the Pillory for the Space of *one Hour*, and further shall forfeit the Sum of *Fifty Pounds*, to the Use of His Majesty's Government, or suffer *six Months* Imprisonment.

And be it further enacted, That every Person who shall commit *Adultery*, and shall be thereof convicted before any of His Majesty's Courts aforesaid, shall forfeit to the Use aforesaid the Sum of *Fifty Pounds*, or suffer *six Months* Imprisonment, and to be subject *nevertheless* to an Action of Damages by any of the Parties aggrieved.



An Act for preventing *Frauds and Perjuries.*

BE it enacted by His Excellency the Governour, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the *First Day* of *May* in this present Year, *One Thousand Seven Hundred and Fifty Nine*, all *Leases, Estates, Interests of Freehold, or Terms of Years, or any uncertain Interests of, in, or out of any Messuages, Lands, Tenements, or Hereditaments,* made or created by *Livery and Seisin only, or by Parol,* and not put in *Writing* and signed by the Parties so making or creating the same, or their Agents thereunto lawfully authorized by *Writing*, shall have the Force and Effect of *Leases, or Estates at Will* only, and shall not, either in *Law or Equity*, be deemed or taken to have any other or greater Force or Effect, any Consideration for making any such *Parol Leases or Estates*, or any former *Law or Usage* to the contrary notwithstanding. *Except nevertheless*, all *Leases* not exceeding the Term of *three Years* from the making thereof, whereupon the Rent reserved to the Landlord, during such Term, shall amount unto *two Third Parts* at least, of the full improved Value of the Thing demised.

And be it also enacted, That no *Leases, Estates, or Interests*, either of *Freehold, or Term of Years, or any uncertain Interest of, in, to or out of any Messuage, Lands, Tenements, or Hereditaments*, shall, at any Time after the said *first Day of May*, be *assigned, granted, or surrendered*, unless it be by *Deed or Note in Writing*, signed by the Party so *assigning, granting, or surrendering* the same, or their Agent thereunto lawfully authorized by *Writing*, or by *Act and Operation of Law*.

And be it further enacted, That from and after the said *First Day of May*, no *Action* shall be brought whereby to charge any *Executor or Administrator* upon any *Special Promise*, to answer *Damages* out of his own *Estate*, or whereby to charge the *Defendant* upon any *Special Promise*, to answer for the *Debt, Default or Miscarriages* of another Person, or to charge any Person upon any *Agreement* made upon *Consideration of Marriage*, or upon any *Contract or Sale of Lands, Tenements, or Hereditaments*, or any *Interest in, or concerning them*, or upon any *Agreement* that is not to be performed within the *Space of One Year* from the making thereof, unless the *Agreement* upon which such *Action* shall be brought, or some *Memorandum or Note thereof*, shall be in *Writing*,

and signed by the Party to be charged therewith, or some other Person thereunto by him lawfully authorized.

And be it further enacted, That no Contract for the Sale of any Goods, Wares, and Merchandizes for the Price of *Ten Pounds* or upwards, shall be allowed to be good, except the Buyer accept Part of the Goods so sold, or actually receive the same, or give something in Earnest to bind the Bargain or in Part of Payment, or that some Note or Memorandum in Writing of the said Bargain be made, and signed by the Parties to be charged by such Contract, or by their Agents thereunto lawfully authorized.

And be it further enacted; That from and after the said *First Day of May*, all Declarations or Creations of Trusts or Confidences of any *Lands, Tenements, or Hereditaments*, shall be manifested and proved by some Writing signed by the Party who is, by Law, enabled to declare such Trust, or by his last *Will* in Writing, or else they shall be utterly void and of none Effect. *Provided always,* That where any Conveyance shall be made of any *Lands or Tenements*, by which a Trust or Confidence shall or may arise or result by the Implication or Construction of Law, or be transferred or extinguished by an Act or Operation of Law, then and in every such Case, such Trust or Confidence shall be of the like Force and Effect, as the same would have been, if this Act had not been made; any Thing herein before contained to the contrary notwithstanding.

And be it further enacted, That all Grants and Assignments of any Trust or Confidence, shall likewise be in Writing, signed by the Party granting or assigning the same, or by such last *Will* or *Devise*, or else shall be utterly void and of none Effect.

And be it further enacted, That it shall and may be lawfull for every Sheriff or other Officer, to whom any Precept or Writ shall be directed, upon any Judgment or Recognizance, to do Execution of all such *Lands, Tenements, and Hereditaments*, as any other Persons be seized or possessed of in Trust for him against whom Execution is sued, as if the Party against whom Execution shall be sued, had been seized of such *Lands, Tenements, and Hereditaments*, of such Estate as they be seized of in Trust for him at the Time of the Execution sued, which *Lands, and Tenements, and Hereditaments*, shall be accordingly held, freed from all Incumbrances of such Persons seized or possessed in Trust. And if any *cestui que Trust*, shall die leaving a Trust in *Fee Simple* to descend to his Heirs, such Trust shall be *Assets* by Descent, and the Heir shall be chargeable with the Obligation of his Ancestor, as if the Estate in Law had descended to him. *Provided* that no Heir, who shall be chargeable by Reason of any Estate or Trust made *Assets* by this Law, shall by Reason of any Plea, Confession of the Action, or suffering Judgment by *nient de dire*, or other Matter, be chargeable to pay the Condemnation out of his own Estate, but Execution shall be sued of the whole Estate so made *Assets*, in whose Hands soever it shall come after the Writ purchased, in the same manner as by the common Law, where the Heir pleading a true Plea, Judgment is prayed against him thereupon,

And be it further enacted. That any Estate *pur autre vie*, shall be deviseable by a *Will* in Writing signed by the Party devising the same, or by some other Person in his presence and by ~~his~~ Express Direction, attested and subscribed in the Presence of the *Devisor* by three or more Witnesses; and if no such Devise thereof shall be made, the same shall be chargeable in the Hands of the Heir, if it shall come to him by Reason of a special Occupancy, as *Assets* by Descent, as in Case of Lands in *Fee Simple*; and in Case there be no special Occupant thereof, it shall go to the Executors or Administrators of the Party that had the Estate thereof by Virtue of the Grant, and shall be *Assets* in their Hands, and shall be subject to the Payment of Legacies, and be distributable, after Payment of Debts, in the same manner as other *Estates* of *Intestate* Persons are distributable by the Laws of this Province.

And be it further enacted, That the *first Judge* on the Bench in any of His Majesty's Courts, shall sign every Judgment without Fee, and set down the *Day* of the *Month* and *Year* of his so doing, upon the Paper or Docket, which he shall sign; which *Day* of the *Month* and *Year*, shall be also entered, upon the Margin of the Record, where the said Judgment shall be entered, and such Judgments as against Purchasers *bona fide* for valuable Considerations of *Lands*, to be charged thereby, shall, in Construction of Law be Judgments only from such Times as they shall be so signed, and shall not relate to the *first Day* of the Term whereof they are entered, or to the *Day* of the Return of the Original or filing the *Bail*.

And be it also enacted, That no Satisfaction shall, at any Time, be entered on the Record of any Judgment, upon the Motion of any Attorney, except the said Attorney shall prove his Warrant for acknowledging such Satisfaction, by affidavit of *One* credible Witness in Writing, to be filed in the Office where such Judgment is entered.

And be it further enacted, That no Writ of *Execution*, shall bind the Property of the Goods of the Party, against whom such Writ of *Execution* is sued forth, but from the Time such Writ shall be delivered to the Sheriff, Undersheriff or Coroner, to be executed; and the Sheriff, Undersheriff and Coroners shall, upon the Receipt of any such Writ, without Fee, indorse thereon the *Day* of the *Month* and *Year* whereon they received the same.





An Act to provide for the Support of *Bastard Children*, and the Punishment of the Mother and reputed Father.

BE it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the *Twenty fifth Day of March* Instant, if any Woman shall be delivered of a *Bastard Child*, which shall be chargeable or likely to be chargeable to the Province, she having declared to the Midwife, or other Persons assisting her at the Time of Delivery, who the Father of such Child was, and shall have at some Time before, declared herself to be with Child, and that such Child is likely to be born a *Bastard*, and to be chargeable to any Place within the Province, and shall in either of such Cases, upon Examination to be taken in Writing upon Oath, before *One* Justice of the Peace near where such Place shall lie, charge any Person with having gotten her with Child; it shall and may be lawful, for such Justice, upon Application made to him by the Overseers of the Poor of such Place, or any *One* of them, or some substantial Householder of such Place, to issue out his Warrant to apprehend such Person so charged as aforesaid, and to bring him before him or some other of His Majesty's Justices, and to commit such Person to Goal or the House of Correction, unless he give Security to indemnify such Place from the supporting or maintaining such *Child* or *Children*; and shall enter into Recognizance with sufficient Security for his Appearance at next *Quarter Sessions* where he shall be continued on Recognizance till the Woman is delivered of such *Child* or *Children*. *Provided* That if such Woman shall die or be married before she be delivered or Miscarry of such *Child* or *Children*, or shall appear not to have been with Child at the Time of her Examination, such Person shall be discharged from his Recognizance at the next *Sessions*, or immediately released out of Custody, if committed.

