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H. of Commons.
Bills.
1867/68
Vol. 2

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GAYLORD | PRINTED IN U.S.A.

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No. 35.] BILL. [1868.

An Act for continuing the Parliament of Canada, in case of the demise of the Crown.

Preamble.

WHEREAS the peace, welfare and security of this Dominion, might be exposed to great dangers, if the Parliament of Canada should be dissolved by the demise of Our Sovereign Lady, Queen Victoria, (whom God long preserve) or by the demise of any of Her Majesty's Heirs and Successors: For remedy thereof, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

The Parliament of Canade shall not be dissolved by the demise of the Crown.

1. No Parliament of Canada, heretofore or hereafter summoned, or called by our Sovereign Lady the Queen, or Her Heirs and Successors, shall determine or be dissolved by the demise of the Crown, but such Parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding such demise of the Crown, in the same manner as if such demise had not happened.

Power to prorogue or dissolve not affected.

2. Nothing in the next preceding section shall alter or abridge the power of the Crown, to prorogue or dissolve the Parliament of Canada.

1st Session, 1st Parliament, 31 Victoria, 1867.

BILL.

An Act for continuing the Parliament of Canada, in case of the demise of the Crown.

Received and read, 1st time, Tuesday, 17th March, 1868.

Second Reading, Friday, 20th March, 1868.

Hon. Sir John A. Macdonald.

Printed by G. E. Desbarats.

No. 36.] **BILL.** [1868.

An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain Offenders.

Preamble. Treaty with the U. S., of 9th August, 1842, recited.

WHEREAS, by the tenth article of a Treaty between Her Majesty and the United States of America, signed at Washington on the ninth day of August, in the year one thousand eight hundred and forty-two, the ratifications whereof were exchanged at London, on the thirtieth day of October, in the same year, it was agreed that Her Majesty and the said United States should, upon mutual requisition by them or their Ministers, Officers or Authorities respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit Murder, or Piracy, or Arson, or Robbery, or Forgery, or the Utterance of Forged Paper, committed within the jurisdiction of either of the High Contracting parties, should seek an Asylum or should be found within the Territories of the other; provided that this should only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged should be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed; and that the respective Judges and other Magistrates of the two Governments should have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, so that he might be brought before such Judges or other Magistrates respectively, to the end that the evidence of criminality might be heard and considered, and that if on such hearing the evidence should be deemed sufficient to sustain the charge, it should be the duty of the examining Judge or Magistrate to certify the same to the proper Executive Authority, that a warrant might issue for the surrender of such fugitive, and that the expense of such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive; And whereas it is by the eleventh article of the said Treaty further agreed, that the tenth article hereinbefore recited should continue in force until one or other of the High Contracting Parties should signify its wish to terminate it, and no longer; And whereas certain provisions of the Act passed by the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the sixth and seventh years of Her Majesty's Reign, for giving effect to the Treaty aforesaid, and intituled, *An Act for giving effect to a Treaty between Her Majesty and the United States of America, for the apprehension of certain Offenders*, have been found inconvenient in practice in Canada, and more especially that provision which requires that before the arrest of any such offender a Warrant shall issue under the Hand and Seal of the person administering the Government, to signify that a requisition hath been made by the authority of the United States for the delivery of the offender as aforesaid, and to require all Justices of the Peace, and other Magistrates and Officers of Justice, within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and in committing such person to Gaol for the purpose of

being delivered up to justice according to the provisions of the said Treaty, inasmuch as by the delay occasioned by compliance with the said provision, an offender may have time afforded him for eluding pursuit; And whereas by the fifth section of the said Act it is enacted, that if by any Law or Ordinance to be thereafter made by local Legislature of any British Colony or Possession abroad, provision shall be made for carrying into complete effect within such Colony or Possession, the objects of the said Act, by the substitution of some other enactment in lieu thereof, then Her Majesty may, with the advice of Her Privy Council (if to Her Majesty in Council it seems meet), suspend, within any such Colony or Possession, the operation of the said Act of the Imperial Parliament, so long as such substituted enactment continues in force there, and no longer; And whereas it is expedient to make provision for carrying the objects of the said Act and Treaty into complete effect within the whole Dominion of Canada by the sustitution of other enactments in lieu of those of the said Imperial Act: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

By whose order and on what evidence persons charged with certain crimes in the U. S. may be arrested and detained.

1. Upon complaint made under oath, or affirmation (in cases affirmation can legally taken instead of oaths), charging any person found within the limits of Canada with having committed, within the jurisdiction of the United States of America, any of the crimes enumerated or provided for by the said Treaty, it shall be lawful for any Judge of any of Her Majesty's Superior Courts in Canada, or any Judge of a County Court in Canada, or any Recorder of a City in Canada, or any Police Magistrate, or Stipendiary Magistrate in Canada, or any Inspector and Superintendent of Police, empowered to act as a Justice of the Peace in the Province of Quebec, or any Commissioner appointed for the purpose by the Governor under the Great Seal, (which appointment the Governor is hereby authorized to make, and under which Commission such Commissioner shall for the purposes of this Act, have all the powers of a Judge of one of Her Majesty's Superior Courts,) to issue his Warrant for the apprehension of the person so charged, that he may be brought before such Judge, Commissioner or other Officer, and upon the said person being brought before him, under such warrant, it shall be lawful for such Judge, Commissioner or other Officer, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as according to the laws of the Province in which he has been apprehended would justify the apprehension and committal for trial of the person so accused, if the crime of which he is so accused had been committed therein, it shall be lawful for such Judge, Commissioner or other Officer to issue his warrant for the commitment of the person so charged, to the proper gaol, there to remain until surrendered according to the stipulation of the said Treaty, or until discharged according to law; and the Judge, Commissioner or other Officer shall thereupon forthwith transmit or deliver to the Governor, a copy of all the testimony taken before him, that a warrant may issue, upon the requisition of the United States, for the surrender of such person, pursuant to the said Treaty.

Certain copies of depositions may be received in evidence.

2. In every case of complaint as aforesaid, and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which the original warrant was granted in the United States, certified under the hand of the person or persons issuing such warrant, and attested upon the oath, of the party producing them, to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

The Governor may order the delivery of the offender on requisition from the U. S.

3. It shall be lawful for the Governor, upon a requisition made as aforesaid, by the United States, by Warrant under his hand and seal, to order the person so committed, to be delivered to the person or persons, authorized to receive such person in the name and

on behalf of the said United States, to be tried for the crime of which such person stands accused, and such person shall be delivered up accordingly; and the person or persons, authorized as aforesaid, may hold such person in custody, and take him to the territories of the said United States, pursuant to the said Treaty; and if the person, so accused, escapes out of any custody to which he stands committed, or to which he has been delivered as aforesaid, such person may be retaken in the same manner as any person accused of any crime against the laws of the Province in which the escape occurs, may be retaken upon an escape.

Provisions in case of escape

4. In case any person committed under this Act and the Treaty aforesaid, to remain until delivered up in pursuance of a requisition as aforesaid, be not delivered up pursuant thereto and conveyed out of Canada within two months after such commitment, over and above the time actually required to convey the prisoner from the Gaol to which he has been committed by the readiest way out of Canada, any one or more of the Judges of any of Her Majesty's Superior Courts in Canada, having power to grant a writ of *Habeas Corpus*, may, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to the Secretary of State for Canada, order the person so committed to be discharged out of custody, unless sufficient cause be shewn to such Judge or Judges why such discharge should not be ordered.

Prisoner not to be detained more than two months without being delivered up.

5. This Act shall continue in force during the continuance of the tenth article of the said Treaty and no longer.

Duration of Act.

6. The eighty-ninth chapter of the Consolidated Statutes of the late Province of Canada, and the Act of the Legislature of that Province passed in the ~~t~~wenty-fourth year of Her Majesty's Reign chapter six, are superseded by this Act and repealed, except as respects any proceedings commenced under them or either of them before the passing of this Act, which shall be continued and completed under them as if this Act had not been passed.

Inconsistent enactments superseded.

No 36.

1st Session, 1st Parliament, 31 Vic., 1867-8.

BILL.

An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders.

Received and read first time, Tuesday, 17th March, 1868.
Second reading, Friday, 20th March, 1868.

Hon. Sir John A. Macdonald.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

37

Reprinted

No. 37.] BILL. [1868.

An Act respecting the Currency.

(Reprinted as proposed to be corrected in accordance with the Resolutions passed in Committee of the Whole on the 27th of March last.)

Preamble.

WHEREAS it is expedient that there should be one uniform Currency common to the whole Dominion of Canada; and whereas at the International Monetary Conference held at Paris in the year 1867, with a view to promote a uniform currency among the nations, a basis for such currency was agreed upon, and it is desirable that the currency of Canada should, as far as possible, be assimilated to that so agreed upon, but it is also desirable that it should be (as it now is, except in the Province of Nova Scotia,) of the same value as the metallic currency of the United States, and it is therefore expedient that no alteration should be made in the currency laws of Canada, until it is known whether the basis agreed upon at the said Conference will or will not be adopted by the United States: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Condition on which the following enactments of this section shall come into force.

1. If the Congress of the United States of America shall adopt the basis agreed upon by the said International Monetary Conference, so that the American Half Eagle or five dollar gold coin shall be made of the same value as the French gold coin of twenty-five francs, of the fineness of nine tenths, and weighing one hundred and twenty-four grains and nine twentieths of a grain troy weight, (or very nearly equivalent in value to the British Sovereign, and to five dollars of the present currency of Nova Scotia,) and the other gold coins of the said United States of other denominations shall be made of proportionate value, then it shall be lawful for the Governor to issue a Proclamation reciting the fact, and appointing a day on and after which the following enactments in this section shall come into force and be law, that is to say:

Denominations of currency of Canada.

1. The denominations of money in the currency of Canada, shall be pounds, dollars, shillings, pence, cents and mills;—the pound, shilling and penny shall have same proportionate value in respect to each other as in the currency of the United Kingdom;—the dollar shall be one fourth of a pound currency, the cent shall be one hundredth of a dollar, and the mill one tenth of a cent: and in any statement as to money or money value in any agreement, indictment or legal proceeding, or in any instrument, document or writing whatever, any sum may be mentioned, described and stated in pounds, shillings and pence, or in dollars, cents and mills, or in any or either of such denominations, as may be considered expedient.

Value of the £1 currency.

2. On and after the said day, the pound currency throughout all Canada shall be held to be equivalent to and to represent eighty-nine grains and six hundred and one thousandths of a grain troy weight of pure gold, or ninety-seven grains and seven hundred and forty-seven thousandths of a grain of gold of the standard of fineness prescribed by law for the gold coins of the United Kingdom on the first day of August, 1854;

Value of the £1 sterling.

3. The Pound Sterling or British Sovereign of the weight and fineness now established by law, shall be held to be equal to five dollars and four cents and one third of a cent currency, and any British Sovereign of the present lawful weight shall pass current and be a legal tender in Canada, for that sum; and any other British Gold coins, coined or to be coined while of lawful weight, shall pass current and be a legal tender for sums proportionate to the quantity of fine gold in them, and to be declared by Proclamation of the Governor.

Coins struck by order of H. M. to be a legal tender.

4. Any gold or silver or copper coins which Her Majesty may direct to be struck for use in Canada, shall by such names as shall be assigned to them in the Governor's Proclamation declaring them lawful money of Canada, pass current and be a legal tender in Canada, at the rate assigned to them respectively by Proclamation, which shall be (as nearly as may be,) in the same proportion to their intrinsic values, as the rates at which the gold, silver and copper coins of the United Kingdom pass current there, bear to their intrinsic values respectively

British silver coins.

5. British silver coins while of lawful weight and current in the United Kingdom, shall pass current and be a legal tender in Canada to the amount of ten dollars in any one payment at the following rates: the Crown at one dollar twenty-five cents; the Florin at fifty cents; the Shilling at twenty-five cents; and the other silver coins at rates bearing the same proportion to their nominal value in sterling.

British copper coins.

6. British Copper coins while current in the United Kingdom shall, unless and until it is otherwise ordered by Proclamation of the Governor, pass current and be a legal tender in Canada, to the amount of one shilling in any one payment, at the rate of two cents for every penny of their nominal sterling value.

Half Eagle and 25 franc piece.

7. The half Eagle of the United States of America coined after the adoption by the said United States of the basis of value hereinbefore mentioned, and being of the intrinsic value aforesaid, shall on the conditions to be defined in the Proclamation of the Governor, pass current and be a legal tender in Canada to any amount, at the rate of five dollars, as shall also the other Gold coins of the United States and of France, or of any other nation, coined under the agreement made at the International Monetary Conference, at rates proportional to their intrinsic

Other Gold Coins.

value and to be mentioned in such Proclamation; which may also fix a specific percentage of difference between the new currency and the old, and may contain such conditions and limitations as to weight, fineness, stamp, date, remedy or tolerance, as the Governor may think proper.

Silver coins of the U. S.

8. The Governor, may by Proclamation, from time to time, declare that the silver coins of the United States, coined after their adoption of the basis of value hereinbefore mentioned, and containing in the half dollar, not less than one hundred and seventy-nine grains troy weight, of the fineness of nine tenths, and so in proportion for any coin of greater or less nominal value, shall on and after a day to be therein named, pass current and be a legal tender in Canada, to the amount of ten dollars in any one payment; and any such Proclamation may contain such conditions and limitations as to weight, fineness, stamp, date, remedy or tolerance, as the Governor may think proper, and may be revoked or amended by any subsequent Proclamation.

Sums due in old currency to be payable by equivalent sums in the new.

9. Any sum of money payable in Canada on or after the day appointed for the establishment of the new currency in this section mentioned, to Her Majesty or to any party, under any Act or law in force in any part of Canada and passed before the said day, or under any bill, note or other instrument, contract or agreement, made before the said day in Canada and with reference thereto, or made out of Canada, but with reference thereto, on or after the said day, if from the terms used, or the date and place of making, it is to be presumed that some other currency than that hereby established was intended, shall on or after the said day be payable by a sum in the new currency hereby established, of equal value with that by which it would have been payable in any other currency if this section had not been passed, that is to say, if such sum would have been payable in the present currency of Ontario, Quebec or New Brunswick, then for every twenty-two cents and forty mills of such sum, twenty-three cents and twenty-two mills of the new currency shall be paid, or such percentage of difference in either case as the Governor may fix by Proclamation as equivalent to the difference in value of the two currencies; and if such sum would have been payable in the present currency of Nova Scotia, then for every one hundred and twenty cents of such sum one hundred and twenty-one cents of the new currency shall be paid; but except as aforesaid, all sums of money payable in Canada after the day appointed for the coming into force of the enactments contained in this Section, shall be payable in the new currency.

Sums mentioned in certain Acts to be currency of

2. And for the prevention of doubts be it enacted, that all sums mentioned in dollars and cents in the Imperial Act known as the British North America Act, 1867, and in all Acts of the Parliament of Canada passed in the present or in any

Ontario, Quebec and New Brunswick.

future session, shall, unless it be otherwise expressed, be understood, as well with respect to the Province of Nova Scotia as to the other Provinces composing the Dominion of Canada, to be sums in the present currency of the Provinces of Quebec, Ontario and New Brunswick, subject only to the following exception, that is to say:—The duties, penalties and other sums of money, mentioned in the Act of the Parliament of Canada, passed in the present session, and intituled: *An Act respecting the Inland Revenue*, shall as regards all such duties, penalties or sums of money accrued, incurred or payable in the Province of Nova Scotia, before the first day of July, 1868, be understood to be sums of the then currency of that Province, but as regards all such duties, penalties or sums of money accrued, incurred or payable on or after the said day, they shall be understood to be of the same amount and payable in the same currency, in Nova Scotia as in the other Provinces of Canada.

Exception.

Silver coin of U. S. coined before this Act, may be mode current, to a certain amount.

3. The Governor may, at any time after the passing of this Act, declare by Proclamation that all or any of the Silver Coins of the United States of America or of any other Foreign Nation or State, coined before the passing of this Act, shall, when of the weights and dates, to be assigned in such Proclamation, pass current and be a legal tender in the Provinces of Quebec, Ontario and New Brunswick, at rates in currency to be assigned to them respectively in such Proclamation, in such sums in any one payment as may be therein declared; and such Proclamation may be revoked or amended by any subsequent Proclamation.

Stamp on coin to be *primâ facie* evidence, &c.

4. The stamp of the year on any coin made current under this Act, shall establish *primâ facie* the fact of its having been coined in that year, and the stamp of the country shall establish *primâ facie* the fact of its being of the coinage of such country; and all coins made current under this Act shall be deemed to be of the proper standard weight and fineness unless objected to on that account, in which case the standard and weight must be verified.

[No. 37.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Currency.

Received and read first time, Tuesday, 17th March, 1868.

Second reading, Friday, 20th March, 1868.

(*Reprinted as proposed to be corrected in accordance with the Resolutions passed in Committee of the Whole on the 27th of March last.*)

Hon. Mr. Rose.

Printed by G. E. Desbarats.

No. 37.] BILL. [1868.

An Act respecting the Currency.

WHEREAS it is expedient to have one currency for the whole Dominion of Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

PART FIRST.

1. The denominations of money in the currency of Canada, shall be pounds, dollars, shillings, pence, cents and mills;—the pound, shilling and penny shall have the same proportionate value in respect to each other as in the currency of the United Kingdom;—the dollar shall be one fourth of a pound currency, the cent shall be one hundredth of a dollar, and the mill one tenth of a cent: and in any statement as to money or money value in any agreement, indictment or legal proceeding, or in any instrument, document or writing whatever, any sum may be mentioned, described and stated in pounds, shillings and pence, or in dollars, cents and mills, or in any or either of such denominations, as may be considered expedient. Denominations of currency of Canada.

CURRENT COIN.

1. *Gold.*

2. The pound currency shall be held to be equivalent to and to represent one hundred and one grains, and three hundred and twenty-one thousandths of a grain Troy weight, of gold of the standard of fineness prescribed by law for the gold coins of the United Kingdom on the first day of August, 1854;—And the dollar currency shall be held to be equivalent to and to represent one fourth part of the weight aforesaid of gold of the said standard;—And any gold coins of the standard of fineness aforesaid, which Her Majesty may direct to be struck, shall, by such names as are assigned to them in any proclamation declaring them lawful money of Canada, pass current and be a legal tender for sums to be mentioned in such proclamation and proportionate to their respective weights, subject to the like allowance for remedy as British gold coins. Value of the £1 currency. Gold coins may be struck by H. M.'s order.

3 The pound sterling shall be held to be equal to one pound, four shillings and four pence,—or four dollars, eighty-six cents and two-thirds of a cent,—currency; And any British sovereign Value of the £1 sterling.

of lawful weight, shall pass current and be a legal tender for that sum; and the other gold coins of the United Kingdom shall, while of lawful weight, pass current and be a legal tender for sums in currency equal, according to the proportion aforesaid, to their sterling value.

Word "sterling" how to be understood.

4. In any law, contract or agreement made in Canada, the pound sterling shall be understood to have the value in currency hereby assigned to the British Sovereign: unless some other value be clearly expressed to be intended, or can be presumed to be intended from the fact that another value was assigned by law to the word "sterling" at the date of such law, contract or agreement, in the place where it was made.

2. *Silver.*

Silver coins struck or to be struck by H. M's. order.

5. Such silver coins as Her Majesty may have directed to be struck for use in the late Province of Canada, *or in New Brunswick*, or may hereafter direct to be struck for use in Canada, of the fineness fixed by law for the silver coins of the United Kingdom, on the first day of August, 1854, and of weights bearing respectively the same proportion to the value assigned or to be assigned to such coins in Canada, which the weights of the silver coins of the United Kingdom bore on the said day to the value assigned to them in the United Kingdom, shall, by such names as Her Majesty may assign to them in Her Royal Proclamation declaring them lawful money of Canada, pass current and be a legal tender at the rates assigned to them respectively in such proclamation.

Silver coins of the United Kingdom.

6. Until it is otherwise ordered by Her Majesty's Royal Proclamation, the silver coins of the United Kingdom, while lawfully current therein, shall pass current in Canada for sums in currency, equal, according to the proportion hereinbefore fixed, to the sums in sterling for which they respectively pass current in the United Kingdom, but after the time to be fixed for that purpose in any such Proclamation as aforesaid, they shall cease to be current money in Canada.

Amount in one payment limited.

7. But the silver coins mentioned in either of the two next preceding sections shall not be a legal tender to the amount of more than ten dollars or two pounds ten shillings currency, in any one payment:—and the holder of the notes of any person or persons or body corporate, to the amount of more than ten dollars or two pounds ten shillings currency, shall not be bound to receive more than that amount in such silver coins in payment of such notes if they are presented for payment at one time, although each of any of such notes be for a less sum.

3. *Copper.*

Copper coins of the United Kingdom.

8. The copper coins of the United Kingdom shall, while lawfully current therein, pass current and be a legal tender in

Canada to the amount of twenty cents or one shilling currency, and no more, in any one payment, at the following rates, that is to say: the copper penny for two cents, the copper half penny for one cent, and any other subdivisions of the said copper penny for proportionate sums:

2. Any copper coins of like weights with those aforesaid respectively, which Her Majesty may have directed or may direct to be struck for the purpose, shall pass current and be a legal tender in Canada, at the like rates and to the like amount in any one payment: and if such copper coins are struck, Her Majesty may declare by Proclamation that the copper coins of the United Kingdom shall not be lawful money of Canada after a day to be appointed in such Proclamation. Copper coins struck by H. M's. order.

4. Foreign Gold Coin.

9. The gold Eagle of the United States of America, coined before the first day of July, one thousand eight hundred and thirty-four, and weighing eleven pennyweights, six grains, Troy weight, shall pass current and be a legal tender in Canada for ten dollars and sixty-six cents and two thirds of a cent, or two pounds thirteen shillings and four pence currency;—and the Half Eagle of like date and proportionate weight, for one half the said sum: Gold Eagle of U. S. struck before 1st July, 1834.

2. And the gold Eagle of the said United States of America, coined after the day last mentioned and before the first day of January, one thousand eight hundred and fifty-two, or after the said day but while the standard of fineness for gold coins then fixed by the laws of the said United States has remained unchanged, and weighing ten pennyweights, eighteen grains, Troy weight, shall pass current and be a legal tender in Canada for ten dollars or two pounds ten shillings currency; —And the gold coins of the said United States, being multiples or halves of the said Eagle, and of like date and proportionate weight, shall pass current and be a legal tender in Canada for proportionate sums. Gold Eagle struck after that date. Other gold coins of U. S.

10. Her Majesty may at any time declare, by Proclamation, that any or all of any other gold coins of the said United States, or of any other Foreign Nation or State, shall, when of the weights to be assigned therein, pass current and be a legal tender in Canada, at rates in currency to be assigned to them respectively in such Proclamation, such rates being proportionate to the quantity of pure gold in such coins, reckoning ninety-two grains, and eight hundred and seventy-seven thousandths of a grain of pure gold as equivalent to one pound currency. Other foreign gold coins.

11. The foregoing sections of this Act are as regards the Provinces of Quebec, Ontario and New Brunswick, declaratory When the foregoing provi-

sions shall come into force in Nova Scotia.

of the law in force in those Provinces before and at the time of the passing of this Act ;—and as regards the Province of Nova Scotia, they shall come into force and take effect in that Province, upon, from and after a day to be appointed for that purpose by Proclamation of the Governor ;—Provided always, that any sum of money payable on or after the day last aforesaid, under any Act or law of the Province of Nova Scotia passed before the said day, or under any bill, note or other instrument, contract or agreement made before the said day in the said Province or with reference thereto, or made out of the said Province but with reference thereto, on or after the said day, if from the terms used or the date and place of making, it is to be presumed that some other currency than that hereby established was intended, shall, on or after the said day, be payable by a sum in the currency of Canada, of equal value with that by which it would have been payable in any other currency if this Act had not been passed.

Proviso.

Sums mentioned in certain acts to be currency of Canada.

12. And for the prevention of doubts be it enacted, that all sums mentioned in dollars and cents in the Imperial Act known as the British North America Act, 1867, and in all Acts of the Parliament of Canada passed in the present or in any future session, shall, unless it be otherwise expressed, be understood, as well with respect to the Province of Nova Scotia as to the other Provinces composing the Dominion of Canada, to be in the currency of Canada as hereby established, subject only to the following exception, that is to say :—The duties, penalties and other sums of money, mentioned in the Act of the Parliament of Canada, passed in the present session, and intituled : *An Act respecting the Inland Revenue*, shall as regards all such duties, penalties or sums of money accrued, incurred or payable in the Province of Nova Scotia, before the day of 1868, be understood to be sums of the then currency of that Province, but as regards all such duties, penalties or sums of money accrued, incurred or payable on or after the said day, they shall be understood to be sums of the currency of Canada, as hereby established.

Exception.

Duties on Notes and Bills in Nova Scotia.

13. The seventh section of the Act of the Parliament of Canada passed in the present session, and intituled : *An Act to impose duties on Promissory Notes and Bills of Exchange*, shall be repealed as regards Promissory Notes, Drafts and Bills of Exchange made, drawn or accepted in Nova Scotia upon or after the said day of 1868, and the amount on which duty is payable under the said Act upon such Promissory Notes, Drafts or Bills of Exchange, shall be reckoned in the currency of Canada as hereby established, as shall also any penalty incurred under the said Act in Nova Scotia, on or after the said day.

5. *Foreign Silver Coin.*

Foreign silver coin may be made current by proclamation.

14. The Governor may, at any time after the day to be appointed by Proclamation under the eleventh section, declare by Proclamation that all or any of the Silver Coins of the United States of America or of any other Foreign Nation or State, shall, when of the weights and dates, to be assigned in such Proclamation, pass current and be a legal tender in Canada, at rates in currency to be assigned to them respectively in such Proclamation, in such sums in any one payment as may be therein declared.

Other matters.

Stamp to be evidence of certain facts.

15. The stamp of the year on any coin made current under this Act, shall establish the fact of its having been coined in that year, and the stamp of the country shall establish the fact of its being of the coinage of such country, and all coins made current under this Act shall be deemed to be of the proper standard weight and fineness unless objected to on that account, in which case the standard and weight must be verified.

Part of Cap. 80 Rev. Stat. of N. S. repealed.

16. The first, second, sixth and seventh sections of chapter eighty of the Revised Statutes of Nova Scotia, third series, and so much of any other part of that chapter or of any other Act or law of the said Province as may be inconsistent with this Act, shall be repealed on and after the day to be appointed by Proclamation under the eleventh section; but nothing in this section shall alter or impair the effect of the Proviso to section eleven of this Act.

Certain acts of Canada and N. B. repealed.

17. The fifteenth chapter of the Consolidated Statutes of the late Province of Canada, the Act of the legislature of the Province of New Brunswick, passed in the fifteenth year of Her Majesty's Reign, chapter eighty-five, the Act of the said legislature passed in the sixteenth year of Her Majesty's Reign, chapter thirty-three, and the Act of the said legislature passed in the twenty-third year of Her Majesty's Reign, chapter thirty-three, are hereby repealed.

PART SECOND.

Recital.

18. Provided, that inasmuch as there was held in Paris in the year 1867, an International Monetary Conference, with a view to promote a uniform currency among the nations, at which the United Kingdom and the other principal nations of Europe, and the United States of America, were represented by duly accredited delegates, and at which the great advantages of such uniform currency were demonstrated and a basis for such currency was agreed upon by the great majority of the delegates, and there is now pending before the Congress of the United States a

Bill founded on the reports and resolutions of the said Conference, and by which it is declared that, with a view to promote a uniform currency among the nations, the weight of the gold coin of five dollars, or half Eagle, of the United States shall be one hundred and twenty-four and nine-twentieths troy grains, and the fineness thereof shall be nine-tenths, so that it shall agree with a French coin of twenty-five francs, of like weight and fineness; and whereas that it is highly desirable to provide that the currency of Canada shall be in accordance with the basis agreed upon by the said Conference, and shall be (as it now is, except in the Province of Nova Scotia) of the same value as the metallic currency of the United States: Therefore, it is enacted, that if the Bill hereinabove mentioned be passed by the Congress and becomes a law of the United States during the present session of the said Congress of the year 1868, then the Proclamation mentioned in the 11th, 14th and 16th sections of this Act shall not be issued, but instead thereof the Governor may issue a Proclamation reciting the passing of the said Bill, and appointing a day on and after which the following enactments shall come into force and be law, that is to say:

Special provision if a certain Bill altering the currency of the U. S. becomes law.

Value of the £1 currency.

1. On and after the said day, the pound currency throughout all Canada shall be held to be equivalent to and to represent eighty-nine grains and six hundred and one thousandths of a grain troy weight of pure gold, or ninety-seven grains and seven hundred and forty-seven thousandths of a grain of gold of the standard of fineness prescribed by law for the gold coins of the United Kingdom on the first day of August, 1854;

Value of the £1 sterling.

2. The Pound Sterling or British Sovereign of the weight and fineness now established by law, shall be held to be equal to five dollars and four cents and one third of a cent currency, and any British Sovereign of the present lawful weight shall pass current and be a legal tender in Canada, for that sum; and any other British Gold coins, coined or to be coined while of lawful weight, shall pass current and be a legal tender for sums proportionate to the quantity of fine gold in them, and to be declared by Proclamation of the Governor.

Coins struck by order of H. M. to be a legal tender.

3. Any gold or silver or copper coins which Her Majesty may direct to be struck for use in Canada, shall by such names as shall be assigned to them in the Governor's Proclamation declaring them lawful money of Canada, pass current and be a legal tender in Canada, at the rate assigned to them respectively by Proclamation, which shall be (as nearly as may be,) in the same proportion to their intrinsic values, as the rates at which the gold, silver and copper coins of the United Kingdom pass current there, bear to their intrinsic values respectively

British silver coins.

4. British silver coins while of lawful weight and current in the United Kingdom, shall pass current and be a legal tender

in Canada to the amount of ten dollars in any one payment at the following rates: the Crown at one dollar twenty-five cents; the Florin at fifty cents; the Shilling at twenty-five cents; and the other silver coins at rates bearing the same proportion to their nominal value in sterling.

British copper coins.

5. British Copper coins while current in the United Kingdom shall, unless and until it is otherwise ordered by Proclamation of the Governor, pass current and be a legal tender in Canada, to the amount of one shilling in any one payment, at the rate of two cents for every penny of their nominal sterling value.

Half Eagle and 25 franc piece.

6. The half Eagle of the United States of America coined after the passing of the Bill abovementioned and being of the weight and fineness therein defined, and the twenty-five franc piece of France, of the same weight and fineness, shall on the conditions to be defined in the Proclamation of the Governor, pass current and be a legal tender in Canada to any amount, at the rate of five dollars, as shall also the other Gold coins of same nations, or of any other nation, coined under the agreement made at the International Monetary Conference, at rates proportional to their intrinsic value and to be mentioned in such Proclamation.

Other coins by proclamation. Gold coins mentioned in Sect. 9.

7. The gold coins of the United States mentioned in section nine, shall, until it is otherwise ordered by Proclamation of the Governor, pass current and be a legal tender in Canada, at rates in the new currency proportional to those in the old currency assigned to them respectively in section nine.

Silver coins of the U. S.

8. The Governor, may by Proclamation, declare that the silver coins of the United States, coined after the passing of the Bill abovementioned, and containing in the half dollar, not less than one hundred and seventy-nine grains of the fineness of nine tenths, and so in proportion for any coin of greater or less nominal value, shall pass current and be a legal tender in Canada, to the amount of ten dollars in any one payment.

What the proclamation making any coin a legal tender may contain.

9. The Proclamation declaring any coin a legal tender may fix a specific percentage of difference between the new currency and the old, and may contain such conditions and limitations as to weight, fineness, stamp, date, remedy or tolerance, as the Governor may think proper, and may be revoked or amended by any subsequent Proclamation.

Sums due in the old currency to be paid by equivalent sums in the new.

10. Any sum of money payable in Canada on or after the day appointed for the establishment of the new currency in this section mentioned to Her Majesty or to any party, under any Act or law in force in any part of Canada and passed before the said day, or under any bill, note or other instrument, contract or agreement, made before the said day in Canada and with reference thereto, or made out of Canada, but with

reference thereto, on or after the said day, if from the terms used, or the date and place of making, it is to be presumed that some other currency than that hereby established was intended, shall on or after the said day be payable by a sum in the new currency hereby established, of equal value with that by which it would have been payable in any other currency if this section had not been passed, that is to say, if such sum would have been payable in the present currency of Ontario, Quebec or New Brunswick, then for every twenty-two cents and forty mills of such sum, twenty-three cents and twenty-two mills of the new currency shall be paid, or such percentage of difference in either case as the Governor may fix by Proclamation as equivalent to the difference in value of the two currencies; and if such sum would have been payable in the present currency of Nova Scotia, then for every one hundred and twenty cents of such sum one hundred and twenty-one cents of the new currency shall be paid; but except as aforesaid, all sums of money payable in Canada after the day appointed for the coming into force of the enactments contained in this Part of the present Act, shall be payable in the new currency; and so much of the First Part of this Act as may be inconsistent with those of this Second Part thereof, that is to say, the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and fourteenth sections, shall be superseded by the provisions of this Second Part, on and after the said day; and the enactments mentioned in section sixteen shall be repealed.

Sect. 16, to apply.

11. The provisions of section fifteen shall apply to coins current under this Second Part of this Act.

[No. 37.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Currency.

Received and read 1st time Tuesday, 17th March, 1868.

Second reading Friday, 20th March, 1868.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

No. 38] BILL. [1868.

An Act respecting the Consolidated Revenue Fund.

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows: Preamble.

1. All Duties and Revenues over which the respective Legislatures of the late Provinces of Canada, Nova Scotia and New Brunswick, before and at the time of the passing of the British North America Act, 1867, had, and over which the Parliament of Canada now has the power of appropriation, shall form and are hereby declared to have formed since the Union, one Consolidated Revenue Fund to be appropriated for the public service of Canada, in the manner and subject to the charges hereinafter mentioned, and in the following order, that is to say: What monies shall form pat of the said Fund. Charges thereon.

Firstly.—The costs, charges and expenses incident to the collection, management and receipt thereof, subject to be reviewed and audited in such manner as is now or may hereafter be by law provided. First.

Secondly.—The annual interest of the Public Debts of the several Provinces of Canada, Nova Scotia and New Brunswick, at the Union. Second.

Thirdly.—The Salary of the Governor General which is declared to be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland. Third.

Fourthly.—The Principal and Interest at a rate not exceeding four per cent per annum of the Loan of £3,000,000 Stg., to be raised for the purpose of constructing the Intercolonial Railway under the provisions of an Act of the present Session of the Parliament of Canada, Chapter thirteen, upon the guarantee of the payment of Interest on such loan at a rate not exceeding four per centum per annum by the Commissioners of Her Majesty's Treasury or, the principal and interest at a like rate of such part of the said loan may be raised. Fourth.

Fifthly.—An annual sum at the rate of one per centum per annum, as a Sinking Fund on the entire amount of principal money of the loan herein last before mentioned. Fifth.

Sixth.

Sixthly.—Any sum which shall be issued out of the Consolidated Fund of the United Kingdom under the Canada Railway Loan Act, 1867, with interest thereon at the rate of five per centum per annum.

Seventh.

Seventhly.—The sum of £1,000,000 sterling, which, by the 32nd Section of the Act of the present session of the Parliament of Canada, chapter thirteen, the Government of Canada is empowered to raise for the completion of the Intercolonial Railway, but without the guarantee of the Commissioners of Her Majesty's Treasury, and interest thereon.

Governor in Council to make regulations as to payment of interest.

Fiscal agent, &c.

This is intended to be proposed in Committee.

2. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management of the Public Debt of the Dominion and the payment of the interest thereon, and may appoint one or more fiscal agents of the Dominion in the city of London or elsewhere, and agree with them as to the rate of compensation to be allowed them for negotiating loans and for paying the interest on the Public Debt and for other services connected with the management of the said debt, *and may pay such compensation out of the Consolidated Revenue Fund.*

Public accounts how to be kept.

Annual statement and what it shall shew.

3. The Public Accounts of the Dominion shall be kept by double entry in the Offices of the Receiver General and of the Minister of Finance; and an annual statement shall be prepared as soon as possible after the termination of each fiscal year exhibiting the state of the Public Debt and the amounts chargeable against each of the Public Works for which any part of the debt has been contracted; also the state of the Consolidated Revenue Fund and of the various Trusts and special Funds under the management of the Government of the Dominion, and such other accounts and matters as may be required to shew what the liabilities and assets of the Dominion really are at the date of such statement.

No. 38.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Consolidated Revenue Fund.

Received and read first time, Tuesday, 17th March, 1868.

Second reading, Friday, 20th March, 1868.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

No. 39.] BILL. [1868.

An Act to enable Banks in any part of Canada to use Notes of the Dominion instead of issuing Notes of their own.

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Governor in Council may arrange with Banks for surrender of power to issue notes.

1. The Governor in Council may enter into arrangements with all or any of the Chartered Banks in this Dominion for the surrender, on or before the first day of June, one thousand eight hundred and seventy, of their power to issue notes ;—and in compensation for such surrender, an annual sum not exceeding five per cent upon the amount of its circulation, as established with respect to any Bank in the Province of Quebec or Ontario, by the monthly return upon the *thirtieth day of April*, one thousand eight hundred and *sixty-six*, and with respect to any Bank in Nova Scotia or New Brunswick, and to any Bank in the late province of Canada, incorporated since the said last mentioned day,—in such manner as the Governor in Council may deem satisfactory, shall be payable by the Dominion to each Bank so surrendering its power of issue and redeeming its notes in circulation, until the *expiration of its charter*, or such other period as Parliament may appoint ; and the Receiver General shall receive any Provincial Debentures or other government securities now held by any such Bank in compliance with the requirements of its charter, in exchange for Notes of the Dominion ; and shall also pay to such Bank one half the estimated cost of its unissued notes.

Surrender may be gradual or immediate.

2. In entering into any such arrangement as aforesaid with any Bank, the Governor in Council may provide either for the immediate or the gradual surrender of its power to issue notes, such gradual surrender not extending over a period of more than twelve months ; but in such case the exchange of Dominion Notes for such Debentures and government securities as aforesaid, held by the Bank under the requirements of its charter, shall be made only in equal proportion to the amount of its notes actually redeemed and withdrawn from circulation, as shewn by its *monthly* returns.

Exchange of certain Debentures for Dominion Notes.

No obligation to hold debentures after surrender.

3. From the date of any such arrangement with any Bank, it shall no longer be bound to hold any Provincial Debentures or other government securities which it may be now required by law to hold.

Weekly returns to the Auditor, and payment of compensation.

4. Every Bank so surrendering its power to issue notes shall made a weekly return to the Auditor of its notes redeemed and withdrawn from circulation, and of those still outstanding, and the compensation hereinbefore authorized shall be paid to it half yearly in proportion to the amount so redeemed and withdrawn, computed on the average of the weekly returns for the half year, until the amount redeemed is equal to nine-tenths of its circulation on the *thirtieth* day of *April*, one thousand eight hundred and *sixty-six*, when it shall be entitled to compensation on the full amount thereof.

Powers of Governor in Council in making arrangement with any Bank.

5. The powers of the Governor in Council in making an arrangement with any Bank for the surrender of its power to issue notes, shall extend to any provisions which may be deemed expedient respecting the redemption of the notes of such Bank, or the right of reissuing any such notes during the period agreed upon for the gradual redemption thereof, and generally to all provisions which the Governor in Council may deem expedient to the convenient working of this Act, and not inconsistent with the enactments contained in it, subject, nevertheless, to the arrangements already made under the authority of the Act of the late Province of Canada hereinbefore mentioned; and any Order in Council for giving effect to such provisions shall have the force of law.

Power to resume right of issue.

Consequence of resumption.

6. Any Bank which may have surrendered its power to issue notes, may resume such power after giving at least three months notice in writing to the Receiver General, and publishing such notice during the like period in the *Canada Gazette*; but such Bank shall, from the expiration of such notice, cease to receive compensation on its notes withdrawn from circulation, and shall pay back to the Receiver General any sum it has received from him in Dominion notes in exchange for Provincial Debentures or other Government securities, which shall then be redelivered to the Bank, and the Bank shall be bound to hold the amount of Provincial Debentures or other securities required by its charter, before it shall resume the issue of notes.

As to rights on renewal of charters.

7. No Bank surrendering its power to issue notes shall thereby be deprived of its claim to any privilege or power which shall be granted to other Banks on the renewal of their charters, in the year one thousand eight hundred and *seventy*.

Recital.

29 30 V. c. 10.

8. And whereas by an Act of the Legislature of the late Province of Canada passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and intituled: "An Act to provide for the issue of Provincial Notes," the Governor of that Province in Council was empowered to authorize the issue of Provincial Notes for the general purposes of the Province, to the amount of five millions of dollars, and to a further amount not exceeding eight millions of dollars for pur-

poses relative to the surrender by all or any of the chartered Banks of the Province of their power to issue notes, under provisions similar to those made in this Act, and it was provided that such notes should be of such denominational values and in such form as the Governor in Council might direct, and be redeemable in specie on presentation at offices to be established at Montreal and Toronto, and at that one of the said places at which they were respectively made payable, and should be a legal tender except at the offices aforesaid: And whereas such Provincial Notes to the amount of five millions of dollars were in pursuance of the said Act issued for the general purposes of the Province, and a further amount for purposes relative to the surrender by the Bank of Montreal of its power to issue notes, and for such other purposes provided for by the aforesaid Act as are specified in the agreement with the said Bank approved of by the Governor in Council; and Provincial Notes to an amount equal to the remainder of the said eight millions of dollars, were engraved and prepared for issue;—therefore, the Provincial Notes issued or prepared for issue as aforesaid, to an amount not exceeding in the whole *thirteen* millions of dollars, shall be held to be Notes of the Dominion of Canada, and having been or being hereafter issued under the Act above cited or this Act, shall be redeemable in specie on presentation at offices established or to be established at Montreal, Toronto, Halifax and St. John (New Brunswick), and at that one of the said places at which they may be respectively made payable, and being so redeemed may and might be again re-issued for the general purposes of the Dominion, and shall be (as provided by the Act before cited) a legal tender except at the offices at which they are respectively made payable;—and the balance of the said eight millions of dollars in such notes, not issued under the provisions of the Act before cited, may be issued as Dominion Notes for the purposes of this Act;

Certain Provincial Notes issued under that Act to be Dominion Notes: redemption, reissue, &c.

Issue of balance not yet issued.

Provided always, that such of the said Notes as are made payable at Halifax, shall, so long as the currency of Nova Scotia remains such as it now is, be redeemable in that currency, that is, at the rate of one pound sterling, English, for every five dollars of the face value of such notes; and shall be a legal tender in Nova Scotia only;

Proviso: as to notes redeemable at Halifax.

And provided also, that instead of re-issuing any such Provincial Notes, the Governor in Council may authorize the issue of Dominion Notes to an amount not exceeding that of the Provincial Notes redeemed, and such Dominion Notes may be of such denominational values and in such form, and signed by such persons and in such manner, by lithograph, printing or otherwise as he may from time to time direct, and such Notes shall be redeemable in specie on presentation at offices to be established at Montreal, Toronto, Halifax and St. John, and at that one of the said places at which they may be respectively made payable, and shall be a legal tender except at the offices

Proviso: for issue of Dominion Notes instead of Provincial Notes redeeemed.

at which they are respectively made payable ; subject always to the foregoing proviso as to those made payable at Halifax, so long as the currency of Nova Scotia remains unchanged.

Offices for redemption of notes.

9. The Governor may in his discretion establish branches of the Receiver General's department in Montreal, Toronto, Halifax and St. John, respectively, for the issue and redemption of Provincial or Dominion notes, or he may make arrangements with any chartered Bank or Banks, for the issue and redemption thereof, and may for such service allow a commission not exceeding one quarter of one per cent, for every three months, upon the average amount of notes in circulation during that period.

Sums to be held in specie for redemption of Provincial or Dominion Notes :

Debentures for any difference between such specie and amount of notes.

10. The sum to be held in specie by the Receiver General for the redemption of Provincial or Dominion notes, shall be twenty per cent, upon the amount thereof in circulation, so long as such amount does not exceed five millions of dollars ; for any excess over five millions, such excess not being more than *eight* millions, twenty-five per cent, of such excess shall be so held ; and Debentures of the late Province of Canada or of the Dominion of Canada, shall be held by the Receiver General, to the full amount by which the specie held as aforesaid fails to cover the whole amount of Provincial or Dominion notes outstanding at any time ; and debentures of the Dominion may be issued and delivered to the Receiver General for this purpose ; such debentures being so held for securing the redemption of the Provincial or Dominion notes, and the Receiver General having full power to dispose of them, either temporarily or absolutely, for raising funds for that purpose, or for procuring the amounts of specie to be held by him under the provisions of this section.

Commissioners for ascertaining the amount of notes issued and specie and debentures held.

11. The Governor in Council shall, from time to time, appoint Commissioners, *three* for the Province of Ontario, and *three* for the Province of Quebec, *two* for Nova Scotia and New Brunswick, with such remuneration as he shall determine, whose duty it shall be to examine on the first Wednesday of every month, or on such other days as may be from time to time directed by the Governor in Council, into the number of Provincial or Dominion notes then issued and outstanding at the Branch Departments of the Receiver General, or the offices of the Banks issuing the same, at Montreal, Toronto, Halifax and St. John, respectively, and also into the amount of specie and debentures then held at the said places respectively for the redemption of such notes ; and upon such examination, the said Commissioners for each of the said Provinces respectively, or any two of them, shall return the result of such examination under oath to the Auditor, who shall publish such return in the next number of the *Canada Gazette* ; and such oath shall be in the following form, or in such other form as may from time to

time be directed by order in Council, and if wilfully false shall subject the person taking the same to all the pains and penalties of the crime of perjury :

" We A. B. &c., Commissioners for (the Province of Quebec " *or as the case may be*) make oath and say, that on the " day of A. D., 18 , the Provincial or Dominion notes " outstanding and in circulation from (Montreal, *or as the case* " *may be*) amounted to dollars, and the Specie and " Provincial or Dominion debentures then held for the redemp- " tion of such notes at (Montreal, *or as the case may be*) " amounted to dollars in specie and dollars in " debentures."

12. The proceeds of the said Provincial or Dominion notes shall form part of the Consolidated Revenue Fund of Canada, and the expenses lawfully incurred under this Act shall be paid out of the said Fund. Proceeds and expenses.

13. The word " specie " in this Act means coin current by law of that one of the Provinces in which any Provincial or Dominion note is made payable, at the rates and subject to the provisions of the law in that behalf, or Bullion of equal value according to its weight and fineness ;—and the expression " Provincial Debentures or Government Sucurities " in the first, second, third and sixth sections of this Act, means and includes any Debentures, which under the charter of the Bank in question may be held by it in compliance with any provision in its charter obliging it to invest a certain portion of its capital in such Debentures or Securities. Interpretation.

14. If any person engraves or in anywise makes upon any plate whatever, or upon any wood, stone or other material, any note purporting to be a Provincial Note, or a Note of the Dominion of Canada, without the authority of the Minister of Finance, the proof of which shall lie on the party accused ; or if any person engraves or makes upon any plate whatever, or upon any wood, stone or other material, any word or words resembling or apparently intended to resemble any subscription subjoined to any Provincial Note, or Note of the Dominion of Canada, without such authority, to be proved as aforesaid ; or if any person without such authority, to be proved as aforesaid, uses, or without lawful excuse, to be proved by the party accused, knowingly has in his custody or possession, any plate, wood, stone or other material upon which any such Provincial Note, or Note of the Dominion of Canada, or part thereof, or any word or words resembling or apparently intended to resemble such subscription as aforesaid has been engraved or made ; or if any person without such authority, to be proved as aforesaid, knowingly offers, utters, disposes of or puts off, or without lawful excuse, to be proved as aforesaid, knowingly has in his custody or possession any paper upon which any part of such Provincial Punishment for forging notes, &c. Having plates, &c., in possession. Uttering notes, &c.

Note, or Note of the Dominion of Canada, or any word or words resembling or apparently intended to resemble any such subscription, has been made or printed, every such offender shall be guilty of felony, and on conviction shall be liable to be imprisoned in the penitentiary for any term not less than two years nor more than seven years, or to be imprisoned in any Common Gaol for any term less than two years, in the discretion of the court before which the conviction is had.

Repeal of inconsistent enactments.

15. So much of any Act or law in force in this Dominion as may be inconsistent with this Act, is hereby repealed.

[No. 39.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to enable Banks in any part of Canada to use Notes of the Dominion instead of issuing Notes of their own.

Received and read first time Tuesday, 17th March, 1868.

Second reading Friday, 20th March, 1868.

The Hon. Mr. Rose.

Printed by G. E. Desbarats.

Reprinted, see following Bill—

No. 40.] BILL. [1868.

An Act respecting Insurance Companies.

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Interpretation clause.

1. The following terms and expressions whenever used in this Act, unless it be otherwise specially provided, or there be something in the context repugnant to, or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say :

" Company," means and includes any Corporation, and any Society or Association, incorporated or unincorporated, and any partnership carrying on the business of Insurance other than that of Marine Insurance only ;

" Agent," means the principal Agent of the Company in Canada, named as such in the power of Attorney hereinafter referred to, by whatever name he may be designated ;

" Chief Agency," means the principal Office or place of business of the Company in Canada.

No company to act without a license.

2. It shall not be lawful for any Insurance Company, with the exception of such as are formed exclusively for the purpose of Marine Insurance, to issue any Policy of Insurance, or take any risk, or receive any premium or transact any business of Insurance in Canada, nor to prosecute or maintain any suit, action or proceeding either at Law or in Equity, or to file any claim in Insolvency, without first obtaining a Licence from the Minister of Finance to carry on business in Canada.

Minister of Finance to grant license, and when.

3. The Minister of Finance shall issue such Licence as aforesaid, so soon as he shall be satisfied that the Company applying for the same has deposited in the hands of the Receiver General, the sums of money hereinafter set forth, and such Licence shall specify the business to be carried on by the Company.

Deposit to be made.

4. The deposit to be so made as aforesaid, shall be as follows, to wit : by every Life Insurance Company of a sum of not less than One hundred thousand dollars ; and by every Fire, Guarantee or Accident Insurance Company, not being exclusively a Marine Insurance Company, of a sum of not less than Fifty thousand Dollars.

Deposit for each branch of business.

5. When any Company carries on more than one description of Insurance business, it shall make a separate deposit as aforesaid, for each Branch of its business :

Proviso :

Provided that a Company combining Life and Accident Assurance shall only be required to make one deposit ; and with respect to any Insurance business other than that hereinbefore specified, the Minister of Finance may prescribe the amount of deposit which shall be required.

Investment of deposit.

6. It shall be the duty of the Receiver General forthwith to invest the amount of any such deposit in Canada Dominion Stock, in Trust for the Company making such deposit, for the purposes of this Act ; and except as hereinafter provided in case of the Insolvency of the Company, such Stock shall not be lessened, disposed of or surrendered to the Company without the order of the Governor in Council.

Interest on investment.

7. So long as the deposit of any Company is unimpaired and shall be equal to one hundred thousand dollars or upwards, and no judgment or order to the contrary is served upon the Receiver General, the interest upon the Stock representing such deposit shall be payable to the Company.

Certain documents to be filed in the Courts by Companies.

8. Every Company obtaining such Licence as aforesaid, shall, before the transaction of any business of Insurance, file in the Office of either of the Superior Courts of Law or Equity in that one of the Provinces of Ontario, Nova Scotia, or New Brunswick, in which it has its Chief Agency, (if such Chief Agency be in one of those Provinces) or if the Chief Agency be in the Province of Quebec, with the Prothonotary of the Superior Court of the district wherein such Chief Agency is established, a certified copy of the Charter, Act of Incorporation or Articles of Association of the Company, and also a Power of Attorney from the Company to its Agent in Canada, under the Seal of the Company, (if it have a Seal) and signed by the President and Secretary thereof, and verified as to its anthenticity by the oath of the Agent of such Company in Canada, or of some person cognizant of the facts necessary to its verification, which power of Attorney must declare at what place in Canada, the Chief Agency of the Company is, or is to be, established and must expressly authorize such Agent to receive process in all suits and proceedings against such Company in Canada, for any liabilities incurred by the Company therein, and must declare that service of process for or in respect of such liabilities, at such Chief Agency or personally on such Agent at the place where such Chief Agency is established, shall be legal and binding on the Company to all intents and purposes whatever.

Service of process on Companies.

9. After the certified copies referred to in the next preceding section, and such Power of Attorney are filed as aforesaid, any process in any suit or proceeding against such

Company, for any liabilities incurred in Canada, may be served on the Company at its Chief Agency, in the same manner as process may be served upon any Company incorporated in Canada, and all proceedings may be had thereupon to judgment and execution in the same manner and with the same force and effect as in proceedings in any Civil suit in Canada.

Company to give notice of its being licensed.

10. Every Company obtaining such Licence as aforesaid, shall forthwith give due notice thereof in the Canada Gazette, and in at least one Newspaper in the County, City, or place where the Chief Agency is established, and shall continue the publication thereof for the space of one calendar month, and the like notice shall be given when such Company shall cease, or notify that they intend to cease, to carry on business in Canada.

Every Company must have at least $100,000 unimpaired capital.

11. No Company shall transact any business of Insurance in Canada, unless such Company is possessed of at least one hundred thousand dollars of paid up and unimpaired Capital, invested in Stocks of at least par value, or in Bonds or Mortgages on Real Estate worth double the amount for which the same is mortgaged, over and above the amount deposited by such Company under this Act, nor shall any Licence be issued in favour of such Company, until a statement under oath to that effect is fyled with the Minister of Finance sworn to by some one whose duty it is to know and who is personally cognisant of the fact sworn to.

Penalty for issuing policy, &c., without licence.

12. Any person who shall deliver any Policy of Insurance or collect any premium, or transact any business of Insurance on behalf of any such Company as aforesaid, without such Licence as aforesaid, or if such Licence has been withdrawn, without the renewal thereof, or without filing the copy of the Charter, Act of Incorporation, or Articles of Association of the Company, and a Power of Attorney as hereinafter provided, shall be liable to a penalty of *one thousand dollars* for each violation of this Act, which penalty may be sued for and recovered in the name of any informer suing as well for Our Lady the Queen as himself, and one half of such penalty shall be paid to the Crown, and the other to the informer ; and in case of non-payment of such penalty in one month after such judgment, the person so offending shall be liable to imprisonment in any gaol or prison in the jurisdiction where he is convicted, for the space of three months.

How recoverable, &c.

Obligation of a Company whose deposit is less than $100,000.

13. Whenever and so long as the deposit of any Company, under this Act, shall be less than one hundred thousand dollars, the Agent of such Company shall send in yearly to the Minister of Finance, within one month after the first day of January of each year, returns under oath, of the amount of premiums received by the Company on risks in Canada, and

after deducting twenty-five per cent. therefrom, and the net amount of losses or claims actually due or paid, shall deposit in the hands of the Receiver General for the purposes of this Act, and subject to all its provisions, the balance of such premiums, until the deposit of such Company shall be equal to one hundred thousand dollars ; and so long as such deposit is under one hundred thousand dollars, no interest or dividends shall be paid on the actual deposit, but such interest or dividend shall be added to the principal every half year until, with the premiums hereinbefore mentioned, the deposit shall amount to one hundred thousand dollars.

Annual statements to be transmitted to the Minister of Finance.

14. Subject to the exception in the next following section, every Company so licensed shall transmit annually, to the Office of the Minister of Finance, a statement in duplicate, verified by the oath of the President, Manager, or Agent of such Company, or of any person cognizant of the facts, containing the particulars mentioned in the form in the Schedule to this Act, applicable to the case, such statement to be made up to the First day of July next preceding, or to the usual balancing day of the Company, provided such balancing day be not more than six months before the filing of such statement, and a copy of such statement shall be published in at least one newspaper, in the County, City, or place where the Chief Agency of such Company is situate ; and the Minister of Finance shall cause the statements or an analysis thereof to be laid before Parliament, within thirty days after the commencement of each Session thereof, and any Company failing to comply with the provisions of this section shall forfeit and pay to the Crown, the sum of one thousand dollars to be recovered on information to be filed by the Attorney General for Canada, in that behalf ; and with respect to any kind of business, not provided for in the said schedules, the Minister of Finance may prescribe the form of return which shall be made, under the like penalty, and recoverable in the like manner, and the Minister of Finance may from time to time vary the forms in the said schedules, according as experience or the special *correspondence* of any Company may require.

Analysis to be laid before Parliament.

Form of statement.

Exception as to statements by certain Companies established in the United Kingdom.

15. No Insurance Company established in the United Kingdom, and which is not bound by the laws in force there to furnish or publish statements of its affairs, shall be liable to the obligation, or to the penalty mentioned in the *next preceding* section, provided such Company has deposited not less than one hundred thousand dollars in the hands of the Receiver General, for the purposes of this Act, and subject to all the provisions thereof, but any such Company shall publish and file with the Minister of Finance on or before the thirty-first day of January in each year, a general statement under oath of the Agent in Canada, containing the particulars mentioned in the form D, in the Schedule annexed to this Act.

Application of deposit to pay claims in case of Insolvency of a Company.

16. In case of the Insolvency of any Company, the stock representing the deposit of such Company shall be applied *pro rata* towards the payment of all claims duly authenticated against such Company, upon or in respect of policies issued in Canada, and any such Company shall be deemed Insolvent upon failure to pay any undisputed claim arising or loss insured against in Canada for the space of three months after being due, or, if disputed, after final judgment and presentation of a legal valid discharge ; and the distribution of the proceeds of such stock may, if applied for in the Province of Ontario, or of Nova Scotia, or of New Brunswick, be made by order in Chancery, or in Equity, or if applied for in the Province of Quebec, may be made, by judgment or order of distribution of the Superior Court, within the district where the Chief Agency is situated.

Order of the Court in such case.

17. For the purposes of such distribution the Court may order that the stock of the Company so Insolvent be transferred to and inscribed in the Government stock books, at or nearest to the place of the Chief Agency, and within the jurisdiction of the Court, if such stock be not already inscribed there, and thereafter may order that no further interest on such stock be paid to the Company, and that such stock or any part thereof be sold in such manner and after such notice and formalities as the Court may appoint.

Provision in case the deposit is reduced.

18. If the amount of stock representing the deposit of such Company be reduced by such sale of any portion thereof, such Insurance Company shall cease to transact any business of Insurance, and the license therefor shall be withdrawn and returned to the Minister of Finance until such deposit be restored to the amount required by this Act.

And in case of the Company ceasing to do business in Canada.

19. After any Company has ceased to transact business in Canada, and given the notice required by this Act to that effect, it shall be lawful for the Governor in Council on the report of the Treasury Board, to authorize the whole or any portion of the stock so held for any Company as aforesaid, to be released and transferred to the Company upon being satisfied that it has no liabilities upon policies issued in Canada, and that no suit or legal proceedings are pending against the Company therein, or on proper proof on oath of the state of its affairs being given that such Company has ample assets to meet all its liabilities ; and upon such authority being given by the Governor in Council, the Company shall be entitled to receive, instead of such stock, the amount thereof in money at par.

Mutual Insurance Companies to be subject to this Act in certain cases only.

20. Mutual Fire Insurance Companies having their head office in Canada, and acting under the laws of Canada shall register their names with the Minister of Finance, and shall make annual returns in such form as may be prescribed by him.

Any Mutual Fire Insurance Company being a stock Company, or receiving cash or part cash premiums in lieu of risks, or having guarantee or other stock, or accepting risks other than from its own members, shall make the deposits hereinbefore required, and shall be subject to all the provisions of this Act; but if such Mutual Fire Insurance Company receive no cash premiums whatever, and have no stock, as a guarantee or otherwise, and act wholly and exclusively on the Mutual Principle, it shall not be bound to make such deposit.

As to Companies in Ontario and Quebec, licensed under Acts of the late Province of Canada.

21. As regards Fire Insurance Companies in the Provinces of Ontario and Quebec, licensed under the Acts of the Legislature of the late Province of Canada, twenty-third Victoria, chapter twenty-three, and twenty-sixth Victoria, chapter forty-three, the securities given by any Company under those Acts may be delivered up to them respectively on the warrant of the Minister of Finance, who shall grant such warrant on the condition herein specified on being satisfied that there is no claim for which such securities are liable under the provisions of the said Acts, or he may grant such warrant for the delivery of part thereof, provided he is satisfied that the remaining part is sufficient to satisfy any such claim: provided always that any sum deposited under this Act, shall stand as security for the payment of any claim against the Company depositing it, if licensed under the said Acts, whether such claim accrued before or after the coming into force of this Act; And it shall be lawful for the Minister of Finance, should any such Company desire it, to allow such securities to remain at a sum to be fixed upon, for a period of during which they may be reckoned as part of the deposit required by this Act, and subject to all its provisions, but at the lapse of such time, the said Company shall be bound to make the deposit in cash in the section of this Act specified; And the deposit made by any such Company of the Power of Attorney and other documents specified in the section of this Act, shall, if the same fulfil the requirements of this Act, be construed as made under its provisions.

Provision as to deposit under this Act.

Commencement of this Act.

22. This Act shall come into force on the first day of July next, from and after which day the Acts mentioned in the next preceding section shall be repealed, subject to the provision made in the said section; and chapter forty-five of the Acts of the Legislature of New Brunswick, passed in the nineteenth year of Her Majesty's Reign, and intituled: "An Act relating to Insurance Companies not incorporated by Act of Assembly in this Province," shall be repealed on and after the said day, except as regards penalties or liabilities theretofore incurred under it.

Repeal of former Acts.

Exception.

SCHEDULE—FORMS.

Form A.

Statement to be made by every Life or Accident Insurance Company, except Companies mentioned in Section 14.

(*Name of the Company.*)	$ cts.
Assets of the Company.....	
Liabilities of do.	
Amount of Capital Stock.....	
Amount paid thereon.....	
Of what the assets of the Company consist, viz : (*insert particulars*).	
Total premiums received during the year.....	
Amount of Policies issued during the year.....	
Amount of claims from death (or accident) do. .	
Expenses of management, agency, &c.....	
Total premiums received during the year in Canada	
Amount of Policies issued do. do. do.....	
Amount of policies that have become claims in Canada, during the year by death (or accident	

Form B.

Statement to be made by a Fire or Guarantee Insurance Company, whose deposits are not less than one hundred thousand dollars, except companies referred to in section 15.

	$ cts.
Assets of the Company.....	
Liabilities of the Company.....	
Amount of Capital Stock.....	
Amount paid thereon.....	
Of what the assets of the Company consist, viz : (*insert particulars*).....	
Amount of losses paid during the year.....	
Amount of losses due and unpaid.....	
Losses adjusted and not due.....	
Losses in suspense and waiting further proof...	
Losses, the payment of which is resisted and for what cause.....	
All other claims against the Company.....	
Amount of premiums earned for the past year...	
Amount of premiums unearned for the past year.	
Losses in Canada paid during the year.....	
Do. adjusted and not due.....	
Do. in suspense and waiting for further proof.....	
Do. the payment of which is resisted and for what cause.	

All other claims against the Company.....
Premiums earned in Canada during the year...
Do. unearned do do

FORM C.

Statement to be made by a Fire or Guarantee Insurance Company whose deposits are under one hundred thousand dollars.

Amount of Premiums received during the year on risks effected in Canada less twenty-five per cent. and the net amount of losses actually paid.....
Deposit in conformity with the second section of the said Act.....
Assets of the Company.....
Liabilities of the Company.....
Amount of Capital Stock.....
Amount paid thereon.....
Of what the assets of the Company consist, viz : (*insert particulars*).....
Amount of losses paid during the year.....
Amount of losses due and unpaid.....
Losses adjusted and not due.....
Losses in suspense and waiting for further proof.....
Losses the payment of which is resisted, and for what cause.....
All other claims against the Company.....
Amount of premiums earned for the past year...
Amount of premiums unearned for the past year
Losses in Canada paid during the year.....
Losses in Canada adjusted and not due.....
Losses in suspense and waiting for further proof.....
Losses the payment of which is resisted and for what cause.....
All other claims against the Company.....
Premiums earned in Canada during the year..
Premiums unearned in Canada during the year.

FORM D.

Statement to be made by an Insurance Company referred to in Section 15.

	$ cts.
Total premiums received during the year, in Canada.....	
Amount of policies issued do. do. do.	
Amount of policies that have become claims in Canada during the year.....	

[No. 40.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Insurance Companies.

Received and read 1st time Tuesday, 17th March, 1868.

Second reading Friday, 20th March, 1868.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

No. 40.] BILL. [1868.

An Act respecting Insurance Companies.

(Reprinted as proposed to be amended in Committee of the Whole.)

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : Preamble.

1. The following terms and expressions whenever used in this Act, unless it be otherwise specially provided, or there be something in the context repugnant to, or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say : Interpretation clause.

" Company," means and includes any Corporation, and any Society or Association, incorporated or unincorporated, and any partnership carrying on the business of Insurance other than that of Marine Insurance only ;

" Agent," means the principal Agent of the Company in Canada, named as such in the power of Attorney hereinafter referred to, by whatever name he may be designated ;

" Chief Agency," means the principal Office or place of business of the Company in Canada.

2. Except Companies transacting in Canada Ocean Marine Insurance business exclusively, it shall not be lawful for any Insurance Company, to issue any Policy of Insurance, or take any risk, or receive any premium or transact any business of Insurance in Canada, or to prosecute or maintain any suit, action or proceeding either at Law or in Equity, or to file any claim in Insolvency, without first obtaining a Licence from the Minister of Finance to carry on business in Canada. No company to act without a license.

3. The Minister of Finance shall issue such Licence as aforesaid, so soon as he shall be satisfied that the Company applying for the same has deposited in the hands of the Receiver General, the sums of money or securities hereinafter mentioned and required, and such Licence shall specify the business to be carried on by the Company. Minister of Finance to grant license, and when.

4. The deposit to be so made as aforesaid, shall be as follows, to wit : by every Life, Fire, Inland Marine, Guarantee or Accident Insurance Company, a sum of not less than Fifty thousand Dollars, and such sum shall be deposited before the Licence is issued, except only in the case of Companies incorporated before the passing of this Act, by Act Deposit to be made.

of the Parliament of Canada, or of the Legislature of any of the late Provinces of Canada, Lower Canada or Upper Canada, or of Nova Scotia or New Brunswick, and carrying on the business of Fire Insurance or of Inland Marine Insurance or both, but no other, which Companies may make such deposit in three equal annual instalments, the first of which shall be paid before the issue of the Licence: Provided that any Fire Insurance Company limited by its charter as to the amount of its risks, need not deposit in all more than two and half per cent on the amount held at risk at the date of its then last annual return, and may deposit such amount in three annual instalments as aforesaid.

Deposit for each branch of business.

Proviso:

5. When any Company carries on more than one description of Insurance business, it shall make a separate deposit as aforesaid, for each Branch of its business: Provided that a Company combining Life and Accident Insurance or Fire and Inland Marine Insurance shall only be required to make one deposit for each such combination of two branches of business; and with respect to any Insurance business other than those hereinbefore specified, the Minister of Finance may prescribe the amount of deposit which shall be required.

Obligation of a Company whose deposit is less than $100,000.

6. Except only as regards Companies entitled to make their deposits by instalments as aforesaid, whenever and so long as the deposit of any Company, under this Act, shall be less than one hundred thousand dollars, the Agent of such Company shall send in yearly to the Minister of Finance, within one month after the first day of January of each year, returns under oath, of of the amount of premiums received by the Company on risks in Canada, and after deducting twenty-five per cent. therefrom, and the net amount of losses or claims actually paid, shall deposit in the hands of the Receiver General for the purposes of this Act, and subject to its provisions, the balance of such premiums, until the deposit of such Company shall be equal to one hundred thousand dollars; and so long as such deposit is under one hundred thousand dollars, no interest or dividends shall be paid on the actual deposit, but such interest or dividend shall be added to the principal every half year until, with the premiums hereinbefore mentioned, the deposit shall amount to one hundred thousand dollars: Provided, that any Company combining the business of Fire and Life Insurance, shall be required to make such additional deposit only as regards the premiums received for Life Insurance: and provided also that any Life Insurance Company incorporated in Canada since the Union which shall deposit all the balance of the premiums received by it, after the deductions above provided for, until such deposit amounts to one hundred thousand dollars, shall not be subject to any provision of this Act requiring any other deposit.

Investment of deposit.

7. It shall be the duty of the Receiver General forthwith to invest the amount of any such deposit made in cash, in Canada

Dominion Stock, in Trust for the Company making such deposit, for the purposes of this Act; and except as hereinafter provided, in case of the Insolvency of the Company, such Stock or the amount of such deposit, shall not be lessened, disposed of or surrendered to the Company without the order of the Governor in Council.

Interest on investment.

8. Except in the cases with respect to which it is otherwise provided so long as the amount of the deposit which any Company is required to have then made is unimpaired, and no notice of any judgment or order to the contrary is served upon the Receiver General, the interest upon the Stock or securities representing or forming part of such deposit shall be payable to the Company.

Certain documents to be filed in the Courts by Companies;

9. Every Company obtaining such Licence as aforesaid, shall, before the transaction of any business of Insurance, file in the Office of either of the Superior Courts of Law or Equity in that one of the Provinces of Ontario, Nova Scotia, or New Brunswick, in which it has its Chief Agency, (if such Chief Agency be in one of those Provinces) or if the Chief Agency be in the Province of Quebec, with the Prothonotary of the Superior Court of the district wherein such Chief Agency is established, a certified copy of the Charter, Act of Incorporation or Articles of Association of the Company, and also a Power of Attorney from the Company to its Agent in Canada, under the Seal of the Company, (if it have a Seal) and signed by the President and Secretary thereof, and verified as to its anthenticity by the oath of the Agent of such Company in Canada, or of some person cognizant of the facts necessary to its verification, which power of Attorney must declare at what place in Canada, the Chief Agency of the Company is, or is to be, established and must expressly authorize such Agent to receive process in all suits and proceedings against such Company in Canada, for any liabilities incurred by the Company therein, and must declare that service of process for or in respect of such liabilities, at such Chief Agency or personally on such Agent at the place where such Chief Agency is established, shall be legal and binding on the Company to all intents and purposes whatever.

Service of process on Companies.

10. After the certified copies referred to in the next preceding section, and such Power of Attorney are filed as aforesaid, any process in any suit or proceeding against such Company, for any liabilities incurred in Canada, may be served on the Company at its Chief Agency, in the same manner as process may be served upon any Company incorporated in Canada, and all proceedings may be had thereupon to judgment and execution in the same manner and with the same force and effect as in proceedings in any Civil suit in Canada.

Company to give notice of its being licensed.

11. Every Company obtaining such Licence as aforesaid, shall forthwith give due notice thereof in the Canada Gazette, and in at least one Newspaper in the County, City, or place where the Chief Agency is established, and shall continue the publication thereof for the space of one calendar month, and the like notice shall be given when such Company shall cease, or notify that they intend to cease, to carry on business in Canada.

Every Company must have at least $100,000 unimpaired capital.

12. No Company shall transact any business of Insurance in Canada, unless such Company is possessed of at least one hundred thousand dollars of paid up and unimpaired Capital, invested in Stocks of at least par value, or in Bonds, Mortgages on Real Estate worth double the amount for which the same is mortgaged, or other good and sufficient securities, nor shall any Licence be issued in favour of such Company, until a statement under oath to that effect is fyled with the Minister of Finance sworn to by some one whose duty it is to know and who is personally cognisant of the fact sworn to: Provided that the unimpaired amount of the deposit of any Company then in the hands of the Receiver General shall be reckoned as part of its capital.

Penalty for issuing policy, &c., without licence.

13. Any person who shall deliver any Policy of Insurance or collect any premium, or transact any business of Insurance on behalf of any such Company as aforesaid, without such Licence as aforesaid, or if such Licence has been withdrawn, without the renewal thereof, or without filing the copy of the Charter, Act of Incorporation, or Articles of Association of the Company, and a Power of Attorney as hereinbefore provided, shall be liable to a penalty of *one thousand dollars* for each such contravention of this Act, which penalty may be sued for and recovered on information filed in the name of the Attorney General for Canada, and shall be paid to the Crown, and in case of non-payment of such penalty in one month after such judgment, the person so offending shall be liable to imprisonment in any gaol or prison in the jurisdiction where he is convicted, for the space of three months.

How recoverable, &c.

Annual statements to be transmitted to the Minister of Finance.

14. Subject to the exception in the next following section, every Company so licensed shall transmit annually, to the Office of the Minister of Finance, a statement in duplicate, verified by the oath of the President, Manager, or Agent of such Company, or of any person cognizant of the facts, containing the particulars mentioned in the form in the Schedule to this Act, applicable to the case, such statement to be made up to the First day of July next preceding, or to the usual balancing day of the Company, provided such balancing day be not more than six months before the filing of such statement, and a copy of such statement shall be published in the *Canada Gazette*; and the Minister of Finance shall cause the statements or an analysis thereof to be laid before

Analysis to be laid before Parliament.

Parliament, within thirty days after the commencement of each Session thereof, and any Company failing to comply with the provisions of this section shall forfeit and pay to the Crown, the sum of *one thousand dollars* to be recovered on information to be filed in the name of the Attorney General for Canada, in that behalf; and with respect to any kind of business not provided for in the said schedules, the Minister of Finance may prescribe the form of return which shall be made, under the like penalty, and recoverable in the like manner, and the Minister of Finance may from time to time vary the forms in the said schedules, as far as regards the business done by any Company in Canada, according as experience or the special constitution of any Company may require.

Form of statement.

15. No Insurance Company established in the United Kingdom, and which is not bound by the laws in force there to furnish or publish statements of its affairs, shall be liable to the obligation, or to the penalty mentioned in the *next preceding* section, provided such Company, if a Fire Insurance Company only, has deposited not less than one hundred thousand dollars, if a Life Insurance one hundred and fifty thousand dollars, and if a Fire and Life Insurance Company not less than two hundred thousand dollars, in the hands of the Receiver General, for the purposes of this Act, and subject to all the provisions thereof, but any such Company shall publish and file with the Minister of Finance on or before the thirty-first day of January in each year, a general statement under oath of the Agent in Canada, containing the particulars mentioned in the form D, in the Schedule annexed to this Act.

Exception as to statements by certain Companies established in the United Kingdom.

16. In case of the Insolvency of any Company, the stock representing the deposit of such Company shall be applied *pro rata* towards the payment of all claims duly authenticated against such Company, upon or in respect of policies issued in Canada; and any such Company shall be deemed Insolvent upon failure to pay any undisputed claim arising or loss insured against in Canada for the space of *thirty* days after being due, or, if disputed, after final judgment and tender of a legal valid discharge and (in either case) after notice thereof to the Minister of Finance; and the distribution of the proceeds of such stock may, if applied for in the Province of Ontario, or of Nova Scotia, or of New Brunswick, be made by order in Chancery, or in Equity, or if applied for in the Province of Quebec, may be made, by judgment or order or distribution of the Superior Court within the district where the Chief Agency is situated: Provided that in any case when a claim for loss is by the terms of the policy payable on proof of such loss, without any stipulated delay, the notice to the Minister of Finance under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due.

Application of deposit to pay claims in case of Insolvency of a Company.

Order of the Court in such case.

17. For the purposes of such distribution the Court may order that the stock of the Company so Insolvent be transferred to and inscribed in the Government stock books, at or nearest to the place of the Chief Agency, and within the jurisdiction of the Court, if such stock be not already inscribed there, and may order that no further interest on such stock be thereafter paid to the Company, and that such stock or any part thereof be sold in such manner and after such notice and formalities as the Court may appoint.

Licence to be null on failure to pay deposits, or balance of premiums; and in case of insolvency.

18. Whenever any Company entitled to make the deposits required by this Act by instalments, fails to pay any such instalment when due,—or if any Company fails to pay to the Receiver General the proper balance of its premiums as required by this Act, and at the time required by it,—or whenever notice has been given to the Minister of Finance under the next preceding section but one, so that the amount of the stock representing the deposit of such Company is liable to be reduced by sale of any portion thereof, the license of such Company shall *ipso facto* be null and void and shall be deemed to be withdrawn; but such Licence may, in the case last mentioned, be renewed and the Company may again transact business, if within sixty days after notice to the Minister of Finance of the Company's failure to pay any undisputed claim, or the amount of any final judgment, as provided in the said section, undisputed claims or final judgments upon or against the Company in Canada, are paid and satisfied and the Company's deposit is restored to the amount required by this Act.

And in case of the Company ceasing to do business in Canada.

19. After any Company has ceased to transact business in Canada, and given the notice required by this Act to that effect, it shall be lawful for the Governor in Council on the report of the Treasury Board, to authorize the whole or any portion of the stock or other securities so held in deposit for any Company as aforesaid, to be released and transferred to the Company upon being satisfied that it has no liabilities upon policies issued in Canada, and that no suit or legal proceedings are pending against the Company therein, or on proper proof on oath of the state of its affairs being given that such Company has ample assets to meet all its liabilities; and upon such authority being given by the Governor in Council, the Company shall be entitled to receive, instead of any Dominion stock so held, the amount thereof in money at par.

Mutual Insurance Companies to be subject to this Act in certain cases only.

20. Mutual Fire Insurance Companies having their head office in any part of Canada, shall register their names with the Minister of Finance, and shall make annual returns in such form as may be prescribed by him. Any such Mutual Fire Insurance Company receiving cash or part cash premiums in lieu of premium notes, or accepting risks other than from its own members, shall deposit in the hands of the Receiver General one third of the cash premiums received by it, but the

total amount of such deposit need never exceed the average annual amount of the cash premiums received by the Company during the three years next preceeding the date of its last Return ; and if such Mutual Fire Insurance Company receive no cash premiums whatever in lieu of premium notes, and act wholly and exclusively on the Mutual Principle, it shall not be bound to make such deposit.

As to Companies in Ontario and Quebec, licensed under Acts of the late Province of Canada.

21. As regards Fire Insurance Companies in the Provinces of Ontario and Quebec, licensed under the Acts of the Legislature of the late Province of Canada, twenty-third Victoria, chapter thirty-three, and twenty-sixth Victoria, chapter forty-three, the securities given under those Acts by any such Company complying with the requirements of this Act, may be delivered up to them respectively on the warrant of the Minister of Finance, who shall grant such warrant on the conditions herein specified, on being satisfied that there is no claim for which such securities are liable under the provisions of the said Acts, or he may grant such warrant for the delivery of part thereof, provided he is satisfied that the remaining part is sufficient to satisfy any such claim : provided always, that any sum deposited under this Act, shall stand as security for the payment of any claim against the Company depositing it, if licensed under the said Acts, whether such claim accrued before or after the coming into force of this Act ; but any Company which has deposited securities of the late Province of Canada under the Acts last mentioned may have the same accepted as so much of the deposit required under this Act, and as respects other securities given under the said Acts it shall be lawful for the Minister of Finance to allow such securities to remain for a period of two years, during which they may be reckoned as part of the deposit required by this Act, and subject to its provisions, and during which the interest of such securities shall be taken by the Receiver General and remain in his hands as part of the deposit : but at the lapse of such time, the said Company shall be bound to make the deposit in cash in the *fourth* section of this Act specified ; And the deposit made by any such Company of the Power of Attorney and other documents specified in the *ninth* section of this Act, shall, if the same fulfil the requirements of this Act, be construed as made under its provisions.

Provision as to deposit under this Act.

As to British or Foreign companies which cannot by law invest in canadian securities.

22. And as regards British and Foreign Insurance Companies actually doing business in Canada at the time of the passing of this Act, which cannot by the terms of their constitutions or charters or by law, invest in Canadian securities, it shall be lawful for the Minster of Finance, with the approval of the Governor in Council, to receive the amount of the deposit required of them under this Act, in British or Foreign Government securities, including Stock of any one or more of the United States, at their then market value, but with power to him to require from time to time, if such market value should decline, additional secu-

rity equivalent to their diminution in value;—and the portion of the premiums received by any such Company required to be deposited under this Act, may be invested by the Company in any such British or Foreign Stock as aforesaid, and such Stock may be deposited with the Receiver General subject to the provision above made as to value, and diminution in value;—but all such Stock shall be replaced by cash within three years from the issue of the license to the Company, otherwise such license shall be void; And as regards any such Company acting on the mutual principle in such wise as to be unable legally to make a deposit under this Act, for the security of policy holders resident in Canada, the Company shall specify the fact when making the deposit and in all returns made or published by them.

Notice as any such company on the mutual principle.

Lists of companies licensed to be published.

23. The Minister of Finance shall publish quarterly in the Canada Gazette, a list of Companies licensed under this Act with the amount of deposits made by each, stating whether such deposit is for the security of the Canadian Policy holders, exclusively, or for the general security of all policy holders.

Commencement of this Act.

Repeal of former Acts.

Exception.

24. This Act shall come into force on the first day of August next, from and after which day the Acts mentioned in the next preceding section shall be repealed, subject to the provision made in the said section; and chapter forty-five of the Acts of the Legislature of New Brunswick, passed in the nineteenth year of Her Majesty's Reign, and intituled: "An Act relating to Insurance Companies not incorporated by Act of Assembly in this Province," shall be repealed on and after the said day, except as regards penalties or liabilities theretofore incurred under it.

SCHEDULE—FORMS.

Form A.

Statement to be made by every Life or Accident Insurance Company, except Companies mentioned in Section fifteen.

(*Name of the Company.*)	$ cts.
Assets of the Company.....	
Liabilities of do.	
Amount of Capital Stock.....	
Amount paid thereon.....	
Of what the assets of the Company consist, viz: (*insert particulars*).	
Total premiums received during the year.....	
Number and amount of Policies issued during the year	
Amount of claims from death (or accident) do. .	
Expenses of management, agency, &c.....	

Total premiums received during the year in Canada .....
Number and amount of Policies issued do.
Amount at risk on total policies issued in Canada.
Number and amount of policies that have become claims in Canada, during the year by death (or accident .....

FORM B.

Statement to be made by a Fire or Guarantee Insurance Company, whose deposits are not less than one hundred thousand dollars, (except Companies mentioned in section 15,) referred in section four.

	$ cts.
Assets of the Company	
Liabilities of the Company	
Amount of Capital Stock	
Amount paid thereon	
Of what the assets of the Company consist, viz: (*insert particulars*)	
Amount of losses paid during the year	
Amount of losses due and unpaid	
Losses adjusted and not due	
Losses in suspense and waiting further proof...	
Losses, the payment of which is resisted and for what cause	
All other claims against the Company	
Amount of premiums earned for the past year...	
Amount of premiums unearned for the past year.	
Number and amount of policies issued during the year	
Amount at risk on total policies in force in Canada	
Losses in Canada paid during the year	
Do. adjusted and not due	
Do. in suspense and waiting for further proof	
Do. the payment of which is resisted and for what cause.	
All other claims against the Company	
Premiums earned in Canada during the year...	
Do. unearned do do	

FORM C.

Statement to be made by a Fire or Guarantee Insurance Company whose deposits are under one hundred thousand dollars, except those referred to in section four.

Amount of Premiums received during the year on risks effected in Canada less twenty-five

per cent. and the net amount of losses actually paid.....
Deposit in conformity with the second section of the said Act.....
Assets of the Company.....
Liabilities of the Company.....
Amount of Capital Stock.....
Amount paid thereon.....
Of what the assets of the Company consist, viz : (*insert particulars*).....
Amount of losses paid during the year.....
Amount of losses due and unpaid.....
Losses adjusted and not due.....
Losses in suspense and waiting for further proof.....
Losses the payment of which is resisted, and for what cause.....
All other claims against the Company.....
Amount of premiums earned during the past year.
Amount of premiums unearned.....
Amount at risk on total policies in force in Canada .....
Losses in Canada paid during the year.....
Losses in Canada adjusted and not due.....
Losses in suspense and waiting for further proof.....
Losses the payment of which is resisted and for what cause.....
All other claims against the Company.....
Premiums earned in Canada during the year..
Premiums unearned in Canada during the year.

FORM D.

Statement to be made by an Insurance Company referred to in Section fifteen.

	$ cts.
Total premiums received during the year, in Canada.....	
Number and amount of policies issued do. do.	
Amount at risk in total policies in force in Canada.	
Number and amount of policies that have become claims in Canada during the year.....	
Amount of losses in Canada paid during the year.	
Amount of losses in Canada in suspense and waiting further proof.....	
Losses in Canada the payment of which is resisted and for what cause.....	
Amount of premiums earned for the past year in Canada	
Amount of premiums unearned in Canada.....	

[No. 40.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Insurance Companies.

Received and read 1st time Tuesday, 17th March, 1868.

Second reading Friday, 20th March, 1868.

(*Reprinted as proposed to be amended in Committee of the Whole.*)

Hon. Mr. Rose.

Printed by G. E. Desbarats.

41

No. 41.] BILL. [1868.

An Act respecting the Civil Service of Canada.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : Preamble.

1. The Departmental Staff of the Civil Service of Canada, at the Seat of Government, shall consist of,— Departmental Staff.
Deputy Heads of Departments,—
Officers or Chief Clerks,—
Clerks,—and
Probationary Clerks.

2. The Outside Service of the several Departments requiring such service, shall be organized and classified as hereinafter provided. Outside Service.

Appointments.

3. No appointment shall be made of any person who is then under the age of eighteen years or over the age of twenty-five years, subject to the following exceptions : Age limited. Exceptions.

1. A person over the age of twenty-five years may be appointed to any office or clerkship upon the application and report of the Head of the Department, specifying the reasons therefor; but if the appointment is contemplated on the ground that special attainments are required, the person whom it is proposed to appoint, may be subjected to a special examination in that respect ; and if the person appointed is over the age of forty years, a report of the appointment and the reasons thereof, shall be submitted to Parliament at its then next Session ; and Appointments over age.

2. Any person may, with the approval of the Governor in Council, be appointed as the Private Secretary of the Head of a Department, but the salary or emoluments of any such Private Secretary payable out of public monies, shall not exceed the rate of *six hundred dollars* per annum, he shall not by virtue of such appointment be a member of the Civil Service, and his appointment shall cease on the retirement of the Minister who appointed him. Private Secretaries of Ministers.

4. No appointment or promotion shall be made, except under the authority of the Governor in Council, upon the application and report of the Head of the Department, in which it is to be made. Authority for appointments or promotions.

Tenure of Office.

5. Every appointment, whether by Commission or otherwise, shall be during pleasure.

Probationary Clerks.

Examination of Candidates for employment.

6. Every candidate for admission into the Civil Service shall, as a condition precedent to his nomination, produce such evidence as the Governor may think sufficient as to his age, health and moral character; and upon the delivery of the same, and of the nomination of any Head of a Department, to the Civil Service Board, the said Board shall examine such candidate; and no appointment shall be made until after such nomination, and the passing of such examination: Provided that nothing herein contained shall prevent any special examination being held as to persons to be appointed or promoted in the Outside Service of the Department of Customs, Inland Revenue, Public Works, or Post Office Department, or other outside service, under the supervision of the Department to which such service belongs.

Term of probation.

7. A Probationary Clerk shall enter the Service at a salary of *three hundred dollars* per annum, and shall serve in that capacity and at that rate of salary, for at least one year before being eligible for permanent appointment as a Third Class Clerk :—

Proviso.

But such permanent appointment may be deferred by the Head of the Department; and in such case additional salary, at the rate of *fifty dollars* per annum, may be allowed; and

Proviso.

If such Probationary Clerk be not at the end of two years, found fit for appointment as a Third Class Clerk, his employment in the Civil Service shall cease.

Clerks.

Classes.

8. Clerks shall be divided into three Classes: First, Second and Third.

Third Class Clerks.

9. A Third Class Clerk shall receive a salary of *four hundred dollars* for his first year's service as such, and may thereafter have an annual increase of *fifty dollars* per annum, until his salary is *six hundred and fifty dollars* per annum; but he shall not be eligible for promotion into the Second Class until after five years' service in the Third Class.

Second Class.

10. Second Class Clerks shall be subdivided into Junior Second Class, and Senior Second Class :

Junior.

A Junior Second Class Clerk shall receive a salary of *seven hundred dollars* for his first year's service as such, and may thereafter have an annual increase of *fifty dollars* per annum,

until his salary is *one thousand dollars* per annum, but he shall not be eligible for promotion into the Senior Second Class, until after five years' service in the Junior Second Class ;

Senior. A Senior Second Class Clerk shall receive a salary of *one thousand one hundred dollars* for his first year's service as such, and may have an annual increase of *fifty dollars* per annum, until his salary is *one thousand four hundred dollars* per annum ; but he shall be eligible for promotion into the First Class at any period of his service in the Senior Second Class.