And be it further enacted, That any *two* Justices of the Peace near the Place where any *Bastard Child* shall be born, upon Complaint made, by the Overseers of the Poor or any *One* of them, or of some substantial

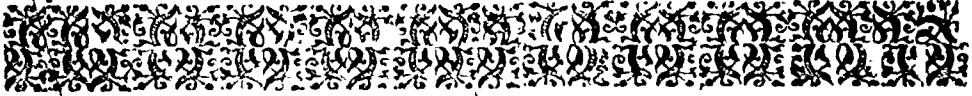
Householder,

Householder, upon due Examination of the Cause and Circumstances, shall and may, by their Discretion make an Order for the Relief of such Place, or Children, and for keeping such *Bastard Child*, and that said Mother or reputed Father of such *Child* or *Children*, shall find sufficient Security that such *Child* shall not become Burthensome or Chargeable to any Place, in said Province, or pay the Sum of *Twenty Pounds*, which shall be paid into the Hands of the Overseers of the Poor for the Support of such *Child* or *Children*, or other Town Utes. And if, after the said Order made by said Justices, and by them subscribed and directed to the Overseers of the Poor, any of said Persons, *viz*, Either the Father or Mother, upon Notice thereof, shall not for his or her Part observe and perform said Order, then such Party, making Default, to be committed to Goal or House of Correction for the Space of *six Months*, *except* he or they shall give sufficient Security to perform said Order, or else personally appear at the next *Quarter Sessions* and abide by such Order as shall be made at said *Sessions* in that behalf, and if no Order shall be made at said *Sessions*, then to abide by the *first* Order.

And it is hereby further enacted, That in Case any Woman shall accuse or charge any Man with having gotten her with Child, though the Woman be not with Child, or that the Child be not really his, but appears to be only a Contrivance to defame the Person, or cheat him of his Money, that in such Case the said Woman shall be sent to the House of Correction, there to be whipped and remain for the Space of *six Months*.

Provided nevertheless, That if any Person shall think himself wrongfully charged, or if the Person charging him be a Woman of ill Fame or a Common Whore, in such Cases, upon giving Security to abide the Judgment of the Court, he may appeal from the Order of the Justices, to the next *Sessions*, when the whole Cause may be heard and tried by such Court, on the Verdict of a Jury.





An Act for punishing Criminal Offenders.

Be it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That if any Person shall presume willfully to blaspheme the Holy Name of God, Father, Son, or Holy Ghost, or to deny, curse or reproach the true God, his Creation or Government of the World, or to deny, curse, or reproach the Holy Word of God, that is, the Canonical Scriptures in the Books of the Old and New Testament; every such Offender, being thereof duly convicted at the Court of Assize and General Gaol Delivery, or Sessions of the Peace, shall be set twice in the Pillory, for the Space of One Hour, each Time, or be imprisoned for three Months, at the Discretion of the Court where such Offender shall be convicted.

And be it further enacted, That if any Person shall prophanely swear or curse in the Presence or Hearing of any Justice of the Peace, or shall be thereof convicted by the Oath of One credible Witness, or by the Confession of the Party, before any Justice of the Peace, every Person offending shall forfeit, to the Use of the Poor of the Town where such Offence shall be committed, for the First Offence two Shillings; and in Case such Person shall, after Conviction, offend a Second Time, such Person shall forfeit double, and if a Third Time, Treble the Sum to be paid for the First Offence, and upon Neglect of Payment, the Justice shall issue his Warrant to a Constable, committing him to levy the laid Forfeitures by Distress and Sale of the Goods of such Offender, and the Forfeiture, when paid or levied, shall be delivered to the Overseers of the Poor for the Use of the Poor as aforesaid; and in Case no Distress can be had, such Offender, being above the Age of Sixteen Years, shall by Warrant of the Justice, be set in the publick Stocks for One Hour for every single Offence, and for any Number of Offences whereof he shall be convicted at One Time, two Hours; and if the Party offending be under the Age of Sixteen Years, and shall not pay the Forfeitures, he shall, by Warrant of the Justice, be whipped by the Constable, or by the Parent, Guardian, or Master of such Offender, in Presence of the Constable; Provided al-

ways, That every such Offence be proved or prosecuted within *Ten Days* after the Offence committed.

And be it further enacted, That every Person who shall by *View* of any Justice of the Peace, or Confession of the Party, or Oath of *One* credible Witness before any such Justice, be convicted of *Drunkenness*, shall forfeit and pay for the use of the Poor of the Town where such Offence is committed, the Sum of *five Shillings*, to be levied, on Neglect or Refusal to pay the same, by Warrant of Distress and Sale of the Offenders Goods; and the said Sum, when paid or levied, shall be delivered to the *Overseers of the Poor* for the Use of the Poor as aforesaid, and for Want of such Distress, such Offender shall be set in the *Stocks*, for any Time not exceeding *three Hours*, at the Discretion of the Justice or Justices before whom such Offender shall be convicted. And upon a *Second Conviction* of *Drunkenness* in like manner as aforesaid, every such Offender shall, over and above the Penalty aforesaid, be bound with *two Sureties*, in the Sum of *Ten Pounds*, with Condition for the *good Behaviour*, and for Want of such Sureties, such Offender shall be committed to the *Common Gaol*, untill he shall find the same; *Provided*, That every such Offence be proved or prosecuted within *Ten Days* after the Offence committed.

And be it further enacted, That the Justices of the Peace shall register all the Convictions made before them, of such *prophane Swearing, Cursing* or *Drunkenness*, and shall certify the same to the next *Quarter Sessions*, to be kept upon Record by the *Clerks* of the Peace, to be seen without Fee.

And be it also enacted, That if any Action shall be brought against any Justice of the Peace or Officer for any Proceedings on the said Offences in Pursuance of this Act, the Defendant may plead the *General Issue*, and give the *special Matter* in Evidence, and if the Plaintiff shall be *Non suit*, or a Verdict shall be found for the Defendant, such Defendant shall have *Treble Costs*.

And be it further enacted. That every Person duly convicted at the Court of *General Gaol Delivery*, or *Quarter Sessions*, of *counterfeiting* or *impairing, diminishing* or *imbasing* any *Foreign Coins*, current in the Province, by *washing, clipping, rounding, filing, or scaling* of the same, or of uttering any *counterfeited* or *impaired Coin*, knowing the same to be so *counterfeited* or *impaired*, shall be set in the *Pillory*, by the Space of *One* whole *Hour*, and *One* of the *Ears* of such Offender shall be nailed thereto; and such Offender shall also be publicly whipped thro' the *Streets* of the Town where such Offence shall be committed, and shall pay all *Charges* of the Prosecution.

And be it further enacted, That every Person convicted as aforesaid; of buying or receiving any *clippings, sealings, or filings* of *Money*, shall forfeit the Sum of *Twenty Pounds*, *One Moiety* thereof for the Support of His Majesty's Government in this Province, and the other *Moiety*, to him or them who shall inform and sue for the same, and also be imprisoned for the Space of *three Months*.

And be it further enacted, That if any Person shall *forge* or *counter-*

feit, or procure to be forged or counterfeit or willingly assist in the forging or counterfeiting, any Deed or Writing sealed, or last Will or Testament, or shall publish or shew forth in Evidence, any such forged or counterfeit Deed, Writing sealed, or last Will or Testament, as true, knowing the same to be false; or if any Person shall forge or counterfeit, or procure to be forged or counterfeited, or willingly assist in the Forging or Counterfeiting, any Bond, Writing Obligatory, Bill of Exchange, Promissory Note for the Payment of Money, or any Indorsement, or Assignment of any Bill of Exchange, or such Promissory Note for Payment of Money, or any Acquittance or Receipt either for Money or Goods, or any Discharge of any Action, Account, Debt, Demand, or any personal Thing, with Intention to defraud any Person, or shall utter or publish as true, any forged or counterfeited Bond, Writing Obligatory, Bill of Exchange, or such Promissory Note for the Payment of Money, or such Acquittance, Receipt, or Discharge, with Intention to defraud any Person, knowing the same to be forged or counterfeited; every such Person, being thereof convicted at the Court of Assize, and General Gaol Delivery, or Sessions of the Peace, shall be set in the Pillory, and there have One of his Ears cut off, and shall also suffer Imprisonment for the Space of One Year without Bail or Mainprize; and the Party grieved shall recover his double Costs and Damages, to be assessed in the Court where such Conviction shall be: *Provided always, and it is hereby enacted, That this Act nor any Thing herein contained, shall not extend to charge any Judge of Probate, or any Register, for any of the Offences aforesaid, for putting their Seal of Office to any Will to be exhibited to them, not knowing the same to be forged or counterfeited, or for Writing of the said Will or Probate of the same, nor to any other Person or Persons that shall shew forth or give in Evidence, any false or forged Writing for true or good, being not Party or privy to the Forging of the same, not knowing the same to be false or forged.*

*And be it further enacted, That if any Person or Persons, either by the Subornation, unlawful Procurement, sinister Persuasion or Means of any other, or by their own Act, Consent, or Agreement, shall willfully or corruptly commit Perjury, by his, her, or their Deposition in any Court of Record, or being examined *ad perpetuam rei memoriam*, every Person so offending, and being thereof duly convicted, shall forfeit Twenty Pounds, the One Moiety thereof for the Support of this His Majesty's Government, and the other Moiety to such Person or Persons as shall be grieved by Reason of the Offence, that shall sue for the same by any Action of Debt, Bill, Plaint, or Information in any Court of Record; and shall also be imprisoned by the Space of six Months without Bail or Mainprize: And the Oath of such Person or Persons shall not be received in any Court of Record, until such Time as the Judgment given against the said Person or Persons shall be reversed, and upon every such Reversal, the Parties aggrieved shall recover their Damages against such Person or Persons, as did procure the said Judgment to be reversed, to be given against them or any of them, by his, her, or their Action upon the Case, according to the Course of the common Law.*

And if the said Offender or Offenders shall not have any Goods or Chattels

2. *Cl. 11
The
Explana.*

Chattels to the Value of *Twenty Pounds*, then he, she, or they shall be set on the *Pillory*, by the Space of *One whole Hour*, and both his *Ears* shall be nailed to the *Pillory*, and from thenceforth such Offender shall be discredited and disabled for ever to be sworn in any *Court of Record*, until such Time as the *Judgment* shall be reversed.

And be it further enacted, That every Person and Persons who shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any *willful and corrupt Perjury* in any Matter or Cause whatsoever, depending or that shall depend in Suit and Variance by any Writ, Action, Bill, Complaint or Information in any *Court of Record*, or to testify *in perpetuum rei memoriam*; every such Offender being thereof duly convicted, shall suffer the like Pains, Penalties, Forfeitures, and Disabilities in all Respects as are hereby directed for the like Offences, and the said Forfeiture to be recovered and applied in manner as aforesaid.

And be it further enacted, That as well the *Judges* of the said *Courts*, where such *Perjury* shall be committed, as also the *Justices of Assize* and *Gaol Delivery*, and the *Justices of the Peace* at their *Quarter Sessions*, shall have Power to inquire of all the said Offences of *willful Perjury*, and Subornation of *Perjury*, thereupon to give *Judgment*, award *Process* and Execution of the same.

Provided That the Authority of any *Judge*, having absolute Power to punish *Perjury* before the making this Act, shall not be restrained, but that they may proceed in the Punishment of the same, in such wise as they might have and used to do, so that they set not upon such Offenders, less Punishment than is before directed.

And be it further enacted, That if any Person or Persons shall falsely and deceitfully obtain or get into his, her, or their Hands or Possession, any Money, Goods, Chattels, Jewels or other Things of any other Person or Persons, by colour and means of any *privy false Token*, or *counterfeit Letter* made in another Mans Name, to a special Friend or Acquaintance, for the obtaining of Money, Goods, Chattels, Jewels or other Things, and shall be thereof convicted in any *Court of Oyer and Terminer*, *Court of Assize* and *General Gaol Delivery*, or *Quarter Sessions of the Peace*; every such Offender shall suffer such Punishment by Imprisonment, setting upon the *Pillory*, publick Whipping, or hard Labour in the House of Correction, as such *Court* where the Offender shall be convicted, shall in their Discretion adjudge.

And be it further enacted, That if any Person or Persons, above the Age of *Fourteen Years*, shall be convicted by Confession, or by the Oath of *One* credible Witness, before any Justice of the Peace, of making or publishing any Lye, Libel, or scandalous Report, tending to the Defamation or Damage of any Person, or shall, with Intent to abuse and deceive others, invent or spread any false News; every such Offender shall be fined at the Discretion of such Justice, in any Sum, not exceeding

Five Pounds, to be paid to the *Overseers of the Poor*, for the Use of the Poor of the Town where the Offence shall be committed, and shall be bound in a Recognizance, with *two Sureties*, for the *Good Behaviour*, during such Time as the Justice shall think meet, and upon the Neglect or Refusal of such Offender to pay the Fine, such Justice may issue his Warrant for levying the same by Distress and Sale of the Offenders Goods; and in Default of such Distress, may either commit the Offender for *One Month*, or may order such Offender to be set in the *Stocks for three Hours*, or to be whipped, at the Discretion of the Justice, upon the Nature and Circumstances of the Offence, and such Offender may be committed untill the Sureties hereby required, shall be found for the *Good Behaviour*. And the Party or Parties injured shall and may be at Liberty, notwithstanding such Fine or Punishment, to proceed against such Offender or Offenders by Suit in any Court of *Record*, for any Special Damage sustained by Reason of such Defamation.



An Act relating to the Assize of *Bread*, and for Ascertaining the *Standard* of Weights and Measures.

WHEREAS great Frauds are daily committed in this Province, because no Standard for Weights and Measures, or Assize of Bread, have hitherto been established,

E. Cap. 24m

E it therefore enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That all Weights and Measures used in this Province, shall be according to the Standard of the *Exchequer of England*: And that the Treasurer of the Province, as soon as may be, procure a Sett of Measures, Long, Liquid, and Dry, and a Sett of *Brass Weights and Scales*, and that until such Weights and Measures shall arrive, the Weights at His Majesty's Ordnance Store shall be the Standard. And the Clerks of the Market for each Town, shall procure therefrom, a Sett of Weights according to such Standard, which shall remain with them as *Assay Weights*, and shall be marked with the Letters **G^{II} ; R :**

And be it further enacted, That every Inhabitant of each Town respectively, making Use of Weights and Measures in the Sale of any Com-

modity--

modity shall, in *One Week* after publick Notice given by such Clerks respectively, bring or cause to be brought, their *Weights* and *Measures* to be *assayed*, for each of which *Assay* he shall have *two Pence* for his Trouble and no more, and the said Clerk shall cause such *Weights* and *Measures* to be branded or stamp't with the *Initial Letter* of the Town where such *Assay* shall be made. And whosoever shall thenceforward, sell or vend any Commodity by *Weights* or *Measures* not so branded or marked, shall forfeit for every such Offence *Twenty Shillings*, on due Conviction thereof, before any *One* of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed, to be levied by Warrant of Distress, and Sale of the Offenders Goods.

And for the more effectual preventing such Frauds, be it further enacted, That the said Clerks shall and are hereby impowered, to inspect all *Weights* and *Measures*, and for that Purpose once in *three Months*, or oftner if they see Cause, shall visit every Inhabitant selling publickly by *Weights* and *Measures*, and shall have full Power and Authority to seize all such, not stamp't or branded as aforesaid, and may *Assay* and mark and dispose of the same for their Use, as a Satisfaction for their Trouble therein; and if any Person shall hereafter be convicted of Selling by *Weights* and *Measures* less than the *Standard* hereby established, he shall forfeit the Sum of *Ten Pounds*, to be recovered by Bill, Complaint, or Information, in any of His Majesty's Courts of Record.

And for preventing Frauds in the Assize of Bread, be it enacted, That the Clerks of the Market be and are hereby impowered to visit every *Bake-House*, or the House of any other Person, selling Bread, and to seize all such as shall be found under the *Weight* and *Assize*, established by this Act as follows, viz.

When the Price of fine Wheaten Flour is at or under
Twelve Shillings the 112lb. avoirdupoize,

	<i>Avoirdupoize</i>	
	Lb.	Oz.
<i>The Sixpenny Loaf of the same shall weigh</i>	4.	0.
<i>When from Twelve to Fourteen Shillings inclusive</i>	3.	8.
<i>From Fourteen to Sixteen inclusive</i>	3.	0.
<i>From Sixteen to Eighteen inclusive</i>	2.	12.
<i>And above Eighteen</i>	7.	8.