First Class Clerks. **11.** A First Class Clerk shall receive a salary of not less than *one thousand two hundred dollars* per annum, and may have an annual increase of *fifty dollars* per annum, until his salary is *one thousand eight hundred dollars* per annum :

Proviso as to salary. But if any Clerk promoted into the First Class, has at the time of such promotion, a higher salary than *one thousand two hundred dollars* per annum, he shall continue to receive such salary until by length of service in the First Class he has a right to that amount as a First Class Clerk, from which time he shall receive the annual increase until his salary is *one thousand eight hundred dollars* per annum ;

Promotion. A First Class Clerk shall be eligible for promotion at any period of his service in the First Class.

Officers or Chief Clerks.

Officers or Chief Clerks. **12.** There may be in each Department of the Civil Service, one or more Officers or Chief Clerks, who shall receive such salaries respectively as may be fixed and determined by the Governor in Council, as hereinafter provided.

Chief Clerks. **13.** If, in any Department, there are no special duties requiring or assigned to an Officer or Chief Clerk, an additional salary, not exceeding *four hundred dollars* per annum, may be given by Order in Council to one or other First Class Clerks in such Department, who shall have the rank of Chief Clerk.

Deputy Heads of Departments.

Who shall be, and how appointed. **14.** The Officers mentioned in Schedule A to this Act, shall be appointed under the Great Seal, and shall be respectively the Deputy Heads of the Departments also mentioned in the said Schedule, and shall receive such salaries respectively as may be assigned to them by the Governor in Council as hereinafter provided :

Salaries.

Absence of Deputy Head. In the absence of any Deputy Head, the Head of the Department may empower any Officer or Chief Clerk thereof, to perform the duties of such Deputy Head.

Duties and powers of Deputy Heads.

It shall be the duty of the Deputy Head of each Department, and he shall have authority (subject always to the Head of the Department) to oversee and direct the other Officers, Clerks and Servants of the Department; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council; and in the absence of the Minister, and during such absence, may suspend from his duties any Officer, Clerk or Servant of the Department who refuses or neglects to obey his directions as such Deputy.

Order in Council to limit the number of Officers and Clerks.

15. As soon as conveniently may be after the passing of this Act, the Governor in Council shall determine the number of Officers or Chief Clerks, and of the Clerks of each class, that are required for the working of the Staff and Outside Service respectively, of each Department, and shall classify the same according to the arrangement so determined; and such classification shall be submitted to Parliament, not later than the first week of the session of Parliament next ensuing, and the estimates of the following year shall be based thereon; and after such classification has been submitted to Parliament, no first class Clerk, and no Officer or Chief Clerk shall be appointed, nor shall any person be rated at a salary higher than the maximum of the first class, except (1) upon a vacancy, or (2) upon the creation of an additional first class Clerkship or Office, or Chief Clerkship, by a special Order in Council, and upon the approval by Parliament of the salary thereunto attached, as a separate item in the estimates of the year in which such first class Clerkship or Office, or Chief Clerkship is created.

Not to be changed except by authority of Parliament.

Proviso, if the existing number of Clerks be greater than that allowed by Order in Council.

16. If the number of Clerks attached to any Department, as Staff or as Outside Service, at the date of such classification by Order in Council, and entitled according to the amounts of their salaries to rank in any class mentioned in such Order, be greater than the number of such class thereby allowed to the Department, as Staff or as Outside Service, then the Head of the Department shall name the persons to fill the several offices, and the remainder shall be Supernumerary Clerks of that class respectively in which their then salaries entitle them to rank; and every such Supernumerary Clerkship shall lapse upon a vacancy and shall not be filled.

Messengers.

Age, nomination and examination.

17. No appointment shall be made of any person as messenger who is over thirty-five years of age, or until he has been nominated by the Head of a Department, and has produced such certificates and passed such examination as shall be prescribed by the Civil Service Board and approved of by the Governor in Council.

18. A messenger shall enter the Service at a salary to be fixed by the Governor in Council, not exceeding *three hundred dollars* for the first year, and may thereafter have an annual increase of *thirty dollars* per annum, until his salary is *five hundred dollars* per annum. Salary.

No resident male Office Keeper shall be paid more than *five hundred dollars* per annum. Office Keeper.

Extra Clerks.

19. No extra Clerk shall, except under an Order in Council, be employed in any Department, unless for a period not exceeding one month, for which he may be paid at a rate not exceeding *one dollar and fifty cents* per diem, out of the Contingencies of the Department, on the Certificate of the Head or Deputy Head thereof;—except only that if such Extra Clerk be an Accountant, a Book-keeper or a person of special attainments, and employed as such, he may be paid at a rate not exceeding *four dollars* per diem : When only allowed, and rate of pay. Exception.

But any Extra Clerk may, under an Order in Council, made on the application and report of the Head of the Department, that the same is requisite, be employed for a longer period than one month, but not exceeding six months, and he shall during such period be borne on the pay-list of the Department ; Proviso : if employed beyond one month.

After the end of the six months such Extra Clerk shall only be retained in the Department as a Probationary Clerk, if nominated, examined and appointed as such in the manner required by this Act ; but if so appointed, the time during which he has served as an Extra Clerk, may be counted in his service as a Probationary Clerk. If employed more than six months.

General Provisions.

20. No allowance or compensation shall be made for any extra service whatsoever which any officer or clerk may be required to perform in the Department to which he belongs. No pay for extra service.

21. No Clerk shall have an absolute right to the annual increase of salary authorized by the Act ; but the same may be suspended and subsequently restored by the Head of the Department, but without payment of arrears : No absolute right to increase of salary.

The annual increase of salary shall be payable from the first day of the quarter next succeeding the date at which from his length of service any Clerk may be eligible for such increase ; Commencement of increase.

In case of promotion, the increase of salary shall become payable from the first day of the month next succeeding the date at which such promotion took place. In case of promotion.

Salaries of present incumbents not affected.

Proviso.

22. Nothing in this Act shall affect the salary or emolument of any Officer or Clerk in the Civil Service at the time of the passing of this Act, so long as he shall be continued in office ; but no provision herein contained shall be construed to impair the power of the Governor to remove or dismiss any such Officer or Clerk.

Clerks in one Department may be employed in another.

23. When the Clerks on the Staff or on the Outside Service of any Department cannot, with sufficient speed, perform the duties required on any emergency, the Deputy Head of such Department may require from the Deputy Heads of any other Departments the temporary services of any number of Clerks as may not be then actively engaged in services of their own Departments, but without additional remuneration.

Leave of absence.

24. The Head of every Department may, at such times as may be convenient, grant to every Officer or Clerk leave of absence for recreation for any period or periods not exceeding in the whole weeks in each year, and may in cases of illness or other pressing necessity, grant such extended leave not exceeding twelve months and on such terms as the Governor in Council may think fit.

Civil Service Board.

How composed.

25. There shall be a Board to be called the Civil Service Board, and to be composed of the persons who for the time being fill the offices named in the Schedule A :

Quorum.

Five of the members of the Board shall be a quorum, and may exercise all the functions of the Board ;

Chairman and Secretary.

A Chairman and Secretary shall be chosen annually from amongst themselves, and minutes of their proceedings shall be kept.

Duties.

The duties of the Board shall be,—

Rules and regulations.

1. To frame and publish Regulations to be observed by candidates for employment in the Civil Service of Canada, and the subjects of such examination, (varying for each Department according to the peculiar nature of its general functions and duties,) and to alter the same, from time to time, such Regulations being first approved by the Governor in Council ;

Examination of Candidates.

2. To examine all candidates who present themselves upon a nomination for office, as hereinbefore mentioned, and in accordance with the regulations of the Board, and any other regulations or restrictions provided under this Act ;

Register.

3. To keep a record of the candidates for examination, shewing the name, age, place of birth, and residence of each

candidate, by what Head of a Department nominated, and the result of his examination ;

4. To grant certificates of qualification to candidates whose examination as to fitness and capacity, and whose testimonials as to moral character, have been found satisfactory ; Certificates.

5. To investigate the length of service of any person claiming to be entitled on such ground to promotion from any one class to that next above it, and to report thereon to the Head of the Department ; Claims to promotion.

6. To report in the month of January in each year, to the Governor in Council, all cases in which there has been any departure, during the previous year, from the Rules and Regulations prescribed by this Act. Report yearly to Governor.

7. And the Governor in Council, may at any time refer to such Board, such question as he may think fit, connected with the administration of the Civil Service in the matters of nomination, appointment, promotion or salary, or such enquiry or other questions connected with the efficiency and welfare of such service, and it shall be the duty of such Board to report for the consideration of the Government on every question so referred, and it shall have power and authority to summon and examine witnesses and to call for and obtain papers. Matters referred by Governor in Council.

Oaths of Office, &c.

26. Immediately after the passing of this Act, the Deputy Heads of Departments and all Officers or Chief Clerks, Clerks and Messengers of the Civil Service shall take and subscribe before the Clerk of the Queen's Privy Council for Canada, the oath of Allegiance and that which is contained in Schedule B of this Act ; and the Clerk of the Queen's Privy Council for Canada shall keep a register of such oaths, and every Deputy Head, Officer or Chief Clerk, Clerk or Messenger who shall hereafter be appointed, shall, before entering upon the duties of his office, take and subscribe the same oaths respectively. Oath of allegiance to be taken by Officers, &c., in Civil Service.

27. In this Act the expression "Head of a Department" means the Minister of the Crown for the time being presiding over such Department. Interpretation.

28. This Act may be cited as "The Canada Civil Service Act, 1868." Short title.

SCHEDULE A.

DEPUTY HEADS OF DEPARTMENTS.

Clerk of the Privy Council.
Deputy of the Minister of Justice.

Deputy of the Minister of Militia.
Under Secretary of State for Canada.
Under Secretary of State for the Provinces.
Deputy Inspector General.
The Auditor General.
Deputy Receiver General.
Commissioner of Customs.
Commissioner of Inland Revenue.
Deputy of the Minister of Public Works.
Deputy Postmaster General.
Deputy of the Minister of Agriculture.
Deputy of the Minister of Marine and Fisheries.

SCHEDULE B.

"I, (*A.B.*,) solemnly and sincerely swear that I will faithfully "and honestly fulfil the duties which devolve upon me as and that I will not ask, or receive "any sum of money, services, recompense or matter or thing "whatsoever, directly or indirectly, in return for what I have done "or may do in the discharge of any of the duties of my said "office, except my salary or what may be allowed me by law or "by an Order of the Governor in Council.—So help me God."

[No. 41.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Civil Service.

Received and read first time, Tuesday, 17th March, 1868.

Second reading, Friday, 20th March, 1868.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

No. 42.] **BILL.** [1868.

An Act respecting Railways.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Name by which it shall be cited.

1. In citing this Act, it shall be sufficient to use the expression "*The Railway Act.*"

1. APPLICATION OF ACT.

Application of Act.

2. The provisions of this Act from section five to section twenty one, both inclusive, being Part First of this Act, shall apply to The Intercolonial Railway to be constructed under the authority of the Act of the Parliament of Canada passed during the present Session and intituled, "An Act respecting the construction of the Intercolonial Railway," so far as they are applicable to the undertaking and in so far as they are not inconsistent with or contrary to the provisions of the said Act respecting it.

What shall be sufficient in making an incorporation of this Act with Special Acts.

2. The said sections shall also apply to every Railway hereafter to be constructed under the authority of any Act passed by the Parliament of Canada, and shall, so far as they are applicable to the undertaking, and unless they are expressly varied or excepted by the Special Act, be incorporated with the Special Act, form part thereof, and be construed therewith as forming one Act.

3. For the purpose of excepting from incorporation with the Special Act any of the sections forming part First of this Act, it shall be sufficient in the Special Act to enact, that the sections of this Act proposed to be excepted referring to them by the words forming the headings of such sections respectively shall not be incorporated with such Act, and the Special Act shall thereupon be construed accordingly.

Power to construct Railway, &c., to be exercised subject to provisions of this Act.

4. The remaining provisions of this Act, being Part Second, shall apply to the Intercolonial Railway, in so far as they are not varied by or inconsistent with the Special Act respecting it, and to all Railways constructed under the authority of any special Act passed by the Parliament of Canada, and to all Companies incorporated for their construction.

PART FIRST.

INTERPRETATION.

Interpretation of words. "The Special Act."

5. 1. The expression "The Special Act," used in this Act, shall be construed to mean any Act authorizing the construction of a Railway, with which this Act is incorporated;

"Prescribed." 2. The word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter, as the same is prescribed or provided for in the Special Act; and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used.

"The Lands." 3. The expression "the lands" shall mean the lands which by the Special Act are authorized to be taken or used for the purpose thereof;

"The undertaking." 4. The expression "the undertaking" shall mean the Railway and works, of whatever description, by the Special Act authorized to be executed.

5. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction, that is to say:

"Lands." 6. The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure;

"Lease." 7. The word "Lease" shall include any agreement for a lease;

"Toll." 8. The word "Toll" shall include any rate or charge or other payment payable under this Act or the Special Act for any passenger, animal, carriage, goods, merchandise, matters or things conveyed on the Railway;

"Goods." 9. The word "Goods" shall include things of every kind conveyed upon the Railway, or upon Steam or other vessels connected therewith;

"County." 11. The word "County" shall include any union of Counties, County, Riding, or like division of a County in any Province, or any division thereof into separate Municipalities in the Province of Quebec.

"Highways." 12. The word "Highways" shall mean all public roads, streets, lanes, and other public ways and communications;

"Sheriff." 13. The word "Sheriff" shall include Under Sheriff, or other legal competent Deputy; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace," shall in

"Clerk of the Peace." such case be construed to mean the Sheriff or Clerk of the Peace of the District, County, Riding, Division, or place where such lands are situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County, Riding, Division or place where any part of such lands are situate;

"Justice." 14. The word "Justice" shall mean a Justice of the Peace acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of a Justice arises, and who is not interested in the matter; and where the matter arises in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding, Division, City or place, the word "Justice" shall mean a Justice acting for the District, County, Riding, Division, City or place where any part of such lands are situate, and who is not interested in such matter; any where any matter is authorized or

"Two Justices." required to be done by two Justices, the expression "two Justices" shall be understood to mean two Justices assembled and acting together;

15. The word "owner," where, under the provisions of this Act or the Special Act, any notice is required to be given to the owner of any lands, or where any act is authorized or required to be done with the consent of the owner, shall be understood to mean any Corporation or person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company; "Owner."

16. The expression "the Company" shall mean the Company or party authorized by the Special Act to construct the Railway; "The Company."

17. The expression "the Railway" shall mean the Railway and works by the Special Act authorized to be constructed; "The Railway."

INCORPORATION.

6. Every Company established under any Special Act shall be a body corporate under the name declared in the Special Act, and shall be vested with all the powers, privileges and immunities necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such corporation, or are expressed or included in "the Interpretation Act." Companies established under Special Acts, declared to be bodies corporate, &c.

POWERS.

7. The Company shall have power and authority: "Powers."

1. To receive, hold and take all voluntary grants and donations of land or other property made to it, to aid in the construction, maintenance and accommodation of the Railway, but the same shall be held and used for the purpose of such grants or donations only; To receive grants of land, &c.;

2. To purchase, hold and take of any Corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the Railway, and also to alienate, sell or dispose of the same. Purchase land;

3. No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council; but with such consent any such Company may take and appropriate for the use of their Railway and works, but not alienate, so much of the wild lands of the Crown lying on the route of the Railway, as have not been granted or sold, and as may be necessary for such Railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works, subject, however, to the exceptions contained in the next following paragraphs. Occupy public lands, beaches, &c.

4. Whenever it is necessary for the Company to occupy any part of the lands belonging to the Queen, reserved for Naval or Military purposes, they shall first apply for and obtain the license and consent of Her Majesty, under the Hand and Seal of the Governor, and having obtained such license and consent, they may at any time or times enter into and enjoy any of the said lands for the purposes of the Railway; but in the case of any such Naval or Military Reserves, no such license or consent shall be given except upon a Report first made thereupon by the Naval or Military authorities in which such lands are for the time being vested, approving of such license and consent being so given. As to lands belonging ty Her Majesty, &c.

5. The Company shall have power and authority to make, carry or place the Railway across or upon the lands of any Corporation or person on the line of the Railway, or within the distance from Carry Railway across lands of Corporations, and others;

such line stated in the Special Act, although, through error or other cause, the name of such party has not been entered in the Book of Reference hereinafter mentioned, or although some other party has been erroneously mentioned as the owner of or entitled to convey, or is interested in such lands;

And across or along streams, &c.;

6. To construct, maintain and work the Railway across, along, or upon any stream of water, water course, canal, highway or railway which it intersects or touches; but the stream, water course, highway, canal or railway so intersected or touched, shall be restored by the Company to its former state, or to such state as not to impair its usefulness;

Complete Railway with one or more tracks, &c.;

7. To make, complete, alter and keep in repair the Railway with one or more sets of rails or tracks to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them;

Erect necessary buildings, wharves, &c.;

8. To erect and maintain all necessary and convenient buildings, stations, depôts, wharves and fixtures, and from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery necessary for the accommodation and use of the passengers, freight and business of the Railway;

Branch Railways;

9. To make branch Railways, if required and provided by the Special Act, and to manage the same, and for that purpose to exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Railway;

All other matters and things necessary for Railway;

10. To construct, and make all other matters and things necessary and convenient for the making, extending and using of the Railway, in pursuance of this Act, and of the Special Act;

Convey persons and goods on Railway;

11. To take, transport, carry and convey persons and goods on the Railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation;

Borrow money, &c.;

12. To borrow from time to time, either in Canada or elsewhere, such sums of money as may be expedient for completing, maintaining or working the Railway, and at a rate of interest not exceeding eight per cent. per annum, and to make the Bonds, Debentures or other securities granted for the sums so borrowed, payable either in currency or in sterling, and at such place or places within Canada or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient, or be necessary, and to hypothecate, mortgage or pledge the lands, tolls, revenues and other properties of the Company for the due payment of the said sums and the interest thereon, but no such debenture shall be for a less sum than one hundred dollars;

Enter upon Her Majesty's lands, &c.;

13. To enter into and upon any lands of Her Majesty without previous license therefor, or into and upon the lands of any Corporation or person whatsoever lying in the intended route or line of the Railway;

Make surveys of lands;

14. To make surveys, examinations, or other necessary arrangements on such lands necessary for fixing the site of the Railway, and to set out and ascertain such parts of the lands as are necessary and proper for the Railway;

Remove trees;

15. To fell or remove any trees standing in any woods, lands or forests, where the Railway passes, to the distance of six rods from either side thereof;

16. To cross, intersect, join and unite the Railway with any other Railway at any point on its route, and upon the lands of such other Railway, with the necessary conveniences for the purposes of such connection; and the owners of both Railways may unite in forming such intersection, and grant the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by Arbitrators to be appointed by a Judge of one of the Superior Courts in the Province in which the point of junction or intersection is situated. Unite with other Railways.

17. But no Railway Company shall avail itself of any of the powers contained in the next preceding sub-section without application to the Board of Railway Commissioners, constituted by the twenty-second section of this Act, for approval, of the mode of crossing, union or intersection proposed; of which application, notice in writing shall be given to any other Railway affected, by sending the same by mail or otherwise, to the address of the President, Superintendent, Managing Director or Secretary of any such Railway Company, and when such approval has been obtained, it shall be lawful for either Railway, in case of disagreement as to the amount to be paid for compensation, to proceed for the determination of such compensation as provided in the said sub-section. But not without application to the Board of Railway Commissioners.

18. Any Railway Company may construct a branch or branches not exceeding six miles in length from any terminus or station of their Railway, whenever a By-law sanctioning the same has been passed by the Municipal Council of the Municipality within the limits of which such proposed branch is situate, and no such branch shall as to the quality and construction of the road, be subject to any of the restrictions contained in the Special Act or in this Act, nor shall any thing in either of the said Acts authorize the Company to take for such branch any lands belonging to any party without the consent of such party first obtained. Any Railway Company may construct branch Railways on certain conditions.

19. Any Railway Company desiring at any time to change the location of its line of Railway in any particular part for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting such line of Railway, or for any other purpose of public advantage, may make such change; and all and every the clauses of this Act shall refer as fully to the part of such line of Railway so at any time changed or proposed to be changed as to the original line; but no railway Company shall have any right to extend its line of Railway beyond the termini mentioned in the special Act. Changes may be made in the line of a Railway at any time for certain purposes.

20. The original Capital Stock of any Railway Company may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the Shareholders, at a meeting of them expressly called by the Directors for that purpose, by a notice in writing to each Shareholder, served on him personally, or properly directed to him, and deposited in the Post Office nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase, and the proceedings of such meeting must be entered on the Minutes of the proceedings, and thereupon, the Capital Stock may be increased to the amount sanctioned by such a vote. Stock may be increased.

PLANS AND SURVEYS.

8. Plans and Surveys shall be made and corrected as follows: Provision respecting surveys and levels.

1. Surveys and levels shall be taken and made of the lands

through which the Railway is to pass, together with a Map or Plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a Book of Reference for the Railway, in which shall be set forth—

Book of Reference; its contents.

a. A general description of the said lands;

b. The names of the owners and occupiers thereof, so far as they can be ascertained; and,

c. Every thing necessary for the right understanding of such Map or Plan;

2. The Map or Plan and Book of Reference shall be examined and certified by *the person performing the duties formerly assigned to the Surveyor General or his deputies*, who shall deposit copies thereof in the office of the Clerks of the Peace in the Districts or Counties through which the Railway passes, and also in the Office of the Secretary of State for Canada, and shall also deliver one copy thereof to the Company;

Copies.

3. Any person may resort to such copies, and make extracts or copies thereof, as occasion requires, paying to the Secretary of State for Canada, or to the Clerks of the Peace, at the rate of ten cents for every hundred words;

Certified copies to be evidence.

4. The triplicates of such Map or Plan and Book of Reference so certified, or a true copy thereof certified by the Secretary of State for Canada, or by the Clerks of the Peace, shall be good evidence in any Court of Law and elsewhere;

Omissionhow remedied.

5. Any omission, misstatement or erroneous description of such lands, or of the owners or occupiers thereof, in any Map or Plan or Book of Reference, may, after giving ten days' notice to the owners of such lands, be corrected by two Justices on application made to them for that purpose, and if it appears to them that such omission, misstatement or erroneous description arose from mistake, the Justice shall certify the same accordingly;

6. The certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the Clerks of the Peace of the Districts or Counties respectively in which such lands are situate, and be kept by them along with the other documents to which they relate; and thereupon such Map or Plan or Book of Reference shall be deemed to be corrected according to such certificate; and the Company may make the Railway in accordance with the certificate;

Alterations from original survey.

7. If any alterations from the original Plan or Survey are intended to be made in the line or course of the Railway, a Plan and Section in triplicate of such alterations as have been approved of by Parliament, on the same scale and containing the same particulars as the original Plan and Survey, shall be deposited in the same manner as the original Plan, and copies or extracts of such Plan and Section so far as relate to the several Districts or Counties, in or through which such alterations have been authorized to be made, shall be deposited with the Clerks of such Districts and Counties;

Railway not to be proceeded with until map, &c, deposited.

8. Until such original Map or Plan or Book of Reference, or the plans and sections of the alterations, have been so deposited, the execution of the Railway, or of the part thereof affected by the alterations, *as the case may be*, shall not be proceeded with;

Clerks of the Peace to receive copies f original lan, &c.

9. The Clerks of the Peace shall receive and retain the copies of the original Plans and Surveys, and copies of the Plans and Sections of alterations, and copies and extracts thereof respectively, and shall

permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of four dollars ;

Copies certified by Clerk to be good evidence in Courts.

10. The copies of the Maps, Plans and Books of Reference, or of any alteration or correction thereof, or extracts therefrom, certified by the Clerk of the Peace, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof, and the Clerk of the Peace shall give such certificate to all parties interested when required ;

Line not to deviate more than a mile.

11. No deviation of more than one mile from the line of the Railway or from the places assigned thereto in the said Map or Plan and Book of Reference or Plans or Sections, shall be made into, through, across, under or over any part of the lands not shewn in such Map or Plan and Book of Reference, or Plans or Sections, or within one mile of the said line and place, save in such instances as are provided for in the Special Act ;

Error in the name of a person entered in a Book of Reference.

12. The Railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the Book of Reference through error or any other cause, or though some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ;

Map, &c., of Railway to be filed in the Board of Works' Office.

13. A Map and Profile of the completed Railway and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking, be made and filed in the office of the Minister of Public Works, and like maps of the parts thereof, located in different Counties, shall be filed in the Registry Offices for the Counties in which such parts are respectively situate.

On what scale and paper to be drawn.

14. Every such Map shall be drawn on such a scale, and on such paper, as may from time to time be designated for that purpose by the Minister of Public Works, and shall be certified and signed by the President or Engineer of the Corporation.

LANDS AND THEIR VALUATION.

Extent of lands to be taken without consent of proprietor.

9. The lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty yards in breadth, except in places where the Railway is raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets are established, or where stations, depôts or fixtures are intended to be erected, or goods to be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the person authorized to convey such lands ; and the places at which such extra breadth is to be taken shall be shewn on the Map or Plan, or Plans or Sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra breadth from being taken, provided it be taken upon the line shewn or within the distance aforesaid from such line ;

Extent of public beach to be taken.

2. The extent of the public beach, or of the land covered with the waters of any river or lake in Canada, taken for the Railway, shall not exceed the quantity limited in the next preceding clause ;

Corporation, &c., may convey lands.

3. All Corporations and persons whatever, tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, luna-

tics, idiots, *femmes-covert*, or other persons, seized, possessed of, or interested in any lands, may contract sell or convey unto the Company all or any part thereof;

Limitation of powers in certain cases.

4. But the powers by the next preceding paragraph conferred upon Rectors in possession of Glebe lands in the Province of Ontario, Ecclesiastical and other Corporations, Trustees of Land for Church and School purposes, or either, Executors appointed by Wills in which they are not invested with any power over the real estate of the Testator, Administrators of persons dying intestated, but at their death seized of real estate, shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of any Railway Company.

Effect of sale under preceding paragraph

5. Any contract, agreement, sale, conveyance and assurance so made, under the two preceding sub-sections, shall be valid and effectual in law to all intents and purposes whatsoever, and shall vest in the Railway Company receiving the same, the fee simple in the lands in such deed described, freed and discharged from all trusts, restrictions and limitations whatsoever; and the Corporation or person so conveying, is hereby indemnified for what he or it respectively does by virtue of or in pursuance of this Act;

Disposition of purchase money.

6. The Company shall not be responsible for the disposition of any purchase money for lands taken by them for their purposes, if paid to the owner of the land, or into Court for his benefit, as hereinafter provided.

Effect of contracts made before deposit of map.

7. Any contract or agreement made by any party authorized by this Act to convey lands, and made before the deposit of the Map or Plan and Book of Reference, and before the setting out and ascertaining of the lands required for the Railway, shall be binding at the price agreed upon for the same lands, if they are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the meantime, have become the property of a third party; and possession of the land may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter provided, and the agreement shall be in the place of an award;

Corporations who cannot sell, may agree upon a fixed rent.

8. All Corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the Railway and the tolls thereon shall be liable and chargeable in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the Registry Office of the proper county;

As to proprietor *par indivis.*

9. Whenever there is more than one party proprietor of any land as joint tenant or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one third or more of such land, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint tenants or tenants in common and *par indivis*; and the proprietor or proprietors who have so agreed, may deliver possession of such land, or empower the entry upon the same, as the case may be;

10. After one month from the deposit of the Map or Plan and Book of Reference, and from notice thereof in at least one newspaper, if there be any, published in each of the Districts and Counties through which the Railway is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Railway, and thereupon, agreements and contracts may be made with such parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which arise between them, shall be settled as follows, that is to say :

After one month's notice of deposit of map, &c., application to the owner of lands.

11. The deposit of a Map or Plan and Book of Reference, and the notice of such deposit, shall be deemed a general notice to all the parties of the lands which will be required for the Railway and works ;

Deposit, &c., to be general notice.

12. The notice served upon the party shall contain :

a. A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them ;

b. A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages ; and,

c. The name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted ; and such notice shall be accompanied by the certificate of a sworn Surveyor for the Province in which the lands are situated, disinterested in the matter, and not being the Arbitrator named in the notice :

a. That the land, if the notice relate to the taking of land, shewn on the said Map or Plan, is required for the Railway, or is within the limits of deviation hereby allowed ;

b. That he knows the land, or the amount of damage likely to arise from the exercise of the powers ; and,

c. That the sum so offered is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

Notice to opposite party

13. If the opposite party is absent from the District or County in which the lands lie, or is unknown, then, upon application to the Judge of the Superior Court for the District if it be in the Province of Quebec, or to the Judge of the County Court for the County, if it be in either of the Provinces of Ontario or New Brunswick, or to a Judge of the Supreme Court if it be in the Province of Nova Scotia, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that, after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without a Certificate, to be inserted three times in the course of one month in some newspaper published in the District or County ;

If the party be absent or unknown.

14. Whenever any County Judge is interested in any lands taken or required by the Company within the County in which he is such judge, any judge of any of the Superior Courts in the Province in which the lands are, shall, on the application of the Company, exercise in such case all the powers given by this paragraph to the County Judge in cases in which he is not interested.

If County Judge be interested.

15. If within ten days after the service of such notice, or within one month after the first publication thereof, the opposite party does not notify to the Company his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a

Party not accepting the Company's offer, and not appointing an Arbitrator.

Sworn Surveyor, for the Province, as the case may be, to be sole Arbitrator for determining the compensation to be paid as aforesaid;

Appointment of Arbitrators by opposite party.

16. If the opposite party within the time aforesaid, notifies to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge shall, on the application of the party or of the Company (previous notice of at least one clear day having been given to the other party), appoint a third Arbitrator;

Third Arbitrator. Duties of Arbitrators.

17. The Arbitrators, or two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the District or County in which the lands lie, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation in such way as they or he, or a majority them, deem best, and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive; But no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other Arbitrator has had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the Arbitrator appointed by him, or whose appointment he required;

Arbitrators to consider increased value of lands.

18. The Arbitrators in deciding on such value or compensation, are authorized and required to take into consideration the increased value that would be given of any lands or grounds through or over which the Railway will pass, by reason of the passage of the Railway through or over the same, or by reason of the construction of the Railway, and to set off the increased value that will attach to the said lands or grounds, against the inconvenience, loss or damage that might be suffered or sustained by reason of the Company taking possession or using the said lands or grounds as aforesaid.

Costs, how paid.

19. If in any case where three Arbitrators have been appointed, the sum awarded is not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and be deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge;

Arbitrators may examine on oath.

20. The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as voluntarily appear before him or them, and may administer such oath or affimation; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly;

Time within which award may be made.

21. The Judge by whom any third Arbitrator or sole Arbitrator is appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same is not made on or before such day, or some other day to which the time for making it has been prolonged, either by the consent of the parties or by the order of the Judge (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or of one of the Arbitrators after one clear day's notice to the others), then, the sum offered by the Company as aforesaid, shall be the compensation to be paid by them;

Arbitrator dying, &c.

22. If the Arbitrator appointed by the Judge, or if any Arbitrator appointed by the parties, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, then, in the case of the Arbitrator appointed by the Judge upon the application of either party, the Judge being satisfied by affidavit or otherwise of such death, disqaulification, refusal or failure may

appoint another Arbitrator in his place, and the Company and party respectively may each appoint an Arbitrator in the place of his Arbitrator deceased or not acting, but no recommencement of or repetition of prior proceedings shall be required in any case;

Company may desist paying costs.

23. Any such notice for lands, as aforesaid, may be desisted from, and new notice given, with regard to the same or other lands, to the same or any other party, but in any such case, the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment, shall subsist;

Arbitrators not disqualified unless personally interested.

24. The Surveyor or other person offered or appointed as Valuator or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any arbitrator appointed by the Judge after his appointment, but the objection must be made before the appointment, and its validity or invalidity shall be summarily determined by the Judge;

No objection admissable after a third Arbitrator has been appointed.

25. No cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by the Judge, on the application of either party, after one clear day's notice to the other, and if the cause is determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held not to have appointed an Arbitrator;

Awards not avoided for want of form.

26. No award shall be invalidated from any want of form or other technical objection, if the requirements of this Act have been complied with, and if the award state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid, be named in the award;

Possession may be taken on payment of tender, &c., of sum awarded.

27. Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon; and if any resistance or forcible opposition be made by any person to their so doing, the Judge may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District or County, or to a Bailiff, as he may deem most suitable, to put the Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do;

When warrant of possession may issne before award.

Security being first given to deposit compensation.

28. Such Warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the Railway with which the Company are ready forthwith to proceed; and upon the Company giving security to his satisfaction, and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time at which possession is given, and with such costs as may be lawfully payable by the Company;

When compensation to stand in the place of the land.

29. The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim toor incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into claim to the compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party;

As to incumbrances, &c., upon lands, &c., purchased or taken in U. C.

30. If the Company has reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may, if the lands are situated in either of the Provinces of Ontario, Nova Scotia or New Brunswick, pay such compensation into the office of one of the Superior Courts for the Province in which the lands are situated, with the interest thereon for six months, and may deliver to the Clerk of the Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the Company to the land therein mentioned;

What notice to be published.

31. A notice, in such form and for such time as the Court appoints, shall be inserted in some newspaper, if there be any, published in the County in which the lands are situate, and at the Seat of Government of the Province, which shall state that the title of the Company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or to any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation, or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall forever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act and the Special Act, and to law, appertain;

By whom costs be paid.

32. The costs of the proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court deem it equitable to order;

When interest to be returned to, or paid by the Company.

33. If such order of distribution be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it is not obtained until after the six months have expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right;

Case in which lands are situate in L. C. and Company have reason to fear incumbrances provided for.

34. If the lands so taken are situate in the Province of Quebec, and if the Company have reason to fear any such claim, mortgage, hypothec or incumbrance, or if any party to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the compensation or rent cannot be found, or is unknown to the Company, or if for other reason the Company deems it advisable, the Company may pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which the land is situate, with the interest thereon for six months, and may deliver to the said Prothonotary an authentic copy of the

conveyance, or of the award, if there be no conveyance, and such award shall thereafter be deemed to be the title of the Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is, the conveyance or award) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, or representing or being the husband of any party so entitled, to file their claims to the compensation, or any part thereof, and all such claims shall be received and adjudged upon by the Court;

Effect of a judgment of confirmation.

35. Such judgment of confirmation shall forever bar all claims to the land, or any part thereof (including dower not yet open) as well as any mortgage, hypothec or incumbrance upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all parties interested, as to right and justice, and the Special Act, a according to the provisions of this Act and to law, shall appertain;

By whom cost be paid.

Interest.

36. The costs of the proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it is not obtained until after the six months have expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right;

The case of Railway passing through Indian lands provided for.

37.. If the Railway passes through any land belonging to or in possession of any Tribe of Indians in Canada, or if any act occasioning damage to their lands be done under the authority of this Act or the Special Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever it is necessary that Arbitrators should be chosen by the parties, the Chief Officer of the Indian Department is hereby authorized and required to name an Arbitrator on behalf of the Indians, and where the lands belong to the Indians, the amount awarded in any case shall be paid to the said Chief Officer, for the use of such Tribe or Body;

7. HIGHWAYS AND BRIDGES.

Railway not to be carried along any highway without leave from municipal authorities.

10. The Railway shall not be carried along an existing highway, but merely cross the same in the line of the Railway, unless leave has been obtained from the proper Municipal authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the highway, under a penalty of not less than forty dollars for any contravention; but, in either case, the rail itself, provided it does not rise above nor sink below the surface of the road more than one inch, shall not be deemed an obstruction;

Railway not to rise more than one inch above level of highways when crossing the same.

2. No part of the Railway which crosses any highway without being carried over by a bridge, or under by a tunnel, shall rise above or sink below the level of the highway more than one inch; and the Railway may be carried across or above any highway within the limits aforesaid;

Height and breadth of bridge over highways.

3. The space of the arch of any bridge erected for carrying the Railway over or across any highway shall at all times be, and be

continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than twelve feet; and the descent under any such bridge shall not exceed one foot in twenty feet;

Ascent of bridges.

4. The ascent of all bridges erected to carry any highway over any Railway shall not be more than one foot in twenty feet increase over the natural ascent of the highway; and a good and sufficient fence shall be made on each side of every bridge, which fence shall not be less than four feet above the surface of the bridge;

Precautions when Railway crosses a highway.

5. Signboards stretching across the highway crossed at a level by any Railway, shall be erected and kept up at each Crossing at such height as to leave sixteen feet from the highway to the lower edge of the signboard, and having the words "Railway Crossing" painted on each side of the signboard, and in letters not less that six inches in length; and for any neglect to comply with the requirements of this clause, a penalty not exceeding forty dollars shall be incurred.

8 FENCES.

Fences to be erected on each side of Railway.

11. Within six months after any lands have been taken for the use of the Railway, the Company shall, *if thereunto required by the proprietors of the adjoining lands*, at their own costs and charges, erect and maintain on each side of the Railway, fences of the height and strength of an ordinary division fence, with sliding gates, commonly called hurdle gates, with proper fastenings, at farm crossings of the Road, for the use of the proprietors of the lands adjoining the Railway; and also cattle-guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the Railway.

Liability of Company until cattle guards erected.

2. Until such fences and cattle guards are duly made, the Company shall be liable for all damages which may be done by their trains or engines to cattle, horses or other animals on the Railway.

When to be exempted.

3. After the fences or guards have been duly made, and while they are duly maintained, no such liability shall accrue for any such damages, unless negligently or wilfully done.

Persons p hibited g on the tr &c., with cattle, &c.

4. If any person rides, leads or drives any horse or any other animal upon such Railway, and within the fences and guards, other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding forty dollars, and shall also pay to the party aggrieved all damages sustained thereby.

Or walking thereon.

5. No person other than those connected with, or employed by the Railway, shall walk along the track thereof, except where the same is laid across or along a highway.

9. TOLLS.

Tolls to be fixed by By-laws or otherwise.

12. Tolls shall be from time fixed and regulated by the By-laws of the Company, or by the Directors, if thereunto authorized by the By-laws, or by the Shareholders at any general meeting, and may be demanded and received for all passengers and goods transported upon the Railway or in the steam vessels to the undertaking belonging, and shall be paid to such persons and at such places near to the Railway, in such manner and under such regulations as the By-laws direct.

How payment of Tolls enforced.

2. In case of denial or neglect of payment on demand of any such tolls, or any part thereof, to such persons, the same may be sued for and recovered in any competent Court, or the Agents or Ser-

vants of the Company may seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof.

When if Tolls not paid, goods distrained may be sold.

3. If the tolls are not paid within six weeks, the Company may sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable, and all charges and expenses of such detention and sale; rendering the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto.

When goods distrained or detained may be sold.

4. If any goods remain in the possession of the Company unclaimed for the space of twelve months, the Company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Official Gazette* of the Province in which such goods are, and in such other papers as they deem necessary, sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds, if any, shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto.

How balance to be disposed of.

5. In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Receiver General, to be applied to the general purposes of Canada, until claimed by the party entitled thereto.

Toll—how raised or reduced.

6. All or any of the tolls may, by any By-law, be reduced and again raised as often as deemed necessary for the interests of the undertaking; But the same tolls shall be payable at the same time and under the same circumstances upon all goods and by all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-laws relating to the tolls.

A fraction of a mile to be considered as a whole one in charging tolls.

7. In all cases, a fraction in the distance over which goods or passengers are transported on the Railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton.

Table of tolls to be stuck up in offices and cars.

8. The Directors shall, from time to time, print and stick up, or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed board or paper exhibiting all the tolls payable, and particularizing the price or sum of money to be charged or taken for the carriage of any matter or thing.

Tolls to be approved of by the Governor.

9. No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the *Canada Gazette* of the By-law establishing such tolls, and of the Order in Council approving thereof.

The Governo may revise By-laws fixing tolls.

10. Every By-law fixing and regulating tolls shall be subject to revision by the Governor in Council from time to time, after approval thereof; and after an Order in Council, reducing the tolls fixed and regulated by any By-law, has been twice published in the *Canada Gazette*, the tolls mentioned in such order in Council shall be substituted for those mentioned in the By-law so long as the Order in Council remains unrevoked.

When Parliament may reduce tolls on Railways.

11. The Parliament of Canada may from time to time reduce the tolls upon the railway, but not without consent of the company, or so as to produce less than fifteen per cent. per annum profit on the capital actually expended in its construction; nor unless, on an examination made by the Minister of Public Works of the amount received and expended by the Company, the net income from all sources, for the year then last passed, is found to have exceeded fifteen per cent. upon the capital so actually expended.

By-laws imposing tolls to be approved the Governor in Council.

12. No By-Law of any Railway Company by which any Tolls are to be imposed or altered, or by which any party other than the Members, Officers and Servants of the Company are intended to be bound, shall have any force or effect until the same has been approved and sanctioned by the Governor in Council.

GENERAL MEETINGS.

Shareholders may hold general meetings.

13. The Shareholders may assemble together at general meetings for purposes connected with or belonging to the undertaking, and at any annual general meeting, and may elect Directors in the manner provided by the next succeeding section.

PRESIDENT AND DIRECTORS—THEIR ELECTION AND DUTIES.

Board of Directors.

14. A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the Special Act, shall be chosen annually by a majority of the Shareholders voting at such election at a general meeting, the time and place for which shall be appointed by the Special Act, and if such election is not held on the day appointed, the Directors shall cause such election to be held within thirty days after the day appointed.

Who entitled to vote.

2. No person shall be admitted to vote on such subsequent day except those who would have been entitled to vote had the election been held on the day when it ought to have been held.

Vacancies, how to be filled up.

3. Vacancies in the Board of Directors shall be filled in the manner prescribed by the By-laws.

Who qualified to be a Director.

4. No person shall be a Director unless he is a Stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he is chosen.

Calling of special meetings, &c.

5. The method of calling general meetings, and the time and place of the first meeting of Stockholders, for the appointment of Directors, shall be determined and settled in the Special Act.

Votes to be in proportion to shares.

6. The number of votes to which each shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion of the number of shares held by him, unless otherwise provided by the Special Act.

Shareholders may vote by proxy.

7. All Shareholders, whether resident in Canada or elsewhere, may vote by proxy, if they see fit; Provided that such proxy produce, from his constituent an appointment in writing, in the words or to the effect following, that is to say:

I, , of , one of the Shareholders of the , do hereby appoint , of , to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking, that may be

mentioned or proposed at any meeting of the Shareholders of the said Company, or any of them, in such manner as he, the said , thinks proper. In witness whereof, I have hereunto set my hand and seal, the day of , in the year

Votes by proxy to be valid.

8. The votes by proxy shall be as valid as if the principals had voted in person; and every matter or thing proposed or considered in any public meeting of the Shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the Company, and be deemed the decisions and acts of the Company.

Term of office of Directors.

9. The Directors first appointed, or those appointed in their stead, in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed therefor, at which time an annual general meeting of the Shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business of the Company.

Vacancies how supplied

10. In case of the death, absence or resignation of any of the Directors, others may be appointed in their stead by the surviving Directors; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

President.

11. The Directors shall, at their first or at some other meeting after the day appointed for the annual general meeting, elect one of their number to be the President of the Company, who shall always, when present, be the Chairman of and preside at all meetings of the Directors, and shall hold his office until he ceases to be a Director, or until another President has been elected in his stead; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

Vice President.

Quorum.

12. The Directors at any meeting at which not less than a quorum, to be settled by the Special Act, are present, shall be competent to use and exercise all and any of the powers vested in the Directors.

Acts of majority to bind the whole.

13. The act of a majority of a quorum of the Directors present at any meeting regularly held, shall be deemed the act of the Directors.

Casting vote.

14. No Director shall have more than one vote except the Chairman, who shall, in case of a division of equal numbers, have the casting vote.

Directors to be subject to Shareholders and By-laws.

15. The Directors shall be subject to the examination and control of the Shareholders at their annual meetings, and be subject to all By-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act.

Officers of Company cannot be Directors.

16. No person holding any office, place or employment in or being concerned or interested in any contracts under or with the Company, shall be capable of being chosen a Director, or of holding the office of Director, nor shall any person being a Director of the Company enter into, or be directly or indirectly, for his own use and benefit, interested in any contract with the Company, not relating to the purchase of land necessary for the Railway or be or become a partner of any contractor with the Company; and no contracts for works of construction or maintenance of Railways, except works of ordinary repair, or of immediate necessity, shall be entered into until after tenders for such works respectively have been invited by public notice therefor, given for at least four weeks in some newspaper published in the place nearest to

the work required to be done; but no Company shall be compelled to accept of any such tender.

By-laws for management of stock, &c.

17. The Directors shall make By-laws for the management and disposition of the stock, property, business and affairs of the Company, not inconsistent with the laws of Canada, and for the appointment of all officers, servants and artificers, and prescribing their respective duties.

May appoint officers:

18. The Directors shall from time to time appoint such Officers as they deem requisite, and shall take sufficient security, by one or more penal Bonds, or otherwise, from the Manager and Officers for the time being, for the safe keeping and accounting by them respectively of the moneys raised by virtue of this Act and the Special Act, and for the faithful execution of their offices, as the Directors think proper.

Vice-President to act in the absence of the President.

19. In case of the absence or illness of the President, the Vice-President shall have all the rights and powers of the President, and may sign all Notes, Bills, Debentures, and other Instruments, and perform all acts which by the Regulations and By-laws of the Company, or by the Acts incorporating the Company, are required to be signed, performed and done by the President.

Absence of President may be entered in the minutes, and certified &c.,

20. The Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a Certificate thereof signed by the Secretary shall be delivered to any person or persons requiring the same on payment to the Treasurer of one dollar, and such Certificate shall be taken and considered as *primâ facie* evidence of such absence or illness, at and during the period in the said Certificate mentioned, in all proceedings in Courts of Justice or otherwise.

Directors to cause aunual accounts to be kept.

21. The Directors shall cause to be kept, and annually on the thirty-first day of December shall cause to be made up and balanced, a true, exact and particular account of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the Company or the Directors.

CALLS.

Calls.

15. The Directors may from time to time make such calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call, and no call shall exceed the prescribed amount determined in the Special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the Special Act.

Notice of meetings how published.

2. All notices of meetings or of calls upon the Shareholders of the Company shall be published weekly in the *Canada Gazette*, and the said *Gazette* shall, on production thereof, be conclusive evidence of the sufficiency of such notice.

Payment of calls how to be made.

3. Every Shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the Company or the Directors.

Interest to be chargeable on unpaid calls.

4. If before or on the day appointed for payment, any Shareholder does not pay the amount of the call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, for the day appointed for the payment thereof to the time of the actual payment.

Amount of call may be recovered by suit.

5. If at the time appointed for the payment of any call, any Shareholder fails to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which the call became payable.

What formalities necessary in actions for calls.

6. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls, whereby an action hath accrued to the Company by virtue of the Special Act.

Certificate of proprietorship *primâ facie* evidence.

7. The Certificate of Proprietorship of any share shall be admitted in all Courts, as *primâ facie* evidence of the title of any Shareholder, his executors, administrators, successors or assigns, to the share therein specified.

8. But the want of such Certificate shall not prevent the holder of any share from disposing thereof.

Penalty for refusal to pay calls.

9. Any persons neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof.

Forfeiture of share to be taken advantage of only at a general meeting.

10. No advantage shall be taken of the forfeiture, unless the same is declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture incurred.

Effect of forfeiture as to liabilities.

11. Every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting, against all actions, suits or prosecutions whatever, commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the undertaking.

Directors may sell forfeited shares by auction.

12. The Directors may sell, either by public auction or private sale, and in such manner and on such terms as to them seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the Capital Stock of the Company, or pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made thereon, or of any sums of money borrowed or advanced by or to the Company.

Certificate of Treasurer to be evidence of forfeiture and of title.

13. A Certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and of their purchase by the purchaser, and such certificate with the receipt of the Treasurer for the price of such shares, shall constitute a good title to the shares, and the Certificate shall be by the said Treasurer enregistered in the name and with the place of abode and occupation of the purchasers, and shall be entered in the Books required to be kept by the by laws of the Company, and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see the application of the purchase money, nor shall his title

to such shares be affected by any irregularity in the proceedings in reference to such sale, and any Shareholder may purchase any shares so sold.

Interest may be allowed to Shareholders paying money in advance on their shares.

14. Shareholders willing to advance the amount of their shares, or any part of the money due upon their respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the Company may pay interest at the legal rate of interest for the time being, as the Shareholders paying such sum in advance and the Company agree upon; but such interest shall not be paid out of the Capital subscribed.

DIVIDENDS.

Declaration of dividend.

16. At the general meetings of the Shareholders of the undertaking from time to time holden, a dividend shall be made out of the clear profits of the undertaking, unless such meetings declare otherwise.

At so much per share.

2. Such dividend shall be at and after the rate of so much per share upon the several shares held by the Shareholders in the stock of the Company, as such meeting think fit to appoint or determine.

Dividends not to impair the Capital.

3. No dividend shall be made whereby the Capital of the Company is in any degree reduced or impaired, or be paid thereout, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof until such call has been paid.

Directors may pay interest on sums called up in respect of shares.

4. The Directors may, in their discretion, until the Railroad is completed and opened to the public, pay interest at any rate not exceeding six dollars per hundred dollars per annum, on all sums called up in respect of the shares, from the respective days on which the same have been paid, such interest to accrue and be paid at such times and places as the Directors appoint for that purpose.

No interest on shares in arrear.

5. No interest shall accrue to the proprietors of any share upon which any call is in arrear in respect of such shares or any other share to be holden by the same Shareholder while such call remains unpaid, nor shall any interest be paid or taken from the capital subscribed.

SHARES AND THEIR TRANSFER.

Shareholders may dispose of shares.

17. Shares in the undertaking may, by the parties, be sold and disposed of by instrument in writing, to be made in duplicate, one part of which shall be delivered to the Directors, to be filed and kept for the use of the Company, and an entry thereof shall be made in a Book to be kept for that purpose; and no interest on the shares transferred shall be paid by the purchaser until such duplicate is so delivered, filed and entered.

Form of sale

2. Sales shall be in the form following, varying the names and descriptions of the contracting parties as the case may require:

I, A. B., in consideration of the sum of , paid to me by C. D., hereby do sell and transfer to him share (or shares) of the stock of the , to hold to him the said C. D., his Heirs, Executors, Administrators and Assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution thereof. And I, the said C. D., do hereby agree to accept of the said share (or shares) subject to the same rules, orders and conditions. Witness our hands this day of in the year 18 .

3. The Stock of the Company shall be deemed personal estate, but no shares shall be transferable until all previous calls thereon have been fully paid in, or the said shares have been declared forfeited for the non-payment of calls thereon, and no transfer of less than a whole share shall be valid. Stock to be personal estate—Transfer of.

4. If any share in the Company be transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any Shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the party to whom such share is transmitted, shall deposit in the office of the Company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary, and without which such party shall not be entitled to receive any share of the profits of the Company, nor vote in respect of any such share as the holder thereof. Transmission of shares other than by transfer, provided for.

5. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject and the receipt of the party in whose name any share stands in the Books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts. Company not bound to see to the execution of trusts.

6. The funds of the Company shall not be employed in the purchase of any Stock in their own or in any other Company. Company not to take stock in other companies.

SHAREHOLDERS.

17. Each Shareholder shall be individually liable to the creditors of the Company to an amount equal to the amount unpaid on the Stock held hy him, for the debts and liabilities thereof, and until the whole amount of his Stock has been paid up; but shall not be liable to an action therefor before an execution against the Company has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders. Shareholders individually liable.

2. A true and perfect account of the names and places of abode of the several Shareholders shall be entered in a Book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of, or entitled to any shares therein, and of all the other acts, proceedings and transactions of the Company and of the Directors for the time being. Account of names and residence of Shareholders to be kept.

BY-LAWS—NOTICES, &C.

18. All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person presiding at the meeting at which they are adopted, and shall be kept in the office of the Company; and a printed copy of so much of them as relates to or affects any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every place where tolls are to be gathered, and in like manner so often as any change or alteration is made to the same; and any copy of the same, or of any of them, certified as correct by the President or Secretary, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof. By-laws to be put into writing, and signed by Chairman.

By-laws to be submitted to Governor.

2. All such By-laws, Rules and Orders shall be submitted from time to time to the Governor for approval.

Copies of Minutes to be *primâ facie* evidence.

3. Copies of the Minutes of proceedings and resolutions of the Shareholders of the Company, at any general or special meeting, and of the Minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the Minute-books kept by the Secretary of the Company, and by him certified to be true copies, extracted from such Minute-books, shall be *prima facie* evidence of such proceedings and resolutions in all Courts of civil jurisdiction.

Notices by Secretary valid.

4. All notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the Directors and Company.

WORKING OF THE RAILWAY.

Servants to wear badges.

19. Every servant of the undertaking employed in a passenger train or at a station for passengers, shall wear upon his hat or cap, a badge, which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property.

Trains to start at regular hours.

2. The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other Railways and at usual stopping places established for receiving and discharging way-passengers and goods from the trains.

Passengers and goods to be carried on payment of fare or freight.

3. Such passengers and goods shall be taken, transported and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorized therefor.

The Company liable for neglect or refusal.

4. The party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company.

Checks to be fixed on parcels.

5. Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, and a duplicate of such Check shall be given to the passenger delivering the same.

Penalty for refusing to give Checks.

6. If such Check be refused on demand, the Company shall pay to such passenger the sum of eight dollars, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and if he has paid his fare, the same shall be refunded by the Condustor in charge of the train.

Passenger a witness in his own behalf.

7. Any passenger producing such Check, may himself be a witness in any suit brought by him against the Company to prove the contents and value of his baggage uot delivered to him.

Baggage cars not to be in rear of passenger cars.

8. The baggage, freight, merchandise or lumber cars shall not be placed in rear of the passenger cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall severally be guilty of a misdemeanor, and be punished accordingly.

Locomotives to have bells or steam whistles.

9. Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, or with a steam whistle.

To be rung or sounded at

10. The bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Railway crosses any

highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one-half of which penalty and damages shall be chargeable to and collected by the Company from the Engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid. every crossing, &c.

11. Any person in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who is intoxicated, shall be guilty of a misdemeanor. Intoxication of conductor a misdemeanor.

12. Any passenger refusing to pay his fare, and his baggage, may, by the conductor of the train and the servants of the Company, be put out of the cars, at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. Passenger refusing to pay fare may be put out.

13. Any passenger injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations posted up at the time in a conspicuous place inside of the passenger cars then in the train, shall have no claim for the injury, provided room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. Passengers to have no claim if injured when on platform of cars, &c.

14. No person shall be entitled to carry or to require the Company to carry upon their Railway, *aquafortis*, oil of vitriol, gunpowder, lucifer matches, or any other goods, which in the judgment of the Company, may be of a dangerous nature; and if any person sends by the said Railway any such goods without, at the time of so sending the said goods, distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the book-keeper or other servant of the Company with whom the same are left, he shall forfeit to the Company the sum of twenty dollars, for every such offence. As to goods of a dangerous nature

15. The Company may refuse to take any package or parcel which they suspect to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact. Dangerous goods may be refused.

ACTIONS FOR INDEMNITY; AND FINES AND PENALTIES AND THEIR PROSECUTIONS.

20. All suits for indemnity for any damage or injury sustained by reason of the Railway shall be instituted within six months next after the time of such supposed damage sustained, or if there be continuation of damage, then within six months next after the doing or committing such damage ceases, and not afterwards; and the defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the Special Act. Limitation of actions for damages.

4. All fines and forfeitures imposed by this Act or the Special Act, or by any By-law, the levying and recovering of which are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, County or place where the act occurred, either by the confession of the party, or by the oath or affirmation of any one credible witness to be administered without fee or reward, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal or hands and seals of such Justice or Justices. Fines, how recovered.

How applicable.

5. All fines forfeitures and penalties, the application whereof is not hereinbefore particularly directed, shall by paid into the hands of the Treasurer of the Company, to be applied to the use thereof, and the overplus of the money so raised, after deducting the penalty and the expenses of levying and recovering thereof, shall be returned to the owner of the goods so distrained and sold.

When party may be committed.

6. In case sufficient goods and chattels whereof to levy the penalty and expenses are not found, the offender shall be sent to the Common Gaol for the County or District in which he has been convicted, there to remain without bail or mainprize, for such term, not exceeding one month, as the Justice or Justices think proper, unless the penalty and forfeiture, and all expenses attending the same, be sooner paid and satisfied.

Appeal.

7. Every such person or persons may, within four months after the conviction, appeal against the same to the Court of General or Quarter Sessions, or to any Court discharging the functions of the Court of General or Quarter Sessions, to be holden in and for the County or District.

Contravention of this Act, &c., to be a misdemeanor.

8. Any contravention of this Act or of the Special Act by the Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the Company, if they be the offending party, from the forfeiture by this Act and the Special Act, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention.

GENERAL PROVISIONS.

Provision as to the carriage of Her Majesty's Mail, &c.

21. Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables or others travelling on Her Majesty's service, shall at all times, when thereunto required by the Postmaster General of Canada, the Commander of the Forces, or any person having the superintendence and command of any Police Force, and with the whole resources of the Company if required, be carried on the Railway, on such terms and conditions, and under such regulations as the Governor in Council may make.

Government to have exclusive use of telegraph if required.

2. The Company shall, when required so to do by the Governor in Council, or any person thereunto authorized by him, place any Electric Telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service.

Telegraph line may be constructed by Govern-

3. The Governor may, at any time, cause a line or lines of electric telegraph to be constructed along the line of the Railway, for the exclusive use of the Government, and for that purpose may enter upon and occupy so much of the lands of the Company as may be necessary for the purpose.

Further enactments.

4. Any further enactments which the Parliament of Canada may hereafter make, for the carriage of the Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any Electric Telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act.

Ten per cent. to be paid

5. If the construction of the Railway be not commenced, and ten per cent. on the amount of the capital be not expended thereon, within

three years after the passing of the Special Act, or if the Railway is not finished and put in operation in ten years from the passing of such Special Act, the corporate existence and powers of the Company shall cease. within three years from passing of Special Act.

6. After the opening of the Railway or any part thereof to the public, and within the first fifteen days after the opening of each Session of Parliament, an account shall be annually submitted to the three branches containing a detailed and particular account, attested upon oath of the President, or in his absence of the Vice-President, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement. Account to be submitted to Legislature.

7. No further provisions which Parliament may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringment of the privileges hereby granted to the Company. Variation in form or details may be made.

8. Parliament may at any time annul or dissolve any corporation formed under this Act; but such dissolution shall not take away or impair any remedy given against any such corporation, its shareholders, officers or servants, for any liability which had been previously incur. d. And may dissolve any Corporation formed under this Act.

9. Nothing herein contained shall affect in any manner the rights of Her Majesty, or of any person, or of any body politic, corporate or collegiate, such only excepted as are herein mentioned. Saving of Her Majesty's Rights, &c.

PART SECOND.

BOARD OF RAILWAY COMMISSIONERS.

22. The Receiver General, the Minister of Finance, the Minister of Public Works, and the Postmaster General, shall constitute a Board of Railway Commissioners; and each of the said Officers shall be Member of the Board by virtue of his office, and so long, and so long only as he holds the same; such one of the Officers as the Members of the Board shall agree upon, shall the Chairman and Official Organ of the Board, the Secretary for the Department of Public Works shall be the Secretary of the said Board; and any report concurred by the majority the Board, shall be deemed the report of the Board. Board of Commissioners constituted.

23. The Board of Railway Commissioners shall, in addition to their other powers and duties, have and discharge the powers and duties in this Act prescribed, and may from time to time appoint some fit and qualified person to be Secretary of the said Board in the stead of the Secretary for the Department of Public Works. Duties of. May appoint a Secretary.

RAILWAY INSPECTORS.

24. The Governor in Council may appoint and authorize any person or persons not exceeding three in number whose duty it shall be from time to time to inspect all Railways constructed or in course of construction, and every person so authorized may at all reasonable times, upon producing his authority if required, enter upon and examine the said Railway and the stations, fences or gates, road crossings, cattle guards, works and buildings, and the engines, cars and carriages belonging thereto. Railway Inspectors. Duties of.

2. Every Railway company and the officers and directors thereof shall affor to such inspector or inspectors every information and full and true explanations so far as may be in their power or knowledge on all matters inquired into by any such inspector or inspectors, and submit Companies to afford information to the Inspectors.

to such inspector or inspectors all plans, specifications, drawings and documents relating to the construction or reconstruction, repair or state of repair of such railway or any portion thereof, whether a bridge, culvet or other part.

Inspectors may use telegraph wires; for what purposes.

3. Any such Inspector shall have the right to use the telegraph wires and machinery in the offices of or under the control of any such Railway company, for the purpose of communicating with any of the officers of the said company, or transmitting any order of any such Inspector relating to such railway.

Operators and others to obey orders of Inspectors.

4. The operators or officers employed in the telegraph offices of or under the control of the Company, shall, without unnecessary delay, obey all orders of any such Inspector for effecting such communications and transmitting messages for the purpose aforesaid, and any such operator or officer refusing or neglecting so to do, shall forfeit for every such offence the sum of forty dollars.

Authority of Inspectors, how proved.

5. The authority of any such Inspector shall be sufficiently evidenced by a paper in writing nominating him an Inspector of Railways or of any Railway in particular, signed by the Chairman of the Board of Railway Commissioners and countersigned by the Secretary thereof.

DUTIES OF RAILWAY COMMISSIONERS AND INSPECTORS.

Railway not to be opened till after one month's notice of intention to open the same.

25. No Railway or portion of any Railway shall be opened for the public conveyance of passengers untill one month after notice in writing of the intention to open the same has been given by the Company to whom the Railway belongs to the Board of Railway Commissioners, and until ten days after notice in writing has been given by the Company, to the Board of Railway Commissioners, of the time when the Railway or portion of Railway will be, in the opinion of the Company, sufficiently completed for the safe conveyance of passengers, and ready for inspection.

Penalty for contravention

26. If any Railway or portion of a Railway be opened without such notices, the Company to whom such Railway belongs, shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open, until the notices have been duly given and have expired.

Railway Commissioners, upon report of Inspectors and approval of Governor in Council, may order postponement of opening of road.

27. If the Railway Inspector or Inspectors, after inspection of any Railway, report in writing to the Board of Railway Commissioners that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such Railway, together with the ground of such opinion, the Board of Railway Commissioners, with the sanction of the Governor in Council, and so from time to time, as often as such Inspector or Inspectors after further inspection thereof so reports, may order and direct the Company to whom the Railway belongs to postpone such opening not exceeding one month at any one time, until it appears to the Board that such opening may take place without danger to the public.

Penalty for opening contrary to the order of the Commissioners.

28. If any Railway, or any portion thereof, be opened contrary to such order or direction of the Board of Railway Commissioners, the Company to whom the Railway belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open contrary to such order or direction.

When only such order to be binding on the Company.

29. No such order shall be binding upon any Railway Company unless there with is delivered to the Company a copy of the report of the Inspector or Inspectors on which the order is founded.

Governor may order permanant bridges to be substituted for moveable bridges.

30. The Governor in Council, upon the Report of the Board of Railway Commissioners, may authorize or require any Railway Company to construct fixed and permanent bridges or to substitute such bridges in the place of the swing, draw or moveable bridges on the line of such Railway, within such time as the Governor in Council directs; and for every day after the period so fixed during which the Company uses such swing, draw or moveable bridges, the Company shall forfeit and pay to Her Majesty the sum of two hundred dollars; and it shall not be lawful for any Railway Company to substitute any swing, draw or moveable bridge in the place or stead of any fixed or permanent bridge already built and constrrcted without the consent of the Governor in Council previously had and obtained.

Certain powers vestedin Railway Commissioners with respect to crossing public highways, on a level.

31. In any case where a Railway is constructed or authorized to be constructed, across any turnpike road, street or other public highway, on the level, the Board of Railway Commissioners, if it appears to them necessary for the public safety, may, with the sanction of the Governor in Council, authorize and require the Company to whom such Railway belongs, within such time as the said Board directs, to carry such road, street or highway either over or under the said Railway, by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as under the circumstances of the case appear to the said Board the best adapted for removing or diminishing the danger arising from such level crossing; and all the provisions of law at any such time applicable to the taking of land by Railway Companies and its valuation and conveyance to them, and to the compensation therefor, shall apply to the case of any land required for the construction of any works for effecting the alteration of such level crossing.

Railway may be required to repair any level crossing out of repair.

Inspector's certificate to be conclusive.

32. Whenever any level crossing on any Railway shall be out of repair, the Warden, Mayor, Reeve, or other Chief Officer of the Municipality, having jurisdiction over the Railway so crossed, may serve a notice upon the Company in the usual manner, requiring the repair to be forthwith made; and if the Company shall not forthwith make the same, such officer may transmit a copy of the notice so served to the Inspector of Railways; and thereupon it shall be the duty of said Inspector, with all possible despatch, to appoint a day when he will examine into the matter; and he shall by mail, give notice to such Warden, Mayor or Reeve, and to the Company, of the day he shall so fix; and upon the day so named he shall examine such crossing; and any certificate under his hand shall be final on the subject so in dispute between the parties; and if the said Inspector shall determine that any repairs are required, he shall specify the nature thereof in his said certificate, and direct the Company to make the same; and the Company shall thereupon, with all possible despatch, comply with the requirements of such certificate; and in case of default, the Municipality, within whose jurisdiction the said crossing is situate, may make such repairs, and may recover all costs, expenses and outlays in the premises, by action against the Company in any Court of competent jurisdiction, as money paid to the Company's use; Provided always that neither this section nor any proceeding had thereunder shall at all affect any liability otherwise attaching to such Company in the premises.

Proviso.

When any Railway bridge condemned by Commissioners and In-

33. When any bridge, culvert, viaduct, tunnel, fence, road crossing, or cattle guard, or any other portion of any railway constructed or in course of construction, or any locomotive, car or carriage used or for use on any Railway, has been condemned on the report of an Inspector or Inspectors, by the Board of Railway Commissioners, with the approval

spectors, what to be done.

of the Governor in Council, or when any change or alteration therein or in any part thereof, or of substitution of any new bridge, culvert, viaduct or tunnel, or of any material for the said Railway, has been required by the Board of Railway Commissioners, with the approval of the Governor in Council, the Company to which such Railway belongs, or the Company using, running or controlling the same, shall, after notice thereof in writing signed by the Chairman of the Board and countersigned by the Secretary thereof, proceed to make good or remedy the defects in the said portions of the Railway, or in the locomotive, car or carriarge which have been so condemned, or shall make such change, alteration or substitution hereinbefore referred to as has been required in manner aforesaid by the Board.

When Inspectors may forbid the running of trains, &c.

34. If in the opinion of any such Railway Inspector, it is dangerous for trains or vehicles to pass over any particular Railway, or any portions of a Railway, until alterations, substitutions or repairs have been made thereon, or that any particular car, carriage or locomotive should be run or used, the said Inspector may forthwith forbid the running of any train or vehicle over any such Railway or portion of Railway, or the running or using of any such car, carriage or locomotive by delivering or causing to be delivered to the President, Managing Director, or Secretary or Superintendent of the Company owning, running or using such Railway, or to any Officer having the management or control of the running of trains on such Railway, a notice in writing to that effect with his reasons therefor, in which he shall distinctly point out the defects or nature of the danger to be apprehended.

What Commissioners may modify report of Inspectors.

35. The Inspector shall forthwith report the same to the Board of Railway Commissionners, who, with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the Inspector, and such confirmation, modification or disallowance shall be duly notified to the Railway Company affected thereby.

When the Commissioners may regulate speed, &c.

36. The Board of Railway Commissioners may, with the sanction of the Governor in Council, limit the number or times or rate of speed of running of trains or vehicles, upon such Railway or portion of Railway, until such alterations or repairs as they may think sufficient have been made, or until such time ar they think prudent; and the Company owning, running or using such Railway shall comply forthwith with any such Order of the Inspector or of the Board, upon notice thereof as aforesaid; and for every act of non-compliance therewith every such Railway Company shall forfeit to Her Majesty the sum of two thousand dollars.

Penalty for non compliance.

Notice of accidents to be given to the Commissioners.

37. Every Railway Company shall, as soon as possible, and at least within forty-eight hours, after the occurrence upon the Railway belonging to such Company of any accident attended with serious personal injury so any person using the same, or whereby any bridge, culvert, viaduct or tunnel on or of the Railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the Board of Railway Commissioners; and if any Company wilfully omits to give such notice such Company shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the omission to give the same same continues.

Inspection not to relieve Company from liability.

38. No inspection had under this Act nor any thing in this Act contained or done or ordered or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any Railway Company, of or from any liability or responsiblity resting upon it by law, either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, hier or other personal representative of any person for any thing done or omitted to be done by such Company, or

for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance, of such Company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such Company under the existing laws of Canada.

Company to notify orders of Board to its officers, &c.

39. Every Railway Company, shall, as soon as possible after the receipt of any order or notice of the Board of Railway Commissioners, give cognizance thereof to each of its officers and servants, in one or more of the ways mentioned in the forty-ninth section of this Act.

What to be deemed sufficient notice thereof.

40. All orders of the Board of Railway Commissioners shall be considered as made known to the Railway Company by a notice thereof signed by the Chairman and countersigned by the Secretary of the Board, and delivered to the President, Vice-President, Managing Director, Secretary or Superintendent of the Company, or at the office of the Company.

Return of accidents to be made semi-annually.

41. Every Railway Company shall, within ten days after the first days of January and July, in each and every year, make to the Board of Railway Commissioners, under the oath of the President, Secretary or Superintendent of the Company, a true and particular return of all accidents and casualties (whether to life or property) which have occurred on the Railway of the Company during the half year next preceding each of the said periods respectively, setting forth:

1. The causes and natures of such accidents and casualties;

2. The points at which they occurred, and whether by night or by day;

3. The full extent thereof, and all the particulars of the same; and,

4. Shall also at the same time return a true copy of the existing By-laws of the Company, and of their rules and regulations for the management of the Company and of their Railway.

Form to be appointed by the Board of Commissioners.

42. The Board of Railway Commissioners may order and direct from time to time, the form in which such returns shall be made up, and may order and direct any Railway Company to make up and deliver to them from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Board deem necessary and require for their information with a view to the public safety.

Penalty for neglect.

43. If such returns so verified be not delivered within the respective times herein prescribed or within fourteen days after the same have been so required by the Board, every Company making default, shall forfeit to Her Majesty the sum of one hundred dollars, for every day during which the Company neglects to deliver the same.

Such returns to be privileged communications.

44. All such returns shall be privileged communications, and shall not be evidence in any Court whatsoever.

TRAFFIC ARRANGEMENTS.

One Company may agree with another respecting traffic.

45. The Directors of any Railway Company may at any time, make agreements or arrangements with any other Company either in Canada or elsewhere, for the regulation and interchange of Traffic passing to and from their Railways, and for the working of the Traffic over the said Railways respectively, or for either of those objects separately,

and for the Division and apportionment of tolls, rates and charges in respect of such Traffic, and generally in relation to the management and working of the Railways, or any of them, or any part thereof, and of any Railway or Railways in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a Joint Committee or Committees for the better carrying into effect any such agreement or arrangement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two thirds of the Stockholders voting in person or by proxy.

Railway Companies must afford each other every facility for the forwarding of traffic, without preference or favor.

2. But every Railway Company shall, according to their respective powers, afford all reasonable facilities to any other Railway Company, for the receiving and forwarding and delivering of traffic upon, and from the several Railways belonging to or worked by such Companies respectively, and for the return of carriages, trucks, and other vehicles; and no Company shall give or continue any preference or advantage to, or in favor of any particular Company, or any particular description of traffic, in any respect whatsoever, nor shall any Company subject any particular Company or any particular description of traffic, to any prejudice or disadvantage in any respect whatsoever; And every Railway Company having or working a Railway which forms part of a continuous line of Railway, or which intersects any other Railway, or which has any terminus, station, or wharf of the one near any terminus, station or wharf of the other, shall afford all reasonable facilities for receiving and forwarding by the one Railway all the traffic arriving by the other, without any unreasonable delay, and without any preference or advantage, or prejudice or disadvantage, and so that no obstruction may be offered in the using of such Railway as a continuous line of communication, and so that all reasonable accommodation may, at all times, by the means aforesaid, be mutually afforded by and to the said Railway Companies; And any agreement made between any two or more Railway Companies contrary to the foregoing provisions, shall be unlawful, null and void.

Agreements made in contravention of this Act to be void.

Penalty on Companies or their officers refusing or neglecting to forward traffic as above required.

3. If any officer, servant or agent of any Railway Company, having the superintendence of the traffic at any Station or Depôt thereof, refuses or neglects to receive, convey or deliver at any Station or Depôt of the Company for which they may be destined, any passenger, goods or things, brought, conveyed or delivered to him or to such Company, for conveyance over or along their Railway from that of any other Company, intersecting with or coming near to such first mentioned Railway,—or in any way wilfully contravenes the provisions of the next preceding sub-section,—such first mentioned Railway Company, or such officer, servant or agent, personally, shall, for each such neglect or refusal, incur a penalty not exceeding fifty dollars, over any above the actual damages sustained; which penalty may be recovered with costs, in a summary way, before any Justice of the Peace, by the Railway Company or any other party aggrieved by such neglect or refusal, and to and for the use and benefit of the Company, or other party so aggrieved.

How recoverable and how to be applied.

Interpretation of word "Traffic."

4. For the purposes of the three next preceding sub-sections, the word "Traffic" includes not only passengers and their baggage, goods, animals and things conveyed by Railway, but also cars, trucks and vehicles of any description adapted for running over any Railway,—the word "Railway" includes all Stations and Depôts of the Railway;—the expression "Railway Company" includes all parties owning, leasing or working any Railway;—and a Railway shall be deemed to come near another when some part of the one is within one mile of some part of the other.

Railway, Railway Company, &c.

RAILWAY CONSTABLES.

Constables may be appointed to act on the line of any Railway, and how.

46. The Justices of the Peace for any County in the Provinces of Ontario, Nova Scotia or New Brunswick, assembled at any General Quarter Sessions of the Peace, and any Judge of the Court of Queen's Bench or Superior Court, or Clerk of the Peace, or Clerk of the Crown, or Inspector and Superintendent of Police, in the Province of Quebec, on the application of the Board of Directors of any Railway Company, whose Railway passes within the local jurisdiction of such Justices of the Peace, Judge, Clerk, or Inspector and Superintendent of Police, as may be, on the application of any Clerk or agent of such Company thereto authorized by such Board, may, in their or his discretion, appoint any persons recommended to them for that purpose by such Board of Directors, Clerk or Agent, to act as Constables on and along such Railway; and every person so appointed shall take an oath or make a solemn declaration in the form or to the effect following, that is to say:

Oath of office.

"I. A. B., having been appointed a Constable to act upon and along "(*here name the Railway*), under the provisions of (*here insert the Title "of this Act*), do swear that I will well and truly serve our Sovereign "Lady the Queen, in the said office of Constable, without favor or "affection, malice or ill-will, and that I will, to the best of my power, "cause the peace to be kept, and prevent all offences against the peace, "and that while I continue to hold the said office, I will, to the best of "my skill and knowledge, discharge the duties thereof faithfully, "according to law. So help me God."

By whom to be administered.

2. Such oath or declaration shall be administered in either of the Provinces of Ontario, Nova Scotia, or New Brunswick, by any one such Justice, and in the Province of Quebec by any such Judge, Clerk, or Inspector and Superintendent of Police; And every Constable so appointed, and having taken such oath or made such declaration, shall have full power to act as a Constable for the preservation of the peace, and for the security of persons and property against felonies and other unlawful acts, on such Railway, and on any of the works belonging thereto, and on and about any trains, roads, wharves, quays, landing-places, warehouses, lands and premises belonging to such Company, whether the same be in the county, city, district, or other local jurisdiction within which he was appointed, or in any other place through which such Railway passes, or in which the same terminates, or through or to which any Railway passes, which may be worked or leased by such Railway Company, and in all places not more than one quarter of a mile distant from such Railway or Railways; and shall have all such powers, protections and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of felonies and other offences, and for keeping the peace, which any Constable duly appointed has within his Constablewick; and it shall be lawful for any such Constable to take such persons as may be punishable by summary conviction for any offence against the provisions of this Act, or of any of the Acts of By-laws affecting any such Railway, before any Justice or Justices appointed for any county, city, district or other local jurisdiction within which any such Railway may pass; and every such Justice shall have authority to deal with all such cases, as though the offence had been committed and the person taken within the limits of his own local jurisdiction.

Powers of such Constables and to what localities they shall extend.

Duties of such Constables.

Dismissal of any such Constable.

3. Any two Justices of the Peace, in either of the Provinces of Ontario, Nova Scotia or New Brunswick, and any Judge of the Court of Queen's Bench or Superior Court, or Clerk of the Peace, or Clerk of the Crown, or Inspector and Superintendent of Police, in the Province of Quebec, may dismiss any such Constable, who may be acting within their several jurisdictions; and the Board of Directors of such Railway Company,

or any Clerk or Agent of such Company thereto authorized by such Board, may dismiss any such Constable who may be acting on such Railway; and upon every such dismissal, all powers, protections and privileges belonging to any such person by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as a Constable for such Railway, without the consent of the authority by which he was dismissed.

Record of appointment of each Constable to be kept.

Fees.

4. Every such Railway Company shall cause to be recorded in the office of the Clerk of the Peace for every county, city, district, or other local jurisdiction wherein such Railway or Railways may pass, the name and designation of every Constable so appointed at their instance, the date of his appointment and the authority making it, and also the fact of every dismissal of any such constable, the date thereof and the authority making the same, within one week after the date of such appointment or dismissal, as may be; and every such Clerk of the Peace shall keep such record in a book, to be open to public inspection, charging such fee or fees only as the Governor in Council may from time to time authorize, and in such form as the Governor in Council may from to time direct.

Punishment of Constables guilty of neglect of duty.

5. Every such Constable, who is guilty of any neglect or breach of duty in his office of Constable, shall be liable, on summary conviction thereof within any county, city, district, or other local jurisdiction wherein such Railway may pass, to a penalty of not more than eighty dollars, the amount of which penalty may be deducted from any salary due to such offender, if such Constable be in receipt of a salary from the Railway Company, or to imprisonment, with or without hard labour, for not more than two months, in the gaol of such county, city, district, or other local jurisdiction.

And of persons resisting them.

6. Every person who assaults or resists any Constable, appointed as aforesaid, in the execution of his duty, or who incites any person, shall, for every such offence, be liable, on summary conviction, to a penalty of not more than eighty dollars, or to imprisonment, with or without hard labour, for not more than two months.

GENERAL PROVISIONS.

Companies to make By-laws for regulation of conductors and other officers, &c.

47. Every Railway Company shall make such by-laws, rules and regulations, to be observed by the conductors, engine-drivers, and other officers and servants of the Company, and by all other Companies and persons using the Railway of such Company, and such regulations with regard to the construction of the carriages and other vehicles, to be used in such trains on the Railway of the Company, as are requisite for ensuring the perfect carrying into effect of the provisions and regulations contained in this Act.

Company may impose penalties for contravention of By-laws.

48. Any Railway Company may by a By-law impose upon any officer, servant, or person who before the contravention of such By-law has had notice thereof and is employed by the Company, a forfeiture to the Company of not less than thirty days' pay of such officer or servant, for any contravention of such By-law, and may retain any such forfeiture out of the salary or wages of the offender.

How notice of By-laws or Orders may be proved.

49. The notice of the By-law or of any order or notice of the Board of Railway Commissioners may be proved by proving the delivery of a copy thereof to the officer, servant or person, or that he signed a copy thereof, or that a copy thereof was posted in some place where his work or his duties, or some of them, were to be performed.

When such proof, &c., to be a defence

50. Such proof, with a proof of the contravention, shall be a full answer and defence for the Company in any suit for the recovery from

it of the amount so retained, and such forfeiture shall be over and above any penalty under the preceding sections number

for the Company.

51. No such Company shall cause any obstruction in or impede the free navigation of any river, stream or canal to or across or along which their Railway is carried.

Not to impede navigation.

52. If the Railway be carried across any navigable river or canal, the Company shall leave openings between the abutments or piers of their bridge or viaduct over the same, and shall make the same of such clear height above the surface of the water, or shall construct such draw bridge or swing bridge over the channel of the river, or over the whole width of the canal, and shall be subject to such regulations as to the opening of such swing bridge or draw bridge as the Governor in Council from time to time makes.

Railways crossing Rivers, &c., regulated.

53. It shall not be lawful for any such Company to construct any wharf, bridge, pier or other work upon or over any navigable river, lake or canal, or upon the beach or bed or lands covered with the waters thereof, until they have first submitted the plan and proposed site of such work to the Governor in Council, and the same has been by him approved; and no deviation from such approved site or plan shall be made without his consent.

Plans to be submitted to the Governor in Council.

54. But nothing contained in the three next preceding sections of this Act, shall be construed to limit or affect any power expressly given to any Railway Company by its Special Act of Incorporation or any Special Act amending the same.

Exception where special powers given by the Special Act.

55. In all cases where a Railway passes any Draw or Swing Bridge over a navigable River, Canal or Stream which is subject to be opened for the purposes of navigation, the Trains shall in every case be stopped at least three minutes, to ascertain from the Bridge Tender that the said Bridge is closed and in perfect order for passing, and in default of so stopping during the full period of three minutes the said Railway Company shall be subject to a fine or penalty of four hundred dollars.

When a Railway passes over a swing-bridge, &c., train to stop for three minutes.

56. Every Railway Company which runs trains upon the railway, for the conveyance of passengers shall provide and cause to be used in and upon such trains such known apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine-drivers of such trains while the trains are in motion, and good and sufficient means of applying by the power of the steam-engine or otherwise at the will of the engine-driver, or other person appointed to such duty, the brakes to the truck-wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender, and cars or carriage from each other by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, and shall after such apparatus and arrangements or supply new apparatus and arrangements from time to time as the Board of Railway Commissioners, with the sanction of the Governor in Council, may order.

Company to use the best apparatus for communication between conductors and engine-drivers and for stopping or disconnecting cars, fixing seats in cars, &c.

57. Every Railway Company which fails to comply with any of the provisions contained in the next preceding section of this Act, shall forfeit to Her Majesty a sum not exceeding two hundred dollars for every day during which such default continues.

Penalty for notcomplying with the 56th section.

58. Every Railway Company shall station an officer at every point on their line crossed on a level by any other Railway, and no train shall proceed over such crossing until signal has been made to the Conductor thereof that the way is clear.

Further precautions at level crossings.

Further precautions when one Railway crosses another on a level.

59. Every locomotive or Railway engine or train of cars, on any Railway, shall, before it crosses the track of any other Railway on a level, be stopped for a least the space of three minutes.

Or runs through a city, town, &c.

60. No locomotive or Railway engine shall pass in all through any thickly peopled portion of any City, Town or Village at a speed greater than six miles per hour, unless the track is properly fenced.

Or moves reversely.

61. Whenever any train of cars is moving reversely in any City, Town or Village, the locomotive being in the rear, the Company shall station on the last car in the train a person who shall warn parties, standing on or crossing the track of such Railway, of the approach of such train, under a penalty of one hundred dollars for any contravention of the above provisions.

Foot passengers to use foot-bridge, if provided for that purpose at level crossings.

62. If the Board of Railway Commissioners order any Railway Company to erect at or near or in lieu of any level crossing of a turnpike road, or other public highway, a foot-bridge or foot-bridges over their Railway for the purpose of enabling persons passing on foot along such turnpike road or public highway to cross the Railway by means of such bridge or bridges, then, from and after the completion of such foot-bridge or foot-bridges so required to be erected, and while the Company keeps the same in good and sufficient repair, such level crossing shall not be used by foot passengers on the said turnpike road or public highway, except during the time when the same is used for the passage of carriages, carts, horses or cattle along the said road.

No cattle to be allowed to be at large on any highway within half a mile of any Railway.

63. No horses, sheep, swine or other cattle, shall be permitted to be a large upon any highway within a half mile of the intersection of such highway with any Railway on grade, unless such cattle are in charge of some person or persons to prevent their loitering or stopping on such highway at such intersection.

Such cattle may be impound.

64. All cattle found at large in contravention of the last preceding section may, by any person finding the same at large, be impounded in the nearest pound to the place where the same are so found, and the pound-keeper with whom the same are so impounded shall detain the same in the like manner, and subject to the like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property.

If killed owner not entitled to any action.

65. No person, any of whose cattle being at large, contrary to the provisions of section sixty-three, are killed by any train at such point of intersection, shall have any action against any Railway Company in respect to the same being so killed.

Crossings to be fenced.

66. At every road and farm crossing on the grade of the Railway, the crossing shall be sufficiently fenced on both sides on such points, so as to allow the safe passage of the trains.

Ground adjoining any Railway and belonging to the Company to be laid down with grass and cleared of weeds, &c.

67. Every Railway Company, whether any of the clauses or provisions of this Act be or be not incorporated with the Act incorporating such Company, shall cause all cleared land or ground adjoining their Railway and belonging to such Company, to be sown or laid down with grass or turf, and cause the same as far as may be in their power to be covered with grass or turf, if not already so covered, and cause all thistles and other noxious weeds growing on such land or ground, to be cut down and kept constantly cut down or to be rooted out of the same.

Consequences of omitting to do so.

68. If any Railway Company fails to comply with the requirements of the last preceding section within twenty days after they have been required to comply with the same, by notice from the Mayor, Reeve or Chief Officer of the Municipality of the Township or County

in which the land or ground lies, such Company shall thereby incur a penalty of two dollars to the use of the Municipality for each day during which they neglect to do any thing which they are lawfully required to do by such notice, and the said Mayor, Reeve or Officer may cause all things to be done which the said Company were lawfully required to do by such notice, and for that purpose may enter by himself and his assistants or workmen upon such lands or grounds, and such Municipality may recover the expenses and charges incurred in so doing, and the said penalty with costs of suit, in any Court having jurisdiction in civil cases to the amount sought to be recovered.

69. The interest of the purchase money or rent of any real property acquired or leased by any Railway Company, and necessary to the efficient working of such Railway, and the price or purchase money of any real property or thing, without which the Railway could not be efficiently worked, shall be considered to be part of the expenses of working such Railway, and shall be paid as such out of the earnings of the Railway.

PENAL CLAUSES.

Penalty on persons obstructing free use of Railway.

2. Every person who, by any means or in any manner or way whatsoever, obstructs or interrupts the free use of the Railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the common Gaol of the District or County where the conviction takes place, or in the Provincial Penitentiary, for a term not to exceed five years.

Penalty on persons damaging Railway.

3. All persons wilfully and maliciously, and to the prejudice of the Railway, breaking, throwing down, damaging or destroying the same, or any part thereof or any of the buildings, stations, depôts, wharves, vessels fixtures, machinery or other works or devices incidental or relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Railway, vessels or works, or obstructing hindering or preventing the carrying on, completing, supporting and maintaining the Railway, vessels or works, shall be guilty of a misdemeanor, unless the offence committed amounts, under some other Act or Law, to a felony, in which case such person shall be guilty of a felony, and the Court by and before whom the person is tried and convicted, may cause such person to be punished in like manner as persons guilty of misdemeanor or felony *as the case may be* are directed to be punished by the laws in force in Canada.

Punishment of persons doing any thing to Railway with intent to injure persons or property.

70. If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railway, or breakes down, rips up, injures or destroys any Railway track or Railway bridge or fence of any Railway or any portion thereof, or places any obstruction whatsoever on any such rail or Railway track, or bridge, with intent thereby to injure any person or property passing over or along such Railway, or to endanger human life, such person shall be guilty of misdemeanor, and shall be punished by imprisonment with hard labour in the Common Goal of the Territorial Division in which such offence is committed or tried, for any period not exceeding one year from conviction thereof ; and it in consequence of such act done with the intent aforesaid, any person so passing over and along such Railway, actually suffers any bodily harm, or if any property passing over and along such Railway be injured, such suffering or injury shall be an aggravation of the offence, and shall reader the offence a felony, and shall subject the offender to punishment by imprisonment in the Penitentiary for two years, or in any other prison or place of confinement for any period exceeding one year and less than two years.

And if such damage be actually done.

And if any person be killed or his life be lost, the offence to be manslaughter.

71. If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railway, or breaks down, rips up, injures or destroys any Railway track or Railway bridge or fence of any Railway or any portion thereof, or places any obstruction whatever on any such rail or Railway track or bridge, or does or causes to be done any act whatever whereby any engine, machine or structure, or any matter or thing appertaining thereto is stopped, obstructed, impaired, weakened, injured or destroyed, with intent whereby to injure any person or property passing over or along such Railway and if in consequence thereof any person be killed or his life be lost, such person so offending shall be guilty of manslaughter, and being found guilty, Punishment. shall be punished by imprisonment in the Penitentiary for any period not more than ten nor less than four years.

Committing any injury, stoppage, &c., to be a misdemeanor.

72. If any person wilfully and maliciously does or causes to be done, any act whatever whereby any building, fence, construction or work of any Railway, or any engine, machine or structure of any Railway, or any matter or thing appertaining to the same is stopped, obstructed, impaired, weakened, injured or destroyed, the person so offending shall be guilty of a misdemeanor, and be punished by imprisonment with hard labour not exceeding one year, in the Common Goal of the Territorial Division in which the offence was committed or has been tried.

Punishment of persons boring or cutting casks or packages on Railway.

73. Every person who bores, pierces, cuts, opens, or otherwise injures any cask, box or package, containing wine, spirits or other liquors or any case, box, sack, wrapper, package or roll of goods, in, on or about any car, waggon, boat, vessel, warehouse, station-house, wharf, quay or premises of or belonging to any such Railway Company, with intent feloniously to steal or otherwise unlawfully to obtain or to injure the contents, or any part thereof, or who unlawfully drinks, or wilfully spills or allows to run to waste, any such liquors, or any part thereof, shall, for every such offence, be liable, on summary conviction before one or more Justices of the Peace, to a penalty of not more than twenty dollars, over and above the value of the goods or liquors so taken or destroyed, or to imprisonment, with or without hard labour, for not more than one month.

Punishment of persons obstructing Inspectors in the execution of their duty.

74. Every person wilfully obstructing any Railway Inspector in the execution of his duty shall, on conviction before a Justice of the Peace having jurisdiction in the place where the offence has been committed, forfeit and pay for every such offence any sum not exceeding forty dollars, and in default of payment of any penalty so adjudged, immediately, or within such time as the said Justice of the Peace appoints, the same Justice, or any other Justice having jurisdiction in the place were the offender resides, may commit the offender to prison for any period not exceeding three months ; but such commitment shall be determined on payment of the amount of the penalty ; and every such penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual manner.

Punishment of officers, &c., contravening by-laws, &c.

75. If any officer or servant of, or person employed by any Railway Company, wilfully or negligently contravenes any By-Law or Regulation of the Company lawfully made and in force, or any Order or Notice of the Board of Railway Commissioners, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, then if such contravention causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been without such contravention, although no actual injury occurs, such contravention shall be a misdemeanor, and the person convicted thereof shall in the discretion of the Court before whom the conviction is had, and ac-

cording as such Court considers the offence proved to be more of less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both, so as no such fine exceeds four hundred dollars, nor any such imprisonment the term of five years; and such imprisonment, if for two years or upwards, shall be in the Provincial Penitentiary.

Penalty in certain cases.

76. If such contravention does not cause injury to any property or person, nor expose any person or property to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant or other person guilty thereof, shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the Company, in the discretion of the Justice of the Peace before whom the conviction is had; and such penalty shall be recoverable with costs before any one Justice of the Peace having jurisdiction where the offence has been committed, or where the offender is found, on the oath of one credible witness other than the informer.

Application of.

77. One moiety of such penalty shall belong to Her Majesty for the public uses of Canada, and the other moiety to the informer, unless he be an officer or servant of, or person in the employ of the Company, in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty for the uses aforesaid.

The Company may pay penalty and deduct from wages.

78 The Company may in all cases under this Act pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay.

APPLICATION OF PENALTIES.

How penalties recovered and applied.

79. All penalities recovered under this Act, in respect to the application of which no other provision is made, shall be paid to the Receiver General of Canada to the credit of "The Railway Inspection Fund."

RAILWAY FUND.

Railway Inspection Fund.

80. From every Railway in Canada to which this Act applies, shall so soon as any portion thereof is in use, pay to the Receiver General an annual rate to be fixed by the Governor in Council, not exceeding ten dollars per mile of Railway constructed and in use; such rate to be paid half yearly on the First days of January and July in each year, and to form a special fund for the purposes of this Act, to be called "The Railway Inspection Fund."

CERTAIN SECTIONS LIMITED.

What the words "Railway Company" shall include.

81. In the construction of the provisions of this Act, from and including section twenty-one, the expression "Railway Company" or "Company" shall include any person being the owner or lessee of or a contractor working any railway constructed or carried on under the powers of an Act of Parliament.

No. 42.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act respecting Railways.

Received and read first time, Tuesday, 17th March, 1868.

Second reading, Friday, 20th March, 1868.

Hon. Mr. CARTIER.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 43.] **BILL.** [1868.

An Act respecting Penitentiaries, and the Directors thereof, and for other purposes.

WHEREAS "The British North America Act of 1867" places the Penitentiaries of the Provinces forming the Dominion of Canada, under the control of the Government of Canada, and it is expedient to make provision for the proper management and maintenance of the same; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. The Act passed by the Legislature of the late Province of Canada, in the twenty-second year of Her Majesty's reign, being Chapter One hundred and ten of the Consolidated Statutes of the said Province, intituled "An Act respecting Inspectors of Public Asylums, Hospitals, "and Provincial Penitentiary of Canada, and of all Common Gaols "and other Prisons; Cap. 110 Con. Stat. Can.—and

Also the Act passed by the said Legislature in the same year of Her Majesty's reign, being Chapter One hundred and eleven of the Consolidated Statutes of the said Province, intituled "An Act respecting the "Provincial Penitentiary of Canada," are hereby repealed; Con. Stat. Can. repealed.

Also such parts of the Act passed by the Legislature of the Province of Nova Scotia, in the Twenty-seventh year of Her Majesty's reign, intituled "An Act for revising and consolidating the statutes and laws "of the Province," Part one, Title five, Chapter twenty-two; N.S., 27 V. c. 22, and

Also such parts of the Act passed by the Legislature of in the Province of New Brunswick, in the Seventeenth year of Her Majesty's reign, intituled "An Act to regulate the publication of the Revised "Statutes, and other Acts of Assembly," Part One, Title Sixteen, Chapter Ninety-one; as relate to the Penitentiary in each of the said last mentioned Provinces and are inconsistent with the provisions of this Act, are hereby repealed. N.B., 17 V. c. 91 repealed in part.

2. The repeal of the said Acts and of parts of Acts above set forth shall not operate so as to revive any former Act, or any part or portion of any former Act, of which the said Acts or parts of Acts may have been an amendment or amendments, nor shall such repeal affect anything heretofore done under the said Acts or parts of Acts, nor any claim, suit or action arising therefrom and now pending in any Court of Law or Equity in virtue of such repealed Act or parts of Acts, but such thing, claim, suit or action shall remain the same as if this Act had not been passed. Effect of repeal limited.

DIRECTORS.

3. It shall be lawful for the Governor to appoint not more than three persons to be Directors, who, subject to the instructions they may from time to time receive from the Governor, shall have the control and management of all the Penitentiaries in Canada, and of such other Prisons, Hospitals, Asylums, and other public institutions, as may from time to time be ordered by the Governor in Council and announced by Proclamation in the *Gazette*, and of all prisoners and other Governor to appoint directors, chairman and secretary.

persons confined therein or inmates thereof: and it shall be lawful for the Governor to appoint one of such persons to be their Chairman, and one of them, or one other person to act as Secretary, and from time to time to remove any of such persons to be so appointed, and to appoint another or others in his or their stead.

Meetings, quorum, &c.

4. The Chairman shall preside at all meetings of the Directors at which he is present, and in case of his absence the senior Director shall preside. Any two of the Directors shall constitute a *quorum*, for all purposes whatsoever, and in case of a difference of opinion arising between such two at a meeting, held at any Penitentiary, upon a special matter affecting such Penitentiary only, the Warden thereof may be called in, at the joint request of the Directors then sitting, to decide between them. But in case of a difference of opinion arising at a meeting held by any two Directors at any place other than a Penitentiary, the question shall lie over until the third Director shall be present.

Difference of opinion.

Minutes of proceedings.

5. The Chairman shall keep a regular minute of the proceedings of every meeting, which shall be read at the next ensuing meeting, before any other business is taken up, and, when approved, shall be signed by the Chairman of the meeting at which the said minute is so approved.

Directors to be J.P's.

6. Every one of the Directors shall by virtue of his office without any property qualification, be a Justice of the Peace for any and every District, County, City, or Town, of Canada.

Responsibility &c., of directors.

7. The Directors shall be responsible for the system of discipline and management pursued in the several Penitentiaries, but they shall have no direct executive power in the administration or conduct of the affairs of those Institutions, except as is provided, by this Act.

To make rules and regulations.

8. The Directors shall have power, and it shall be their duty, to make rules and regulations for the Management, Discipline and Police of the Penitentiaries, and for the duties and conduct of the Wardens thereof, and of every other officer or class of officers or servants employed therein, and for the Diet, Clothing, Maintenance, Employment, Instruction, Discipline, Correction, Punishment and Reward of Convicts imprisoned therein, and to annul, alter or amend the same from time to time, subject to the approval of the Governor in Council, which rules and regulations so approved, the Wardens of the Penitentiaries, and every other officer and servant employed in or about the same, shall be bound to obey. It shall also be the duty of the Directors to audit the accounts of the Wardens of the Penitentiaries, to inquire into all money transactions when requisite, exact a statement of all cash transactions every month, and administer to the Wardens and Accountants, the following Oath:

Audit accounts.

Oath of accountant.

I, , Warden, and I, , Accountant, of the Penitentiary, make oath and say that the foregoing Stotement of Revenue and Expenditure on account of the Penitentiary, for the month of 18 are true and correct, to the best of my knowledge and belief.

Sworn before me, at the Penitentiary, the day of

Director.

POWERS OF THE DIRECTORS.

Special powers of directors.

9. For the better enabling the Directors efficiently to discharge the duties herein set forth, or at any time ordered by the Governor they and each of them shall have the power.

Entry and examination of papers, &c.

1. At all times to enter into, and remain within any Penitentiary or other public institution placed under their control as aforesaid,

and have access to every part and portion of the same, and examine all papers, documents, vouchers, records and books of every kind belonging thereto.

Inquiries into conduct of officers, &c.

2. To investigate the conduct of any officer or servant employed in or about any Penitentiary, or other public institution as aforesaid, or of any person found within the precincts thereof, and for that purpose the Directors shall have power to summon before them, or any one or more of them, any person by *subpœna* issued by any one of them, and to examine such person upon oath, which oath the said Directors or any one of them shall have power to administer, whether the fact relate to a breach of the law of the land or of the rules of the Prison, or to any matter affecting the interests of the Institution, and to compel the production of papers and writings before them or any one or more of them; and if any person duly summoned shall neglect or refuse to appear, at the time and place specified in the *subpœna* upon him legally served, or shall refuse to give evidence or to produce the papers demanded of him the Directors or any one or more of them, may cause the said person by warrant under their or his hand, to be taken into custody and to be imprisoned in the common Gaol of the locality, as for contempt of Court.

Summoning of witnesses.

SALARIES OF DIRECTORS.

Salaries in Schedule.

10. The salaries of the Directors shall be as set forth in Schedule A, to this Act annexed.

ESTABLISHMENT OF PENITENTIARIES.

Penitentiaries described.

11. The Penitentiary situated near the City of Kingston, in the Province of Ontario, to be known as the Kingston Penitentiary, and the Penitentiary situated near the City of St. John, in the Province of New Brunswick, to be known as the St. John Penitentiary, and the Penitentiary situated near the City of Halifax, in the Province of Nova Scotia, to be known as the Halifax Penitentiary, together with all the land appertaining to the same, respectively, according to the respective metes and bounds thereof as now known and defined, and all the property thereon belonging to the same, are all and every one of them hereby declared to be Penitentiaries of Canada.

Governor may annex tracts of land to Penitentiaries as part thereof.

12. It shall be lawful for the Governor, in Council, at any time hereafter, if he shall see fit, to declare by proclamation, to be published in the official *Gazette*, that any tract of land within the Dominion belonging to Her Majesty, of which the boundaries shall be particularly defined in the proclamation, is a Penitentiary, and is to be so held within the meaning of this Act; and it shall be lawful for the Governor in Council to annul the same by any subsequent proclamation, published as aforesaid, declaring that the tract of land so established as a Penitentiary will cease to be so held and considered, from and after a certain day, to be named in said subsequent proclamation.

What shall be included as part of a Penitentiary.

13. Every Penitentiary now established, and every Penitentiary hereafter to be established by virtue of this Act, shall be held to include all carriages, waggons, sleighs or other vehicles for land carriage, and all boats, scows or other vessels for water carriage, being the property of such Penitentiary, or employed by hire or otherwise in its service, and likewise any wharf at or near the said Penitentiary, although not within the limits mentioned in the proclamation establishing the same, but used for the accommodation of such craft when so employed in or about any work or labor connected with such Penitentiary.

The same as to roads, &c.

14. Every street, highway or public thoroughfare of any kind, along or across which it may be necessary that convicts should pass in going to

and returning from their work, shall, while so used, be considered as a portion of the tract of land forming the Penitentiary; and any escape, or attempt at escape, and any rescue, or aid in rescue, shall be held as if such escape or attempt at escape, and such rescue or aid in rescue had taken place, within the Prison walls or Penitentiary limits.

Directors may authorize the construction of tram roads.

15. It shall be lawful for the Directors to authorize the Warden of any Penitentiary, by an order passed at a full meeting, to construct rail or tram roads to communicate between any part of the Penitentiary and another, and to carry the same across, upon or along any public road or street intervening, in such manner, however, as to cause the least possible inconvenience to passengers or carriages using such road or street. But it shall not be lawful for the Warden of such Penitentiary to break ground upon any public road or street for the purpose of constructing such rail or tram roads, in virtue of such order by the Directors, until after the lapse of one month, after a copy of such order, certified by the said Warden, shall have been served upon the Secretary or Clerk of the Municipality, within which such public road or street lies, along with a plan showing the line which such rail or tram roads are to occupy.

Notice to municipality.

CONVEYANCE OF CONVICTS.

What shall be sufficient authority for conveying convicts.

16. The Sheriff or Deputy Sheriff of any County or District, or any Bailiff, Constable, or other officer, or other person, by his direction, may convey to the Penitentiary named in the sentence, any convict sentenced or liable to be imprisoned therein, and shall deliver him to the Warden thereof, without any further warrant than a copy of the sentence taken from the minutes of the Court before which the convict shall have been tried, and certified by a Judge or by the Clerk or acting Clerk of such Court.

When brought from any other penitentiary or gaol.

17. In all cases where a prisoner is ordered by competent authority to be conveyed to any Penitentiary from any other Penitentiary, or from a Reformatory Prison, or from a Common Gaol, there shall be delivered to the Warden of the Penitentiary receiving such prisoner, along with all other necessary documents, a certificate signed by the medical officer of the Institution from which such prisoner has been taken, and countersigned by the Warden if he shall have been taken from a Penitentiary or a Reformatory Prison, or by the Sheriff or his Deputy if from a Common Gaol, declaring that such prisoner is free from any putrid infecttons or cutaneous disease, and that he is fit to be removed.

CONVICTS TO BE RECEIVED.

Duty of Warden.

18. The Warden shall receive into the Penitentiary every convict legally certified to him, as sentenced to imprisonment therein, and shall there detain him, together with those already lawfully confined therein, subject to all the rules, regulations, and discipline thereof, until the term for which he has been sentenced be completed, or until he shall be otherwise discharged in due course of law.

REMOVAL FROM AND TO A PENITENTIARY.

Governor may authorize removal from or to any penitentiary.

19. It shall be lawful for the Governor by warrant signed by the Secretary of State for Canada, or by such other officer as may be, from time to time, authorized by the Governor in Council, to direct the removal of any convict from and to any Penitentiary; and the Warden of the Penitentiary, having the custody of any convict so ordered to be removed, shall, when required so to do, deliver up the said convict to the constable or other officer or person who shall produce the said warrant; together with a copy, attested by the said Warden, of the sentence and date of conviction of such convict,

as given to him on reception of said convict into his custody; and the constable or other officer or person shall give a receipt to the Warden for the convict, and shall thereupon, with all convenient despatch, convey and deliver up such convict with the said attested copy into the custody of the Warden of the Penitentiary mentioned in the warrant, who shall give a receipt in writing for every convict, so received into his custody, to such constable or other officer or person as his discharge; and the convict shall be kept in custody in the Penitentiary to which he has been so removed, until his removal to another Penitentiary, or until the termination of his sentence, or until his pardon or release, or discharge by law.

Proceedings in such case.

20. The Sheriff or other officer or other person employed by competent authority, to convey any convict to any Penitentiary to which such convict is ordered to be taken, either by sentence of a Court or by order of the Secretary of State, or other officer, as in the last clause mentioned, may secure and convey him through any County or District, through which he may have to pass in any Province of Canada; and until the convict has been delivered to the Warden of such Penitentiary, he shall have, in all territorial divisions or parts of Canada through which it may be necessary to convey such convict, the same authority and power over and with regard to such convict, and to command the assistance of any person in preventing his escape, or in re-capturing him in case of an escape, as the Sheriff of the territorial division, in which he was convicted, would himself have in conveying him from one part to another of that locality.

Powers of sheriff or officer conveying convicts to a penitentiary.

21. In any case, in which sentence of death has been passed upon any convict, by any Court in Canada, and the Governor, on behalf of Her Majesty, has been pleased to commute such sentence for imprisonment for life, or for any term of years, such commutation shall have the same effect as the judgment of a competent Court legally sentencing such convict to such imprisonment for life, or other term would have. And the Sheriff, or other officer, or other person having such convict in custody, on receipt of a letter from the Secretary of State, or such other officer as aforesaid, notifying him of the fact of such commutation, and directing him to convey such convict to a Penitentiary therein named, shall forthwith convey such convict thereto, and shall have the same rights and powers in conveying such convict to said Penitentiary, as if the conveyance took place by virtue of the sentence of a competent Court.

Power to convey a convict whose sentence has been commuted.

22. In order to commute any sentence of death as aforesaid for imprisonment for life, or for a term of years, it shall not be held to be necessary, nor to have been at any time necessary for the purpose of commuting such sentence, or of authorising the conveyance of a prisoner to any Penitentiary, or for his reception and detention therein for the commuted period, that a copy of any pardon should be or should have been in the possession of the Warden of such Penitentiary; a letter, signed by the Secretary of State, or such other officer as aforesaid, notifying the Warden of the fact of such commutation, and of the term of years for which the sentence has been commuted, or for life, shall be and shall have been sufficient authority for the Warden to receive such convict into the Penitentiary, and to deal with him as if he had been sentenced by a competent Court to confinement therein for the period in said letter mentioned.

What shall be sufficient authority to the warden in such case.

23. Every prisoner who being ordered to be detained in any Penitentiary shall escape from the person or persons, having the lawful custody of such prisoner, when being conveyed thereto, shall be guilty of felony, and being convicted thereof, shall have not less than two years added to the original term of his imprisonment. And any prisoner who at any time shall break prison or escape, or attempt to escape from the custody of any officer, guard, or other servant of the Penitentiary while

Escape during conveyance to be felony.

Punishment of prisoners escaping or attempting to escape, while at work, &c.

at work, or passing to or from work, either within or beyond the prison walls or Penitentiary limits, shall be punished by an addition not exceeding three years to the term of his imprisonment, besides forfeiting the whole of the period of remission of sentence hereinafter mentioned, which he may have earned, and he may also be again confined in the Penal Prison or Solitary Cells, if any, attached to such Penitentiary, as in the Prison Rules may be prescribed.

Punishment for breaking prison or out of cell, &c.

24. Every prisoner in any Penitentiary, who at any time shall attempt to break prison, or who shall forcibly break out of his cell, or make any breach therein with intent to escape therefrom, whether successful or not, shall be punished by an addition, not exceeding one year, to the term of his imprisonment, besides forfeiting the whole of the period of remission of sentence earned by him, and being again confined as in the last clause mentioned.

For assaulting any officer.

25. If any convict confined in any Penitentiary, shall assault any officer or servant employed therein, he shall be guilty of at leastan aggravated assault, and shall also forfeit the whole of the period of remission of sentence which he may have previously earned, and shall be again confined, as in the two preceding clauses mentioned.

Rescuing or attempting to rescue any prisoner.

26. Every person who shall rescue or attempt to rescue any prisoner, while being conveyed to any Penitentiary, or while being imprisoned therein, or while passing to or from work at or near any Penitentiary, and every person who by supplying arms tools or instruments of disguise or otherwise, shall in any manner aid any such prisoner in any escape or attempt at escape, shall be guilty of felony.

Keepers, &c., allowing prisoners to escape;

27. Every person having the custody of any such prisoner as aforesaid, or being employed by the person having such custody as a keeper, turnkey, guard or assistant, who shall carelessly allow any such convict to escape shall be guilty of a misdemeanor, and being convicted thereof shall be liable to fine or imprisonment or to both, at the discretion of the Court. And every such person as aforesaid, who shall knowingly or willingly allow any such convict to escape shall be guilty of felony.

Or allowing money, spirits, letters, &c., to be brought into the penitentiary.

28. Every officer, guard or servant of any Penitentiary, or any other person who shall bring in or carry out, or endeavour to bring in or carry out, or knowingly allow to be brought in or carried out to or from any convict, or carry to any convict while employed outside the prison walls, any money, clothing, provisions, tobacco, spirits, letters papers or other articles whatsoever not allowed by the rules of the said prison, shall, if an officer or servant of the prison, be guilty of a misdemeanor and may, if thought fit by the Warden or Deputy Warden, be apprehended and carried before a Justice of the Peace, who shall be empowered to hear and determine any such offence in a summary way, and every such officer, guard or servant or other person, upon conviction of such offence before a Justice of the Peace shall be liable to pay a penalty not exceeding One hundred dollars, or, in the discretion of the Justice, to be imprisoned in the Common Gaol, there to be kept at hard labour for any term not exceeding three months.

REFORMATORY INCORRIGIBLES.

May be removed from reformatory prison to penitentiary;

29. In any case where a Juvenile Offender has been ordered by competent authority to be imprisoned in any Reformatory Prison, and after his being imprisoned therein has become incorrigible, it shall and may be lawful for the Lieutenant Governor of the Province in which the Reformatory Prison is situated, by a Warrant under his hand, addressed to the Warden of such Reformatory Prison, setting forth the sentence or order by which the Juvenile offender was imprisoned therein, and the fact that he is incorrigible, to direct that such Juvenile Offender be

removed to any Penitentiary named in said Warrant. And the said Warden, or any other officer of the prison, or any other person authorised by him, shall have the same powers in conveying such Juvenile Offender to such Penitentiary as are hereinbefore given to a Sheriff or other person in like cases.

And dealt with as if sentenced to the penitentiary.

And it shall and may be lawful for the Warden of the Penitentiary therein named, to receive such Juvenile Offender and deal with him for the unexpired term of the sentence or order by which he was ordered to be imprisoned in such Reformatory Prison, as if he had been sentenced to such Penitentiary by a competent Court. Provided that along with the said offender there be delivered to the Warden of the Penitentiary a copy of the said sentence or order, attested by the Warden of the Reformatory Prison, along with an order from the Lieutenant Governor aforesaid, directing the Warden of such Penitentiary to receive such Juvenile Offender.

TREATMENT OF CONVICTS.

30. In the treatment of convicts in a Penitentiary, the following general rules shall be observed:—

Clothing.

1. Every convict shall, during the term of his confinement, be clothed at the expense of the Penitentiary, in suitable Prison garments.

Food.

2. He shall be fed on a sufficient quantity of wholesome food.

Bedding.

3. He shall be provided with a bed and pillow with sufficient covering, varied according to the season.

Labour.

4. Except during sickness or other incapacity, he shall be kept constantly at hard labor, the kind of which shall be determined by the Warden, every day not exceeding ten hours, exclusive of hours for meals, except Sundays, Good Friday and Christmas Day, and such other days as the Governor may set apart for days of fasting or thanksgiving, and such days as may be designated in the rules made by the Directors in that behalf.

Holidays for Roman Catholics.

5. No Roman Catholic convict shall be compelled to labor on any of the obligatory holidays of his Church; that is to say, Circumcision, Epiphany, Annunciation, Corpus Christi, Saint Peter and Saint Paul, All Saints and Conception.

Over hours and payment therefor.

6. The Warden may, if he see fit, permit a convict of exemplary conduct to work over hours at such work as can be conveniently done in the Institution, and at such rates as shall be fixed by the Directors, the value of which overwork at said rates, may be paid either to the convict's family during his imprisonment, should he so desire it, or be credited to him in the books of the Institution to be paid him on his discharge, subject however, to any general rules which the Directors may make upon the subject.

Solitary confinement when not employed.

7. Every convict shall be kept in a cell by himself at night, and during the day when not employed, except in case of sickness.

PRISON OFFENCES.

Prison rules. No talking allowed.

31. The Directors shall draw up a list of prison offences by way of general warning to the convicts as to their conduct in the prison. among which it shall specially be declared that no convict shall be permitted to speak to another convict upon any pretence whatever, nor to any officer or guard, or other servant of the Institution, except with respect to the work at which he is employed, and then only in the fewest words and in a respectful manner.

PUNISHMENTS.

Directors to make rules for discipline and correction. Proviso.

32. It shall be lawful for the Directors to make and from time to time to alter rules for the discipline and correction of convicts confined in any Penitentiary as hereinbefore provided; but in case any convict shall be accused of having committed any offence which, if

Investigation in certain cases.

proved, would be followed by the infliction of corporal punishment or a remand to the Penal Prison, where such Penal Prison may be established, it shall be the duty of the Warden to make investigation upon oath into the facts of the case, before awarding such punishment, and to make a minute of the evidence taken by him to be laid before the Directors at their next meeting. Provided, also that no more than sixty lashes shall be inflicted upon any prisoner for any such offence.

Proviso.

OFFICERS.

What officers the Governor may appoint for each penitentiary.

33. It shall be lawful for the Governor to appoint for any Penitentiary a Warden, a Deputy Warden, [who in the absence or incapacity of the Warden shall exercise all the functions of the Warden,] a Protestant Chaplain, and Assistant Protestant Chaplain when required, a Roman-Catholic Chaplain, an Assistant Roman Catholic Chaplain when required, a Surgeon, and an Accountant, all of whom shall hold their offices during pleasure; but the Directors shall have power summarily to suspend any of the above named officers for misconduct, until the circumstances of the case (of which the Governor shall be at once notified) have been decided upon by the Governor; and the Directors may, until such decision shall have been intimated to the Chairman, cause any officer so suspended to be removed beyond the precincts of the prison; and, generally, the Directors shall have power and it shall be their duty, to recommend the removal of any of the above-named officers whom they may deem incapable, inefficient or negligent in the execution of his duty, or whose presence in the Penitentiary they consider detrimental to the interests thereof.

Power of directors to suspend any officer.

Directors to appoint certain officers.

34. It shall be lawful for the Directors to appoint an Architect, a Schoolmaster, a Storekeeper, a Steward and a Chief Keeper, [who, in the absence or incapacity of the Deputy Warden,] shall exercise all the functions of such Deputy Warden, a Matron, a Deputy Matron, and such and so many Trade Instructors and keepers as may from time to time be required, to hold their offices during pleasure; but the Warden shall have power summarily to suspend for misconduct any of the last above-named officers, until the next meeting of the Directors, when he shall submit to them a report of the circumstances of the case, to be dealt with as to them may seem meet.

Warden may suspend any of them.

Warden may appoint certain officers, guards, &c., and suspend or dismiss them.

35. It shall be lawful for the Warden to appoint an Assistant Deputy matron and a clerk, and such and so many guards and other servants as by order of the Directors may be authorized, for the proper protection and care of the Institution, and to suspend any of them for neglect of duty for such time as he shall see fit, or dismiss them, without further charge than that of inefficiency in his opinion, but such suspension or dismissal shall be reported to the Directors at their next meeting.

As to pay in case of suspension.

36. The pay of every officer so suspended by the Directors, or by the Warden, shall cease during the period of his suspension, but the Directors shall nevertheless have power to direct payment of the same, if they see fit.

Fines for neglect of duty.

37. It shall be lawful for the Directors to impose a fine payable in money, upon any officer or servant appointed by them or by the Warden, for any act of negligence or carelessness by him committed, of such reasonable amount, not exceeding one month's pay, as the said Directors under the circumstances of the case may think fit.

Warden to be a J.P.

38. The Warden shall, by virtue of his office be a Justice of the Peace for every District, County, and City in the Province, in which the Penitentiary for which he is the Warden, is situated.

DISCHARGE OF CONVICTS.

39. No convict shall be dismissed from a Penitentiary on the termination of his sentence, or otherwise, if labouring under any acute or dangerous disease; nor unless at his own request during the months of November, December, January, February or March. But he shall be permitted to remain in the Penitentiary until he recovers from such disease, or until the first day of April following the termination of his sentence; Provided always that a convict remaining from any cause in a Penitentiary after the termination of his sentence, shall bo under the same discipline and control as if his sentence were still unexpired. Convicts not to be discharged at certain times, except by their request. Proviso.

1. On the first day of April a list shall be made of all the prisoners whose sentences shall have expired during the five preceding months, and who may be still in prison, according to the dates when their sentences expired, and according to such order they shall be discharged, one convict on the said first day of April, and one on every day thereafter, until the whole shall have been discharged. Order of discharge of convicts in April.

2. Whenever the term of any prisoner's sentence expires on a Sunday, he shall be discharged on the Saturday preceding, unless he desire to remain until the Monday following. Sentence expiring on Sunday.

3. Every convict upon his discharge, either by expiration of sentence, or otherwise, shall be furnished at the expense of the Penitentiary with a suit of clothing other than Prison clothing, and with such sum of money, as shall be sufficient to pay his travelling expenses to the place at which he received his sentence, and such other sum in addition, not exceeding twenty dollars, as the Warden may deem proper. Should any sum remain at his credit for earnings for overwork, such sum shall be paid to him at such times, and in such amounts as the Prison Rules may direct. Clothing and money to convicts discharged.

PRISONERS' EFFECTS.

40. Every article found upon the person of a convict at the time of his reception into the Penitentiary, which may be considered worthy of preservation, shall be taken from him and a description thereof, entered in a Book to be kept for that purpose, and if the convict shall not see fit otherwise to dispose of it at the time, it shall be carefully put away until the day of his discharge, when it shall be delivered up to him again in the state in which it may then be, but the Penitentiary shall not be liable for any deterioration which may have taken place in such article in the interval. If at the time of his reception the convict desire to dispose of any such article and it shall be so disposed of, a memorandum of the fact shall be noted in the said Book, and signed by the proper officer having charge of said Book, and also by the convict. Articles found on convict on entry to be kept for him.

PRIVILEGED VISITORS.

41. The following persons, other than the Directors may visit any Penitentiary at pleasure, namely the Governor General of Canada, the Lieutenant Governor of any of the Provinces composing the Dominion of Canada, any Member of the Privy Council of Canada, any Member of the Executive Council of any of the said Provinces, any Member of the Parliament of Canada or of any of the Local Legislatures, any Judge of any Court of Record in Canada or in any of the said Provinces, and any Queen's Counsel; but no other person shall be permitted to enter within the walls where the prisoners are confined, except by the special permission of the Warden, and under such regulations as the Directors may prescribe. Who shall have the right of visiting.

42. Any person who shall be found trespassing upon any grounds, buildings, yards, offices or other premises whatsoever belonging or pertaining to any Penitentiary, or shall enter the same, not being an officer or servant of the said prison, or authorized by leave of the Warden, shall, upon conviction thereof before a Justice of the Peace for the City, Punishment of persons trespassing on penitentiary grounds.

County or District in which such Penitentiary may be situated, be adjudged to pay a fine not exceeding for the first offence *Ten Dollars*, to be recovered in the usual way, or in default of payment, then the offender may be sent to the common gaol, with or without hard labor, for any period not exceeding One Month; and for a second or subsequent offence, the offender may be fined in any sum not exceeding *Fifty Dollars*, to be recovered in the same usual way, or in default, be liable to imprisonment, with or without hard labor, for a period not exceeding three calendar months.

CORONER'S INQUESTS.

Inquests on convicts dying in a penitentiary.

43. Whenever a convict dies in a Penitentiary, and the Directors or the Warden, or the Surgeon, have, or any one of them has reason to believe, that the death of such convict arose from any other than ordinary causes, it shall be their or his duty to call upon a Coroner having jurisdiction, to hold an inquest upon the body of such deceased convict, and upon such requisition by one or more of the officers above named, the said Coroner shall hold such inquest, and, for that end, he and the jury and all other persons necessarily attending such inquest, shall have admittance to the prison for that purpose.

DECEASED CONVICTS.

How the body shall be disposed of.

44. The body of every convict who dies in a Penitentiary shall, if claimed by the friends or relatives of the deceased, be given up to and shall be taken away by them, but, if not so claimed, the body may be delivered up to an Inspector of Anatomy, duly appointed under any Act authorizing such appointment, or to the Professor of Anatomy in any College wherein medical science is taught, or if not so delivered shall be decently interred at the expense of the Institution.

FEMALE PRISON AND PRISONERS.

Seperate prison and female officers.

45. Until a separate Prison for females shall be erected upon any Penitentiary grounds, the female convicts shall be kept distinct and secluded from the male convicts, and shall be under the charge of a matron, with such and so many female officers as the Directors may, from time to time, see fit to order to be employed, reference being had to the number of such convicts, and the kinds of work in which they may be engaged.

MISCELLANEOUS PROVISIONS.

Exemption of officers, &c., from certain services.

46. The Warden and every officer and servant employed permanently in a Penitentiary shall, during his continuance in office, be exempt from serving as a juryman, or as a municipal or parish officer, or as a militiaman, except within the bounds of the Penitentiary.

Security to be given by officers, &c.

47. Every Warden, every Accountant, every Storekeeper, and every Steward, shall severally execute bonds to Her Majesty, with sufficient sureties that is to say, the Warden in the penal sum of eight thousand dollars, the Accountant in the penal sum of four thousand dollars, and the Storekeeper in the penal sum of two thousand dollars, and the Steward in the penal sum of one thousand dollars, conditioned for the faithful performance of the duties of their respective offices, according to law, which bonds shall be filed in the office of the Secretary of State for Canada.

Oath of allegiance to be taken by them.

48. Every Warden, and every other officer and servant employed permanently in a Penitentiary, shall severally take and subscribe in a Book to be kept for that purpose by the Accountant in his office, the oath of allegiance to Her Majesty, and the following oath of office, viz:

"I (A. B.,) do promise and swear that I will faithfully, diligently and justly serve and perform the office and duties of in the Penitentiary, to the best of my abilities; that I will carefully observe and carry out all the regulations of the Prison, and will promptly report to the Warden thereof, any infractions of them by any person whomsoever. So help me God." Form.

Which oaths any one of the Directors is hereby authorized to administer. Before whom.

49. No Director or Warden, or other officer or servant employed permanently in a Penitentiary, shall either in his own name or in the name of any other person, provide, furnish or supply for his own profit any materials, goods or provisions for the use of any Penitentiary, nor shall be concerned directly or indirectly in furnishing or supplying the same, or in any contract relating thereto, under pain of forfeiting the sum of Five Hundred Dollars, with full costs of suit, to any person who shall sue for the same in any of Her Majesty's Courts in the Province in which such Penitentiary is situated. Directors, &c not to be contractors. Penalty.

50. No Warden, officer or servant, excepting the Directors, Surgeon, and Architect, shall be allowed to carry on any trade or calling of profit or emolument other than his office in the Penitentiary; nor shall any officer buy from or sell to or for any convict, any thing whatever; or take or receive for his or her own use, or for that of any other person, any fee or gratuity or emolument from any convict or visitor or any other person; nor shall he employ any convict in working for him. Warden, &c., not to exercise any other calling.

51. It shall be lawful for the Governor in Council, from time to time to fix the sum to be annually paid to the Warden and the other officers and servants of any Penitentiary established under the provisions of this Act, regard being had to the number of convicts confined therein, and the consequent responsibility attaching to their offices respectively, and to the length of service and amount of labour devolved upon them. But such salaries shall not exceed the sums specified in the Schedule B, hereto annexed. Governor to fix remuneration, not exceeding sums in the schedule;

52. It shall be lawful for the Governor in Council to fix the sums to be paid annually to every other officer or servant of the Penitentiary. And to other servants, &c.

53. The Warden shall be a corporation sole known by the name of the "Governor of the Penitentiary," (designating the place as named in this Act, or named in any proclamation establishing a Penitentiary), and by that name he and his successors shall have perpetual succession, and may sue and be sued, may plead and be pleaded unto in any of Her Majesty's Courts. And it is hereby declared that in any suit, action or proceeding in which the Penitentiary the person holding the office of Warden for the time being shall be a competent witness, although a party to such suit, action or procedure. Warden to be a corporation sole, &c.

54. All dealings and transactions on account of any Penitentiary, and all contracts for goods, wares, or merchandise necessary for maintaining and carrying on the Institution, or for the sale of goods prepared or manufactured by the Institution, shall be entered into and carried out in the corporate name of the Warden, and all personal property belonging to the same shall be held in the corporate name of the Warden for behoof of Her Majesty. Contracts, &c., to be in his name.

55. The real property of every Penitentiary, as well as all the other property therein or thereto belonging shall remain vested in Her Majesty, but the Warden and his successors in office shall have the Real property how vested and managed.

custody and care thereof under the provisions of this Act, and all such property real and personal shall be exempt from all taxes.

General powers and duties of warden.

56. The Warden of a Penitentiary shall be the Chief Executive Officer of the same, and as such shall have the entire executive control and management of all its concerns, subject to the rules, regulations and written instructions from time to time duly made by the Directors, and in all cases not provided for, and where neither the said Directors nor any one of them can readily be consulted, the Warden shall act in such manner as he shall deem most advantageous for the Penitentiary, and he shall be held responsible for the faithful and efficient administration of the affairs of every department of the Institution. He shall reside in the Penitentiary, and shall receive such allowances as the Governor in Council may see fit to make.

ARBITRATORS.

Arbitration in case of difference between warden and contractors, &c.

57. Whenever any difference shall arise between the Warden, and any person having dealings with him on account of the Penitentiary, such difference may, by order of the Directors, be referred either to one Arbitrator, selected by the Warden and the party in difference, whose decision shall be final, or to three Arbitrators, one of whom shall be named by the Warden, and another by such other person, and a third by the two so named as aforesaid, and the award of any two of them shall be final.

Warden to collect debts, &c.

58. The Warden of a Penitentiary shall exercise due diligence in enforcing the payment of debts due to the Penitentiary, and with as little expense as possible to the Institution, but he may, with the consent of the Directors, accept of such security from any debtor on granting time, or such composition in full settlement, as may be thought conducive to the Interests of the Institution.

Books, accounts, &c., to be property of the institution. Reports.

59. All Books of Account, Bills, Registers, Returns, Receipts, Bills of Parcels and Vouchers, and all other papers and documents of every kind relating to the affairs of the Penitentiary, shall be considered the property of the Institution and shall remain therein; and the Warden shall preserve therein at least one set of copies of all official Reports made to the Parliament respecting the same, for which purpose and for the purpose of enabling him to distribute such official Reports in exchange for like documents from other similar Institutions abroad, he shall be furnished by the Clerk of the House of Commons with fifty copies of such Reports as printed by Order of the House, and so soon as they are printed.

Penalty on vessels mooring, &c., on penitentiary wharves, &c.

60. No raft, boat, vessel or craft of any kind, shall moor or anchor within three hundred feet of the shore or wharf bounding the lands of any Penitentiary towards any lake, arm of the sea, bay or river, without the permission of the Warden thereof, being first had and obtained; and any person violating the provisions of this clause, shall upon conviction thereof, before a Justice of the Peace, be subject to a penalty of *twenty dollars*, to be levied in the usual manner upon such raft, boat, vessel or craft in whomsoever the property thereof may be, as well as on the offender's own goods and chattels, and in default of payment of the same with the costs of suit, he shall be imprisoned at hard labor for a period not exceeding two months.

LIQUORS.

No spirits or tobacco allowed.

61. No spirituous or fermented liquors shall on any pretence whatever, be brought into the Penitentiary for the use of any officer or person in the Institution, except the Warden or Deputy Warden if the latter shall be resident therein, or for the use of any con-

vict confined therein, except under the Rules of the Institution; and any person giving any spirituous or fermented liquor, or tobacco, or snuff, or cigars to any convict, or conveying the same to any convict, shall forfeit and pay the sum of *forty dollars* to the Warden to be by him recovered for the use of the Prison, in any Court of competent jurisdiction. Penalty.

PENAL CELLS.

62. Whereas no system of discipline in a Penitentiary can be effectual for punishment, or for reformation of the criminal, unless it be combined with strict separate confinement during some period of the time for which the Court has sentenced him to be imprisoned, and it is therefore expedient that provision should be made in all the Penitentiaries named in this Act, and in all others hereafter to be established by virtue of this Act, for the separate confinement of every convict for a certain period of the time mentioned in the sentence of the Court by which he has been tried; Be it therefore enacted as follows: Recital.

It shall be lawful for the Governor, whenever he shall deem it expedient, to order that such and so many Penal Cells shall be constructed from time to time at any Penitentiary, as he may see fit. Penal cells may be constructed.

SHORTENING OF SENTENCE.

63. In order to encourage convicts to good behaviour, diligence and industry, and to reward them for the same, it shall and may be lawful for the Directors of Penitentiaries to make rules and regulations, under which a correct record may be kept of the daily conduct of every convict in any Penitentiary, noting his industry, diligence and faithfulness in the performance of his work, and the strictness with which he observes the prison rules; with a view to permit such convict (provided he be not a life convict) to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding five days for every month, during which he shall have been exemplary in industry, diligence and faithfulness in his work, and shall not have violated any of the Prison Rules. Notes of behaviour of convicts to be kept, and for what purpose.

If any convict be prevented from labour by sickness or any other infirmity, not intentionally produced by himself, he shall be entitled, by good conduct, to two and a half days remission from his sentence every month. Case of sickness provided for.

ROCKWOOD LUNATIC ASYLUM.

64. The Act passed by the late Province of Canada, in the twenty-second year of Her Majesty's reign, being chapter one hundred and eight of the Consolidated Statutes of the late Province of Canada, intituled "An Act respecting a Lunatic Asylum for Criminal Convicts," is hereby repealed. Cap. 108 of Con. Stat. Can. repealed.

65. It is hereby declared, that the Lunatic Asylum situated at Rockwood, near Kingston, in the County of Frontenac, in the Province of Ontario, together with all the tract and parcel of land belonging thereto, as now known to be measured and bounded, and all buildings on the said piece of land erected, or hereafter to be erected, shall be, and form part of the Kingston Penitentiary, and be called "Rockwood Asylum." Rockwood Asylum to be part of the Penitentiary;

66. Every piece or parcel of land hereafter to be acquired by Her Majesty, for the uses and purposes of Rockwood Asylum, upon proclamation by the Governor, published in manner herein above set forth, defining the limits and boundaries thereof, shall also form part of the Kingston Penitentiary. And any further ground acquired for it.

67. It shall be lawful for the Directors to have, use, and exercise all the privileges and powers granted to them by this Act, and they shall perform all the duties made incumbent upon them hereby, with respect to the government, management and maintenance of Rockwood Duties and powers of directors as to asylum.

Asylum, and of the lunatics confined therein, as are conferred or rendered obligatory upon them with respect to Penitentiaries, subject to such instructions as shall be from time to time by them received from the Governor.

Removal of insane convicts to the asylum; how to be determined and effected.

68. Should it at any time appear to the Surgeon of the Kingston Penitentiary, that any convict confined therein is insane, and that it is desirable that such convict should be removed to Rockwood Asylum, he shall report the fact to the Warden of the Penitentiary, who upon receipt of such report, shall immediately desire the Medical Superintendent of Rockwood Asylum to meet the said Surgeon, of the Penitentiary, at the said Penitentiary, at an early day by the Warden fixed for the purpose, and the Surgeon and the Medical Superintendent shall consult together, and determine as to the sanity or insanity of such convict, either at their first or at any subsequent consultation as they may see fit, and should they be jointly of opinion that such convict is of unsound mind and ought to be removed to Rockwood Asylum, they shall report the same in writing to the Warden of the Penitentiary, on which Report the said Warden shall forthwith remove such convict to Rockwood Asylum, and shall report the whole proceedings taken in the case to the Directors at their next meeting at the Penitentiary. And such convict shall be received into Rockwood Asylum, and be there safely kept, until he shall be remanded back to the Penitentiary, or until the expiration of his sentence, or until otherwise discharged, as hereinafter provided.

Case of recovery of convict before the expiration of his sentence.

69. If at any time before the termination of the sentence of such convict, it be certified to the said Warden by the Medical Superintendent of Rockwood Asylum, that such convict has recovered his reason, and is in a fit state to be sent back to the Penitentiary, the said Governor shall desire the Surgeon of the Penitentiary to meet the said Medical Superintendent at Rockwood Asylum, and after examination of such convict by the said Surgeon and Medical Superintendent, if they shall jointly be of opinion that such convict has again become of sound mind, they shall make report of the same to the Warden, who thereupon shall convey such convict back to the Penitentiary, therein to be detained until the expiration of his sentence.

Expiration thereof while still in the Asylum.

70. If the term of imprisonment of any convict shall expire while such convict is detained in Rockwood Asylum as insane, he may nevertheless continue to be detained therein, but the fact of and reason for his detention shall be notified in writing by the Medical Superintendent to the Secretary of State, and to the Warden.

Convict becoming sane after expiration of his sentence.

71. Should the said Convict at any time after the termination of his sentence become of sound mind, it shall be the duty of the Medical Superintendent, thereupon, to discharge him and to report the fact to the Secretary of State, or if at any time after the termination of his sentence and before his recovery, it shall seem fit to the Governor to order his being given up to any person or persons named in a warrant signed by the Secretary of State, the Medical Superintendent shall upon receipt thereof, deliver the said convict to such person or persons, and the receipt of such person or persons for the body of such convict, shall be sufficient discharge to the said Medical Superintendent.

Officers of Rockwood Asylum.

72. It shall be lawful for the Governor to appoint the following officers of Rockwood Asylum, to wit.:

The Medical Superintendent; the Assistant Medical Superintendent, (whenever there shall be a sufficient number of lunatic patients in the Asylum as, in the opinion of the Governor, to render the services of such an officer required); and the Accountant. And it shall be lawful for the Directors to suspend from office any one of the above named officers for misconduct, incapacity or inef-

ficiency, but they shall make immediate report of such suspension and the cause thereof to the Secretary of State, for the information of the Governor, and such officer shall be and remain so suspended until the pleasure of the Governor shall be made known to the Chairman of Directors.

Matron and Steward.

73. It shall be lawful for the said Directors to appoint a Matron and a Steward for said Asylum, who may for cause, be suspended from office by the Medical Superintendent, by whom report of the facts of the case shall be made to the Directors, at their next meeting at the Asylum, for their consideration and decision.

Male and female officers.

74. It shall be lawful for the Medical Superintendent to appoint such and so many other male and female officers, with the consent in writing of the Directors, as the Directors may consider necessary for the service of the Institution, any of whom may be removed by the Medical Superintendent at pleasure, or by the Directors for cause.

His salary.

75. The salary of the Medical Superintendent shall be as set forth in Schedule B., to this Act annexed.

Salaries and allowances of him and others

76. It shall be lawful for the Governor in Council, to fix such allowances to the Medical Superintendent and such salaries and allowances to the other officers of the Rockwood Asylum as the Governor may from time to time think reasonable, regard being had to the number of insane persons confined in said Asylum, and to the officer's length of service.

1st Session, 1st Parliament, 31 Vic., 1867-8.

BILL.

An Act respecting Penitentiaries, and the Directors thereof, and for other purposes.

Received and read first time, Tuesday, 17th March, 1868.
Second reading, Friday, 20th March, 1868.

Hon. Sir John A. Macdonald.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 44.] BILL. [1868.

An Act respecting Controverted Parliamentary Elections.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1.—ELECTION PETITIONS AND THEIR RECEPTION.

What shall be deemed an Election Petition.

1. Every Petition presented to the House of Commons of Canada, within the time hereinafter for that purpose limited with respect to such Petition, and complaining of an undue election or return of a Member of the House, to serve in Parliament; or complaining that no return has been made according to the requisition of any Writ issued for the election of a Member to serve in Parliament; or complaining of the special matters contained in any such return,—and subscribed by some person who voted or had a right to vote at the Election to which the same relates, or by some person claiming to have had a right to be returned or elected thereat, or alleging himself to have been a Candidate at the Election,—shall be deemed an Election Petition.

When to be presented, if arising out of an election held in consequence of the expiration or dissolution of a Parliament.

2. In the case of every such Election Petition arising out of an Election held in consequence of the expiration or dissolution of any Parliament, such Election Petition shall be presented to the House of Commons within the first fourteen days of the Session of Parliament commencing or being held on or next after the Return Day of the Writ under which such Election was held; provided the House has on the last of such fourteen days entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; And if the House, in such last-mentioned case, has not entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented upon the first day thereafter upon which the House has entered upon and gone through with such head or division of the said daily routine as aforesaid.

When to be presented, if arising out of an election held otherwise than in consequence of the

3. In the case of every such Election Petition arising out of any Election held otherwise than in consequence of the expiration or dissolution of any Parliament, if the day on which the Return upon such Election is brought into the office of the Clerk of the Crown in Chancery is a day on which Parliament

expiration or dissolution of a Parliament—the Return being made when Parliament is not in Session or on one of the last 14 days of a Session.

is not in Session, or is one of the last fourteen days of any Session, then, and in every such case, such Petition shall be so presented within the first fourteen days of the Session of Parliament commencing and held next after the day on which such Return has been so brought into the office of the Clerk of the Crown in Chancery, provided the House has, on the last of such last mentioned fourteen days, entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; And if the House, in such last mentioned case, has not entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented to the House upon the first day thereafter upon which the House has entered upon and gone through with such head or division of the said daily routine as aforesaid.

When to be presented, if Parliament is in Session at the time of the Return, and sit 14 days afterwards.

4. In the case of every Election Petition arising out of an Election held otherwise than in consequence of the expiration or dissolution of any Parliament, if the day on which the Return upon such Election is brought into the office of the Clerk of the Crown in Chancery is a day on which Parliament is in Session, but not one of the last fourteen days of any such Session, then, and in every such case, such Petition shall be so presented within the first fourteen days next after such return has been so brought into the office of the Clerk of the Crown in Chancery, provided the House has, on the last of such fourteen days, entered upon and gone through with the said head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; And if the House, in such last mentioned case, has not entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented upon the first day thereafter upon which the House has entered upon and gone through with such head or division of the said daily routine as aforesaid.

Petition may be presented and brought up at any period of the day, as a matter of privilege.

5. Nothing herein contained shall preclude the presenting and bringing up of any such Election Petition, as a matter in which the privileges of the House are concerned, during any part of any day on which such Election Petition might be presented and brought up, according to the provisions of the next preceding three sections of this Act, by reason merely of the routine period for presenting and bringing up such Petition such day having passed, provided the same is so presented and brought up at a time and in the manner agreeable in other respects to the orders and practice of the House.

What shall not be a Session within the meaning of this Act.

6. No Session of Parliament which has not lasted for fifteen days at the least, including the day of its meeting and the day of its prorogation, shall be deemed a Session thereof, within the meaning of the second, third and fourth sections of this Act, or any of them.

Longer periods allowed for presenting Petitions complaining of bribery or corruption.

7. If any such Election Petition contains any allegation of bribery or corruption, with a specific allegation of any payment of money or other reward having been made by any Member, or on his account, or with his privity, since the time of the return of the Writ under which such Election was held, in pursuance or in furtherance of such bribery or corruption, then, and in every such case, twenty-eight days shall be allowed instead of fourteen days for the presenting of such Petition, which twenty-eight days shall in all such cases be reckoned from the day of such payment, exclusive of such day:

2. And in all the cases in which, by the five next preceding sections of this Act, a further time is allowed beyond the fourteen days therein and thereby limited for presenting and bringing up Election Petitions not containing any such charge as bribery or corruption as aforesaid, a like further time shall be allowed beyond the said twenty-eight days herein limited for presenting and bringing up Election Petitions containing any such charge of bribery or corruption as aforesaid;

3. And all the provisions hereinbefore contained for such purpose in the second, third, fourth and fifth sections of this Act, shall apply as if the same had been here repeated *mutatis mutandis*, in respect of Election Petitions containing any such charge of bribery or corruption as aforesaid, and the said twenty-eight days hereby allowed for the presenting and bringing up of the same, as aforesaid.

No Petition to be deemed an Election Petition unless presented in due time.

8. No Petition, although otherwise within the description of an Election Petition contained in the first section of this Act, shall be deemed to be an Election Petition within the meaning of the same, unless it has been presented to the House, within the time for that purpose limited with respect to such Petition, by the provisions contained in the six next preceding sections of this Act.

On what conditions a Petition may be withdrawn.

9. The Petitioner may, at any time after the presentation of his Election Petition, withdraw the same, upon giving notice in writing under his hand or under the hand of his agent to the Speaker, and also to the sitting Member or his agent, and also to any party who has been admitted to oppose the prayer of such Petition, that it it is not intended to proceed with the Petition; and in such case, the Petitioner shall be liable to the payment of such costs and expenses as have been incurred by the sitting Member or other party complained of in such Petition, and also by any party admitted to oppose the prayer of such Petition, to be taxed as hereinafter provided.

2.—RECOGNIZANCES.

Security for costs to be

10. Before any Election Petition shall be presented to the House, a Recognizance shall be entered into by one, two, three

given before the Petition is presented.

or four persons, as sureties for the person subscribing such Petition, for the sum of eight hundred dollars, in one sum, or in several sums of not less than two hundred dollars each, for the payment of all costs and expenses which, under the provisions herein contained, may become payable by the person subscribing the Petition, to any witness summoned in his behalf, or to the sitting Member or other the party complained of in such Petition, or to any party admitted to defend such Petition, as hereinafter provided, or to any person who, on the application of such Petitioner for the issue of a Commission to take evidence on such trial, is appointed a Commissioner for that purpose, or to any Clerk, Bailiff or other Officer employed by such Commissioner, in or about, or in any way relating to the execution of the Commission issued to him in that behalf; And such recognizance may be in the form or to the like effect as is set forth in the Schedule to this Act annexed, marked A (1), with such alterations as are necessary to adapt such form to the circumstances of the case.

Amount and form of Recognizance, &c.

Security for costs to be given by sitting members demanding a Commission.

11. Before any application shall be made to any Select Election Committee appointed under this Act, on the part of any sitting Member interested or concerned in any such Election Petition, for the issuing of a Commission to take evidence upon the trial thereof, a Recognizance shall be entered into by one, two, three or four persons, as sureties for such sitting Member, for the sum of four hundred dollars, in one sum, or in several sums of not less than one hundred dollars each, for the payment of all costs and expenses which, under the provisions herein contained, may become payable by such sitting Member to any Commissioner appointed for taking such evidence for such trial, or to any Clerk, Bailiff or other Officer employed by such Commissioner, in or about or in any way relating to the execution of such Commission:

Amount and form of Recognizance, &c.

Recognizance to be entered into before Speaker or Justice of the Peace, with affidavits of sufficiency of sureties.

2. Such Recognizance shall be entered into before the Speaker or a Justice of the Peace, as is herein provided with respect to other Recognizances to be entered into under this Act, and shall be accompanied by Affidavits of the sufficiency of the sureties, as is provided with respect to the same, or a deposit of money may be made in lieu of such Recognizance, or a deposit of money in lieu of some part of the amount required to be so secured, and a Recognizance for the residue thereof shall be made and entered into, as is hereby provided with respect to such other Recognizance; and such Recognizance may be in the form or to the like effect as is set forth in the Schedule to this Act annexed, marked A (2), with such alterations as are necessary to adapt such form to the circumstances of the case.

Parties entering into Recognizances, to justify their sufficiency on oath.

12. Any person who enters into any such Recognizance shall testify upon oath in writing, to be sworn at the time of entering into the said Recognizance, and before the same per-

son by whom his Recognizance is taken, that he is seized or possessed of real or personal estate (or both) above what will satisfy all his just debts, of double the clear value of the sum for which he is bound by his said Recognizance;—and every such affidavit shall be endorsed upon or annexed to the Recognizance, and such affidavit may be in the form or to the like effect as is set forth in the Schedule to this Act annexed marked A (4), with such alterations as are necessary to adapt such form to the circumstances of the case.

Sureties to be mentioned by their names and additions.

13. In every such Recognizance and affidavit of sufficiency of sureties, shall be mentioned the christian and surnames in full, and the usual places of residence or business of the persons becoming sureties as aforesaid, with such other description of the sureties as may be sufficient to identify them easily.

Recognizance to be entered into before the Speaker or Justice of the Peace.

14. Every Recognizance hereinbefore required shall be entered into, and every Affidavit of sufficiency of sureties hereinbefore required shall be sworn, before the Speaker of the House, or a Justice of the Peace; and the Speaker and also every Justice of the Peace may take the same; And every such Recognizance and Affidavit taken before a Justice, being duly certified under the hand of such Justice, shall be delivered to the said Speaker, who shall thereupon cause the same, as well as all such Recognizances and Affidavits taken before himself, to be filed in the office of the Chief Clerk of the House, for the information of the House and its Committees, and of all parties concerned or interested in the same.

Money may be deposited instead of giving Recognizance.

15. Any person by whom an Election Petition is signed, or any such sitting Member by whom an application for the issue of a Commission to take evidence as aforesaid is about to be made, may, instead of procuring a Recognizance for the amount or the full amount of the sums of eight hundred dollars and four hundred dollars respectively, hereinbefore required for such purpose, pay into the hands of the Chief Clerk of the House, for the like purposes for which such Recognizance is hereinbefore required, either the whole or any part of such eight hundred or four hundred dollars, as the case may be, which he thinks fit, not being less than two hundred dollars;—and in such case such person shall, if the whole of such sum be paid in, be required to find no sureties for such purpose, and if a part only of such sum be paid in, he shall then be required to find sureties for so much only of the said sum of eight hundred dollars or of four hundred dollars respectively, as the sum paid into the hands of the Chief Clerk as aforesaid falls short of such eight hundred dollars or four hundred dollars, as the case may be:

How such money shall be so dealt with.

2. Every sum so paid into the hands of the Chief Clerk as aforesaid, shall be carried by him to the credit of an account to be opened by him with the Speaker of the House by his name of office, and shall be paid out by the Chief Clerk

for the time being, from time to time, in discharge of such Warrants as may from time to time be issued for that purpose upon him by the Speaker of the House for the time being, in pursuance of the provisions of this Act; and the said Chief Clerk shall preserve in his books a remembrance of the Petition upon which every such sum of money has been paid into his hands as aforesaid, as the same has been stated by the party paying in the same, and shall grant to such party a receipt or certificate for the same.

Such money not to be deemed paid until a receipt or certificate is delivered to the Speaker.

16. No money shall be deemed, for the purposes of this Act, to have been paid into the hands of such Chief Clerk until such receipt or certificate is procured and delivered to the Speaker of the House, who shall thereupon cause a copy of the same, certified under his hand, to be filed in the office of the Chief Clerk of the House, for the information of the House and its Committees, and of all parties concerned or interested in the same, and shall thereupon re-deliver the original of such receipt or certificate with a Memorandum under his hand of the same having been delivered to him according to the provisions of this Act, to the party by whom the same was so delivered to him as aforesaid.

Petition not to be received unless the Speaker's certifieate of Recog ı z-ance or deposit be endorsed thereon.

17. No Election Petition shall be received unless, at the time it is presented to the House, it be endorsed with a certificate under the hand of the Speaker, that the Recognizance hereinbefore required has been entered into and received by him, with the required Affidavit of sufficiency of sureties thereunto annexed or endorsed,—or that the Chief Clerk's receipt or certificate for the amount of such Recognizance has been delivered to him,—or that a Recognizance with Affidavits of sufficiency for part, and the Chief Clerk's receipt or certificate for the residue of such amount, has been so delivered to him as aforesaid.

What must be certified and done before an application by sitting Member for a commission to take evidence can be entertained.

18. No application shall be entertained by any Select Election Committee under this Act, on the part of any Sitting Member interested or concerned in any such Election Petition, for the issue of any Commission to take evidence upon such trial, unless, at the time of such application there be produced to such Select Committee copies,—certified under the hand of the Speaker or the Chief Clerk of the House, to be true copies of the same,—of the Recognizance herein required, to be entered into on behalf of such sitting Member,—of all affidavits by which the sufficiency of the sureties in such Recognizance has been established,—or of the Chief Clerk's certificates of the deposit of money in lieu of such Recognizance,—or of such Recognizances and Affidavits for any part of such amount, and of the Chief Clerk's certificates for the residue thereof, as the fact is,—together with an affidavit from such Sitting Member, that he is acquainted with the persons who have entered into such Recognizance, if any have been given as

aforesaid, and that he has reason to believe, irrespective of having the same sworn to by such persons, and that he does verily believe that such persons are worth the amounts respectively stated by them in their said Affidavits of sufficiency respectively;—And every such Recognizance shall have the same requirements as to the names and description of parties and the manner of taking the same, as is hereinbefore provided with respect to the Recognizances required of Petitioners.

Objections to Recognizances of or on behalf of sitting Member, how to be heard and disposed of.

19. In case, at the time of any such application on the part of the sitting Member for the issue of any such Commission as aforesaid, it shall be objected on the part of the Petitioners in such Election Petition, that the sureties of such sitting Member, or any of them, are not really worth the amounts stated in their affidavits of sufficiency respectively,—or that such Recognizance is objectionable upon similar grounds to those hereinafter mentioned in the twenty-first section of this Act, or any of them, or any other that shall appear to the Select Committee to require explanation or correction,—the Select Committee may, if upon hearing the parties they deem it just to do so, give time to such Petitioner to make good such objection, and make such orders from time to time as to the same, and as to the putting in of new Recognizances or a deposit of money in lieu thereof or part thereof, and as to the justification of the sufficiency of the persons entering into any such Recognizances,—as to such Select Committee shall appear just in the premises:

Order made to bind all parties.

2. And all such orders shall be binding upon the parties interested or concerned in such Election Petition, and the neglect of any party to obey the same shall be attended with such consequences in respect of the same, and the prosecution or defence of his case before the Select Committee, and the payment of costs to the party or parties inconvenienced or delayed,—which shall be taxed and recovered as hereinafter provided for the costs and expenses of prosecuting or opposing Election Petitions,—as the Election Committee thinks fit to order and direct in that behalf;—or the payment of such costs and expenses may be made a condition to allowing the party to proceed with his prosecution or defence if the Select Committee think fit so to order and direct;

Proviso.

3. But, nevertheless, no such sitting Member shall obtain the benefit of any evidence taken on his behalf under any such Commission, until he has perfected the security hereby required in that behalf, either by Recognizance or deposit as hereinbefore provided, and has obtained an order of the Select Election Committee allowing the same as sufficient.

Names of sureties, &c., to be entered by the Clerk in a book.

20. On or before the day when any such Petition is presented to the House, or when notice of the intention of any sitting Member to apply to the Select Committee for the trial of such Elec-

tion Petition for the issue of a Commission to take evidence upon such trial, has been served on the Petitioners,—the names and descriptions of the sureties, where there are sureties, as set forth in the Recognizance, and the amount of the Chief Clerk's receipts or certificates of deposits in lieu of the Recognizance, shall be entered in a book to be kept by the Chief Clerk of the House in his office, and the said book and also the Recognizance and Affidavits, and the Chief Clerk's said receipts or certificates, shall be open to the inspection of all parties concerned.

Objections to Recognizances of Petitioners may be taken by siting member, or electors supporting his election.

21. Any sitting Member petitioned against, or any Electors petitioning and admitted parties to defend the election or return, may object to any such Recognizance on the ground that the same is invalid,—or that the same was not duly entered into or received by the Speaker, with the affidavit thereunto annexed or endorsed as hereinbefore required,—or on the ground that the sureties or any of them are insufficient,—or that a surety is dead, or that he cannot be found or ascertained for the want of a sufficient description in the Recognizance,—or that a person named in the Recognizance has not duly acknowledged the same:

Proviso: Ground of objection to be in writing by the eleventh day.

2. Provided, firstly, that the ground of objection shall be stated in writing under the hand of the objecting party or his agent, and shall be delivered to the Speaker of the House, within ten days, or not later than twelve o'clock at noon of the eleventh day after the presentation of the Petition;

Proviso—in case the eleventh day is a holiday.

3. Secondly, that if such eleventh day happens to be a Sunday or other Statutory Holiday, such notice of objection may be delivered to the Speaker not later than twelve o'clock at noon of the following day, or of the first day thereafter which is not a Sunday or Statutory Holiday;

Proviso: objection to be filed in Clerk's office.

4. And thirdly, that the Speaker shall thereupon cause the said objection to be forthwith filed in the office of the Chief Clerk of the House, for the inspection of the House and its Committees, and of all parties concerned or interested in the same.

Notice of objection to be posted up.

22. As soon as any such statement of objection is received by the Speaker, he shall cause the Chief Clerk of the House to put up an acknowledgment thereof in some conspicuous part of his office, and shall appoint a day for hearing such objections, not less than three nor more than five days from the day on which he received such statement; and the Petitioner and his agent shall be allowed to examine and take copies of every such objection.

Speaker to decide on objections.

23. At the time appointed, the Speaker shall enquire into the alleged objections, on the grounds stated in the notice of

objection, but not on any other ground; And for the purpose of such enquiry, he may examine upon oath any persons tendered by either party for examination by him, and may also receive in evidence any affidavit relating to the matter in dispute before him, sworn before him, or before any Justice of the Peace;—And the said Speaker may, if he thinks fit, adjourn the said enquiry from time to time until he decides on the validity of such objection, and he may if he thinks fit, award costs to be paid by either party to the other, which costs shall be taxed and recovered as hereinafter provided for the costs and expenses of prosecuting or opposing Election Petitions: And the decision of the Speaker shall be final and conclusive against all parties.

Provision in case of death of any surety.

24. If any surety dies and his death is stated as a ground of objection before the end of the time allowed for objecting to Recognizances, the Petitioner may pay into the hands of the Chief Clerk of the House on the account of the Speaker, the sum for which the deceased surety was bound; and upon the delivery of the receipt or certificate of the said Chief Clerk for such sum to the Speaker, within three days after the day on which the statement of such objection was delivered to the said Speaker, the Recognizances shall be deemed unobjectionable if no other ground of objection thereto be stated within the time before mentioned for stating objections to Recognizances.

Speaker to report his decision to the House, and it shall be final.

25. If the Speaker has received any statement of objection to the Recognizances of any such Election Petition, and has decided that such Recognizances are objectionable, he shall forthwith report to the House that such Recognizances are objectionable;—but if he has decided that such Recognizances are unobjectionable, or if he has not received any such statement of objection, then, as soon as the time hereinbefore allowed for stating any such objection has elapsed after the presentation of the Petition, or as soon thereafter as he has decided upon the statement of objection, he shall report to the House that the Recognizances to such Petition are unobjectionable; and every such report shall be final and conclusive to all intents and purposes;—And the Chief Clerk of the House shall make out a list of all Election Petitions on which the Speaker has reported to the House that the Recognizances are unobjectionable, in which list the Petitions shall be arranged in the order in which they are so reported upon; and a copy of such list shall be kept in the office of the said Chief Clerk, and shall be open to the inspection of all parties concerned or interested in the same.

3.—ADMISSION OF PARTIES TO DEFEND.

Proceedings when the con-

26. If at any time before the appointment of a Select Committee, as hereinafter provided, to try any Election Petition, the

tested seat becomes vacant, or the sitting Member declinesdefending it before the appointment of the Select Committee.

Speaker of the House is informed by a certificate in writing, subscribed by two of the Members of the House,—of the death of any sittingMember whose election or return is complained of in such Petition,—or of the death of any Member returned upon a double return, whose election or return is complained of in such Petition,—or if the House has resolved that the seat of any such Member has by law become vacant,—or if the House be informed by a declaration in writing, subscribed by any such Member and delivered to the Speaker within fourteen days after the day on which the Petition was presented, (whether such fourteen days or any of them occur during a Session of Parliament or during a prorogation thereof,) that it is not the intention of such Member to defend his election or return,—in every such case, notice thereof shall immediately be sent by the Speaker to the General Committee of Elections, and to the Members of the Chairmen's Panel hereinafter mentioned, and also to the Sheriff or other Returning Officer for the Electoral District, to which such Petition relates;—and such Sheriff or other Returning Officer shall cause a true copy of such notice to be affixed in some conspicuous place in or near to the place where the nomination for such election was held;—and such notice shall also be inserted by order of the Speaker, in one of the next two numbers of the Canada Gazette, and shall, as soon as may be, be communicated by him to the House.

Voters may, within a certain period, petition for leave to defend the return or to oppose the petition against it.

27. At any time within fourteen days after the day on which any Election Petition was presented,—or within twenty-one days after the day on which any notice was inserted in the Gazette to the effect that the seat was vacant, or that the Member returned will not defend his election or return,—or if either of the said periods expire during a prorogation of Parliament, or during an adjournment of the House for any period exceeding seven full days exclusive of the day of adjournment and the day of meeting according to such adjournment, and if he has not done so before, then on the first day on which the House meets after such prorogation or adjournment, provided the House on such first day has entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions,—and if the House in such last mentioned case has not entered upon and gone through with such head or division of the said daily routine of such first day, then, and in every such case, upon the first day thereafter upon which the House has entered upon and gone through with such head or division of the said daily routine as aforesaid,—Any person who voted or had a right to vote at the Election to which the Petition relates, may petition the said House, praying to be admitted as a party to defend such return, or to oppose the prayer of such Petition; and such person shall thereupon be admitted as a party, together with the sitting Member if he be then a party, against such Petition, or in the room of such Member if he be not then a party against the Petition, and every such Petition

shall be referred by the House to the General Committee of Elections hereinafter mentioned :

2. Provided, nevertheless, that nothing herein contained shall preclude the presenting or bringing up of such Petition of any such party during any part of any day on which such Petition might be presented as is provided by the fifth section of this Act respecting Election Petitions : Proviso.

28. Whenever the Member whose election or return is so complained of in such Election Petition, has given notice as aforesaid of his intention not to defend the same, he shall not be afterwards allowed to appear or act as a party against such Petition in any proceedings thereupon, and he shall also be restrained from sitting in the House, or voting therein on any question, until such Petition has been decided upon. Member declining to defend, not to sit or vote until Petition is decided upon.

29. Before any such Petition for permission to defend shall be presented to the House, a Recognizance shall be entered into on the part of such Petitioner by one, two, three or four persons as sureties for the persons subscribing such Petition, for the sum of four hundred dollars in one sum, or in several sums of not less than one hundred dollars each, for the payment of all costs and expenses which under the provisions herein contained may become payable by the person subscribing such Petition, to any witness summoned in his behalf, or to the person subscribing the Election Petition to which such person prays permission to appear for the purpose of defence as aforesaid, or to any person who, upon the application of such first mentioned Petitioner for the issue of a Commission to take evidence upon the trial of such Election Petition, is appointed a Commissioner for that purpose, or to any Clerk, Bailiff or other Officer employed by such Judge or Commissioner, in or about or in any way relating to the execution of the Commission issued to him in that behalf: Voters petitioning for leave to defend to give security. Form of Recognizance.

2. And such Recognizance shall be entered into before the Speaker or a Justice of the Peace, as is herein provided with respect to other Recognizances to be entered into under this Act, and shall be accompanied by affidavits of the sufficiency of the sureties, as is provided with respect to the same ; and the same may be in the form or to the like effect as is set forth in the Schedule to this Act annexed, marked A (3), with such alterations as are necessary to adapt such form to the circumstances of the case ; or a deposit of money may be made in lieu of such Recognizance ; or a deposit of money in lieu of some part of the amount required to be so secured, and a Recognizance for the residue thereof shall be made and entered into, as is hereby provided with respect to such other Recognizance, which shall be accompanied by affidavits of sufficiency from the sureties, and an affidavit of belief in such sufficiency, made by such Petitioner for permission to defend, How to be entered into. Money may be deposited instead.

as is hereinbefore provided with respect to the Recognizance to be entered into on behalf of any such sitting Member as aforesaid;

Proviso.

3. Provided always, nevertheless, that all objections to such sureties or the manner in which they have been put in, shall be heard and disposed of by the Select Election Committee for the trial of such Election Petition, in the same manner and subject to the like powers and provisions, as well respecting costs and the payment and recovery thereof, as respecting all other matters connected with the enquiry into and allowance of the sufficiency of such sureties, as is herein provided with respect to the Recognizance hereby required to be entered into by any such sitting Member as aforesaid.

Provision in case of double return, when the member petitioned against does not defend his return.

30. If, in the case of an Election Petition complaining of a double Return, the Member whose return is complained of in such Petition has given notice as aforesaid, that it is not his intention to defend his return; and if no party—within the period hereinbefore allowed for that purpose—has been admitted to defend such return, then, if there be no Election Petition complaining of the other Member returned on such double return, the last mentioned Member, or other the persons who subscribed the Petition complaining of such double return, may withdraw such Petition by letter addressed to the Speaker; and thereupon the order for referring such Petition to the General Committee of Elections shall be discharged, and the House shall give the necessary directions for amending the said double return, by taking off the file the return of the person so declining to defend his return, or otherwise, as the case may require.

4.—GENERAL COMMITTEE OF ELECTIONS.

General Committee of election to be named by the Speaker; how and when.

31. In the first Session of every Parliament, on the first meeting of the House of Commons on or next after the fifteenth day of such Session,—and in every other Session, as soon as convenient after the commencement of the Session,—the Speaker shall, by Warrant under his hand, appoint *six* Members of the House against whose return no Petition is then depending, and none of whom is a Petitioner complaining of any election or return, to be Members of a Committee to be called, "The General Committee of Elections," and every such Warrant shall be laid on the table of the House, and if not disapproved of by the House in the course of the three next days on which the House meets for the despatch of business, shall take effect as an appointment of such General Committee.

Nomination, how corrected, if the House disapproved of it.

32. If the House disapproves of any such Warrant, the Speaker shall, on or before the third day on which the House meets after such disapproval, lay upon the Table of the House, a new Warrant for the appointment of *six* Members qualified

as aforesaid, and so from time to time, until *six* Members have been appointed by a Warrant not disapproved by the House.

33. The disapproval of the Warrant may be either general in respect of the constitution of the whole Committee, or special in respect of any Member or Members named in the Warrant. Disapproval may be general or special.

34. The Speaker may, if he thinks fit, name in the second or any subsequent Warrant, any of the Members named in any former Warrant whose appointment has not been specially disapproved by the House as aforesaid. Members, not disapproved, may be named again.

35 .After the appointment of the General Committee, every Member appointed shall continue to be a Member of the Committee until the end of that Session of Parliament, or until he ceases to be a Member of the House, or until the General Committee reports that he is disabled by continued illness from attending the Committee, or until the Committee is dissolved as hereinafter provided. Duration of appointment.

36. In every case of vacancy in the General Committee of Elections, the Speaker, on the first day on which the House meets after such vacancy is known by him, shall make known the vacancy to the House, and thereupon all proceedings of the General Committee shall be suspended until the vacancy is supplied as hereinafter provided. Vacancies to suspend the proceedings of the Committee.

37. If the General Committee of Elections at any time reports to the House, that by reason of the continued absence of more than two of its members, or by reason of irreconcilable disagreement of opinion, the said Committee is unable to proceed in the discharge of its duties, or if the House resolves that the General Committee of Elections be dissolved, the General Committee shall be thereby forthwith dissolved. Committee may be dissolved in certain cases.

38. Every appointment to supply a vacancy in the General Committee, and every re-appointment of the General Committee after the dissolution thereof, shall be made by the Speaker by Warrant under his hand, laid upon the table of the House, on or before the third day on which the House meets after the dissolution of the Committee, or notification of the vacancy, as the case requires, and the Warrant shall be subject to the disapproval of the House in the like manner as is hereinbefore provided in the case of the first Warrant for the appointment of the General Committee ;—and upon any re-appointment of the General Committee, the Speaker may, if he thinks fit, re-appoint any of the Members of the former Committee not disqualified to serve on it. Vacancies in Committee, how filled up.

39. The Speaker shall appoint the time and place of the first meeting of the General Committee of Elections, and the Speaker to fix time and place

of first meeting.

Members to be sworn.

Committee shall meet at the time and place so appointed; but no Member shall act upon such Committee until he has been sworn at the table of the House by the Clerk, truly and faithfully to perform the duties belonging to a member of the said Committee, to the best of his judgment and ability, without fear or favour.

Quorum of committee, four members, —must concur for certain purposes.

40. No business shall be transacted by the General Committee of Elections, unless at the least four Members thereof be then present together; and no appointment of a Select Committee by the General Committee to be made as hereinafter provided, shall be of force, unless at the least four Members then present of the General Committee agree to the appointment.

Committee to regulate their own proceedings, subject to this Act.

41. Subject to the provisions of this Act, the General Committee of Elections shall make regulations for the order and manner of conducting the business to be transacted by it.

Clerk of Committee; his appointment and duties.

42. The General Committee shall be attended by one of the Committee Clerks of the House, selected for that purpose by the Chief Clerk of the House, and such Committee Clerk shall make a minute of all the proceedings of the Committee, in such form and manner as shall from time to time be directed by the regulations or directions of the said General Committee, and a copy of the minutes so kept shall be laid from time to time before the House.

As to proceedings pending before Committee, when dissolved or suspended.

43. If at the time of the dissolution or suspension of the proceedings of the General Committee of Elections, there be any business appointed to be transacted by such General Committee on any certain day, the Speaker may adjourn the transaction of such business to such other day as to him seems convenient.

5.—PANELS.

In what cases and in what manner members may be excused from serving on Election Committees.

44. Every Member having leave of absence from the House shall be excused from serving on Election Committees during such leave; And if any Member in his place offers any other excuse, the substance of the allegations shall be taken down by the Clerk, in order that the same may be afterwards entered on the Journals, and the opinion of the House shall then be taken thereon; and if the House resolves that the said Member ought to be excused, he shall be excused from serving on Election Committees for such time as to the House seems fit, but no Member shall be so excused who does not claim to be excused before he is chosen to serve:

Members having served during the Session.

2. Every Member who has served on one Election Committee, and who, within seven days after such Committee has made its final report to the House, notifies to the Clerk of the

General Committee his claim to be excused from so serving again, shall be excused during the remainder of the Session, unless the House at any time resolves, upon the report of the General Committee, that the number of Members who have not so served is insufficient; but no member shall be deemed to have served on an Election Committee, who, on account of inability or accident, has been excused from attending the same throughout.

Members disqualified.

45. Every Member who is a Petitioner complaining of an undue election or return, or against whose return a Petition is depending, shall be disqualified to serve on Election Committees during the continuance of such ground of disqualification.

Clerk to make list of members, noting thereon those excused or disqualified.

46. The Clerk of the House shall make out an Alphabetical List of all the Members thereof, distinguishing in such list the name of every Member for the time being excused or disqualified, and shall also notice in the list every cause of such temporary excuse or disqualification, and the duration thereof;—And such list shall be openly read over in the House by the Clerk thereof, at the next meeting of the House, on or after the fifteenth day of the first Session of every Parliament, and be thereafter printed and distributed to the Members of the House with the printed votes of the House.

How the list may be corrected.

47. During three days next after the day of the openly reading of such list in the House as aforesaid, corrections may be made in such list by leave of the Speaker, if it appears that any name has been improperly left on or struck out of such list, or that there is any other error in such list.

List of Chairmen for Election Committees to be made; its effect, &c.

48. The list finally corrected shall be referred to the General Committee of Elections, and the General Committee shall therefrom select in their discretion *four, six or eight* Members whom they think duly qualified to serve as Chairmen of Election Committees, and the Members so selected shall be formed into a separate Panel, to be called the Chairmen's Panel which shall be reported to the House; and while the name of any Member is upon the Chairmen's Panel, he shall not be liable or qualified to serve on any Election Committee otherwise than as Chairman; And every Member placed on the Chairmen's Panel shall be bound to continue upon it till the end of the Session, or until he sooner ceases to be a Member of the House, or until by leave of the House he is discharged from continuing upon the Chairmen's Panel:

Proviso—as members having served as Chairmen during the Session.

2. Provided always, that every Member of the Chairmen's Panel who has served on one or more Election Committees and who notifies to the Clerk of the General Committee of Elections his claim to be discharged from continuing upon the Chairmen's Panel, shall be so discharged accordingly,—and

every such Member shall be excused from serving upon any Election Committee, either as Chairman or otherwise, during the remainder of the Session, unless in either of such cases, the House should at any time resolve, upon the report of the General Committee of Elections, that the number of Members who have not so served is insufficient;—but no Member of the Chairmen's Panel shall be deemed to have served on any Election Committee, who, on account of inability or accident, has been excused from attending the same throughout.

Remaining members to be divided into three panels.

49. After the Chairmen's Panel has been so as aforesaid selected, the General Committee shall divide the Members then remaining on such list into three Panels, in such manner as to them seems most convenient, but so, nevertheless, that each Panel may contain, as nearly as may be, the same number of Members;

Order of panels to be decided by lot; their purpose.

And they shall report to the House the divisions so made by them, and the Clerk shall decide by lot at the table the order of the Panels as settled by the General Committee, and shall distinguish each of them by a number denoting the order in which they were drawn; and the Panels shall then be returned to the General Committee of Elections, and shall be the Panels from which Members shall be chosen to serve on Election Committees.

General Committee to correct the panels when necessary.

50. The General Committee of Elections shall correct the said Panels from time to time by striking out of them the name of every Member who ceases to be a Member of the House, or who from time to time becomes entitled and claims as aforesaid to be excused from serving on Election Committees, and by inserting in one of the Panels, to be chosen by the General Committee at their discretion, the name of every new Member of the House not excused or disqualified for any of the reasons aforesaid,—and shall also from time to time distinguish in the manner aforesaid in the said Panels, the names of the Members for the time being excused or disqualified for any of the reasons aforesaid; And the General Committee shall, as often as they think fit, report to the House the Panels as corrected; and as often as the General Committee reports the said Panels to the House, they shall be printed and distributed with the votes of the House, and the names of all the Members so omitted shall be also printed and distributed with the votes.

Members obtaining leave of absence may be transferred from one panel to another.

51. When leave of absence for a limited time has been granted by the House to any Member, the General Committee of Elections may transfer the name of such Member from the Panel in which it has been placed to some other Panel subsequent in rotation, if they think fit to do so, having regard to the length of time for which such leave of absence has been granted, and to the number of Select Committees then about to be appointed.

52. Whenever any Member of the Chairmen's Panel ceases to be a Member of the House,—or is by leave of the House discharged from continuing upon the Chairmen's Panel,—or is so discharged by reason of service under the provision hereinbefore contained,—the General Committee shall forthwith select another Member to be placed upon the Chairmen's Panel in his room;—And in case it shall at any time appear to the General Committee that the Chairmen's Panel is too small, they may select one, two or three additional Members to place upon it, so nevertheless that the Chairmen's Panel shall not at any time consist of more than *eleven* Members without the leave of the House first obtained.

As to members ceasing to be such, or discharged after serving, &c.

Vacancies in members' panel, how filled.

6.---APPOINTMENT OF SELECT COMMITTEES.

53. All Election Petitions received by the House shall be referred by the House to the General Committee of Elections for the purpose of choosing Select Committees as hereinafter provided, to try such Petitions,—and the Speaker shall communicate to the House and to the General Committee, every proceeding had before him concerning the Recognizances to any Election Petition:

Petitions to be referred to General Committee, who shall choose Select Committees to try them, &c.

2. In every case in which any Election Petition is withdrawn, or the Speaker reports to the House that the Recognizances are objectionable, the order for referring such Petition to the General Committee of Elections shall be discharged, and no further proceedings shall be had upon such Petition;

Speaker to communicate the necessary information as to recognizances, &c.

3. The General Committee shall make out a list of all Election Petitions in which the Speaker has reported to the House that the Recognizances are unobjectionable, and in which the proceedings are not suspended, in which list the Petitions shall be arranged in the order in which they were so reported upon; And in every case in which the proceedings in any Petition inserted in such list are afterwards suspended, the Petition shall be struck out of the list, and shall be again inserted at the bottom of the list, at the end of such suspension of proceedings.

Lists to be made.

54. When notice of the death or vacancy of the seat of any Member petitioned against, or that it is not the intention of such Member to defend his election or return, is given to the General Committee by the Speaker as hereinbefore provided,---the General Committee shall suspend their proceedings in the matter of the Petition referred to in such notice, until twenty-one days after the day on which notice of such death or vacancy, or intention not to defend, has been inserted in the *Canada Gazette*, under the provisions hereinbefore contained; unless the Petition of some person claiming to be admitted as a party in the room of such Member be sooner referred to them.

Proceedings when notice of death, vacancy of seat, or intention not to defend, are given.

When there is more than one petition against the same return.

55. When more than one Election Petition relating to the same election or return are referred to the General Committee of Elections, they shall suspend their proceedings in the matter of all such Petitions until the report of the Speaker, respecting the Recognizance upon each of such Petitions, or such of them as have not been withdrawn, is received by them,—and upon receipt of the list of such reports, they shall place such Petitions at the bottom of the then list of Election Petitions, bracketed together, and such Petitions shall afterwards be dealt with as one Petition.

Select Committees to be chosen in order of list, and to report.

56. The General Committee of Elections shall choose the Committees to try the Election Petitions standing in the said list of Petitions, in the order in which the said Petitions stand in such list, and they shall from time to time determine how many Committees shall be chosen in each week for trying such Petitions, and the days on which they will meet for choosing such Committees, having regard to the number of Select Committees which may then be sitting for the trial of Election Petitions, and to the whole number of such Committees then to be appointed,—and they shall report to the House from time to time the days appointed by them for choosing such Committees.

Proceedings in case of prorogation before appointment of select Committee.

57. If Parliament is prorogued after any Election Petition has been presented, but before the appointment of a Select Committee to try such Petition, the General Committee of Elections appointed in the following Session shall, within two days after their first meeting, in case the sureties have been then reported unobjectionable, appoint a day and hour for selecting a Committee to try the Petition so standing over as aforesaid :

Proviso : if the number of petitions be very great.

2. Provided always, that if the number of Petitions so standing over be so great that the times for selecting Committees to try the whole thereof cannot in the judgment of the General Committee be conveniently appointed within two days after their first meeting, the said General Committee shall, within two days after their first meeting, appoint the times for selecting Committees to try so many of the said Petitions as the said General Committee deems convenient, and shall afterwards from time to time, as soon as conveniently may be, appoint the times for selecting the Committees to try the remainder of such Petitions.

Notice to be given before the Select Committee is chosen in any case.

58. Notice of the time and place at which the Committee will be chosen to try any Election Petition shall be published, with the printed votes, not less than eight days before the day on which such Committee is appointed to be chosen ; And in case the conduct of the Returning Officer is complained of, such notice shall be sent to him through the Post not less than fourteen days before the day on which such Committee is appointed to

be chosen ; And every such notice shall direct all parties interested to attend the General Committee of Elections by themselves or their agents, at the time and place appointed for choosing the Select Committee ; And if after such notice has been published with the printed votes, or sent to the Returning Officer as aforesaid, the proceedings in the matter of such Petition become suspended, notice of such suspension shall be immediately published with the printed votes, and in case the conduct of the Returning Officer is complained of, such notice shall be sent to him through the Post.

Proceedings when there is no party who defends the return.

59. If notice of the death or vacancy of the seat of any Member petitioned against, or that it is not the intention of such Member to defend his election or return, has been inserted in the *Canada Gazette* by order of the Speaker as hereinbefore provided, and no party has been admitted to defend such election or return,—then if the conduct of the Returning Officer is not complained of in such Petition, it shall not be necessary to insert such Petition at the bottom of the then list of Petitions, but the General Committee of Elections shall meet for choosing the Select Committee to try such Petition, as soon as conveniently may be after the expiration of the time allowed for parties to come in to defend such election or return ; And not less than one day's notice of the time and place appointed for choosing such Committee shall be given in the printed votes of the House, and in such case it shall not be necessary to deliver to the Chairman of the Select Committee for the trial of such Election Petition, a list of the voters intended to be objected to as hereinafter is required in other cases, unless the same is specially ordered by such Select Committee.