And that it shall and may be lawfull for said Clerks to stop, and examine the Bread that may be carried through the Streets, by any Person or Persons, either for immediate Sale, or the Supply of his or their Customers, and in like manner to seize all such as shall be found under the *Weight* and *Assize*.

And be it further enacted. That every Baker within this Province, shall and are hereby required to mark his Bread with the first Letter of his Christian and Sirname, which, upon Failure thereof shall be seized,

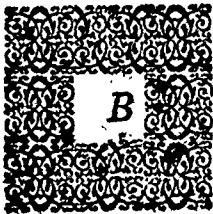
and such Bread, so seized, shall be forfeited, and delivered to the *Overseers of the Poor* of the Town where the Offence is committed, for the Benefit of the Poor or Prisoners.

Provided always, that if any Person shall think himself aggrieved by such Seizure, he may apply for Redress to any of His Majesty's Justices of the Peace for the County, who is hereby empowered to determine the same, if Application be made within *Twelve Hours* after the Seizure be made.

And be it further enacted, That if any Person making Use of *Weights and Measures*, or selling Bread, shall refuse Admittance to any of the said Clerks declaring the Intent of their coming to discharge the Duty of their Office, he shall for every such Refusal, forfeit the Sum of *Twenty Shillings*, to be recovered before any *One* of His Majesty's Justices of the Peace.



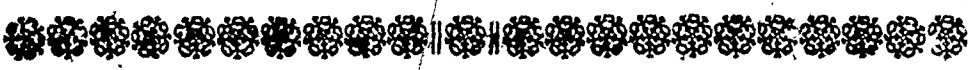
An Act declaring what shall be deemed a *Publication* of the *Province Laws*.



Be it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That the *Publick Reading* any Law of this Province, by the Provost Marshal or his Deputy, on the *Parade of Halifax*, after Notice by *Beat of Drum*, shall be deemed a sufficient Publication thereof.

Cap. 24

And all Laws, already published in that manner, are hereby declared to have been in Force accordingly, from the Time of such Publication.





An Act for preventing Persons leaving the Province without a Pass.

30. ined. 1763. c. 4
WHERE AS Injustice may be done to Creditors by Persons in their Debt, privately leaving the Province, and great Inconveniencies have likewise arisen, from Seamen in the Royal Navy and Soldiers being secretly conveyed away. For preventing thereof,

1763. c. 4
E it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That all and every Person or Persons, intending to leave this Province, shall put up their Names publicly at the Secretary's Office, for the Space of seven Days, before they shall obtain any Pass, with the Day and Year when they put up their Names, and in Case said Person or Persons are not, within said seven Days, underwrote in manner as has been usual, that then and in such Case, it shall and may be lawful for the Secretary or his Deputy, and they are hereby required, to grant said Person a Pass, for which he shall receive *One Shilling only*. And in Case said Secretary or his Deputy shall refuse a Pass to any Person or Persons that have complied with the Rules prescribed by this Act, he or they shall forfeit the Sum of *Fifty Pounds*, to be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record in this Province, and for the Use of the Person grieved.

And be it further enacted, That the Pass for Persons leaving this Province shall be in the following Words.

" Province of }
" Nova-Scotia }

PERMIT

" this Province in the

" bound for

" having complied with an Act of this Province, for that

" Purpose,

" Dated

to depart
Master,

he or they

And

And be it further enacted, That whoſoever ſhall underwrite any Perſon or Perſons, ſo having their Names ſet up as aforeſaid, ſhall produce at the Secretary's Office an *Affidavit* made before One of His Ma- jeſty's Juſtices of the Peace, which *Affidavit* ſhall remain in the ſaid Office, ſetting forth the Cause in Writing, if a Debt, the Sum or Sums of Money that is due or owing to him or them, to be aſcertained as near as they poſſibly can, and by what Means it doth ariſe, whether by *Bill, Bond, Judgment, Promise, Covenant, or Account*. And when any Perſon ſo ſetting up their Names in the Secretary's Office as aforeſaid, ſhall be underwrote by any Perſon in manner aforeſaid, that then and in ſuch Caſe, it ſhall be lawful for the Secretary or his Deputy, to take good and ſufficient Security from the Perſon or Perſons ſo underwritten, for the Sum or Sums that he or ſhe is underwrote for; which Security ſhall be in the following Words.

“ **KNOW** all Men by theſe Preſents, That We
 “ and of Halifax are firmly bound unto
 “ in the Sum of to the true Payment of which, We
 “ bind ourſelves, our Heirs and Assigns firmly by theſe Preſents. Witneſs
 “ our Hands and Seals this Day of ”

“ **T**HE Condition of the above Obligation is ſuch, That whereas
 “ the above bound is underwrote by of
 “ Halifax aforeſaid, for the Sum of Now if the ſaid
 “ or they, their Heirs or Assigns will pay or
 “ cauſe to be paid to ſaid the ſaid Sum of or ſuch
 “ Sum as ſhall legally, upon Trial, appear to be due to ſaid
 “ then the above Obligation to be void, otherwiſe to remain in full Force
 “ and Virtue.”

For taking of which Bond the Secretary ſhall receive two Shillings and ſix Pence only.

Provided always, and it is the full Intention and Meaning of this Act, That the Perſons ſo underwriting, file their Actions in the next Inferior Court, after Security be given for their Debts then due, otherwiſe the ſame being pleaded, ſhall be a ſufficient Bar to their Action or Actions.

And be it further enacted, That any Perſon or Perſons that have been underwrote as aforeſaid, upon their giving Security, as before directed, are hereby intituled to receive their Paſs, in like manner as if they had not been underwrote. And the Secretary or his Deputy are hereby im- powered to deliver the ſaid Bond ſo taken as aforeſaid, to the Perſon or Perſons that underwrote the Perſon ſo going away. And ſaid Bond ſhall be good and valid againſt the Security for the Recovery of ſuch Sum or Sums as the Perſon or Perſons, to whom the ſaid Bond is delivered, can make appear, upon Trial, was really due to him by the Perſon he under- wrote, with the Coſts thereon.

And

And be it further enacted, That in Case any Person intending to leave the Province before the *seven Days* are expired, after Setting up his or her Name, may obtain their Pass from the *Secretary* or his *Deputy*, by giving sufficient Security and Entering into *Bond* as aforesaid, that said Security will pay all the Debts said Person going away, has contracted in the Province; which *Bond* shall be good and valid against said Security.

And it is hereby further enacted, That in the Out Ports of this Province, Passes may be obtained from the commanding Officer for the Time being, or from any other Person, whom the Governor or Commander in Chief shall appoint for that Purpose, who are hereby impowered to grant the same, in manner as prescribed by this Act.

Provided always, That nothing in this Act shall be construed to extend to the Restraining any Military Person or Persons from immediately departing the Province, with a special Permission under the Hand of the Commander in Chief of the Troops.

And be it further enacted by the Authority aforesaid, That if upon Trial, it shall appear that the Cause for underwriting any Person or Persons, setting up their Names in the *Secretary's Office*, to depart this Province, be vexatious and groundless, that then and in such Case, the Person so underwriting, shall be liable to an Action of Damages, to be recovered as aforesaid.

And be it further enacted, That no Master of any Ship or Vessel, going from the Port of *Halifax*, shall carry away any Person whatsoever, without a Pass signed by the *Secretary* of this Province or his *Deputy*, (except the Crew or Seamen brought with him in such Vessel, at his last Arrival) nor shall leave the said Harbour without Permission in Writing from His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being of this His Majesty's Province: And the Master of any Ship or Vessel so offending contrary to the Tenor of this Act, shall forfeit the Sum of *Fifty Pounds*, to the Use of this Government, and be liable to pay all Damages, to be recovered by *Bill, Plaint, or Information* in any of His Majesty's Courts of *Record* in this Province, to be levied by Sale of the Offenders Goods and Chattels, by Warrant under the Seal of said Court, and for want of such Goods and Chattels, the Person convicted, to be committed to some of His Majesty's Gaols for the Space of *six Months*.





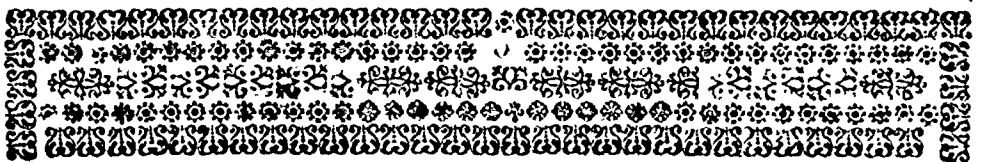
An Act in Addition to, and Amendment of a Resolution of the Governor and Council of this Province, of the 14th of April 1755, intituled *An Act to prevent the cutting and splitting of Hides*; Revived this present Sessions of the *General Assembly*.