Day appointed for choosing Committee may be changed.

60. The General Committee of Elections may change the day and hour appointed by them for choosing a Select Committee to try any Election Petition, and appoint some subsequent, or, by the consent of all parties concerned, some earlier day and hour for the same, if in their judgment it is expedient so to do, giving notice in the printed votes of the House, of the day and hour so subsequently appointed ; And in every case in which any such change is made by them, they shall forthwith report the same to the House with their reasons for making such change.

Certain notices shall be printed with the votes.

61. Notice shall be published, with the votes, of the Petitions appointed for each calendar week reckoned from Sunday to Saturday inclusive, and of the Panel from which Committees will be chosen to try such Petitions ; And each Panel shall serve for a calendar week, beginning with the Panel first drawn, and continuing by rotation in the order in which they were drawn, and not reckoning those weeks in which no Select Committee is appointed to be chosen.

Select Committee for

62. The General Committee shall meet at the time and place appointed for choosing the Committee to try any Election Peti-

trying Petition, how chosen, number, &c.

tion, and shall choose from the Panel in service four Members not being then excused or disqualified from any of the causes aforesaid, and not specially disqualified for being appointed on the Committee to try such Petition for any of the following causes, that is to say :—by reason of having voted at the Election, or by reason of being the party on whose behalf the seat is claimed, or related to him or to the sitting Member by kindred or affinity in the first, second, third or fourth degree according to the civil law.

Who disqualified.

Four members of General Committee must agree in the choice, otherwise the General Committee adjourn.

63. If at the least four Members then present of the General Committee of Elections, do not agree in choosing a Committee to try any Election Petition, the General Committee shall adjourn the choosing of that Committee and of the remaining Committees appointed to be chosen on the same day, to the following day, and the parties shall be directed to attend on the following day, and if such following day happen during an adjournment of the House, then on the day to which the House stands adjourned, and so from day to day until all such Committees are chosen, or until the General Committee of Elections is dissolved as hereinbefore provided ; And the General Committee shall not in any case proceed to choose a Committee to try an Election Petition until they have chosen a Committee to try every other Election Petition standing higher in the list aforesaid, the order for referring which has not then been discharged, except in the case when the day originally appointed for choosing a Committee has been changed under the provision hereinbefore contained.

The choice.

Chairman to be chosen from Chairmen's panels.

64. On the day appointed by the General Committee to choose an Election Committee, the Members upon the Chairmen's Panel shall, in the manner hereinafter provided, select one of such Members to act as the Chairman of such Election Committee,—and when they have been informed by the General Committee that four Members of such Election Committee have been chosen, they shall communicate the name of the Member so selected by them to the General Committee ; but no Member shall be so elected who would be disqualified from serving on such Committee if not upon the Chairmen's Panel :

Proviso : in case of notice or vacancy of seat, or non-intention to defend.

2. Provided, firstly, that if with reference to any Petition for trying which they are about to appoint a Chairman, the Members of the Chairmen's Panel receive notice from the Speaker under the provision hereinbefore contained, of the death or vacancy of the seat of the sitting Member petitioned against in such Petition, or that it is not his intention to defend his seat, they shall suspend their proceedings with regard to the appointment of a Chairman to try such Petition until the day appointed by the General Committee of Elections for selecting a Committee to try such Petition ;

3. And provided also, secondly, that every such selection of a Chairman shall be either by the unanimous voices of all the Members of such Chairmen's Panel, or in case of the absence of any Member of such Chairmen's Panel on any such occasion, or of the dissent of the Member proposed to be selected, or of any other Member thereof, from any such proposed selection, then, and in every such case, the Chairmen's Panel, or such of them as shall be present, shall, in the presence of the parties interested or concerned in such Election Petition, their Counsel or agent, or such of them as shall attend, proceed to select one of such Chairmen's Panel, by lot, to be the Chairman of such Election Committee.

Proviso: choice of Chairman to be unanimous, or by lot.

65. Subject to the provisions of this Act, the Members upon the Chairmen's Panel may from time to time make such Regulations as they find convenient for securing the appointment or selection of Chairmen of Election Committees, and for distributing the duties of Chairmen among all of them.

Subject to this Act, the members of the Chairmen's panel may make regulations, &c.

66. As soon as the General Committee of Elections has chosen four Members of a Committee to try any Election Petition, and has received from the Members of the Chairmen's Panel the name of a Chairman to serve on such Committee, the parties in attendance shall be called in, and the names of the Members so chosen and of the Chairman shall be read over to them.

Parties to be called and informed of the names of Committee and Chairman.

67. After hearing the said names, the parties present shall be directed to withdraw, and the General Committee may proceed to choose another Committee to try the next Petition appointed for that day, and so on, until all the Committees appointed to be chosen on that day are chosen, or until the choosing of any Committee is adjourned as aforesaid;—And after any such adjournment, the General Committee shall not transact any more business on that day, except with regard to those Petitions for trying which Committees have been previously chosen.

General Committee may then proceed to next petition, &c.

68. Within one half hour at furthest from the time when the parties to any Election Petition have withdrawn,—or if the parties to any Election Petition be then before the General Committee of Elections, then after such other parties have withdrawn,—the parties in attendance shall be again called before the General Committee in the same order in which they were directed to withdraw, and the Petitioners and sitting Member, or any party admitted as aforesaid to defend the return or election, or their agents,—beginning on the part of the Petitioners,—may object to all or any of the Members chosen, or to the Chairman, as being then disqualified or excused for any of the reasons aforesaid from serving on the Committee for the trial of that Election Petition, but not for any other reason.

Parties may object to members, but for certain reasons only, and when.

New Committee men or a new Chairman to be chosen if any objection be sustained.

69. If at the least four Members then present of the General Committee are satisfied that any Member so objected to is then disqualified or excused for any of the reasons aforesaid, the parties present shall be again directed to withdraw, and the General Committee shall proceed to draw from the same Panel another Committee to try that Petition;—or, if the Member to whom any such objection is substantiated is the Chairman, they shall send back his name to the Members of the Chairmen's Panel, and the Members of the Chairmen's Panel shall proceed to choose another Chairman to try that Petition, and shall communicate his name to the General Committee, and so as often as the case requires.

Members not objected to may be put on new Committee.

70. In the second or any following Committee, the General Committee may, if they think fit, include any of the Members previously chosen by them, to whom no objection has been substantiated, and no party shall be allowed to object to any Member included in the second or any following Committee who was not objected to when included in the Committee first chosen to try that Petition.

Notice to be sent to members of Select Committee, &c.

71. When four Members and a Chairman have been chosen, to none of whom any objection has been substantiated, the Clerk of the General Committee of Elections shall give notice thereof in writing to each of the Members so chosen,—and with every such notice shall be sent a notice of the general and special grounds of disqualification and excuse from serving hereinbefore mentioned, and of the time and place when and where the General Committee will meet on the following day,—and notice of the time and place of such meeting shall be published with the printed votes of the House.

Meeting of Committee.

72. The General Committee shall meet on the following day at the time and place mentioned in such notice as last aforesaid;—and if any such Member then and there proves to the satisfaction of at least four Members then present of the General Committee, that for any of the reasons aforesaid, he is disqualified or excused from serving on the Committee for which he has been so chosen,—or if any such Member prove, to the satisfaction of at least four Members then present of the General Committee, that there are any circumstances in his case which render him ineligible to serve on such Select Committee,—such circumstances having regard, not to his own convenience, but solely to the impartial character of the Tribunal,—the General Committee shall proceed to choose a new Committee to try that Petition in like manner as if that Member had been objected to by any party to the Petition:—And if within the space of one quarter of an hour after the time mentioned in the notice, no Member so appear, or if any Member so appearing does not prove his disqualification or excuse to the satisfaction of at least four Members then present

Members may object to themselves as disqualified; proceedings if the objection be maintained.

of the General Committee, the Select Committee shall be taken to be appointed.

Appointment of Select Committee to be reported to the House and printed, &c.

73. At the meeting of the House for the despatch of business next after any such Select Committee has been appointed, the General Committee of Elections shall report to the House the names of the Select Committee appointed, and shall annex to such report all Petitions referred to them by the House which relate to the return or election of which such Select Committee is appointed to try the merits, and such report shall be published with the votes.

Members of Committee to be sworn; how and when.

74. At or before four of the clock on the next day on which the House meets for the despatch of business after such report, the five Members chosen to be the Select Committee shall attend in their places, and shall before departing the House be sworn at the Table by the Clerk, well and truly to try the matter of the Petitions referred to them, and a true judgment to give according to the evidence,—and shall be taken to be a Select Committee legally appointed to try and determine the merits of the return of election so referred to them by the House; And the legality of such appointment shall not be called in question on any ground whatever;—And the Member so appointed from the Chairmen's Panel shall be the Chairman of such Committee; and they shall not depart the House until the time for the meeting of such Committee is fixed by the House, as hereinafter provided.

Members not attending, &c., to be taken into custody.

Cases excepted.

75. If any Member of the said Select Committee does not attend in his place within one hour after four of the clock on the day appointed for swearing the Committee, provided the House sits so long,—or if not, then within the like time on the following day of sitting, or if, after attending, any Member departs the House before the said Committee is sworn, unless the Committee be discharged or the swearing of the said Committee be adjourned as hereinafter provided,—he shall be ordered to be taken into the custody of the Sergeant at Arms attending the House, for such neglect of his duty, and shall be otherwise punished or censured, at the discretion of the House, unless it appears to the House by facts specially stated and verified upon oath, that such Member was by a sudden accident or by necessity prevented from attending the House.

If members do not attend on second day appointed, a new Committee to be chosen.

76. If any such absent Member be not brought into the House within three hours after four of the clock on the day first appointed for swearing the said Committee, provided the House sits so long, or if not, then within the like time on the following day of sitting, and if no sufficient cause be shown to the House before its rising whereon the House dispenses with the attendance of such absent Member, the swearing of the Committee shall be adjourned to the next meeting of the House, and all the Members of the said Committee shall attend in

their places for the purpose of being sworn on the day of the next meeting of the House, in like manner as on the day first appointed for that purpose.

If members do not attend to be sworn on second day, Committee to be discharged and a new one chosen.

77. If on the day to which the swearing of the said Committee is so adjourned, all the Members of the Committee do not attend and be sworn within one hour after four of the clock, provided the House sits so long, or if not, then within the like time on the following day of sitting,---or if on the day first appointed for swearing the said Committee, sufficient cause is shewn to the House before its rising why the attendance of any Member of the Committee should be dispensed with, the said Committee shall be taken to be discharged, and the General Committee shall meet on the following day, or if such following day happen during an adjournment of the House, then on the day to which the House stands adjourned, and shall proceed to choose a new Committee from the Panel on service for the time being, in the manner hereinbefore provided; and notice of such meeting shall be published with the votes.

7.—PROCEEDINGS OF SELECT ELECTION COMMITTEES.

Petitions, &c. to be referred to Committee.

78. The House shall refer the Petitions in each case for which a Select Election Committee has been so reported by the General Committee of Elections, to the Select Committee so appointed and sworn, and shall order the said Select Committee to meet at a certain time to be fixed by the Houe, which shall be within twenty-four hours of their being sworn at the table of the House, unless a Sunday or other statutory holiday intervenes;---and the place of their meeting shall be some convenient room or place adjacent to the House properly prepared for that purpose.

Time and place of meeting.

Committee shall try the Petition, and shall not adjourn for more than 24 hours without leave, &c.

79. Every such Select Committee shall meet at the time and place appointed for that purpose, and shall proceed to try the merits of the Election Petition so referred to them,---and they shall sit from day to day, Sundays and other statutory holidays only excepted, and shall never adjourn for a longer time than twenty-four hours, unless a Sunday or other statutory holiday intervenes, and in such case not for more than twenty-four hours, exclusive of such Sunday or other statutory holiday,---without leave first obtained from the House upon motion and special cause assigned for a longer adjournment;---And if the House be sitting at the time to which such Select Committee, is adjourned, then the business of the House shall be stayed and a motion shall be made for a further adjournment, for any time to be fixed by the House:

Proviso.

2. Nevertheless, if such Select Committee have occasion to apply or report to the House, and the House be then adjourned for more than twenty-four hours, such Select Committee may also adjourn to the day appointed for the meeting of the House.

Lists of votes objected to, to be delivered and filed.

80. The parties complaining of or defending the election or return complained of in any Election Petition, shall,—except in the case provided for, in and by the fifty-ninth section of this Act,—or where otherwise directed by order of the Select Committee, appointed to try the validity of such election,—by themselves or their agents, deliver to the Chairman of such Select Committee lists of the voters intended to be objected to, giving in the said lists the several heads of objection, and distinguishing the same against the names of the voters excepted to,—and the said Chairman shall cause such lists to be filed amongst the proceedings of such Committee, open to the inspection of all parties concerned.

Within what time such lists must be delivered.

81. When not otherwise directed by order of such Select Committee, the said lists shall be so delivered to the said Chairman at any time before six o'clock in the afternoon of the day on which by order of the House such Select Committee has been first appointed to meet, provided the said Committee has actually met and proceeded with the case on such day, or by the like hour of the first day on which such Committee actually meets, and so proceeds with the case.

Select Committee may make any other order as to delivery of such lists.

82. Any such Select Committee may, by an order to be made by them for that purpose, on the first day on which they meet and proceed with the case referred to them, or on any day to which the consideration of any application for such an order shall be adjourned, require the delivery of such lists, in such other manner, at such other place, and to such other person as in their judgment is more convenient to the parties concerned, or more conducive to the ends of justice ;—And any such order having been so made by such Select Committee, the said Committee may, upon the subsequent consent in writing of the parties to such Election Petition to such Committee's varying, altering or modifying such order or the directions therein contained, from time to time vary, alter or modify the directions contained in such order, either as to time, place or person, as to such Select Committee from time to time appears more convenient to the parties concerned or more conducive to the ends of justice ;—And every such order made under the authority of this section shall, for information only, be reported by the said Committee to the House, by the second meeting of the House next after such order has been made by such Select Committee, with their reasons for having made the same.

Such order to be reported.

Evidence restricted to votes on the lists.

83. No evidence shall be given before the Select Committee, or under any Commission issued by such Committee, against the validity of any vote not included in one of the lists of voters delivered as aforesaid, or upon any head of objection to any voter included in any such list, other than one of the heads specified against him in such list.

Members not to be absent

84. No Member of any such Select Committee shall absent himself from the same, without leave obtained from the House,

without leave from the House.

or an excuse allowed by the House at the next sitting thereof, for the cause of sickness, verified upon the oath of his medical attendant, or for other special cause shewn and verified upon oath,---and in every such case the Member to whom such leave is granted or excuse allowed shall be discharged from attending and shall not be entitled again to sit or vote on such Committee ;---And such Select Committee shall never sit until all the Members to whom such leave has not been granted nor excuse allowed are met,---And in case all such Members do not meet within one hour after the time appointed for the first meeting of such Committee, or within one hour after the time to which such Committee has been adjourned, a further adjournment shall be made and reported to the House by their Chairman, with the cause thereof.

Committee not to sit during absence of any member without leave, &c.

Report.

Members absent without leave, how punishable.

85. Every Member whose absence without leave or excuse is so reported shall be directed to attend the House at its next sitting, and shall then be ordered to be taken into the custody of the Sergeant at Arms attending the House, for such neglect of his duty, and shall be otherwise punished or censured at the discretion of the House, unless it appears to the House by facts specially stated and verified upon oath, that such Member was by a sudden accident or by necessity prevented from attending the said Select Committee.

Committee not dissolved by death, &c., of one or two members.

New Chairman in certain cases.

86. An Election Committee shall not be dissolved by reason of the death or necessary absence of one Member or two Members thereof only,---but the remaining Members shall thenceforward constitute the Committee ;---And if there ever be occasion for electing a new Chairman on the death or necessary absence of the Chairman first appointed, the remaining Members of the Committee shall elect one of themselves to be Chairman,---and if in that election there be an equal number of voices, the Member whose name stands foremost in the list of the Committee as reported to the House, shall have a second or casting vote.

Committee reduced to less than three, to be dissolved, and another appointed.

87. If the number of Members able to attend any such Select Committee is, by death or otherwise, unavoidably reduced to less than three, and so continue for the space of three sitting days, such Select Committee shall be dissolved, (except in the case hereinafter provided,) and another shall be appointed to try the Petition referred to such Committee ;---and the General Committee and Members of the Chairmen's Panel shall meet for that purpose as soon as conveniently may be after the occasion arises, at a day and hour to be appointed by the General Committee, and notice of such meeting shall be published with the votes ;---And all the proceedings of such former Committee shall be void and of no effect, except only any Order that may have been made by them for a Commission for the examination of witnesses and the proceedings under such Order and Commission, which shall be as valid and

effectual as if the dissolution of such Committee had not taken place, and shall be made use of by any other Select Committee that may be appointed to try such Election Petition, as if such Order and Commission had been made and issued under their own authority according to the provisions of this Act:

Proviso.

2. Nevertheless, if all the parties before the Committee consent thereto, the two remaining Members of the Committee or the sole remaining Member, if only one, shall continue to act and shall thenceforward constitute the Committee.

Committee may cause their room to be cleared.

88. Whenever any such Select Committee think it necessary to deliberate among themselves upon any question arising in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the Petition referred to them, as soon as they have heard the evidence and Counsel on both sides relative thereto, the room where they sit shall be cleared, if they think proper, whilst the Members of the Committee consider thereof.

Majority to decide.

Casting vote.

Every member must vote.

89. All questions before the Committee, if for the time being consisting of more than one Member, shall be decided by a majority of voices, and whenever the voices are equal, the Chairman shall have a second or casting voice; and no Member of the Committee shall be allowed to refrain from voting on any question on which the Committee is divided.

Yeas and Nays to be recorded.

90. Whenever the Select Committee is divided upon any question, the names of the Members voting in the affirmative and in the negative, shall be entered in the Minutes of the said Committee, and shall be reported to the House, with the questions on which such divisions arose, at the same time with the final report of the Committee.

Short hand writer may be appointed on certain conditions, &c.

91. If the parties or any of them desire it, and such parties or those so desiring it make such arrangements as in the opinion of the said Committee are proper and sufficient to secure such object and the payment of the necessary expense to be incurred thereby,---the Select Committee shall be attended by a short hand writer to be appointed by the Speaker of the House and sworn by the Chairman of the said Committee faithfully and truly to take down the evidence given before such Committee, and from day to day, as occasion requires, to write or cause the same to be written in words at length for the use of the Committee.

Committee may send for persons, papers, &c.

92. Every such Select Committee may send for persons, papers and records, and may examine any person who subscribed the Petition which such Select Committee are appointed to try, unless it otherwise appears to such Committee that such person is an interested witness,---and they shall examine all the

witnesses who come before them upon oath, which oath the Clerk attending such Select Committee may administer:

As to witnesses refusing to attend, &c.

Misbehaving.

2. And if any person summoned by such Select Committee, or by the Warrant of the Speaker of the House, (which Warrants the Speaker may issue from time to time as he thinks fit,) disobeys such Summons,---or if any witness before such Select Committee gives false evidence or prevaricates, or otherwise misbehaves in giving or refusing to give evidence,---the Chairman of such Select Committee, by their direction, may, at any time during the course of their proceedings, report the same to the House for the interposition of the authority or censure of the House, as the case requires, and may by a Warrant under his hand directed to the Sergeant at Arms attending the House, or his Deputy, commit such person (not being a Senator of Canada,) to the custody of the said Sergeant, without bail or mainprize, for any time not exceeding twenty-four hours, if the House be then sitting, and if not, then for a time not exceeding twenty-four hours after the hour to which the House stands adjourned.

How witnesses shall be sworn.

93. Where in this Act any thing is required to be verified on oath to either House of the Provincial Parliament, the Chief Clerk of such House may administer an oath for that purpose, or an Affidavit for such purpose may be sworn before any Justice of the Peace;—And where for any incidental purpose connected with the conduct of any such trial before any such Election Committee, an Affidavit is required to be taken, to be used before such Election Committee, either by the provisions of this Act, or any Regulations that may be made by such General Committee of Elections for the better ordering of trials before such Election Committees,—every such Affidavit may be taken before the Chief Clerk of the House, or before the Clerk of the Select Election Committee, or before a Justice of the Peace.

Affidavits received, &c.

What points the committee shall decide.

94. Every such Select Committee shall try the merits of the return or election complained of in the Election Petition referred to them, and shall determine by a majority of voices, if for the time being consisting of more than one Member, whether the Sitting Member or Members or either of them, or any and what other person was duly returned or elected, or whether the election is void, or whether a new Writ ought to issue;—And such determination shall be final between the parties to all intents and purposes, and the House, on being informed thereof by the Committee, shall order such report to be entered on their Journals, and shall give the necessary directions for confirming or altering the Return, or for ordering a Return to be made, or for issuing a Writ for a new Election, or for carrying the said determination into execution, as the case requires.

Decision to be final and entered on Journals, &c.

95. If any such Select Committee come to any resolution other than the determination above mentioned, they shall, if they think proper, report the same to the House for their opinion, at the same time that they inform the House of such determination, and the House may confirm or disagree with such resolution, and make such orders thereon as to them seems proper : Committee may report resolutions on other points for consideration of the House.

2. Provided always, and it is hereby expressly declared, that the power conferred by this section upon the House shall not extend or be construed to extend to the order or orders, resolution or resolutions, containing or declaring such determination of such Select Committee,—or to any orders or resolutions of such Select Committee touching the delivery of lists of objected voters or the objections to such voters, the issue of Commissions for the examination of witnesses, or other matters arising in the course of the trial of such election, and relating merely to the conduct of such trial. Proviso.

96. If the Parliament be prorogued after the appointment of any Select Committee for the trial of any Election Petition, and before they have reported to the House their determination thereon, such Committee shall not be dissolved by such prorogation, but shall be thereby adjourned to twelve o'clock on the day immediately following that on which Parliament meets again for the despatch of business (Sunday and all other statutory holidays always excepted),—And all proceedings of such Committee and on any Commission to take evidence issued under the authority of such Committee, shall be of the same force and effect as if Parliament had not been so prorogued, and such Committee shall meet on the day and hour to which they are so adjourned, and shall thenceforward continue to sit from day to day in the manner hereinbefore provided, until they have reported to the House their determination on the merits of such Petition. Committee not dissolved by prorogation, but shall proceed during the next Session.

8.—COMMISSION FOR THE EXAMINATION OF WITNESSES.

97. Upon its appearing to any such Select Election Committee, from the nature of the case and the number of witnesses to be examined relative to any particular allegation or allegations in the Election Petition, that the same cannot be effectually inquired into before such Committee, without great expense and inconvenience to the parties or either of them,—the said Election Committee may, upon application of any of the parties before the said Committee, at any period during the course of their proceedings upon such Petition, make an order for the nomination and appointment of a Commission in manner herein directed. Committee may order the appointment of a Commission to take evidence.

98. Every party intending to apply for the issue of such Commission, shall give to the opposite party or parties two Notice of application for Commission.

full days' notice in writing exclusive of any intervening Sunday or other statutory holiday, (as on Monday for Thursday, or on Saturday for Wednesday,) of his intention to apply to the said Committee for such Commission as aforesaid.

Provisions as o the appointment of a Commission.

99. Whenever any such Select Election Committee think fit to make an order for the appointment of a Commission as aforesaid, they may if they think fit so to do, appoint such person to be such Commissioner as may be mutually agreed upon in writing by all the parties interested or concerned in such Election Petition, their Counsel or Agents, upon the written consent of such person to serve as such Commissioner, with an Affidavit of the due execution thereof, being laid before such Select Committee:

Judges or County Judges may be appointed, Commissioners.

2. Or in the event of all such parties not so agreeing as to the person to be appointed such Commissioner, or of the said Select Committee not thinking fit to appoint the person who may be so agreed upon by such parties for that purpose, then, if the Election has been one in the Province of Ontario, the said Committee shall appoint some one of the County Judges of the Province of Ontario, or if the Election has been one in the Province of Quebec, some one of the Judges of the Superior Court for that Province, or if the Election has been one in the Province of Nova Scotia, some one of the Judges of the Supreme Court of that Province, or if the Election has been one of the Province of New Brunswick, some one of the County Judges of that Province, to be such Commissioner;

Manner of appointment.

3. Such Commissioner shall be appointed in manner herein mentioned, that is to say,—on the next sitting day of such Select Committee after the said order has been made by the said Committee, at the time previously appointed by the said Committee for that purpose, in the presence of all the parties interested or concerned in such Election Petition, their Counsel or Agents, if they choose to attend, the said Select Committee shall proceed to select from the list of the said Judges or County Judges eligible for the appointment, such person as it then appears to them most desirable to appoint as such Commissioner, and shall openly announce the name of such person for the information of the parties;

Objections how heard and disposed of.

4. Thereupon, either then or at such future day as the said Select Committee may allow for that purpose, any of such parties may submit to the consideration of the said Select Committee any grounds that he may have to urge against the appointment of such person as such Commissioner,—and in the event of such Committee being of opinion that upon the grounds so laid before them, such person ought not to be so appointed, they shall, so soon as they have come to a resolution declaratory of the same, proceed to select and announce some other

of the said Judges or County Judges for that purpose; and in like manner to hear and dispose of any grounds of objection that the parties or any of them have to urge against the appointment of such person,—and so on until they shall have selected and announced some one of such Judges or County Judges as aforesaid against whose appointment no objection has been urged as aforesaid, or with respect to whom the objections so urged have been over-ruled by the said Select Committee; and thereupon such person shall by the said Committee be appointed to be such Commissioner;

Warrant to issue to Commissioner.

5. And in all cases of such appointment, a Warrant in the nature of a Commission, under the hand and seal of the Chairman of such Select Committee, shall be issued to such Commissioner, empowering him to examine all such matters and things as shall for that purpose be referred to him by the said Select Committee, by any order made or to be made by the said Committee for that purpose, and commanding such Commissioner under the penalty of four hundred dollars, to repair to the Electoral District in and for which the Election or Return complained of, or other subject matter of the Petition, arose or happened, on a day certain to be named in the said Warrant, and which day shall not be less than fourteen days nor more than twenty-one days distant from the day on which the said Commissioner was appointed by the said Select Committee in manner aforesaid;—And if the said Commissioner neglects or refuses to obey the injunction of the said Warrant, he shall forfeit the sum of four hundred dollars;

Form of warrant.

6. And every such Warrant shall be as nearly as may be in the form set forth in the Schedule to this Act annexed marked B (1), with such alteration as is necessary to adapt such form to the circumstances of the case.

New commissioner may be appointed in certain cases.

100. In every case in which any such Commissioner has been so appointed as aforesaid, the Select Committee by whom such appointment was made, or in case of their dissolution as provided for by this Act, then the new Select Committee appointed in their stead, may, in the event of such Commissioner dying or becoming incompetent or unable to act under such Commission, supersede such Commissioner and appoint another as hereinbefore provided, and with similar powers;—in every which case such new Commissioner shall have the like powers as the person first appointed, and shall complete the taking of any evidence that has been only partially taken by the former Commissioner, or take the whole anew, as by order of such Select Committee he shall be directed or required;—And in every such case the Warrant for the appointment of such new Commissioner shall be as nearly as may be, in the form set forth in the Schedule to this Act annexed marked B [2], with such alteration as is necessary to adapt such form to the circumstances of the case.

Power of a Commissioner the same as a Judge in cases of Contempts.

Appeal given.

101. Every such Commissioner when engaged in the execution of the duties of his office as such Commissioner, shall have the like power and authority to commit for contempt against him and his orders, by law as is or shall be vested in the Court of which he is a Judge, for the like contempts against it or its orders, subject always nevertheless to an Appeal from the decision of such Commissioner, in every such case, to the Select Committee for the time being charged with the disposal of such Election Petition.

County Judge appointed a Commissioner may appoint a proper person to act for him as Judge while he is executing the Commission.

102. Upon the issue of any Commission to any County Judge appointing him a Commissioner for the examination of witnesses under this Act, such Judge may, by an Instrument in writing under his hand and seal, name any other County Judge, or any other person of the degree of Barrister at Law in and for the same Province, to sit for him as such County Judge, and in every other capacity, whether judicial or otherwise, belonging or attached to the Office of such County Judge as such Judge, during the time that such Commission for the examination of witnesses under this Act is in force unreturned, and for twenty days after the same has been superseded or returned by the Judge to whom the same is directed.

Instrument of appointment to be in triplicate, and where each triplicates shall be deposited, &c.

103. Every such Instrument of nomination shall contain a recital of the Commission which has rendered such nomination necessary, and shall be executed in triplicate, one of which triplicate originals shall, by the Judge making the same, be filed in the Office of the Clerk of the County Court, or with any Clerk of such Court if there be more than one, another of them shall be delivered or sent to the person so named to sit for such Judge, and the third shall be transmitted to the Secretary of State for Canada, for the information of the Governor.

Governor may annul appointment and appoint another person.

104. In the case of every such nomination, the Governo may, by an Instrument under his Privy Seal, annul such nomination, and if he thinks fit so to do, may name by the same or any other Instrument under his Privy Seal, some other person legally qualified to have been named by such Judge himself, to sit for such Judge instead of the person so named by such Judge as aforesaid.

Powers of persons appointed to act ins ead of County Judges.

105. In every such case the person so nominated to sit for such Judge shall, so long as his nomination is unannulled, and the said Commission for the examination of witnesses under this Act remains in force unreturned,---and for twenty days after such Commission has been either superseded or returned,---have full power and authority to sit for such Judge as such County Judge, and in any other capacity whether judicial or otherwise belonging or attached to the office of such County Judge, in all Courts and on all occasions wherein such Judge by or under his Commission as such Judge, or otherwise according to Law, may be required or have occasion to sit or hold any Court

whatsoever, or any sittings or sessions of any such Court or any other Court, or otherwise, to act either singly or with others, and either at chambers or elsewhere, in the discharge of any of the duties, whether judicial or of any other character, which by the Commission of such Judge as such County Judge belong or by law attach to his office as such County Judge ;--- And all judgments, decisions, decrees and acts pronounced, given, made or done by such person during such time, shall be as valid and effectual in law to all intents and purposes whatsoever, as if the same had been so pronounced, given, made or done by such Judge himself :

2. Nevertheless, in all cases in which the Governor annuls any such nomination as aforesaid, all such judgments, decisions, decrees and acts pronounced, given, made or done by the person whose nomination has been so annulled previous to his receiving notice of such nomination having been so annulled, shall be and remain as valid and effectual in Law to all intents and purposes whatsoever, as if such nomination had not been so annulled as aforesaid ; Proviso.

3. And such Judge may, notwithstanding any such nomination, whether made by himself or the Governor as aforesaid, while the same is in force and without thereby annulling or superseding the same, perform himself, if the execution of such Commission for the examination of witnesses under this Act does not prevent his doing so, either the whole or any part of the duties of his said office of County Judge, as if such nomination had not been made as aforesaid. Proviso.

106. In the case of every such nomination as aforesaid, whenever from illness of the person so nominated to sit for such Judge, or from any casualty, it happens that such person does not arrive in time, or is not able to open any Court or any sittings or sessions of any Court on the day appointed for that purpose, the Clerk or Deputy Clerk of such Court, sittings or sessions, may, after the hour of eight o'clock in the afternoon of such day, adjourn by proclamation any such Court, sittings or sessions appointed to be held on that day to an early hour on the following day, not being Sunday or statutory holiday, to be by him named, and so from day to day, adjourning over such Sundays and statutory holidays, until such person or the Judge for whom he was named to sit, arrives to open the same, or until he receives other directions from such Judge, or the person so appointed to sit for such Judge as aforesaid. Power of Clerk to adjourn the Court in case of non-arrival of the person appointed to sit for the Judge.

107. Every person who has sat for any such County Judge, by virtue of any such nomination made under the authority of this Act, shall for every day that he has so sat for such Judge, be entitled to receive the sum of ten dollars, and also in every case in which he is obliged to travel from the place of his usual Allowance to person so acting for any Judge.

residence to perform such duty, such further sum as will be sufficient to cover the amount of his reasonable travelling expenses in going to, remaining at, and returning from the same, the account of every such person for such service to be rendered, taxed and allowed in the same manner as other accounts for professional services rendered to the Government;---And the amount of every such account so taxed and allowed shall be paid to such person, or his personal representative, out of the Consolidated Revenue Fund of Canada, by Warrant, in the like manner as other moneys payable out of such fund, are payable by Law.

How paid.

Commissioner may employ clerks and bailiffs, &c.

108. For the taking down in writing minutes of all the proceedings of such Commissioner in executing the duties imposed upon him by this Act, and of all evidence given or produced before him, in as accurate a manner as may be, and for the proper and orderly conduct of his proceedings in his behalf, every such Commissioner shall have full power to appoint one or more Clerks, and such and so many Bailiffs and other Officers as he deems requisite or necessary for that purpose, subject always nevertheless to the control and direction of the said Select Committee charged for the time being with the trial and disposal of such Election Petition, and which Clerks and other Officers shall respectively take before such Commissioner the oaths set forth for that purpose in the Schedule to this Act annexed marked B. (4) (5.)

They shall be sworn.

Certain persons not to be clerks, bailiffs, &c.

109. No person shall be appointed by such Commissioner under this Act to be a Clerk, Bailiff or other Officer to assist such Commissioner as aforesaid, who voted at the Election in question, or who has or claims any right or title to vote for the Electoral District respecting which the Election or Return complained of, or other subject matter of such Petition, arose or happened, without the consent and approbation in writing of all the parties interested or concerned in such Election Petition;---But any objection to the appointment of such Clerk, Bailiff or other Officer, shall be made at the time of his being appointed, or at the first sitting of the Commissioner after such appointment has been made, otherwise such objection shall be invalid and of none effect, and such appointment shall be valid and effectual to all intents and purposes.

When objections must be made.

Such appointments to be entered on minutes

110. A note of the appointment of every such Clerk, Bailiff or other Officer by such Commissioner, shall be made in the minutes of such Commission, and be open at all reasonable times to the inspection of all parties interested or concerned in such Election Petition.

What documents shall be transmitted to the Commissioner by

111. The Chairman of the said Select Committee shall address to the said Commissioner a true copy of the Petition which has been referred to the said Committee, and of the said lists and disputed votes and statements of the several parties

which have been delivered according to the provisions of this Act, together with a true copy of the Order made by the said Committee, specially assigning and limiting the facts or allegations, matters and things respecting which the said Commissioner is required and directed to examine evidence and to report the same, together with all such other documents and papers as the said Select Committee think proper,—all which Warrants, Petitions, Orders and Papers, shall be conveyed to such Commissioner through the Post Office, in the manner hereinafter prescribed for the transmission to the proper Court of Recognizances taken and estreated, or otherwise proceeded upon under this Act.

the Chairman of Committee.

112. Immediately after the completion of the proceedings aforesaid, the Chairman of the said Select Committee shall thereupon report the proceedings of the said Committee to the House, and shall ask permission of the House for the said Committee to adjourn until such time as the Speaker by his Warrant in manner herein mentioned, directs the said Committee to re-assemble, and upon such permission being granted, the said Committee may adjourn accordingly.

Committee may be adjourned during the execution of the Commission.

113. On the day appointed in and by the Warrant appointing such Commissioner, and at such place as he has appointed for that purpose, between the hours of ten in the forenoon and four in the afternoon, the Commissioner shall proceed to open his Court or commence his proceedings by reading the Warrant of the said Chairman of the said Select Committee, and also the copy of the Petition and other papers transmitted by the said Chairman :

Commissioner to open his Court at the time assigned, &c.

Proceedings.

2. The Commissioner shall, before further proceeding on the business of his said Commission, take and subscribe the oath set forth in the Schedule to this Act annexed, marked B (3), which said Oath the said Commissioner shall take and subscribe in the presence of the parties interested or concerned in such Election Petition, or their Agents, or such of them as attend, and the taking of the same shall be noted in the minutes of such Commission ;—And if any person acts as a Commissioner in the execution of this Act without having first taken and subscribed such Oath, he shall for such offence forfeit and pay the sum of *four hundred dollars.*

He shall be sworn.

Penalty for acting before taking oath.

114. The said Commissioner shall sit every day, Sundays and statutory holidays only excepted, from the hour of ten in the morning till four in the afternoon, and shall never adjourn except by the consent in writing of all the parties to such Election Petition or their Agents, or by permission of the Select Committee appointed for the trial of such Election Petition, or in the case provided for by the next section, for a longer time than twenty-four hours, unless Sunday or some other sta-

Sittings of the Commissioner.

As to adjournment of such sittings.

tutory holiday or holidays intervene, and in case of such intervention, every sitting or adjournment shall be within twenty-four hours from the time of appointing or fixing the same, exclusive of such Sunday or other Holiday or Holidays as aforesaid.

In case of sickness, accident, &c., report to be made to the Committee, and verified by affidavit.

115. The said Commissioner shall not, except as before excepted, omit such daily sittings except in cases of sudden accident or necessity, or in case of illness ; and such cases of sudden accident or necessity shall forthwith be specially reported to the said Select Committee by such Commissioner, and be verified upon the oath of the said Commissioner, and also in case of sickness by the oath of the Physician, if any there be attending such Commissioner, or if there be no Physician, in attendance, then by the oath of some third party cognizant of the fact, which oaths shall be made before one of Her Majesty's Justices of the Peace ; And any Commissioner who omits such daily sittings without such lawful excuse, shall for every day on which he shall so absent himself, forfeit and pay the sum of one hundred dollars.

Penalty for omitting to sit without lawful excuse.

Proceedings to be had by the Committee on such report.

116. Upon every such Special Report from such Commissioner, the said Select Committee shall be ordered to meet as is provided upon the transmission of his final Report and Return, and the said Select Committee shall thereupon proceed to hear the parties interested or concerned in such Election Petition, or such of them as choose to attend for that purpose, their Counsel or Agent, upon such Special Report :

May appoint another Commissioner.

2. And if it appears to such Select Committee upon the facts laid before them upon Affidavit, either in such Special Report, or by the parties or any of them, either that the Commissioner is dead, or that he will be unable to complete the duties imposed upon him by the said Commission within a reasonable time for that purpose, such Select Committee shall proceed to supersede the same, and to appoint another Commissioner thereupon as hereinbefore provided for that purpose ;

In case of death of Commissioner, Clerk to report proceedings, &c.

3. But in the event of the death of any such Commissioner, the Clerk employed by him in keeping the minutes of his proceedings under this Act, shall either by the consent of all the parties interested or concerned in such Election Petition, their Counsel or Agent, or by direction of such Select Committee, make a Report and Return of all the proceedings had and taken by such Commissioner, which Report and Return shall in such case be equally available for all the purposes of this Act as if made by such Commissioner himself.

Commissioner to be excused in case of sickness, &c.

117. If any such Commissioner is prevented from attending at the day and place appointed as aforesaid by any sudden accident, necessity or illness, to be verified upon oath in manner herein directed, he shall not be liable to the said penalty of one hundred dollars.

118. The Commissioner may from time to time adjourn to any place within the Electoral District in which the Election was held, different from that in which such Commissioner in the first place opened his Court or commenced his proceedings under such Warrant, in all cases where it appears to him expedient or necessary so to do. Commissioner may adjourn to other places.

119. The Commissioner may at all times, by Warrant under his hand and seal, send for all persons, papers and records, and shall examine all witnesses who come before him, upon oath or affirmation, as the case requires, and shall examine all matters referred to him, and shall in all respects have the same powers and authorities for examining the said matters so referred to him, as Select Committees of the House of Commons for the trial of Election Petitions have for examining the matters and things referred to such Select Committees : Power of Commissioner to send for persons, papers, &c. Other powers.

2. The said Commissioner shall proceed in examining every witness who comes before him, and in scrutinizing the rights of any Voter or Voters, and in all matters and things whatsoever referred to him, in the same course and manner and according to the same rules, as Select Committees of the said Houses for the trial of Election Petitions ought and are empowered to proceed in like cases ; Examination of witnesses.

3. The Clerk appointed by the said Commissioner shall from time to time make true copies of the minutes of all the proceedings before the said Commissioner, and of all evidence given or produced before him, and shall give one such copy to each of the parties interested, or his or their agent, or to such of them as shall demand the same, on being paid, for each folio of the said copy consisting of one hundred words, the sum of *ten cents ;* Clerk to make copies of evidence, minutes, &c.

4. And within ten days after the evidence before the Commissioner shall be closed, touching the matters and things referred to him, the said Commissioner shall cause a copy of the Minutes of all his proceedings to be made, and shall examine the same with the said Minutes, and shall sign and seal the said copy, and shall transmit the same by his Clerk, through the Post Office, in the manner hereinafter prescribed for the transmission to the proper Court of Recognizances taken and estreated or otherwise proceeded upon under this Act, to the Speaker of the House of Commons, who shall accordingly communicate the same to the House, and upon the transmission of the said copy, the said Commissioner shall adjourn in order to receive such further orders from the Select Committee upon the Petition in question, as such Committee from time to time think requisite and necessary. Copy of minutes, signed and sealed, to be sent to the Speaker of the House.

120. The Commissioner shall not permit or suffer any Barrister or Counsel to plead before him, or to examine or cross- No Barrister or Counsel

allowed to plead, &c. before Commissioner.

examine any of the witnesses, but the said Commissioner shall himself examine and cross-examine all the witnesses that shall be produced before him.

Evidence tendered before Commissioner may be received by him conditionally if he doubts whether it ought to be taken.

121. In case at any time in the course of the proceedings before the Commissioner, any of the said parties tender or offer to produce to the Commissioner any witness or evidence to, of or concerning any matter or thing whatsoever in issue before the said Commissioner, which witness or evidence the said Commissioner is of opinion ought not to be examined, heard or received,—the said Commissioner shall state in writing the reasons and grounds upon which he has rejected the said evidence, and enter the same upon the Minutes of his proceedings, and the party tendering or offering to produce such witness or evidence, may require of the Commissioner that the said witness or evidence be examined, heard and received by and before him *de bene esse*, and the testimony of such witness or the purport of such evidence shall accordingly be taken down in writing by the Clerk to the said Commissioner, separately and apart from all other evidence before the said Commissioner, and a copy thereof, with a statement of the purpose to or for which the said witness or evidence was produced, and by whom the same was produced, shall be signed and sealed by the said Commissioner in the nature of a Bill of Exceptions to evidence, and the same shall be transmitted by the said Commissioner, together with all the other proceedings before him in manner herein mentioned:

Committee to determine as to relevancy of such evidence.

2. If the Select Committee for the trial of such Election Petition is of opinion that the tendering and offering of such witness or evidence was frivolous or vexatious, or that the testimony of such witness or the purport of such evidence was impertinent or irrelevant to the matter at issue before the Commissioner, the said Committee shall report such their opinion to the House, together with their opinion on the other matters relating to the said Petition, and the party who before the said Commissioner opposed the examining, hearing or receiving of such witness or evidence, shall be entitled to receive from the person or persons who produced such witness or evidence, the full costs and expenses which such party or parties have incurred in opposing the same, or by reason of the same being received in manner aforesaid,— which costs and expenses shall be ascertained and recovered in the same manner as by this Act is or hereafter may be provided by law for the recovery of costs and expenses in case of frivolous or vexatious Petitions, or frivolous or vexatious opposition to such Petitions.

As to costs, if the evidence be rejected.

When the return of the Commissioner is received, Speaker to

122. Within two days after the copy of the proceedings before the Commissioner are received by the Speaker of the House, the said Speaker shall issue a Warrant under his hand and seal, directing the Select Committee upon the Petition in

question to re-assemble and to meet again on some day within the space of fourteen days from the date of such Warrant, provided Parliament be then sitting, and in case Parliament be not then sitting, to meet on some day within one month after the commencement of the next Session of Parliament : direct the Committee to re-assemble.

2. The said Select Committee shall accordingly re-assemble and meet again, and shall take the proceedings of the said Commissioner into consideration, and shall proceed to try and determine the merits of the said Petition, but such Select Committee shall not call for or receive any other or further evidence, written or parole, respecting any matters or things which have been tried and examined by the said Commissioner in manner aforesaid, except when the power to do so has been specially reserved and the points to which such new evidence should be directed have been specially set forth in the order for the issue of such Commission,—but, except as aforesaid, the said Committee shall determine on all such matters and things from the written Minutes of the evidence and proceedings before the said Commissioner, and the Certificates of the said Commissioner so signed, sealed and transmitted as aforesaid ; Their proceedings when so re-assembled.

3. Provided always, that the said Committee may hear Counsel as to the effect of the said evidence in like manner as they may do respecting any other matter in question before them ; and that the said Select Committee shall report their own opinion to the House upon the whole merits of the said Election or other matter of the said Petition. May hear Counsel as to effect of evidence returned.

123. If the Speaker receives a copy of such proceedings when the House is adjourned for a longer period than one month from the day on which the Speaker is directed to issue his Warrant for the re-assembling and meeting of any such Committee,—then and in such case the Speaker shall in such Warrant direct such Committee to re-assemble and meet on some day within one month next after the day to which the House is adjourned ;—and if the Speaker has directed the Committee to meet on any day, and if the said House subsequently adjourns to a day beyond the day so appointed for the re-assembling and meeting of such Committee,—then and in such case, the Speaker shall issue another Warrant directing such Committee to re-assemble and meet on some day within one month next after the day to which the House is adjourned, instead of on the day first appointed in pursuance of the provisions of this Act. Provision if, when the return is received, the House is adjourned for more than one month.

124. The Speaker, upon issuing any such Warrant for the re-assembling of any such Select Committee, shall cause a notice of the issue of such Warrant, and of the day therein fixed for such re-assembling, to be published in the *Canada Gazette*, and to be also inserted in the votes from thenceforth Notice of such direction to re-assemble to be published.

until the day so appointed for the re-assembling of such Select Committee as aforesaid.

Provision if the Commissioner cannot transmit his return within the time prescribed.

125. And as it may be impracticable in some instances, on account of the quantity of evidence taken under such Commission, for such Commissioner to transmit a copy of the Minutes of his proceedings to the Speaker, within ten days after the evidence before him has been closed,—such Commissioner may in such cases transmit such copy with all convenient despatch, and at the same time assign the reasons for such delay, which reasons the Select Committee upon the Petition in question shall investigate, and report their opinion thereupon to the House at the time they make their report on the merits of such Petition.

Committee may direct further proceedings before the Commissioner.

126. The Select Committee may from time to time during the continuance of any such Commission, and at any time before reporting their final opinion to the House on the merits of the Petition in question, direct any further or other Warrant to the said Commissioner, under the hand and seal of the Chairman of the said Committee, ordering and directing the said Commissioner to resume his sittings as such Commissioner for such purposes as are in the said Warrant specified, and such and the like proceedings shall be had upon such further Warrant of the Chairman of the said Committee, as are herein directed with respect to the said Warrant of the Chairman of the said Committee herein first above mentioned.

Committee may send for books, &c., produced before Commissioner.

127. When any Select Committee re-assembles to try and determine the merits of any such Election Petition, after any proceedings have been had by or before any Commissioner appointed for examining any matters referred to him by such Select Committee, or acting under this Act, such Select Committee may send for all or any books, papers and records, or other written documents, produced in evidence before such Commissioner, in like manner as such Select Committee might have done if no such proceedings had been had by or before such Commissioner, and without directing any Warrant to the said Commissioner, and without ordering or directing the said Commissioner to resume his sittings as aforesaid:

In other respects to be bound by the provisions of this Act, &c.

2. But such Select Committee shall in all other respects proceed to try the merits of such Election Petition, in the manner directed by this Act, and shall determine on all such matters and things as have been tried and examined by the said Commissioner from the written minutes of the evidence and proceedings before the said Commissioner, and from the inspection of such books, papers, records and documents, so far only as may relate to such evidence and proceedings; and such Select Committee shall not call for or receive in evidence any extracts from such books, papers, records or documents other than such as were received and produced

before such Commissioner, nor to any point or matter not in issue before such Commissioner.

Commissioner may issue summons to witnesses, and when.

128. Every such Commissioner as well before as after he has held his first sitting as such, or taken the oath of Office herein prescribed for him as such Commissioner, may, by Warrant under his hand and seal, directed to any Constable, or to any of his Bailiffs in that behalf, or to any other person specially appointed by such Commissioner, summon and require the attendance of any Witness or other person before him at the day and place to be mentioned in such Warrant.

Penalty on witnesses failing to attend when summoned.

129. If any person so summoned as a witness as aforesaid, neglects or refuses to attend without lawful excuse to be determined by the said Commissioner, or if any witness before such Commissioner prevaricates or otherwise misbehaves in giving or refusing to give evidence, or if any person is guilty of any contempt or misbehaviour whatsoever of or towards the said Commissioner while sitting and acting as such, the said Commissioner shall, by a Warrant under his hand and seal, and directed to the Gaoler of the Common Gaol of the County, City or place in which the said Commissioner is then sitting, commit such person, not being a Member of either House of the Parliament of Canada, to the Custody of the Gaoler, without bail or mainprize, for any time not exceeding six months.

As to summoning any member of Parliament.

130. In case it is requisite to summon any Member of either House of Parliament then attending his duty in Parliament, to give evidence before the said Commissioner, in such case the Commissioner shall certify the same to the Speaker of the House to which the case before him relates, who shall report the same to the House for its direction thereupon.

Remuneration of Commissioner.

131. Every Commissioner acting under this Act, shall, immediately after the Select Committee on the Petition in question have made their final report to the House on the merits of the said Petition, be entitled to demand and receive from the party or parties interested or concerned in such Election Petition, upon whose application to such Select Committee such Commissioner was appointed, *ten dollars* for every day on which such Commissioner has been necessarily engaged on the said Commission, and also his travelling expenses at the rate of *twenty cents* for every mile which such Commissioner has travelled from and to his usual place of abode in his attendance on the execution of such Commission :

Travelling expenses.

Remuneration of Clerk.

2. And the Clerk to any Commissioner under this Act shall also, upon his transmitting the said copy of such proceedings in manner aforesaid, be entitled to demand and receive from such party or parties as aforesaid, such sum or sums for his attendance on the execution of the said Commission as the

said Commissioner shall under his hand certify to be reasonable, not exceeding the amount of *four dollars* for each day of his attendance on the execution of the said Commission, together with such sum for the copy of the evidence transmitted to the Speaker in manner aforesaid, as the said Commissioner thinks fit, not exceeding the sum of *ten cents* for every folio consisting of one hundred words which the said copy contains.

Clerk to furnish copies of minutes, &c.

132. The Clerk appointed by any such Commissioner shall from time to time make true copies of the minutes of all proceedings before such Commissioner, and of all evidence given or produced before him, and shall give such copy to each of the parties interested, or to his or their Agent, or to such of them as demand the same, on being paid for each folio of the said copy consisting of one hundred words, the sum of *ten cents*, and no more :

Remuneration.

2. And for copies of the said Minutes and evidence to be transmitted to the Speaker, in manner directed by this Act, such Clerk shall receive from the party or parties interested or concerned in such Election Petition, upon whose application such Commissioner was appointed or acted, such sum as the said Commissioner whose Clerk he was thinks fit, not exceeding in any case the sum of *ten cents* for every folio consisting of one hundred words, which such copy contains, and no more.

Remuneration of Bailiffs and other Officers employed by Commissioner.

133. The Bailiffs and other Officers employed by such Commissioner in and about the execution of such Commission, shall receive from the party or parties interested or concerned in such Election Petition, the sum of *two dollars* per day, while in actual attendance on the sittings of such Commissioner, and at the rate of *ten cents* per mile for every such mile travelled in performing any of the duties properly belonging to them under this Act :

Proviso.

2. Provided nevertheless, firstly, that for the service of any summons on any witness requiring him to attend before the Commissioner, such Bailiff or other Officer, unless the same be specially directed by the said Commissioner in writing under his hand to be served at the expense of all the parties interested or concerned in such Election Petition, shall be entitled to receive his fees for the service thereof, only from the party who employs such Bailiff or other officer to serve the same ;

Proviso.

3. And provided also, secondly, that such Commissioner shall not require the daily attendance of any such Bailiff or other Officer upon him at the time of his holding such sittings, unless he finds it necessary to do so, in every which case he shall in his Report state the grounds upon which he acted in so requiring the attendance of such Bailiff or other Officer as aforesaid.

134. Every such Commissioner and Clerk, Bailiff or other Officer, shall have the like remedy upon the Recognizance required to be entered into by every Petitioner under this Act, for their services in the execution of such Commission as is hereby given to any persons summoned as witnesses by such Petitioner. Commissioner, &c., to have remedy on Recognizance.

9.—COSTS.

135. Whenever any Select Committee appointed to try any Election Petition reports to the House that such Petition was frivolous or vexatious, the parties, if any, who have appeared before the Committee in opposition to such Petition, shall be entitled to recover from the persons, or any of them, who signed such Petition, the full costs and expenses which such parties have incurred in opposing the same, such costs and expenses to be ascertained in the manner hereinafter directed. As to costs on frivolous or vexatious petition.

136. Whenever such Committee reports to the House that the opposition made to any such Petition by any party appearing before them was frivolous or vexatious, the persons who signed such Petition shall be entitled to recover from the party with respect to whom such report is made, the full costs and expenses which such Petitioners have incurred in prosecuting their Petition; such costs and expenses to be ascertained in the manner hereinafter directed. As to costs on frivolous or vexatious opposition.

137. Whenever no party has appeared before any such Committee in opposition to such Petition, and such Committee reports to the House that the election or return, or the omission or insufficiency of a return complained of in such Petition was vexatious or corrupt, the persons who signed such Petition shall be entitled to recover from the Sitting Member, (if any) whose election or return is complained of in such Petition, such sitting Member not having given notice as aforesaid of his intention not to defend the same) or from any other persons admitted by the House as aforesaid to oppose such Petition, the full costs and expenses which such Petitioners have incurred in prosecuting their Petition; such costs and expenses to be ascertained in the manner hereinafter directed. As to costs where there is no opposition.

138. If any ground of objection be stated against any voter in any list of voters intended to be objected to as hereinbefore provided, and if such Select Committee are of opinion that such objection was frivolous or vexatious, they shall report the same to the House, together with their opinion on the other matters relating to the said Petition, and the opposite party shall in such case be entitled to recover from the party on whose behalf any such objections were made, the full costs and expenses incurred by reason of such frivolous or vexatious objections; such costs and expenses to be ascertained in the manner hereinafter directed. As to costs on frivolous or vexatious objections.

As to costs on unfounded allegations.

139. If either party makes before the said Select Committee any specific allegation with regard to the conduct of the other party or his Agents, and either brings no evidence in support thereof, or such evidence that the Committee is of opinion that such allegation was made without any reasonable or probable ground, the Committee may make such orders as to them may seem fit for the payment by the party making such unfounded allegation to the other party, of all costs and expenses incurred by reason of such unfounded allegation ; such costs and expenses to be ascertained in the manner hereinafter directed.

How the costs and expenses payable under this Act shall be ascertained.

140. The costs and expenses adjudged by any such Select Committee as aforesaid, to be paid, or which otherwise may become payable under the provisions of this Act, to any party prosecuting or opposing or preparing to oppose any Election Petition, or to any witness summoned to attend before any Committee, under the provisions of this Act, shall be ascertained in manner following, that is to say :

Speaker's certificate to be conclusive evidence of costs.

On application made to the Speaker, by any such petitioner, party or witness, for ascertaining such costs and expenses, not later than three months after the determination of the merits of such Petition, or after any Order of the House for discharging the order of reference of such Petition to the General Committee of Elections, or after the withdrawal of any Petition, as hereinbefore provided,—the Speaker shall make an order that the same be taxed, and shall proceed to examine and tax such costs and expenses, and shall report the amount thereof, together with the name of the party liable to pay the same, and the name of the party entitled to receive the same, to the House,—and shall also, upon application made to him, deliver to the party a certificate signed by him, expressing the amount of the costs and expenses allowed in such Report, with the name of the party liable to pay the same, and the name of the party entitled to receive the same, and such Certificate so signed by the Speaker shall be conclusive evidence for all purposes whatever, as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof; and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

Speaker may examine persons on oath as to costs.

141. The Speaker may examine upon oath any party claiming any such costs or expenses, and any witnesses tendered to him for examination, and may receive affidavits, sworn before himself, or before any Justice of the Peace, relative to such costs and expenses.

In what manner costs may be recovered.

142. The party entitled to such taxed costs and expenses, or his or her personal representatives, may demand the whole

amount thereof so certified as above, from any one or more of the persons liable to the payment thereof, and in case of non-payment thereof on demand, may recover the same by action of debt in any of Her Majesty's Courts which would have jurisdiction over the same, were it an ordinary debt of a similar amount,—in which action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the sum mentioned in the said certificate,—and the said Plaintiff shall, upon filing the said declaration, together with the said certificate and affidavit of such demand as aforesaid, be at liberty to sign judgment as for want of a plea by *nil dicit* or otherwise, according to the course of the Court in which the action shall be pending, or to have judgment entered or rendered in his favor according to the same, and take out execution for the said sum so mentioned in the said certificate, together with the costs of the said action according to due course of law :

2. But the validity of such certificate (the handwriting of the Speaker thereunto being duly verified,) shall not be called in question in any Court ; Proviso.

3. And the party so impleaded may, if he thinks fit, put in any defence that he may have to such action, according to law and the practice of such Court. Proviso.

143. In every case it shall be lawful for any person from whom the amount of such cost and expenses has been so recovered, to recover in like manner from the other persons, or any of them (if such there be) who are liable to the payment of the same costs and expenses, a proportionate share thereof according to the number of persons so liable, and according to the extent of the liability of each person. Parties may recover from those jointly liable with them.

144. If any person having subscribed an Election Petition under this Act, or any sitting Member, or any Petitioner admitted to defend such Petition instead of such sitting Member, neglects or refuses for the space of seven days after demand to pay to any witness summoned on his behalf before any select Election Committee appointed under the provisions of this Act, or before any Judge or Commissioner for taking evidence under this Act, the sum so certified as aforesaid by the Speaker under the authority of this Act to be due to such witness,—or if such Petitioner or other party neglects or refuses for the space of six months after demand, to pay to any party opponent to him upon the trial of such Petition the sum so certified by the Speaker as aforesaid to be due to such party for his costs and expenses,—and if such neglect or refusal is, within one year after the granting of such certificate, proved to the Speaker's satisfaction by Affidavit sworn before the said Speaker or before a Justice of the Peace,—in every such case every person who has entered into a Recognizance on behalf of such Petitioner Recognizances to be estreated, if costs be not paid within certain periods.

or other party, relating to such Petition under the provisions of this Act, shall be held to have made default in his said Recognizance, and the Speaker shall thereupon certify such Recognizance into the Court of Queen's Bench or Common Pleas for the Province of Ontario, if such Recognizance has been taken in that Province, or into the Superior Court for the Province of Quebec, if such Recognizance has been taken in that Province, or into the Supreme Court for Nova Scotia, if such Recognizance has been taken in that Province, or into the Supreme Court for New Brunswick, if such Recognizance has been taken in that Province, and shall also certify that such person has made default therein :

Effect of the Speaker's certificate, &c.

2. Such certificate shall be conclusive evidence of the validity of such Recognizance and of such default, and the Recognizance, being so certified, shall be delivered by the Clerk of the House, or some person deputed by him for that purpose, into the hands of the Chief Justice, or one of the Judges of the Court into which the same shall be so certified by the said Speaker, or into the hands of some officer of such Court appointed by such Court to receive the same, or shall be transmitted by such Clerk through the Post in manner hereinafter mentioned, to the Chief Justice or other Judge of such Court, as the case requires,—and in every such case such delivery or transmission of such Recognizance shall have the same effect as if the same were estreated or otherwise proceeded upon for the like purpose from or in a Court of Law, according to the Laws of that Province of Canada in which such Recognizance was so taken as aforesaid, and the course of the Court to which the same has been so transmitted as aforesaid, and the validity of such certificate (the handwriting of the Speaker thereunto being duly verified,) shall not be called in question in any such Court upon the ground of any matter which had arisen anterior to the date of such certificate.

Provision for the transmission of Recognizance by post.

145. For the purpose of transmitting any such Recognizance through the Post as aforesaid, the Clerk of the House, or some other person appointed by the Speaker for that purpose, shall carry such Recognizance under a cover directed to the Chief Justice, or one of the Judges of the Court into which the same is so certified as aforesaid, to the General Post Office of the place where such Recognizance then is with the other Records of the said House, and there deliver the same to the Postmaster or Deputy Postmaster of such place for the time being, or to the person discharging the duties of such Postmaster or Deputy Postmaster therein for the time being, who, on receipt thereof, shall give an acknowledgment in writing of such receipt to the person from whom the same is received, and shall keep a duplicate of such acknowledgment signed by the parties respectively to whom the same is so delivered :

2. The said Postmaster or Deputy Postmaster, or person performing the duties of such Postmaster or Deputy Postmaster, shall despatch every such Recognizance by the first Post or Mail after the receipt thereof, to the person to whom the same is directed, accompanied with proper directions to the Postmaster or Deputy Postmaster of the town or place to which the same is directed, or person performing the duties of such Postmaster or Deputy Postmaster at such place for the time being, requiring him forthwith to carry such Recognizance, and to deliver the same to the person to whom the same is directed, who or some officer appointed by the Court for that purpose shall give such Postmaster or Deputy Postmaster, or person performing the duties of such Postmaster or Deputy Postmaster, a memorandum in writing under his hand, acknowledging the receipt of every such Recognizance, and setting forth the day and hour the same was delivered by him as aforesaid, which memorandum shall also be signed by the person receiving the same, and be by him transmitted by the first or second Post afterwards to the said Postmaster or Deputy Postmaster of the office from which the same was so transmitted to him as aforesaid.

Postmaster to despatch every such Recognizance by the first mail after receipt thereof.

146. When it becomes necessary or desirable to proceed upon any such Recognizance in any other Province of Canada than that in which the same was taken, it shall be lawful, upon filing an exemplification of such Recognizance under the Seal of the Court into which the same has been so returned, as provided by the one hundred and forty-*fourth* section of this Act, to proceed thereon as if such Recognizance had been taken in such other Province of Canada and duly returned into the Court in which such exemplification thereof is so filed as aforesaid.

Course when proceedings are to be had in that part of the Province where the Recognizance was not taken.

147. If the costs and expenses intended to be secured by any Recognizance instead of which any moneys shall have been deposited in the hands of the Chief Clerk of the House of Commons, are not paid pursuant to the provisions of this Act, all such moneys, or so much thereof as may be necessary for that purpose, shall be applied in such order of payment as the Speaker of the said House for the time being in his discretion thinks fit, in satisfaction of such costs and expenses, or so much thereof as can be thereby satisfied, and thereafter the residue of such moneys, if any, shall be paid to the party by whom or on whose account the same were so deposited as aforesaid.

Application of moneys deposited instead of Recognizance.

148. All moneys received or recovered by reason or in pursuance of the estreating of or otherwise proceeding upon any such Recognizance as aforesaid, shall, after deducting all expenses incurred in respect thereof, be forthwith paid by the proper officer for that purpose into the hands of the Chief Clerk of House of Commons to the credit of the Speaker of the said

Application of the proceeds of Recognizance estreated.

House by his name of office, and shall be applied in manner hereinafter mentioned, in satisfaction, so far as the same will extend, of the costs and expenses intended to be secured by such Recognizance.

Money may be paid in by any Cognizor, in discharge of the Recognizance.

149. Any person who has entered into any such Recognizance may, before the same has been estreated or otherwise proceeded upon as aforesaid, pay the sum of money for which he is bound by such Recognizance into the hands of the Chief Clerk of the House, to the credit of the said Speaker's account, and the Speaker, upon production to him of a receipt or certificate from the said Chief Clerk for the sum so paid in, shall endorse on the Recognizance in respect of which such money has been so paid in, a memorandum of such payment, and thereupon such Recognizance shall, so far as regards the person by or on whose behalf such money has been so paid, be deemed to be vacated, and shall not afterwards be estreated or otherwise proceeded upon as aforesaid, as against him, but such Recognizance shall continue to be in force as regards any other person who has entered into the same.

Receipts for and application of money so paid in.

150. In every case in which any money is paid into the hands of such Chief Clerk, to the credit of the Speaker's account as hereinbefore provided, a receipt or certificate of the amount so paid in shall be delivered to the Speaker by the person paying in the same, and such money shall in the first place, and in such order of payment as the Speaker in his discretion thinks fit, be applied in satisfaction of all the costs and expenses for securing payment of which such Recognizance was given, or so much thereof as can be thereby satisfied, and thereafter the residue (if any) shall be paid to the party by whom or on whose account the same was paid in.

10.---MISCELLANEOUS PROVISIONS.

Action against Returning Officer for not making return of person duly elected, or delaying such return, &c.

151. If any Sheriff or other Returning Officer wilfully delays, neglects, or refuses duly to return any person who ought to be returned to serve in Parliament for any Electoral District in Canada, such person may, in case it has been determined, by a Select Committee appointed in the manner hereinbefore directed, that such person was entitled to have been returned, sue the Sheriff or other Officer having so wilfully delayed, neglected or refused duly to make such return at his Election, in any of Her Majesty's Superior Courts of Record of original jurisdiction for any Province of Canada, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit, provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of any proceedings in the House of Commons relating to such Election.

152. All pecuniary penalties in and by this Act imposed, may be recovered, with full costs of suit, by any person suing for the same by action of debt in any Court in Canada having jurisdiction to the amount of such penalties respectively; and it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him to the amount of the penalty sued for, by virtue of this Act.

Recovery of pecuniary penalties under this Act.

153. Every indictment information or action for any offence against this Act, or any forfeiture incurred under the same, shall be found, filed or commenced within one year after the commission of the fact on which such indictment, information or action is grounded, within six months after the conclusion of the proceedings in the House of Commons, relating to the election Petition on the trial of which such fact arose, and not afterwards.

Limitation of time for prosecuting offenders against this Act.

154. All Mayors and Aldermen of Cities, and all Mayors, Town Reeves and other Heads of any of the Municipal Corporations in this Province, and other the like persons as well as all other persons having by Statute for the time being *ex officio* Magisterial power in any part of Canada shall, within the limits of their jurisdiction in that respect, be and be held to be Justices of the Peace within the meaning of this Act.

Who shall be deemed a Justice of the Peace for the purposes of this Act.

155. All questions as to the sufficiency or regularity of any proceeding had, taken or followed, by the House of Commons ---or by the Speaker, Clerk or other Officer thereof,---or by the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk or other Officer thereof,---or by any Commissioner appointed to take evidence upon any such trial, or any Clerk, Bailiff or other Officer acting under such Commissioner,---or by any of the parties interested or concerned either in the prosecution or defence of such Election Petition, his Counsel or Agent, in the conduct of the case of such party upon such Election Petition,---shall, so far as the same regards the trial and disposal of such Election Petition by such Select Committee, and the action of the House upon the Report of such Select Committee, be wholly judged of and determined by such Select Committee, and not by the House ; ---And no order or resolution of the House respecting the sufficiency or regularity of any such proceeding shall in anywise be binding upon such Select Committee as far as regards the trial and disposal of such Election Petition.

Questions concerning the regularity of any proceedings to be decided solely by the Select Committee.

156. The neglect or omission of any party interested or concerned either in the prosecution or defence of any such Election Petition, to observe strictly any of the directions contained in this Act respecting any proceeding or course of proceeding to be by him had or followed in the prosecution or defence of any such Election Petition,---except only where by the use of negative as well as affirmative terms, the intention

Omission to observe affirmative provisions not to be fatal, if declared, by the Committee, not to affect the substance

of the question at issue.

of the Legislature has been manifested that such proceeding or course of proceeding, and no other, as to time, place and circumstance, or any of them respectively, should be had or followed in such case,---shall not render such proceeding, or course of proceeding, or the subsequent proceedings of such Select Committee in the trial and disposal of such Election Petition, necessarily void or of none effect,—provided that such Select Committee thereupon come to a resolution to be reported to the House, with the reasons of such Committee for coming to the same, that such neglect or omission hath not so affected the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, as to interfere with or prevent the disposal by such Select Committee of any of the substantial questions raised upon such Election Petition, upon the true merits thereof.

If such omission affects the merits of the case, the party in default to be considered as having abandoned his case, *quoad* the question so affected.

157. Whenever any such neglect or omission as is referred to in the next preceding section does, in the opinion of such Select Committee, affect the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, so as to interfere with or prevent the disposal by such Committee of any of the substantial questions raised upon such Election Petition, upon the true merits thereof,---the said Committee shall, by a resolution to be adopted by them and reported to the House, with the reasons therefor as aforesaid, declare the same,--and thereupon the party in default shall not be thereafter received further to proceed with his case, so far as any such question is concerned, but shall be dealt with in every respect as if he had then voluntarily ceased further to prosecute his case as respects the same:

Exceptions.

2. Except only, firstly, that it shall remain open to such party to contend, if he thinks fit, that his case as to any such question had been then already sufficiently established in respect of the same or any part thereof, to entitle him to the decision of the said Select Committee in his favor upon the same;

Exceptions.

3. And except, also, secondly, that such resolution shall not preclude such Select Committee from taking into consideration such neglect or omission, and all the circumstances attending the same, in coming to a conclusion as to whether the prosecution or defence of such party was or was not frivolous or vexatious, and reporting the same to the House as aforesaid.

How the omission shall be dealt with, if declared not to affect the substance of the question.

158. In every such case of neglect or omission as is referred to in the next preceding section but one, the default of the party guilty of such neglect or omission may, in their discretion, be dealt with by the Select Committee for the trial of such Election Petition,---either by the imposition upon such party, for the benefit of the party or parties opponent, of such condi-

tions in respect of the future conduct of his case or any part thereof,---or by granting time or other indulgence to such party or parties opponent for facilitating the conduct of their case or cases, or some part or parts thereof,---or by the imposition of costs to be paid by the party in default to such party or parties opponent as aforesaid, or any or either of them, and by making the payment of such costs a condition precedent to permitting such party in default to proceed with his case or some part or parts thereof,---or in such other manner as to such Select Committee under all the circumstances thereof appears just in that behalf.

Provision if the party omitting to comply with the directions of the Act, be the House, the Speaker, the Clerk, Committee, Chairman, &c.

159. The non-observance by the House of Commons, or the Speaker, Clerk, or other Officer thereof,---or by the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk, or other Officer thereof,---or by any Commissioner appointed to take evidence upon any such trial, or acting under this Act,---or any Clerk, Bailiff, or other Officer acting under such Commissioner,---of any of the directions contained in this Act respecting any proceeding or course of proceeding to be had or taken by them respectively, in the disposal of such Election Petition, or the trial thereof,---except only where, by the use of negative as well as affirmative terms, the intention of the Legislature has been manifested, that only such proceeding or course of proceeding, and no other, as to time, place and circumstance, or any of them respectively, should be had or taken in such case,---shall not render such proceeding or course of proceeding, or the subsequent proceedings of such Select Committee in the trial and disposal of such Election Petition, necessarily void or of none effect, provided that such Select Committee thereupon come to a resolution, to be reported to the House with the reasons of such Committee for coming to the same,---that such neglect or omission hath not so affected the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, as to interfere with or prevent the disposal by such Committee of any substantial question raised upon such Election Petition upon the true merits thereof:

Supplying the omission.

2. But in every such case where necessary, such non-observance shall be supplied, in the case of non-observance by the House, or the Speaker, Clerk, or other Officer thereof, under the direction of the House itself,---and in the case of such non-observance by the said Select Committee, or the Chairman, Clerk, or other Officer thereof, or by any such Commissioner as aforesaid, or any Clerk, Bailiff or other Officer acting under him as aforesaid, then under the direction of such Select Committee,—so as to occasion to the parties prosecuting and defending such Election Petition as little inconvenience, delay or expense as may be.

In cases of non-observance by Speaker, &c.

160. In all such cases of non-observance as are referred to in the next preceding section, where such non-observance has taken place on the part of the Speaker, Clerk or other Officer of the House of Commons, or on that of the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk, or other Officer thereof, or on that of any Commissioner appointed to take evidence upon any such trial, or acting under this Act, or any Clerk, Bailiff or other Officer acting under such Commissioner,---the persons guilty of such non-observance, may, by order of the said House in its discretion, be taken into the custody of the Sergeant at Arms attending such House, or his Deputy, for such non-observance, and be otherwise dealt with, at the like discretion of the said House, by censure or imprisonment, or by requiring them to make such satisfaction to the parties so interested or concerned in such Election Petition, or any of them, as to the said House may seem just, and by commitment of such persons, or any of them, in execution, for such period as the said House deems proper, or until such satisfaction is made to such parties or any of them, according to the judgment come to by the said House in that behalf, or by all or any of such means as in the discretion of the said House seem just:

Proviso.

2. Provided nevertheless, that every such proceeding by the said House shall, in all cases, except in that of the Speaker of the said House, or in that of the said Select Committee or the Chairman or other Member thereof, be had and taken by the said House only upon a special report of such non-observance made by such Select Committee to the said House, and not otherwise.

11.---CASES FOR WHICH NO SPECIAL PROVISION IS MADE.

As to cases where no express provision is made by this Act.

161. If with regard to any Election Petition, any case arises as to which no express provision is made by this Act, and in which, if it were treated as a case wholly without the purview of this Act, there would be a manifest failure of justice, without any error, fault or neglect of any of the parties interested,---then such case shall not be held to be omitted, but it shall be lawful for the House, Speaker, General Election Committee, Chairmen's Panel, Select Committee, or Commissioner, as the case may be, to adopt such proceeding as they or he deem most consonant to the express provisions, spirit and intent of this Act, and when such proceeding is not taken by the House, to report the same to the House, for the information thereof only,---and such proceeding shall not be held illegal, unless it be inconsistent with some express provision of this Act, or some other existing provision of law.

Meaning of the term "Electoral Division."

162. The expression "Electoral District," in this Act, means any County or other place or portion of Canada, entitled to return a Member to the House of Commons.

SCHEDULES.

A (1.) —RECOGNIZANCE ON THE PART OF THE PETITIONER.

(*Referred to in the tenth Section of this Act.*)

CANADA, }
to wit: }

Be it remembered, that on the day of , in the year of Our Lord one thousand eight hundred and , Before me the Honorable A. M., Speaker of the Honorable the House of Commons of Canada, (*or* before me N. M., Esquire, one of Her Majesty's Justices of the Peace for &c., *or* Mayor, Alderman *or* Town Reeve of , in the Province of in Canada, *as the case may be*) at , in , came A. B., of, &c., Esquire, (*as the case may be*) C. D., of, &c., E. F., &c., and G. H., of, &c., and acknowledged himself (*or* severally acknowledged themselves) to owe to Our Sovereign Lady the Queen, the sum of eight hundred dollars, (*or* the following sums, that is to say: the said A. B. the sum of , the said C. D. the sum of , the said E. F. the sum of , and the said G. H. the sum of , to be levied on his (*or* their respective) goods and chattels, lands and tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the names of the Petitioner, and if more than one, add* or any of them) shall well and truly pay all sums of money, costs and expenses which shall become payable by him, (*or* them) in respect of the Election Petition signed by him, (*or* them) relating to the (*here insert the name of the Electoral District*) which shall become payable by the said Petitioner (*or* Petitioners) under the *Act respecting Controverted Parliamentary Elections*, to any witnesses summoned in his (*or* their) behalf, or to the sitting Member (*or* Members) or other party complained of in the said Petition, or to any party who may be admitted to defend the same as provided by the said Act, or to any person who upon the application of such Petitioner (*or* Petitioners) for the issue of a Commission to take evidence on the trial of the said Election Petition, shall be appointed Commissioner for that purpose, or to any person who may be appointed Commissioner in the place of such first mentioned Commissioner under the provisions of the said Act, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority

of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me at the day and place aforesaid, in pursuance of the *Act respecting Controverted Parliamentary Elections.*
A. N. Speaker,
or
N. M.
Justice of the Peace (Mayor, &c., *as the case may be*) for, &c.

A. B.
C. D.
E. F.
G. H.

A (2.)—RECOGNIZANCE ON THE PART OF THE SITTING MEMBER.

(*Referred to in the eleventh Section of this Act.*)

CANADA, }
to wit: }

Be it remembered, that on the day of , in the year of Our Lord, one thousand eight hundred and , Before me the Honorable A. N., Speaker of the Honorable the House of Commons of Canada, (*or* before me N. M., Esquire, one of Her Majesty's Justices of the Peace for, &c., *or* Mayor, Alderman *or* Town Reeve of , in the Province of in Canada, *as the case may be*) at , in , came A. B., of, &c., Esquire, (*or as the case may be*) C. D., of, &c., E. F, of, &c., and G. H., of, &c., and acknowledged himself (*or* severally acknowledged themselves) to owe to Our Sovereign Lady the Queen the sum of four hundred dollars (*or* the following sums, that is to say: the said A. B. the sum of dollars, the said C. D. the sum of dollars, the said E. F. the sum of dollars, and the said G. H. the sum of dollars) to be levied on his (*or* their respective) goods and chattels, lands and tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the name of the sitting Member or Members,*) the sitting Member (*or* Members) for the County, &c., (*insert the designation of the Electoral District*) of in the Province of Ontario, (*or* of Quebec, or Nova Scotia, or New Brunswick,) in Canada, in Parliament, shall well and truly pay all sums of money, costs and expenses which shall become payable by him (*or* them) to any person who upon the application of such sitting Member (*or* Members) for the issuing of a Commission to take evidence on the Trial of an Election Petition, pre-

sented) *or* to be presented) to the House of Commons of Canada, under the *Act respecting Controverted Parliamentary Elections*, relating to the said County (Riding, &c., *as the case may be*,) shall be appointed Commissioner for that purpose, or to any person who may be appointed Commissioner, in the place of such first mentioned Commissioner, under the provisions of the said Act, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me at the day and place aforesaid, in pursuance of the *Act respecting Controverted Parliamentary Elections*.
A. N. Speaker,
or
N. M.
Justice of the Peace, (Mayor, &c., *as the case may be*,) for, &c.

A. B.
C. D.
E. F.
G. H.

A (3.)—RECOGNIZANCE ON THE PART OF PETITIONER FOR PERMISSION TO DEFEND

(*Referred to in the twenty-ninth Section of this Act.*)

Canada,
To wit :

Be it remembered, that on the day of , in the year of Our Lord, one thousand eight hundred and , before me the Honorable A. N., Speaker of the House of Commons of Canada (*or* before me N. M., Esquire, one of Her Majesty's Justices of the Peace for, &c.,) *or* Mayor, Alderman *or* Town Reeve of , in the Province of in Canada, (*as the case may be*,) at , in , came A. B., of, &c., Esquire, (*as the case may be*,) C. D., of, &c., E. F., of, &c., and G. H., of &c., and acknowledged himself (*or* severally acknowledged themselves) to owe to Our Sovereign Lady the Queen, the sum of four hundred dollars (*or* the following sums, that is to say: the said A. B., the sum of dollars, the said C. D., the sum of dollars, the said E. F., the sum of dollars, and the said G. H., the sum of dollars,) to be levied on his (*or* their) goods and chattels, Lands and Tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the name of the Petitioner for permission to defend*,) a Peti-

tioner (*or* Petitioners) to the House of Commons of Canada, for permission to defend an Election Petition presented (*or* to be presented) to the said House, whereby the Seat (*or* Seats) of (*here insert the name of the sitting Member or Members*) the sitting Member (*or* Members) for the County, (Riding, &c., *insert the designation of the Electoral District,*) of in the Province of Ontario, (*or of* Quebec, or Nova Scotia, or New Brunswick,) in Canada, *as the case may be*) is (*or* are) or may be affected, and which said sitting Member (*or* Members) hath (*or* have) or is (*or* are) expected to decline defending such Seat (*or* Seats) shall well and truly pay all sums of money, costs and expenses, which shall become payable by him (*or* them) in respect of the Petition for permission to defend such Election Petition, which shall become payable by the said Petitioner (*or* Petitioners,) for permission to defend under the *Act respecting Controverted Parliamentary Elections*, to any Witness summoned on his (*or* their) behalf, or to the Petitioner (*or* Petitioners) in such Election Petition, or to any person who, upon the application of such Petitioner (*or* Petitioners) for permission to defend, for the issue of a Commission to take evidence on the trial of such Election Petition, may be appointed Commissioner for that purpose, or to any person who may be appointed Commissioner in the place of such first mentioned Commissioner, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me at the day and place aforesaid, in pursuance of the *Act respecting Controverted Parliamentary Elections.*
A. N., Speaker,
or
N. M.,
Justice of the Peace (Mayor, &c., *as the case may be*) for, &c.

A. B.
C. D.
E. F.
G. H.

A (4.) AFFIDAVIT OF SUFFICIENCY OF SURETIES

(*Applicable to any of the foregoing Recognizances, and referred to in the twelfth Section of this Act.*)

Canada,
To wit :

A. B., of, &c., (*as in the Recognizance*) in the within (*or* annexed) Recognizance mentioned, maketh oath (*or* affirmeth) and saith that he, this Deponent, (*or* affirmant) is seized of real estate, (*or* is possessed of personal estate,) (or is seized and

possessed of real and personal estate, respectively, *as the case may be*) to the amount of
over and above what will satisfy and discharge all his just debts (*double the amount for which he is bound in the Recognizance.*)

A. B.

Sworn by the said Deponent (*or* affirmed by the said Affirmant) at the time and place of his entering into the said Recognizance.

Before me A. N., Speaker,
or
N. M.,
Justice of the Peace (Mayor, &c., *as the case may be*) for, &c.

B 1. COMMISSION FOR THE EXAMINATION OF WITNESSES

(*Referred to in the ninety-ninth Section of this Act.*)

CANADA,
to wit:

To His Honor, G. H., one of Her Majesty's County Judges in Upper Canada, (*or as the case may be*), and all others whom it doth or may in any way concern:

I, J. I., of, &c., Esquire, Member of the House of Commons of Canada, and Chairman of the Select Committee appointed to try the merits of the Election Petition of C. D. and E. F., &c., (*setting out the names of the Petitioners*) against the election (*or* return, *or* election and return) of J. L., Esquire, the sitting Member (*or as the case may be*) for the County (Riding, &c., *insert the designation of the Electoral District*) of , in the Province of , in Canada, in the said House of Commons, send---Greeting:

Whereas upon the application of the said Petitioners (*or* of C. D., one of the said Petitioners, *or* of the said sitting Member *or* of K. L., a Petitioner (*or* Petitioners) who has (*or* have) been admitted to defend the said Election Petition, (*or as the case may be*,) to the said Select Committee, (*or otherwise, as the case may be*,) it has been ordered by the said Committee, in pursuance of the powers vested in them by the *Act respecting Controverted Parliamentary Elections*, that a Commission should issue for the examination of witnesses on the trial of such Election Petition, and that you the said G. H. shall be appointed such Commissioner:—These are therefore, in compliance with the said orders and in pursuance of the provisions of the said Act, to nominate, constitute and appoint you the said G. H. to be such Commissioner, to examine and enquire into all

matters and things to you for that purpose referred or to be referred by the said Election Committee, or any other Election Committee that may be appointed in their place for the trial of such Election Petition according to the provisions of the said Act, with all such powers and authority as by law belong to the office of such Commissioner by virtue of the said Act, or otherwise howsoever ;---And you are hereby expressly commanded with all necessary speed to repair to the said County (Riding &c., *as the case may be*,) of , and there at such place therein as you shall for that purpose appoint, on , the day of next, to proceed with the examination and enquiry aforesaid :---And all and whatsoever you do or cause to be done in the premises you are to return to the Honorable the Speaker of the said House of Commons for the time being, in the manner and within the time by the said Act for that purpose prescribed ; and this you are in no wise to omit under a penalty of four hundred dollars, and such other penalties as you may by law incur by reason of any such mission or neglect.

Given under my hand and seal at , in the Province of in Canada, this day of , in the year of Our Lord, one thousand eight hundred , and of Her Majesty's Reign the .

J. T. (L. S.)

(B 2.)---SIMILAR COMMISSION WHERE A NEW COMMISSIONER IS APPOINTED IN CONSEQUENCE OF THE ORIGINAL COMMISSIONER NOT BEING ABLE TO ACT

(*Referred to in the one hundredth Section of this Act.*)

CANADA, }
to wit: }

To His Honor G. H., one of Her Majesty's County Judges in Upper Canada, (*or as the case may be*,) and to all others whom it doth or may in any wise concern :

I, J. I., of, &c., Esquire, a Member of the House of Commons of Canada, and Chairman of the Select Committee appointed to try the merits of the Election Petition of C. D. and E. F. &c., (*setting out the names of the Petitioners*) against the election (*or* return, *or* election and return) of J. L. Esquire, the sitting Member, *or as the case may be*) for the County (Riding, &c., *insert the designation of the Electoral District*) of , in the Province of in Canada, in the said House of Commons, send---Greeting :

Whereas upon the application of the said Petitioners, (*or* of C. D., one of the said Petitioners, *or* of the said sitting Member, *or* of K. L., a Petitioner or Petitioners, who has *or* have been admitted to defend the said Election Petition, *or as the case may be*) to the Select Election Committee (*or otherwise, as the case may be*,) --- it was ordered by the said Committee in pursuance of the powers vested in them by the *Act respecting Controverted Parliamentary Elections*, that a Commission should issue for the examination of Witnesses on the trial of such Election Petition, and that G. H. should be appointed such Commissioner; and thereupon, by Warrant under my Hand and Seal, pursuant to the said Act (*or* under the Hand and Seal of L. M., the then Chairman of the Select Election Committee to try the merits of such Election Petition, *as the case may be*,) one G. H. was appointed such Commissioner to examine and enquire into all matters and things to him for that purpose referred or to be referred by the said Election Committee, or any other Election Committee that might be appointed in their place, for the trial of such Election Petition, according to the provisions of the said Act;—And whereas in consequence of the death of the said (G. H.) (*or* of the incapacity of the said (G. H.) from illness, *or as the case may be*) it has become impossible that the said Commission should be executed (*or* that the execution of the said Commission should be completed) according to the exigency thereof, and it hath therefore been further ordered by the said Select Election Committee, that a new Commissioner should be appointed in the place of the said G. H., and that you the said G. B. should be appointed such last mentioned Commissioner:—These are therefore, in compliance with the said Orders, and in pursuance of the provisions of the said Act, to supersede the said Commission, and to nominate, constitute and appoint you the said G. B. to be such Commissioner as last aforesaid, for the purposes aforesaid, with all such powers and authority as by law belong to the office of such Commissioner, by virtue of the said Act, or otherwise howsoever; and you are hereby expressly commanded, with all necessary speed, to repair to the County (Riding, &c., *as before*) of , and there at such place therein, as you shall for that purpose appoint, on , the day of next, to proceed with the examination and enquiry aforesaid;—And all and whatsoever you shall do, or cause to be done, in the premises, you are to return to the Honorable the Speaker of the House of Commons, for the time being, in the manner and within the time by the said Act for that purpose prescribed; And this you are in no wise to omit under a penalty of four hundred dollars, and such other penalties as you may by law incur by reason of any such omission or neglect.

Given under my hand and seal, at , in Canada, this day of , one thousand eight hundred , and of Her Majesty's Reign the .

I. J. (L.S.)

B (3.)—COMMISSIONER'S OATH

(*Referred to in the one hundred and thirteenth Section of this Act.*)

I, A. B., do swear that I will, without favor, affection or malice, and according to the best of my skill and knowledge, well and truly try and examine all such matters and things as shall be brought before me, by virtue of a Warrant, dated the day of , one thousand eight hundred and , under the hand and seal of the Chairman of the Select Committee of the House of Commons of Canada, on a Petition from (*here state the name or names of the Petitioner or Petitioners, and of the place to which the Petition relates*), and that I will in all things well and truly perform the duty of a Commissioner appointed to try the said matters and things, according to the rules, regulations and directions contained in the *Act respecting Controverted Parliamentary Elections.* So help me God.

B (4.)—CLERK'S OATH

(*Referred to in the one hundred and eighth Section of this Act.*)

I, A. B., do swear that I will, without favor, affection or malice, and according to the best of my skill and knowledge, well and truly take down in writing the Minutes of all the proceedings had before you, or any person who may be appointed Commissioner in your place, as Commissioner for taking evidence on the trial of the pending Election Petition, relating to the County (Riding, &c., *as the case may be*) of, &c., in as accurate a manner and as nearly as may be in the exact words in which such evidence shall be delivered, and that I will in all things well and truly perform the duty of Clerk to you, and to any person who may be appointed Commissioner in your place as such Commissioner, according to the rules, regulations and directions contained in the *Act respecting Controverted Parliamentary Elections*, and such lawful directions as I shall or may receive from you, or such other Commissioner, under the authority thereof. So help me God.

B (5.)—OATH OF THE BAILIFF OR OTHER OFFICER OF COMMISSION.

(*Referred to in the one hundred and eighth Section of this Act.*)

I, A. B. do swear that I will, without favor, affection or malice, and according to the best of my skill and power in all things, well and truly perform the duty of Bailiff, (*or as the*

case may be) to you, and to any person who may be appointed Commissioner in your place, as Commissioner for taking evidence on the trial of the pending Election Petition relating to the County (Riding, &c., *or as the case may be*) of, &c., according to the rules, regulations and directions contained in the *Act respecting Controverted Parliamentary Elections*, and such lawful directions as I shall or may receive from you or such other Commissioner under the authority thereof. So help me God.

No. 44.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Controverted Parliamentary Elections.

Received and read first time, Tuesday, 17th March, 1868.

Second reading, Friday, 20th March, 1868.

Hon. Sir JOHN A. MACDONALD.

Printed by G. E. Desbarats.

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BILL.

An Act respecting the security to be given by Officers of Canada.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Bonds, with sureties, to be given by persons appointed to certain public offices since 1st July, 1867.

1. Every person appointed since the first day of July, eighteen hundred and sixty-seven, to any civil office or employment, or commission in any public department of the Government of Canada, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Canada, and who by reason thereof is required to give security, with surety or sureties, or otherwise, shall, within six months from and after the passing of this Act, give and enter into a bond or bonds, or other security or securities, in such sum and with such sufficient surety or sureties as may be approved of by the Governor, or by the principal officer or person in the office or department to which he has been appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public money intrusted to him or placed under his control.

Bonds, with sureties, to be given by persons hereafter appointed to certain public offices.

2. Every person appointed after the passing of this Act, to any civil office or employment, or commission in any public department of the Government of Canada, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Canada, and who by reason thereof is required to give security, with surety or sureties, or otherwise shall, within one month after notice of such appointment, if he is then in Canada, or within three months if he is then absent from Canada, (unless he sooner arrives in Canada, and then within one month after such arrival), give and enter into a bond or bonds, or other security or securities, in such sum and with such sufficient surety or sureties as may be approved of by the Governor, or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control.

Bonds, &c., how and where to be recorded and deposited.

3. Every person who, by reason of his appointment to any civil office or employment, or commission in any public department, or of public trust, as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of any public moneys, as aforesaid, gives or enters into any bond or other security, for the due performance of the trust reposed in him, or for the due accounting for of public money intrusted to him, shall cause every such bond or security to be recorded at full length at the Office of the Secretary of State of Canada, in manner hereinafter mentioned, and shall forthwith, after such registration, deposit the original bond or security at the Office of the Minister of Finance.

Time within which it is to be done.

2. And every such bond or security shall be recorded and deposited, as aforesaid, within one month after being entered into or given, if the person on whose behalf it is entered into or given resides or is in Canada;

and if he is absent from Canada, then within three months after being entered into or given, unless such person arrives sooner in Canada, and then within one month after such arrival.

Entry of bond and certificate thereof.

4. The Secretary of State of Canada shall make an entry, and shall, if required, give a certificate in writing under his hand and seal, of every such bond or security brought to him to be registered, as aforesaid, and therein shall mention the day on which such bond or security is so registered, expressing also in what book, page or number the same is recorded.

Separate book to be kept for the purpose.

2. For the purpose of so registering bonds or securities under this Act the Secretary of State of Canada shall provide a separate Register Book, every page of which, and every bond or security recorded therein, shall be numbered ; and the day of the month and year when every such bond or security is registered, shall be entered in the margin of the said Register Book, and in the margin of the bond or security.

Alphabetical lists of names to be kept.

3. The Secretary of State of Canada shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in such bonds or securities, with reference to the book, page or number where the bonds or securities containing such names are to be found, and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands.

Order of entry.

Commission may be declared avoided for non-compliance.

5. If any person who, by reason of his appointment to or holding any such civil office or employment or commission in any public department, or of public trust, as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of any public money as aforesaid, is required or bound to give any such security, or to register and deposit any such bond or security, as aforesaid, neglects to give such security or to cause such bond or security to be duly registered and deposited in the manner and within the period in this Act prescribed, he shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such security ought to have been given ; and such bond or security, registered and deposited as aforesaid, and his appointment or commission shall be void from and after the time when the Governor declares the same to be avoided under this Act ; but such avoidance shall not annul or make void any act or order or other matter or thing done by such person during the time he actually held such appointment, office, employment or commission.

Avoidance not to annul acts done.

Exceptions.

2. No such forfeiture shall take place by reason of any such bond or security not being registered or deposited, where the proper sureties have been given and the proper bond made out, and when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance ; but in every such case a new bond or security, specifying the reason of such delay, shall be made out and signed, registered and deposited, within the like period after the person giving such security receives notice of the loss (regard being had to the place where he then is) as is required by this Act for the registry thereof if such loss had not occurred.

Notice to be given of death, &c., of surety.

6. Every such person as aforesaid, who has given any bond or other security, with surety or sureties for the due execution of the trust reposed in him, or for duly accounting for public moneys coming to his hands, shall give notice in writing to the Secretary of State of Canada, or to the principal officer or person of the Department to which he belongs, of the death, bankruptcy, insolvency, or residence out of Canada of any surety or person bound for or with him in any such security.

Delay for giving notice.

2. Such notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in

Canada, or within three months if he be out of Canada (unless he sooner arrives in Canada, and then within one month after such arrival); and any person who neglects to give such notice within such period as aforesaid, shall forfeit, to the use of Her Majesty, one-fourth part of the sum for which the surety so dead, or bankrupt or insolvent, or resident out of Canada, became security, to be recovered in any Court of competent jurisdiction, by action of debt, or information at the suit of the Crown; Penalty for neglect.

3. And every such person who, upon the death, bankruptcy, insolvency, or residence out of Canada of any surety, neglects to give the security of another surety, to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of Canada, was approved, within such period from his having given notice of the death, bankruptcy or insolvency, or residence out of Canada of the former surety, as is by this Act limited for giving, registering and depositing the original security,—or neglects to register and deposit the bond or security of such new surety within such period from his having given the security of such new surety as is by this Act limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person may then be), shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such new security ought to have been given, and such new bond or security registered and deposited, as aforesaid; and his appointment or commission shall be void from and after the time when the Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid. Neglect to provide new surety, punishable by forfeiture of appointment.

7. When any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty, by any such person as aforesaid, such surety, when no longer disposed to continue such responsibility, may give notice thereof to his principal, and also to the Secretary of State of Canada,—and all accruing responsibility on the part of such person as such surety shall cease at the expiration of one month from the receipt of the last of such notices; and the principal shall, within that period, give the security of another surety, and register and deposit the bond of such new surety, or in default of so doing shall be liable to forfeit and be deprived of the appointment, office, employment or commission in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment, or commission shall be void from and after the time when the Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid. How sureties of public officers may relieve themselves from further responsibility.

8. The Governor in Council may remit the forfeiture or penalty in any case in which the failure to give security or to register and deposit any bond or security under this Act has not arisen from any wilful neglect of the person bound to give register or deposit the same:— Governor may remit penalty in certain cases.

2. And if it appears to the Governor that the period hereinbefore limited for giving the security of a new surety as aforesaid is, in consequence of particular accidents, casualties or circumstances, insufficient, or that by reason of the distance or loss of letters, or illness, or the refusal of any surety to give the security, or of such surety not being deemed eligible and being rejected, or any other accident or casualty, further time will be necessary to enable the security of such new surety to be given,—the Governor in Council may allow such further period for giving the security of such new surety as appears to him reasonable and proper; Or may extend delay for giving security, &c.

3. But such extended period shall in no case exceed two months beyond the period allowed by this Act; and the precise period proposed But not for more than two months, and

an entry must be made.

to be allowed, together with the special grounds for allowing the same, shall be either entered in the book in which the original security has been registered or indorsed on the back of the original bond or other security itself; and the person required to give the security of such new surety shall not be subject to any forfeiture or penalty for not giving the same within the time limited by this Act if he gives it within the extended period so allowed as aforesaid.

Governor may approve of security given, &c., after time limited.

9. The Governor may approve of the security given, or the affidavit of qualification filed by any public officer of Canada, although the same has been given or filed after the time limited by this Act, and in such case the office or commission of such public officer shall be deemed not to have been avoided by such default, but to have remained and to remain in full force and effect.

Acts of public officers not void or voidable for delay in giving security, &c.

10. No act of any public officer of Canada whose security has been given, or registered, or deposited, or whose affidavit of qualification has been filed after the time limited by this Act, shall by such default be void or voidable.

Securities executed at different times within what delay to be registered.

11. Where the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or other instrument, or in different ones), the period limited for registering and depositing such securities shall be estimated from the time of execution thereof by the person who was the last to execute the bond, deed or other instrument, or the last bond, deed or other instrument, as the case may be.

Neglect, &c., not to vacate bond or discharge surety.

12. No neglect, omission or irregularity, in giving or receiving the bonds or other securities, or in registering the same, within the periods or in the manner prescribed by this Act, shall vacate or make void any such bond or security, or discharge any surety from the obligations thereof.

Proper officer to register and deposit bonds even after delay expired, but no exemption from penalty to ensue.

13. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired; but no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited from any forfeiture or penalty under any of the provisions of this Act.

Statements of bonds to be laid before Parliament.

14. The Secretary of State of Canada shall cause to be prepared, for the information of the Parliament of Canada, within fifteen days after the opening of every Session thereof, a detailed statement of all bonds or securities registered as aforesaid at his office, and of any changes or entries that have been made in reference to the names and residence of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the said Parliament.

Governor in Council may authorize security of certain Companies to be accepted for officers of Canada.

15. The Governor in Council may, by Order in Council, direct that whenever any public officer of Canada is required to give security as aforesaid, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control, or for the due fulfilment in any way of his duty, or of any obligation undertaken towards the Crown, the Bond or Policy of Guarantee of the European Assurance Society, mentioned in the Imperial Act twenty-second Victoria, chapter twenty-five, or of any Incorporated or Joint Stock Company, incorporated and empowered for like purposes, named by such Order in Council, may be accepted as such security, upon snch terms as shall be determined by the Governor in Council.

1st Session, 1st Parliament, 31 Vic., 1867-8.

G

BILL.

An Act respecting securities to be given by Officers of Canada.

Received and read first time, Thursday, 12th March, 1868.

Second reading, Monday, 16th March, 1868.

Honorable Mr. CAMPBELL.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

46

BILL.

An Act respecting Commissions, and Oaths of Allegiance and of Office.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Commissions.

No new Commissions need be issued at the commencement of a new reign. A proclamation continuing existing Commissions shall issue, and shall be sufficient.

1. Upon the demise of the Crown, it shall not be necessary to renew any commission by virtue whereof any Officer of Canada or any Functionary in Canada held his office or profession during the previous Reign—but a Proclamation shall be issued by the Governor, authorizing all persons in office as Officers of Canada who held commissions under the late Sovereign, and all Functionaries who exercised any profession by virtue of any such Commissions to continue in the due exercise of their respective duties, functions and professions; and such Proclamation shall suffice, and the incumbents shall as soon thereafter as may be, take the usual and customary oath of allegiance, as hereinafter provided, before the proper officer or officers thereunto appointed.

Oath of allegiance to the new Sovereign being taken, acts done under Commissions between the demise of the Crown and the issuing of the Proclamation to be valid.

2. And such Proclamation being issued, and oath taken, each and every such Officer of Canada and Functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the Sovereign for the time being; and all acts and things *bonâ fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties, functions and professions, between the time of such demise and the Proclamation so to be issued (such oath of allegiance being always duly taken), shall be deemed to be legally done, and valid accordingly.

Saving of the rights of the Crown.

2. Nothing in the preceding section shall prejudice or in anywise affect the rights or prerogative of the Crown, with respect to any office or appointment derived or held by authority from it, nor prejudice or affect the rights or prerogatives thereof in any other respectwhatsoever.

Oaths of Allegiance and of Office.

Form of Oath of Allegiance to be used in Canada.

3. The following form and no other, shall be that of the Oath of Allegiance to be administered to and taken by every person in Canada who, either of his own accord or in compliance with any lawful requirement made on him, or in obedience to the directions of this Act or of any other Act or law in force in Canada, save and except the "British North America Act, 1867," desires to take an oath of allegiance, that to say:

"I, A. B., do sincerely promise and swear that I will be faithful and "bear true allegiance to Her Majesty Queen Victoria (*or reigning "Sovereign for the time being*), as lawful Sovereign of the United King- "dom of Great Britain and Ireland, and of this Dominion of Canada, "dependent on and belonging to the said Kingdom, and that I will de- "fend Her to the utmost of my power against all traitorous conspiracies "or attempts whatever, which shall be made against Her Person, Crown

"and Dignity, and that I will do my utmost endeavor to disclose and "make known to Her Majesty, Her Heirs or Successors, all treasons "or traitorous conspiracies and attempts which I shall know to be "against Her or any of them; and all this I do swear without any "equivocation, mental evasion or secret reservation, and renouncing "all pardons and dispensations from any person or power whatever to "the contrary. So help me God." And all Magistrates and other Officers lawfully authorized, either by virtue of their office or special commission from the Crown for that purpose, may administer the oath of allegiance under this Act in any part of Canada; and it shall not be necessary for any person appointed to any civil office in Canada, or for any Mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a Barrister, Advocate, Notary Public, Attorney, Solicitor or Proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath aforesaid, and also such oath for the faithful performance of the duties of his office, or for the due exercise of his profession or calling as is required by any law in that behalf.

Who may administer it.

No declaration or subscription, and no other oath except that of office shall be necessary in certain cases.

Oaths to be taken subject to the provisions of law in such case.

4. The Oath of Allegiance hereinbefore set forth,—together with the Oath of Office or oath for the due exercise of any profession or calling, shall be taken within the period and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such Oaths, in all such cases respectively.

Affirmation of Allegiance.

Affirmation instead of oath in certain cases. Its effect.

5. All persons allowed by law to affirm instead of swearing in civil cases in any part of Canada shall be received to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance; and such affirmation of allegiance, taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath, and shall as to such affirmants have the like effect as the said oath of allegiance; all Magistrates and other officers lawfully authorized either by virtue of their office or by special Commission from the Crown for that purpose may administer the affirmation of allegiance in any part of Canada.

Who may administer it.

No Religious Test required.

No person need take the Sacrament, &c., for any temporal purpose.

6 It shall not be necessary for any person, for the purpose of qualifying himself to hold office under the Government of Canada, or for any other temporal purpose, privilege or advantage whatsoever within Canada, to receive the Sacrament of the Lord's Supper according to the rites and usages of the Church of England, or to deliver a certificate or make proof of his having received the said Sacrament in manner aforesaid; and no person shall be subject in Canada to any penalty, forfeiture, incapacity or disability whatsoever for or by reason of his not having so taken or received the said Sacrament.

No penalty incurred for not taking it.

1st Session, 1st Parliament, 31 Vic.,

H

BILL.

An Act respecting Commissions a
of Allegiance and of Office

Received and read, first time, T
12th March, 1868.
Second reading, Monday, 16th Mar

Hon. Mr. Cam

OTTAWA:

47.

No. 47.] BILL. [1868.

An Act to define the privileges, immunities and powers of the Senate and House of Commons, and to give summary protection to persons employed in the publication of Parliamentary Papers.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

Privileges, &c. to be the same as those of the House of Commons of the United Kingdom.

1. The Senate and the House of Commons respectively, and the Members thereof respectively, shall hold, enjoy and exercise such and the like privileges, immunities and powers as, at the time of the passing of the British North America Act, 1867, were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof, so far as the same are consistent with and not repugnant to the said Act.

To be noticed judicially.

2. Such privileges, immunities and powers shall be deemed to be and shall be part of the General and Public Law of Canada, and it shall not be necessary to plead the same, but the same shall in all Courts in Canada and by and before all Judges be taken notice of judicially.

Printed copy of journals to be evidence thereof.

3. Upon any inquiry touching the privileges, immunities and powers of the Senate and of the House of Commons or of any Member thereof respectively, any copy of the Journals of the Senate, or House of Commons, printed or purporting to be printed by the order of the Senate or House of Commons, shall be admitted as evidence of such Journals by all Courts, Justices, and others, without any proof being given that such copies were so printed.

In suit, &c., for publishing, Court or Judge may stay proceedings, on proof that the publication in question was by authority of either House.

4. Any person who shall be a Defendant in any Civil or Criminal proceedings commenced or prosecuted in any manner soever for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, or by or under the authority of the Senate or House of Commons, may bring before the Court in which such proceedings shall be so commenced or prosecuted or before any Judge of the same, first giving twenty-four hours notice of his intention so to do to the prosecutor or plaintiff in such proceeding or to his Attorney or Solicitor, a certificate under the hand of the Speaker or Clerk of the Senate or House of Commons, as the case may be, stating that the report, paper,

votes or proceedings as the case may be, in respect whereof such Civil or Criminal proceedings shall have been commenced or prosecuted, was or were published by such person or by his servant, by order or under the authority of the Senate or House of Commons, as the case may be, together with an affidavit verifying such certificate ; and such Court or Judge shall thereupon immediately stay such Civil or Criminal proceedings, and the same and every Writ or Process issued therein shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act.

The like in cases commenced hereafter.

5. In case of any Civil or Criminal Proceeding hereafter to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant at any stage of the proceedings may lay before the Court or Judge, such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy, and the Court or Judge shall immediately stay such Civil or Criminal proceedings, and the same and every Writ or Process issued therein, shall be and shall be deemed to be finally put an end to, determined and superseded by virtue of this Act.

Such proof may be made under the plea of general issue.

6. It shall be lawful in any Civil or Criminal proceeding to be commenced or prosecuted for printing any extract from or abstract of any such report, paper, votes or proceedings, to give in evidence under the general issue or denial, such report, paper, votes or proceedings, and to show that such extract or abstract was published *bonâ fide* and without malice, and if such shall be the opinion of the Jury, a Verdict of not guilty shall be entered for the Defendant.

[No. 47.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to define the privileges, immunities and powers of the Senate and House of Commons, and to give summary protection to persons employed in the publication of Parliamentary Papers.

Received and read first time Friday, 20th March, 1868.

Second reading Tuesday, 24th March, 1868.

Hon. Sir John A. Macdonald.

Printed by G. E. Desbarats.

48

An Act respecting Inquiries concerning Public Matters.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Whenever the Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of Canada, or the conduct of any part of the Public business thereof, or the administration of Justice therein, and such inquiry is not regulated by any special Law, the Governor may, by the Commission in the case, confer upon the Commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath orally or in writing (or on solemn affirmation if they be parties entitled to affirm in civil matters), and to produce such documents and things as such Commissioners deem requisite to the full investigation of the matters into which they are appointed to examine:

2. The Commissioner or Commissioners shall then have the same power to enforce the attendance of such witnesses and to compel them to give evidence, as is vested in any Court of Law in Civil cases; and any wilfully false statement made by any such witness on oath or solemn affirmation, shall be a misdemeanor punishable in the same manner as wilful and corrupt perjury; but no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

No. 49.] **BILL.** [1868.

An Act to change the limits of the Counties of Joliette and Berthier for electoral purposes.

Preamble.

WHEREAS, it is expedient to change the limits of the Electoral Districts of the Counties of Joliette and Berthier for electoral purposes as respects certain portions of the parishes of St Felix de Valois and St. Jean de Matha, in the township of Brandon, in the County of Berthier; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Interpretation of certain paragraphs of Cap. 75 of Con. Stat. L. C.

1. Subsections seventeen and twenty of the first Section of chapter seventy-five of the Consolidated Statutes for Lower Canada, intituled, *An Act respecting the division of Lower Canada into Counties—and the boundaries of certain Cities and Towns for the purposes of representation in the Legislature*, shall, so far as they relate to the election of Members of the Parliament of the Dominion of Canada, be read and construed as though no parts of the said parishes of St. Felix de Valois and St. Jean de Matha were in the said township of Brandon, and as though the part of the said township of Brandon, which lies within the limits of the said parishes of St. Felix de Valois and St. Jean de Matha had been re-united and annexed to the County of Joliette for electoral purposes.

2. Any law or any part of any law inconsistent with this Act, is hereby repealed.

No. 49.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act to change the limits of the Counties Joliette and Berthier for electoral purposes.

Received and read, first time, Thursday, 26th March, 1868.

Second reading, Monday, 30th March, 1868.

Mr. GODIN.

OTTAWA:

PRINTED BY HUNTER, ROSE & CO.

No. 50] **BILL.** [1868.

An Act to annex a portion of the Seigniory of Bélair to the County of Quebec and another portion thereof to the County of Portneuf.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

Part of Bélair annexed to County of Quebec.

1. That portion of the fourth and fifth ranges of the seigniory of Bélair comprised between the seigniory of Gaudarville on one side, and, on the other side, the land of Joseph Laurin, Esquire, in the fourth range, and the land of Jean Cliche, in the fifth range, both lands included, which by an Act passed in the First Session of the Legislature of the Province of Quebec, intituled "*An Act to annex a portion of the seigniory of Bélair to the parish of St. Ambroise and another portion thereof to the parish of Ste Catherine*" is now annexed to and forms part of the parish of St. Ambroise, and of the County of Quebec, for all civil and political purposes whatever in the said Province of Quebec, shall also form part of the County of Quebec for all civil and political purposes, in the Dominion of Canada.

Another part of the same to the County of Portneuf.

2. That portion of the fourth and fifth ranges of the seigniory of Bélair comprised between the said lands of Joseph Laurin, Esquire, and Jean Cliche, exclusively, on one side, and the seigniory of Fossambault on the other side, which by the said Act of the Legislature of the Province of Quebec, is annexed to and forms part of the said parish of Saint Catherine and of the County of Portneuf, for all civil and political purposes whatever in the Province of Quebec, shall also form part of the County of Portneuf, for all civil and political purposes in the Dominion of Canada.

No. 50.

1st Session, 1st Parliament, 31 Victoria, 1867-8.

BILL.

An Act to annex a portion of the Seigniory of Bélair to the County of Quebec, and another portion thereof to the County of Portneuf.

Received and read, 1st time, Thursday, 26th March, 1868.

Second reading, Monday, 30th March, 1868.

Hon. Mr. CHAUVEAU.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 51.] **BILL.** [1868.

An Act to facilitate the removal of obstructions to the Navigation of the River Sydenham.

Preamble.

WHEREAS, it is expedient to facilitate and encourage the removal of obstructions to Navigation in the River Sydenham; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Certain sunken logs, &c., to be the property of whoever takes them out.

1. Any square timber, saw log, or other piece of timber that is now sunken in the River Sydenham, or that may hereafter sink therein, and which is not removed within one year from the time of its sinking, shall become the property of any person or persons who may take it from the bed of the river.

Case of claim provided for.

2. Should any person or persons claim such timber after being raised from the bed of the river, on the ground of former proprietorship, it shall be conclusively presumed, upon proof of its having been sunken in the river for a period of not less than one year, that he or they, as the case may be, had abandoned his or their right of property therein.

Limitation of Act.

3. This Act shall not apply to that part of either branch of the River Sydenham above the head of navigation.

No. 51.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to facilitate the removal of obstructions to the Navigation of the River Sydenham.

Received and read, first time, Thursday, 26th March, 1868.

Second reading, Monday, 30th March, 1868.

Mr. MILLS.

OTTAWA:

PRINTED BY HUNTER, ROSE & CO.

No. 52.] **BILL.** [1868.

An Act to amend an Act intituled, "An Act respecting the Statutes of Canada."

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. That the word "thirtieth" in the third line of section three of an Act passed in the thirty-first year of Her Majesty's reign, chapter one, intituled, "An Act respecting the Statutes of Canada," be expunged, and the word "thirty-first" be inserted instead thereof. Sect. 3, of 31 V., c. 1, amended.

No. 52.

1st Session, 1st Parliament, 31 Vict., 1867.

BILL.

An Act to amend an Act intituled "An Act respecting the Statutes of Canada."

Received and read, first time, Thursday, 26th March, 1868.

Second reading, Monday, 30th March, 1868.

MR. MILLS.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 53] **BILL.** [1868.

An Act to regulate and restrict the Contingent Charges of the Departments of the Public Service, and to establish a Stationery Office.

HER Majesty, by and with the advice and consent of the Senate and House of Commons, enacts as follows :— Preamble.

CONTINGENCIES.

1. The Contingencies of each Department of the Civil Service shall mean and include only— What shall be contingencies

1. Subscriptions to and advertising in newspapers.
2. The purchase of books of reference, maps, &c.
3. Telegraphing.
4. Postages, freight and express charges.
5. Wages of charwomen, and other expenses of cleaning offices.
6. Travelling expenses, including cab hire.
7. Extra clerks, to the extent only sanctioned by the Civil Service Act.
8. Petty expenses, not exceeding in any Department a sum to be apportioned by Order in Council.

2. The Department of Public Works is hereby charged with the heating, maintenance and keeping in repair of the Government Buildings at the Seat of Government, and with any alterations from time to time requisite therein, and with supplying furniture or fittings or repairs to the same—and no charge in respect thereof shall be made against or paid out of the vote for contingencies, but an Estimate shall be annually laid before Parliament of sums required for such purposes, respectively, and any expenditure therefor shall be defrayed out of such sum as may be specially appropriated therefor. Heating, repair, and furnishing Government buildings to be under charge of Public Works

3. So often as any Contingency is required by any Department, and whether for an article to be furnished or service to be performed, the Deputy Head of the Department shall apply therefor by requisition in writing to the person by whom the same is to be furnished or performed; and such requisition shall, in cases where it can be so made, be antecedent to the delivery of the article or performance of the service. Deputy Heads to give orders for contingencies,

4. Every account rendered to a Deputy Head for certificate shall be accompanied by the original requisition, in respect of which such account accrued, and, when certified by him, shall be forwarded to an officer of the Finance Department, to be called the Accountant of Contingencies, for payment; and, except as hereinafter mentioned, shall then be paid by him. And certificates for payment.

5. Every such certificate shall be understood, unless otherwise expressly stated, to mean that each item contained in the account has been incurred by the authority and upon the order of either the Head or Deputy Head of the Department, and that the articles or services charged for have been received or performed, and that the prices charged are severally fair and just, and that the expenditure incurred is necessary for the public service; but if the certificate expresses or implies that the articles have been furnished or services performed, but that the correctness of the price charged What the certificate shall be understood to imply.

Proviso as to prices.

is not vouched for, the Accountant of Contingencies shall investigate the account and ascertain the correct price before paying the same.

Reference to the Auditor and Board of Audit in cases of doubt.

6. In case it shall appear to the Accountant of Contingencies that any such account is for a purpose not included under the above definition of Contingencies, or that it is in excess of the amount for which authority has been given, or that the amount or any part thereof has been previously paid, or that there is any other error therein, he shall withhold payment and submit the account to the Auditor; and if the Auditor, after conference with the Deputy Head signing the requisition, shall be of opinion that there is any irregularity in the same, he shall submit it to the Board of Audit before payment.

Monthly account by Deputy to Head.

7. The Deputy Head of each Department shall submit to the Head thereof, monthly, an account of the expenditure for contingencies, during the month with the details of such account.

Monthly account to Board of Audit of sums paid in advance.

8. The Accountant of Contingencies shall submit, monthly, through the Auditor, to the Board of Audit at its monthly meeting, a statement of all sums which have been paid in advance and to be accounted for, and which remained unaccounted for at the end of the last preceding month.

Account to the Auditor.

9. The Accountant of Contingencies shall render to the Auditor, monthly, a Statement, in detail, accompanied by Vouchers, of all sums paid by him during the month, and of all monies received, with a Bank certificate of the balance at his credit at the end of the month.

Estimates for contingencies and application of sums voted.

10. The Estimates for Contingencies of each Department shall be prepared separately, but shall be submitted to Parliament in one sum, and so soon as conveniently may be after the same have been voted by Parliament, the Governor in Council shall assign a certain sum for defraying the Contingencies of each department, reserving a certain amount for general expenses, not specially applicable to any individual Department, to be expended upon requisition and certificate of the Chairman of the Civil Service Board, in such manner as is hereinbefore provided in respect to the Contingencies of any Department.

As to certain expenses connected with Government Buildings.

11. All matters connected with the superintendence of the Government Buildings, other than the maintenance and repairs thereof, hereinbefore mentioned, shall be in charge of the Accountant of Contingencies, under the Civil Service Board, and such Board shall make regulations in respect thereof, subject to the approval of the Governor in Council.

STATIONERY.

Stationery office, and management thereof.

12. There shall be a Stationery Office for the purposes hereinafter mentioned, and the same shall be attached to the Finance Department, and shall be placed under the superintendence of such Officer or Clerk of that Department as the Minister of Finance may direct, and the Governor in Council may, subject to the provisions of the Canada Civil Service Act, 1868, appoint any Clerk or Clerks for assistance in the said Office as may be found expedient.

Estimates of Stationery, Printing, &c., by Deputy Heads.

13. It shall be the duty of each Deputy Head of a Department to furnish to the Finance Department, when required, an estimate of the probable quantity, quality and variety of all articles commonly known as "Stationery," and of the probable amount, in value, of

Printing and Binding which may be required for the purposes of each such Department for the then ensuing Financial Year.

Total estimates to be submitted to Parliament, &c.

Report to Governor in Council; and contracts for supplies or work.

14. Such estimates shall be referred to the Civil Service Board, who shall thereupon report to the Governor in Council the total probable amount, in quantities, qualities and value, required for the Stationery, Printing and Binding forthe Departments of the Civil Service for such year, and a requisite sum therefor shall be placed in the Estimates as a separate item, under the head of Civil Government; and an apportionment in respect of each Department shall be made by the Governor in Council, which may be increased or varied from time to time, so that the whole sum voted by Parliament in any year, together with the value of the stock on hand, be not exceeded. The said Board shall further Report to the Governor in Council the mode or modes in which the said Board propose that the said articles or services shall be procured and performed, and the regulations under which tenders may be asked for for the same respectively, and as to the terms of acceptance thereof, and as to the mode of collection and disposal of the waste paper of the several Departments; and upon the approval by the Governor in Council of such Reports of the Civil Service Board, any necessary supplies of stationery, to the extent of the appropriation made by Parliament, may be procured, and any necessary arrangements for Printing and Binding, and contracts for the same, respectively, may be entered into; and all Stationery so procured shall be placed in the custody of such Officer or Clerk as may be directed, as hereinbefore mentioned.

Stationery Clerk to supply Stationery and cause work to be done; sending accounts monthly to Deputy Heads.

15. Such Officer or Clerk shall supply any articles of Stationery to, or cause to be performed for any Department of the Civil Service, such Printing or Binding, according to such regulations as may be approved by the Governor in Council as aforesaid, so often as such Officer or Clerk shall receive a Requisition therefor, signed by the Deputy Head of such Department, and he shall charge the quantity supplied or the service so performed, and the value thereof, against such Department; and such Officer or Clerk shall furnish an account, monthly, of the same respectively, to each Deputy Head of a Department, accompanied by the several Requisitions in respect of the several articles or services mentioned in the said account, and such Deputy Head shall, if the same be found correct, certify to the correctness of such account and return it to such Officer or Clerk.

And to render accounts monthly to the Auditor who shall take stock from time to time.

16. Such Officer or Clerk shall furnish, monthly, to the Auditor a Statement, with the accounts and vouchers therefor, of all Stationery purchased and of all articles supplied, or Printing and Binding performed for each Department, during the preceding month, certified by the Deputy Head thereof as correct, in the manner hereinbefore provided with respect to Contingencies; and the Auditor shall, quarterly or more frequently, at his discretion, cause the stock of Stationery in store to be checked with the quantities purchased and supplied.

Accounts to be laid before Parliament.

17. An Account shall be laid before Parliament each year, shewing the value of the stock of Stationery on hand at the beginning of the year, the amount expended during the year for Stationery, Printing and Binding, the amounts charged against each Department, and the stock on hand at the end of the year.

Act to apply to outside Service.

18. This Act shall apply as well to the Outside Service of the several Departments as to the Departments of the Civil Service at the Seat of Government.

No. 53.

1st Session, 1st Parliament, 31 Vict., 1867.

BILL.

An Act to regulate and restrict the Contingent Charges of the Departments of the Public Service, and to establish a Stationery Office.

Received and read, first time, Monday, 30th March, 1868.

Second reading, Wednesday, 1st April, 1868.

Hon. Mr. Rose.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

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No. 54.] BILL. [1868.

An Act further securing the independence of Parliament.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. Except as hereinafter specially provided—

1. No person accepting or holding any office, commission or employment in the service of the Government of Canada, at the nomination of the Crown, to which an annual salary, or any fee, allowance or emolument in lieu of an annual salary from the Crown is attached, shall be eligible as a Member of the House of Commons, nor shall he sit or vote in the same during the time he holds such office, occupation or employment; No person holding an office of emolument under the Government of Canada, to be member of the House of Commons.

2. Nothing in this section shall render ineligible as aforesaid, any person being a Member of the Privy Council, or holding any of the following offices, that is to say: President of the Privy Council, Receiver General, Minister of Finance, Minister of Justice, Minister of Militia, Secretary of State, Secretary of State for the Provinces, Minister of Public Works, Postmaster General, Minister of Agriculture and Emigration, Minister of Inland Revenue, Minister of Customs, Minister of Marine and Fisheries or Attorney General, or shall disqualify him to sit or vote in the House of Commons, provided he be elected while holding such office, and not otherwise disqualified; Exception as to Members of the Privy Council, or persons holding certain offices. Proviso.

3. Nothing in this section shall render ineligible, as aforesaid, or disqualify to sit or vote in the House of Commons, any Officer of Her Majesty's Army or Navy, or any Officer in the Militia or Militiaman (except Officers on the Staff of the Militia receiving permanent salaries) unless he be otherwise disqualified. Exception as to Officers in the Army, Navy or Militia.

2. No person whosoever holding or enjoying, undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, any contract or agreement with Her Majesty, or with any Public Officer or Department, with respect to the public service of Canada, or under which any public money of Canada is to No public contractor to be a member of the H. of Commons.

be paid for any service or work, shall be eligible as a Member of the House of Commons, nor shall he sit or vote in the same.

Election of persons disqualified, to be null.

3. If any person hereby disqualified or declared incapable of being elected a Member of the House of Commons, is nevertheless elected and returned as a member, his election and return shall be null and void.

No disqualified person shall sit or vote.

4. No person disqualified by the next preceding sections or by any other law, to be elected a Member of the House of Commons, shall sit or vote in the same while he remains under such disqualification:

Penalty for so doing.

2. And if any person disqualified or declared incapable of sitting or voting in the House of Commons, by the first, second or third sections, sits or votes therein, he shall thereby forfeit the sum of two thousand dollars, for each and every day on which he so sits or votes; and such sum may be

How recoverable.

recovered from him by any person who will sue for the same, by action of debt, bill, plaint or information in any Court of competent civil jurisdiction in Canada.

Member accepting Office to vacate his seat.

5. If any Member of the House of Commons, by accepting any office or becoming a party to any contract or agreement, becomes disqualified by law to continue to sit or vote in the same, his election shall thereby become void, and the seat of such Member shall be vacated, and a Writ shall forthwith issue for a new election as if he were naturally dead; but

May be re-elected under sect. 1, par. 2.

he may be re-elected if he be eligible under section four of this Act.

Certain Officers may resign one office and accept another within a month without vacating.

6. Nevertheless, whenever any person holding the office of President of the Privy Council, Receiver General, Minister of Finance, Minister of Justice, Minister of Militia, Secretary of State, Secretary of State for the Provinces, Minister of Public Works, Postmaster General, Minister of Agriculture and Emigration, Minister of Inland Revenue, Minister of Customs, Minister of Marine and Fisheries or Attorney General, and being at the same time a Member of the House of Commons, resigns his office, and within one month after his resignation accepts any of the said offices, he shall not thereby vacate his seat in the said House of Commons.

Members may resign their seats.

7. Any Member of the House of Commons may voluntarily resign and vacate his seat in the manner hereinafter provided.

Proceedings in such case for issue of new writ, by notice in the House.

8. Any such Member wishing to resign his seat, may do so by giving in his place in the House of Commons notice of his intention to resign it, in which case and immediately after such notice has been entered by the Clerk on the Journals of the House, the Speaker may address his Warrant under his hand and seal, to the Clerk of the Crown in

Chancery, for the issue of a Writ for the election of a new member in the place of the member resigning ;

Or by notice in writing to the Speaker.

2. Or such member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a Session of Parliament or in the interval between two Sessions,—and the Speaker may upon receiving such declaration forthwith address his Warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a Writ for the Election of a new Member in the place of the Member so resigning, and a Writ shall issue accordingly,—and an entry of the declaration so delivered to the Speaker shall be thereafter made in the Journals of the House ;

Speaker's warrant.

Entry in Journals.

Seat vacated on such notice.

3. And the Member so tendering his resignation, shall be held to have vacated his seat and cease to be a member of such House.

No member to resign while his seat is contested.

9. But no Member shall so tender his resignation while his election is lawfully contested, nor until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery.

Proceedings when a member wishes to resign, when there is no Speaker, or the member be himself the Speaker.

10. If any Member of the House of Commons wishes to resign his seat in the interval between two Sessions of the Parliament, and there is then no Speaker, or if such Member be himself the Speaker,---he may address and cause to be delivered to any two Members of the House, the declaration before mentioned of his intention to resign ; and such two Members upon receiving such declaration shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery, for the issue of a new writ for the election of a Member in the place of the Member so notifying his intention to resign, and such writ shall issue accordingly :---And the member so tendering his resignation shall be held to have vacated his seat and cease to be a member of the House.

Proceedings in case of vacancy, by death or acceptance of office.

11. If any vacancy happens in the House of Commons by the death of any Member or by his accepting any Office, the Speaker on being informed of such vacancy by any Member of the House in his place,---or by notice in writing under the hands and seals of any two Members of the House,---shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member to fill the vacancy, and a new writ shall issue accordingly :

If the speaker is absent from

2. And if when such vacancy happens, or at any time thereafter before the Speaker's warrant for a new writ has

Canada, or there is no Speaker.

issued, there be no Speaker of the House, or the Speaker be absent from Canada, or if the Member whose seat is vacated be himself the Speaker,---then, any two Members of the House may address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member to fill such vacancy, and such writ shall issue accordingly.

Warrant for filling a vacancy before Parliament meets after a general Election.

12. A warrant may issue to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member of the House of Commons to fill up any vacancy arising subsequently to a general election and before the first meeting of Parliament thereafter, by reason of the death or acceptance of office of any Member, and such writ may issue at any time after such death or acceptance of office :

Proviso : saving right of any person to contest.

Election Committee to decide &c.

2. But the election to be held under such writ, shall not in any manner affect the rights of any person entitled to contest the previous election ; and the report of any Election Committee appointed to try such previous election, shall determine whether the Member who has so died or accepted office, or any other person, was duly returned or elected thereat, which determination, if adverse to the return of such Member and in favor of any other Candidate, shall avoid the election held under this section, and the Candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held.

No. 54.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

Independence of Parliament.

Received and read first time, Monday, 30th March, 1868.

Second reading, Wednesday, 1st April, 1868.

Hon. Sir JOHN A. MACDONALD.

Printed by G. E. Desbarats.

55

No. 55.] BILL. [1868.

An Act respecting the Militia and Defence of the Dominion of Canada.

The clauses or paragraphs enclosed in Brackets thus [ ] are intended to be proposed in Committee of the Whole.

1. Command in Chief.
2. Minister of Militia and Defence.
3. Deputy Minister of Militia.
4, 5. Militiamen.
6. Division of Militia.
7-11. Period of Service.
12-14. Military Divisions.
15, 16. Enrolment.
17. Exemptions.
18-21. Active Militia.
22-26. Balloting.
27. In Aid of the Civil Power.
28, 29. Adjutant General.
30. District Staff.
31-36. Officers.
37-43. Clothing, and Arms and Accoutrements.
44-51. Drill and Training.
52. Inspections.
53, 54. Rifle Ranges and Drill Sheds.
55-57. Schools of Military Instruction.
58. Rifle and Drill Associations.
59. Military Instruction in Schools and Colleges.
60-68. Calling out the Militia.
69-71. Regulations for Billeting, &c.
72-74. Courts of Enquiry and Courts Martial.
75-85. Offences and Penalties.
86. Recovery of Penalties.
87-91. Prosecutions.
92-95. Notices, Orders, &c.
96. Expenditure.
97. General power to make regulations.
98. Regulations.
99. Interpretation.
100. Repeal of Acts.
101. When Act shall come into force.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

COMMAND IN CHIEF.

1. As provided by the fifteenth section of "The British North America Act, 1867," the Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is vested in the Queen. Command in Chief vested in H. M.

DEPARTMENT OF MILITIA AND DEFENCE.

2. There shall be a Minister of Militia and Defence who shall be charged with and be responsible for the administration of Militia Affairs, including all matters involving expenditure, and of the fortifications, gunboats, ordnance, ammunition, arms, armories, stores, munitions and habiliments of war belonging to Canada. Minister and Department of Militia.

Initiative in certain matters.

2. The Minister of Militia and Defence shall have the initiative in all Militia affairs involving the expenditure of money.

Orders in Council.

3. The Governor in Council shall, from time to time, make such orders as may be necessary respecting the duties to be performed by the Minister of Militia and Defence.

Deputy: and officers and their duties.

3. [The Governor may appoint a Deputy of the Minister of Militia and Defence, and such other Officers as may be necessary for carrying on the business of the Department; and the duties of such Officers shall be prescribed, and their salaries fixed by the Governor in Council.]

MILITIAMEN.

Militia of whom composed.

4. The Militia shall consist of all the male inhabitants of Canada, of the age of eighteen years and upwards, and under sixty—not exempted or disqualified by law, and being British subjects by birth or naturalization; but Her Majesty may require all the male inhabitants of the Dominion, capable of bearing arms, to serve in case of a *Levée en Masse*:

Classes.

5. The male population so liable to serve in the Militia, shall be divided into four classes.

First.

The *first* Class shall comprise those of the age of eighteen years and upwards, but under thirty years, who are unmarried, or widowers without children.

Second.

The *second* Class shall comprise those of the age of thirty years and upwards, but under forty-five years, who are unmarried, or widowers without children.

Third.

The *third* Class shall comprise those of the age of eighteen years and upwards, but under forty-five years, who are married, or widowers with children.

Fourth.

The *fourth* Class shall comprise those of the age of forty-five years and upwards, but under sixty years.

Order for service.

And the above shall be the order in which the male population shall be called upon to serve.

DIVISION OF MILITIA.

Division.

6. The Militia shall be divided into Active and Reserve Militia:

Active.

The *Active Militia* shall consist of the *Volunteer Militia*, the *Regular Militia*, and the *Marine Militia*.

Volunteer.

The Volunteer Militia shall be composed of Corps raised wholly by voluntary enlistment.

The Regular Militia shall be composed of men who voluntarily enlist to serve in the same ; or of men balloted to serve ; or of men who voluntarily enlist to serve with the balloted men and of men balloted to serve. Regular.

The Marine Militia shall be composed of seamen, sailors, and persons whose usual occupation is upon any steam or sailing craft, navigating the waters of the Dominion. Marine.

The *Reserve Militia* shall consist of the whole of the men who are not serving in the Active Militia of the time being. Reserve.

PERIOD OF SERVICE.

7. Every Volunteer Corps duly authorized previously to and existing on the day on which this Act shall come into force, including the Officers commissioned thereto, shall for the purposes of this Act be held to be existing and shall be continued as such, subject to the provisions of this Act ; and within three months after the day on which this Act shall come into force, all such Corps shall be mustered by their Captains or Commanding Officers, the provisions of this Act shall be explained to them, and such of the men as have not previously given notice of their desire to be discharged, shall take the Oath hereinafter prescribed, and be re-enrolled as Volunteer Militia, and each man shall sign a Muster Roll ; and thereafter such men of any Volunteer Corps, in any Regimental Division, as complete three years continuous service in such Corps, and are discharged, shall not be liable to be balloted for any period of drill or training of the Active Militia, until all the other men in the first, second and third classes of Militiamen in the Company Division within which they reside, have volunteered or been balloted to serve. Existing Volunteer Corps continued. Muster thereof. Men willing to serve to sign a Roll. Exemptions in their favour.

8. No member of a Volunteer Militia Corps, enrolled or re-enrolled under this Act, shall be permitted to retire therefrom in time of peace, without giving to his Commanding Officer six months' notice of his intention. Notice before retiring.

9. Hereafter the period of service in the Volunteer Militia in time of peace shall be three years. Period of service.

10. The period of service required of the Regular Militia in time of peace shall be two years, and thence until other men are taken to serve in their stead, or they are relieved by order of Her Majesty ; and such of the men as are enrolled in any Service Company of Regular Militia, for drill and training during any such two years, shall not again be liable to be taken for drill and training, until all the other men in the first, second, and third classes of Militiamen, in the same Company division, have volunteered or been balloted to serve. And in Regular Militia. Exemptions in favour of men serving two years.

And of Volunteers or Regular Militiamen, having already served their period.

11. Any Volunteer or Regular Militiamen who shall have completed within the year immediately preceding the day on which this Act shall come into force, the full term of continuous service, according to the tenor of their articles of engagement, in the case of Volunteers, or the period of drill and training for which they were taken, in the case of Regular Militiamen, under the laws then existing in any of the Provinces within this Dominion, shall be entitled to such exemption as is accorded to Active Militiamen who complete any period of drill or training under this Act; save and except that the men who have been balloted under authority of chapter two of the Statutes of the late Province of Canada, passed in the twenty-seventh year of Her Majesty's Reign, and of the amendments thereto, shall be liable to serve until replaced by Active Militiamen organized under this Act, but shall not thereby be exempt from liability, if balloted to serve in any quota of Militiamen required at any time to be organized under this Act.

Exception.

MILITARY DIVISIONS.

Military Districts.

12. Her Majesty may divide Canada into nine Military Districts, viz: one comprising the Province of Nova Scotia, one comprising the Province of New Brunswick, three in the Province of Quebec, and four in the Province of Ontario.

Number and limits may be altered by H. M.

13. Her Majesty may alter the Districts, specified in the next preceding section, and increase or diminish the number thereof as may be deemed necessary: and may name the territorial divisions which shall form each of the three Military Districts of Quebec, and each of the four Military Districts of Ontario, and may alter the same from time to time.

Regimental, Brigade and Company Divisions.

Power to alter, &c.

Proviso.

14. Her Majesty may, from time to time, divide each Military District into such number of Regimental and Brigade Divisions as may be deemed expedient, and may subdivide such Regimental Divisions into Company Divisions;—and may, from time to time, alter such Divisions or increase or diminish the number thereof; but all Military Districts and Divisions existing on the day on which this Act shall come into force shall be continued as such, until altered under the provisions of this Act.

ENROLMENT.

Through what officers, orders, &c., relating to enrolment shall be sent, &c., for Regimental Divisions.

15. For each Regimental Division there shall be appointed from the residents therein, one Lieutenant-Colonel and two Majors of Reserve Militia; and all orders and reports, relating to the enrolment at any time of Militiamen within the Regimental Division, are to be sent to, and received through and be acted on by the Lieutenant-Colonel, or in his absence through the senior Major of the Division, for the time being, who shall act instead of the Lieutenant-Colonel during such absence:

2. And for each Company Divison there shall be appointed from the residents therein, one Captain, one Lieutenant and one Ensign of Reserve Militia; and all orders and reports relating to the enrolment at any time of Militiamen within the Compauy Division are to be sent to, and acted on by the Captain; or in his absence they shall be sent to the next senior Officer of the Company Division, for the time being, who shall act instead of the Captain during such absence. And for Company Divisions.

16. The enrolment of the Militia shall be made in each Company Division by the Captain thereof, with the assistance of the Officers and non-commissioned officers of the Company Division;—and it shall be the duty of the Captain, and under his orders, of the other Officers and non-commissioned officers of the Company Division, by actual enquiry at each house therein, and by every other means in their power, to make and complete, on or before the 28th day of February, in the year 1869, and on or before the twenty-eighth day of February in each alternate year thereafter, a corrected roll, in duplicate, of the names of all the men in the different classes resident within the Company Division, specifying separately those who are seamen or sailors, or persons engaged in or upon any steam or sailing craft upon the lakes or waters of the Dominion, those who are *bonâ fide* enrolled members of any Company of Volunteer Militia, and those who, after the day on which this act shall come into force, shall have completed such a term of service in the Militia as will by law exempt them until they are again required in their turn to serve; How, when and by whom the enrolment shall be made. What it must shew.

2. One copy of such roll is to be retained by the Captain, and the other to be forwarded, on or before the first day of April following the taking of the enrolment, to the Lieutenant-Colonel of the Regimental Division, which last-named Officer shall cause a copy of all the rolls of Militiamen in the several Company Divisions within the Regimental Division to be forwarded without delay to the Adjutant-General of Militia: but if from any cause the duties prescribed by this section cannot in any particular case be carried into effect within the time specified, a special Report of the facts relating to the delay shall be made to the Adjutant-General, who shall without delay fix another period within which the enrolment shall be completed and the rolls be forwarded; To be made in Duplicate. One copy to Adjt. General. Provision if Roll be not made in time.

3. The enrolment shall be held to be an embodiment of all the militiamen enrolled, and shall render them liable to serve under the provisions of this Act, unless exempt by law. Roll to be embodiment.

EXEMPTIONS.

17. The following persons only, between the ages of Persons ex-

Exempt from serving at any time.

eighteen and sixty years, shall be exempt from enrolment, and from actual service at any time :

The Judges of all the Courts of Law or Equity in the Dominion of Canada ;

The Clergy and Ministers of all Religious denominations ;

The Professors in any College or University and all Teachers in religious orders ;

The Warden, Keepers and Guards of the Penitentiaries, and the Officers, Keepers and Guards of all public Lunatic Asylums ;

Persons disabled by bodily infirmity ;

The only son of a widow, being her only support ;

Exempt except in special cases.

2. And the following, though enrolled, shall be exempt from actual service at any time except in case of war, invasion or insurrection :

Half-pay and Retired Officers of Her Majesty's Army or Navy ;

Seafaring Men and Sailors actually employed in their calling ;

Pilots and Apprentice Pilots during the season of navigation ;

Masters of Public and Common Schools actually engaged in teaching ;

Quakers, &c.

Any person bearing a certificate from the Society of Quakers, Menonists or Tunkers, or any inhabitant of Canada, of any Religious denomination, otherwise subject to Military duty, but who, from the doctrines of his Religion, is averse to bearing

Conditions.

arms and refuses personal Military Service, shall be exempt from such service when balloted in time of peace, or war, upon such conditions and under such regulations as the Governor in Council may, from time to time, prescribe ;

Exemption must be claimed.

3. No person shall have the benefit of exemption, unless he has, at least one month before he claims such benefit, filed with the Captain of the Company Division within the limits whereof he resides, his *Affidavit* made before some Magistrate (or affirmation in cases where persons are allowed to affirm) of the facts on which he rests his claim ;

Proof of Exemption

4. Whenever exemption is claimed, whether on the ground

of age or otherwise, the burden of proof shall be upon the claimant ;

5. Exemption shall not prevent any person from serving, if he desires it and is not disabled by bodily infirmity. Not to prevent voluntary service.

ACTIVE MILITIA.

18. The Active Militia Force shall consist of Troops of Cavalry, Field Batteries of Artillery, Companies of Mounted Infantry, Companies of Engineers, Battalions and Companies of Garrison Artillery, Battalions and Companies of Infantry, and Naval and Marine Corps, in such proportions as Her Majesty shall appoint ; and the strength of each such Troop, Battery, Battalion, Company or Corps, shall be regulated, and officers appointed thereto, from time to time, by Her Majesty. Corps of which the Active Militia shall consist.

2. A military train, as well as commissariat, hospital and ambulance Corps may be formed whenever the exigencies of the service may require the same, at such places and in such manner, and of such strength, including the proper Officers, as Her Majesty may direct. Other corps when required.

19. Every Active Militiaman shall sign a service Roll in which the conditions of his service shall be stated ; and every Officer of Militia, on appointment, and every non-commissioned officer and man, on enrolment, shall take the oath following : Signing Roll and taking oath of Allegiance.

"I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty, for the defence of her Dominion of Canada against all her enemies :"

Which oath may be administered by the Commanding Officer of the Corps, he having previously taken the oath before a Justice of the Peace. How administered.

20. Her Majesty may accept the services of Corps of Volunteers, under such regulations as may from time to time be made. Corps of Volunteers.

21. Any Volunteer Corps may enter into any articles of Engagement and make Regulations not inconsistent with this Act, to be approved by Her Majesty ; but the Commanding Officers of all Corps of Volunteer Militia shall be responsible that their Corps respectively are kept up to the full strength ; and in the event of failure of any Corps to maintain the complement of men for each respectively, or of any Corps becoming inefficient, Her Majesty may disband any such Corps ; and may also disband any Corps of Volunteer Militia if considered necessary to do so. Articles of engagement of Volunteer Corps : they must be kept at full strength.

Each Company in a Regimental Division to furnish its quota;

Volunteers to be allowed for.

Men drafted to be appointed to Corps, &c.

22. At any time when Militiamen are required to be drafted in any Regimental Division, each Company Division therein shall, subject to the provisions of the two sections immediately following the present section, contribute its quota according to the number of Militiamen on the rolls and liable to serve, of the class, or classes, from which the men are to be taken; and when Volunteer, or Regular, or Marine Militiamen, are accepted or taken or balloted to serve in any quota, the Company Division or Divisions furnishing the men shall receive credit therefor; and the Active Militiamen taken, or accepted, and enrolled for service, from time to time, in any Company or Regimental Division, shall be attached or appointed to such Companies, Corps, or Battalions of the Active Militia as Her Majesty may order,

Volunteer Corps disbanded.

Service Companies.

2. When a Volunteer Corps in any Regimental Division for any cause ceases to exist, Her Majesty may make good the quota of that Division by the organization of Regular Militiamen to replace such Corps; and when Companies of Regular Militiamen are taken or balloted in any Regimental Division, they shall be called the Service Companies thereof.

Filling vacancies in Service Companies.

3. When by reason of death or removal, vacancies occur in any Service Company of Militia organized under this Act, such vacancies shall be filled by other men to be drawn from the Reserve Militia, in the same manner as the men for that Corps were originally supplied.

Provisions for balloting if the number of Volunteers are not sufficient for the *quota*.

23. When Active Militiamen are required to be organized at any time, either for drill or for actual service, and enough men do not volunteer in any Company Division to complete the quota required from that division, the men enrolled in the first class and liable to serve shall be first balloted, and if the number of men required to be balloted, is greater than the whole number of men in the first class, then the number requisite to make up the deficiency shall be taken from those in the second class, and if more men than the whole number in the first and second classes are still required, then the number requisite to make up the deficiency shall be taken from the third class, and in like manner, if more men than are in the first, second, and third classes, are still required, then the number requisite to make up the deficiency shall be taken from the fourth class;

Proviso: as to sons in one family.

but at no time shall more than one son belonging to the same family residing in the same house, if there be more than one inscribed on the Militia Roll, be drawn, unless the number of names so inscribed be insufficient to complete the required proportion of service men:

Men not taken for service may volunteer in adjacent

2. Any man not taken for service for the time being in any Corps organized in the Regimental Division in which he resides, may volunteer to serve in any Corps in any Regimental Divi-

sion contiguous thereto, and in such case the Company Division in which he resides, shall have credit for such volunteer; and the man shall, on completing his full period of service, be entitled to the same exemption in his Company Division, as though he had served with men raised therein for the same period. Regimental Division.

24. When any Company Division shall have furnished more men than its quota, as compared with other Company Divisions in the same Regimental Division, such Company Division shall not again be called upon in time of peace for more men, until the other Company Divisions have supplied men to equalize the proportion for each, according to the number of names inscribed on the Militia Rolls thereof respectively. When a Company Division has furnished more than its *quota*.

25. The Governor in Council may from time to time make regulations for taking the enrolment and ballot; for fixing the day on which the taking of the enrolment shall be commenced in each of the several Military Districts respectively; for notifying the men liable to be taken, or those balloted in any Company Division for service in any quota; for finally deciding claims of applicants for exemption, and for the administration of Oaths before Justices of the Peace or the Commanding Officer of a Corps, to ascertain any facts in reference to such claim of exemption; for medical examinations; and for the discharge of such men as are unfit to serve; and relating to every other matter and thing not inconsistent with this Act, and necessary to be done, in the enrolling, balloting, warning and bringing into service, of such numbers of the Volunteer, the Regular, the Marine, or the Reserve Militiamen in any Company Division as are required at any time; but any Militiaman balloted and notified for service may, at any time, be exempt, until again required in his turn to serve, by furnishing an acceptable substitute, on or before the day fixed for his appearance, or, in time of peace, by forthwith paying to the Captain of the Company Division within which he resides, the sum of thirty dollars, which said sum, shall by the Captain be paid to another man who is approved, and is willing to serve as substitute for such balloted man; but, if during any period of service, any man who is serving in the Active Militia as a substitute for another, shall become liable to service in his own person, he shall be taken for such service, and his place as substitute shall be supplied by the Militiaman in whose stead he was serving. Regulations respecting enrolment to be made by Governor in Council.

Exemption on providing a substitute, or payment of $30.

If the substitute is drawn his principal must supply his place.

26. Any Active Militiaman who may, during any period of service, attain the age of forty-five years, shall notwithstanding be required to complete the full period for which he volunteered or was balloted to serve. Service man attaining 45 years.

IN AID OF THE CIVIL POWER.

27. The Corps composing the Active Militia shall be liable to be called out with their arms and ammunition in aid of the By whom Active Militia

may be called out.

Civil Power in case of riot or other emergency requiring such services, whether such riot or emergency occurs within or without the Municipality in which such Corps is raised or organized; and it shall be the duty of the Deputy Adjutant General of the District, or failing him, of the Brigade Major, or failing him, of the senior Officer of the Active Militia present at any locality, to call out the same or such portion thereof as is necessary for the purpose of quelling any riot, when thereunto required in writing by the Mayor, Warden or other Head of the Municipality in which such riot takes place, or by any two Magistrates therein, and to obey such instructions as may be lawfully given him by any Magistrate in regard to such riot; and every Officer, non-commissioned officer and man of such Active Militia or any portion thereof, shall on every such occasion, obey the orders of his Commanding Officer; and the Officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of Office, be special constables, and shall be considered to act as such so long as they remain so called out; but they shall act only as a military body, and shall be individually liable to obey the orders of their Military Commanding Officer only; and they shall, when so employed, receive from the Municipality in which their services are required, the following rates of pay, that is to say: Officers, the same pay as that of Officers of corresponding rank in Her Majesty's Service, with an additional sum to each mounted Officer of *two dollars* per day, and non-commissioned Officers and Privates the sum of *one dollar* each, per day, with an additional sum of *one dollar* per day for each horse actually and necessarily used or employed on such occasion, and they shall be also provided with proper lodging by such Municipality;—and the said sums, and the value of such lodging, if not furnished by the Municipality, may be recovered from it by the Officer Commanding the Corps, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto.

They must obey the call.

To be special Constables.

To be paid by municipality.

Recovery if not paid.

ADJUTANT GENERAL.

Qualification and appointment.

28. There shall be appointed an Adjutant General of Militia for the Dominion of Canada, who shall be a person educated to the military profession, and who has attained the rank of Field Officer in Her Majesty's regular army:

Rank, command and Pay.

2. [The Adjutant General shall have the rank of Colonel in the Militia, and shall be charged, under the orders of Her Majesty, with the military command and discipline of the Militia, and shall be paid at the rate of dollars per annum;]

Duties.

3. The Governor in Council shall, from time to time, make such orders as may be necessary, respecting the duties to be

performed by the Adjutant General of Militia, and by the Officers of the Militia generally.

29. [There shall be a Deputy Adjutant General of Militia at Head Quarters, who shall have the rank of Lieutenant Colonel in the Militia ; and who shall be paid at the rate of dollars per annum.] D. A. G. at Head Quarters.

DISTRICT STAFF.

30. [In and for each of the nine Military Districts mentioned in section twelve of this act, there shall be appointed one Deputy Adjutant General of Militia, who shall have the rank of Lieutenant Colonel, and who shall command the Militia in his District ; and he shall be paid at the rate of dollars per annum.] D. A. G. in each Military District. Pay.

2. [There shall also be appointed in each of the Military Districts aforesaid such Brigade Majors and other Officers as may be necessary ; and the salaries of such Officers shall be fixed by the Governor in Council.] Brigade Majors, &c.

OFFICERS.

31. Commissions of Officers in the Militia shall be granted by Her Majesty during pleasure, and all non-commissioned officers in the Militia shall be appointed by the Officer commanding the Corps or Battalion to which they belong, and shall hold their rank during pleasure. Commissions: non-commissioned Officers.

32. Officers holding Commissions in the Militia in any of the Provinces of the Dominion, on the day on which this Act shall come into force, may be placed on the retired list, with a step of honorary rank to those below the rank of Lieutenant Colonel ; and Her Majesty may appoint Officers from the retired list to Commissions in the Militia ; but no Officer from the retired list shall be bound to serve in the Militia in a lower grade than that of his retired rank. Officers holding commissions when this Act passes. Proviso.

33. No person shall be appointed an Officer in the Active Militia, except provisionally, until he has obtained a certificate of fitness from one of the Military Schools of the Dominion or a Board of Officers of the Active Militia, to be constituted as Her Majesty may appoint ; or unless he had obtained a certificate, from one of the Schools of Military Instruction, heretofore established in the late Province of Canada, or from any Board of Officers which had been appointed for that purpose in any of the Provinces of the Dominion ; and Her Majesty may prescribe conditions as to the qualification of Officers of different grades, by General Order ; and may order the assembling of such Boards, as often as may be expedient ; and may dispense with the conditions of this section in the Conditions of appointment as regards qualification. Certificates. Boards for examination.

case of men who have served as Officers or non commissioned Officers in Her Majesty's regular army;

Rank limited in peace time.

Proviso.

2. In time of peace no person except the Adjutant General shall hold higher rank in the Militia than that of Lieutenant-Colonel, but Officers at the time when this Act shall come into force, holding the rank of Colonel, shall retain the same;

And when called out.

3. Her Majesty may, however, when the Militia is called out, and the exigencies of the service so require, appoint therein Colonels and other Officers of superior rank, in no case to exceed that of Major General.

Staff Officers.

34. Her Majesty may appoint Staff Officers of the Militia with such rank as from time to time may be found requisite or necessary for the efficiency of the Militia service; and such Staff Officers shall have such rank and authority in the Militia as are held relatively in Her Majesty's service, and their duties shall be such as may from time to time be prescribed.

Relative rank of officers.

Proviso.

35. The relative rank and authority of Officers in the Militia of Canada, shall be the same as the relative rank and authority of Officers in Her Majesty's regular army; and any Body of Militia assembled on parade, shall be commanded by the Officer highest in rank then present, on duty and in uniform, or the senior of two or more Officers of equal rank; provided that no Officer whose rank is provisional only shall under any circumstances command an Officer of the same grade whose rank is substantive.

Officers of H. M. army to command Militia officers of like rank.

36. Officers of Her Majesty's Regular Army shall always be reckoned senior to Militia Officers of the same rank, whatever be the dates of their respective Commissions;—and Colonels appointed by Commission signed by the Commander of Her Majesty's Regular Forces in Canada, shall command Colonels of Militia, whatever be the dates of their respective Commissions.

CLOTHING, AND ARMS AND ACCOUTREMENTS.

Officers to furnish their own.

Exemptions from seizure.

Exemptions of Active Militia.

37. Officers shall provide their own uniforms, arms and accoutrements; and the arms and Accoutrements of all Officers on the Militia Staff, and of the Officers and men of the Active Militia, and the horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; and the Officers, non-commissioned officers and men of the Active Militia, shall be exempt from serving as Jurors or Constables; and a certificate, under the hand of the Commanding Officer of any such Corps, shall be sufficient evidence of the service in his Corps of any Officer, non-commissioned officer or man.

38. The arms and accoutrements of the Officers and men of the Active Militia shall be such as Her Majesty shall from time to time direct; and no such arms and accoutrements of the men shall be left in their possession except by special authority. Quality of arms, &c.

39. The value of all such articles of public property as may have become deficient or damaged, while in possession of any Corps, otherwise than through fair wear and tear or unavoidable accident, may be recovered by the Minister of Militia and Defence or by any other person authorized by him, from the Officer in command of such Corps; and the Officer commanding any Corps shall have power to recover the value of such articles of public property as have become deficient, or damaged while in possession of his Corps, otherwise than through fair wear and tear or unavoidable accident, from the man or men who may be responsible for the same. Responsibility for damages. Recovery of damages.

40. Such of the several Corps of Active Militia heretofore organized or hereafter to be organized, as may, for that purpose, be named and specified, shall be supplied with uniform clothing of such one and similar colour, pattern and design, as may be ordered for each arm of the service designated in this Act; and if necessary, such uniform clothing may be replaced in every successive period of five years from the original issue; and the said uniform clothing shall be delivered to the Officer commanding the Corps, to be by him delivered to the non-commissioned officers and privates, on such conditions and upon such security as may be directed; and Her Majesty may, from time to time, make such regulations in respect to the uniform clothing, and may prescribe penalties for any infraction of such regulations as may be deemed necessary or expedient; but nothing herein contained shall prevent the re-supplying of clothing within the period aforesaid in special cases. Uniform clothing. Renewal. Delivery. Regulations. Proviso.

41. [The several Corps of Militia shall be furnished with arms and accoutrements, and the same shall be kept in public armories, wherever there are such; and where there are no such public armories, and until the same are provided, the Officer commanding each Corps shall himself actually keep the arms and accoutrements in a good and sufficient building, provided with suitable arm racks and provision for the care thereof, and shall be personally responsible for such arms and accoutrements; and the Officer commanding any such Corps may, in the discretion of the Governor in Council, be allowed annually, such sum for the care of such arms and accoutrements as may appear proper for the same; and no Arms or Accoutrements shall be taken or removed from any such public armoury, or from the care of such Commanding Officer, except under such regulations as may be made in respect to the same by Her Majesty.] Arms and accoutrements. Safe keeping. Expense. Regulations as to removal.

Militiaman leaving Canada to return clothing, &c.

42. Any man serving in the Active Militia who may require to leave Canada shall first return to the Captain of his Company all articles of public clothing, or public property which he may have had in his possession, and shall obtain a written discharge from the Commanding Officer of his Corps;

Penalty.

and any Militiaman who may leave Canada, with any articles of public clothing or other public property in his possession, shall be guilty of embezzlement, and may be tried for the same at any subsequent time;

Proof.

and a record in the books of his corps of his having so received and not having returned any articles of public clothing or other public property, shall be evidence of possession;

Receipt on delivery.

and he shall be entitled to quittance by certificate and to see it recorded in the books of his corps on returning such articles.

When only to appear in uniform.

43. No Corps of the Active Militia, and no non-commissioned officer or private shall at any time appear in uniform or armed or accoutred, except when on duty or *bonâ fide* at parade or drill or at target practice, or at Reviews or on Field-days or Inspections, or by order of the Commanding Officer.

DRILL AND TRAINING.

40,000 Militiamen to be trained yearly in time of peace: how selected.

44. In time of peace there shall be trained and drilled annually, for such periods as are authorized by this Act, and under such regulations as Her Majesty may, from time to time prescribe, the Officers of Militia mentioned in the three following sections, and 40,000 Active militiamen; and Her Majesty shall from time to time by General Orders, designate the Regimental Divisions required to furnish the men for

Proviso.

purposes of such training and drill: but in any Regimental Division where, in proportion to the number of names inscribed on the Militia Rolls, as compared with other Regimental Divisions, Volunteers are organized and perform the regulated drills for Volunteers, Her Majesty may dispense with the annual training and drill of such a number of Regular Militia as, with the Volunteers, are in excess of the quota which would otherwise be required in that Regimental Division.

Volunteer Militia.

Drilling Officers and men of Volunteers.

45. [Her Majesty may order the Officers, non-commissioned officers, and privates of the several Corps of the Volunteer Militia or any portion thereof to drill for a period not exceeding sixteen days nor less than eight days in each year: and for

Pay.

each day's drill of three hours, every officer, non-commissioned

Horses.

officer and private shall receive fifty cents; and the non-commissioned officers and privates of mounted Corps, shall receive for each day's drill of three hours, seventy-five cents for each horse that has taken part in such drill.]

Regular Militia.

46. [Her Majesty may order to assemble, for a period not exceeding sixteen nor less than eight days in each year, all the Officers, non-commissioned officers and privates of the Service Companies of the Regular Militia required for service, and the Officers of the Reserve Militia, or any portion thereof, at such times and places as may be thought proper, for drill and exercise: and for each day's drill of three hours every Officer, non-commissioned officer and private shall receive fifty cents; and the non-commissioned officers and privates of mounted Corps, shall receive for each day's drill of three hours, seventy-five cents for each horse that has taken part in such drill.] The same of Service Militia. Pay. Horses.

Marine Militia.

47. [Her Majesty may order the Officers and men of the Marine Militia, or any portion thereof, to be trained and drilled for a period not exceeding sixteen days, nor less than eight days in each year, at such times and places, and in such manner, as may be thought proper; and for each day's drill every Officer and Man shall receive fifty cents.] The same of Marine Militia. Pay.

48. Payments for drill, shall be made only upon proof of compliance with such regulations touching such drill, and the efficiency of the several Corps, as Her Majesty may order; and any officer, non-commissioned officer or private, absent from drill, shall forfeit his pay therefor. Payments.

49. [Her Majesty may, from time to time, appoint competent persons to instruct and drill the Militia, and may award such remuneration therefor as the Governor in Council may order.] Drill Teachers. Pay.

50. Such of the Officers and men of any Corps of the Active Militia as reside within two miles of the place appointed for drill, may assemble or be ordered out by the officer commanding it for drill or exercise, at other times than when performing the annual drills, under regulations to be approved by Her Majesty, and without receiving any pay therefor. Occasional drill.

51. Her Majesty may, by any General Order dispense with the drill or training of any Corps or part of a Corps of the Active Militia, either in any particular year or until further order, and may, in like manner, again direct such drill and training, or either of them, to be resumed if it may seem fit, and any such order shall have the force of law according to the terms thereof; and Her Majesty may also dispense with the formation, or drill and training, of service Companies of the Regular Militia in remote portions of Districts. Dispensing with drill and training. Remote parts of distrtits.

INSPECTIONS.

Inspections.

52. The several Corps of the Active Militia shall be subject to such inspections, from time to time, as Her Majesty may direct.

RIFLE RANGES AND DRILL SHEDS.

Rifle Ranges, &c.

Land.

Practice.

Penalties.

Inspection.

53. At, or as near as may be to the head-quarters of every Regimental Division, there may be provided a Rifle Range with suitable butts, targets, and other necessary appliances; and Her Majesty may order the appropriation of such land necessary for the same at a proper valuation, and may stop, at such time as may be necessary during the target practice of the Active Militia, the traffic on any roads not being Mail Roads that may cross the line of fire, and may make such other regulations, for conducting target practice and registering the results thereof, and for the safety of the public, as may be necessary, and may impose penalties for wilful damage to any such butts, targets and appliances; and all such Ranges shall be subject to inspection and approval before being used, and the owners of private property shall be compensated for any damage that may accrue to their respective properties from the use of any such Rifle Range.

Aid to Local Governments for Drill Sheds, &c.

54. The Governor in Council may, from time to time, make regulations relating to the conditions upon which Government aid shall be granted towards the construction, by the local authorities, of Drill Sheds and armouries, in any Regimental Division, and the use thereof by the militia.

SCHOOLS OF MILITARY INSTRUCTION.

To be established in each Province.

Regulations by Governor in Council.

55. For the purpose of enabling Officers of the Militia, or candidates for Commissions or promotion in the Militia, to perfect themselves in a knowledge of their military duties, drill and discipline, there may be established Schools of Military Instruction in each Province of the Dominion, and for that purpose arrangements may be entered into with the Officer Commanding Her Majesty's Forces in British North America, for the best means of effecting the same in connection with any Regiment or Regiments of Her Majesty's Forces; and all necessary Rules and Regulations, as to the terms upon which such instruction may be compensated for, and generally for the advancement of Military Education amongst the Officers and Candidates for Commissions as aforesaid, may be made by the Governor in Council.

Selection of pupils.

56. Her Majesty shall, from time to time, from among the applicants for such purpose, select such persons in each Province of the Dominion as may be fit to attend such schools of Military Instruction, and if necessary remove

them; and the allowances to be paid to such persons during their stay at the school, and the period for which they shall undergo such instruction, shall be regulated by the Governor in Council; and every person who shall enter upon the course of Military Instruction as hereinbefore provided, shall thereupon and thenceforth, and for the period prescribed in such regulations, upon his signing a Roll of Entry for such instruction, be subject to the Queen's Rules and Regulations, the Mutiny Act and the Rules and Articles of War, and to such other Orders, Rules and Regulations, of whatever nature or kind, to which Her Majesty's Troops are subject.

Allowance.

Obligations of pupils: signing Roll.

57. Her Majesty may, from time to time, order any persons who have obtained final certificates in any School of Military Instruction and whether the same be Commissioned Officers or not, to attend a Camp or Camps of Instruction at such time and place in Canada, and for such period as may for such purpose be prescribed, and Her Majesty may make all necessary rules and regulations for the command, and discipline and good management of such Camp or Camps and for the mode of instruction thereat; and the allowances to be paid to such persons during their stay at the same shall be fixed by the Governor in Council; and every person who shall report himself at such Camp or Camps, and shall sign a Roll of Entry thereat, shall thereupon and thenceforth and for the duration of such Camp or Camps, be subject to the Queen's Rules and Regulations, the Mutiny Act and the Rules and Articles of War, and to such other Orders, Rules and Regulations, of whatever nature or kind to which Her Majesty's Troops are subject.

Camps of instruction.

Regulations.

Allowances.

Signing Roll.

RIFLE AND DRILL ASSOCIATIONS.

58. Her Majesty may sanction the organization of Rifle Associations, and of associations for purposes of Drill and of independent Companies of Infantry composed of professors, masters or pupils of Universities, Schools or other public Institutions, or of persons engaged in or about the same, or of Militia Officers, or of men on the Militia Rolls, under such regulations as may, from time to time, be approved by Her Majesty; but such Associations or Companies shall not be provided with any clothing or allowance therefor.

Association may be sanctioned.

Proviso.

MILITARY INSTRUCTION IN SCHOOLS AND COLLEGES.

59. There shall be furnished to every Normal School, University, College or School in Canada, in which there shall be instituted classes of instruction in Military Drill and Exercises under regulations prescribed by Her Majesty, arms and accoutrements necessary for the instruction of the pupils thereof over the age of twelve years.

Arms, &c., for pupils.

CALLING OUT THE MILITIA.

Commanding Officer may call out on sudden emergencies.

60. The Officer commanding any Military District or Division, or the Officer commanding any Corps of Active Militia, may, upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the Militia within his command, until the pleasure of Her Majesty is known, and the Militia so called out by their Commanding Officer shall immediately obey all such orders as he may give, and march to such place within or without the District or Division as he may direct.

H. M. may call out in case of war, &c.

Period of service.

61. Her Majesty may call out the Militia or any part thereof for actual service, either within or without the Dominion, at any time, whenever it appears advisable so to do by reason of war, invasion or insurrection, or danger of any of them; and the Militiamen, when so called out for actual service, shall continue to serve for at least one year from the date of their being called out for actual service, if required so to do, or for any longer period which Her Majesty may appoint:

Militiamen for reliefs.

2. Her Majesty may, from time to time, direct the furnishing by any Regimental Division, of such number of Militiamen as may be required either for reliefs, or to fill vacancies in Corps on actual service;

Militia called may be commanded by Commander of H. M. Forces.

3. Whenever the Militia or any part thereof are called out for actual service by reason of war, invasion, or insurrection, Her Majesty may place them under the orders of the Commander of Her Regular Forces in Canada.

Period of service.

May be extended in case of necessity

62. In time of war no man shall be required to serve in the field continuously for a longer period than one year; but any man who volunteers to serve for the war or for any longer period than one year shall be compelled to fulfil his engagement; but Her Majesty may, in cases of unavoidable necessity (of which necessity Her Majesty shall be the sole judge), call upon any Militiaman to continue to serve beyond his period of general service, or voluntary engagement, or beyond his one year's service in the field, for any period not exceeding six months.

Pay of Militia when called out.

63. Whenever the Militia or any part, or Corps thereof, shall be called out for actual service, the Officers, non-commissioned officers and men so called out shall be paid at such rates of daily pay as are paid to Officers, non-commissioned officers and men of the relative and corresponding grade in Her Majesty's Service, or such other rates as may for the time being be fixed by the Governor in Council.

Active Militia to be subject to H. M's. Regulations and to

64. The Active Militia shall be subject to the Queen's Regulations and Orders for the army; and every Officer and man of the Militia shall, from the time of being called out for actual service,

and also during the period of annual drill or training under the provisions of this Act, and also during any drill or parade of his corps at which he may be present in the ranks or as a spectator, and also while wearing the uniform of his Corps, be subject to the Rules and Articles of War and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's Troops in Canada, and not inconsistent with this Act; except that no man shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that Her Majesty may direct that any provisions of the said laws or regulations shall not apply to the Militia Force; but any Officer, non commissioned officer or man charged with any offence committed while serving in the Militia, shall be held liable to be tried by Court Martial, and if convicted to be punished therefor, within six months after his discharge from the Militia or after the Corps to which he belongs or belonged is relieved from actual service, notwithstanding that he shall have been so discharged from the Active Militia, or that the Corps to which he belonged shall have been so relieved from actual service: and any Officer, non-commissioned officer or private of the Militia may be tried for the crime of desertion at any time, without reference to the length of time which may have elapsed since his desertion.

articles of War when called out &c.

Exception.

Exception.

Trial by Court Martial after discharge or relief.

Trial for desertion.

65. It shall be the duty of the Captain or other Officer commanding any company of Active Militia, with the assistance of the Officers and non-commissioned officers of his Company, to make and keep at all times a correct Roll of the Company in such form as Her Majesty may direct; and it shall be the duty of the Lieutenant-Colonel or other Officer commanding any battalion of Active Militia, and under him especially of the Adjutant, to see that the Company Rolls above referred to are properly made out, and corrected from time to time by the Captains or other Officers commanding companies in such Battalion, and to report such Officers as fail to perform their duty in this respect.

Keeping Rolls of each Company.

66. Any Militiaman who when called out for actual service, shall without leave absent himself from his Corps, for a longer period than seven days, shall be deemed a deserter, and may be tried by Militia Court Martial.

Absence for 7 days, desertion.

67. Each Militiaman called out for actual service shall attend at such time and place as may be required by the Officer commanding him, with any arms, accoutrements, ammunition and equipment he has received, and with such provisions as such officer may direct.

Attendance at rendez-vous.

68. [When any Officer or man is killed in actual service, or dies from wounds or disease contracted on actual service, provision shall be made for his wife and family out of the public funds:]

Provision for family of men killed.

And for men permanently disabled.

2. [And all cases of permanent disability, arising from injuries received or illness contracted on actual service, shall be reported on by a Medical Board, and compensation awarded, under such regulations as may be made from time to time by the Governor in Council; and any medical practitioner who shall sign a false certificate in any such case, shall incur a penalty of four hundred dollars.]

REGULATIONS FOR BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES, &C., FOR THEIR TRANSPORT AND USE.

Governor in Council to make regulations.

69. [The Governor in Council may make regulations for the billeting and cantoning of Troops and Militia when on active service, for the furnishing of carriages, horses and other conveyance for their transport and use, and for adequate compensation therefor; and may by such regulations impose fines not exceeding twenty dollars, and imprisonment in cases of default of payment of such fines :]

Penalty for refusing conveyance.

70. Any person lawfully required under this Act, or by any regulation made under the authority thereof, to furnish any railway car or engine, boat or other craft, for the conveyance or use of any Troops or Militia, who neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding four hundred dollars for each such offence.

Not to be quartered on Nuns.

71. Nothing in this Act contained or in any regulations made under the authority thereof shall be construed to authorize the quartering or billeting of any Troops or Militia, either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of Females, or to oblige any such Religious Order to receive such Troops or Militia, or to furnish them with lodging or house room.

COURTS OF ENQUIRY AND COURTS MARTIAL.

H. M. may call Courts of Inquiry.

72. Her Majesty may convene Courts of Enquiry and appoint Officers of the Militia to constitute such Courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Militia, and with the conduct of any Officer, non-commissioned officer or private of the force; and shall have power at any time to convene Militia Courts Martial and to delegate power to convene such Courts, and to appoint Officers to constitute the same, for the purpose of trying any Officer, non-commissioned officer or private of the Militia for any offences under this Act, but no Officer of Her Majesty's regular army on full pay shall sit on any Militia Court Martial.

And Courts Martial.

Proviso.

Regulations respecting such courts.

73. [The regulations for the composition of Militia Courts of Enquiry and Courts Martial, and the modes of procedure

and powers thereof, shall be the same as the regulations which may at the time be in force for the composition, modes of procedure and powers, of Courts of Enquiry and Courts Martial for Her Majesty's regular army, and which are not inconsistent with this Act; and the pay and allowances of Officers and others attending such Courts may be fixed by the Governor in Council.]

Sentence of death in certain cases only.

74. No Militia Officer or Militiaman shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy;—and no sentence of any General Court Martial shall be carried into effect until approved by Her Majesty.

OFFENCES AND PENALTIES.

Not attending parade.

75. Any Officer, non-commissioned officer or private who may fail without good and sufficient reason, to attend any parade ordered by the Officer in command of his corps, for the purpose of performing one of the drills of the yearly training of the Militia, shall incur a penalty, if an Officer, of ten dollars; if a non-commissioned officer or private, of five dollars, for each and every failure.

Claiming pay for drills not performed.

76. Any Officer commanding a Corps of Militia, who shall knowingly claim pay on account of any drills performed with his Corps, for any man belonging to any other Corps of Militia, shall be guilty of a misdemeanor, and shall likewise be liable to be tried and punished by Court Martial; and any Officer commanding a Corps of Militia, who shall include in any parade state or other Return, any man not duly enrolled and attested as a Militiaman, shall be guilty of a misdemeanour, and shall be likewise liable to be tried and punished by Court Martial; and any non-commissioned officer or private of the Militia who may claim or receive pay on account of any drill performed in the ranks of any other than his own proper Corps, shall be guilty of a misdemeanour, and shall likewise be liable to be tried and punished by Court Martial.

Including men not duly enrolled.

Claiming pay for drill performed with another Corps.

Fraudulently retaining pay of men.

77. Any Officer or non-commissioned officer of the Militia who obtains, under false pretences, or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any Officer, non-commissioned officer or private of any Corps, shall be guilty of a misdemeanor, and shall be dismissed the service; and any Officer or non-commissioned officer who may sign a false parade state, roll, or pay list, or any false return whatever, shall be guilty of a misdemeanour, and shall be likewise liable to be tried by Court Martial for the offence; and any person making an Affidavit or Declaration required in and by this Act, or by any regulation made under the authority thereof,

Signing false parade state, role, &c.

Falseswearing.

and swearing or declaring falsely therein, shall be guilty of perjury.

Refusing to give information : or giving false.

78. Any person of whom information is required by any Officer, or non-commissioned officer, making any Militia Roll, in order to enable him to comply with the provisions of this Act, refusing to give such information or giving false information, shall forfeit and pay a penalty not exceeding twenty dollars for each item of information demanded of him and falsely stated, and the like sum for each individual name that may be refused, concealed or falsely stated, and every person refusing to give his own name and proper information, when applied to as aforesaid, or giving a false name or information, shall forfeit and pay a penalty not exceeding twenty dollars :

Refusing to make enrolment, ballot, &c.

2. And any Officer or non-commissioned officer of the militia, refusing or neglecting to make any enrolment or ballot or to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Act or by any regulation made under the authority thereof, shall incur a penalty, if an Officer, not exceeding fifty dollars, if a non-commissioned officer, not exceeding twenty-five dollars for each offence.

Men drafted, &c., refusing to take oath.

79. Any militiaman, drafted or liable to be drafted for service, who shall refuse or neglect to take the oath hereinbefore prescribed, when tendered to him by a Justice of the Peace or by any Commissioned Officer in command of the Corps to which such militiaman belongs, or in whose District he resides, shall be subject to imprisonment for a period not exceeding six months, and for every subsequent neglect or refusal to take such oath shall be subject to a further imprisonment not exceeding twelve months ; and he may on due proof in either case be summarily committed upon the warrant of any two Justices of the Peace.

Personating others, at parade, &c.

80. Any Officer, non-commissioned officer or private who shall falsely personate another at any parade of the Militia, or on any other occasion, for any of the purposes required by this Act, shall be liable to a fine not exceeding one hundred dollars and shall be guilty of a misdemeanour ; and

Refusing to assist in making Rolls, &c.

any officer or non-commissioned officer of the Militia refusing or neglecting to assist his Commanding Officer in making any roll or return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return, shall incur a penalty, if an Officer, not exceeding fifty dollars ;

Or to give information for them.

if a non-commissioned officer, not exceeding twenty-five dollars for each offence ; and any person refusing or neglecting to give any notice or information necessary for making or correcting the Roll of any Company, which he is required by this Act to give to the Commanding Officer of such Company or to any Officer or non-commissioned officer thereof demanding the same at any

seasonable hour and place, shall incur a penalty of ten dollars for each offence.

Refusing to attend drill.

81. Any Officer, non-commissioned officer or private of the Militia who, without lawful excuse, neglects or refuses to attend drill or training at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such drill or training, shall incur a penalty, if an Officer, of ten dollars, if a non-commissioned officer or private of five dollars, for each offence; and absence for each day shall be held to be a separate offence; and any person who interrupts or hinders any Militia at Drill, or trespasses on the bounds set out by the proper Officer for such Drill, shall incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such Drill be over for the day; and any Officer, non-commissioned officer or private disobeying any lawful order of his superior Officer, or being guilty of any insolent or disorderly behaviour towards such Officer, shall incur a penalty, if an Officer of twenty dollars, if a non-commissioned officer or private of ten dollars for each offence.

Hindering Militia at Drill.

Insolent or disorderly behaviour.

Not keeping arms in proper order.

82. Any non-commissioned officer or private who fails to keep in proper order any arms or accoutrements delivered or entrusted to him, or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence; and any person who unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him) shall incur a penalty of twenty dollars for each offence;—but this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid;—and any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave Canada, carrying with him any such arms, accoutrements or articles.

Disposing of them, &c.

Proviso.

Arrest, &c., by order of a J. P.

Refusing to aid the Civil power.

83. Any Officer, non-commissioned officer or private of the Militia who, when his Corps is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such Corps, or to obey any lawful order of his superior Officer, shall incur a penalty, if an Officer not exceeding forty dollars, if a non-commissioned officer or private, not exceeding twenty dollars for each offence.

Resisting draft, &c.

84. Any person who resists any draft of men enrolled under this Act, or counsels or aids any person to resist any such draft, or in the performance of any service in relation thereto, or counsels any drafted man not to appear at the place of rendez-vous, or wilfully dissuades him from the performance of any duty required by law of Militiamen, shall, upon conviction thereof, be subject to a fine of not exceeding one hundred dollars, or to imprisonment not exceeding six months, or to both of said punishments.

Contravening act in any way.

85. Any person who wilfully contravenes any enactment of this Act, shall, when no other penalty is imposed for such contravention, incur a penalty not exceeding twenty dollars for each offence; but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such.

RECOVERY OF PENALTIES.

How recoverable.

86. All penalties incurred under this Act shall be recoverable, with costs, by summary conviction on the evidence of one credible witness, on complaint or information before one Justice of the Peace; and in case of non-payment of the penalty immediately after conviction, the convicting Justice may commit the person so convicted and making default in payment of such penalty and costs, to the common jail of the territorial division for which the said Justice is then acting, or to some house of correction or lock-up house situate therein, for a period of not more than forty days when the penalty does not exceed twenty dollars, and for a period of not more than sixty days when it exceeds the last mentioned sum.