*W*HEREAS by a Resolution of the Governor and Council of this Province of the Fourteenth of April, One Thousand, seven Hundred, and Fifty Five, intituled, An Act to prevent the Cutting and splitting of Hides, it is among other Things enacted, That no Tanner or other Person whatsoever shall sell or expose to Sale any Leather, tanned, curried, or otherwise dressed or manufactured, within this Province, till the same has been viewed, stamped and marked, by the Surveyor of Leather, on Pain of forfeiting Twenty Shillings, and that such Surveyor should be paid for his Trouble therein, at the following Rates, viz. Three Pence for every Ox, Bull, Steer, or Cow Hide, and for every Calf Skin, One Penny. last.

And whereas it has been found by Experience, that the Viewing, Stamping, and Marking of Leather manufactured within this Province, has not answered the Design of the said Resolution, and the subjecting the Manufacturers of Leather to the Payment of Fees for Viewing, Stamping, and Marking the same, has proved a Discouragement to the Tanners and Curriers in this Province, by a Hindrance of their Time, and Lessening their Profits. In Order therefore, to encourage the Manufacturing of Leather within this Province, and to prevent Deceits and Defrauds therein,

*B*E it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That from and after the Publication of this Act, all Leather Tanned, curried, or otherwise dressed, or manufactured within this Province, shall, (in lieu of being viewed, stamped, and marked by a Surveyor as in the said recited Resolution is directed, be stamped and

marked by the Tanner, Currier, or other Person manufacturing the same, with his or their *Surnames*, and in Case any *Leather*, to be manufactured as aforesaid, shall be sold or offered to be sold, not being stamped or marked as is herein before prescribed, or if any *Leather* manufactured, stamped, and marked as aforesaid, shall not be well and sufficiently tanned or curried, in a good and workmanlike Manner; in either Case, upon Complaint thereof being made to any *One* or more of His Majesty's Justices of the Peace, who by Virtue of this Act, shall have full Power and Authority to hear and determine the same, and upon Conviction thereof, upon the Oaths of *two* or more credible Witnesses, competent in such Matters, and upon View of such unstamped or defective *Leather* as aforesaid, shall adjudge the same to be forfeited and sold, and the Money arising thereby, after deducting reasonable Charges of Prosecution, shall be *One half* to the Prosecutor, and the other *half* shall be paid into the Hands of the *Overseers of the Poor*, for the Use of the Poor of the Town or Place, where such Conviction shall be made.



An Act for *Limitation of Actions*, and for avoiding Suits of *Law*.

32. *It* enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted,
B That all *Actions* or *Suits*, either in *Law* or *Equity*, at any Time hereafter to be sued or brought, of or for any *Lands*, *Tenements*, or *Hereditaments*, within this Province, whereunto any Person or Persons now hath or have any Title, or cause, to have or pursue any such *Actions* or *Suits*, shall be sued and taken within *Twenty Years* next after the End of this present Session of the *General Assembly*; and after the said *Twenty Years* expired, no Person or Persons, or any of their *Heirs*, shall have or maintain any such *Action* or *Suit*, of or for any of the said *Lands*, *Tenements*, or *Hereditaments*; and that all *Actions* or *Suits*, either in *Law* or *Equity*, of or for any *Lands*, *Tenements*, or other *Hereditaments* whatsoever, at any Time hereafter to be sued or brought by Occasion or Means of any Title or Cause hereafter happening, shall be sued and be taken within *Twenty Years*, next after the Title and Cause of *Action* first descended or fallen, and at no Time after the said *Twenty Years*, and that no Person or Persons that now hath any Right or Title of Entry into any *Lands*, *Tenements* or *Hereditaments*,

now held from him or them, shall thereunto enter, but within *Twenty Years* next after the End of this present Session of the *General Assembly*, or within *Twenty Years* next after any other Title of Entry accrued.

And that no Person or Persons shall at any Time hereafter, make any Entry into any *Lands, Tenements, or Hereditaments*, but within *Twenty Years* next after his or their Right or Title, which shall hereafter first descend or accrue to the same, and in Default thereof, such Person so not entering, and their Heirs, shall be utterly excluded and disabled from such Entry after to be made.

Provided nevertheless, That if any Person or Persons that is or shall be intitled, to such *Actions or Suits*, or that hath or shall have such Right or Title of Entry, be, or shall be at the Time of the said Right or Title first descended, accrued, come or fallen within the Age of *Twenty One Years, Reme Covert, non compos Mentis, imprisoned, or beyond the Seas*, that then such Person and Persons, and his and their Heirs, shall or may, notwithstanding the said *Twenty Years* be expired, bring his *Action or Suit*, or make his Entry, as he might have done before this Act; so as such Person and Persons, or his or their Heirs, shall within *Ten Years* next after his and their full Age, Discoverture, coming of sound Mind, Enlargement out of Prison, or coming into this Province, or Death, take Benefit of, and sue for the same, and at no Time after the said *Ten Years*.

And be it further enacted, That all *Actions of Trespass quare Clausum fregit*, all *Actions of Trespass, Detinue, Action of Trover, and Replevin* for taking away of Goods and Cattle, all *Actions of Account* and upon the *Case*, (other than such *Accounts* as concern the Trade of *Merchandize*, between Merchant and Merchant, their *Factors and Servants*) all *Actions of Debt*, grounded upon any Lending or Contract without Specialty; all *Actions of Debt* for Arrearages of Rent, and all *Actions of Assault, Menace, Battery, Wounding, and Imprisonment*, or any of them which shall be sued or brought, at any Time after the End of this present Session of *General Assembly*, shall be commenced and sued, within the Time and Limitation hereafter expressed, and not after; (that is to say) The said *Actions* upon the *Case*, (other than for Slander) And the said *Actions* for *Account*, and the said *Actions* for *Trespass, Debt, Detinue, and Replevin* for Goods or Cattle, and the said *Action of Trespass quare Clausum fregit*, within *three Years* next after the End of this present Session of *General Assembly*, or within *six Years* next after the Cause of such *Action or Suits*, and not after: And the said *Actions of Trespass, Assault, Battery, Wounding, Imprisonment*, or any of them, within *six Months* next after the End of the present Session of *General Assembly*, or within *One Year* next after the Cause of such *Actions or Suit*, and not after; and the said *Action* upon the *Case* for *Words*, within *three Months* after the End of the present Session of *General Assembly*, or within *six Months* next after the *Words* spoken, and not after.

And

And be it further enacted, That if in any of the said Actions or Suits, Judgment be given for the Plaintiff, and the same be reversed by Error, or a Verdict pass for the Plaintiff, and upon matter alledged in Arrest of Judgment, the Judgment be given against the Plaintiff, that he take nothing by his *Plaint, Writ, or Bill*; or if any the said Actions shall be brought by *Original*, and the Defendant therein be *outlawed*, and shall after Reverse the *Outlawry*; that in all such Cases the Party Plaintiff, his Heirs, Executors, or Administrators, as the Case may require, may commence a new Action or Suit from Time to Time, within *One Year* after such Judgment reversed or such Judgment given against the Plaintiff, or *Outlawry* reversed, and not after.

And be it further enacted, That in all Actions of *Trespass quare Clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his or their Plea, to make any Title or Claim to the Land in which the *Trespass* is, by the Declaration, supposed to be done, and the *Trespass* be by Negligence or involuntary, the Defendant or Defendants shall be admitted to Plead a *Disclaimer*, and that the *Trespass* was by Negligence or involuntary, and a Tender or Offer of sufficient Amends for such *Trespass* before the Action brought, whereupon, or upon some of them, the Plaintiff or Plaintiffs shall be enforced to join *Issue*, and if the said Issue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs shall be *non suited*, the Plaintiff or Plaintiffs shall be clearly barred from the said Action or Actions, and all other Suits concerning the same.