Imprisonment if not paid.

PROSECUTIONS.

On whose complaint only prosecutions should be brought.

87. No prosecution against an Officer of the Militia for any penalty under this Act or under any regulation made under the authority thereof, shall be brought except on the complaint of the Adjutant General; and no such prosecution against any non-commissioned officer or private of the Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Battalion or Corps, or Captain of the Company or Corps to which such non-commissioned officer or private belongs;—but the Adjutant General may authorize any officer of Militia to make such complaint in his name, and the authority of any such Officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant General; and no such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession arms, accoutrements or other articles delivered to the Militia, or for desertion.

Within what time.

88. Every bond to the Crown entered into before any Judge or Justice of the Peace, or officer authorized to take the same, by any person under the authority of this Act, or according to any General Order or Regulations made under it, for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, shall be valid and may be enforced accordingly. Bonds under this Act to be valid.

89. Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for Militia purposes, shall be a debt due to the Crown, and may be recovered as such. Recovery of sums payable to the Crown.

90. Every action and prosecution against any Officer or person, for any thing done in contravention to this Act, or to any regulation made under the authority thereof, shall be laid and tried in Quebec in the district, and in Ontario, New Brunswick and Nova Scotia, in the county, where the act complained of was done, and shall not be commenced after the end of six months from the date of such contravention, except as hereinbefore provided;—and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial;—and no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought: In what local jurisdiction actions, &c., shall be brought. General issue. Tender of amends.

2. But no action or prosecution shall be brought against any Officer or person, for anything purporting to be done under the authority of this Act, until at least one month after notice in writing of such action or prosecution has been served upon him, or left at his usual place of abode; in which notice the cause of action, and the Court in which it is to be brought, shall be stated, and the name and place of abode of the Attorney endorsed thereon. Actions for things done in pursuance of this Act.

91. Every penalty when recovered shall be paid over to the Receiver General: but Her Majesty may remit any penalty incurred under the provisions of this Act. H. M. may remit penalties.

NOTICES, ORDERS, &C.

92. It shall not be necessary that any order or notice under this Act be in writing, unless herein required to be so, provided it be communicated to the person who is to obey or be bound by it, either directly by the Officer or person making or giving it, or by some other person by his order. Orders, &c., to be in writing.

93. All General Orders of Militia, or other Militia Orders issued through or by the Adjutant General, shall be held to be General Orders in Canada Gazette.

sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*;—and a copy of the said Gazette purporting to contain them shall be evidence of such orders.

Notifying orders.

94. Every Order made by the Commanding Officer of any Corps of Militia, shall be held to be sufficiently notified to all persons whom it may concern by insertion in some newspaper published in the Regimental Division, in which such Corps is situated, or, if there be no such newspaper, then by posting a copy thereof on the door of every place of public worship or of some other public place, in each Company Division affected by such orders.

Proof of commissions, &c.

95. The production of a Commission or appointment, warrant or order in writing, purporting to be granted or made according to the provisions of this Act, shall be *primâ facie* evidence of such Commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such Commission, appointment, warrant or order.

EXPENDITURE.

Payment by warrant.

96. All sums of money required to defray any expense authorized by this Act may be paid out of the Consolidated Revenue Fund, upon warrant directed by the Governor to the Receiver General; but no sum of money shall be so paid unless it be included in some appropriation made by Parliament; and a detailed account of moneys so expended shall be laid before Parliament during the then next session thereof.

Proviso.

GENERAL POWER TO MAKE REGULATIONS.

Power to inforce fines.

97. [The Governor in Council may make regulations relating to anything necessary to be done for the carrying into effect of this Act, and may by such regulations impose fines not exceeding twenty dollars each and imprisonment in case of default of payment of any such fine]

REGULATIONS.

Regulations to be published.

98. All regulations made under the authority of this Act shall be published in the *Canada Gazette*; and when so published, they shall have the force of Law as fully as if they were contained in this Act, of which they shall be deemed to form a part :

Copies to be evidence.

2. All copies of such Regulations printed by the Queen's Printer shall be evidence of such regulations and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary

be shown, and shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded ;

3. All Regulations made under this Act, and an annual report of the state of the Militia, shall be laid before Parliament by the Minister of Militia and Defence, within the first thirty days of the then next session thereof. To be laid before Parliament.

INTERPRETATION.

99. The Interpretation Act shall apply to all regulations, orders and articles of engagement lawfully made or entered into under this Act. Interpretation Act.

REPEAL OF ACTS.

100. All Acts or parts of Acts relating to the Militia, in force in either of the Provinces which constitute the Dominion of Canada, repugnant to or inconsistent with the provisions of this Act, are hereby repealed. Inconsistent enactments repealed.

WHEN THIS ACT SHALL COME INTO FORCE.

101. This Act shall come into force on the First day of October next, or on such earlier day as may be appointed for that purpose in a Proclamation to be issued by the Governor General. Commencement of Act.

102. The word " Corps " shall, for the purposes of this Act, include any Field Battery, Troop of Cavalry, or any Company, Battalion, or Regiment. Corps.

No. 55.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Militia and Defence of the Dominion of Canada.

Received and read, 1st time, Tuesday, 31st March, 1868.

Second Reading, Tuesday, 14th April, 1868.

Hon. Mr. CARTIER.

Printed by G. E. DESBARATS.

No. 56.] **BILL.** [1868.

An Act respecting the Criminal Law.

Preamble.

WHEREAS, by the several Acts passed in the present Session of the Parliament of Canada, and mentioned in the Schedule to this Act, a great portion of the Statute Law respecting crimes and offences, and procedure in Criminal cases, now in force in the several Provinces constituting the Dominion of Canada, will, on the coming into force of the said Acts, be assimilated, amended and consolidated, and made applicable to the whole Dominion of Canada, and former Acts and provisions of law inconsistent with the Acts so to come into force, will be superceded and repealed, and it is expedient to make provision respecting such repeal and the effect thereof; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Repealing clause as to Act, inconsistent with those in the Schedule.

1. Upon the coming into force of any Act mentioned in the Schedule to this Act, all Acts and parts of Acts or provisions of law relating to any matter within the scope of the Legislative powers of the Parliament of Canada, in force in all or any of the Provinces constituting the Dominion of Canada, immediately before the coming into force of such Act, shall be repealed in so far as they are contradictory to or inconsistent with the provisions thereof, or make any provision in any matter or case provided for by such Act other than such as is thereby made, and shall be superceded by such Act in so far as they make the same provision in any matter or case as is made in the same by such Act, subject to the provisions hereinafter made, that is to say:—

Limitation of effect of repeal.

2. Every offence wholly or partly committed against any of the said Acts or parts of Acts or provisions of law so repealed before such repeal, shall be dealt with, inquired of, tried, determined and punished, and every penalty in respect of any such offence shall be recovered in the same manner as if the said Acts and parts of Acts or provisions of law had not been repealed; except only that the procedure in any such case may be as provided by any Act of the present Session respecting such offence then in force, and that if the punishment for such offence has been mitigated by any such Act, no greater punishment shall be inflicted for it than could be inflicted under such last-mentioned Act; and every Act duly done, and every warrant and other instrument duly made or granted, before such repeal shall continue and be of the same force and effect as if the said Acts and parts of Acts or provisions of law, had not been repealed; and every right, liability, privilege and protection in respect of any matter or thing committed or done before such repeal, shall continue and be of the same force and effect as if the said Acts and parts of Acts and provisions of law had not been repealed; and every action, prosecution and other proceeding commenced before this Act comes into operation, or thereafter to be commenced, in respect of any such matter or thing, may (subject to the said provision hereinbefore made as to procedure) be prosecuted, continued and defended in the same manner as if the said Acts and parts of Acts and provisions of law had not been repealed.

Governor in Council may suspend the coming into force of certain Acts.

2. And whereas, by the Acts mentioned in the Schedule to this Act or some of them, it is provided that such Acts respectively, shall come into force on the first day of January, in the year of our Lord one thousand eight hundred and sixty-nine, and it may be found inconvenient that any one or more of them should come into force on that day; Therefore, the Governor in Council, may, by Proclamation, at any time before the said day, order and declare that the coming into force of any one or more of the said Acts as to which it is provided that it or they shall not come into force until the day last aforesaid, and to be mentioned in such Proclamation, shall be suspended until a day subsequent to the said first day of January, one thousand eight hundred and sixty-nine, to be named in the Proclamation, and such Act or Acts shall, in that case, come into force on the day so named, and not before.

Provision as to offence against Provincial Acts.

3. And for the avoidance of doubt, it is hereby declared and enacted, that any wilful contravention of or offence against any Act passed by the Legislature of any one of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, since the first day of July, in the year of our Lord one thousand eight hundred and sixty-seven, or to be hereafter passed, and which is by such Act made punishable by the imposition of a pecuniary fine exceeding twenty dollars, or by imprisonment for any period exceeding two months, is and shall be an indictable misdemeanor,—and any such contravention or offence which is by such Act made punishable by the imposition of a pecuniary penalty not exceeding twenty dollars, or by imprisonment for a period not exceeding two months, shall be an offence punishable on summary conviction before any one or more Justices of the Peace.

SCHEDULE.

Acts referred to in the first Section of this Act.

An Act for the better security of the Crown and of the Government.

An Act respecting Offences relating to the Coin.

An Act respecting the manufacture or importation of Copper Coins or Tokens.

An Act respecting Indictable Offences by Forgery.

An Act respecting Offences against the Person.

An Act respecting Malicious Injuries to Property.

An Act respecting Larceny and other Similar Offences.

An Act respecting Perjury.

An Act respecting Accessories to and Abettors of Indictable Offences.

An Act respecting Procedure in Criminal Cases.

An Act respecting persons in custody charged with High Treason or Felony.

An Act respecting the Duties of Justices of the Peace out of Sessions, in relation to persons charged with Indictable Offences.

An Act respecting the Duties of Justices of the Peace out of Sessions, in relation to Summary Convictions and Orders.

An Act respecting the Preservation of the Peace in the vicinity of Public Works.

An Act respecting Cruelty to Animals.

No. 56.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL.

An Act respecting the Criminal Law, and to repeal certain enactments therein mentioned.

(*Reprinted as proposed to be amended in Committee.*)

Received and read, first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:

PRINTED BY HUNTER, ROSE & COMPANY.

No. 56.] **BILL.** [1868.

An Act respecting the Criminal Law, and to repeal certain enactments therein mentioned.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:— Preamble.

1. As respects offences committed before the coming into force of this Act,— How the Criminal Law of England shall apply,— as to offences committed before this Act.

1. The Criminal Law of England, as it stood on the *seventeenth* day of *September*, in the year of our Lord one thousand seven hundred and *ninety-two*, and as the same had at the time of the commission of any such offence been altered, varied, modified or affected by any Act of the Imperial Parliament then having force of law in the territory now forming the Province of Ontario, or by any Act of the Legislature of the late Province of Upper Canada, or the late Province of Canada, or of the Parliament of the Dominion of Canada, then having force of law in the said territory shall be held to have been and to be the Criminal Law of Upper Canada, or of the Province of Ontario, (as the case may be) as regards such offence; As to Ontario.

2. The Criminal Law of England, as it stood on the *thirteenth* day of *January*, in the year of our Lord one thousand seven hundred and *seventy-four*, and as the same had, at the time of the commission of any such offence, been altered, varied, modified or affected by any Act of the Imperial Parliament then having force of law in the territory now forming the Province of Quebec, or by any Ordinance or Act of the Legislature of the old Province of Quebec, before its division into the Provinces of Upper Canada and Lower Canada, or of the late Province of Lower Canada, or of the late Province of Canada, or of the Parliament of the Dominion of Canada, then having force of law in the said territory, shall be held to have been and to be the Criminal Law of Lower Canada or of the Province of Quebec, (as the case may be) as regards such offence; As to Quebec.

3. The Criminal Law of England, as it stood on the day of in the year of our Lord one thousand eight hundred and and as the same had at the time of the commission of any such offence been altered, varied, modified or affected, by any Act of the Imperial Parliament, then having force of law in the Province of Nova Scotia, or *in the Island of Cape Breton* before its union to Nova Scotia, or by any Act of the Legislature of that Province, or of *Cape Breton*, or of the Parliament of the Dominion of Canada, then having force of law in Nova Scotia or *Cape Breton*, shall be held to have been and to be the Criminal Law of Nova Scotia, or of *Cape Breton* (as the case may be), as regards such offence; As to Nova Scotia.

4. The Criminal Law of England as it stood on the day of in the year of our Lord one thousand and as the same had at the time of the commission of such offence been altered, varied, modified or affected by any Act of the As to New Brunswick.

Imperial Parliament then having force of law in the Province of Nova Scotia while New Brunswick formed part thereof, or by any Act of the Legislature of the said Province of New Brunswick, or of the Parliament of the Dominion of Canada, then having force of law in the said Province, shall be held to have been and to be the Criminal Law in the said Province of New Brunswick, as regards such offence;

As to offences committed after this Act comes into force.

5. And as respects any offence committed after the coming into force of this Act, the Criminal Law of England as it stood on the seventeenth day of September, in the year of our Lord one thousand seven hundred and ninety-two, as the same shall have been at the time of the commission of such offence, altered, varied, modified or affected by any Act of the Imperial Legislature, or of any of the other Legislatures aforesaid, or of the Parliament of the Dominion of Canada, then having force of Law in Canada, or in that Province of Canada in which the offence is committed, shall be the Criminal Law of that Province as respects such offence;

Definition of "Imperial Parliament."

6. In this section the expression Imperial Parliament includes as well the Parliament of Great Britain, as the Parliament of the United Kingdom of Great Britain and Ireland.

Recital.

2. And whereas by Acts passed in the present session of the Parliament of Canada, divers Acts and parts of Acts are amended and consolidated, and it is expedient to repeal the enactments so amended and consolidated, and certain others,—therefore, the several Acts and parts of Acts mentioned in the Schedule hereunto annexed, shall be repealed as respects the Dominion of Canada, on and after the first day of October, in the present year one thousand eight hundred and sixty-eight, subject to the provisions hereinafter made, that is to say:

Repeal of Acts &c., in the Schedule.

Repeal not to affect offences &c., committed before the commencement of this Act. Exception.

1. Every offence wholly or partly committed against any of the said Acts or parts of Acts before the day last aforesaid, shall be dealt with, inquired of, tried, determined and punished, and every penalty in respect of any such offence shall be recovered in the same manner as if the said Acts and parts of Acts had not been repealed; except only that the procedure in any such case may be as provided by any Act of the present session respecting such offence, and that if the punishment for such offence has been mitigated by any such Act, no greater punishment shall be inflicted for it than could be inflicted under such last-mentioned Act; and every act duly done, and every warrant and other instrument duly made or granted, before the day last aforesaid, shall continue and be of the same force and effect as if the said Acts and parts of Acts had not been repealed; and every right, liability, privilege and protection in respect of any matter or thing committed or done before this Act comes into operation, shall continue and be of the same force and effect as if the said Acts and parts of Acts had not been repealed; and every action, prosecution and other proceeding commenced before this Act comes into operation, or thereafter to be commenced, in respect of any such matter or thing, may be prosecuted, continued and defended in the same manner as if the said Acts and parts of Acts had not been repealed:—

Repeal not to affect certain Provincial Acts, &c.

2. Nothing in this Act shall be construed to repeal or affect any Act or enactment of the Legislature of the late Province of Canada, or of any of the other Provinces hereinbefore mentioned, unless such Act or enactment is included in the Schedule to this Act; nor shall the repeal of any Act or enactment included in the said Schedule extend to prevent its application to any matter, (if such there be,) within the scope of powers of the Legislatures of any of the Provinces composing the Dominion of Canada; nor shall the inclusion of any Act or enactment in the said Schedule be construed as a declaration that it was in force in Canada or in any part of Canada at the time of the passing of this Act.

3. If by any Act or enactment now in force any act is declared to be an offence punishable under any Act or enactment hereby repealed, or an offence to be dealt with under any such Act or enactment, then any such act done after such repeal, shall be held to be an offence punishable or to be dealt with under the Act of the present Session respecting like offences. As to reference to repealed Acts.

SCHEDULE.

ACTS AND PARTS OF ACTS REPEALED.

This Schedule will be added when it is known what Acts relating to Criminal Law will pass during the present Session.

No. 56.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act respecting the Criminal Law, and to repeal certain enactments therein mentioned.

Received and read, first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA ·

No. 57] **BILL.** [1868.

An Act for the better security of the Crown and of the Government.

Preamble.

WHEREAS it is expedient to assimilate the Statute Laws of the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, respecting offences affecting the security of the Crown and of the Government, and to amend and consolidate the same; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Nothing herein to affect 25 Ed. 3, c. 2. Imp., s. 7.

1. Nothing herein contained shall lessen the force of or in any manner affect anything enacted by the Statute passed in the twenty-fifth year of King Edward the Third, "A declaration which offences shall "be adjudged treason."

Compassing the death of the Sovereign Treason.

2. Whosoever within Canada or without, compasses, imagines, invents, devises or intends death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of our Sovereign Lady the Queen, Her Heirs or Successors, and such compassings, imaginations, inventions, devices or intentions, or any of them, expresses, utters, or declares, by publishing any printing or writing or by any overt act or deed, is guilty of treason, and shall suffer death.

If an officer or soldier corresponds with the enemy, he is guilty of Treason.

3. If any Officer or Soldier in Her Majesty's army, holds correspondence with any rebel, or enemy of Her Majesty, or gives them advice or intelligence, either by letters, messages, signs or tokens, or in any manner of way whatsoever, or treats with such rebels or enemies, or enters into any condition with them without Her Majesty's license, or the license of the General, Lieutenant-General or Chief Commander, every such person so offending is guilty of treason, and shall suffer death.

Sentence to be pronounced in cases of Treason.

4. In all cases of treason, the sentence or judgment to be pronounced against any person convicted and adjudged guilty thereof shall be, that he be hanged by the neck until he be dead.

Offences declared felonious by this Act to be punishable by transportation or imprisonment.

5. Whosoever, after the passing of this Act, within Canada or without, compasses, imagines, invents, devises or intends to deprive or depose Our Most Gracious Lady, the Queen, Her Heirs or Successors, from the style, honour, or royal name of the imperial crown of the United Kingdom, or of any other of Her Majesty's dominions or countries, or to levy war against Her Majesty, Her Heirs or Successors, within any part of the United Kingdom or of Canada, in order by force or constraint to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both Houses or either House of Parliament, of the United Kingdom or of Canada, or to move or stir any foreigner or stranger with force to invade the United Kingdom or Canada, or any other of Her Majesty's dominions or countries under the obeisance of Her Majesty, Her Heirs or Successors, and such compassings, imaginations, inventions, devices or intentions, or any of them, shall express, utter or declare by publishing

any printing or writing, or by open and advised speaking, or by any overt act or deed, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Time within which prosecution shall be commenced, warrant issued, &c.

6. No person shall be prosecuted for any felony by virtue of this Act in respect of such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared by open and advised speaking only, unless information of such compassings, imaginations, inventions, devices and intentions and of the words by which the same were expressed, uttered or declared, shall be given upon oath to one or more Justice or Justices of the Peace, within six days after such words shall have been spoken, and unless a warrant for the apprehension of the person by whom such words shall have been spoken shall be issued within ten days next after such information shall have been given as aforesaid; and no person shall be convicted of any such compassings, imaginations, inventions, devices or intentions as aforesaid in so far as the same are expressed, uttered or declared by open or advised speaking as aforesaid, except upon his own confession in open Court, or unless the words so spoken shall be proved by two credible witnesses.

In indictment more than one overt act may be charged.

7. It shall be lawful, in any indictment for any felony under this Act to charge against the offender any number of the matters, acts or deeds by which such compassings, imaginations, inventions, devices or intentions as aforesaid, or any of them shall have been expressed, uttered or declared.

Indictments for felony under this Act valid, though the facts may amount to treason.

8. If the facts or matters alleged in an indictment for any felony under this Act amount in law to treason, such indictment shall not by reason thereof be deemed void, erroneous, or defective, and if the facts or matters proved on the trial of any person indicted for felony under this Act amount in law to treason, such person shall not, by reason thereof, be entitled to be acquitted of such felony; but no person tried for such felony shall be liable to be afterwards prosecuted for treason upon the same facts.

As to punishment of accessories.

9. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any such felony, shall be liable to be imprisoned in any gaol or place of confinement other than the Penitentiary, for any term less than two years, with or without hard labour.

No. 57.

1st Session, 1st Parliament, 31 Victor

BILL.

An Act for the better securi
Crown and of the Governr

Received and read, first time, W
1st April, 1868.

Second reading, Tuesday, 7th Ap

Hon. Sir JOHN A. MACI

OTTAWA:
PRINTED BY HUNTER, ROSE & CO

No. 58.] **BILL.** [1868.

An Act respecting Accessories and Abettors of indictable Offences.

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute law of the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, relating to accessories to and abettors of indictable offences, and to extend the same as so consolidated to all Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

As to accessories before the fact.

Accessories before fact may be tried &c., as principals.

1. Whosoever becomes an accessory before the fact to any felony, whether the same be a felony at common law, or by virtue of any Act passed or to be passed, may be indicted, tried, convicted and punished in all respects as if he were a principal felon.

Accessories before fact may be indicted as such or as substantive felons.

2. Whosoever counsels, procures or commands any other person to commit any felony, whether the same be a felony at common law, or by virtue of any Act passed or to be passed, is guilty of felony, and may be indicted, and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been previously convicted, or is or is not amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished.

Principals in the second degree.

3. In every felony, every principal in the second degree shall be punishable in the same manner as the principal in the first degree is punishable.

As to accessories after the fact.

Accessories after the fact may be indicted as such or as substantive felons.

4. Whosoever becomes an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, may be indicted and convicted, either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been previously convicted, or is or is not amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished.

Punishment of accessories after the fact.

5. Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law, or by virtue of any Act passed, or to be passed, shall be liable to be imprisoned in any gaol or place of confinement other than the Penitentiary, for any term less than two years, with or without hard labour, and it shall be lawful for the Court, if it shall think fit, to require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to such punishment; Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Proviso.

As to accessories generally.

Prosecution of accessory after principal convicted, &c.

6. If any principal offender is in any wise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon dies or is pardoned or otherwise delivered before such attainder; and every such accessory shall, upon conviction, suffer the same punishment as he would have suffered if the principal had been attainted.

Several accessories may be included in same indictment.

7. Any number of accessories at different times to any felony and any number of receivers at different times of property stolen at one time, may be charged with substantive felonies, in the same indictment, and may be tried together, notwithstanding the principal felon is not included in the same indictment, or is not in custody or amenable to justice.

Trial of accessories.

8. Where any felony has been wholly committed within Canada, the offence of any person who is an accessory, either before or after the fact, to such felony, may be dealt with, inquired of, tried, determined and punished by any Court which has jurisdiction to try the principal felony, or any felonies committed in any district, county, or place in which the act, by reason whereof such person shall have become such accessory, has been committed; and in every other case the offence of any person who is an accessory, either before or after the fact, to any felony, may be dealt with, inquired of, tried, determined and punished by any Court which has jurisdiction to try the principal felony, or any felonies committed in any district, county or place in which such person is apprehended or is in custody, whether the principal felony has been committed on the sea or on the land, or begun on the sea and completed on the land, or begun on the land and completed on the sea, or whether within Her Majesty's dominions or without, or partly within Her Majesty's dominions and partly without; Provided that no person once duly tried, either as an accessory before or after the fact, or for a substantive felony under the provisions hereinbefore contained, shall be liable to be afterwards prosecuted for the same offence.

As to abettors in misdemeanors.

ettors in misdemeanors.

9. Whosoever aids, abets, counsels or procures the commission of any misdemeanor, whether the same be a misdemeanor at common law, or by virtue of any Act, passed or to be passed, shall be liable to be tried, indicted and punished as a principal offender.

Commencement of Act.

12. This Act shall commence and take effect on the first day of October, one thousand eight hundred and sixty-eight.

No. 58.

1st Session, 1st Parliament, 31

BILL.

An Act respecting Accessories of indictable offences.

Received and read, first time, 1st April, 1868.

Second reading, Tuesday, 7th A

Hon. Sir JOHN A. Ma

OTTAWA.

No. 59] **BILL.** [1868.

An Act respecting Offences relating to the Coin.

Preamble.

WHEREAS, it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, respecting Offences relating to the Coin, and to extend the same as so consolidated, to all Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation of terms: Current gold and silver coin.

Copper coin.

False or counterfeit coin.

Current coin.

What shall be having in possession.

1. In the interpretation of and for the purposes of this Act, the expression "current gold or silver coin" shall include any gold or silver coined in any of Her Majesty's mints, or gold or silver coin of any foreign Prince, or State or country or other coin lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of the Queen's Dominions; and the expression "current copper coin" shall include any copper coin and any coin of bronze or mixed metal coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of the Queen's Dominions, and the expression "false or counterfeit coin resembling or apparently intended to resemble or pass for current gold or silver coin" or other similar expression, shall include any of the current coin which has been gilt, silvered, washed, coloured or cased over, or in any manner altered, so as to resemble or be apparently intended to resemble or pass for any of the current coin of a higher denomination; and the expression "current coin," shall include any coin coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of the Queen's Dominions, and whether made of gold, silver, copper, bronze, or mixed metal; and where the having any matter in the custody or possession of any person is mentioned in this Act, it shall include, not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter is so had for his own use or benefit, or for that of any other person.

Counterfeiting the gold or silver coin.

2. Whosoever falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current gold or silver coin, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Colouring counterfeit coin or any pieces of metal with intent to make them pass for gold or silver coin.

3. Whosoever gilds or silvers, or with any wash or materials capable of producing the colour or appearance of gold or of silver, or by any means whatsoever, washes, cases over, or colours any coin whatsoever resembling or apparently intended to resemble or pass for any current gold or silver coin, or gilds or silvers or with any wash or materials capable of producing the colour or appearance of gold or of silver, or by any means whatsoever, washes, cases over or colours any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture

of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined, into false and counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin, or gilds or with any wash or materials capable of producing the colour and appearance of gold, or by any means whatsoever, washes, cases over or colours any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin, or gilds or silvers or with any wash or materials capable of producing the colour or appearance of gold or silver, or by any means whatsoever, washes, cases over or colours any current copper coin, or files or in any manner alters such coin with intent to make the same resemble or pass for any current gold or silver coin, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Colouring or altering genuine coin, with intent to make it pass for a higher coin.

Impairing the gold or silver coin with intent, &c.

4. Whosoever impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened, may pass for current gold or silver coin, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years, and not less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Unlawful possession of filings or clippings of gold or silver coin.

5. Whosoever unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which have been produced or obtained by impairing, diminishing, or lightening, any current gold or silver coin, knowing the same to have been so produced or obtained, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Buying or selling, &c., counterfeit gold or silver coin for lower value than its denomination

6. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay, or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, at or for a lower rate or value than the same imports, or was apparently intended to import, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement. And in any indictment for any such offence as in this section aforesaid, it shall be sufficient to allege that the party accused did buy, sell, receive, pay or put off, or did offer to buy, sell, receive, pay or put off, the false or counterfeit coin, at or for a lower rate of value than the same imports, or was apparently intended to import, without alleging at or for what rate, price or value, the same was bought, sold, received, paid or put off, or offered to be bought, sold, received, paid or put off.

Importing counterfeit coin.

7. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), imports or receives into Canada any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term less than three years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Exporting counterfeit coin.

8. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), exports or puts on board any ship, vessel or boat, or on any railway, or carriage, or vehicle of any description whatsoever, for the purpose of being exported from Canada, any false or counterfeit coin, resembling, or apparently intended to resemble or pass for any current coin, or for any foreign coin of any prince, country, or state, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering counterfeit gold or silver coin.

9. Whosoever tenders, utters or puts off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Passing light gold or silver coin.

10. Whosoever tenders, utters, or puts off as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for a period not exceeding one year, with or without hard labour, and with or without solitary confinement.

Having counterfeit gold or silver coin in possession, &c., with intent, &c.

11. Whosoever has in his custody or possession any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off any such false or counterfeit coin, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Every second offence of uttering, &c., after a previous conviction shall be felony.

12. Whosoever, having been convicted, either before or after the passing of this Act, of any such misdemeanor as in any of the last three preceding sections mentioned, or of any misdemeanor or felony against this or any former Act heretofore in force in Canada, or in any of the Provinces thereof, relating to the coin, afterwards commits any of the misdemeanors in any of the said sections mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering foreign coin, medals, &c., as current coin, with intent to defraud.

13. Whosoever, with intent to defraud, tenders, utters, or puts off, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling in size, figure and colour, the current coin as or for which the same is so tendered, uttered, or put off, such coin, medal, or piece of metal or mixed metals so tendered, uttered, or put off, being of less value than the current coin as or for which the same is so tendered, uttered, or put off, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

Counterfeiting, &c., copper coin.

14. Whosoever falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current copper coin; and whosoever without lawful authority or excuse (the proof of which shall lie on the party accused), knowingly makes or mends, or begins, or proceeds to make or mend, or buy or sell, or have in his custody or possession any instrument, tool or engine adapted and intended for the counterfeiting any current copper coin, or buys, sells, receives, pays, or puts off, or offers to buy, sell, receive, pay, or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, at or for a lower rate of value than the same imports, or was apparently intended to import, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering base copper coin.

15. Whosoever tenders, utters, or puts off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, or has in his custody or possession three or more pieces of false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, with an intent to utter or put off the same or any of them, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term not exceeding one year, with or without hard labour, or with or without solitary confinement.

Defacing the coin by stamping words thereon.

16. Whosoever defaces any current gold, silver or copper coin by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than the Penitentiary, for any term not exceeding one year, with or without hard labour.

Tender of coin so defaced not to be a legal tender, and penalty for uttering the same.

Proviso.

17. No tender of payment in money made in any gold, silver or copper coin so defaced by stamping, as in the last preceeding section mentioned, shall be allowed to be a legal tender; and whosoever tenders, utters, or puts off any coin so defaced, shall, on conviction before two Justices of the Peace, be liable to forfeit and pay any sum not exceeding *ten dollars*; Provided that it shall not be lawful for any person to proceed for any such last mentioned penalty without the consent of Her Majesty's Attorney General for the Province in which such offence is alleged to have been committed.

Counterfeiting foreign gold and silver coin, not current in Canada.

18. Whosoever makes or counterfeits any kind of coin not being current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Bringing such counterfeit coin into Canada.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), brings or receives into Canada, any such false or counterfeit coin, resembling or apparently intended to re-resemble or pass for any gold or silver coin of any foreign prince, state or country, knowing the same to be false or counterfeit, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less

than two years, with or without hard labour, and with or without solitary confinement.

Penalty for uttering such counterfeit foreign coin.

20. Whosoever tenders, utters, or puts off any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary for any term not exceeding six months, with or without hard labour.

Second offence of uttering such counterfeit foreign coin.

21. Whosoever, having been so convicted as in the last preceding section mentioned, afterwards commits the like offence of tendering, uttering, or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary for any term less than two years; and whosoever, having been so convicted of a second offence, afterwards commits the like offence of tendering, uttering, or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Having such coin in possession.

22. Whosoever, without lawful authority or excuse, the proof whereof shall lie on the party accused, has in his possession or custody any forged, false or counterfeited piece or coin, counterfeited to resemble any foreign gold or silver coin described in the four next preceding sections of this Act mentioned, knowing the same to be false or counterfeit, with intent to put off any such false or counterfeit coin, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Persons counterfeiting foreign coin other than gold and silver coin.

23. Whosoever falsely makes or counterfeits any kind of coin, not being current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals, of less value than the silver coin of any foreign prince, state or country, is guilty of a misdemeanor, and shall be liable, for the first offence, to be imprisoned in any gaol or place of confinement, other than the Penitentiary, for any term not exceeding one year; and for the second offence, to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making, mending, or having possession of any coining tools, felony.

24. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), knowingly makes or mends or begins or proceeds to make or mend, or buy or sell, or have in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be adapted and intended to make or impress the figure, stamp, or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides; or makes or mends, or begins or proceeds to make or mend, or buys or sells or has in custody or possession any edger, edging or other tool, collar, instrument, or engine adapted and intended

for the marking of coin round the edges with letters, grainings, or other marks or figures, apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid, or makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver, or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin as in this section aforesaid, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Conveying tools or moneys out of the mint without authority, felony.

25. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), knowingly conveys out of any of Her Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging, or other tool, collar, instrument, press or engine, used or employed in or about the coining of coin, or any useful part of any of the several matters aforesaid, or any coin, bullion, metal or mixture of metals, is guilty of felony and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Coin suspected to be diminished or counterfeit may be cut by any person to whom it is tendered. Who shall bear the loss.

26. Where any coin is tendered as current gold or silver coin to any person who suspects the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break, bend or deface such coin, and if any coin so cut, broken, bent or defaced, appears to be diminished otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same is of due weight, and appears to be lawful coin, the person cutting, breaking, bending or defacing the same, is hereby required to receive the same at the rate it was coined for, and if any dispute arises whether the coin so cut, broken, bent or defaced, is diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any Justice of the Peace, who is hereby empowered to examine, upon oath, as well the parties as any other person, in order to the decision of such dispute, and if he entertains any doubt in that behalf, he may summon three persons, the decision of a majority of whom shall be final; and the Receivers of every branch of Her Majesty's revenue in Canada, are hereby required to cut, break, or deface, or cause to be cut, broken or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin which shall be tendered to them in payment of any part of Her Majesty's revenue in Canada.

Provision for the discovery and seizure of counterfeit coin and coining tools, for securing them as evidence and for ultimately disposing of them.

27. If any person finds or discovers in any place whatever, or in the custody or possession of any person having the same without lawful authority or excuse, any false or counterfeit coin resembling or apparently intended to resemble or pass for any current gold, silver or copper coin, or any coin of any foreign prince, state or country, or any instrument, tool or engine whatsoever, adapted and intended for the counterfeiting of any such coin, or any filings or clippings, or any gold or silver bullion, or any gold or silver, in dust, solution or otherwise, which has been produced or obtained by diminishing or lightening any current gold or silver coin, the person so finding or discovering may, and he is hereby required to seize the same and to carry the same forthwith before some Justice of

the Peace; and where it shall be proved, on the oath of a credible witness, before any Justice of the Peace, that there is reasonable cause to suspect that any person has been concerned in counterfeiting current gold, silver or copper coin, or any such foreign or other coin as is in this Act before mentioned, or has in his custody or possession any such false or counterfeit coin, or any instrument, tool or engine whatsoever, adapted and intended for the making or counterfeiting of any such coin, or any other machine used or intended to be used for making or counterfeiting any such coin, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, any Justice of the Peace, may by warrant under his hand, cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched, either in the day or in the night, and if any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings, or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is found in any place so searched, to cause the same to be seized and carried forthwith before some Justice of the Peace; and whensoever any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is in any case whatsoever seized and carried before a Justice of the Peace, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against this Act, and all such false and counterfeit coin, and all instruments, tools and engines, adapted and intended for the making or counterfeiting of coin, and all such machines, and all such filings, clippings and bullion, and all such gold and silver, in dust, solution or otherwise, as aforesaid, after they have been produced in evidence, or when they have been seized and are not required to be produced in evidence, shall forthwith by the order of the Court, be defaced or otherwise disposed of as the Court may direct.

Counterfeit coin, how disposed of.

28. If any false or counterfeit coin be produced in any Court of Law, the Court shall order the same to be cut in pieces in open Court, or in the presence of a Justice of the Peace, and then delivered to or for the lawful owner thereof, if such owner claims the same.

Venue.

29. Where any person tenders, utters, or puts off any false or counterfeit coin in any one province of Canada, or in any one district, county or jurisdiction therein, and also tenders, utters, or puts off any other false or counterfeit coin, in any other province, district, county, or jurisdiction, either on the day of such first mentioned tendering, uttering or putting off, or within the space of ten days next ensuing, or where two or more persons, acting in concert in different provinces, or in different districts, counties or jurisdictions therein, commit any offence against this Act, every such offender may be dealt with, indicted, tried and punished, and the offence laid and charged to have been committed, in any one of the said provinces, or districts, counties or jurisdictions, in the same manner in all respects as if the offence had been actually and wholly committed within one province, district, county or jurisdiction.

What shall be sufficient proof of coin being counterfeit.

30. Where, upon the trial of any person charged with any offence against this Act, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of Her Majesty's Mint, or other person employed in producing the lawful coin in Her Majesty's dominions or elsewhere, and whether the same be current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

Differences in date of time and false coin not ground for acquittal.

31. Upon the trial of any person accused of any offence alleged to have been committed against the form of any Statute of Canada or of any of the provinces, passed or to be passed respecting the currency or coin, or against the provisions of this Act, no difference in the date or year marked upon the lawful coin described in the indictment, and the date or year marked upon the false coin counterfeited to resemble or pass for such lawful coin or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed, for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence.

When the counterfeiting coin shall be complete.

32. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter or put off, any false or counterfeit coin, against the provisions of this Act, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected.

Any person may apprehend offenders against this Act.

33. It shall be lawful for any person whatsoever to apprehend any person who is found committing any indictable offence against this Act, and to convey or deliver him to some peace officer, constable, or officer of police, in order to his being conveyed, as soon as reasonably may be, before a Justice of the Peace or some other proper officer, to be dealt with according to law.

Venue in proceedings against persons acting under this Act.

34. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be laid and tried in the County (and in the Province of Quebec, in the District) where the fact was commited, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and in

General issue.

any such action the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon, and no plaintiff shall recover in such action if tender of

Tender of amends, &c.

sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court after such action brought by or on behalf of the defendant; and if a verdict pass for the defendant, or the plaintiff becomes nonsuit, or discontinues any such action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, in every such case the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial has been had, certifies his approbation of the action.

Punishment of principals in the second degree and accessories.

35. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour.

What shall be sufficient evidence of conviction for a previous offence.

36. When any person has been convicted of any offence against this Act, or any former Act heretofore in force in Canada, or in any province thereof, relating to the coin, and shall afterwards be indicted for any offence against this Act, committed subsequent to

such conviction, it shall be sufficient in any such indictment, after charging such subsequent offence, to state the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence, purporting to be signed by the Clerk of the Court or other officer having or purporting to have the custody of the records of the Court where the offender was first convicted, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of the previous conviction without proof of the signature or official character or authority of the person appearing to have signed the same, or of his custody or right to the custody of the records of the Court; and for every such certificate a fee of *one dollar* and no more shall be demanded or taken, and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows: (that is to say) the offender shall in the first instance be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he pleads guilty, he shall then, and not before, be asked whether he had been previously convicted as alleged in the indictment, and if he answer that he had been so previously convicted, the Court may proceed to sentence him accordingly, but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned inquiry; Provided that if upon the trial of any person for any such subsequent offence such person gives evidence of his good character, the prosecutor may in answer thereto, give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall then inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

When the previous conviction is to be proved on trial.

Proviso.

37. Whenever any person is convicted of any indictable misdemeanor punishable under this Act, the Court may, if it thinks fit, in addition to or in lieu of any of the punishments by this Act authorized, fine the offender and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act, the Court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized; Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Fine and sureties for keeping the peace; in what cases.

Proviso.

38. Whenever imprisonment, other than in the Penitentiary, with or without hard labour, is awarded for any indictable offence under this Act, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in any gaol or place of confinement other than the Penitentiary.

Hard labour.

39. Whenever solitary confinement may be awarded for any offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year.

Solitary confinement.

Summary proceedings &c.

40. Every offence hereby made punishable on summary conviction or other summary proceedings under this Act, may be prosecuted in the manner directed by the Act of the present session respecting the duties of Justices of the Peace out of sessions, with respect to summary convictions and orders, or in such other manner as may be directed by any Act that may be passed for like purposes, so far as no provision is hereby made for any matter or thing which may be required to be done in course of such prosecution, and all provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act.

Commencement of Act.

41. This Act shall commence and take effect on the first day of October, one thousand eight hundred and sixty-eight.

No. 59.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL

An Act respecting Offences relating to Coin.

Received and read first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:

PRINTED BY HUNTER, ROSE & COMPANY.

No. 60.] **BILL.** [1868.

An Act respecting Indictable Offences by Forgery.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, respecting indictable offences by Forgery, and to extend the same as so consolidated to all Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

As to forging Her Majesty's Seals, &c.

Forging the great seal, privy seal, &c.

1. Whosoever forges or counterfeits or utters knowing the same to be forged or counterfeited, the Great Seal of the United Kingdom, or the Great Seal of the Dominion of Canada, or of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or of any one of Her Majesty's Colonies or Possessions, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, or any of Her Majesty's Seals appointed by the twenty-fourth Article of the Union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland, or the Privy Seal of Ireland, or the Privy Seal or Seal at Arms of the Governor General of Canada, or of the Lieutenant-Governor of either of the Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, or of the Governor or Lieutenant-Governor of any one of Her Majesty's Colonies or Possessions, or forges or counterfeits the stamp or impression of any of the seals aforesaid, or utters any document or instrument whatsoever, having thereon, or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made or apparently intended to resemble the stamp or impression of any of the seals aforesaid, knowing the same to be forged or counterfeited, or forges, or alters, or utters, knowing the same to be forged or altered, any document or instrument having any of the said stamps or impressions thereon or affixed thereto, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging or uttering any document bearing the signature of the Governor &c.

2. Whosoever forges or fraudulently alters any document bearing or purporting to bear the signature of the Governor of Canada, or of the Lieutenant-Governor of any one of the Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, or of any person, who, at any time, administered the Government of any of the Provinces now constituting Canada, or offers, utters, disposes of or puts off, any such forged or fraudulently altered document as aforesaid, knowing the same to be so forged or altered, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging or altering copies of Letters Patent, &c.,

3. Whosoever forges or alters, or in any way publishes, puts off or utters as true, knowing the same to be forged or altered, any copy of letters patent, or of the enrolment or enregistration of letters patent, or of any certificate thereof made or given, or purporting to be made or given by virtue of any Statute of any one of the late Provinces of Upper Canada, Lower Canada, or Canada, or of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not more than seven years, nor less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Forging or altering any public Register, &c.

4. Whosoever forges or counterfeits or alters, any public register or book, appointed by law to be made or kept, or any entry therein, or wilfully certifies or utters any writing as and for a true copy of such public register or book, or of any entry therein, knowing such writing to be counterfeit or false, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not more than fourteen years, nor less than two years, or in any other gaol or place of confinement for any term not less than two years, with or without hard labour, and with or without solitary confinement.

As to forging transfers of stock, &c.

Forging transfer of certain stock, &c., or power of attorney relating thereto.

5. Whosoever forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity, or other public fund which now is or hereafter may be transferable in any of the Books of the Dominion of Canada, or of any Bank at which the same may be transferable, or of or in the capital stock of any body corporate, company or society, which now is or hereafter may be established by charter, or by, under, or by virtue of any Act of Parliament of the United Kingdom or of any of the late Provinces of Upper Canada, Lower Canada or of Canada or of the Dominion of Canada, or by any Act of the Legislature of either of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock, or any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of any such grant of land, or to receive any dividend or money payable in respect of any such share or interest, or demands or endeavors to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, or any such grant of land or scrip or payment or allowance in lieu thereof as aforesaid, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Personating the owner of certain stock, &c., and transferring or receiving or endeavoring to transfer or receive the dividends.

6. Whosoever falsely and deceitfully personates any owner of any share, or interest of or in any stock, annuity or other public fund, which now is or hereafter may be transferable in any of the Books of the Dominion of Canada, or of any Bank at which the same may be transferable, or any owner of any share, or interest of or in the capital stock of any body corporate, company or society which now is or hereafter may be established by charter, or by, under, or by virtue of any Act of Parliament of the United Kingdom, or of any of the late Provinces of Upper Canada, Lower Canada or Canada, or of the

Dominion of Canada, or by any Act of the Legislature of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or of any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of such grant of land, or any owner of any dividend or money payable in respect of any such share or interest as aforesaid, and thereby transfers or endeavors to transfer any share or interest belonging to any such owner, or thereby receives or endeavors to receive any money due to any such owner, or to obtain any such grant of land, or such scrip or allowance in lieu thereof as aforesaid, as if such offender were the true and lawful owner, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging attestation to power of attorney for transfer of stock, &c.,

7. Whosoever forges any name, hand-writing, or signature, purporting to be the name, hand-writing or signature of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock, or grant of land or scrip or allowance in lieu thereof, as in either of the last two preceding sections mentioned, or to receive any dividend or money payable in respect of any such share or interest, or offers, utters, disposes of, or puts off any such power of attorney, or other authority, with any such forged name, hand-writing or signature thereon, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Making false entries in the books of public funds.

8. Whosoever wilfully makes any false entry in, or wilfully alters any word or figure in any of the books of account kept by the Government of Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or of any Bank at which any of the books of account of the Government of Canada, or of either of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick are kept, in which books the accounts of the owners of any stock, annuities or other public funds, which now are or hereafter may be transferable in such books are entered and kept, or in any manner wilfully falsifies any of the accounts of any of such owners in any of the said books, with intent in any of the cases aforesaid to defraud, or wilfully makes any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable as aforesaid, in the name of any person not being the true and lawful owner of such share or interest, with intent to defraud, is guilty of felony, and shall be liable to imprisonment in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Clerks making out false dividend warrants.

9. Whosoever being a clerk, officer or servant of, or other person employed or intrusted by the Government of Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, or of any bank in which any of such books and accounts as are mentioned in the next preceding section are kept, knowingly makes out, or delivers any dividend warrant, or warrant for payment of any annuity, interest or money payable as aforesaid, for a greater or less amount than the person on whose behalf such warrant is made out is entitled to, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less

than two years, with or without hard labour, and with or without solitary confinement.

As to forging debentures, stock, exchequer bills, &c.

Forging exchequer bills, bonds and debentures, Dominion Notes, &c., or indorsements thereon.

10. Whosoever, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any debenture or other security, issued under the authority of any Act of the Legislature of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or of the Province of Nova Scotia or New Brunswick, or of the Parliament of Canada, or any exchequer bill or exchequer bond, or any Dominion or Provincial note, or any endorsement on or assignment of any such debenture, exchequer bill or exchequer bond, or other security, issued under the authority of any Act of the Legislature of any one of the late Provinces of Upper Canada, Lower Canada, or Canada, or of the Province of Nova Scotia or New Brunswick, or of the Parliament of Canada, or any coupon, receipt or certificate for interest accruing thereon, or any scrip in lieu of land as aforesaid, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making plates &c., in imitation of those used for debentures, exchequer bills, &c.

11. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes, or causes, or procures to be made, or aids, or assists in making, or knowingly has in his custody or possession, any frame, mould or instrument, having therein any words, letters, figures, marks, lines, or devices, peculiar to or appearing in the substance of any paper provided or to be provided and used for any such debentures, exchequer bills, or exchequer bonds, Dominion Notes or Provincial Notes, or other securities as aforesaid, or any machinery for working any threads into the substance of any paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads, or devices, or any plate peculiarly employed for printing such debentures, exchequer bills, or exchequer bonds, or such notes, or other securities, or any die or seal peculiarly used for preparing any such plate, or for sealing such debentures, exchequer bills or exchequer bonds, or other securities, or any plate, die or seal, intended to imitate any such plate, die, or seal as aforesaid, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making paper in imitation of that used for debentures, exchequer bills, &c.

12. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes, or causes, or procures to be made, or aids or assists in making any paper in the substance of which appear any words, letters, figures, marks, lines, threads or other devices peculiar to and appearing in the substance of any paper provided or to be provided or used for such debentures, exchequer bills, or exchequer bonds, notes, or other securities, aforesaid, or any part of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same, or knowingly has in his custody or possession any paper whatsoever, in the substance whereof appear any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any parts of such words, letters, figures, marks, lines, threads or other devices and intended to imitate the same, or causes or assists in causing any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads and other devices, and intended to imitate the same, to appear in the substance of any paper whatever, or takes, or assists in taking an impression of any such plate, die, or seal, as in the last preceding sec-

tion mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Having in possession paper, &c., for debentures, exchequer bills, &c.

13. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), purchases, or receives, or knowingly has in his custody or possession, any paper manufactured and provided by or under the directions of the Government of Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, for the purpose of being used as such debentures, exchequer bills, or exchequer bonds, notes, or other securities as aforesaid, before such paper has been duly stamped, signed and issued for public use, or any such plate, die or seal, as in the two last preceding sections mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement for any term less than two years, with or without hard labour.

As to forging bank notes.

Forging a bank note, &c.

14. Whosoever forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any note or bill of exchange of any body corporate, company or person carrying on the business of bankers, commonly called a bank note, a bank bill of exchange, or a bank post bill, or any endorsement on or assignment of any bank note, bank bill of exchange, or bank post bill, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Purchasing or receiving or having forged bank notes.

15. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), purchases or receives from any other person, or has in his custody or possession any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

As to making paper and engraving plates, &c., for bank notes, &c.

Making or having mould for making paper with words used for Dominion Notes, &c., or selling such paper.

16. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes or uses, or knowingly has in his custody or possession, any frame, mould or instrument for the making of paper used for Provincial or Dominion notes, with any words used in such notes, or any part of such words intended to resemble or pass for the same, visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum or amount expressed in a word or words in letters, visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for such notes, respectively, or makes, uses, sells, exposes to sale, utters or disposes of, or knowingly has in his custody or possession any paper whatsoever with any words used in such notes, or any part of such words, intended to resemble and pass for the same, visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number. sum, or amount expressed in a word or words in letters, appearing visible in

the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for any such notes respectively, or by any art or contrivance causes any such words or any part of such words, intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used for any such notes, respectively, to appear visible in the substance of any paper, or causes the numerical sum or amount of any such note, in a word or words in letters to appear visible in the substance of the paper, whereon the same is written or printed, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Proviso as to paper used for bills of exchange, &c.

17. Nothing in the last preceding section contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in a numerical figure or figures denoting the amount thereof in pounds or dollars, appearing visible in the substance of the paper upon which the same is written or printed, nor shall prevent any person from making, using or selling any paper having waving or curved lines, or any other devices in the nature of water-marks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved laying wire lines, or bar lines, or the water-marks of the paper used for Dominion Notes or Provincial Notes as aforesaid.

Engraving or having any plate, &c., for making Dominion or Provincial notes or notes of any other banks, or having such plate or uttering or having paper upon which a blank bank note, &c., may be printed.

18. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), engraves, or in anywise makes upon any plate whatsoever, or upon any wood, stone, or other material, any promissory note, or part of a promissory note, purporting to be a Provincial or Dominion Note or Bank Note, or to be a blank Provincial or Dominion Note or Bank Note, or to be a part of any Provincial or Dominion Note or Bank Note as aforesaid, or any name, word or character, resembling, or apparently intended to resemble, any subscription to any such Provincial or Dominion Note or Bank Note, as aforesaid, or uses any such plate, wood, stone or other material, or any other instrument or device for the making or printing any such note, or part of such note, or knowingly has in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device, or knowingly offers, utters, disposes of, or puts off, or has in his custody or possession any paper upon which any blank Provincial or Dominion Note or Bank Note, or part of any such note, or any name, word or character resembling or apparently intended to resemble any such subscription, is made or printed, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Engraving on a plate, &c., any word, number, or device, resembling part of a Dominion or Provincial or bank note or using or having any such plate, &c., or uttering or having any paper on which any such word, &c., is impressed.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any word, number, figure, device, character or ornament, the impression taken from which resembles, or is apparently intended to resemble any part of a Provincial or Dominion Note or Bank Note, or uses, or knowingly has in his custody or possession any such plate, wood, stone, or other material, or any other instrument or device for the impressing or making upon any paper or other material any word, number, figure, character or ornament, which resembles, or is apparently intended to resemble any part of any such note, as aforesaid, or offers, utters, disposes of or puts off, or has in his custody or possession any paper or other material upon which there is an impression of any such matter as aforesaid, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary

for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making or having mould for making paper with the name of any banker, or making or having such paper.

20. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes or uses any frame, mould, or instrument for the manufacture of paper with the name or firm of any bank or body corporate, company or person carrying on the business of bankers appearing visible in the substance of the paper, or knowingly has in his custody or possession, any such frame, mould or instrument, or makes, uses, sells, or exposes to sale, utters or disposes of, or knowingly has in his custody or possession, any paper in the substance of which the name or firm of any such bank, body corporate, company or person appears visible, or by any art or contrivance causes the name or firm of any such bank, body corporate, company or person to appear visible in the substance of the paper upon which the same is written or printed, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Engraving plates for foreign bills or notes, or using or having such plates, or uttering paper on which any part of any such bill or note is printed. Imp., s. 19. C., 94, s. 13.

21. Whosoever forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, promissory note, undertaking or order for payment of money, in whatever language or languages the same may be expressed, and whether the same is or is not under seal, purporting to be the bill, note, undertaking or order of any foreign Prince or State, or of any minister or officer in the service of any foreign Prince or State, or of any body corporate or body of the like nature constituted or recognized by any foreign Prince or State, or of any person or company of persons resident in any country not under the dominion of Her Majesty, or whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), engraves or in anywise makes upon any plate whatever, or upon any wood, stone or other material, any bill of exchange, promissory note, undertaking, or order for payment of money, or any part of any bill of exchange, promissory note, undertaking, or order for payment of money, in whatsoever language the same may be expressed, and whether the same is or is not, or is or is not intended to be, under seal, purporting to be the bill, note, undertaking or order, or part of the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate, or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of Her Majesty, or uses or knowingly has in his custody or possession any plate, stone, wood, or other material, upon which any such foreign bill, note, undertaking, or order, or any part thereof, is engraved or made, or knowingly offers, utters, disposes of, or puts off, or has in his custody or possession, any paper upon which any part of any such foreign bill, note, undertaking or order is made, or printed, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging deeds, wills, bills of exchange, &c,

Forging deeds bonds, &c.

22. Whosoever, with intent to defraud, forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or

altered, any deed, or any bond, or writing obligatory, or any assignment at law or in equity, of any such bond or writing obligatory, or forges any name, hand-writing or signature purporting to be the name, hand-writing or signature of a witness attesting the execution of any deed, bond or writing obligatory, or offers, utters, disposes of, or puts off, any deed, bond, or writing obligatory, having thereon any such forged name, hand-writing or signature, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging wills

23. Whosoever, with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary instrument, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging bills of exchange or promissory notes.

24. Whosoever forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement or assignment of any bill of exchange, or any promissory note for the payment of money, or any indorsement or assignment of any such promissory note, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging orders, receipts, &c., for money, goods, &c.

25. Whosoever forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of any goods or chattels, or of any note, bill, or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order, authority, or request, or any accountable receipt, acquittance or receipt, for money, or for goods, or for any note, bill, or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt, or any account, book or thing written or printed or otherwise made capable of being read, with intent, in any of the cases aforesaid, to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making or accepting any bill, &c., by procuration, without lawful authority, or uttering such bill, &c., with intent to defraud, felony.

26. Whosoever, with intent to defraud, draws, makes, signs, accepts or indorses, any bill of exchange or promissory note, or any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note, or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse, or offers, utters, disposes of, or puts off, any such bill, note, undertaking, warrant, order authority, or request, so drawn, made, signed, accepted, or indorsed by procuration or otherwise, without lawful authority or excuse, as aforesaid, knowing the same to have been so drawn, made, signed, aecepted, or indorsed as aforesaid, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two

years, or to be imprisoned in any other gaol or place of confinement for any term less that two years, with or without hard labour, and with or without solitary confinement.

Obliterating crossings on cheques.

27. Whenever any cheque or draft on any banker is crossed with the name of a banker, or with two transverse lines with the words "and company," or any abreviation thereof, whosoever obliterates, adds to, or alters any such crossing, or offers, utters, disposes of, or puts off, any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made, with intent in any of the cases aforesaid to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement fcr any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging debentures.

28. Whosoever fraudulently forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within Her Majesty's dominions, or elsewhere, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging private marks, &c.

Forging such marks.

29. Whosoever knowingly and wilfully, and with intent to defraud, forges or counterfeits, or causes or procures to be forged or counterfeited any private mark, token, stamp or label of any manufacturer, mechanic or other person, upon or with respect to any goods, wares or merchandise whatsoever, is guilty of felony, and shall be liable to be imprisoned in any Common Gaol or place of confinement other than a Penitentiary for any term less than two years.

Vending goods falsely marked.

30. Whosoever vends any goods, wares or merchandise, having thereon any forged or counterfeited private mark, token, stamp or label, purporting to be the private mark, token, stamp or label of any other person, knowing the same at the time of the purchase thereof by him to be forged or counterfeited, is guilty of a misdemeanor, and shall be liable to be imprisoned in any Common Gaol or place of confinement other than a Penitentiary for any term not exceeding six months, or to a fine of not more than *one hundred dollars* or by both, in the discretion of the Court.

Forging Railway tickets, &c.

31. Whosoever knowingly forges, or utters, knowing the same to be forged, any ticket or order for a free or paid passage on any Railway or on any Steam or other Vessel, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for a term not exceeding three years nor less than two years, or to be imprisoned in any common gaol or place of confinement other than a Penitentiary for any term less than two years.

As to forging records, process, instruments of evidence, &c.

Forging proceedings of Courts of Record or Courts of Equity, &c.

32. Whosoever forges or fraudulently alters or offers, utters, disposes of, or puts off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, *cognovit actionem*, or warrant of attorney, or any original document whatsoever, of or belonging to any Court of Record, or any bill, petition, process,

notice, rule, answer, pleading, interrogatory, deposition, affidavit, affirmation, report, order, or decree, or any original document whatsoever of or belonging to any Court of Equity or Court of Admiralty, or any original document whatsoever of or belonging to any Court of Justice, or any document or writing, or any copy of any document or writing used or intended to be used as evidence in any Court in this section mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering false copies or certificates of records, process of courts not of record, and using forged process.

33. Whosoever, being the clerk of any Court, or other officer having the custody of the records of any Court, or being the deputy of any such clerk or officer, utters any false copy or certificate of any record, knowing the same to be false; and whosoever, other than such clerk, officer or deputy, signs or certifies any copy or certificate of any record as such clerk, officer or deputy; and whosoever forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or offers, utters, disposes of or puts off, any copy or certificate of any record having thereon any false or forged name, hand-writing or signature, knowing the same to be false or forged; and whosoever forges the seal of any Court of Record, or forges or fraudulently alters any process of any Court other than such Courts as in the last preceding section mentioned, or serves or enforces any forged process of any Court whatsoever, knowing the same to be forged, or delivers or causes to be delivered to any person any paper, falsely purporting to be any such process, or a copy thereof, or to be any judgment, decree or order of any Court of law or equity, or a copy thereof, knowing the same to be false, or acts or professes to act under any such false process, knowing the same to be false, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging instruments made evidence by any Act of Parliament.

34. Whosoever forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is or shall be made evidence by any Act passed by the Legislature of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or passed or to be passed by the Parliament of Canada or by the Legislature of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, and for which offence no other punishment is herein provided, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Document may be impounded on request of parties against whom it may have been used.

35. Whenever any such instrument has been admitted in evidence, the Court or the Judge or person who has admitted the same, may at the request of any party against whom the same has been admitted in evidence, direct that the same shall be impounded and be kept in custody of some Officer of the Court or other proper person, for such period, and subject to such conditions as to the Court, Judge or person admitting the same, may seem meet.

As to forging notarial acts, registers of deeds, &c.

Forgery as to notarial in-

36. Whosoever forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any

notarial act or instrument, or copy, purporting to be an authenticated copy thereof, or any *procés verbal* of a surveyor, or like copy thereof, or forges, or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any duplicate of any instrument, or any memorial, affidavit, affirmation, entry, certificate, indorsement, document, or writing, made or issued under the provisions of any Act heretofore passed by the Legislature of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or passed or hereafter to be passed by the Parliament of Canada, or by the Legislature of any one of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, for or relating to the registry of deeds, or other instruments or documents respecting or concerning the title to or claims upon any real or personal property whatever, or forges, or counterfeits the seal of or belonging to any office for the registry of deeds, or other instruments as aforesaid, or any stamp or impression of any such seal; or forges any name, hand-writing or signature, purporting to be the name, hand-writing or signature of any person to any such memorial, affidavit, affirmation, entry, certificate, indorsement, document, or writing, required or directed to be signed by or by virtue of any Act, passed, or to be passsed, or offers, utters, disposes of, or puts off, any such memorial or other writing as in this section before mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, hand-writing or signature, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary, for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

struments, or as to the registry of deeds.

As to forging orders, &c., of Justices of the Peace.

37. Whosoever, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any summons, conviction, order or warrant, of any Justice of the Peace, or any recognizance purporting to have been entered into before any Justice of the Peace or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation or solemn declaration, taken or made before any Justice of the Peace, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging orders of justices, recognizances affidavits, &c.

As to forging the names of Judges, &c.

38. Whosoever, with intent to defraud, forges or alters any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing made or purporting or appearing to be made by any Judge, officer or clerk, of any Court in Canada, or the name, hand-writing or signature of any such Judge, officer or clerk, as aforesaid, or offers, utters, disposes of, or puts off any such certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing, knowing the same to be forged or altered, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging name of Judges, &c.

As to falsely acknowledging recognizances, &c.

39. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), in the name of any other person ac-

Acknowledging recogniz-

ance, bail, cognovit, &c., in the name of another.

knowledges any recognizance of bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any Court, Judge, Notary or other person lawfully authorized in that behalf, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging marriage licenses.

Forging or uttering marriage license or certificate.

40. Whosoever forges or fraudulently alters any license or certificate for marriage, or offers, utters, disposes of or puts off any such license or certificate, knowing the same to be forged or fraudulently altered, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging registers of births, marriages and deaths.

Forging registers of births, baptisms, marriages, deaths or burials.

41. Whosoever unlawfully destroys, defaces or injures, or causes or permits to be destroyed, defaced or injured, any register of births, baptisms, marriages, deaths or burials, which now is or hereafter shall be by law authorized or required to be kept in Canada or in any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or any part of any such register, or any certified copy of any such register, or any part thereof, or forges or fraudulently alters in any such register any entry relating to any birth, baptism, marriage, death or burial, or any part of any such register, or any certified copy of such register, or of any part thereof, or knowingly and unlawfully inserts, or causes or permits to be inserted in any such register, or in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death or burial, or knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death or burial, or certifies any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract is so given, to be false in any material particular, or forges or counterfeits the seal of or belonging to any register office or burial board, or offers, utters, disposes of, or puts off, any such register, entry, certified copy, certificate or seal, knowing the same to be false, forged or altered, or offers, utters, disposes of, or puts off any copy or any entry in any such register, knowing such entry to be false, forged or altered, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or or without solitary confinement.

Making false entries in copies of Register sent to Registrar.

42. Whosoever knowingly and wilfully inserts, or causes or permits to be inserted, in any copy of any register directed or required by law to be transmitted to any Registrar or other officer, any false entry of any matter relating to any baptism, marriage or burial, or forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any copy of any register so directed or required to be transmitted as aforesaid, or knowingly or wilfully signs or verifies any copy of any register so directed or required to be transmitted as aforesaid, which copy is false in any part thereof, knowing the same to be false, or unlawfully destroys, defaces or injures, or for any fraudulent purpose takes from its place of deposit, or conceals any such copy of any register, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term

less than two years, with or without hard labour, and with or without solitary confinement.

As to demanding property upon forged instruments.

Demanding property upon forged instruments.

43. Whosoever, with intent to defraud, demands, receives, or obtains, or causes or procures to be delivered or paid to any person, or endeavors to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money, or other property whatsoever, under, upon, or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon, or by virtue of any probate or letters of administration knowing the will, testament, codicil, or testamentary writing, on which such probate or letters of administration are obtained to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation or affidavit, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to other matters.

Forging any instrument, however designated, which is in law a will, bill of exchange, &c.

44. Where by this or any other Act any person is or shall hereafter be made liable to punishment for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law a will, testament, codicil or testamentary writing, or a deed, bond or writing obligatory, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on, or assignment of a bill of exchange, or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority, or request for the payment of money, or an indorsement on or assignment of an undertaking, warrant, order, authority, or request for the payment of money, within the true intent and meaning of this Act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and punished accordingly.

Forging, &c., in Canada documents, purporting to be made or actually made out of Canada, or forging, &c, in Canada bills, &c., purporting to be payable out of Canada.

45. Where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person in Canada forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any such writing or matter, in whatsoever country or place out of Canada, whether under the dominion of Her Majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language the same or any part thereof may be expressed, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in Canada, and if any person in Canada forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, order, authority, or request

for the payment of money, or for the delivery or transfer of any goods or security, or any deed, bond, or writing obligatory for the payment of money, (whether such deed, bond, or writing obligatory is made only for the payment of money, or for the payment of money together with some other purpose,) or any indorsement on or assignment of any such undertaking, warrant, order, authority, request, deed, bond, or writing obligatory, in whatsoever place or country out of Canada, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, authority request, deed, bond or writing obligatory may be or may purport to be payable, and in whatever language the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, order, authority, or request, be or be not under seal, every such person and every person aiding, abetting or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in Canada.

Forgers, &c., may be tried in the county where they are apprehended or are in custody.

46. Whosoever commits any offence against this Act, or commits any offence of forging, or altering any matter whatsoever, or of offering, uttering, disposing of, or putting off, any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case be indictable at common law, or by virtue of any Act passed or to be passed, may be dealt with, indicted, tried, and punished in any district, county or place in which he is apprehended or in custody, in the same manner in all respects as if the offence had been actually committed in that district, county or place; and every accessory before or after the fact to any such offence, if the same be a felony, and every person aiding, abetting, or counselling the commission of any such offence, if the same be a misdemeanor, may be dealt with, indicted tried, and punished, in any district, county or place in which he shall be apprehended, or be in custody, in the same manner in all respects as if his offence, and the offence of his principal, had been actually committed in such district county or place.

Description of instrument in indictments for forgery.

47. In any indictment for forging, altering, offering, uttering, disposing or putting off any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof, or otherwise describing the same or the value thereof.

Description of instrument in indictments for engraving &c.

48. In any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever has been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any iustrument, matter, or thing whatsoever has been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or *fac-simile* of the whole or any part of such instrument, matter or thing.

Intent to defraud particular persons or need not be alleged or proved.

49. It shall be sufficient in any indictment for forging, altering, uttering, offering, disposing of, or putting off any instrument whatsoever, where it shall be necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Interpretation as to criminal possession.

50. Where the having any matter or thing in the custody or possession of any person is in this Act expressed to be an offence, if any person has any such matter or thing in his personal custody and possession, or knowingly and wilfully has any such matter or thing in the actual custody and possession of any other person, or knowingly and wilfully has any such matter or thing in any dwelling-house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter or thing is so had for his own use, or for the use or benefit of another, every such person shall be deemed and taken to have such matter or thing in his custody or possession within the meaning of this Act.

Search for paper or implements employed in any forgery and for forged instruments.

51. If it is made to appear, by information on oath or affirmation before a Justice of the Peace, that there is reasonable cause to believe that any person has in his custody or possession without lawful authority or excuse, any Provincial or Dominion Note, or any note or bill of any bank or body corporate, company, or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone, or other material, having thereon any words, forms, devices, or characters capable of producing or intended to produce the impression of any such note or bill, or any part thereof, or any tool, implement, or material used or employed, or intended to be used or employed in or about any of the operations aforesaid, or any forged security, document, or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper, or other matter or thing used or employed, or intended to be used or employed, in the forgery of any security, document or instrument whatsoever, such Justice may, if he think fit, grant a warrant to search for the same; and if the same is found upon such search, it shall be lawful to seize and carry the same before some Justice of the district, county or place, to be by him disposed of according to law; and all such matters and things so seized as aforesaid shall by order of the Court where any such offender is tried, or in case there be no such trial, then by order of some Justice of the Peace, be defaced and destroyed, or otherwise disposed of as such Court or Justice may direct.

Competency of witnesses on trial, &c.

Competency of witnesses on trial.

52. In all prosecutions by indictment or information against any person or persons for any offence punishable under this Act, no person shall be deemed an incompetent witness, in support of the prosecution by reason of any interest which such person may have or be supposed to have in respect of any deed, writing, instrument or other matter given in evidence on the trial of such indictment or information; but the evidence of any person or persons so interested or supposed to be interested shall in no case be deemed sufficient to sustain a conviction for any of the said offences unless the same is corroborated by other legal evidence in support of such prosecution.

Proviso.

Other punishments substituted for those of 5 Eliz., c. 14.

53. Whosoever, after the commencement of this Act, is convicted of any offence which has been subjected by any Act or Acts to the same pains or penalties as are imposed by the Act passed in the fifth year of the Reign of Queen Elizabeth, intituled "An Act against forgers of false deeds and writings," for any of the offences first enumerated in the said Act, is guilty of felony, and shall, in lieu of such pains and penalties, be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

All forgeries which were

54. Where by any Act now in force in any Province of Canada, any person falsely making, forging, counterfeiting, erasing, or altering

capital, and are not otherwise punishable under this Act, shall be punished with imprisonment.

any matter whatsoever, or uttering, publishing, offering, disposing of, putting away, or making use of any matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased, or altered, or any person demanding, or endeavoring to receive or have anything, or to do or to cause to be done any act, upon or by virtue of any matter whatsoever, knowing such matter to have been falsely made, forged, counterfeited, erased, or altered; or where by any such Act now in force any person falsely personating another, or falsely acknowledging any thing in the name of another, or falsely representing any other person than the real party to be such real party, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account, or document, or wilfully making a transfer of any stock, annuity or fund in the name of any person not being the owner thereof, or knowingly taking any false oath, or knowingly making any false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate shall have been obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation; or where by any such Act now in force any person making or using or knowingly having in his custody or possession any frame, mould or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any such Act, be guilty of felony and be liable to any greater punishment than is provided by this Act, then and in each of the several cases aforesaid, if any person after the commencement of this Act is convicted of any such felony as is hereinbefore in this section mentioned, or of aiding, abetting, counselling, or procuring the commission thereof, and the same is not punishable under any of the other provisions of this Act, every such person shall be liable, to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Principals in the second degree and accessories.

55. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, shall be liable to be imprisoned in any gaol or place of confinement, other than the Penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement; and every person who aids, abets, counsels or procures the commission of any misdemeanor punishable under this Act, shall be liable to be proceeded against, indicted and punished, as a principal offender.

Fine and sureties for keeping the peace; in what cases.

56. Whenever any person is convicted of a misdemeanor under this Act, the Court may, if it thinks fit, in addition to or in lieu of any of the punishments by this Act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in all cases of felonies in this Act mentioned, the Court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any of the punishments by this Act authorized; provided that no person shall be imprisoned under this clause for not finding sureties, for any period exceeding one year.

Proviso.

Hard labour.

57. Whenever imprisonment, with or without hard labour, may be awarded for any offence under this Act, the Court may sentence the

offender to be imprisoned, or to be imprisoned and kept to hard labour in the common gaol or any other place of confinement.

Solitary confinement.

58. Whenever solitary confinement may be awarded for any offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year.

Commencement of Act.

59. This Act shall commence and take effect on the first day of October, one thousand eight hundred and sixty-eight.

No. 60.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL

An Act respecting Indictable Offences by Forgery.

Received and read first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 61.] **BILL.** [1868.

An Act respecting Offences against the Person.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, relating to offences against the person and to extend the same as so consolidated to all Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

Homicide.

1. Whosoever is convicted of murder shall suffer death as a felon. Murder.

2. Upon every conviction for murder, the Court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence and in respect thereof may be had and taken in the same manner in all respects as sentence of death might have been pronounced and carried into execution, and all other proceedings thereupon and in respect thereof might have been had and taken before the passing of this Act, upon a conviction for any other felony for which a prisoner might have been sentenced to suffer death as a felon. Sentence for murder.

3. Every person convicted of murder, shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners, and shall be fed with bread and water only, and with no other food or liquor, except in case of receiving the sacrament, or in case of any sickness or wound, in which case the Surgeon of the Prison may order other necessaries to be administered; and no person but the gaoler and his servants, and the Chaplain and Surgeon of the Prison, shall have access to any such convict, without the permission, in writing, of the Court or Judge before whom such convict has been tried, or of the Sheriff or his Deputy. Treatment of persons convicted of murder.

4. All persons who conspire, confederate and agree to murder any person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, and whosoever solicits, encourages, persuades, endeavors to persuade or proposes to any person to murder any other person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour. Conspiring or soliciting to murder.

5. Whosoever is convicted of manslaughter shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, or to pay such fine as the Court shall award in addition to or without any such other discretionary punishment as aforesaid. Manslaughter

6. In any indictment for murder or manslaughter, or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did feloniously, wilfully, of his Indictment for murder or manslaughter

malice aforethought, kill and murder the deceased; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter to charge the principal with the murder or manslaughter (as the case may be), in the manner hereinbefore specified, and then to charge the defendant as an accessory, in the manner heretofore used and accustomed, or by law provided.

Excusable homicide.

7. No punishment or forfeiture shall be incurred by any person who kills another by misfortune, or in his own defence, or in any other manner without felony.

Petit treason.

8. Every offence which before the abolition of the crime of petit treason, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; all persons guilty in respect thereof, whether as principals or accessories, shall be dealt with, indicted, tried and punished as principals and accessories in murder.

Provision for trial of murder or manslaughter where the death or cause of death only happens in Canada.

9. Where any person, being feloniously stricken, poisoned, or otherwise hurt, upon the sea, or at any place out of Canada, shall die of such stroke, poisoning, or hurt, in Canada, or, being feloniouly stricken, poisoned, or otherwise hurt at any place in Canada, shall die of such stroke, poisoning, or hurt, upon the sea, or at any place out of Canada, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined and punished in the district, county or place in Canada in which such death, stroke, poisoning, or hurt happens, in the same manner in all respects as if such offence had been wholly committed in that district, county or place.

Attempts to murder.

Administering poison or wounding with intent to murder.

10. Whosoever administers or causes to be administered to or to be taken by any person, any poison or other destructive thing, or by any means whatsoever, wounds or causes any grievous bodily harm to any person, with intent, in any of the cases aforesaid, to commit murder, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Destroying or damaging a building with gunpowder with intent to murder.

11. Whosoever, by the explosion of gunpowder or other explosive substance, destroys, or damages any building, with intent to commit murder, is guilty of felony and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to or casting away a ship with intent to murder.

12. Whosoever sets fire to any ship or vessel, or any part thereof, or any part of the tackle, apparel, or furniture thereof, or any goods or any chattels being therein, or casts away or destroys any ship or vessel, with the intent in any of such cases to commit murder, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Attempting to administer poison, or

13. Whosoever attempts to administer to, or attempts to cause to be administered to, or to be taken by, any person, any poison or other de-

structive thing, or shoots any person, or by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, with intent in any of the cases aforesaid to commit murder, whether any bodily injury be effected or not, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

shooting or attempting to shoot at, or attempting to drown, &c., with intent to murder.

14. Whosoever, by any means other than those specified in any of the preceding sections of this Act, attempts to commit murder, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

By any other means attempting to commit murder.

Letters threatening to murder.

15. Whosoever maliciously sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Sending letters threatening to murder.

Acts causing or tending to cause danger to life or bodily harm.

16. Whosoever unlawfully or maliciously prevents or inpedes any person, being on board of or having quitted any ship or vessel in distress, or wrecked, stranded, or cast on shore, in his endeavor to save his life, or unlawfully or maliciously prevents or impedes any person in his endeavor to save the life of any such person as in this section first aforesaid, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Impeding a person endeavoring to save himself from shipwreck.

17. Whosoever unlawfully and maliciously, by any means whatsoever, wounds or causes any grievous bodily harm to any person, or shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, with intent in any of the cases aforesaid to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with the intent to resist or prevent the lawful apprehension or detainer of any person, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Shooting or attempting to shoot, or wounding with intent to do grievous bodily harm.

18. Any gun, pistol, or other arms, loaded in the barrel with gunpowder or other explosive substance, and ball, shot, slug or other destructive material, shall be deemed to be loaded arms, within the meaning of this Act, although the attempt to discharge the same may fail for want of proper priming or other cause.

What shall constitute loaded arms.

19. Whosoever unlawfully or maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of a misdemeanor, and shall be liable

Inflicting bodily injury with or without weapon.

to be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour: and if upon the trial of any indictment for any felony (except in cases of murder or manslaughter), the indictment alleges that the defendant did cut, stab, wound or inflict grievous bodily harm on any person, and the jury be satisfied that the defendant is guilty of the cutting, stabbing or wounding, or inflicting serious bodily harm, charged in the indictment, but be not satisfied that the defendant is guilty of the felony charged in such indictment, the jury may acquit of the felony, and find the defendant guilty of unlawfully cutting, stabbing or wounding, or inflicting grievous bodily harm, and such defendant shall be liable to be imprisoned in the Penitentiary for any term not less than two years nor more than five years; or to be imprisoned in any gaol or place of confinement, other than the Penitentiary, for any term less than two years.

As to the Indictment and Verdict.

Attempting to choke, &c., in order to commit an indictable offence.

20. Whosoever by any means whatsoever attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Using chloroform, &c., to commit any indictable offence.

21. Whosoever unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by, any person, any chloroform, laudanum, or other stupifying or overpowering drug, matter or thing, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any other term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Maliciously administering poison, &c., so as to endanger life or inflict grievous bodily harm.

22. Whosoever unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Maliciously administering poison, &c., with intent to injure, aggravate or annoy any other person.

23. Whosoever unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Jury may find guilty of misdemeanor though not of felony.

24. If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury are not satisfied that such person is guilty thereof, but are satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then, and in every such case, the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be punished in the same manner as if convicted upon an indictment for such misdemeanor.

Not providing apprentices or servants with food, &c, whereby life is endangered

25. Whosoever, being legally liable, either as a master or a mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, wilfully and without lawful excuse, refuses or neglects to provide the same, or unlawfully or maliciously does, or causes to be done, any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been, or is likely to be, permanently injured, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Exposing children whereby life is endangered

26. Whosoever unlawfully abandons or exposes any child being under the age of two years, whereby the life of such child is endangered, or the health of such child has been, or is likely to be permanently injured, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Causing bodily injury by gunpowder, &c.

27. Whosoever unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, disfigures, disables or does any grievous bodily harm to any person, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person with intent to do grievous bodily harm.

28. Whosoever unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to, or causes to be taken or received by any person, any explosive substance, or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon, or otherwise applies to any person, any corrosive fluid, or any destructive or explosive substance, with intent in any of the cases aforesaid, to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, whether any bodily harm be effected or not, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Placing gunpowder near a building with intent to do bodily harm to any person.

29. Whosoever unlawfully and maliciously places or throws in, into, upon, against or near any building, ship or vessel, any gunpowder or other explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place, and whether or not any bodily injury is effected, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Setting spring guns, &c., with intent to inflict grievous bodily harm.

30. Whosoever sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm, upon any trespasser or other person coming in contact therewith, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and

not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour;—and whosoever knowingly and wilfully permits any such spring-gun, man-trap, or other engine which may have been set or placed in any place, then being in or afterwards coming into his possession or occupation, by some other person, to continue so set or placed shall be deemed to have set or placed such gun, trap or engine with such intent as aforesaid: Provided, that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin: Provided also, that nothing in this section shall be deemed to make it unlawful to set or place, or cause to be set or placed, or to be continued set or placed from sunset to sunrise, any spring-gun, man-trap or other engine set or placed, or caused or continued to be set or placed, in a dwelling house for the protection thereof.

Proviso.

Proviso.

Placing wood &c., on a railway with intent to endanger passengers.

31. Whosoever unlawfully and maliciously puts or throws upon or across any railway any wood, stone, or other matter or thing, or unlawfully and maliciously takes up, removes or displaces any rail, sleeper or other matter or thing belonging to any railway, or unlawfully and maliciously turns, moves or diverts any point or other machinery belonging to any railway, or unlawfully and maliciously makes or shows, hides or removes any signal or light upon or near to any railway, or unlawfully or maliciously does or causes to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and if a male under the age of sixteen years, with or without whipping.

Casting stones, &c., upon a railway carriage with intent to endanger the safety of any person therein.

32. Whosoever unlawfully and maliciously throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train, of which such first-mentioned engine, tender, carriage or truck forms part, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Doing or omitting anything to endanger passengers by railway.

33. Whosoever, by any unlawful act, or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person conveyed, or being in or upon a railway, or aids or assists therein, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour.

Drivers of carriages injuring persons by furious driving.

34. Whosoever, having the charge of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person whatsoever, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour.

Negligently causing bodily injury.

35. Whosoever, by negligently doing or omitting to do any act, causes grievous bodily injury to any other person, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary for any term less than two years.

Assaults.

36. Whosoever by threats or force, obstructs or prevents, or endeavors to obstruct or prevent any clergyman or other minister in or from celebrating Divine Service, or otherwise officiating in any church, chapel, meeting-house, or other place of Divine Worship, or in or from the performance of his duty in the lawful burial of the dead, in any church-yard or other burial place, or strikes or offers any violence to, or upon any civil process, or under the pretence of executing any civil process, arrests any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in any of the rites or duties in this section aforesaid, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary for any term less than two years, with or without hard labour.

Obstructing or assaulting a clergyman or other minister in the discharge of his duties.

37. Whosoever wilfully disturbs, interrupts, or disquiets any assemblage of persons met for religious worship, by profane discourse, by rude, or indecent behaviour, or by making a noise, either within a place of worship or so near it as to disturb the order or solemnity of the meeting, shall, upon conviction thereof before a Justice of the Peace, on the oath of one or more credible witnesses, forfeit and pay such sum of money, not exceeding *twenty dollars*, as the said Justice may think fit, and costs, within the period specified for the payment thereof, by the convicting Justice at the time of the conviction—and in default of payment, such Justice shall issue his warrant to a constable to levy such fine and costs within a time to be specified in the warrant, and if no sufficient distress can be found, such Justice shall commit the offender to the Common Gaol of the District, County or Division wherein the offence was committed, for any term not exceeding one month, unless the fine and costs be sooner paid.

Disturbing congregations met for religious worship.

38. Whosoever assaults, and strikes or wounds any magistrate, officer or other person whatsoever, lawfully authorized in or on account of the exercise of his duty, in or concerning the preservation of any vessel in distress, or of any vessel, goods or effects wrecked, stranded, or cast on shore, or lying under water, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Assaulting a magistrate on account of his preserving wreck.

39. Whosoever assaults any person with intent to commit felony, or assaults, resists, or wilfully obstructs any revenue or peace officer in the due execution of his duty, or any person acting in aid of such officer, or assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person for any offence, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary for any term less than two years, with or without hard labour.

Assault with intent to commit felony or on peace officers, &c.

40. Whosoever beats or uses any violence or threat of violence to any person with intent to deter or hinder him from buying, selling or otherwise disposing of, any wheat or other grain, flour, meal, malt or potatoes, in any market or other place, or beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, whilst on the way to or from any city, market town or other place, with intent to stop the conveyance of the same, shall on conviction thereof before two Justices of the Peace be liable to be imprisoned and kept to hard labour in any gaol or place of confinement, other than a Penitentiary, for any term not exceeding

Assaults with intent to obstruct the sale of grain, or its free passage.

Proviso.

three months; provided that no person who shall be punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.

Assaults on seamen, &c.

41. Whosoever unlawfully and with force hinders or prevents any seaman, stevedore, ship-carpenter or other person usually working at or on board any ship or vessel, from working at or exercising his lawful trade, business or occupation, or beats, or uses any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall, on conviction thereof before two Justices of the Peace, be liable to be imprisoned and kept to hard labour in the any gaol or place of confinement other than a Penitentiary for any term not exceeding three months; provided that no person who shall be punished for any such offence by reason of this section shall be punished for the same offence by any other law whatsoever.

Proviso.

Assaults arising from combination.

42. Whosoever, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with a view to hinder him from working or being employed at such trade, business or manufacture, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labour.

Persons committing any common assault or battery may be imprisoned or compelled by any magistrate to pay fine and costs not exceeding $20.

43. Where any person unlawfully assaults or beats any other person, any Justice of the Peace, upon complaint by or on behalf of the party aggrieved, praying him to proceed summarily on the complaint, may hear and determine such offence, and the offender shall, upon conviction thereof before him, at the discretion of the Justice, either be committed to any gaol or place of confinement, other than the Penitentiary, there to be imprisoned, with or without hard labour, for any term not exceeding two months, or else shall forfeit and pay such fine as shall appear to the Justice to be meet, not exceeding the sum of *twenty dollars*, together with costs (if ordered); and if such fine so awarded, together with the costs (if ordered), are not paid, either immediately after the conviction or within such period as the said Justice shall, at the time of the conviction, appoint, he may commit the offender to any gaol or place of confinement, other than a Penitentiary, there to be imprisoned for any term not exceeding two months, unless such fine and costs be sooner paid.

If the magistrate dismiss the complaint he shall make out a certificate to that effect.

44. If the Justice, upon the hearing of any case of assault or battery upon the merits, where the complaint was preferred by or on behalf of the party aggrieved, under the last preceding section, deems the offence not to be proved, or find the assault or battery to have been justified, or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he shall forthwith make out a certificate under his hand, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Certificate or conviction shall be a bar to any other proceedings,

45. If any person against whom any such complaint as in either of the last two preceding sections mentioned, has been preferred, by or on the behalf of the party aggrieved, has obtained such certificate, or, having been convicted, has paid the whole amount adjudged to be paid, or has suffered the imprisonment, or imprisonment with hard labour awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

These provisions not to apply to certain cases.

46. Provided, that in case the Justices find the assault or battery complained of to have been accompanied by an attempt to commit fe-

lony, or are of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if they had no authority finally to hear and determine the same: Provided also, that nothing herein contained shall authorize any Justices to hear and determine any case of assault or battery, in which any question shall arise as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any Court of Justice. Proviso.

47. Whosoever is convicted upon an indictment of any assault occasioning actual bodily harm, shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and whosoever is convicted upon an indictment for a common assault, shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term not exceeding one year, with or without hard labour. Assault occasioning bodily harm, Common assault.

48. Neither the Justices of the Peace acting in and for any District, County, Division or City, nor any Judge of the Sessions of the Peace, nor the Recorder of any City, shall, at any Session of the Peace, or at any adjournment thereof, try any person for any offence under the 27th or 28th Section of this Act. Court of Q. S. not to try certain offences.

Rape, abduction and defilement of women.

49. Whosoever commits the crime of rape is guilty of felony, and shall be liable to suffer death as a felon. Rape.

50. Whosoever by false pretences, false representations, or other fraudulent means, procures any woman or girl under the age of twenty-one years, to have illicit carnal connection with any man other than the procurer, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labour. Procuring the defilement of girl under age.

51. Whosoever unlawfully and carnally knows and abuses any girl under the age of ten years, is guilty of felony, and shall suffer death as a felon. Carnally knowing a girl under ten years of age.

52. Whosoever unlawfully and carnally knows and abuses any girl being above the age of ten years and under the age of twelve years is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding *seven* years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour. Carnally knowing a girl between the ages of ten and twelve.

53. Whosoever shall be convicted of any indecent assault upon any female, or of any attempt to have carnal knowledge of any girl under twelve years of age, shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labour. Attempt to commit such offences.

54. Where any woman of any age has any interest, whether legal or equitable, present or future, absolute, conditional or contingent in any real or personal estate, or is a presumptive heiress or coheiress or presumptive next of kin, or one of the presumptive next of kin to any one having such interest, whosoever from motives of lucre, takes away or Abduction of a woman against her will, from motives of lucre.

detains such woman against her will with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, and whosoever fraudulently allures, takes away or detains such woman, being under the age of twenty-one years, out of the possession and against the will of her father and mother or of any other person having the lawful care or charge or her, with intent to marry or carnally know her or to cause her to be married or carnally known by any other person, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and whosoever is convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any such interest, or which shall come to her as such heiress, co-heiress or next of kin as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction be settled in such manner as the Court of Chancery in Ontario, the Supreme Court in Nova Scotia or New Brunswick, or the Superior Court in Quebec, shall appoint, upon any information at the suit of the Attorney General for the Province in which the property is situate.

Fraudulent abduction of a girl under age against the will of her father, &c.

Offender incapable of taking any of her property.

55. Whosoever by force, takes away or detains against her will any woman, of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Forcible abduction of any woman with intent to marry her.

56. Whosoever unlawfully takes or causes to be taken any unmarried girl being under the age of sixteen years, out of the possession and against the will of her father or mother or of any other person having the lawful care or charge of her, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labour.

Abduction of a girl under sixteen years of age.

Child Stealing.

57. Whosoever unlawfully, either by force or fraud, leads or take away or decoys or entices away or detains any child under the age of fourteen years, with intent to deprive any parent, guardian or other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, and whosoever, with any such intent, receives or harbors any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away or detained, as in this section before mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and if a male under the age of sixteen years, with or without whipping; Provided that no person who has claimed any right to the possession of such child, or is the mother, or has claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child or taking such child out of the possession of any person having the lawful charge thereof.

Child stealing.

Proviso.

Bigamy.

58. Whosoever, being married, marries any other person during the life of the former husband or wife, whether the second marriage has

Bigamy.

taken place in Canada or elsewhere, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and any such offence may be dealt with, enquired of, tried, determined, and punished in any district, county or place in Canada, where the offender is apprehended or is in custody, in the same manner in all respects as if the offence had been actually committed in that district, county or place; Provided that nothing in this section contained shall extend to any second marriage contracted elsewhere than in Canada by any other than a subject of Her Majesty resident in Canada and leaving the same with intent to commit the offence, or to any person marrying a second time whose husband or wife has been continually absent from such person for the space of seven years then last past, and was not known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, was divorced from the bond of the first marriage, or to any person whose former marriage has been declared void by the sentence of any court of competent jurisdiction.

Offence may be dealt with where offender shall be apprehended.

Not to extend to second marriages, &c, herein stated.

Husband or wife absent 7 years, &c,

Attempts to procure abortion.

59. Every woman, being with child, who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Administering drugs or using instruments to procure abortion.

60. Whosoever unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for the term of two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Procuring drugs, &c., to cause abortion.

Concealing the birth of a Child.

61. If any woman is delivered of a child, every person who by any secret disposition of the dead body of the said child, whether such child died before, at or after its birth, endeavors to conceal the birth thereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement for any term less than two years, with or without hard labour; Provided that if any person tried for the murder of any child, be acquitted thereof, it shall be lawful for the jury, by whose verdict such person is acquitted, to find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of the dead body of such child, endeavor to conceal the birth thereof, and thereupon the Court may pass such sentence as if such person had been convicted upon an indictment for the concealment of birth.

Concealing the birth of a child.

Proviso.

62. No part of the Act passed in the twenty-first year of the reign of King James the First, intituled, *An Act to prevent the destroying*

Act of 21 James 1, not

to be in force in Canada, &c.

and murdering of bastard children, shall extend to, or be in force in Canada, and the trial of any woman charged with murder of any issue of her body, male or female, which being born alive, would by law be bastard, shall proceed and be governed by such and like rules of evidence and presumption, as are by law used and allowed to take place in respect to other trials for murder, and as if the said Act passed in the reign of King James the First had never been made.

Unnatural Offences.

Sodomy and bestiality.

63. Whosoever is convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years.

Attempt to commit an infamous crime.

64. Whosoever attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding ten years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Carnal knowledge defined.

65. Whenever, upon the trial of any offence punishable under this Act, it is necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete on proof of any degree of penetration only.

Making Gunpowder to commit offences and searching for the same.

Making or having gunpowder, &c., with intent to commit any felony against this Act.

66. Whosoever knowingly has in his possession, or makes or manufactures any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit any of the felonies in this Act mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labor, and with or without solitary confinement, and if a male under the age of sixteen years, with or without whipping.

Justices may issue warrants for searching houses, &c., in which explosive substances are suspected to be made for the purpose of committing felonies against this Act.

67. Any Justice of the Peace for any District, County or place in which any such gunpowder, or other explosive, dangerous or noxious substance or thing, or any such machine, engine, instrument or thing is suspected to be made, kept or carried for the purpose of being used in committing any of the felonies in this Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching in the day time, any house, mill, magazine, storehouse, warehouse, shop cellar, yard, wharf or other place, or any carriage, waggon, cart, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of any such warrant may seize any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine or instrument or thing which he has good cause to suspect is intended to be used in committing or enabling any other person to commit any offence against this Act, and with all convenient speed after the seizure shall remove the same to such proper place as he thinks fit, and detain the same until ordered by a Judge of one of Her Majesty's Superior Courts of Criminal Jurisdiction, to restore it to the person who may claim the same.

68. Any gunpowder, explosive substance or dangerous or noxious thing, or any machine, engine, instrument or thing intended to be used in committing or enabling any other person to commit any offence against this Act, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same is found, or of the owner thereof being convicted for an offence under this Act, be forfeited; and the same shall be sold under the direction of the Court before which any such person may be convicted, and the proceeds therof shall be paid into the hands of the Receiver General to and for the use of the Dominion. Disposal of such substances.

Kidnapping.

69. Whosoever, without lawful authority, forcibly seizes and confines or imprisons any other person within Canada, or kidnaps any other person with intent— Kidnapping.

1. To cause such other person to be secretly confined or imprisoned in Canada against his will; or,

2. To cause such other person to be sent or transported out of Canada against his will; or,

3. To cause such other person to be sold or captured as a slave, or in any way held to service against his will,

Is guilty of felony, and shall be liable to be punished by imprisonment in the Penitentiary, for any term not exceeding seven years and not less than two years, or by imprisonment in any other gaol or place of confinement for any term less than two years. Punishment.

70. Whosoever is an accessory before or after the fact, to the commission of any kidnapping or unlawful confinement, as hereinbefore prohibited, is guilty of felony; and all the provisions of the Act of the present Session *respecting Accessories to and Abettors of indictable offences*, shall be applicable to the offence of kidnapping. Accessories guilty of felony.

71. Upon the trial of any offence under the two next preceding sections, the non-resistance of the person so kidnapped or unlawfully confined, thereto, shall not be a defence, unless it appears to the satisfaction of the Court and Jury that such non-resistance was not caused by threats, duress, or force or exhibition of force. Non-resistance not to be defence.

72. Every offence prohibited by the sections last mentioned may be tried either in the district or county in which the same was committed, or in any district or county into or through which any person so kidnapped or confined, was carried or taken while under such confinement; but no person who has been once duly tried for any such offence, shall be liable to be again indicted or tried for the same offence. Where offences are triable.

Carrying Bowie-knives, Daggers, &c., about the person.

73. Whosoever carries about his person any Bowie-knive, Dagger or Dirk, or any weapons called or known as Iron Knuckles, Skull-crackers or Slung Shot, or other offensive weapons of a like character, or secretly carries about the person any instrument loaded at the end, or sells or exposes for sale publicly or privately, any such weapon, shall be liable, on conviction, to a fine of not less than *ten* nor more than *forty dollars*, and in default of payment thereof, to imprisonment in any gaol or place of confinement for a term not exceeding thirty days; But nothing in this section contained shall apply to Her Majesty's Army or Navy, or Militia, or Volunteer Force, nor to any Highland or National Society carrying arms as part of their national costume. Carrying bowie-knives, daggers, &c. Proviso.

74. Whosoever is found in any of the Seaport Towns or Cities in Canada, carrying about his person any Sheath-knife, shall be liable to the like pains and penalties as in the next preceding section; provided however, that nothing herein contained shall apply to seamen or riggers when occupied or engaged in their lawful trade or calling. Carrying sheath-knives in seaport towns.

How offences may be tried.

75. Whosoever is charged with having committed any offence against the provisions of the last two preceding sections of this Act, may be tried and dealt with in pursuance of the Act of the present Session *respecting prompt and summary Administration of Criminal Justice in certain the cases.*

Weapon to be destroyed.

76. It shall be the duty of the Court or Justice before whom any person is convicted under the three last preceding sections of this Act, to impound the weapon for carrying which such person is convicted, and to cause the same to be destroyed.

Time of prosecution limited. Appeal.

77. All prosecutions under the four next preceding sections of this Act shall be commenced within one month from the offence charged; and from any conviction or decision under the said sections, an appeal shall lie to the Court of General or Quarter Sessions of the Peace for the District, or County, or place wherein the same takes place, subject to the provisions respecting appeals in the *Act respecting the duties of Justices of the Peace out of Sessions with regard to Summary Convictions.*

Other Matters.

Any person loitering at night and suspected of any felony against this Act may be apprehended.

78. Any Constable or Peace Officer may take into custody, without a warrant, any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed or being about to commit any felony in this Act mentioned, and shall take such person, as soon as reasonably may be, before a Justice of the Peace to be dealt with according to law.

Punishment of principals in the second degree and accessories.

79. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except murder) shall be liable to be imprisoned in any gaol or other place of confinement, other than the Penitentiary, for any term less than two years, with or without hard labour;—and every accessory after the fact to murder, shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour;—and whosoever counsels, aids or abets the commission of any indictable misdemeanor punishable under this Act shall be liable to be proceeded against, indicted and punished as a principal offender.

In case of misdemeanor

Solitary confinement and whipping.

80. Whenever solitary confinement may be awarded for any offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion or portions of any imprisonment or of any imprisonment with hard labour which the Court may award, not exceeding one month at any one time, and not exceeding three months in any one year; and whenever whipping may be awarded for any offence under this Act, the Court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the Court in the sentence.

Fine and sureties for keeping the peace; in what cases.

81. When any person is convicted of any indictable misdemeanor punishable under this Act, the Court may, if it think fit, in addition to or in lieu of any punishment by this Act authorized, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and such fine may be proportioned to the means of the offender, and in case of any felony punishable under this Act otherwise than with death, the Court may, if it think fit, require the offender to enter into his own recognizances and to find sureties, both or either, for keeping the peace,

No certiorari.

in addition to any punishment by this Act authorized; Provided that no person shall be imprisoned for not finding sureties under this section for any period not exceeding one year. Proviso.

82. No summary conviction under this Act shall be quashed for want of form, or be removed by certiorari into any of Her Majesty's Superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same. No certiorari, or quashing for want of form.

83. When any person is convicted on any indictment of any assault, whether with or without battery and wounding, or either of them, such person may, if the Court thinks fit, in addition to any sentence which the Court may deem proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for the loss of time as the Court shall, by affidavit or other inquiry and examination, ascertain to be reasonable; and unless the sums so awarded are sooner paid, the offender shall be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term the Court shall award not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence. On a conviction for an assault the Court may order payment of the prosecutor's costs by the defendant.

84. The Court may, by warrant under hand and seal, order such sum as shall be so awarded to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and that the surplus, if any, arising from such sale shall be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease. Such costs may be levied by distress.

85. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of the present Session, intituled *An Act respecting the duties of Justices of the Peace, out of Sessions, with regard to Summary Convictions*, or in such other manner as may be directed in any Act that may be passed for like purposes, and all provisions contained in such Acts shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act. Summary proceedings.

86. This Act shall commence and take effect on the first day of October, one thousand eight hundred and sixty-eight. Commencement of Act.

No. 61.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL

An Act respecting Offences against the Person.

Received and read first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 62.] **BILL.** [1868

An Act respecting Malicious Injuries to Property.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, relating to Malicious Injuries to Property, and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

Injuries by fire to buildings and goods therein.

1. Whosoever unlawfully and maliciously sets fire to any church, chapel, meeting-house, or other place of divine worship, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Setting fire to a church or chapel.

2. Whosoever unlawfully and maliciously sets fire to any dwelling-house, any person being therein, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Setting fire to a dwelling-house, any person being therein.

3. Whosoever unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, storehouse, granary, hovel, shed or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, whether the same is then in the possession of the offender, or in the possession of any other person, with the intent thereby to injure or defraud any person, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Setting fire to a house, out-house, manufactory, farm building, &c.

4. Whosoever unlawfully and maliciously sets fire to any station, engine-house, warehouse, or other building, belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Setting fire to any railway station.

5. Whosoever wilfully and maliciously sets on fire or burns, or otherwise destroys or causes to be set on fire or burnt, or otherwise destroyed, or aids, procures, abets or assists, in the setting on fire or Punishment for setting fire to any of Her

Majesty's dock-yards, ships, &c.

burning, or otherwise destroying, of any of Her Majesty's ships or vessels of war, whether afloat or building, or begun to be built in any of Her Majesty's dock-yards, or building or repairing by contract in any private yard for the use of Her Majesty, or any of Her Majesty's arsenals, magazines, dock-yards, rope-yards, victualling offices, or any of the buildings erected therein or belonging thereto, or any timber or material there placed, for building, repairing or fitting out of ships or vessels, or any of Her Majesty's military, naval, or victualling stores, or other ammunition of war, or any place or places where any such military, naval, or victualling stores, or other ammunition of war is, or are kept, placed or deposited, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of sixteen years, with or without whipping.

Setting fire to any public building.

6. Whosoever unlawfully and maliciously sets fire to any building, other than such as are in this Act before mentioned, belonging to the Queen or to any county, riding, division, city, town, village, parish, or place, or belonging to any university or college, or hall of any university, or to any inn of Court, or to any corporation, or to any unincorporated body or society of persons, associated together for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to other buildings.

7. Whosoever unlawfully and maliciously sets fire to any building other than such as are in this Act before mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to goods in any building, the setting fire to which is felony.

8. Whosoever unlawfully and maliciously sets fire to any matter or thing, being in, against or under any building, under such circumstances that if the building were thereby set fire to the offence would amount to felony, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Attempting to set fire to buildings.

9. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injuries by explosive substances to buildings and goods therein.

Destroying,

10. Whosoever unlawfully and maliciously, by the explosion of gun

powder, or other explosive substance, destroys, throws down, or damages the whole or any part of any dwelling-house, any person being therein, or of any building whereby the life of any person is endangered, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

&c., a house with gunpowder, any person being therein.

11. Whosoever unlawfully and maliciously places or throws in, into, upon, under, against or near any building any gunpowder or other explosive substance with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods or chattels, whether or not any explosion takes place, and whether or not any damage is caused, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Attempting to destroy buildings with gunpowder.

Injuries to buildings by rioters, &c.

12. If any persons riotously and tumultuously assembled together to the disturbance of the public peace unlawfully and with force demolish or pull down or destroy, or begin to demolish, pull down or destroy any church, chapel, meeting-house or other place of divine worship, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, or any building other than such as are in this section before mentioned, belonging to the Queen, or to any country, riding, city, town, village, parish or place, or belonging to any university, or college or hall of any university, or to any inn of court, or to any corporation, or to any unincorporated body or society of persons associated for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine of sinking, working, ventilating or draining any mine, or any staith, building or erection used in conducting the business of any mine, or any bridge, waggon-way or trunk for conveying minerals from any mine, every such offender is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Rioters demolishing church, building, &c.

13. If any persons riotously and tumultuously assembled together to the disturbance of the public peace unlawfully and with force injure or damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, outhouse, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggon-way, or trunk as in the last preceding section mentioned, every such offender is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not exceeding two years, with or without hard labour; Provided that if upon the trial of any person for any felony in the last preceding section mentioned the jury are not satisfied that such person

Rioters injuring buildings, machinery, &c.

Proviso.

is guilty thereof, but are satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

Injuries to buildings by tenants.

Tenants of houses, &c., maliciously injuring them

14. Whosoever, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, unlawfully and maliciously pulls down or demolishes, or begins to pull down or demolish the same or any part thereof, or unlawfully or maliciously pulls down or severs from the freehold any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, is guilty of a misdemeanor.

Injuries to manufactures, machinery, &c.

Destroying goods in process of manufacture, certain machinery, &c.

15. Whosoever unlawfully and maliciously cuts, breaks or destroys or damages with intent to destroy or to render useless any goods or article of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials, mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process or progress of manufacture, or unlawfully or maliciously cuts, breaks, or destroys or damages with intent to destroy or render useless any warp or shute of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or unlawfully or maliciously cuts, breaks, or destroys, or damages with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles, or by force enters into any house, shop, building or place, with intent to commit any of the offences in this section mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Destroying machines in other manufactures, thrashing machines, &c.

16. Whosoever unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or render useless, any machine or engine, whether fixed or moveable, used or intended to be used for sowing, reaping, mowing, thrashing, ploughing or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in any manufacture whatsoever (except the manufacture of silk, woollen, linen, cotton, hair, mohair, or alpaca goods, or goods of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace), is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injuries to corn, trees and vegetable productions.

Setting fire to crops of corn, &c.

17. Whosoever unlawfully or maliciously sets fire to any crop of hay, grass, corn, grain, or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or

plantation of trees, or to any heath, gorse, furze or fern, wheresoever the same may be growing, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of sixteen years, with or without whipping.

Setting fire to stacks of corn &c.

18. Whosoever unlawfully and maliciously sets fire to any stack of corn, grain, pulse, tares, hay, straw, haulm, stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood, or bark, or to any steer or pile of wood or bark, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Attempting to set fire to any crops of corn, &c.

19. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to any such matter or thing as in either of the last two preceding sections mentioned, under such circumstances that if the same were thereby set fire to the offender would be, under either of such sections, guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, without or without whipping.

Destroying hop-binds.

20. Whosoever unlawfully and maliciously cuts or otherwise destroys any hop-binds growing on poles in any plantation of hops, or any grape vines growing in any vineyard, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Destroying, &c., trees, &c., worth more than $5, growing in a pleasure ground, &c.

21. Whosoever unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling house (in case the amount of the injury done shall exceed the sum of *five dollars*) is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Destroying, &c., shrubs, &c., worth more than $20 growing elsewhere than in a pleasure ground, &c.

22. Whosoever unlawfully and maliciously cuts, breaks, barks, roots up, or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing elsewhere than in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining to or belonging to any dwelling-house (in case the amount of injury done shall exceed the sum of *twenty* dollars) is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Damaging trees wheresoever growing, to the amount of 25 cents.

23. Whosoever unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same may be growing, the injury done being to the amount of twenty-five cents at the least, shall, on conviction thereof before any Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding *five* dollars, as to the Justice seems meet; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall, for such second offence, be liable to be committed to the common gaol or other place of confinement, there to be kept to hard labour, for such term, not exceeding three months, as the convicting Justice thinks fit, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding *twenty dollars*, as to the Justice seems meet; and whosoever, having been twice convicted of any such offence (whether both or either of such convictions have taken place before or after the passing of this Act), afterwards commits any of the said offences in this section before mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in an gaol or place of confinement, other than a Penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Second offence.

Third offence.

Destroying any fruit or vegetable production in a garden.

24. Whosoever unlawfully and maliciously destroys, or damages with intent to destroy, any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, hot-house, green-house or conservatory, shall, on conviction thereof before a Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding *twenty* dollars, as to the Justice seems meet; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for the term of two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Second offence.

Destroying &c., vegetable productions not growing in gardens &c

25. Whosoever unlawfully and maliciously destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard or nursery-ground, shall, on conviction thereof before a Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding *five dollars*, as to the Justice seems meet; and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid, for any term not exceeding one month, unless payment be sooner made; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common

Second offence.

gaol or other place of confinement, there to be kept to hard labour, for such term, not exceeding three months, as the convicting Justice thinks fit.

Injuries to fences.

Destroying, &c., any fence &c.

26. Whosoever unlawfully and maliciously cuts, breaks, throws down, or in anywise destroys any fence of any description whatsoever, or any wall, stile or gate, or any part thereof respectively, shall, on conviction thereof before a Justice of the Peace, for the first offence forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding *five* dollars, as to the Justice seems meet; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or other place of confinement, there to be kept to hard labour for such term, not exceeding three months, as the convicting Justice thinks fit.

Second offence.

Injuries to mines.

Setting fire to a coal mine, &c.

27. Whosoever unlawfully and maliciously sets fire to any mine of coal, cannel coal, anthracite, or other mineral fuel, or to any mine or well of oil or other combustible substance, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Attempting to set fire to a mine.

28. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to any mine or to any such oil well, as aforesaid, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Conveying water into a mine, obstructing the shaft, &c.

29. Whosoever unlawfully and maliciously causes any water, earth, rubbish or other substance, to be conveyed or run or fall into any mine, or into any oil well, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine or well, or to hinder or delay the working thereof, or, with the like intent, unlawfully and maliciously pulls down, fills up, or obstructs or damages with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level or shaft, of or belonging to any mine or well, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping; Provided that this section shall not extend to any damage committed underground by any owner of any adjoining mine or well in working the same, or by any person duly employed in such working.

Proviso.

Damaging steam engines staiths, waggon-ways &c. for working mines.

30. Whosoever unlawfully and maliciously pulls down or destroys, or damages with intent to destroy or render useless any steam engine or other engine for sinking, draining, ventilating, or working, or for in anywise assisting in sinking, draining, ventilating or working any mine or well, or any appliance or apparatus in connection with any such steam or other engine, or any staith, building or erection used in conducting the

business of any mine or well, or any bridge, waggon-way or trunk for conveying minerals from any mine or well, whether such engine, staith, building, erection, bridge, waggon-way or trunk, be completed or in an unfinished state, or unlawfully and maliciously stops, obstructs or hinders the working of any such steam or other engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any mine or well, or to hinder, obstruct or delay the working thereof, or unlawfully and maliciously wholly or partially cuts through, severs, breaks, or unfastens, or damages with intent to destroy or render useless any rope, chain or tackle, of whatsoever material the same shall be made, used in any mine, or in or upon any inclined plane, railway or other way, or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any mine or well, or the working or business thereof, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injuries to sea and river banks, and to works on rivers, canals, &c.

Destroying any sea bank or wall on any canal.

31. Whosoever unlawfully and maliciously breaks down or cuts down, or otherwise damages or destroys any sea bank, sea wall, dyke or aboiteau, or the bank, dam, or wall of or belonging to any river, canal, drain, reservoir, pool or marsh, whereby any land or building is or is in danger of being overflowed or damaged, or unlawfully and maliciously throws, breaks or cuts down, levels, undermines, or otherwise destroys any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, water-course, or other work belonging to any port, harbour, dock, or reservoir, or on or belonging to any navigable river or canal, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Removing piles of any sea bank, &c., or obstructing navigation of a river or canal.

32. Whosoever unlawfully and maliciously cuts off, draws up, or removes any piles, chalk or other materials fixed in the ground and used for securing any sea bank or sea wall, or the bank, dam or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty or lock, or unlawfully or maliciously opens or draws up any floodgate or sluice, or does any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injuries to ponds.

Breaking down the dam of a fishery &c., or mill-dam, or poisoning fish.

33. Whosoever unlawfully and maliciously cuts through, breaks down, or otherwise destroys the dam, floodgate or sluice of any fish-pond, or of any water which is private property, or in which there is any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or unlawfully or maliciously puts any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that may then be, or that may thereafter be put therein, or unlawfully and maliciously cuts through, breaks

down, or otherwise destroys the dam or floodgate of any millpond, reservoir or pool, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injuries to bridges, viaducts, and toll-bars.

Injury to a public bridge.

34. Whosoever unlawfully and maliciously pulls or throws down, or in any wise destroys, any bridge (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway, or canal passes, or does any injury with intent and so as thereby to render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Destroying a turnpike gate toll house, &c.

35. Whosoever unlawfully or maliciously throws down, levels, or otherwise destroys, in whole or in part, any turnpike gate or toll-bar, or any wall, chain, rail, post, bar or other fence belonging to any turnpike gate or toll-bar, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or law relating thereto, or any house, building or weighing engine erected for the better collection, ascertainment or security of any such toll, is guilty of a misdemeanor.

Injuries to railway carriages and telegraphs.

Placing wood &c., on railway with intent to obstruct or overthrow any engine, &c.

36. Whosoever unlawfully and maliciously puts, places, casts or throws upon or across any railway, any wood, stone, or other matter or thing, or unlawfully and maliciously takes up, removes or displaces any rail, sleeper, or other matter or thing belonging to any railway, or unlawfully and maliciously turns, moves or directs any point or other machinery belonging to any railway, or unlawfully and maliciously makes or shows, hides or removes any signal or light upon or near to any railway, or unlawfully and maliciously does or causes to be done, any other matter or thing, with intent in any of the cases aforesaid to obstruct, upset, overthrow, injure or destroy any engine, tender, carriage or truck using such railway, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Obstructing engines or carriages on railways.

37. Whosoever, by any unlawful act, or by any wilful omission or neglect, obstructs, or causes to be obstructed, any engine or carriage using any railway, or aids or assists therein, is guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned in any gaol or place of confinement for any term not exceeding two years, with or without hard labour.

Injuries to electric or magnetic telegraphs.

38. Whosoever unlawfully and maliciously cuts, breaks, throws down, destroys, injures or removes, any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used

or employed in or about any electric or magnetic telegraph, or in the working thereof, or unlawfully and maliciously prevents or obstructs in any manner whatsoever, the sending, conveyance or delivery of any communication by any such telegraph, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a Penitentiary, for any term not exceeding two years, with or without hard labour.

Attempts to injure such telegraphs.

39. Whosoever unlawfully or maliciously, by any overt act, attempts to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or any other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding *fifty* dollars as to the Justice seems meet.

Injuries to works of art, &c.

Destroying or damaging works of art in museums, churches &c, or in public places.

40. Whosoever unlawfully and maliciously destroys or damages any book, manuscript, picture, print, statue, bust or vase, or any other article or thing kept for the purposes of art, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, or other depository, which museum, gallery, cabinet, library, or other depository is either at all times or from time to time open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument, or other memorial of the dead, painted glass, or other monument of work of art in any church, chapel, meeting-house or other place of divine worship, or in any building belonging to the Queen, or to any county, riding, city, town, village, parish or place, or to any university, or college or hall of any university, or to any inn of court, or in any street, square, church-yard, burial-ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, or any fountain, lamp, post, or other thing or metal, glass, wood or other material in any street, square, or other public place, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement for any term not exceeding one year, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping; provided that nothing herein contained shall be deemed to affect the right of any person to recover, by action at law, damages for for the injury so committed,

Civil remedy saved.

Injuries to cattle and other animals.

Killing or maiming cattle.

41. Whosoever unlawfully and maliciously kills, maims or wounds any cattle, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Killing or maiming other animals.

42. Whosoever unlawfully and maliciously kills, maims or wounds any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction thereof before a Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or any other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money

not exceeding *one hundred* dollars as to the Justice seems meet; and whosoever, having been convicted of any such offence, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, or solitary confinement. Second offence.

43. Whosoever unlawfully and maliciously injures, poisons or destroys any cattle, pig or dog, or unlawfully and maliciously places poison in such a position as to be easily partaken of by cattle, pig or dog, is guilty of a misdemeanor, and shall be liable to be punished by fine or imprisonment, or both, at the discretion of the Court. Wantonly poisoning dogs or cattle, &c.

Injuries to ships.

44. Whosoever unlawfully and maliciously sets fire to, casts away, or in anywise destroys any ship or vessel, whether the same be complete or in an unfinished state, is guilty of felony, and shall is liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Setting fire to a ship.

45. Whosoever unlawfully and maliciously sets fire to, or casts away, or in anywise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten, or may underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Setting fire to ships to prejudice the owner or underwriters.

46. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to, cast away, or destroy any ship or vessel under such circumstances that if the ship or vessel were thereby set fire to, cast away or destroyed, the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Attempting to set fire to a vessel.

47. Whosoever maliciously places or throws in, into, upon, against or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working-tools, goods, or chattels, whether or not any explosion takes place, and whether or not any injury is effected, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Placing gunpowder near a vessel, with intent to damage it.

48. Whosoever unlawfully and maliciously damages, otherwise than by fire, gunpowder or other explosive substance, any ship or vessel, Damaging ships other-

wise than by fire.

whether complete or in an unfinished state, with intent to destroy the same, or render the same useless, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years; or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Exhibiting false signals, &c.

49. Whosoever unlawfully masks, alters, or removes any light or signal, or unlawfully exhibits any false light or signal, with intent to bring any ship, vessel, or boat into danger, or unlawfully and maliciously does anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinafter provided, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Removing or concealing buoys and other sea marks.

50. Whosoever unlawfully and maliciously cuts away, casts adrift, removes, alters, defaces, sinks or destroys, or unlawfully and maliciously does any act with intent to cut away, cast adrift, remove, alter, deface, sink or destroy, or in any other manner unlawfully and maliciously injures or conceals any boat, buoy, buoy-rope, perch or mark used or intended for the guidance of seamen, or the purpose of navigation, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Penalty for making vessels fast to buoys, beacons, &c.

51. Whosoever makes fast any vessel or boat to any such buoy, beacon or sea mark, shall, on conviction thereof before any Justice of the Peace, forfeit a sum not exceeding *ten dollars*, and in default of payment, shall be liable to be imprisoned in any gaol or place of confinement for any term not exceeding one month.

Destroying wrecks or any article belonging thereto.

52. Whosoever unlawfully and maliciously destroys any part of any ship or vessel in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Sending letters threatening to burn or destroy.

Sending letters threatening to burn or destroy houses, buildings, ships, &c.

53. Whosoever sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, or any grain, hay, or straw, or other agricultural produce, in or under any building, or any ship or vessel, or to kill, maim or wound any cattle, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injuries not before provided for.

Persons committing malicious injuries, not before provided for, exeeeding the amount of $20.

54. Whosoever unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or a private nature, for which no punishment is hereinbefore provided, the damage, injury or spoil being to an amount exceeding *twenty* dollars, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour; and in case any such offence is committed between the hours of nine of the clock in the evening and six of the clock in the next morning, shall be liable to be imprisoned in the Penitentiary for any term not exceeding five years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Persons committing damage, not previously provided for, may be committed and compelled to pay not exceeding $20.

55. Whosoever wilfully or maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on conviction thereof before a Justice of the Peace, forfeit and pay such sum of money not exceeding *twenty dollars*, as to the Justice seems meet, and also such further sum of money as appears to the Justice to be a reasonable compensation for the damage, injury, or spoil, so committed, not exceeding the sum of *twenty dollars;* which last mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a Justice of the Peace under this Act; and if such sums of money, together with the costs (if ordered), are not paid, either immediately after the conviction, or within such period as the Justice shall at the time of the conviction appoint, the Justice may commit the offender to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, as the Justice thinks fit, for any term not exceeding two months, unless such sum and costs be sooner paid; Provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but every such trespass shall be punishable in the same manner as if this Act had not been passed.

Application of money awarded.

Not to extend to certain cases.

Section 55 to extend to trees.

56. The provisions in the last preceding section contained shall extend to any person who wilfully or maliciously commits any injury to any tree, sapling, shrub or underwood, for which no punishment is hereinbefore provided.

Making gunpowder to commit offences, and searching for the same.

Making or having gunpowder, &c., with intent to commit any felony against this Act.

57. Whosoever makes or manufactures, or knowingly has in his possession any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent thereby, or by means thereof to commit, or for the purpose of enabling any other person to commit any of the felonies in this Act mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Justices may issue warrants for searching

58. Any Justice of the Peace of any district, county or place, in which any machine, engine, implement or thing, or any gunpowder or other explosive, dangerous, or noxious substance is suspected to be

houses, &c., for such gunpowder.

made, kept or carried, for the purpose of being used for committing any of the felonies in this Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant, under his hand and seal, for searching in the daytime, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf or other place, or any carriage, waggon, cart, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of any such warrant may seize any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine, engine or instrument or thing which he has good cause to suspect is intended to be used in committing or enabling any other person to commit any offence against this Act, and with all convenient speed after the seizure shall remove the same to such proper place as he thinks fit, and detain the same until ordered, by a Judge of one of Her Majesty's Superior Courts of Criminal Jurisdiction, to restore it to the person who may claim the same.

Searcher or seizer not to be liable to suit.

59. The searcher or seizer shall not be liable to any suit for such detainer, or for any loss of or damage which may happen to the property other than by the wilful act or neglect of himself or of the persons whom he intrusts with the keeping thereof.

In case of conviction, how such articles shall be disposed of.

60. Any gunpowder, explosive substance or dangerous or noxious thing, or any machine, engine, instrument or thing intended to be used in committing or enabling any other person to commit any offence against this Act, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same may be found, or of the owner thereof being convicted for any offence under this Act, be forfeited; and the same shall be sold under the direction of the Court before which any such person is convicted, and the proceeds thereof shall belong to the Province in which the offender is convicted, and shall be paid to the chief financial officer thereof for the use of such Province.

Other matters.

Principals in the second degree and accessories.

61. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, shall be liable to be imprisoned in any gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement; and every person who aids, abets, counsels or procures the commission of any misdemeanor punishable under this Act, shall be liable to be proceeded against, indicted and punished as a principal offender.

Abettors in misdemeanors.

As to persons loitering at night suspected of felony.

62. Any constable or peace officer may take into custody, without warrant, any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed, or being about to commit any felony against this Act, and shall take such person, as soon as reasonably may be, before a Justice of the Peace to be dealt with according to law.

Malice against owner unnecessary.

63. Every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Act to apply to persons in

64. Every provision of this Act not hereinbefore so applied, shall apply to every person who, with intent to injure or defraud any person, does

any of the acts hereinbefore made penal, although the offender be in possession of the property against or in respect of which such act is done. possession of property injured.

65. It shall be sufficient in any indictment for any offence against this Act, where it is necessary to allege an intent to injure or defraud, to allege that the party accused did the act with intent to injure or defraud (as the case may be) without alleging an intent to injure or defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to injure or defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to injure or defraud (as the case may be). Intent to injure particular persons need not be stated in indictment.

66. Any person found committing any offence against this Act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighboring Justice of the Peace, to be dealt with according to law. Persons in act of committing offence may be apprehended.

67. Where any person is charged on the oath of a credible witness before any Justice of the Peace with any offence punishable on summary conviction under this Act, the Justice may summon the person charged to appear at a time and place to be named in such summons; and if he does not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode), the Justice may either proceed to hear and determine the case *ex parte* or issue his warant for apprehending such person and bringing him before himself or some other Justice of the Peace; or the Justice before whom the charge is made may (if he so thinks fit) without any previous summons (unless where otherwise specially directed) issue such warrant, and the Justice before whom the person charged appears, or is brought, shall proceed to hear and determine the case. Mode of compelling the appearance of persons punishable on summary conviction.

68. Whosoever aids, abets, counsels or procures the commission of any offence which is by this Act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a Justice of the Peace, be liable for every first, second, or subsequent offence, of aiding, abetting, counselling or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence as a principal offender is by this Act made liable. Abettors in offences punishable on summary conviction.

69. Every sum of money forfeited for the amount of any injury done shall be assessed in each case by the convicting Justice, and shall be paid to the party aggrieved, except where he is unknown, and in that case such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any Justice of the Peace, whether in addition to such amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before Justices of the Peace are to be paid and applied, in cases where the statute imposing the same contains no direction for the payment thereof to any person; Provided that where several persons join in the commission of the same offence, and, upon conviction thereof, each is adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than such value or amount, and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a Justice of the Peace is hereinbefore directed to be applied. Application of forfeitures &c., upon summary conviction. Proviso, where several persons join in commission of same offence.

If a person summarily convicted does not pay, &c., the Justice may commit him.

70. In every case of a summary conviction under this Act, where the sum forfeited for the amount of the injury done, or imposed as a penalty by the Justice, is not paid, either immediately after the conviction or within such period as the Justice shall, at the time of the conviction, appoint, the convicting Justice (unless where otherwise specially directed) may commit the offender to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justice, for any term not exceeding two months, where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be), together with the costs, shall not exceed *twenty dollars;* and for any term not exceeding three months when the amount, with costs, shall not exceed *forty dollars;* and for any term not exceeding three months in any other case; the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Justice may discharge offender in certain cases.

71. Where any person is summarily convicted before a Justice of the Peace of any offence against this Act and it is a first conviction, the Justice may, if he so thinks fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs, or either of them, as shall be ascertained by the Justice.

Summary conviction a bar to any other proceedings.

72. When any person convicted of any offence punishable upon summary conviction by virtue of this Act has paid the sum adjudged to be paid, together with costs, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been so discharged from his conviction by any Justice, as aforesaid, he shall be released from all further or other proceedings for the same cause.

Venue in proceedings against persons acting under this Act.

73. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be laid and tried in the district, county or place where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be certifies his approbation of the action.

General issue &c.

Fine and sureties for keeping the peace; in what cases.

74. Whenever any person is convicted of any indictable misdemeanor punishable under this Act, the Court may, if it think fit, in addition to or in lieu of any of the punishments by this Act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act, the Court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized; Provided that no

person shall be imprisoned under this section for not finding sureties, for any period exceeding one year.

Hard labour.

75. Whenever imprisonment, other than in the Penitentiary, with or without hard labour, is awarded for any indictable offence under this Act, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or other place of confinement.

Solitary confinement and whipping.

76. Whenever solitary confinement may be awarded for any indictable offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year; and whenever whipping may be awarded for any indictable offence under this Act, the Court may sentence the offender to be once privately whipped; and the number of the strokes, and the instrument with which they shall be inflicted, shall be specified by the Court in the sentence.

Summary proceedings.

77. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of this Session *respecting the duties of Justices of the Peace on summary convictions and orders*, so far as no provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution.

Commencement of Act.

78. This Act shall commence and take effect on the first day of October, one thousand eight hundred and sixty-eight.

No. 62.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Malicious Injuries to Property.

Received and read First time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 63.] **BILL.** [1868.

An Act respecting Larceny and other similar offences.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, relating to Larceny and other similar offences, and to extend the same, as so consolidated, to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In the Interpretation of this Act:

Interpretation of terms: "Document of title to goods."

The term "Document of title to goods," shall include any bill of lading, India warrant, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:

"Document of title to lands."

The term "Document of title to lands" shall include any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title to any real estate, or to any interest in or out of any real estate, or any duplicate instrument, memorial, certificate, or document authorized or required by any law in force in any part of Canada, respecting registration of titles, and relating to such title:

"Trustee."

The term "Trustee" shall mean a trustee on some express trust created by some deed, will or instrument in writing, and shall include the heir or personal representative of any such trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator or other like officer acting under any present or future Act relating to joint stock companies, bankruptcy or insolvency, and any person who is by the law of the Province of Quebec an "*Administrateur*," and the word "Trust," shall include whatever is by that law an "*Administration*:"

"Valuable security."

The term "Valuable security" shall include any order, exchequer acquittance or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of Canada, or of the United Kingdom, or of any British Colony or Possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada, or the United Kingdom, or any British Colony or Possession, or in any foreign state or country, or to any deposit in any bank, and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of the United Kingdom or of any British Colony or Possession, or of any foreign state, and any document of title to lands or goods as hereinbefore defined; and any other writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge, or other instrument evidencing payment of money, or the delivery of

any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest, or deposit, for the securing or payment of which, or delivery, or transfer, or sale of which, or for the entitling or evidencing title to which, such valuable security shall be applicable, or to that of such money or chattel personal, the payment or delivery of which shall be evidenced by such valuable security.

"Property." The term "Property" shall include every description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include not only such property as shall have been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise:

"Banker." The term "Banker" shall include any director of an incorporated bank or banking company.

"Writing." The term "writing" shall include any mode in which and any material on which any words or figures at length or abridged are written, printed, or otherwise expressed, or any map or plan is inscribed.

"Testamentary Instrument." The term "testamentary instrument" shall include any will, codicil, or any other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be, as after his death, whether the same shall relate to real or personal estate, or both.

Having in custody or possession under this title. Whenever the having any thing in the possession of any person, is in this Act expressed to be an offence, then if any person has any such thing in his personal custody or possession, or knowingly or wilfully has any such thing in any dwelling-house or other building, lodging, apartment, field, or other place open or enclosed, whether belonging to, or occupied by himself or not, and whether such matter or thing be so had for his own use or benefit, or for that of another, such person shall be deemed to have such matter or thing in his custody or possession within the meaning of this Act, and where there are two or more persons, any one or more of whom, with the knowledge and consent of the rest, has any such thing in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of all of them.

"Night." For the purposes of this Act, the night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day, and the day shall include the remainder of the twenty-four hours.

All larcenies to be of the same nature. **2.** Every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects as grand larceny was before the distinction between grand and petit larceny was abolished.

Bailees fraudulently converting property, guilty of larceny. **3.** Whosoever being a bailee of any chattel, money or valuable security, fraudulently takes or converts the same to his own use or to the use of any person other than the owner thereof, although he do not break bulk or otherwise determine the bailment, is guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this section shall not extend to any offence punishable on summary conviction.

Punishment for simple larceny.

4. Whosoever is convicted of simple larceny or of any felony hereby made punishable like simple larceny, shall (except in the cases hereinafter otherwise provided for) be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Three larcenies may be charged in one indictment.

5. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing not exceeding three, which have been committed by him against the same person within the space of six months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where one taking is charged and several takings at different times are proved.

6. If upon the trial of any indictment for larceny it appears that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it appears that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; and to either of such last mentioned cases the prsecutor shall be required to on elect proceed for such number of takings not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

Larceny after a conviction for felony.

7. Whosoever commits the offence of simple larceny after a previous conviction for felony, whether such conviction has taken place upon an indictment or under the provisions of the *Act for the Summary Trial of certain Offences*, shall be liable to be imprisoned in the Penitentiary for any term not exceeding ten years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than ten years, with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Larceny after conviction of an indictable misdemeanor under this Act.

8. Whosoever commits the offence of simple larceny or any offence hereby made punishable like simple larceny, after having been previously convicted of any indictable misdemeanor punishable under this Act, shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Larceny after two summary convictions.

9. Whosoever commits the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been twice summarily convicted of any of the offences punishable upon summary conviction under the provisions contained in this Act, or in the *Act for the Summary Trial for certain Offences*, or in the *Act for the Summary Trial of Juvenile Offenders*, or in the *Act respecting malicious injuries to property*, (whether each of the convictions has been in respect of an offence of the same description or not, and whether such convictions or either of them has been before or after the passing of this Act,) is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years,—or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

As to larceny of cattle or other animals.

Stealing horses, cows, sheep, &c.

10. Whosoever steals any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep or lamb, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Killing animals with intent to steal the carcase, &c.

11. Whosoever wilfully kills any animal, with intent to steal the carcase, skin, or any part of the animal so killed, is guilty of felony, and shall be liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of stealing th animal so killed would have amounted to felony.

Stealing dogs beasts or birds ordinarily kept in confinement and not subjects of larceny.

12. Whosoever steals any dog, bird, beast, or other animal, ordinarily kept in a state of confinement or for any domestic purpose, not being the subject of larceny at common law, or wilfully kills any such dog, bird, beast or animal, with intent to steal the same or any part thereof, shall, on conviction thereof before a Justice of the Peace, either be committed to the common gaol or house of correction, there to be imprisoned only or to be imprisoned and kept to hard labour for any term not exceeding *one* month, or else shall forfeit and pay, over and above the value of the bird, beast or other animal, such sum of money, not exceeding *twenty dollars*, as to the Justice may seem meet; and whosoever, having been convicted of any such offence, either against this or any former Act or Law, afterwards commits any offence in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding *three* months as the convicting Justice may think fit.

Second offence.

Killing pigeons.

13. Whosoever unlawfully and wilfully kills, wounds, or takes any house-dove or pigeon under such circumstances as do not amount to larceny at common law, shall, on conviction before a Justice of the Peace, forfeit and pay, over and above the value of the bird, any sum not exceeding *ten dollars*.

Stealing or dredging for oysters in oyster fisheries.

14. Whosoever steals any oysters or oyster brood from any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, is guilty of felony, and being convicted thereof, shall be liable to be punished as in the case of simple larceny; and whosoever unlawfully and wilfully uses any dredge or net, instrument or engine whatsoever, within the limits of any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such for the purpose of taking oysters or oyster brood, although none shall be actually taken, or unlawfully and wilfully, with any net, instrument or engine, drags upon the ground of any such fishery, is guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding three months, with or without hard labour, and with or without solitary confinement; and it shall be sufficient in any indictment to describe either by name or otherwise the bed, laying or fishery in which any of said offences has been committed, without stating the same to be in any particular county, district or other local division; Provided, that nothing in this section contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking floating fish only.

Form of indictment.

Proviso, as to floating fish.

As to larceny of written instruments.

Bonds, bills, notes, &c.

15. Whosoever steals, or for any fraudulent purpose destroys, cancels or obliterates, the whole or any part of any valuable security,

other than a document of title to lands, is guilty of felony, of the same nature and in the same degree, and punishable in the same manner as if he had stolen any chattel of like value with the share, interest or deposit to which the security so stolen relates, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned or referred to in or by the security.

Deeds, &c., relating to real property.

16. Whosoever steals, or for any fraudulent purpose destroys, cancels, obliterates or conceals the whole or any part of any document of title to lands, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and in any indictment for any such offence, relating to any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title, or of part of the title, or of some matter affecting the title, of the person or of some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

Form of indictment.

Wills or codicils.

17. Whosoever, either during the life of the testator or after his death, steals, or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any will, codicil or other testamentary instrument, whether the same relates to real or personal estate, or to both, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and it shall not, in any indictment for such offence, be necessary to allege that such will, codicil or other instrument is the property of any person or of any value: Provided that nothing in this or the last preceding section mentioned, nor any proceeding, conviction or judgment to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity, which any party aggrieved by any such offence might or would have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the felonies in this and the last preceding section mentioned by any evidence whatever, in respect of any act done by him, if he has at any time, previously to his being charged with such offence, first disclosed such act, on oath, in consequence of any compulsory process of any Court of law or equity, in any action, suit or proceeding, *bonâ fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any Court upon the hearing of any matter in bankruptcy or insolvency.

Other remedies not to be affected.

Stealing records or other legal documents.

18. Whosoever steals, or, for any fraudulent purpose, takes from its place of deposit for the time being or from any person having the custody thereof, or unlawfully and maliciously cancels, obliterates, injures, or destroys the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever, of or belonging to any Court of Record, or other Court of Justice, or relating to any matter, civil or criminal, begun, depending, or terminated in any such Court, or of any bill, petition, answer, interrogatory, deposition, affidavit, order, or decree, or of any original document whatsoever of or belonging to any Court of Equity, or relating to any cause or matter begun, depending or terminated in any such Court, or of any original document in any wise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any Court of

Justice, or in any government or public office, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding *three* years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than *two* years, with or without hard labour, and with or without solitary confinement; and it shall not in any indictment for such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person.

Form of indictment.

19. Whosoever steals any railway or steamboat ticket, or any order or receipt for a passage on any railway or in any steamer or other vessel, is guilty of felony, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, with or without hard labour, for any term less than two years.

As to larceny of things attached to or growing on land.

Metal, glass, wood, &c., fixed to house or land.

20. Whosoever steals, or rips, cuts, severs or breaks, with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or anything made of metal fixed in any land being private property or for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, is guilty of felony, and shall be liable to be punished as in the case of simple larceny; and in case of any such thing fixed in any such square, street or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

Trees in pleasure grounds of the value of $5, or elsewhere of the value of $25. Ib., s. 32.

21. Whosoever steals, or cuts, breaks, roots up, or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling or shrub or any underwood respectively growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the value of the article or articles stolen, or the amount of the injury done, exceeds the sum of *five dollars*), is guilty of felony, and shall be liable to be punished as in case of simple larceny; and whosoever steals, or cuts, breaks, roots up, or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned (in case the value of the article or articles stolen, or the amount of the injury done, exceeds the sum of *twenty-five dollars*), is guilty of felony, and shall be liable to be punished as in the case of simple larceny.

Stealing trees worth more than 25c. punishable on summary conviction for first and second offences.

Third offence felony.

22. Whosoever steals, or cuts, breaks, roots up or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of *twenty-five cents* at the least, shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money, not exceeding *twenty-five dollars*, as to the Justice may seem meet; And whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall for such second offence be committed to the common gaol, or house of correction, there to be kept to hard labour for such term, not exceeding *three* months, as the convicting Justice may think fit; and whosoever, having been twice convicted of any such offence (whether both or either of such convictions shall have taken place before or after the passing of this

Second offence.

Third offence.

Act) afterwards commits any of the offences in this section before mentioned, is guilty of felony, and shall be liable to be punished in the same manner as in the case of simple larceny.

23. If any person receives or purchases any tree or sapling, trees or saplings, or any timber made therefrom, exceeding in value the sum of ten dollars, knowing the same to have been stolen, or unlawfully cut or carried away, such receiver or purchaser shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the principal offender has or has not been convicted, or be or be not amenable to justice, and shall be liable to the same punishment as the principal offender: Provided that nothing in this or in either of the two next preceding sections contained, nor any proceeding, conviction or judgment to be had or taken thereupon, shall prevent, lessen or impeach any remedy at Law or in Equity which any party aggrieved by any of the said offences would have had, if this Act had not been passed; nevertheless the conviction of the offender shall not be received in evidence in any action at law or suit in equity against him; and no person shall be convicted of either of the offences aforesaid, by any evidence disclosed by him on oath, in consequence of the compulsory process of a Court of Law or Equity in any action, suit, or proceeding, instituted by any party aggrieved.

Stealing, &c., any live or dead fence, wooden fence, stile or gate.

24. Whosoever steals, or cuts, breaks, or throws down with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding *twenty dollars*, as to the Justice may seem meet; And whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before-mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding *three* months as the convicting Justice may think fit.

Second offence.

Suspected persons in possession of any wood, &c, no satisfactorily accounting for it.

25. If the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, being of the value of twenty-five cents at the least, is found in the possession of any person, or on the premises of any person with his knowledge, and such person, being taken or summoned before a Justice of the Peace, does not satisfy the Justice that he came lawfully by the same, he shall, on conviction by the Justice, forfeit and pay, over and above the value of the article or articles so found, any sum not exceeding *ten dollars*.

Stealing, &c, any fruit, &c, punishable on summary conviction for first offence.

26. Whosoever steals, or destroys or damages with intent to steal, any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory, shall, on conviction thereof before a Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one months, or else shall forfeit and pay over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding twenty dollars, as to the Justice may seem meet; And whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of he offences in this section before-mentioned, is guilty of felony, and shall be liable to be punished in the same manner as in the case of simple larceny.

Second offence felony.

Stealing, &c, vegetable productions not growing in gardens, &c

27. Whosoever steals, or destroys or damages with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground, or nursery ground, shall, on conviction thereof before a Justice of Peace, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding *five dollars*, as to the Justice seems meet, and in default of payment thereof, together with the costs, (if ordered) shall be committed as aforesaid for any term not exceeding one month, unless payment be sooner made; and whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour, for such term not exceeding three months as the convicting Justice thinks fit.

Second offence

As to larceny from mines, or of ores or minerals.

Ore of metal, coal, &c

28. Whosoever steals, or severs with intent to steal, the ore of any metal, or lapis calaminaris, manganese, or mundick, or any piece or gold, silver or other metal, or any wad, black cawke, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively, is guilty of felony, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Miners removing ore with intent to defraud.

29. Whosoever being employed in or about any mine, quarry or digging, takes, removes, or conceals any ore of any metal, or any lapis calaminaris, manganese, mundick, or any piece of gold, silver or other metal, or any mineral found or being in such mine, quarry or digging, with intent to defraud any proprietor of, or any adventurer in the same, or any workman or miner employed therein, is guilty of felony, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard-labour, and with or without solitary confinement.

Penalty for concealing royalty

30. Whosoever being the holder of any lease or licence issued under the provisions of any Act relating to gold or silver mining, or by any private parties owning land supposed to contain any gold or silver, by any fraudulent device or contrivance, defrauds or attempts to defraud Her Majesty or any private party of any gold, silver or money payable or reserved by such lease, or with such intent as aforesaid, conceals or makes a false statement as to the amount of gold or silver procured by him, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Punishment of fraud on partners.

31. Whosoever with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any claim, or in any share or interest in any claim, secretly keeps back or conceals any gold or silver, found in or upon or taken from such claim, is guilty of felony, and shall be liable to be punished in the same manner as in the case of simple larceny.

As to larceny from the person, and other like offences.

32. Whosoever robs any person, or steals any chattel, money or valuable security from the person of another, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Robbery, or stealing from the person.

33. If upon the trial of any person upon an indictment for robbery it appears to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried. On trial for robbery, jury may convict of an assault with intent to rob.

34. Whosoever assaults any person with intent to rob is guilty of felony, and shall (save and except in cases where a greater punishment is provided by this Act) be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Assault with intent to rob.

35. Whosoever being armed with any offensive weapon or instrument, robs or assaults with intent to rob any person, or together with one or more other person or persons robs or assaults with intent to rob any person, or robs any person and at the time of or immediately before or immediately after such robbery wounds, beats, strikes, or use any other personal violence to any person is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Robbery or assault by a person armed or by two or more, or robbery and wounding.

36. Whosoever sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping. Letters demanding money, &c, with menaces.

37. Whosoever with menaces or by force demands any property, chattel, money, valuable security or other valuable thing of any person with intent to steal the same, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for the term of two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Demanding money, &c, with menaces or by force, with intent to steal.

Letter threatening to accuse of crime with intent to extort.

38. Whosoever sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing accusing or threatening to accuse or cause to be accused any other person of any crime punishable by law with death or imprisonment in the Penitentiary for not less than seven years, or of any assault with intent to commit any rape, or of any attempt or endeavor to commit any rape, or of any infamous crime as hereinafter defined, with a view or intent in any of such cases to extort or gain by means of such letter or writing, any property, chattel, money, valuable security or other valuable thing from any person, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping; and the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavor to commit the said abominable crime, and every solicitation, persuasion, promise, or threat offered or made to any person whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act, and every species of parting with any such letter to the end that it may come, or whereby it comes into the hands of the person for whom it is intended, shall be deemed a sending of such letter.

"Infamous crime" defined.

Accusing or threatening to accuse with intent to extort.

39. Whosoever accuses or threatens to accuse either the person to whom such accusation or threat is made or any other person of any of the infamous or other crimes lastly hereinbefore mentioned, with the view or intent in any of the cases last aforesaid to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security, or other valuable thing, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Inducing a person by threats or violence to execute deeds &c, with intent to defraud.

40. Whosoever, with intent to defraud or injure any other person, by any unlawful violence to or restraint of, or threat of violence to or restraint of the person of another, or by accusing or threatening to accuse any person of any treason, felony or infamous crime as hereinbefore defined, compels or induces any person to execute, make, accept, indorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person or of any company, firm or copartnership, or the seal of any body corporate, company or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Immaterial from whom menaces may proceed.

41. It shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury or accusation to be caused or made by the offender or by any other person.

As to sacrilege, burglary and house-breaking.

Breaking and

42. Whosoever breaks and enters any church, chapel, meeting-house

or other place of Divine worship and commits any felony therein, or being in any church, chapel, meeting-house or other place of Divine worship, commits any felony therein and breaks out of the same, is guilty of felony, and shall be liable, to be imprisoned in the Penitentiary for life or for any term not less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

entering a church, &c, and committing a felony.

43. Whosoever enters the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house, commits any felony therein, and in either case, breaks out of the said dwelling-house in the night, is guilty of burglary.

Burglary by breaking out.

44. Whosoever is convicted of the crime of burglary, shall be liable to be imprisoned in the Penitentiary for life, or for any term not exceeding two years, or to be imprisoned in any other gaol or place confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Burglary.

45. No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act, unless there shall be a communication between such building and dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other.

What building within curtilage to be deemed part of dwelling house.

46. Whosoever enters any dwelling-house in the night with intent to commit any felony therein, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Entering a dwelling house in the night with intent to commit any felony.

47. Whosoever breaks and enters any building and commits any felony therein, such building being within the curtilage of a dwelling-house and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, or being in any such building commits any felony therein and breaks out of the same, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Breaking into any building within the curtilage which is no part of the dwelling house and committing any felony.

48. Whosoever breaks and enters any dwelling-house, school-house, shop, warehouse or counting-house, and commits any felony therein, or being in any dwelling-house, school-house, shop, warehouse or counting-house commits any felony therein and breaks out of the same, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Breaking into any house, shop, &c, and committing any felony.

49. Whosoever breaks and enters any dwelling-house, church, chapel, meeting-house, or other place of Divine worship, or any building within the curtilage, school-house, shop, warehouse, or counting-house, with intent to commit any felony therein, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding

House breaking with intent to commit a felony.

seven years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Punishment where the burglary charged is not clearly proven, but the breaking, &c., is proven.

50. Whosoever is indicted for any burglary, where the breaking and entering are proved at the trial to have been made in the day-time and no breaking out shall appear to have been made in the night time, or where it shall be left doubtful whether such breaking and entering or breaking out took place in the day or night time, shall be acquitted of the felony, but may be convicted of the offence specified in the next preceding section.

When proof of a burglary committed shall not be a defence to a charge of breaking, &c., with intent only, and when offender may be again indicted for burglary.

51. It shall not be available, by way of defence to a person charged with the offence specified in the next preceding section but one to show that the breaking and entering were such as to amount in law to burglary; Provided that the offender shall not be afterwards prosecuted for burglary upon the same facts; but it shall be open to the Court before whom the trial for such offence takes place, upon the application of the person conducting the prosecution to allow an acquittal for the misdemeanor, on the ground that such offence, as proved, amounts to burglary; and if an acquittal takes place on such ground, and is so returned by the jury in delivering their verdict, the same shall be recorded together with the verdict, and such acquittal shall not then avail as a bar or defence upon an indictment for such burglary.

Being armed with intent to break and enter any house in the night.

52. Whosoever is found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or is found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person), any picklock key, crow, jack, bit, or other implement of housebreaking, or any match, or combustible or explosive substance, or is found by night having his face blackened or otherwise disguised with intent to commit any felony, or is found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

The like after a previous conviction for felony.

53. Whosoever is convicted of any such misdemeanor as in the last preceding section mentioned committed after a previous conviction, either for felony or such misdemeanor, shall, on such subsequent conviction, be liable to be imprisoned in the Penitentiary for any term not exceeding ten years nor less than two years, or to be imprisoned in any any other gaol or place of confinement for any term less than two years, with or without hard labour.

As to larceny in the house.

Stealing in a dwelling house to the value of $25.

54. Whosoever steals in any dwelling-house any chattel, money o valuable security to the value in the whole of twenty-five dollars or more, is guilty of felony, and shall be liable to be imprisoned in th Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour, and with or without solitary confinement.

Stealing in a dwelling house with menaces.

55. Whosoever steals any chattel, money, or valuable security in any dwelling-house, and by any menace or threat, puts any one therein in bodily fear, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any any other gaol or

place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to larceny in manufactories.

Stealing goods in process of manufacture.

56. Whosoever steals to the value of ten shillings any woollen, linen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of those materials mixed with each other or mixed with any other material, whilst laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Selling pawning, &c., goods intrusted for manufacture.

57. Whosoever having been intrusted, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make any felt or hat or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, cotton, silk or any such materials, mixed with one another, or having been so intrusted as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, sells, pawns, purloins, secrets, embezzles, exchanges, or otherwise fraudulently disposes of the same or any part thereof, where the case does not fall within the last preceding section hereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a Penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to larceny in ships, wharfs, &c.

Stealing from ships, wharfs, &c.

58. Whosoever steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal, or steals any goods or merchandise from any dock, wharf or quay, adjacent to any such haven, port, river, canal, creek or basin, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Stealing from ship in distress or wrecked.

59. Whosoever plunders or steals any part of any ship or vessel in distress or wrecked, stranded or cast on shore, or any goods, merchandise or articles of any kind belonging to such ship or vessel, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement: and the offender may be indicted and tried either in the county or place in which the offence has been committed, or in any county or place next adjoining.

Persons in possession of ship-wrecked goods not giving a satisfactory account.

60. If any goods, merchandise or articles of any kind, belonging to any ship or vessel in distress or wrecked, stranded or cast on shore, are found in the possession of any person, or on the premises of any person, with his knowledge, and such person being taken or summoned before a Justice of the Peace, does not satisfy the Justice that he came lawfully by the same, then the same shall, by order of the Justice, be forthwith delivered over to or for the use of the rightful owner thereof,

and the offender shall, on conviction of such offence before the Justice, at the discretion of the Justice, either be committed to the common gaol or house of correction, there to be imprisoned only or to be imprisoned and kept to hard labour for any term not exceeding three months, or else shall forfeit and pay over and above the value of the goods, merchandise or articles, such sum of money not exceeding *twenty dollars* as to the Justice seems meet.

If any person offers shipwrecked goods for sale the goods may be seized &c.

61. If any person offers or exposes for sale any goods, merchandise or articles whatsoever, unlawfully taken or reasonably suspected so to have been taken from any ship or vessel in distress or wrecked, stranded or cast on shore, in every such case any person to whom the same are offered for sale, or any officer of customs, or excise or peace officer may lawfully seize the same, and shall, with all convenient speed, carry the same or give notice of such seizure to some Justice of the Peace, and if the person who has offered or exposed the same for sale, being summoned by such Justice, does not appear and satisfy the Justice that he came lawfully by such goods, merchandise or articles, then the same shall, by order of the Justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the Justice) to the person who seized the same; and the offender shall, on conviction of such offence by the Justice, at the discretion of the Justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding three months, or else shall forfeit and pay over and above the value of the goods, merchandise or articles, such sum of money not exceeding *twenty dollars*, as to the Justice seems meet.

As to larceny or embezzlement by clerks, servants, or persons in the Public Service.

Larceny by clerks or servants.

62. Whosoever, being a clerk or servant, or being employed for the purpose, or in the capacity of a clerk or servant, steals any chattel, money or valuable security belonging to or in the possession or power of his master or employer, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour, and with or without solitary confinement, and, if a male, under the age of sixteen years, with or without whipping.

Embezzlement by clerks or servants.

63. Whosoever, being a clerk or servant, or being employed for the purpose, or in the capacity of a clerk or servant, fraudulently embezzles any chattel, money, or valuable security, delivered to or received, or taken into possession by him, for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer, otherwise than by the actual possession of his clerk, servant, or other person so employed, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male, under the age of sixteen years, with or without whipping.

Larceny by persons in the Queen's service, &c.

64. Whosoever, being employed in the public service of Her Majesty, or of the Government of any Province of Canada, or of any Municipality, steals any chattel, money or valuable security belonging to or in the possession or power of Her Majesty or of such Government or Municipality, or intrusted to or received or taken into possession

by him by virtue of his employment, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Embezzlement by persons employed in the Queen's Service, &c.

65. Whosoever, being employed in the public service of Her Majesty, or of the Government of any Province of Canada, or of any Municipality, and intrusted by virtue of such employment with the receipt, custody, management or control of any chattel, money or valuable security, embezzles any chattel, money or valuable security intrusted to or received or taken into possession by him by virtue of his employment, or any part thereof, or in any manner fraudulently applies or disposes of the same, or any part thereof to his own use or benefit, or for any purpose whatsoever, except for the public service, or the service of such Government or Municipality, shall be deemed to have feloniously stolen the same from Her Majesty, or from such Municipality, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and every offender against this and the last preceding section may be dealt with, indicted, tried and punished either in the county or place in which he shall be apprehended or be in custody, or in which he shall have committed the offence; and in every case of larceny, embezzlement or fraudulent application or disposition of any chattel, money or valuable security in this and the last preceding section mentioned, it shall be lawful in the warrant of commitment by the Justice of the Peace, before whom the offender is charged, and in the indictment to be preferred against such offender, to lay the property of any such chattel, money or valuable security in Her Majesty or in the Municipality, as the case may be.

Distinct acts of embezzlement may be charged in the same indictment.

66. For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application or disposition hereinbefore mentioned, it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against Her Majesty, or against the same Municipality, master or employer within the space of six months from the first to the last of such acts, and in every such indictment, where the offence relates to any money or any valuable security, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender be proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed is not proved; or if he is proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security has been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to some other person, and such part has been returned accordingly.

Person indicted for embezzlement as a clerk, &c., not to be acquitted if the offence turn out to be larceny, &c., but to be convicted of lar-

67. If upon the trial of any person indicted for embezzlement or fraudulent application or disposition as aforesaid, it is proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement or fraudulent application or disposition, but is guilty of simple larceny or of larceny as a clerk, servant or person employed for the purpose or in the capacity of a clerk or

ceny, and *vice versa.*

servant, or as a person employed in the public service (as the case may be); and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny, and if upon the trial of any person indicted for larceny it is proved that he took the property in question, in any such manner as to amount in law to embezzlement or fraudulent application or disposition as aforesaid, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement or fraudulent application or disposition, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, fraudulent application or disposition, or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition or embezzlement upon the same facts.

As to larceny by tenants or lodgers.

Tenant or lodger stealing chattel or fixture let to hire with house or lodgings. Ib., s. 74.

68. Whosoever steals any chattel or fixture let to be used by him or her, in or with any house or lodging, whether the contract has been entered into by him or her, or by her husband, or by any person on behalf of him or her or her husband, is guilty of felony, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping, and in case the value of such chattel or fixture shall exceed the sum of *twenty-five dollars*, shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping; and in every case of stealing any chattel, in this section mentioned, it shall be lawful to prefer an indictment in the common form as for larceny, and in every case of stealing any fixture, in this section mentioned, to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

As to frauds by agents, bankers, or factors.

Agent, banker, &c., embezzling money or selling securities &c., intrusted to him.

69. Whosoever, having been intrusted, either solely, or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any money or security for the payment of money, with any direction in writing to apply, pay or deliver such money or security or any part thereof respectively, or the proceeds, or any part of the proceeds of such security, for any purpose, or to any person specified in such direction, in violation of good faith, and contrary to the terms of such direction, in anywise converts to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such money, security, or proceeds, or any part thereof respectively, and whosoever, having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney, or other agent, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United Kingdom, or any part thereof, or of this Dominion of Canada, or any part thereof, or of any British Colony or Possession, or of any foreign state, or in any stock or fund of any body corporate, company or society, for safe custody or for any special purpose without any authority to sell, negotiate, transfer or pledge, in violation of good faith, and contrary to the object or purpose for which such chattel, security, or power of attorney has been intrusted

Or goods &c., intrusted to him for safe custody.

to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such chattel, or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which power of attorney relates, or any part thereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; but nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect to any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money due or to become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession, upon which he has any lien, claim, or demand, entitling him by law so to do, unless such sale, transfer or other disposal extends to a greater number or part of such securities or effects than are requisite for satisfying such lien, claim or demand.

Punishment

Not to affect trustees or mortgagees,

Nor bankers, &c., receiving money due on securities;

or disposing of securities on which they have a lien.

70. Whosoever, being a banker, merchant, broker, attorney, or agent, and being intrusted, either solely, or jointly with any other person, with the property of any such person for safe custody, with intent to defraud, sells, negotiates, transfers, pledges, or in any other manner converts or appropriates the same or part thereof, to or for his own use or benefit, or the use or benefit of any person other than by the person by whom he was so intrusted, is guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Bankers, &c., fraudulently selling, &c., property intrusted to their care.

71. Whosoever, being intrusted, either solely or jointly with any other person, with any power of Attorney, for the sale or transfer of any property, fraudulently sells or transfers, or otherwise converts the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, is guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Persons under powers of attorney fraudulently selling property.

72. Whosoever, being a factor or agent intrusted, either solely or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods, contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person, other than the person by whom he was so intrusted, and in violation of good faith, makes any consignment, deposit, transfer or delivery of any goods or document of title so intrusted to him as in this section before mentioned, as and by way of a pledge, lien or security for any money or valuable security, borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer or delivery, or intended to be thereafter borrowed or received, or contrary to, or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accepts any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer or deliver any such goods, or document of title, is guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned; and every clerk or other person who knowingly and wilfully acts and assists in making any such

Factors obtaining advances on the property of their principals. Ib., s. 78.

Clerks wilfully assisting.

Cases excepted when the pledge does not exceed the amount of their lien.

consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, is guilty of a misdemeanor, and shall be liable to any of the same punishments; Provided that no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, in case the same shall not be made a security for, or subject to the payment of any greater sum of money than the amount, which at the time of such consignment, deposit, transfer, or delivery, was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

Definitions of terms: "Intrusted."

"Pledge."

"Possessed."

"Advance."

"Contract or agreement."

"Advance."

Possession to be evidence of intrusting.

73. Any factor or agent intrusted as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods, or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represent by such document of title; and every contract pledging or giving a lien upon such document of title as aforesaid, shall be deemed to be a pledge of and lien upon the goods to which the same relates; and such factor or agent shall be deemed to be possessed of such goods or document, whether the same are in his actual custody or held by any other person subject to his control, or for him, or on his behalf; and where any loan or advance is *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or document of title, and such goods or document of title is or are actually received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title, within the meaning of the last preceding section, though such goods or document of title are not actually received by the person making such loan or advance till a period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent, or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor or agent; and any payment made, whether by money, or bill of exchange or other negotiable security, shall be deemed to be an advance within the meaning of the last preceding section; and a factor or agent in possession, as aforesaid, of such goods or document, shall be taken for the purposes of the last preceding section, to have been intrusted therewith by the owner thereof, unless the contrary be shown in evidence.

Trustees fraudulently disposing of property guilty of a misdemeanor. Ib., s. 80.

74. Whosoever, being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, with intent to defraud, converts or appropriates the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise disposes of or destroys such property or any part thereof, is guilty of a misdemeanor, and shall be liable to any of the punishments, which the Court may award as hereinbefore last mentioned; Provided that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of Her Majesty's Attorney General, or Solicitor General for that Province in which the same is to be instituted; Provided also, that when any civil proceeding has been taken against any person to whom the provisions of this section may apply, no person who has taken such civil proceeding shall commence any prosecution under this section without the sanction of the Court or Judge before whom such civil proceeding has been had or is pending.

No prosecution shall be commenced without the sanction of some Judge or the Attorney General.

Directors &c., of any body corporate or public company fraudulently appropriating property.

75. Whosoever, being a director, member, manager, or public officer, of any body corporate or public company, fraudulently takes, or applies for his own use or benefit, or for any use or purposes other than the use or purposes of such body corporate or public company, any of the property of such body corporate or public company, is guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Or fraudulently keeping false accounts.

76. Whosoever, being a director, member, manager or public officer of any body corporate or public company, as such receives or possesses himself of any of the property of such body corporate or public company, otherwise than in payment of a just debt or demand, and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company, is guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Or willfully destroying books, &c.

77. Whosoever, being a director, manager, public officer or member of any body corporate or public company, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or public company, or makes or concurs in the making of any false entry, or omits, or concurs in omitting any material particular in any book of account or document, is guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Or publishing fraudulent statements.

78. Whosoever, being a director, manager, or public officer or member of any body corporate or public company, shall make, circulate or publish, or concur in making, circulating or publishing any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned.

No person to be exempt from answering questions in any court, but no person making a disclosure in any

79. Nothing in any of the last *ten* preceding sections of this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any Court, or upon the hearing of any matter in bankruptcy or insolvency; and no person shall be liable to be convicted of any of the misdemeanors in the said sections mentioned by any evidence whatever, in respect of any act done by him, if, at any time previously to his being charged with such offence, he has first disclosed such act on oath, in consequence of any compulsory process of any Court of law or equity, in any action, suit or proceding, *bonâ fide* instituted by any party aggrieved, or if he first disclosed the same in any compulsory examination or deposition before any Court, upon the hearing of any matter in bankruptcy or insolvency.

compulsory proceeding to be liable to prosecution.

80. Nothing in the last eleven preceding sections of this Act contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person under any of the said sections shall prevent, lessen, or impeach any remedy at law or in equity, which any party aggrieved by any offence against any of the said sections might have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into, or security given by any

trustee, having for its object the restoration or repayment of any trust property misappropriated.

No remedy at law or in equity shall be affected.

Convictions shall not be received in evidence in civil suits.

Keepers of warehouses, &c., giving false receipts.

81. If the keeper of any warehouse, or any forwarder, common carrier, agent, clerk, or other person employed in or about any warehouse, or if any other factor or agent, or any clerk or other person employed in or about the business of such factor or agent, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of any goods or other property as having been received in his warehouse, or in the warehouse in or about which he is employed, or in any other manner received by him or by the person in or about whose business he is employed, before the goods or other property named in such receipt or acknowledgement have been actually delivered to him as aforesaid, with intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then unknown,—or if any person knowingly and wilfully accepts or transmits or uses any such false receipt or acknowledgment, the person giving and the person accepting, transmitting or using such receipt or acknowledgment are severally guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary, for any term not exceeding three years, nor less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years but not less than one year.

Owners selling after advance by consignees.

82. In case any merchandise having, in the name of the owner or of any other person, been shipped or delivered to the keeper of any warehouse or to any other factor, agent or carrier, to be shipped or carried, the consignee afterwards advances any moneys or gives any negotiable security to such owner or other person, then, if after any such advance the said owner or other person for his own benefit and in violation of good faith, and without the consent of such consignee first had and obtained, makes any disposition of such merchandise different from and inconsistent with the agreement in that behalf between such owner or other person aforesaid and such consignee at the time of or before such money being so advanced or such negotiable security being so given, with the intent to deceive, defraud or injure such consignee, the owner or other person aforesaid, and each and every other person knowingly and wilfully acting and assisting in making such disposition for the purpose of deceiving, defrauding or injuring such consignee, are guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any period not more than three years, nor less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years but not less than one year; but no person shall be subject to prosecution under this section, who had, before making a disposition of the merchandise aforesaid, paid or tendered to the consignee the full amount of any advance made thereon.

As to partners

83. If any offence in the two last preceding sections mentioned be committed by the doing of any thing in the name of any firm, company or copartnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, shall be deemed guilty of the offence, and not any other person.

Certain misdemeanors not triable at Sessions.

84. No misdemeanor against any of the last *fifteen* preceding sections of this Act shall be prosecuted or tried at any Court of General or Quarter Sessions of the Peace; and if upon the trial of any person under any of the said sections, it appears that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanor under the said sections.

As to obtaining money, &c., by false pretences.

False pretences.

85. Whosoever by any false pretence obtains from any other person any chattel, money or valuable security, with intent to defraud,

is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; Provided, that if upon the trial of any person indicted for such misdemeanor, it is proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts; Provided also, that it shall be sufficient in any indictment, for obtaining or attempting to obtain any such property by false pretences, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money, or valuable security: And on the trial of any such indictment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

No acquittal because the offence amounts to larceny.

Form of indictment and evidence.

86. Whosoever, by any false pretence, causes or procures any money to be paid, or any chattel or valuable security to be delivered to any other person, for the use or benefit, or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel or valuable security, within the meaning of the last preceding section.

Where any money or thing is caused to be paid or delivered to any person other than the person making a false pretence.

87. Whosoever, with intent to defraud or injure any other person, by any false pretence fraudulently causes or induces any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person, or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanor, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Inducing persons by fraud to execute deeds and other instruments.

88. Whosoever by means of any false ticket or order, or of any other ticket or order, fraudulently and wilfully obtains or attempts to obtain any passage on any railway, or in any steam or other vessel, is guilty of a misdemeanor, and shall be liable to imprisonment in any common gaol or house of correction, with or without hard labour, for any period not exceeding six months.

Obtaining passage in steamers by false tickets.

89. If upon the trial of any person for larceny, it appears that the property taken was obtained by such person by fraud under circumstances which do not amount to such taking as constitutes larceny, such person shall not by reason thereof be entitled to be acquitted, but the Jury may return as their verdict, that such person is not guilty of larceny, but is guilty of obtaining such property by false pretences, with intent to defraud, if the evidence prove such to have been the case, and thereupon such person shall be punished in the same manner as if he had been convicted upon an indictment for obtaining property under false pretences, and no person so tried for larceny as aforesaid, shall be afterwards prosecuted for obtaining property by false pretences upon the same facts.

Persons indicted for larceny may be convicted of obtaining by false pretences.

As to receiving stolen goods.

90. Whosoever receives any chattel, money, valuable security, or other property whatsoever, the stealing, taking, extorting, obtaining,

Receiving where the principal is

guilty of felony.

embezzling, and otherwise disposing whereof, amounts to a felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed of, is guilty of felony, and may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable to imprisoned in the Penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any gaol or other place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping; Provided that no person, howsoever tried for receiving, as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Indictment for stealing and receiving.

91. In any indictment containing a charge of feloniously stealing any property, it shall be lawful to add a count or several counts for feloniously receiving the same, or any part or parts thereof, knowing the same to have been stolen; and in any indictment for feloniously receiving any property, knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same; and where any such indictment has been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who try the same to find a verdict of guilty, either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and if such indictment has been preferred and found against two or more persons, it shall be lawful for the jury who try the same to find all or any of the said persons guilty either of stealing the property or receiving the same, or any part or parts thereof, knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same, or any part or parts thereof, knowing the same to have been stolen.

Separate receivers may be included in the same indictment, in the absence of the principal.

92. Whenever any property whatsoever shall have been stolen, taken, extorted, obtained, embezzled or otherwise disposed of in any such a manner as to amount to a felony, either at common law or by virtue of this Act, any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding that the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

As to convictions on an indictment for jointly receiving.

93. If upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict, upon such indictment, such of the said persons as are proved to have received any part or parts of such property.

Receiving where the principal has been guilty of a misdemeanor.

94. Whosoever receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, obtaining, converting or disposing whereof is made a misdemeanor by this Act, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of, is guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor has or has not been previously convicted thereof, or is or is not amenable to justice; and every such receiver shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Receiver, where triable.

95. Whosoever receives any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted or disposed of, may, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, be dealt with, indicted, tried and punished in any county, district or place in which he has or has had any such property in his possession, or in any county, district or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county, district or place where he actually received such property.

Receivers of property, where the original offence is punishable on summary conviction.

96. Where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who receives any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before a Justice of the Peace, be liable, for every first, second, or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this Act made liable.

Principals in the second degree and accessories.

97. In case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is punishable, and every accessory after the fact to any felony punishable under this Act (except only a receiver of stolen property) shall be liable to be imprisoned for any term less than two years, with or without hard labour, and with or without solitary confinement ; and every person aiding, abetting, counselling, or procuring the commission of any misdemeanor punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Abettors in misdemeanors.

98. Whosoever aids, abets, counsels, or procures the commission of any offence, which is by this Act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a Justice of the Peace, be liable, for every first, second or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of first, second, or subsequent offence, as a principal offender is made liable.

Abettors in offences punishable on summary conviction.

99. Every person dealing in the purchase of old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead, and other marine stores, shall conform to the following regulations :

Regulations to be conformed to by dealers.

First,—He shall not, by himself or his agent, purchase any old marine stores from any person under the age of sixteen years, and on conviction of any such offence before a Justice of the Peace, shall be liable to a penalty of *four dollars* for the first offence, and of *six dollars* for every subsequent offence;

Punishment for secreting stolen marine stores.

Secondly,—He shall not purchase or receive into his stores, premises or places of deposit, any old marine stores, except in the day time, between sunrise and sunset, under a penalty of *five dollars* for the first offence, and of *seven dollars* for every subsequent one ; and if any old marine stores which had been stolen are found secreted in the premises of any person purporting to be a dealer in such stores, such person shall be guilty of a misdemeanor, and shall be punishable therefor in any manner by law prescribed for misdemeanor.

As to offences not otherwise provided for.

Punishment for any act by which a person is defrauded of the possession or use of his property.

100. Whosoever unlawfully and with intent to defraud, by taking, by embezzlement, by obtaining by false pretences, or in any other manner whatever, appropriates to his own use or to the use of any other person, any property whatsoever, real or personal, in possession or in action, so as to deprive any other person temporarily or absolutely of the advantage, use or enjoyment of any beneficial interest in such property in law or in equity, which such other person may have therein, is guilty of a misdemeanor punishable in like manner as simple larceny; and if the value of such property exceeds *five hundred dollars*, then such misdemeanor shall be punishable by imprisonment in the Penitentiary for any term not exceeding *fourteen years*, or in any manner in which simple larceny is punishable: and if on the trial of any person for larceny, for embezzlement, or for obtaining by false pretences, the jury is of opinion that such person is not guilty of the offence charged in the indictment, but are of opinion that he is guilty of an offence against this section, they may find him so guilty, and he shall be liable to be punished as herein provided, as if he had been convicted on an indictment under this section; and in any case in which any person is convicted of an offence against this Act by stealing, embezzling or obtaining by false pretences any property whatever, then if the value of the property be over five hundred dollars, the offender shall be liable to be punished by imprisonment in the Penitentiary for a term not exceeding *seven* years, in addition to any punishment to which he would be otherwise liable for such offence.

Additional punishment when the property stolen, etc., is over $500 in value.

As to restitution or recovery of stolen property.

The owner of stolen property prosecuting thief or receiver to conviction, shall have restitution of his property.

101. If any person, guilty of any such felony or misdemeanor as is mentioned in this Act, in stealing, taking, obtaining, extorting, embezzling, appropriating converting or disposing of, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and in every case in this section aforesaid the Court before whom any person is tried for any such felony or misdemeanor shall have power to award, from time to time, writs of restitution for the said property, or to order the restitution thereof in a summary manner; Provided that if it appears before any award or order made, that any valuable security has been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or, being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, extorted, embezzled, converted or disposed of, in such case the Court shall not award or order the restitution of such security; Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods or documents of title to goods for any misdemeanor against this Act.

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of trustees, bankers, &c.

Taking a reward for helping to the recovery or stolen property without bringing the offender to trial.

102. Whosoever corruptly takes, any money or reward, directly or indirectly, under pretence, or upon account of helping any person to any chattel, money, valuable security or other property whatsoever which by any felony or misdemeanor has been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, as in this Act before mentioned, (unless he has used all due diligence to cause the offender to be brought to trial for the same) is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol

or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping.

Advertising a reward for the return of stolen property, &c.

103. Whosoever publicly advertises a reward for the return of any property whatsoever, which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked, or makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost, without seizing or making any inquiry after the person producing such property, or promises or offers in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan on any property stolen or lost, the money so paid or advanced, or any other sum of money for the return of such property, or prints or publishes any such advertisement, shall forfeit the sum of *two hundred and fifty dollars* for every such offence to any person who will sue for the same by action of debt, to be recovered with full costs of suit.

As to apprehension of offenders and other proceedings.

Apprehension without a warrant.

104. Any person found committing any offence punishable either upon indictment or upon summary conviction, by virtue of this Act, may be immediately apprehended without a warrant by any person, and forthwith taken, together with the property, if any, on or with respect to which the offence is committed, before some neighboring Justice of the Peace to be dealt with according to law; and if any credible witness proves upon oath before a Justice of the Peace a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever on or with respect to which any offence, punishable either upon indictment or upon summary conviction by virtue of this Act, has been committed, the Justice may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property is offered to be sold, pawned, or delivered, if he has reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required, to apprehend and forthwith to take before a Justice of the Peace the party offering the same, together with such property, to be dealt with according to law.

Justice may grant a search warrant.

Person to whom stolen property is offered may seize party offering it.

Person loitering at night, &c., may be apprehended.

105. Any constable or peace officer may take into custody, without warrant, any person whom he finds lying or loitering in any highway, yard, or other place, during the night, and whom he has good cause to suspect of having committed, or being about to commit, any felony against this Act, and shall take such person, as soon as reasonably may be, before a Justice of the Peace, to be dealt with according to law.

Mode of compelling the appearance of persons punishable on summary conviction.

106. Where any person is charged on the oath of a credible witness, before any Justice of the Peace, with any offence punishable on summary conviction under this Act, the Justice may summon the person charged to appear at a time and place to be named in such summons, and if he does not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode) the Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself or some other Justice of the Peace; or the Justice before whom the charge is made, may (if he so thinks fit), without any previous summons (unless where otherwise specially directed), issue such warrant, and the Justice before whom the person charged appears or is brought shall proceed to hear and determine the case.

Applications of penalties and forfeitures on summary convictions.

107. Every sum of money forfeited on any summary conviction for the value of any property stolen or taken, or for the amount of any injury done (such value or amount to be assessed in each case by the convicting Justice), shall be paid to the party aggrieved, except where he is unknown, and in that case such sum shall be applied in the same manner as a penalty; and every sum imposed as a penalty by any Justice of the Peace, whether in addition to such value or amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before Justices of the Peace are to be paid and applied in cases where the statute imposing the same contains no direction for the payment thereof to any person: Provided that, when several persons join in the commission of the same offence, and upon conviction thereof, each is adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury, in every such case no further sum shall be paid to the party aggrieved than such value or amount; and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a Justice of the Peace is hereinbefore directed to be applied.

Proviso, where several persons join in commission of same offence.

If a person summarily convicted shall not pay, &c., the Justice may commit him.

Scale of imprisonment.

108. In every case of a summary conviction under this Act, where the sum forfeited for the value of the property stolen or taken, or for the amount of the injury done, or imposed as a penalty by the Justice, is not paid, either immediately after the conviction or within such period as the Justice shall, at the time of the conviction, appoint, the convicting Justice (unless where otherwise specially directed) may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justice, for any term not exceeding two months where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be), together with the costs, does not exceed *twenty-five dollars*, and for any term not exceeding three months where the amount, with costs, exceeds *twenty-five dollars*; the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Justice may discharge the offender in certain cases.

109. Where any person is summarily convicted before a Justice of the Peace, of any offence against this Act, and it is a first conviction, the Justice may, if he so thinks fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs or either of them, as shall be ascertained by the Justice.

A summary conviction shall be a bar to any other proceeding for the same cause.

110. In case any person convicted of any offence punishable upon summary conviction, by virtue of this Act, has paid the sum adjudged to be paid, together with costs, under such conviction, or has received a remission thereof from the Crown, or from the Lieutenant Governor of the Province in which the conviction took place, or has suffered the imprisoment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or has been so discharged from his first conviction by any Justice as aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Appeal.

111. In all cases where the sum adjudged to be paid on any summary conviction exceeds *twenty dollars*, or the imprisonment adjudged exceeds one month, or the conviction takes place before one Justice only, any person who thinks himself aggrieved by any such conviction, may appeal to the next *Court of General Quarter Sessions*, or in any District in the Province of Quebec in which such Court is not then held, to the Court of Queen's Bench at the next term thereof in such District, which shall be holden not less than twelve days after the day of such conviction, for the county, district or place wherein the cause of complaint has arisen;

Provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction and seven clear days, at the least, before such sessions or term, and shall also either remain in custody until the sessions or term, or shall enter into a recognizance, with two sufficient sureties, before a Justice of the Peace, conditioned personally to appear at the said sessions or term, and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; or if such appeal is against any conviction, whereby only a penalty or other sum of money is adjudged to be paid, shall deposit with the Clerk of the convicting Justice such a sum of money as such Justice deems sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction and the costs of the appeal; and upon such notice being given, and such recognizance being entered into, or such deposit being made, the Justice before whom such recognizance is entered into, or such deposit is made, shall liberate such person, if in custody; and the Court at such sessions or term shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the Court seems meet, and in case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment; and in any case where, after any such deposit has been made as aforesaid, the conviction is affirmed, the Court may order the sum thereby adjudged to be paid, together with the costs of the conviction and the costs of the appeal, to be paid out of the money deposited, and the residue thereof, if any, to be repaid to the party convicted, and in any case where after such deposit the conviction is quashed, the Court shall order the money deposited to be repaid to the party convicted; and in every case where any conviction is quashed on appeal as aforesaid, the Clerk of the Peace or other proper officer shall forthwith endorse on the conviction a memorandum that the same has been so quashed; and whenever any copy or certificate of such conviction is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction.

No Certiorari.

112. No such conviction, or any adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's Superior Courts of Record; and no warrant or commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Convictions to be returned to the Quarter Sessions.

113. Every Justice of the Peace before whom any person is convicted of any offence against this Act shall transmit the conviction to the next Court of General or Quarter Sessions, or in any District in the Province of Quebec in which such Court is not then held to the Court of Queen's Bench at the next term thereof, which shall be holden for the county, district or place wherein the offence was committed, there to be kept by the proper officer among the records of the Court; and upon any information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

Venue, in proceedings against per-

114. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be laid and tried in the county, district or place where the fact was committed, and shall be

sons acting under this Act.

commenced within six months after the fact committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court after such action brought, by or on behalf of the defendant, and if a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues any such action after issue joined, or if upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be certifies his approbation of the action.

Notice of the action. General issue,

As to other matters.

Stealers of property in one part of the Dominion &c., may be tried and punished in that part where they have the property.

115. If any person has in his possession in any one part of Canada, any chattel, money, valuable security or other property whatsoever, which he shall have stolen or otherwise feloniously taken in any other part of Canada, he may be dealt with, indicted, tried and punished for larceny or theft in that part of Canada where he so has such property, in the same manner as if he had actually stolen or taken it in that part; and if any person in any one part of Canada receives or has any chattel, money, valuable security, or other property whatsoever which has been stolen, or otherwise feloniously taken in any other part of Canada, such person knowing such property to have been stolen or otherwise feloniously taken, he may be dealt with, indicted, tried and punished for such offence in that part of Canada where he so receives or has such property, in the same manner as if it had been originally stolen or taken in that part.