And be it further enacted, That in all Actions of *Trespass*, Actions for *Assault and Battery*, and all Actions for *slanderous Words*, to be sued or prosecuted by any Person or Persons after the End of this present Session of the *General Assembly*, if the Jury, upon the Trial of the Issue in such Action, or the Jury that shall enquire of the Damages, do find or Assess the Damages under *Forty Shillings*, then the Plaintiff or Plaintiffs in such Action, shall have and recover only so much Costs as the Damages so given or assessed, amount unto, without any further increase of the same: And if more Costs in any such Action be awarded, the Judgment shall be void, and the Defendant acquitted from the same. *Provided* That if the Judge at the Trial of any Action of *Assault and Battery*, or Action of *Trespass*, shall certify under his Hand upon the Back of the *Record*, that the *Assault* was sufficiently proved, or that the *Freehold and Title* of the Land, mentioned in the Plaintiff's Declaration, was chiefly in Question, or that the *Trespass* was voluntary and malicious, the Plaintiff, in such Case, shall recover his full Costs, though the Jury should find Damages to be under *Forty Shillings*.

Provided nevertheless, That if any Person or Persons that is or shall be intitled to any such Action of *Trespass*, *Detinue*, Action of *Trover*, *Replewin*, Actions of *Account*, Actions of *Debt*, Actions of *Trespass* for *Assault*, *Menace*, *Battery*, *Wounding* or *Imprisonment*, Actions upon the Case for *Words*, be or shall be at the Time of any such Cause of Actions given or accrued, fallen or come within the Age of *Twenty One Years*, *Feme Covert*, *non compos Mentis*, *imprisoned* or *beyond the Seas*; That then such

such Person or Persons shall be at Liberty to bring the same Actions, so as they take the same within such Times as are before limited, after their coming to, or being of full Age, *Disconcert*, of *sane Memory*, at large, and returned from *beyond the Seas*, as by other Persons having no such Impediment, should be done.

And be it further enacted, That if any Person or Persons, against whom there is or shall be any Cause of Suit or Action of *Trespass*, *Detinue*, Actions of *Trover* or *Replevin*, for taking away any Goods or Cattle, or of Action of Account, or upon the Case, or of *Debt*, grounded upon any Lending or Contract without Specialty, of *Debt* for Arrearages of Rent, or Assault, *Menace*, *Battery*, *Wounding*, and *Imprisonment*, or any of them be or shall be, at the Time of any such Cause of Suit or Action given or accrued, fallen or become *beyond the Seas*, that then such Person or Persons who is or shall be intitled to any such Suit or Action, shall be at Liberty to bring the said Actions against such Person and Persons after their Return from *beyond the Seas*, so as they take the same after their Return from *beyond the Seas*, within such Times, as are respectively limited for the bringing of the same, by this Act.

An Act to prevent unnecessary Firing off Guns, and other Fire-Arms, in the Town and Suburbs of Halifax.

BE it enacted by His Excellency the Governor, Council, and Assembly and by the Authority of the same it is hereby enacted, That if any Person or Persons, of what Age or Degree soever, from and after the Publication of this Act, shall unnecessarily fire out of any Gun, Fusee, Musket, Pistol or other Fire Arm, in any of the Houses, Streets, Lanes, Wharves, Yards, or Gardens in the Town or Suburbs of Halifax, every Person so offending, upon Conviction thereof, upon the Oath of One or more credible Witnesses, before any of His Majesty's Justices of the Peace, shall forfeit the Sum of Ten Shillings, to be levied by Warrant of Distress from such Justice, on the Offenders Goods and Chattels, and for Want of Goods, or Chattels, such

Cap.
By 30
Sec. 13
Shooting
at any
any
house
without

Offender shall be committed to Goal for the Space of *Twenty four Hours.*

Provided that no Prosecution for Breach of this Act shall be admitted, unless Complaint be made thereof within *Twelve Hours*, at least, after the Offence committed.

All Forfeitures arising by Virtue of this Act, shall be *One half* to him or her who will prosecute for the same, and the other, to the Use of this His Majesty's Government.



An Act in Addition to, and Explanation of an Act passed this Sessions, intituled, *An Act for Confirming the past Proceedings of the Courts of Judicature, and for Regulating the further Proceedings of the same.*

WHEREAS by an Act made and passed this present Session of General Assembly, intituled, An Act for the Confirming the past Proceedings of the Courts of Judicature, and for the regulating the further Proceedings of the same, it is among other Things enacted, " That in all Causes whatsoever (except Actions of Debt, or Actions grounded on Specialties) now depending or hereafter to be brought in the Inferior Court, wherein the Defendant or Defendants have or shall suffer Judgment to pass against him, her, or them by Default, the said Inferior Court is hereby impowered, and required, in Lieu of a Writ of Enquiry, to order a Jury to be sworn to Assess the Damages."

And *WHEREAS* some Doubts have arisen what Agreements in Writing, the Word Specialty may extend to, Be it enacted By His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby enacted, That hereafter, all Bills of Exchange, Notes of Hand, mutual Settlement and Adjustment of Accounts, or any Agreement in Writing wherein a certain Sum is specified and expressed, signed by the

Defendant,

34.
used
saled
King
nal
led

Defendant, shall have the Force and Effect of a *Specialty*; and the Court (wherein the Defendant shall be defaulted) is hereby impowered, upon the Plaintiff or his Attorney's filing such *Bill, Note, Settlement or Account, or Agreement*, with the Clerk of the Court, to make up *Judgment* without a Jury, as hath been heretofore practised.

And WHEREAS by the said Act it is further enacted, " That no Person or Persons who soever who now is, are, or hereafter may be a Freeholder and Inhabitant or Freeholders and Inhabitants, in this Province, and whose Freehold is free from Incumbrances, shall be arrested, imprisoned, or held to Bail, or his or their Goods, Chattels or Estate attached, unless the Plaintiff in such Action, shall make and subscribe an Affidavit in Writing before a Judge of the Court, or Clerk of the Court, from whence such Writ shall Issue, (who is hereby impowered to administer the same) that the Defendant is justly indebted to the Plaintiff in the Sum of Ten Pounds, or upwards, according to the present Rate of Currency in Halifax.

And WHEREAS altho' the Body of the Debtor may not be arrested, imprisoned, or held to Bail, for any Sum less than Ten Pounds, as by the said Clause is provided, yet it has been found prejudicial to the Creditors, their being restrained from attaching the Goods, Chattels, or Estate of the Debtor or Debtors, for any Sum or Demand under Ten Pounds, whereby great Frauds may be committed, by the Debtor conveying away or concealing his or her Estate and Effects, before Judgment can be rendered, and by Means thereof the Creditor may be defeated of Recovering any manner of Satisfaction for his or her Debt or Demand. In Order, therefore, to prevent the same,

Effect

Be it enacted by the Authority aforesaid, That in all Actions hereafter to be brought, when the Debt or Matter in Demand shall be of the Value of three Pounds or upwards, upon Affidavit in Writing being made and subscribed by the Plaintiff, or in Case of his or her Absence, then of his or her Attorney in Fact, Agent or Factor, setting forth that the Defendant in such Action is justly indebted to the Plaintiff, in the Sum of three Pounds or upwards, and the same being filed and the Writ marked as by the said Act is prescribed, it shall and may be lawful for the Provost Marshal of this Province, his Deputy, or other Person qualified to serve Writs, and they are hereby required, to attach the Goods, Chattels, or Estate of the Defendant or Defendants, any Thing in the said Act contained to the contrary notwithstanding.

And be it further enacted, That in all Actions hereafter to be brought in the Name of any Person absent from this Province, it shall and may be lawful for the Agent, Factor, or Attorney in Fact, of such Absentee, to make and subscribe an Affidavit in Writing, before a Judge of the Court or Clerk of the Court, from whence the Writ shall issue, (who is hereby impowered to administer the same) setting forth that the Defendant is justly indebted to the Plaintiff in the Sum of Ten Pounds or upwards, ac-

ording

cording to the present Rate of Currency in this Province, and how the Debt or Demand arises; which Affidavit being filed in the Office of the Clerk of the said Court, shall be as effectual to all Intents and Purposes, as if made by the Principal or Plaintiff in such Suit: And the Judge or Clerk of the said Court who shall take the same, shall direct Bail to be taken, by indorsing the Writ in the same manner, *Mutatis Mutandis*, as in and by the said Act is prescribed: And by Virtue of such Writ, the Defendants Body may be arrested or imprisoned, or his Goods, Chattels, or Estates attached, any Thing in the said Act to the contrary notwithstanding.

And WHEREAS the Trial of Causes in a summary Way, before One or two Justices, hath been found very useful, and a means of Determining many Suits with little Costs,

Be it enacted by the Authority aforesaid, That the Inferior Court of common Pleas, be and are hereby impowered (in all Causes or Actions brought before them, the Sum Total whereof shall not exceed the Sum of five Pounds) to proceed in a summary Way, by Witnesses, to examine into the Merits of such Causes, wherein no dilatory Pleas shall be allowed, and to determine therein according to Law or Equity, and to make up Judgment accordingly, subject to an Appeal to the Supream Court when the Judgment shall be five Pounds, there to be determined in manner aforesaid. Provided always that when on the Examination of the Witnesses, the matters of Fact, from the Evidence, may be doubtful to the Court, in such Case they may order a Jury to be summoned to try the same.

And WHEREAS References and Awards have contributed much to the speedy Settlement of Accounts between Merchants, Tradesmen, and others, and to their Satisfaction,

Be it enacted by the Authority aforesaid, That, on Application made in Court by the Parties, or their Attorneys, Agents, or Factors, in any Action commenced there, that they mutually agree to leave the Matters in difference, to the Arbitration of indifferent Men, to be chosen by each Party, in such Case the Court shall appoint a Person to be joined to the said Arbitrators; and the Judgment or Award of the Majority, shall have the full Force and Effect of a Verdict; and the Court is hereby impowered to make up Judgment thereon, and award Execution accordingly.

And be it further enacted, That when any Merchants, Traders, or others, desire to End any Controversy, Suit, or Quarrel, by Arbitration or Award, it shall and may be lawful for any of His Majesty's Courts of Record, to receive and order such their Submission or Agreement in Writing, being first proved on Oath, to be entered with the Conditions thereof; and on the Return of the Award and Determination of the Arbitrators (or umpire, when so submitted) and the same being filed with the Clerk of the Court, on the First Day of the Court, the said Court is hereby impowered to enter the same, and make up Judgment, and award Execution thereon.

And be it further enacted, That in the vacancy of every Court, the Parties agreeing to a Submission may file and enter their Submission and Agreement with the Clerk of the said Court, and upon producing such Agreement, of Submission in Writing, and an Affidavit thereunto annexed, of the Perfection thereof, with a Certificate of the Filing the said Submission, to any of the Judges of the Courts, such Judge is hereby empowered to order and direct that such Submission shall be received and made a Rule of Court, and that the Parties shall finally be concluded by the Arbitration and Umpirage; and it shall become a Record thereof, in the same manner, as tho' that Action had been commenced by Writ and Declaration.

Provided nevertheless that if Complaint be made to the Court, before the Entering of Judgment, that the Referees, Arbitrators, or Umpire, misbehaved themselves, and that such Award was unduly or corruptly procured; on Proof thereof, such Award shall be void, and shall be set aside by the said Court.

And be it further enacted, That no Action, wherein the Title of Lands, Tenements, or Hereditaments, may be called in Question, shall be determined in any of the manners beforementioned, but that all Real Actions shall be determined by Verdict of a Jury, as heretofore practised.

And be it further enacted, That when Witnesses may be judged necessary by the Parties, to clear up any of the Matters of variance, submitted to a Reference or Arbitration, the Justices of the Peace are hereby empowered to swear such Witnesses, to give their Evidence before such Referees or Arbitrators, and they are hereby empowered to examine the same; and if any Witness, being first summoned by the said Justice, shall refuse to be sworn or attend, (not having any just or reasonable Cause therefor, to be allowed of by the Arbitrators or the Majority of them) at the Time and Place appointed by the Referees or Arbitrators, and there give their Evidence, such Witness so failing herein; shall be liable to pay a Fine not exceeding Ten Pounds, to be levied by such Justice, by Warrant of Distress and Sale of the Offenders Goods.

And be it further enacted, That where any Person or Persons shall be summoned to give Evidence upon the Trial of any Issue between Party and Party, or in behalf of any Prisoner upon Trial, and such Person or Persons, so summoned, shall refuse or neglect to give his, her or their Attendance at the Time and Place mentioned in the Summons or Subpœna, (not having any just or reasonable Cause therefor, to be allowed of by the Court) or willfully withdraw himself or herself, before sworn, or shall willfully refuse to be sworn, or shall refuse to give his or her Evidence; in every such Case, the Party so offending, shall forfeit and pay to the Party grieved, the Sum of Ten Pounds, to be levied by Warrant of Distress and Sale, from the Court, on the Offenders Goods and Chattels. *Provided nevertheless* that no Person shall be obliged to give Evidence in any Cause before such Person be paid or secured their reasonable Charges for Attendance; to be allowed of and ordered by the Court.

And be it further enacted, That in all Actions of Account brought against any Bailiff or Factor, or other Person to whom Money or Goods have been delivered, with an Intent that the same shall be accounted for, before the *Inferior Court of common Pleas*, or the *Supream Court*, on an Appeal, when the Defendant shall plead in his Defence any Plea that he ought not to account, it shall be tried by a Jury; and in Case the Verdict be found against him, the Court shall enter Judgment against him, *That he shall account*. And the Court are hereby impowered and directed to appoint *three* able, judicious, and indifferent Men, who shall be sworn faithfully to hear, examine, and adjust the Account or Accounts, and examine any Witnesses necessary to explain the same; and also to examine the Parties on Oath, to be sworn before any Justice of the Peace in manner aforesaid, and under the like Penalty on their Refusal: And when the Auditors shall have adjusted and settled the Accounts, on the Return thereof under their Hands, or the Major Part of them, with the Ballance thereof stated, the said Court is hereby impowered to enter Judgment agreeable thereto, and award Execution accordingly. *Provided* always that the Referees, Arbitrators, or Auditors, before they proceed to examine into the Merits of any Cause, submitted to them by the Court on Agreement of the Parties, or by Bonds of Submission, shall give Notice under their Hands, to all Parties concerned, of the Time and Place of their Meeting, at least *three Days* before their Sitting; and if any of the Parties shall refuse or neglect to attend them, they shall, nevertheless, proceed to make up their Award and Determination. *Provided* that if the Plaintiff or Defendant in such Action, his, or their Attorney, Agent or Factor, shall take Exceptions to such Report, or any Part thereof, and desire the same to be tried by a Jury, which they are hereby impowered to do, the said Court is hereby required to order a Jury to be sworn to try the same; and if, upon Trial of the Issue, and Judgment, either of the said Parties or their Attorneys or Agent, shall not rest satisfied therewith, the said Court is hereby required to allow of an Appeal, upon being moved for.

And be it further enacted, That in all Actions sued on *Book Accounts*, the Defendant in such Cause may file his Account against the Plaintiff, with the Clerk of the Court, *provided* the same be done at the Time the Defendant files his Plea with the Clerk of the said Court; and the said Court is hereby impowered, to proceed, on Issue joined, to inquire into the Merits of both Accounts, before *One* and the same Jury, and, on the Verdict of the Jury, to award Costs as they shall find, whether for the Plaintiff or Defendant; and where the Action shall be commenced on any *Bond, Bill, Note, or Agreement in Writing*, the Defendant may, in like manner, file his Receipts or Discharge for Part or the Whole, according as he hath made Payment; *Provided* such Receipt or Discharge be in Writing, signed by the Plaintiff or his Attorney lawfully impowered to receive the same; and the Court is hereby impowered to proceed to examine into the Merits of the same, in the same manner as in *Book Accounts*, between the Plaintiffs and Defendants, and equitably to reduce all such *Bonds, Notes, Bills, and Writings Obligatory*, to the just Debt, *with Interest, Damages and Cost*, according to the Nature of such *Writing, Deed, or Instrument*, and the Jury are hereby impowered to give their Verdict accordingly.



An Act directing the *Guardianship* of *Minors*.

*Be it enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby enacted, That, from and after the Publication hereof, where any Person shall have Children under the Age of Twenty One Years, and not married at the Time of his Death, it shall be lawful for the Father of such Children, whether born at the Time of the Decease of the Father, or at that Time in *Ventre sa mere*, or whether such Father be within the Age of *Twenty One Years*, or of *full Age*; by Deed executed, or by his *last Will and Testament* in Writing in the Presence of *two* credible *Witnesses*, to dispose of the Custody and Tuition of such Children, for such Time, as they shall respectively remain under the Age of *Twenty One Years* or any lesser Time, to any Persons in Possession, or Remainder, other than Persons not *Protestants*. And such Disposition of the Custody of such Children shall be good, against all Persons claiming the Custody and Tuition of such Children; and such Person, to whom the Custody of such Children shall be disposed or devised, may maintain an Action of *Ravishment of Ward*, or *Trespass*, against any Person who shall wrongfully take away or detain such Child, and shall recover Damages in the said Action, for the Use of such Children.*

Cap. 34

*And be it further enacted, That any Persons, to whom the Custody of such Children shall be so disposed or devised, may take into their Custody, to the Use of such Children, the Profits of all *Lands, Tenements, or Hereditaments*, and also the Management of the *Goods and Personal Estate* of such Children, till their respective Age of *Twenty One Years*, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereto, as such Children themselves might do if arrived at *full Age*.*

*And be it further enacted, That whensoever any Person, not being a *Protestant*, shall die seized of any such Estate in *Lands, Tenements, or Hereditaments*, for which his *Heirs* should be in *Ward*, his *Heirs* being under the Age of *Twenty One Years* at the Time of the Death of his Ancestor, it shall be lawful for the Governor, Lieutenant Governor, or Commander in chief of the Province for the Time being, after due Proof to him of the Death of such Person not being a *Protestant*, and of his *Heir**

being so under Age, to dispose of the Custody and Tuition of such *Heirs*, for such Time as they shall remain under the Age of *Twenty One Years*, or any lesser Time, to any Persons next of Kin to the *Heir*, being a *Protestant*, if they shall apply for the same; or in Default thereof to any other Person being a *Protestant* as aforesaid;

And be it further enacted, That the Governor, Lieutenant Governor, or Commander in Chief for the Time being, when and so often as there shall be Occasion, be and hereby is impowered to allow of *Guardians*, that shall be chosen by *Minors* of the Age of *Fourteen Years*, and to appoint *Guardians* for such as shall be within that Age, taking sufficient Securities of all such *Guardians*, for the faithfull Discharge of the Trust, as hereinafter directed, and to account either to the Governor, Lieutenant Governor, or Commander in Chief, or *Minor* when such *Minor* shall arrive at *full Age*, or at such other Time as the said Governor, Lieutenant Governor, or Commander in Chief, upon Complaint to him made, shall see Cause.

And be it further enacted, That all such Persons to whom the Tuition and Custody of such *Heirs* shall be committed, shall first enter into Recognizance, to the Use of the said *Heir*, with good Sureties before the said Governor, Lieutenant Governor, or Commander in Chief, with Condition for the Educating the said *Heirs* in the *Protestant Religion*, and for the Management and Disposal of the Estates of such *Heirs*, to their Use and best Advantage, and for the rendering a just Account of the Profits of such Estates, to the said Governor, Lieutenant Governor, or Commander in Chief, when thereto required, or to such *Heirs* when they shall come of *full Age*, and for the not committing any Waste thereupon: And such Disposition of the Custody of such *Heirs* shall be good against all Persons claiming the Custody or Tuition of such *Heirs*; and such Persons to whom the Custody of such *Heirs* shall be disposed as aforesaid, may maintain an Action of *Revisement of Ward* or *Trespas*, against any Persons who shall wrongfully take away or detain such *Heirs*, for the Recovery of such *Heirs*, and shall recover Damages in the said Action, for the Use of such *Heirs*.

And be it further enacted, That such Person, to whom the Custody of such *Heirs* shall be so disposed, may take into their Custody, to the Use of such *Heirs*, the Profits of all *Lands*, or *Tenements*, and also the Management of the *Goods* and *Personal Estate* of such *Heirs*, till their respective Age of *Twenty One Years*, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereunto as such *Heirs* might do, if arrived at *full Age*.

And be it further enacted, That if such Person to whom such Grant shall be made of the Custody of such Children, shall die before he hath yielded an Account unto the said *Heirs*, of the Profits of such *Lands* or *Tenements*, and the Management of such *Goods* and *Chattels*, deducting all necessary and just Charges, the *Heirs*, *Executors*, or *Administrators* of such *Guardian*, shall be liable, and yield a full Account unto the said *Heir*, his *Executors* and *Administrators*, of such Profits, *Goods*, and *Chattels*, *Real* and *Personal*, so received by the *Guardian*, for the Bene-

fit of the said Heirs, deducting all necessary and just Charges as aforesaid, so far as they shall have *Assets* from the said *Guardian*, or in his Right at the Time of Demand of Satisfaction for the same; and if the said Children shall die before they shall attain to their Age of *Twenty One Years*, it shall be lawful for the Executors or Administrators of such Children, to call the Persons so trusted for the Benefit of them, and the Heirs, Executors, or Administrators, to an Account for the same.

Provided always that this Act shall not extend to discharge any *Apprentice*, from his Apprenticeship, or such poor Children, as may hereafter be bound out by the *Overseers of the Poor*, or such Children as may hereafter be found proper Objects of their Care, as is provided for by Law.

And *inasmuch* as it often happens, that Children are not born till after the Death of their Fathers, and also have no Provision made for them in their Wills, be it therefore further enacted by the Authority aforesaid, That as often as any Child shall happen to be born after the Death of the Father, without having any Provision made in his *Will*, every such *Posthumous* Child shall have Right and Interest in the Estate of his or her Father in like manner as if he had died *Intestate*, and the same shall accordingly be assigned and set out as the Law directs for the Distribution of the *Estates* of the *Intestates*.






I N D E X

TO THE

Laws of Nova-Scotia.

*First Assembly.
First Session.*

Page

- 1  AN Act for confirming the Proceedings on the several Resolutions or Acts of the Governors and Council of this Province, relating to the Duties of Impost on Rum and other distilled Liquors, and enabling the late Collector or Receiver to recover the Monies unpaid for any Bonds or Notes remaining in his Hands; and for establishing and regulating several Duties of Impost on Wines, Beer, Rum, and other distilled Spirituous Liquors, for the future.
- 5 An Act for the better discovering and more effectually suppressing unlicensed Houses.
- 8 An Act for confirming the past Proceedings of the Courts of Judicature, and for regulating the further Proceedings of the same.
- 14 An Act for the confirming Titles to Lands and quieting Possessions, and for confirming a Resolution of the Governor and Council dated the 3^d. February 1752, concerning the Registry of Lands in this Province.
- 17 An Act for the reviving and putting in full Force several of the Resolutions or Acts of His Majesty's Governors and Council of this Province heretofore made.
- 37 An Act for the granting Bounties and Premiums on the fencing and improving Lands, raising Grain, Roots, Hay, Hemp, Flax, and catching and curing Fish.
- 41 An Act for the better Observation and keeping of the LORD'S DAY.
- 44 An Act directing the Proceedings against forcible Entry or Detainer.
- 45 An Act to prohibit the erecting of Distilling Houses or setting up Stills within the Town of Halifax, or within one Quarter of a Mile of the present Lines or Pickets of the said Town.

- 46 An Act for the granting unto His Majesty an Excise upon Wine, Rum, and other distilled Spirituous Liquors sold by Retail.
- 48 An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery.
- 51 An Act for establishing and regulating a Militia.
- 57 An Act for establishing the Rate of *Spanish* Dollars, and the Interest of Money within this Province.
- 58 An Act for erecting a Light-House at the Entrance of the Harbour of *Halifax*.
- 59 An Act for erecting a House of Correction or Workhouse within the Town of *Halifax*.
- 60 An Act to prevent forestalling the Market.
- 61 An Act for granting and establishing an Allowance to the Collectors of the Impost and Excise Duties.
- 62 An Act relating to Wills, Legacies, and Executors, and for the Settlement and Distribution of the Estates of Intestates.
- 67 An Act to prevent the Sale of Slop Cloathing, and for punishing the Concealers or Harbourers of Seamen or Marines, deserting from the Royal Navy.
- 69 An Act relating to Treasons and Felonies.
- 76 An Act for preventing Trespasses.
- 78 An Act for making Lands and Tenements liable to the Payment of Debts.
- 81 An Act for preventing Frauds by Butchers and Fishmongers.
- 82 An Act concerning Marriages and Divorce, and for punishing Incest and Adultery, and declaring Polygamy to be Felony.
- 84 An Act for preventing Frauds and Perjuries.
- 87 An Act to provide for the Support of Bastard Children, and the Punishment of the Mother and reputed Father.
- 89 An Act for punishing Criminal Offenders.
- 93 An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures.

- 95 An Act declaring what shall be deemed a Publication of the Province Laws.
- 96 An Act for preventing Persons leaving the Province, without a Pass.
- 99 An Act in Addition to and Amendment of a Resolution of the Governor and Council of this Province of the 14th of April 1755, intituled An Act to prevent the cutting or splitting of Hides, revived this present Session of the General Assembly.
- 100 An Act for Limitation of Actions and for avoiding Suits of Law.
- 103 An Act to prevent unnecessary Firing off Guns, and other Fire Arms in the Town and Suburbs of *Halifax*.
- 104 An Act in Addition to, and Explanation of an Act intituled, An Act for confirming the past Proceedings of the Courts of Judicature, and for regulating the further Proceedings of the same.
- 109 An Act directing the Guardianship of Minors, and for providing for Posthumous Children.