Form of indictment for a subsequent offence.

116. In any indictment for any offence punishable under this Act, and committed after a previous conviction or convictions for any felony, misdemeanor, or offence or offences punishable upon summary conviction, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or of an indictable misdemeanor, or of an offence or offences punishable upon summary conviction (as the case may be) without otherwise describing the previous felony, misdemeanor, offence or offences; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony or misdemeanor, or a copy of any such summary conviction, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court where the offender was first convicted, or to which such summary conviction has been returned, or by the deputy of such clerk or officer (for which certificate or copy a fee of *one dollar* and no more shall be demanded or taken) shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same; and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows (that is to say), the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only,

When the previous conviction is to be proved on the trial.

and if they find him guilty, or if on arraignment he pleads guilty, he shall then, and not before, be asked whether he had been so previously convicted as alleged in the indictment, and if he answers that he had been so previously convicted, the Court may proceed to sentence him accordingly, but if he deny that he has been so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned inquiry; Provided, that if upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the prosecutor may, in answer thereto, give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

Fine, and sureties for keeping the peace in that case. Ib., s. 119.

117. Whenever any person is convicted of any indictable misdemeanor punishable under this Act, the Court may, if it thinks fit, in addition to, or in lieu of any of the punishments by this Act authorized, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act, the Court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized; Provided that no person shall be imprisoned under the clause for not finding sureties for any period exceeding one year.

Hard labour.

118. Whenever imprisonment with or without hard labour, may be awarded for any indictable offence under this Act, and such imprisonment is not directed to be in the Penitentiary, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour in the common gaol or house of correction.

Solitary confinement and whipping.

119. Whenever solitary confinement maybe awardedfor any indictable offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year; and whenever whipping may be awarded for any indictable offence under this Act, the Court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the Court in the sentence.

Summary proceedings.

120. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of the present Session intituled *An Act respecting the duties of Justices of the Peace out of Sessions, in relation to Summary Convictions*, so far as no provision is hereby made for any matter or thing which may be required to be done in the cause of such prosecution; and all provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act.

121?

Costs of prosecution of misdemeanor may be allowed.

134. The Court before which any indictable midemeanor against this Act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid upon the same terms and in the same manner in all respects as in cases of felony.

122?

Commencement of Act.

135. This Act shall commence and take effect on the first day of , one thousand eight hundred and

No. 63.

1st Session, 1st Parliament, 31 Victoria, 1868

BILL.

An Act respecting Larceny and other similar offences.

Received and read, first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:

No. 64.] **BILL.** [1868.

An Act respecting Procedure and other matters relating to Criminal Law.

WHEREAS, by divers Acts passed during the present Session of Parliament, certain provisions of the Statute Law of the several Provinces of Canada, respecting certain crimes and offences, have been assimilated, amended and consolidated, and extended to all Canada, and it is expedient, in like manner, to assimilate, amend and consolidate and extend certain other provisions of the said Statute Law, respecting procedure and other matters not included in the said Acts, and to provide for the interpretation of Statutes of Canada relating to Criminal Law: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commonsof Canada, enactsas follows:—

Interpretation.

Interpretation.

1. In the interpretation of this Act and of any Act of the Parliament of Canada relating to Criminal Law, unless there be something in the enactment or in the context indicating a different meaning or calling for a different construction:

"Indictment."

1. The word "Indictment" shall be understood to include "information," "inquisition" and "presentment" as well as indictment, and also any plea, replication or other pleading, and any record; and the term "finding of the indictment" shall include also "the taking of an inquisition," "the exhibiting an information" and "the making of a presentment;" and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

"Property."

Genders, numbers, &c.

2. Whenever in any Act relating to any offence, whether punishable upon indictment or summary conviction, any word has been used or employed importing the singular number or the masculine gender only, in describing or referring to the offence or to the subject matter on or with respect to which it may be committed, or to the offender or the party affected or intended to be affected by the offence, such Act shall be understood to include several matters of the same kind, as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and when a forfeiture or penalty is made payable to a party aggrieved, it shall be payable to a body corporate in case such a body be the party aggrieved.

Punishment to be only on conviction.

3. Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act; and whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, it shall be understood that the punishment to be inflicted, will, subject to the limitations contained in the enactment, be in the discretion of the Court or tribunal before which the conviction takes place.

"Penitentiary Act."

4. The word "Penitentiary" shall be understood to mean the Penitentiary for the Province in which the conviction takes place; and any person sentenced to imprisonment in the Penitentiary shall be subject to the provisions of the Statutes relating to the Penitentiaries, and to all rules and regulations lawfully made under any such Statute.

"Justice."

5. The word "Justice" shall be understood to mean a Justice of the Peace.

6. The expression "any Act," or, "any other Act," when it occurs in this Act or in any other Act of the Parliament of Canada, relating to Criminal Law, shall include any Act passed or to be passed by the Parliament of Canada, or any Act passed or to be passed by the Legislature of the late Province of Canada, or of any Province of Canada, unless there be something in the subject or context inconsistent with such construction.

Apprehension of Offenders, &c.

When offenders caught in the act may be summarily convicted.

2. Any person found committing an offence punishable either upon indictment, or upon summary conviction, may be immediately apprehended by any Peace Officer, without a warrant, or by the owner of the property on or with respect to which the offence is being committed or by his servant or any other person authorized by such owner, and shall be forthwith taken before some neighbouring Justice of the Peace, to be dealt with according to law.

When search warrant may be granted.

3. If any credible witness proves upon oath, before a Justice of the Peace, that there is reasonable cause to suspect that any property on or with respect to which any offence, punishable either by indictment or summary conviction, has been committed, is in any dwelling-house, out-house, garden, yard, or other place, the Justice may grant a warrant to search such dwelling-house, out-house, garden, yard or place, for such property, as in the case of stolen goods.

When and by whom persons in possession of goods supposed to have been stolen may be arrested.

4. If any person to whom any property is offered to be sold, pawned, or delivered, has reasonable cause to suspect that any such offence has been committed, on or with respect to such property, he may, and if in his power, shall apprehend and forthwith carry before a Justice of the Peace, the party offering the same, together with such property, to be dealt with according to law.

Arrest of offenders caught in the act in the night time.

5. Any person may apprehend any other person found committing any indictable offence in the night, and shall convey or deliver him to some constable or other person, in order to his being taken, as soon as conveniently may be, before a Justice of the Peace, to be dealt with according to law.

When a constable may arrest without warrant.

6. Any Constable or Peace Officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place, during the night, and whom he has good cause to suspect of having committed or being about to commit any felony, and may detain such person until he can be brought before a Justice of the Peace, to be dealt with according to law.

Detention of person arrested.

7. No person having been apprehended as last aforesaid shall be detained after noon of the following day without being brought before a Justice of the Peace.

Proceedings before Justices, how regulated.

8. The proceedings to be had before any Justice or Justices of the Peace when any offender is brought before him or them, are regulated by the *Act respecting the duties of Justices of the Peace out of Sessions*

in relation to persons charged with indictable offences, and the *Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders*, subject to any special provision contained in any Act relating to the particular offence with which such offender is charged.

Venue, place of trial, &c.

Where offences committed on the confines of districts or counties may be tried.

9. When any felony or misdemeanor is committed on the boundary of two or more districts or counties, or within the distance of one mile of any such boundary, or in any place with respect to which it may be uncertain within which of two or more districts or counties it is situate, or when any felony or misdemeanor begun in one districtor county and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished, in any of the said districts or counties, in the same manner as if it had been actually and wholly committed therein.

Offences committed on persons or property while *in transitu* by land or water, where triable.

10. When any felony or misdemeanor is committed on any person, or on or in respect of any property in or upon any coach, waggon, cart or other carriage whatever, employed in any journey, or is committed on any person, or on or in respect of any property on board any vessel, boat or raft whatever, employed in any voyage or journey upon any navigable river, canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished, in any district or county through any part whereof such coach, waggon, cart, carriage or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanor was committed, in the same manner as if it had been actually committed in such district or county.

Offences committed on highways, rivers, &c., dividing two districts or counties—where triable.

11. In all cases where the side, centre, bank, or other part of any highway, or of any river, canal, or navigation, constitutes the boundary or any two districts or counties, any felony or misdemeanor mentioned in the two last preceding sections may be dealt with, inquired of, tried, determined, and punished in either of such districts or counties, through or adjoining to, or by the boundary of any part whereof such coach, waggon, cart, carriage, or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanor was committed, in the same manner as if it had been actually committed in such district or county. *Ib.*

Indictments.

12. Whenever it shall appear to the Court or any Judge thereof, in vacation, that it is expedient to the ends of Justice that the trial of any person charged with felony or misdemeanor should be held in some territorial division other than that in which the offence is supposed to have been committed, the Court or Judge may order, either before or after the presentation of a bill of indictment, that the trial should be proceeded with in some other territorial division within the jurisdiction of the Court, and to be named by the Judge in such order ; but such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused as the Judge may think proper to prescribe.

2. Forthwith upon the order of removal being made by the Court or Judge, the indictment, if any has been found against the prisoner, and all inquisitions, informations, depositions, recognizances, and other documents whatsoever relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the Court at the place where the trial is to be had, and all

proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place as if the case had arisen or the offence had been committed therein.

3. The order of the Court, or of the Judge, made under the first sub-section of this section, shall be a sufficient warrant, justification and authority to all Sheriffs, Gaolers, and Peace Officers for the removal, disposal and reception of the prisoner in conformity with the terms of such order; and the Sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be held.

4. Every recognizance which may have been entered into or shall be entered into for the prosecution of any person, and every recognizance, as well of any witness to give evidence, as of any person for any offence, shall, in case any such order as provided by sub-section number one of this section, is made, be obligatory on each of the parties bound by such recognizance to all things therein mentioned with reference to the said trial at the place where such trial is so ordered to be held, in like manner as if such recognizance had been originally entered into for the doing of such things at such last mentioned place; provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the parties bound by such recognizance as therein described to appear before the Court, at the place where such trial is ordered to be held.

Indictment need not be on parchment

13. It shall not be necessary that any indictment be written on parchment.

Not necessary to state the venue in the body of the indictment.

14. It shall not be necessary to state any venue in the body of any indictment; and the district, county, city or other jurisdiction named in the margin thereof, shall be the venue for all the facts stated in the body of the indictment; but in case local description be required, such local description shall be given in the body thereof.

Benefit of clergy being abolished not prevent joinder of counts.

15. Benefit of Clergy is hereby declared to be abolished, but such abolition shall not prevent the joinder in an indictment of any counts which might have been joined but for such abolition.

In case of partners, joint owners, &c., it shall be sufficient to name one of such partners &c.

16. Whenever, in any indictment for felony or misdemeanor, it is requisite to state the ownership of any property real or personal, which belongs to or is in possession of more than one person, whether such persons be partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another or others, as the case may be.

Also as to joint stock companies and trustees.

17. If in any indictment for felony or misdemeanor, it be necessary for any purpose to mention any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision and that of the last preceding section shall extend to all joint-stock companies and trustees.

When not necessary to state property to be the property of any person.

18. In any indictment for felony or misdemeanor committed: 1. In or upon, or with respect to any church, chapel, or place of religious worship,—or 2. To any bridge, court, court-house, gaol, house of correction, penitentiary, infirmary, asylum, or other public building,—or 3. To any canal, lock, drain or sewer erected or maintained in whole or in part at the expense of the Dominion of Canada, or of any of the Provinces of which it is composed, or of any Municipality or other sub-division thereof,—or 4. With respect to any materials, goods, or chattels belonging to or provided for, or at the expense of the Dominion or of any such Province, or of any Municipality or other sub-division

thereof, to be used for making, altering or repairing any bridge or highway, or any court or other such building, canal, lock, drain, or sewer as aforesaid, or to be used in or with any such work, or for any other purpose whatever, it shall not be necessary to state any such property, real or personal, to be the property of any person.

Property in roads, &c., to be laid in trustees or commisioners without naming them.

19. In any indictment for felony or misdemeanor, committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence or other thing erected or provided in pursuance of any Act in force in Canada, or any Province thereof, for making any turnpike road, or to any conveniences or appurtenances thereunto respectively belonging, or to any materials, tools or implements provided for making, altering or repairing any such road, it shall be sufficient to state any such property to belong to the Trustees or Commissioners of such road, without specifying the names of such Commissioners or Trustees.

Ownership of property in possession of public officers, how described.

20. In any indictment for any felony or misdemeanor committed on or with respect to any buildings, or any goods or chattels, or any other property, real or personal, in the occupation, or under the superintendence, charge or management of any public officer or commissioner, or any county, parish or township officer or commissioner, it shall be sufficient to state any such property to belong to the officer or commissioner in whose occupation, or under whose superintendence, charge or management such property is, and it shall not be necessary to specify the names of any such officers or commissioners.

Real or personal estate under management of body corporate to be deemed property thereof.

21. All property, real and personal, whereof any body corporate, by law, has the management, control, or custody, shall, for the purposes of any indictment, or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate.

Omission of certain averments not fatal to indictment.

22. No indictment shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears upon the record," or "as appears by the record," or of the words "with force and arms," or of the words "against the peace," or for the insertion of the words "against the form of the statute" instead of the words "against the form of the statutes," or *vice versa*,—or for that any person mentioned in the information is designated by a name of office or other descriptive appellation instead of his proper name, or for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, or for stating the time imperfectly, or for stating the offence to have been committed on a day subsequent to the finding of the information, or on an impossible day, or on a day that never happened, or for want of a proper or perfect venue, or for want of a proper or formal conclusion, or for want of or imperfection in the addition of any defendant, or for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case where the value or price, or the amount of damage, injury or spoil, is not of the essence of the offence.

Description of instruments generally.

23. Whenever it is necessary to make an averment in an indictment, as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or *fac-simile* of the whole or of any part thereof.

What necessary in describing money or bank notes.

24. Whenever in any indictment it is necessary to make an averment as to any money or note of any bank, it shall be sufficient to describe such money or note simply as money, without any allegation (so far as regards the description of the property) specifying any

particular coin or note, and such averment shall be sustained by proof of any amount of coin or of any such note, although the particular species of coin of which such amount was composed, or the particular nature of the note be not proved.

Indictment, &c., for subsequent offences.

25. In any indictment for any indictable offence committed after a previous conviction or convictions for any felony, misdemeanor, or offence or offences punishable upon summary conviction, and for which a greater punishment may be inflicted on that account, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or of an indictable misdemeanor, or of an offence or offences punishable upon summary conviction (as the case may be), and to state the substance and effect only, omitting the formal part of the indictment and conviction, or of the summary conviction (as the case may be) for the previous offence, without otherwise describing the previous offence or offences, and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony or misdemeanor, or a copy of any such summary conviction, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court where the offender was first convicted, or to which such summary conviction has been returned, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same; and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows (that is to say), the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only, and if they find him guilty, or if on arraignment he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment, and if he answers that he was so previously convicted, the Court may proceed to sentence him accordingly, but if he denies that he was so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned inquiry; Provided that if upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

When the previous conviction is to be proved on the trial.

Punishment for uttering false certificate.

26. If any such Clerk or Officer, or his Deputy, utters any false certificate of any indictment and conviction for a previous felony, or if any person, other than such Clerk, Officer, or Deputy, signs any such certificate as such Clerk, Officer or Deputy, or utters any such certificate with a false or counterfeit signature thereto, every such offender is guilty of felony, and shall be liable to be imprisoned at hard labour in the Penitentiary for any term not exceeding *seven* years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years.

Forms in Schedule to be sufficient.

27. The forms of indictment contained in the Schedule to this Act may be used, shall be sufficient as respects the several offences to which

they respectively relate; and as respects offences not enumerated in the Schedule, the said forms shall serve as a guide to shew the manner in which offences are to be charged, so as to avoid surplusage and verbiage, and the averment of matters not necessary to be proved.

Preliminary requirements as to certain indictments.

Requirements as to indictments for certain offences.

28. No bill of indictment for any of the offences following, viz.: perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, keeping a gambling house, keeping a disorderly house, or any indecent assault, shall be presented to, or found by any grand jury, unless the prosecutor or other person presenting such indictment had been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless the indictment for such offence is preferred by the direction of Her Majesty's Attorney General, or Solicitor General for the Province, or of any Court, Judge of Session of the Peace, or Recorder.

Proceedings before Justices in such cases.

29. Where any charge or complaint is made before any one or more Justices of the Peace, that any person has committed any of the offences aforesaid, within the jurisdiction of such Justice or Justices, and such Justice refuses to commit, or to bail the person charged with such offence, to be tried for the same, then, in case the prosecutor desires to prefer an indictment respecting the said offence, it shall be lawful for the said Justice or Justices, and he or they is or are hereby required to take the recognizance of such prosecutor, to prosecute the said charge or complaint, and to transmit such recognizance, information and depositions, if any, in the Province of Ontario, to the County Crown Attorney, in accordance with "The Local Crown Attorneys' Act," and in any other Province in Canada, to the proper officer of the Court in which such indictment ought to be preferred, in the same manner as such Justice or Justices would have done, in case he or they had committed the person charged to be tried for such offence.

Dilatory pleas, arraignment, &c.

No person entitled to traverse or have time to plead. Court may postpone trial &c. V., c. 354 U.C., c. 108, s. 3.

30. No person prosecuted, shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any Court, or to impare, or to have time allowed him to plead or demur to any such indictment; Provided always, that if the Court before which any person is so indicted upon the application of such person, or otherwise, is of opinion, that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such Court may grant such further time to plead or demur, or may adjourn the receiving or taking of the plea or demurrer, and the trial, or (as the case may be) the trial of such person, to some future time of the sittings of the Court, or the next or any subsequent session or sittings of the Court, and upon such terms as to bail or otherwise, as to the Court seem meet, and may, in the case of adjournment to another session or sitting, respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings, without entering into any fresh recognizances for that purpose.

Indictment not to be abated by reason of dilatory plea of misnomer, &c.

31. No indictment shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or of wrong addition of any party offering such plea, if the Court be satisfied, by affidavit or otherwise, of the truth of such plea; but in such case the Court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

When objection to indictment is to be taken. How defects may be amended.

32. Every objection to any indictment for any defect apparent on the face thereof, must be taken by demurrer or motion to quash the indictment, before the defendant has pleaded, and not afterwards; and every Court before which any such objection is taken, may, if it be thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared, and no motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or motion to quash as aforesaid.

A plea of "Not guilty" without more shall put the prisoner on his trial by jury.

33. If any person being arraigned upon any indictment for any indictable offence pleads thereto a plea of "Not guilty," he shall by such plea, without any further form, be deemed to have put himself upon the country for trial, and the Court shall, in the usual manner, order a jury for the trial of such person accordingly.

If he refuses to plead, Court may order a plea of "Not guilty" to be entered.

34. If any person, being arraigned upon any indictment for any indictable offence, stands mute of malice, or will not answer directly to the indictment, in every such case it shall be lawful for the Court, if so thinks fit, to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Form of plea of *autrefois convict* or *autrefois acquit*.

35. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Attainder of another crime not pleadable

36. No plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder be for the same offence as that charged in the indictment.

Challenges in cases of treason and felony, to what extent allowed and when void.

37. If any person indicted for treason or felony challenges peremptorily a greater number of men returned to be of the jury than *thirty-five* in cases of treason and *twenty* in cases of felony, every peremptory challenge beyond the number so allowed in the said cases respectively shall be entirely void, and the trial of such person shall proceed as if no such challenge had been made.

Challenges on part of the Crown.

38. In all criminal trials, four jurors may be peremptorily challenged on the part of the Crown; but this shall not be construed to affect the right of the Crown to cause any Juror to stand aside until the panel has been gone through.

No enquiry concerning lands.

39. The jury empannelled to try any person for treason or felony shall not be charged to inquire concerning his lands, tenements or goods, nor whether he fled for such treason or felony.

No deodand.

40. There shall be no forfeiture of any chattels, which may have moved to or caused the death of any human being, in respect of such death.

Except for high treason, no attainder todisinherit the heir-at-law.

41. Except in cases of treason, and of abetting, procuring or counselling the same, an attainder for felony, shall not extend to the disinheriting of any heir, nor to the prejudice of the right or title of any person, other than the right or title of the offender during his natural life only.

After death of the person attainted, the

42. Every person to whom, after the death of any such offender, the right or interest to or in any lands, tenements or hereditaments should

or would have appertained if no such attainder had taken place, may after the death of such offender, enter into the same. Heir may enter.

43. All persons tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by Counsel learned in the law. Full defence in cases of felony.

2. And upon any trial the addresses to the Jury shall be regulated as follows: The Counsel for the prosecution, in the event of the defendant or his Counsel not announcing at the close of the case for the prosecution, his intention to adduce evidence, shall be allowed to address the Jury a second time at the close of such case, for the purpose of summing up such evidence; and the defendant, or his Counsel, shall then be allowed to open his case and also to sum up the evidence (if any), and the right to reply shall be according to the practice of the Courts in England. How addresses of Counsel to jury regulated.

44. All persons under trial shall be entitled, at the time of their trial, to inspect without fee or reward all depositions (or copies thereof,) taken against them, and returned into the Court before which such trial is had.

45. Every person indicted for any crime or offence shall, before being arraigned on the indictment, be entitled to a copy thereof, on paying the Clerk *ten cents* per folio for the same if the Court is of opinion that the same can be made without delay to the trial but not otherwise. Persons under trial may inspect depositions.

46. The accused person shall be entitled to a copy of the depositions returned into Court on payment of *ten cents* per folio for the same, provided, if the same are not demanded before the opening of the Assizes, Term Sitings or Sessions, the Court is of opinion that the same can be made without delay to the trial, but not otherwise; but the Court may, if it see fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. Copy of indictment to persons under trial. Also copies of depositions.

47. If, on the trial of any person charged with any felony or misdemeanor, it appears to the jury, upon the evidence, that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment; and no person tried as lastly mentioned shall be liable to be afterwards prosecuted for committing or attempting to commit the felony or misdemeanor for which he was so tried. Verdict of jury in cases whereoffences are not completed.

48. If, upon the trial of any person for any misdemeanor, it appears that the facts given in evidence amount in law to a felony, such person shall not, by reason thereof, be entitled to be acquitted of such misdemeanor, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony; in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor. Persons tried for misdemeanor and found guilty of felony not to be acquitted.

49. On the trial of any person for any felony whatever, where the crime charged includes an assault against the person, the Jury may ac-

quit of the felony, and find a verdict of guilty of assault against the person indicted, if the evidence warrants such finding ; and the person so convicted shall be liable to be imprisoned in the Penitentiary for any term not exceeding five years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years.

50. No person shall be tried or prosecuted for any attempt to commit any felony or misdemeanor who has been previously tried for committing the same offence.

Depositions taken on one charge may be read in prosecution of others.

51. Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of any other offence whatsoever, upon the like proof and in the same manner, in all respects, as they may according to law be read, in the prosecution of the offence with which such person was charged when such depositions were taken.

Witnesses.

Witnesses within Canada but without the jurisdiction of the Court.

52. If any witness in any criminal case, cognizable in the Courts of Queen's Bench or Common Pleas, or before any Court of Assize, or of Oyer and Terminer or Gaol Delivery, or any Supreme, or Superior, or Circuit Court, or Court of General or Quarter Sessions of the Peace, any terms, sessions, or sittings, of any such Court in any part of Canada, resides in any part thereof, without the ordinary jurisdiction of the Court before which such criminal case is cognizable, such Court may issue a Writ of Subpœna, directed to such witness, in like manner as if such witness was resident within the jurisdiction of the Court ; and in case such witness does not obey such Writ of Subpœna, the Court that issued the same may proceed against such witness, for contempt or otherwise, or bind over such witness to appear at such days and times as may be necessary, and upon default being made in such appearance, may cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the Court.

Witnesses confined in the Penitentiary, &c.

53. When the attendance of any person confined in the Penitentiary or in any other prison or gaol in Canada, or upon the limits of any gaol, is required in any Court of Assize and *Nisi Prius*, or of Oyer and Terminer or General Gaol Delivery, or any Supreme, or Superior, or Circuit Court, or Court of General or Quarter Sessions of the Peace, or any term or sittings of such Court, the Court before whom such prisoner is required to attend may make order upon the Warden of the Penitentiary, or upon the Sheriff, Gaoler or other person having the custody of such prisoner, to deliver such prisoner to the person named in such order to receive him, and such person shall thereupon instantly convey such prisoner to the place where the Court issuing such order is sitting, there to receive and obey such further order as to the said Court may seem meet.

Quaker or Moravian may make solemn affirmation ; form given.

54. Any Quaker, or other person, allowed by law to affirm instead of swearing in civil cases, who is required to give evidence in any criminal case, shall, instead of taking an oath in the usual form, be permitted to take his solemn affirmation or declaration in the words following, that is to say : "I, A. B., do solemnly, sincerely and truly, declare and affirm" ; which said affirmation or declaration shall be of the same force and effectas if such Quaker or other person as aforesaid, had taken an oath in the usual form.

Who may be admitted as witnesses.

55. No person offered as a witness shall, by reason of incapacity from crime or interest, be excluded from giving evidence, according to the practice of the Court, on the trial of any criminal case, or in any proceeding relating or incidental to such case.

An interest in the question not to disqualify.

56. Every person so offered shall be admitted and be compellable to give evidence on oath or solemn affirmation where an affirmation is receivable, notwithstanding that such person has or may have an interest in the matter in question, or in the event of the trial in which he is offered as a witness, or of any proceeding relating or incidental to such case, and notwithstanding that such person so offered as a witness, had been previously convicted of a crime or offence.

Cross examination as to previous statements in writing.

57. Upon any trial, a witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the case, without such writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and the Judge at any time during the trial, may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit.

Proof of previous conviction of a witness may be given if he denies it, &c.

58. A witness may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction, and a certificate, as provided in section shall upon proof of identity of the witness as such convict, be sufficient evidence of his conviction, without proof of the signature or the official character of the person appearing to have signed the certificate.

Attesting witness need not be called where none was required by law.

59. It shall not be necessary to prove by the attesting witness, any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Comparison of disputed writing with genuine.

60. Comparison of a disputed writing with any writing proved to the satisfaction of the Court to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same, may be submitted to the Court and Jury, as evidence of the genuineness or otherwise of the writing in dispute.

How far a party may discredit his own witness.

61. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but in case the witness in the opinion of the Court, proves adverse, such party may contradict him by other evidence, or by leave of the Court, may prove that the witness made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement.

Proof of conradictory statements by adverse witness.

62. If a witness, upon cross-examination as to a former statement made by him, relative to the subject matter of the case, and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement.

Variances.

Variances.

63. When in the indictment whereon a trial is pending before any Court of Criminal Jurisdiction in Canada, any variance appears between any matter in writing or in print produced in evidence, and the recital or setting forth thereof, such Court may cause the indictment to be forthwith amended in such particular or particulars by some Officer of the Court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared.

Court may order indictment to be amended.

64. Whenever on the trial of an indictment for any felony or misdemeanor any variance appears between the statement in such indictment and the evidence offered in proof thereof, in names, dates, places or other matters or circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the personon trial cannot be prejudiced in his defence on such merits, the Court before which the trial is pending may order such indictment to be amended according to the proof, by some officer of the Court or other person, both in that part of the indictment where the variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such Court thinks reasonable, and if the trial be postponed the Court may respite the recognizances of the prosecutor and witnesses and of the defendant and his sureties (if any), in which case they shall respectively be bound to attend at the time and place to which the trial is postponed without entering into new recognizances, and as if such time and place had been mentioned in the recognizances respited, as those at which they were respectively bound to appear.

And afterwards proceed with trial.

65. After any such amendment the trial shall proceed, whenever the same is proceeded with, in the same manner and with the same consequences both with respect to the liability of witnesses to be indicted for perjury and in all other respects as if no such variance had occurr ed

If such trial is had at *Nisi Prius*. Other cases.

66. In such case the order for the amendment shall be endorsed on the Record and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer; and filed with the indictment, among the proper records of the Court.

In case of trial before a second jury.

67. When any such trial is had before a second Jury, the Crown and the defendant respectively shall be entitled to the same challenges as they were entitled to at the swearing of the first jury.

Verdict, &c, to be valid after amendment.

68. Every verdict and judgment given after the making of any such amendment shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it is after such amendment has been made.

Formal defects cured after verdict.

What defects not to vitiate an indictment after verdict or otherwise.

69. No judgment upon any indictment for any felony or misdemea nor whether after verdict or outlawry, or by confession, default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words, "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the Statute," instead of the words, "against the form of the Statutes," or *vice versa*, or the omission of such words or words of like import, nor for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, nor for want of or any imperfection in the addition of any

defendant or other person, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or exhibiting the information, or on an impossible day, or on a day that never happened, nor for want of the statement of the value or price of any matter of thing, or the amount of damage, injury or spoil, in any case where such value, price, damage, injury or spoil, is not of the essence of the offence, nor for the want of a proper or perfect venue, where the Court appears by the indictment to have had jurisdiction over the offence.

Certain formal defects shall not stay or reverse judgment after verdict.

70. Judgment after verdict upon an indictment for any felony or misdemeanor, shall not be stayed or reversed for want of a similiter, nor by reason that the Jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the Jury who was not returned as a Juror by the Sheriff or other officer; and where the offence charged is an offence created by any Statute, or subjected to a greater degree of punishment by any Statute, the indictment shall after verdict be held sufficient if it describes the offence in the words of the Statute creating the offence, or prescribing the punishment, although they be disjunctively stated or appear to include more than one offence, or otherwise.

How a formal record to be drawn up after amendment.

71. If it becomes necessary to draw up a formal record in any case where an amendment has been made as aforesaid, such record shall be drawn up in the form in which the indictment remained after the amendment was made, without taking any notice of the fact of such amendment having been made.

Jury separating, &c.

72. In all criminal cases, except capital felonies, the Jury may in the discretion of the Court, and under its direction, as to the conditions, mode and time, be allowed to separate during the progress of the trial.

Court to direct execution in certain cases.

73. The practice of recording sentence of death having been abolished, when any offender has been convicted before any Court of Criminal Judicature, of an offence for which such offender is liable to and receives sentence of death, and the Court is of opinion that, under the circumstances of the case, the judgment of the law ought to be carried into effect, the Court shall order and direct execution to be done on the offender in the manner provided by law.

Report of case by the Judge unnecessary.

74. In the case of any prisoner sentenced to the punishment of death, it shall not be necessary for the Court or Judge before whom such prisoner has been convicted to make any report of the case previously to the sentence being carried into execution, but if the Judge thinks such offender a fit person to be recommended for the exercise of the Royal mercy, he shall then reprieve such offender for such time as may be necessary for the consideration of the case by the Crown.

Punishments.

Pillory abolished.

75. The punishment of the pillory shall not be awarded by any Court.

Persons confessing or outlawed how punished.

76. Any person indicted for any offence made capital by any Statute, shall be liable to the same punishment, whether he be convicted by verdict or confession, and this, as well in the case of accessories as of principals.

Second conviction for felony.

77. If any person be convicted of felony not punishable with death, committed after a previous conviction for felony, such person shall on subsequent conviction, be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years, unless some other punishment be directed by any statute for the particular offence, in which case the offender shall be liable to the punishment thereby awarded, and not to any other.

Punishment of persons convicted of felonious rescue, &c.

78. Whosoever is convicted of a felonious rescue; or of fraud; or of cheating; or of conspiracy shall in any case where no special punishment is provided by any Statute, be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement

Penitentiaries.

79. Each of the Penitentiaries in Canada shall be maintained as a Prison for the confinement and reformation of persons, male and female, lawfully convicted of crime before the duly authorized legal Tribunals of that Province for which it is appointed to be the Penitentiary, and sentenced to confinement for life or for a term not less than two years; and whenever any offender is punishable by imprisonment, such imprisonment, if it be for life or for two years or any longer term, shall be in the Penitentiary; but this shall not prevent the reception and imprisonment in any Penitentiary of any prisoner or prisoners sentenced for any period of time by any Military or Militia Court Martial, or Military authority under any Mutiny Act, or of any prisoner sentenced to a less term than two years in either of the Provinces of Nova Scotia or New Brunswick, in which such prisoner may be sentenced to imprisonment in the Penitentiary for any less term than two years notwithstanding any thing in the Act or law under which he is sentenced, require such imprisonment to be in any other gaol or place of confinement.

Imprisonment therein.

Felony not punishable with death how punishable.

80. Every person convicted of felony not punishable with death shall be punished in the manner prescribed by the Statute or Statutes specially relating to such felony; and every person convicted of any felony for which no punishment is specially provided, shall be kept at hard labour in the Penitentiary for life or for any term not less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years.

Sentence to Penitentiary to include hard labour.

81. The sentence of any person to be imprisoned in the Penitentiary shall (whether expressed or not) include hard labour, and the offender so sentenced shall be subject to the discipline and regulations of the Penitentiary, prescribed and made by lawful authority under any statute in that behalf.

When length of imprisonment is at discretion of the Court

82. When an offender is by law liable to be punished by imprisonment for life or for any indefinite term of years, the length of any such term shall be in the discretion of the Court passing sentence upon the person convicted; and when so liable for a term not exceeding a certain number of years, the length of such term shall likewise be in the discretion of the Court, within such limits (if any) as are prescribed by any statute in that behalf.

When length of imprisonment and amount of fine are at the discretion of the Court.

83. When imprisonment is to be awarded for any offence, and no definite period is fixed by law, the term of such imprisonment shall always be in the discretion of the Court passing the sentence: And when any fine is to be awarded for any offence and no amount is fixed, the amount shall be in the discretion of the Court passing the sentence, and in fixing such amount regard shall be had to the means of the offender.

Commencement of term of imprisonment.

84. The period of imprisonment in the Penitentiary, in pursuance of any sentence, shall commence on and from the day of passing such sentence, whether the convict upon whom the sentence is passed be removed to the said Penitentiary forthwith, or be detained in custody in any other prison or place of confinement, previously to such removal.

If a person under sentence for any other crime convicted felony, &c,

85. Whenever sentence is passed for felony on a person already imprisoned under sentence for another crime, the Court may award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person had been previously sentenced; and where such person is already under sentence of imprisonment, the Court may award sentence for the subsequent offence, to commence at the expiration of the imprisonment for which such person had been previously sentenced, although the aggregate term of imprisonment may exceed the term for which such punishment could otherwise have been awarded, and such subsequent imprisonment, if for any term not less than two years, shall be in the Penitentiary.

Prisoners escaping how punished.

86. Any person escaping from imprisonment shall, on being retaken, undergo in the prison he escaped from, the remainder of his term unexpired at the time of his escape, in addition to the punishment which may be awarded for such escape.

Imprisonment elsewhere than Penitentiary.

87. When the sentence of imprisonment is for a term less than two years, such imprisonment shall, if no other place be expressly mentioned, be in the common gaol of the locality in which the sentence is pronounced, or if there be no common gaol there, then in that common gaol which is nearest to such locality, or in some other lawful prison or place of confinement other than the Penitentiary, in which the sentence of imprisonment may be lawfully executed.

88. When a person has been convicted of an offence for which imprisonment other than in the Penitentiary may be awarded, then unless it otherwise provided by any Statute assigning to be punishment for such offence, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour in the common gaol, or other place of confinment and may also direct that the offender shall be kept in solitary confinement, for a portion or for portions of the term of such imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year.

Whipping.

89. Every male person convicted of any offence for which whipping may be awarded, may, in addition to any other sentence passed upon him, be sentenced to be publicly or privately whipped in such manner and as often, not exceeding three, as the Court may direct.

Pardons.

Pardon when party is committed for non-payment of moneys.

90. The Crown may extend the Royal mercy to any person sentenced to imprisonment by virtue of any Statute, although such person be imprisoned for non-payment of money to some party, other than the Crown.

Effect of pardon.

91. When the Crown is pleased to extend the Royal mercy to any offender convicted of a felony, punishable with death or otherwise, and by warrant under the Royal Sign Manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal at arms of the Governor General, grants to such offender either a free or a conditional pardon, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon, under the Great Seal, of such offender, as to the felony for which such

pardon has been granted; but no free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any felony committed after the granting of such pardon.

Governor may commute sentence of death.

92. The Crown may commute the Sentence of Death passed upon any person convicted of a capital crime, to solitary confinement, or to confinement with or without hard labour in the common gaol or place of confinement for any period less than two years, or in the Penitentiary either during life, or for any term of years not less than two years; and an instrument under the hand and seal at arms of the Governor General declaring such commutation of sentence, or a letter or other instrument under the hand of the Secretary of State, or of the Secretary of State for the Provinces, or the lawful Deputy of either, shall be sufficient authority, to any of Her Majesty's Judges or Justices having jurisdiction in such cases, or to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation, and to do all such things and to make such orders, and give such directions, as may be requisite for the change of custody of such convict, and for his conduct to and deliv-ery at such gaol, or place of confinement or Penitentiary, and his detention therein, according to the terms on which his sentence has been commuted.

Undergoing sentence, equivalent to a pardon.

Undergoing sentence equivalent to a pardon.

93. When any offender has been convicted of a felony not punishable with death, and has endured the punishment to which such offender was adjudged, or if such felony be punishable with death and the sentence has been commuted, then if such offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the felony whereof the offender was so convicted, have the like effects and consequences as a pardon under the Great Seal; But nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other felony.

Royal prerogative saved.

94. Nothing in this Act shall be construed to limit or affect Her Majesty's Royal prerogative of mercy.

Limitation of Actions and Prosecutions.

Limitation of actions and prosecutions.

95. All actions and prosecutions to be commenced against any person for anything done in pursuance of any Act of the present Session of the Parliament of Canada, relating to Criminal Law, shall, unless, otherwise provided for, be laid and tried in the district, county, or place where the fact was committed, and must be commenced within six months next after the fact committed, and not otherwise.

Notice to defendant.

96. Notice in writing of such action and of the cause thereof, must be given to the defendant, one month at least before the commencement of the action.

General issue

97. In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon.

In case of tender of sufficient amends

98. No plaintiff shall recover in any such action, if tender of sufficient amends be made before such action brought, or if a sufficient sum of money be paid into Court after such action brought, by or on behalf of the defendant.

99. If a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise, judgment be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the like remedy for the same as any defendant hath by law in other cases, and though a verdict or judgment be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be, certifies his approval of the action. Recovery of costs.

General Provisions.

100. When any felony punishable under the laws of Canada, has been committed within the jurisdiction of any Court of Admiralty in Canada, the same shall be dealt with, inquired of and tried and determined in the same manner as any other felony committed within that jurisdiction. Offences committed within the jurisdiction of the Admiralty.

101. Nothing contained in any Act of the present Session of the Parliament of Canada, shall alter or affect any of the laws relating to the Government of Her Majesty's Land or Naval Forces. Laws relating to Army and Navy not affected.

102. In making up the record of any conviction or acquittal on any indictment, it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading, and the statement of the arraignment and the proceedings subsequent thereto, shall be entered of record in the same manner as before the passing of this Act, subject to any such alterations in the forms of such entry, as may from time to time be prescribed by any rule or rules of the Judges of the Superior Courts of Common Law in the Provinces of Ontario, Nova Scotia and New Brunswick respectively, or of the Queen's Bench in the Province of Quebec.

SCHEDULE.

FORMS OF INDICTMENT REFERRED TO IN SECTION .

Murder.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that A. B., on the day
of in the year of our Lord, one thousand eight hundred and
, at , in the County *or* District of did
feloniously, wilfully, and of his malice aforethought, kill and murder
one C. D. Can., c. 99, s. 51.

Manslaughter.

County *or* District } *Same as last form, omitting* "wilfully, and of
of , to wit: } malice aforethought," *and substituting the word*
"slay" *for the word* "murder." Can. c. 99, s. 51.

Bodily Harm.

County or District, to wit.—The Jurors for our Lady the Queen upon their oath present, that J. B. on the day of, &c., did feloniously administer to, or cause to be taken by one A. B. poison or other destructive thing, did thereby cause bodily harm to the said A.B., with intent to kill the said AB., *or* C. D. N.B., c. 160.

Simple Larceny.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that A. B., on the day of
in the year of our Lord, one thousand eight hundred and
, at
in the County *or* District of , did feloniously steal a *gold watch*, the property of C. D. Can., c. 99, sec. 51.

Robbery.

County or District } The Jurors for our Lady the Queen, upon their
of, , to wit: } oath present, that A. B., on the day of, &c., did rob C. D., and at the time of, or immediately before or after such robbery, did cause grievous bodily harm to the said C. D. (*or to any person, naming him.*) N. B. c. 160.

Stealing money.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that on the day of
in the year of our Lord, one thousand eight hundred and ,
A. B., at , in the County *or* District of , did feloniously steal a certain sum of money, to wit, to the amount of
dollars, the property of one C. D. Can., c. 99, s. 51.

Embezzlement.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that A. B., on the day of
in the year of our Lord, one thousand eight hundred and , at
in the County *or* District of , being a servant (*or* clerk) then employed in that capacity by one C. D., did then and there in virtue thereof, receive a certain sum of money, to wit, to the amount of
for and on account of the said C. D., and the said money did feloniously embezzle. Can., c. 99, sec. 51.

False Pretences.

County *or* District } The Jurors for our Lady the Queen, on their
of , to wit: } oath present, that A. B., on the day of
in the year of our Lord, one thousand eight hundred, and
at
in the County *or* District of , unlawfully, fraudulently and knowingly, by false pretences, did obtain from one C. D., *six yards of muslin*, of the goods and chattels of the said C. D., with intent to defraud. Can., c. 99, sec. 51.

Offences against the Habitation.

County or District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that A. B. on the day of, &c., did maliciously set fire to the dwelling house of C. D., the said C. D., (*or some other person by name, or if the name be unknown,* some person) being therein. N. B., c. 160.

Malicious Injuries to Property.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that A. B., on the day of,
&c., did maliciously set fire, or attempt to set fire to a certain building or erection, that is to say, (a house or barn, or bridge, *as the case may be*) the property of one C. D. N. B. c. 160.

Forgery.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that A. B. on the day of, &c., did forge (*or* utter, knowing the same to be forged) a certain writing, (*or* clandestinely and without the consent of the owner, did make an endorsement on a certain written instrument) with intent to defraud. N. B. c. 160.

Perjury.

County *or* District } The Jurors for our Lady the Queen, upon their
of , to wit: } oath present, that heretofore to wit, at the *Assizes* holden for the *County* or *District* of , on the day of , in the year of Lord one thousand eight hundred and , before , *one of the Justices of our Lady the Queen*, a certain issue between one E. F. and one J. H. in a certain action of covenant, was tried, upon which trial A. B. appeared as a witness for and on behalf of the said E. F., and was then and there duly *sworn* before the said and did then and there, upon his *oath* aforesaid, falsely, wilfully and corruptly depose and *swear* in substance and to the effect following, "*that he saw the said G. H. duly execute the deed on which the said action was brought*, whereas, in truth, the said A. B. did not see the said G. H. execute the said deed, and the said deed was not executed by the said G. H., and the said A. B. did thereby commit wilful and corrupt perjury. Can., c. 99, s. 51.

Subornation of Perjury.

County *or* District } *Same as last form to the end, and then pro-*
of , to wit: } *ceed:*—And the Jurors further present, that before the committing of the said offence by the said A. B., to wit, on the day of , in the year of our Lord one thousand eight hundred and , C. D., unlawfully, wilfully and corruptly did cause and procure the said A. B. to do and commit the said offence in manner and form aforesaid. Can. c. 99, s. 51.

Offences against the Public Peace.

County *or* District } The Jurors, &c., on, &c., that A. B., with *two*
of , to wit: } or more persons, did riotously and tumultuously assemble together to the disturbance of the public peace, and with force did demolish, pull down, or destroy, (*or* attempt or begin to demolish, &c.,) a certain building or erection of C. D. N. B. c. 160.

Offences against the Administration of Justice.

County *or* District } The Jurors, &c., on, &c., that A. B., did cor-
of , to wit: } ruptly take or receive money under pretences of helping C. D. to a chattel, (*or* money, &c.,) that is to say, a horse, (*or* five dollars, *or* a note, *or* a carriage,) which had been stolen, (*or as the case may be.*) N. B. c. 160.

Bigamy or Offences against the Law for the Celebration of Marriage.

County *or* District } The Jurors, &c., that A. B., on, &c., being
of , to wit: } married, did marry C. D. during the lifetime of the wife of the said A. B.—(*or* not being duly authorized, did celebrate or assist in the celebration of a marriage between C. D. and E. F.,—*or* being duly authorized to marry, did celebrate marriage between C. D. and E. F. before proclamation of banns according to law, or without a license for such marriage under the hand and seal of the Governor). N. B. c. 160.

Offences relating to the Army.

County *or* District } The Jurors for our Lady the Queen, upon
of , to wit: } their oath present, that A. B. on the
day of, &c., did solicit (*or* procure) a soldier to desert the Queen's service, (*or as the case may be*). N. B. c. 160.

Offences against Public Morals and Decency.

County or District } The Jurors for our Lady the Queen, upon
of , to wit: } their oath present, that A. B. on the
day of, &c., did keep a common gaming, bawdy or disorderly house (or rooms) generally. N. B. c. 160.

No. 64.

1st Session, 1st Parliament, 31 Vic., 1867.

BILL.

An Act respecting Procedure in Criminal Cases.

Received and read, first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

The Hon. Sir J. A. Macdonald.

OTTAWA:

PRINTED BY HUNTER, ROSE & CO.

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An Act to Incorporate the Clifton Suspension Bridge Company.

WHEREAS, John T. Bush, Samuel Keefer, William O. Buchanan, Delos DeWolf, William G. Fargo, Virus W. Smith, and Hollis White, have by their petition set forth the great necessity and convenience of a Suspension Bridge over the Niagara River immediately below the Falls of Niagara, and have prayed that they and such others as may be associated with them for the purposes hereinafter mentioned may be incorporated with the powers necessary to enable them to construct such a Bridge,—and it is expedient to grant the prayer of their petition ; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. That the said John T. Bush, Samuel Keefer, William O. Buchanan, Delos DeWolf, William G. Fargo, Virus W. Smith and Hollis White, and all persons who shall become Shareholders of the Company hereby incorporated, shall be and are hereby constituted a body corporate and politic, by and under the name of the Clifton Suspension Bridge Company, with power to unite with any other person or company to construct a Suspension Bridge over the Niagara River below the Falls, at or near the Clifton House, with the necessary approaches thereto.

2. The said Company shall be capable of purchasing, having and holding any real or personal estate to and for the use of the said Company, and of conveying the same for the benefit of said Company ; provided that the value of the said estate so holden by them at any time shall not exceed, one hundred thousand dollars.

3. The Capital Stock of the said Company shall be One Hundred thousand dollars, divided into shares of one hundred dollars each.

4. The stock, property and affairs of the said corporation shall be managed by five Directors, who shall be Shareholders annually chosen on the first Monday of July in each year, at such place in the Town of Clifton, as the majority of the Directors shall appoint, notice of such meeting having been first published for two weeks in some newspaper in the County of Welland ; The persons named in the first clause of this Act shall be and act as Directors until the first Monday in July, next after the passage of this Act, and until their successors shall have been chosen ; and the said Provisional Directors shall have power and authority to manage the affairs of the Company until Directors shall have been elected in their place under the provisions of this Act; and shall have power to open stock books, and to receive subscriptions of stock or shares, and generally to do all matters and things necessary for the full organization and management of the Company. Each Shareholder at all elections of Directors shall be entitled either in person or by proxy to one vote for each share of stock held in his own name ; All elections of Directors shall be by ballot, and the persons having the greatest number of votes shall be Directors and shall hold office for one year and until their successors shall have been chosen ; The Directors for the time being may fill any vacancy occurring in the Board, by the appointment of some other Share-

holder thereto, who shall hold office until the next annual election; The Directors shall at the first meeting after each election, appoint one of their number to be President of the Corporation, who shall hold office till the next annual election.

5. The said Directors shall have full power to enter upon, take and occupy any lands necessary for the construction of, and approaches to the said Bridge, first paying or tendering the value thereof, which value shall be determined by two persons selected, one by the claimant and the other by the said Company, and in case they do not agree a third person to be appointed by the Lieutenant-Governor of the Province of Ontario, whose decision shall be final.

6. The Directors or a majority of them shall have power from time to time to make and establish such by-laws as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate, and effects of the said Corporation and touching the duties of its officers, clerks and servants, their appointments and salaries, and all such other matters and things as shall appertain to the business of the Corporation.

7. When the said Bridge shall have been completed and its safety shall have been certified by such Engineer as the Governor General shall appoint, the said corporation may erect a Gate or Gates and determine and establish the rate of Tolls to be demanded for going upon or crossing said Bridge, which Tolls shall not exceed fifty cents for each carriage or vehicle drawn by two horses including the driver thereof, thirty-five cents for a single horse carriage and driver, and twenty cents for each other person. Provided always, that no such tolls shall be levied or taken until approved of by the Governor General in Council, nor until after two weekly publications in the Canada *Gazette* of the By-law establishing such tolls, and of the Order in Council approving thereof. And if any person shall forcibly pass such gate without having paid the legal toll, such person shall forfeit and pay to the said corporation a sum not less than five dollars and not exceeding fifty dollars, to be recovered before any Justice of the Peace for the County of Welland, in the same manner as any other fines are recoverable before a Justice of the Peace.

8. The said Corporation shall have power to make such rules and pass such by-laws as they may think reasonable and proper, with suitable penalties (not exceeding in any case fifty dollars) touching the speed in passing over the said Bridge and the weight to be admitted thereon at any one time; Which rules, as well as the rate of Toll, shall be plainly painted on a Board or Cloth and put up in or near each Gate in a conspicuous place, and such penalties if incurred shall be recoverable as in a manner aforesaid.

9. If any Toll collector shall unreasonably and otherwise cause delay or hinder any passenger or the passage of any property agreeably to the rule prescribed in such case, or shall demand or receive more than the legal Toll, he shall for every such offence forfeit the sum of ten dollars with costs, for the use of the person or persons so delayed or defrauded, to be recovered as in manner aforesaid.

10. If the said Bridge shall not be constructed and used within two years from the passing of this Act, then the said Corporation, and the privileges hereby conferred upon it, shall from thenceforth cease and determine.

PRINTED BY ROWSELL AND HUTCHISON

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No. 66.] BILL. [1868.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.

WHEREAS it is expedient to assimulate the Statute Laws of the several Provinces of Quebec, Ontario, Nova Sbotia and New Brunswick, respecting the duties of Justices of the Peace out of sessions in relation to persons charged with indictable offences and to amend and consolidate the same ; therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

For what offences a Justice of the Peace may grant a warrant or summons to cause a person charged therewith to be brought before him.

1. In all cases where a charge or complaint (A) is made before any one or more of Her Majesty's Justices of the Peace for any Territorial Division in Canada, that any person has committed, or is suspected to have committed, any treason, or felony or any indictable misdemeanor or offence within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such Justice or Justices, is residing or being, or is suspected to reside or be within the limits of the jurisdiction of such Justice or Justices, then, and in every such case, if the person so charged or complained against is not in custody, such Justice or Justices of the Peace may issue his or their Warrant (B) to apprehend such person, and to cause him to be brought before such Justice or Justices, or any other Justice or Justices for the same Territorial Division.

In what cases the party may be summoned instead of issuing a warrant in the first instance.

2. In all cases the Justice or Justices to whom the charge or complaint is preferred, instead of issuing in the first instance his or their Warrant to apprehend the person charged or complained against, may, if he or they think fit, issue his or their Summons (C) directed to such person, requiring him to appear before the Justice or Justices, at the time and place to be therein mentioned, or before such other Justice or Justices of the same Territorial Division as may then be there, and if, after being served with the Summons in manner hereinaftel mentioned, he fails to appear at such time and place, in obedience to such Summons, the Justice or Justices, or any other Justice or Justices of the Peace for the same Territorial Division, may issue his or their Warrant (D) to apprehend the person so charged or complained against, and cause such person to be brought before him or them, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the charge or complaint, and to be further dealt with according to law ; But any Justice or Justices of the Peace may issue the Warrant hereinbefore first mentioned, at any time before or after the time mentioned in the Summons for the appearance of the accused party.

As to indictable offences committed on the High Seas.

3. In all cases of indictable offences committed on the high seas, or in any creek, harbour, haven or other place, in which the Admiralty of England have or claim to have jurisdiction, and in all cases of offences committed on land beyond the seas for which an indictment may be preferred in Canada, any one or more Justice or Justices for any territorial division in which any person charged with having committed, or being suspected to have committed any such offence, shall be or be suspected to be, may issue his or their warrant (D 2) to apprehend such person, to be dealt with as therein and thereby directed.

Warrant to apprehend party against whom an indictment is found.

4. In case an indictment be found by the Grand Jury in any Court of Oyer and Terminer or General Gaol Delivery, or in any Court of General or Quarter Sessions of the Peace, against any person then at large, and whether such person has been bound by any Recognizance to appear to answer to any such charge or not, and in case such person has not appeared and pleaded to the indictment, the person who acts as Clerk of the Crown, Marshal, or Clerk of Assize at such Court of Oyer and Terminer, or Gaol Delivery, or as Clerk of the Peace at such Sessions, shall, at any time after the end of the Sessions of Oyer and Terminer, or Gaol Delivery, or Sessions of the Peace, at which the indictment has been found, upon application of the Prosecutor, or of any person on his behalf, and on payment of a fee of twenty cents, grant to such Prosecutor or person a Certificate (F) of such indictment having been found; and upon production of such Certificate to any Justice or Justices of the Peace for the Territorial Division in which the offence is in the indictment alleged to have been committed, or in which the person indicted resides, or is supposed or suspected to reside or be, such Justice or Justices shall issue his or their Warrant (G) to apprehend the person so indicted, and to cause him to be brought before such Justice or Justices or any other Justice or Justices for the same Territorial Division, to be dealt with according to law.

Commitment.

5. If the person be thereupon apprehended and brought before any such Justice or Justices, such Justice or Justices, upon its being proved upon oath or affirmation before him or them that the person so apprehended is the person charged and named in the indictment, shall, without further inquiry or examination, commit (H) him for trial or admit him to bail in manner hereinafter mentioned.

If person indicted, be already in prison for some other offence, Justice may order him to be detained until removed by writ of *Habeas Corpus*, or

6. If the person so indicted is confined in any Gaol or prison for any other offence than that charged in the indictment at the time of such application and production of such Certificate to the Justice or Justices, such Justice or Justices, upon its being proved before him or them upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, shall issue his or their Warrant (I,) directed to the Gaoler or Keeper of the Gaol or

prison in which the person so indicted is then confined, commanding him to detain such person in his custody, until, by Her Majesty's Writ of *Habeas Corpus*, he be removed therefrom for the purpose of being tried upon the said indictment, or until he be otherwise removed or discharged out of his custody by due course of law. otherwise discharged.

7. Nothing hereinbefore contained shall prevent the issuing or execution of Bench Warrants, whenever any Court of Competent Jurisdiction thinks proper to order the issuing of any such Warrant. Not to prevent the issuing of Bench Warrants.

8. Any Justice or Justices of the Peace may grant or issue any Warrant or any Search Warrant, on a Sunday as well as on any other day. Warrant may be issued on Sunday.

9. In all cases when a charge or complaint for an indictable offence is made before any Justice or Justices, if it be intended to issue a Warrant in the first instance against the party charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such Justice or Justices. When a charge is made, if a warrant is to be issued, information, &c., upon oath, &c.

10. When it is intended to issue a Summons instead of a Warrant in the first instance, the information and complaint shall also be in writing, and be sworn to or affirmed in manner aforesaid except only in cases where by some Act or Law it is specially provided that the information and complaint may be by parole merely, and without any oath or affirmation to support or substantiate the same. When if summons to be issued instead of a warrant, information, &c., need not be on oath.

11. No objection shall be taken or allowed to any information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who takes the examination of the witnesses in that behalf. No objection allowed for alleged defect in form or substance.

12. If a credible Witness proves upon oath (E 1) before a Justice of the Peace, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any larceny or felony has been committed, is in any dwelling house, outhouse, garden, yard, croft or other place or places, the Justice may grant a Warrant (E 2) to search such dwelling house, garden, yard, croft or other place or places, for such property. In certain cases Justice may grant a Warrant to search dwelling houses, &c.

13. Upon such information and complaint, the Justice or Justices receiving the same may, if he or they think fit, issue his or their Summons or Warrant as hereinbefore directed, to cause the person charged to be and appear as therein and thereby directed; and every Summons (C) shall be directed to Upon complaint being laid, Justices receiving the same may issue summons or warrant

for appearence of party charged.

the party so charged by the information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear at a certain time and place therein mentioned, before the Justice who issues the Summons, or before such other Justice or Justices of the Peace for the same territorial Division as may then be there, to answer to the charge, and to be further dealt with according to law.

How summons to be served.

14. Every the Summons shall be served by a Constable or other Peace officer upon the person to whom it is directed, by delivering the same to the party personally, or if he cannot conveniently be met with, then by leaving the same for him with some person at his last or usual place of abode.

Constables, &c., to attend and depose.

15. The Constable or other Peace Officer who serves the same shall attend at the time and place, and before the Justice or Justices in the Summons mentioned, to depose, if necessary, to the service of the Summons.

If party summoned do not attend, Justice may issue a Warrant to compel attendance.

16. If the person served does not appear before the Justice or Justices, at the time and place mentioned in the Summons, in obedience to the same, the Justice or Justices may issue his or their Warrant (D) for apprehending the party so summoned, and bringing him before him or them, or before some other Justice or Justices for the same Territorial Division to answer the charge in the information and complaint mentioned, and to be further dealt with according to law.

No objection allowed for alleged defect in form or substance.

17. No objection shall be taken or allowed to any Summons or Warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Prosecutor before the Justice or Justices who takes the examination of the Witnesses in that behalf as hereinafter mentioned.

If variance appears to Justices, they may adjourn the case to a future day

18. If it appears to the Justice or Justices that the party charged has been deceived or misled by any such variance, such Justice or Justices, at the request of the party charged, may adjourn the hearing of the case to some future day, and in the meantime, remand the party or admit him to bail.

Warrant to apprehen parties to be under the hand and seal of Justice.

19. Every Warrant (B) hereafter issued by any Justice or Justices of the Peace to apprehend any person charged with any indictable offence, shall be under the Hand and Seal, or Hands and Seals, of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the Territorial Division within which the same is to be executed, or to such Constable and all other Constables or Peace Officers in the Territorial Division within which the Justice or Justices issuing the same has jurisdiction, or generally to all the Constables or Peace Officers within

such last mentioned Territorial Division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender, and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the Justice or Justices issuing the Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the charge contained in the information, and to be further dealt with according to law.

Warrant may remain in force until executed.

20. It shall not be necessary to make the warrant returnable at any particular time, but the same may remain in force until executed.

How and where a warrant may be executed.

21. Such Warrant may be executed by apprehending the offender at any place in the Territorial Division within which the Justice or Justices issuing the same have jurisdiction, or in case of fresh pursuit, at any place in the next adjoining Territorial Division, and within seven miles of the border of the first mentioned Territorial Division, without having the Warrant backed, as hereinafter mentioned.

On what conditions Constables, &c., may execute warrant.

22. In case any Warrant be directed to all Constables or other Peace Officers in the Territorial Division within which the Justice or Justices have jurisdiction, any Constable or other Peace Officer for any place within such Territorial Division may execute the Warrant at any place within the jurisdiction for which the Justice or Justices acted when he or they granted such Warrant, in like manner as if the Warrant had been directed specially to such Constable by name, and notwithstanding the place within which such Warrant is executed be not within the place for which he is Constable or Peace Officer.

No objection allowed for alleged defect in form or substance.

23. No objection shall be taken or allowed to any Warrant for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who takes the examination of the Witnesses in that behalf as hereinafter mentioned.

If variance appears to the Justices, they may adjourn the case to a future day.

24. But if it appears to the Justice or Justices that the party charged has been thereby deceived or misled by any such variance, such Justice or Justices, at the request of the party charged, may adjourn the hearing of the case to some future day, and in the meantime may remand the party, or admit him to bail as hereinafter mentioned.

Regulations as to the backing of warrants.

25. If the person against whom any Warrant has been issued, cannot be found within the jurisdiction of the Justice or Justices by whom the same was issued, or if he escapes into, or is supposed or suspected to be, in any place within

Canada, out of the jurisdiction of the Justice or Justices issuing the Warrant, any Justice of the Peace within the jurisdiction of whom, the person so escapes, or in which he is or is suspected to be, upon proof made on oath of the handwriting of the Justice who issued the same, and without any security being given, shall make an endorsement (K) on the Warrant, signed with his name, authorizing the execution of the Warrant within the jurisdiction of the Justice making the endorsement, and which endorsement shall be sufficient authority to the person bringing such Warrant, and to all other persons to whom the same was originally directed, and also to all Constables and other Peace Officers of the Territorial Division where the Warrant has been so endorsed, to execute the same in such other Territorial Division, and to carry the person against whom the Warrant issued, when apprehended, before the Justice or Justices of the Peace who first issued the Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, or before some Justice or Justices of the Territorial Division, in which the offence mentioned in the Warrant appears therein to have been committed.

Duty of Constable in case of arrest.

26. If the Prosecutor or any of the witnesses for the prosecution be then in the Territorial Division where such person has been apprehended, the Constable, or other person or persons who have apprehended him may, if so directed by the Justice backing the Warrant, take him before the Justice who backed the Warrant, or before some other Justice or Justices for the same Territorial Division or place; and the said Justice or Justices may thereupon take the examination of the Prosecutor or Witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a Justice or Justices of the Peace, with an offence alleged to have been committed in another Territorial Division than that in which such persons have been apprehended.

Power to Justices to summon witnesses to attend, and give evidence.

27. If it be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within his jurisdiction is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a Witness at the time and place appointed for the examination of the witnesses against the accused, such Justice shall issue his Summons (L 1) to such person, requiring him to be and appear at a time and place therein mentioned, before the said Justice, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to testify what he knows concerning the charge made against the accused party.

If summons not obeyed, warrant may be issued to

28. If any person so summoned neglects or refuses to appear at the time and place appointed by the Summons, and no just excuse be offered for such neglect or refusal, then (after

proof upon oath or affirmation of the Summons having been served upon such person, either personally or with some person for him at his last or usual place of abode,) the Justice or Justices before whom such person should have appeared, may issue a Warrant (L 2), to bring such person, at a time and place to be therein mentioned, before the Justice who issued the Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to testify as aforesaid, and the said Warrant may, if necessary, be backed as hereinbefore mentioned, in order to its being executed out of the jurisdiction of the Justice who issued the same.

compel attendance.

29. If the Justice be satisfied by evidence upon oath or affirmation that it is probable the person will not attend to give evidence unless compelled so to do, then, instead of issuing such Summons, the Justice may issue his Warrant (L 3) in the first instance, and the Warrant, if necessary, may be backed as aforesaid.

In certain cases warrant may issue in first instance.

30. If on the appearance of the person so summoned, either in obedience to the Summons or by virtue of the Warrant, he refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation, refuses to answer the questions concerning the premises then put to him without giving any just excuse for such refusal, any Justice of the Peace then present and there having jurisdiction, may, by Warrant (L 4), commit the person so refusing to the Common Gaol for the Territorial Division where the person so refusing then is, there to remain and be imprisoned for any time not exceeding ten days, unless he in the meantime consents to be examined and to answer concerning the premises.

Persons appearing on summons and refusing to be examined may be committed.

31. In all cases where any person appears or is brought before any Justice or Justices of the Peace charged with any indictable offence, whether committed in Canada or upon the high seas, or on land beyond the sea, whether such person appears voluntarily upon Summons or has been apprehended, with or without Warrant, or is in custody for the same or any other offence, such Justice or Justices before he or they commit such accused person to prison for trial, or before he or they admit him to bail, shall, in the presence of the accused person, (who shall be at liberty to put questions to any witness produced against him,) take the statement (M) on oath or affirmation of those who know the facts and circumstances of the case, and shall put the same in writing, and such depositions shall be read over to and signed respectively by the witnesses so examined, and shall be signed also by the Justice or Justices taking the same.

As to the examination of witnesses.

Justice to administer oath or affirmation.

32. The Justice or Justices shall, before any witness is examined, administer to such witness the usual oath or affirmation, which such Justice or Justices are hereby empowered to do; and if upon the trial of the person accused, it be proved upon the oath or affirmation of any credible witness, that any person whose deposition has been taken, is dead, or is so ill as not to be able to travel, *or is absent from Canada*, and if it be also proved that such deposition was taken in presence of the person accused, and that he, his Counsel or Attorney, had a full opportunity of cross-examining the witness, then if the deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be read as evidence in the prosecution without further proof thereof, unless it be proved that such deposition was not in fact signed by the Justice purporting to have signed the same.

After examination of the accused, Justice to read deposition taken against him, and caution him as to any statement he may make.

33. After the examinations of all the witnesses for the prosecution have been completed, the Justice, or one of the Justices by or before whom the examinations have been completed, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, "do you wish to say any thing in answer to the charge? "You are not obliged to say any thing unless you desire "to do so, but whatever you say will be taken down in "writing, and may be given in evidence against you upon "your trial;" and whatever the prisoner then says in answer thereto shall be taken down in writing (N) and read over to him, and shall be signed by the Justice or Justices, and kept with the depositions of the witnesses, and be transmitted with them as hereinafter mentioned.

Examinations may be given in evidence in certain cases.

34. Upon the trial of the accused person, the examinations may if necessary be given in evidence against him without further proof thereof, unless it be proved that the Justice or Justices purporting to have signed the same did not in fact sign the same.

Explanations to be made to the accused party.

35. The Justice or Justices, shall before the accused person makes, any statement, state to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat.

Nothing herein contained to prevent prosecution from giving in evidence, confession, &c.

36. Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement made at any time by the person accused or charged, which by law would be admissible as evidence against him.

37. The room or building in which the Justice or Justices take the examinations and statement shall not be deemed an open Court for that purpose ; and the Justice or his or their Justices, in his or their discretion, may order that no person shall have access to or be or remain in such room or building without consent or permission, if it appear to him or them that the ends of Justice will be best answered by so doing.

Place where examinations taken, not an open Court and no person to remain without consent.

38. Any Justice or Justices, before whom any witness is examined, may bind by Recognizance (O 1) the Prosecutor, and every such Witness, except married women and infants who shall find security for their appearance if the Justice or Justices see fit, to appear at the next Court of competent Criminal Jurisdiction at which the accused is to be tried, then and there to prosecute or prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which Recognizance shall particularly specify the profession, art, mystery or trade of person entering into or ackowledging the same, together with his Christian and surname, and the Parish, Township or place of his residence, and if his residence be in a City, Town or Borough, and when convenient so to do, the name of the street and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof, or lodger therein.

Power to Justices to bind over the prosecutors and witnesses by recognizances.

39. The Recognizance, being duly acknowledged by the person entering into the same, shall be subscribed by the Justice or Justices before whom the same is acknowledged, and a notice (O 2) thereof, signed by the said Justice or Justices, shall at the same time be given to the person bound thereby.

Recognizances to be subscribed to by Justices, &c.

40. The several Recognizances so taken, together with the written information (if any) the depositions, the statement of the accused, and the Recognizance of Bail (if any) shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered to the proper Officer of the Court in which the trial is to be had, before or at the opening of the Court on the first day of the sitting thereof, or at such other time as the Judge, Justice or person who is to preside at such Court, or at the trial orders and appoints.

Recognizances to be transmitted to the Court in which the trial is had.

41. If any witness refuses to enter into Recognizance, the Justice or Justices of the Peace by his or their Warrant (P 1,) may commit him to the Common Gaol for the Territorial Division in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of the such accused party, unless in the meantime such witness duly enters into a Recognizance before some one Justice of the Peace for the Territorial Division in which such Gaol or is situate.

Witness refusing to enter into recognizances may be committed.

Discharge.

42. If afterwards, for want of sufficient evidence in that behalf or other cause, the Justice or Justices before whom the accused party has been brought, do not commit him or hold him to bail for the offence charged, such Justice or Justices, or any other Justice or Justices for the same Territorial Division, by his or their Order (P 2) in that behalf, may order and direct the Keeper of the Gaol where the witness is in custody, to discharge him from the same, and such Keeper shall thereupon forthwith discharge him accordingly.

Power to Justice to remand the accused from time to time not exceeding 8 days by warrant.

43. If from the absence of witnesses, or from any other reasonable cause, it becomes necessary or advisable to defer the examination or further examination of the witnesses for any time, the Justice or Justices before whom the accused appears or has been brought by his or their Warrant (Q 1) may from time to time, remand the party accused for such time as by such Justice or Justices in their discretion may be deemed reasonable, not exceeding eight clear days at any one time, to the Common Gaol in the Territorial Division for which such Justice or Justices are then acting.

If remand be for 3 days only by verbal order.

44. If the remand be for a time not exceeding three clear days, the Justice or Justices may verbally order the Constable or other person in whose custody the accused party may then be, or any other Constable or person to be named by the Justice or Justices in that behalf, to keep the accused party in his custody, and to bring him before the same or such other Justice or Justices as may be there acting at the time appointed for continuing the examination.

But accused may be brought up at an earlier day.

45. Any such Justice or Justices may order the accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same Territorial Division, at any time before the expiration of the time for which such party has been remanded, and the Gaoler or Officer in whose custody he then is, shall duly obey such Order.

Party accused may be admitted to bail on the examination.

46. Instead of detaining the accused party in custody during the period for which he has been so remanded, any one Justice of the Peace before whom such party has appeared or been brought, may discharge him, upon his entering into a Recognizance (Q 2, 3) with or without a Surety or Sureties, at the discretion of the Justice, conditioned for his appearance at the time and place appointed for the continuance of the examination.

If party does not appear upon recognizance.

47. If the accused party does not afterwards appear at the time and place mentioned in the Recognizance, then the said Justice or any other Justice of the Peace who may then and there be present, having certified (Q 4) upon the back of the Recognizance the non-appearance of such accused party, may transmit the Recognizance to the Clerk of the Court where

the accused person is to be tried, or other proper officer appointed by law, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the accused party.

If a person be apprehended in one division of offence committed in another, he may be examined in the former.

48. Whenever a person appears or is brought before a Justice or Justices of the Peace in the Territorial Division wherein such Justice or Justices have jurisdiction, charged with an offence alleged to have been committed by him within any Territorial Division wherein such Justice or Justices have not jurisdiction, such Justice or Justices shall examine such witnesses and receive such evidence in proof of the charge as may be produced before him or them within his or their jurisdiction; and if in his or their opinion, such testimony and evidence be sufficient proof of the charge made against the accused party, the Justice or Justices shall thereupon commit him to the Common Gaol for the Territorial Division where the offence is alleged to have been committed, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutor (if he has appeared before him or them) and the witnesses, by Recognizance as hereinbefore mentioned.

And if evidence not deemed sufficient, may be transmitted to the proper division, &c.

49. If the testimony and evidence be not, in the opinion of the Justice or Justices, sufficient to put the accused party upon his trial for the offence with which he is charged, then the Justice or Justices shall by recognizance bind over the witness or witnesses whom he has examined to give evidence as hereinbefore mentioned; and such Justice or Justices shall, by Warrant (R 1), order the accused party to be taken before some Justice or Justices of the Peace in and for the Territorial Division where the offence is alleged to have been committed, and shall at the same time deliver up the information and complaint, and also the depositions and recognizances so taken by him or them to the Constable who has the execution of the last mentioned Warrant, to be by him delivered to the Justice or Justices before whom he takes the accused, in obedience to the Warrant, and the depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the last mentioned Justice or Justices, and shall, together with the depositions and recognizances taken by last mentioned Justice or Justices in the matter of the charge against the accused party, be transmitted to the Clerk of the Court or other proper Officer where the accused party is to be tried, in the manner and at the time hereinbefore mentioned, if the accused party should be committed for trial upon the charge, or be admitted to bail.

Where he may be committed for trial—or be bailed.

Justice to furnish Constable with a receipt or certificate, &c.

50. Upon the Constable delivering to the Justice or Justices the Warrant, information (if any), depositions and recognizances, and proving by oath the hand-writing of the Justice

or Justices who has subscribed the same, such Justice or Justices before whom the accused party is produced shall thereupon furnish such Constable with a Receipt or Certificate (R 2) of his or their having received from him the body of the accused party, together with the Warrant, information (if any,) depositions and recognizances, and of his having proved to him or them, upon oath, the hand-writing of the Justice who issued the warrant.

Power to any two Justices to bail persons charged with felony, &c.

51. When any person appears before any Justice of the Peace charged with a felony or suspicion of felony, other than treason or felony punishable with death, and the evidence adduced is in the opinion of such Justice, sufficient to put such accused party on his trial, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, the Justice, jointly with some other Justice of the Peace, may admit such person to bail upon his procuring and producing such surety or sureties as in the opinion of the two Justices will be sufficient to ensure the appearance of the person charged, at the time and place when and where he is to be tried for the offence ; and thereupon the two justices shall take the Recognizance (S 1, 2,) of the accused person and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the Court without leave.

In case of misdemeanor one Justice may bail.

52. When the offence committed or suspected to have been committed is a misdemeanor, any one Justice before whom the accused party appears may admit to bail in manner aforesaid ; and such Justice may at his discretion require such bail to justify upon oath as to their sufficiency, which oath the said Justice may administer, and in default of such person procuring sufficient bail, then such Justice may commit him to prison, there to be kept until delivered according to law.

County Judge in his discretion may order a party committed for trial to be admitted to bail.

53. In all cases of felony or suspicion of felony other than treason or felony punishable with death and in all cases of misdemeanor, where the party accused has been finally committed as hereinafter provided, any Judge having jurisdiction in the District or County, who is also a Justice of the Peace for the District or County within the limits of which such accused party is confined, may, in his discretion, on application made to him for that purpose, order such accused party or person to be admitted to bail on entering into Recognizance with sufficient sureties before two Justices of the Peace, in such amount as the Judge directs, and thereupon the Justices shall issue a warrant of deliverance (S 3,) as hereinafter provided, and shall attach thereto the order of the Judge directing the admitting of such party to bail.

54. No Justice or Justices of the Peace, or County Judge shall admit any person to bail accused of treason or felony punishable with death, nor shall any such person be admitted to bail, except, in the Province of Quebec, by order of Her Majesty's Court of Queen's Bench or of one of the Judges thereof or of a Judge of the Superior Court, or, in the Province of Ontario, by order of Her Majesty's Court of Queen's Bench or Common Pleas or of one of the Judges thereof, or, in either of the Provinces of Nova Scotia or New Brunswick, by order of the Supreme Court therein or of one of the Judges thereof; and nothing herein contained, shall prevent such Courts or Judges admitting any person accused of misdemeanor or felony to bail when they may think it right so to do.

Certain offences not bailable except by Judges' order.

55. In all cases where a Justice or Justices of the Peace admits to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, the Justice or Justices shall send to or cause to be lodged with the keeper of such Prison, a Warrant of Deliverance (S 3,) under his or their Hand and Seal or Hands and Seals, requiring the said Keeper to discharge the person so admitted to bail if he be detained for no other offence, and upon such Warrant of Deliverance being delivered to or lodged with such Keeper, he shall forthwith obey the same.

Justice bailing after being in custody to issue a warrant of deliverance.

56. When all the evidence offered upon the part of the prosecution against the accused party has been heard, if the Justice or Justices of the Peace then present are of opinion that it is not sufficient to put the accused party upon his trial for any indictable offence, such Justice or Justices shall forthwith order the accused party, if in custody, to be discharged as to the Information then under inquiry, but if in the opinion of such Justice or Justices the evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce them to commit the accused for trial without bail, or if the offence with which the party is accused is a misdemeanor, then the Justices shall admit the party to bail as hereinbefore provided, but if the offence be a felony, and the evidence given is such as to raise a strong presumption of guilt, then the Justice or Justices shall by his or their warrant (T 1,) commit him to the Common Gaol for the Territorial Division to which he may by Law be committed, or in the case of an indictable offence committed on the High Seas or on land beyond the Sea, to the Common Gaol of the Territorial Division within which such Justice or Justices have jurisdiction, to be there safely kept until delivered by due course of Law.

If the evidence be deemed insufficient, party to be discharged.

If sufficient to be bailed or committed, &c.

57. The Constable or any of the Constables, or other persons to whom any Warrant of Commitment authorized by this or any other Act is directed, shall convey the accused person therein named or described to the Gaol or other Prison mentioned in such Warrant, and there deliver him, together with

Provisions touching the conveyance of prisoners to gaol.

the Warrant, to the Keeper of such Gaol or Prison, who shall thereupon give the Constable or other person delivering the prisoner into his custody a Receipt (T 2,) for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody.

When and how defendant may be entitled to a copy of depositions.

58. At any time after all the examinations have been completed, and before the first sitting of the Court at which any person so committed to prison or admitted to bail is to be tried, such person may require and shall be entitled to have, from the Officer or person having the custody of the same, copies of the depositions on which he has been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of five cents for each folio of one hundred words.

Powers of inspectors of police, &c.

59. Any one Inspector and Superintendent of Police, any Police Magistrate or Stipendiary Magistrate, appointed for any Territorial Division, may do alone whatever is authorized by this Act to be done by any two or more Justices of the Peace, and the several forms in this Act contained, may be varied so far as necessary to render them applicable to such Inspector and Superintendent of Police, or to such Police Magistrate or Stipendiary Magistrate.

Duty of Coroner.

60. Every Coroner, upon any inquisition taken before him whereby any person is indicted for manslaughter or murder, or as an accessory to murder before the fact, shall, in presence of the party accused, if he can be apprehended, put in writing the evidence given to the jury before him, or as much thereof as may be material, giving the party accused full opportunity of cross-examination; and the Coroner shall have authority to bind by recognizance all such persons as know or declare any thing material touching the manslaughter or murder, or the offence of being accessory to murder, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or other Court at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such Coroner shall certify and subscribe the evidence, and all the recognizances, and also the inquisition before him taken, and shall deliver the same to the proper Officer of the Court at the time and in the manner specified in the fortieth section of this Act.

When party committed wishes to be bailed, Justices on notice thereof to forward all information to Clerk of the Crown.

61. When any person has been committed for trial by any Justice or Justices, or Coroner, the Prisoner, his Counsel, Attorney or Agent, may notify the committing Justice or Justices, or Coroner, that he will so soon as Counsel can be heard, move one of Her Majesty's Courts of Superior Criminal Jurisdiction for the Province in which such person stands committed, or one of the Judges thereof, or in the Province of Quebec, a Judge of the Superior Court, or in the Provinces of Ontario or New Brunswick, the Judge of the County Court if it is intended to apply to such Judge under the

fifty-third section of this Act, for an order to the Justices of the Peace, or Coroner for the Territorial Division where such Prisoner is confined, to admit such Prisoner to bail, whereupon such committing Justice or Justices, or Coroner, shall with all convenient expedition, transmit to the office of the Clerk of the Crown, or the Chief Clerk of the Court, or the Clerk of the County Court (as the case may be,) close under the hand and seal of one of them, a certified copy of all informations, examinations, and other evidences, touching the offence wherewith the Prisoner has been charged, together with a copy of the warrant of commitment and inquest, if any such there be, and the packet containing the same shall be handed to the person applying therefor, in order to ist transmission, and it shall be certified on the outside thereof to contain the information touching the case in question.

Same order to be made as upon *Habeas Corpus*.

62. Upon application to any of Her Majesty's Courts of Superior Criminal Jurisdiction, for the Province within which such person stands committed, or to any Judge thereof, the same order touching the Prisoner being bailed or continued in custody, shall be made as if the party were brought up upon a Habeas Corpus.

Penalty on Jnstices and Coroners.

63. If any Justice or Coroner neglects or offends in any thing contrary to the true intent and meaning of any of the provisions of the *sixtieth* and following sections of this Act, the Court to whose Officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, set such fine upon every such Justice or Coroner as the Court thinks meet.

Provisions to apply to all Justices and Coroners.

64. The provisions of this Act relating to Justices and Coroners shall apply to the Justices and Coroners not only of Districts and Counties at large, but also of all other Territorial Divisions and Jurisdictions.

Forms.

65. The several forms in the Schedule to this Act contained, or forms to the like effect, shall be good, valid and sufficient in law.

SCHEDULES.

(A) *Vide* ss. 1 *and* 9.

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,)
of

The information and complaint of C. D. of (*yeoman*), taken day of , in the year of our Lord before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, as the case may be) of who saith that (*&c., stating the offence*).

Sworn before (*me*), the day and year first above mentioned, at

J. S.

(B) *See* ss. 1, 19.

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,)
of

To all or any of the Constables or other Peace Officers in the District (or *County*, *United Counties*, *or as the case may be*,) of :

Whereas A. B., of (*laborer*), hath this day , been charged upon oath before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of , for that he, on , at , did (*&c. stating shortly the offence*) ; These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of

to answer unto the said charge, and to be further dealt with according to law.

Given under (*my*) Hand and Seal, this day of at , in the District (*County, &c.*) aforesaid.

J. S. [L. S.]

(C) *See* ss. 2, 13.

SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,
Province of
District (or *County, United Counties or as the case may be,*) of

To A. B. of , (*laborer*):

Whereas you have this day been charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of for that you on , at , (*&c., stating shortly the offence*); These are therefore to command you, in Her Majesty's name, to be and appear before (*me*) on , at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the Peace of the same District (or *County, United Counties, or as the case may be,*) of , as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under (*my*) Hand and Seal, this day of in the year of Our Lord at in the District (or *County, &c.*) aforesaid.

J. S. [L. S.]

(D) *See* ss. 2, 16.

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada,
Province of
District (or *County, United Counties*, or *as the case may be,*) of

To all or any of the Constables, or other Peace Officers in the said District (or *County, United Counties, or as the case may be,*) of :

Whereas on the day of (*instant* or *last past*) A. B. of the , was charged before

(me *or* us,) the undersigned, (*or name the Magistrate or Magistrates or as the case may be*) (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, as the case may be,*) of , for that (*&c., as in the Summons*); And whereas (*I, he, the said Justice of the Peace, we, or they, the said Justices of the Peace*) then issue (*my, our, his* or *their*) Summons to the said A. B., commanding him, in Her Majesty's name, to be and appear before (*me*) on at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the Peace as should then be there, to answer to the said charge, and to be further dealt with according to law; And whereas the said A. B. hath neglected to be or appear at the time and place appointed in and by the said Summons, although it hath now been proved to (*me*) upon oath, that the said Summons was duly served upon the said A. B.; These are therefore to command you in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of , to answer the said Charge, and to be further dealt with according to law.

Given under (*my*) Hand and Seal, this day of in the year of Our Lord , at in the District (*County*) of aforesaid.

J. S. [L. S.]

(D 2) *See* s. 3.

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE COMMITTED ON THE HIGH SEAS OR ABROAD.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed " on the high seas, out of the body of any District or County of Canada and within the jurisdiction of the Admiralty of England."

For offences committed abroad for which the parties may be indicted in Canada the warrant also may be the same as in ordinary cases, but describing the offence to have been committed " on land out of Canada, to wit: at , in the Kingdom of , *or* at , in the Island of , in the West Indies," *or* "at , in the East Indies," *or as the case may be.*

(E 1) *See* s. 12.

INFORMATION TO OBTAIN A SEARCH WARRANT.

Canada,
Province of
District (or *County, United Counties, or as the case may be,*)
of

The information of A. B. of the , of , in the said District (or *County, &c.*) (*yeoman*), taken this day of , in the year of Our Lord , before me, W. S., Esquire, one of Her Majesty's Justices of the Peace, in and for the District, (or *County, United Counties, or as the case may be,* of , who saith that on the day of (*insert the description of articles* stolen) of the goods and chattels of Deponent, were feloniously stolen, taken and carried away, from and out of the (*Dwelling House &c.,*) of this Deponent, at the (*Township, &c.,*) aforesaid, by (some person or persons unknown, *or name the person,*) and that he hath just and reasonable cause to suspect, and doth suspect that the said goods and chattels, or some part of them, are concealed in the (*Dwelling House, &c., of C. D.*) of in the said District (*or County*) (*here add the causes of suspicion, whatever they may be:* Wherefore, (*he*) prays that a Search Warrant may be granted to him to search (*the Dwelling House, &c.,*) of the said C. D. as aforesaid, for the said goods and chattels so feloniously stolen, taken and carried away as aforesaid.

Sworn before me the day and year first above mentioned, at in the said District, (or *County*) of

W. S.
J. P.

(E 2) *See* s. 12.

SEARCH WARRANT.

Canada,
Province of
District (or *County, United Counties, or as the case may be,*)
of

To all or any of the Constables, or other Peace Officers, in the District (or *County, United Counties, or as the case may be,*) of :

Whereas A. B. of the , of , in the said District (*County, &c,*) hath this day made oath before me the undersigned, one of Her Majesty's Justices of the Peace, in and

for the said District, (or *County*, *United Counties*, or *as the case may be*,) of , that on the day of (*copy information as far as place of supposed concealment*); These are therefore in the name of our Sovereign Lady the Queen, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (*Dwelling House*, *&c.*, of the said, *&c.*,) and there diligently search for the said goods and chattels, and if the same or any part thereof shall be found upon such search, that you bring the goods so found, and also the body of the said C. D. before me, or some other Justice of the Peace, in and for the said District (or *County*, *United Counties*, *or as the case may be*) of to be disposed of and dealt with according to law.

Given under my Hand and Seal, at , in the said District, (*County*, *&c.*,) this day of , in the year of our Lord, one thousand eight hundred and

W. S., *J. P.* (*Seal.*)

(F) *See* s. 4.

CERTIFICATE OF INDICTMENT BEING FOUND.

I hereby certify that a Court of (Oyer and Terminer, *or* General Gaol Delivery, *or* General Sessions of the Peace) holden in and for the District (or *County*, *United Counties*, *or as the case may be*,) of , at , in the said District, (*County*, *&c.*,) on , a Bill of Indictment was found by the Grand Jury against A. B., therein described as A. B., late of , (*laborer*,) for that he (*&c.*, *stating shortly the offence*,) and that the said A. B. hath not appeared or pleaded to the said indictment.

Dated this , day of one thousand eight hundred and

Z. X.

Clerk of the Crown, *or* Deputy Clerk of the Crown for the District (or *County*, *United Counties*, *or as the case may be*,)

or

Clerk of the Peace of and for the said District (or *County*, *United Counties*, *or as the case may be*.)

(G) *See* s. 4.

WARRANT TO APPREHEND A PERSON INDICTED.

Canada,
Province of
District (or *County United Counties, or as the case may be*) of

To all or any of the Constables, or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of :

Whereas it hath been duly certified by J. D., Clerk of the Crown of (*name the Court*) (*or* E. G. Deputy Clerk of the Crown, *or* Clerk of the Peace, *as the case may be*) in and for the District or *County, United Counties, or as the case may be*) of that (*&c., stating the certificate*); These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*), or some other Justice or Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) to be dealt with according to law.

Given under my Hand and Seal, this day of , in the year of our Lord , at in the District (or *County, &c.,*) aforesaid.

J. S. [L. S.]

(H) *See* s. 5.

WARRANT OF COMMITMENT OF A PERSON INDICTED.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables, or other Peace Officers in the said District (or *County, &c.*) of and the Keeper of the Common Gaol, at , in the said District (or *County, United Counties, or as the case may be*) of :

Whereas by a Warrant under the Hand and Seal of (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of

under Hand and Seal dated , after reciting that it had been certified by J. D. (*&c. as in the certificate,*) ( ) the said Justice of the Peace commanded all or any of the Constables, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (*him*) the said Justice of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of or before some other Justice or Justices in and for the said District (or *County, United Counties, or as the case may be,*) to be dealt with according to law; And whereas the said A. B. hath been apprehended under and by virtue of the said Warrant, and being now brought before (*me*) it is hereupon duly proved to (*me*) upon oath that the said A. B. is the same person who is named and charged by , in the said indictment; These are therefore to command you the said Constables and Peace Officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said Common Gaol at , in the said District (or *County, United Counties, or as the case may be,*) of , and there to deliver him to the Keeper thereof, together with this Precept; and (I) hereby command you the said Keeper to receive the said A. B. into your custody in the said Gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (*my*) Hand and Seal, this day of , in the year of our Lord , at , in the District (or *County, &c.,*) aforesaid.

J. S. [L. S.]

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(1) *See* s. 6.

WARRANT TO DETAIN A PERSON INDICTED, WHO IS ALREADY IN CUSTODY FOR ANOTHER OFFENCE.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

To the Keeper of the Common Gaol at in the said District or (*County, United Counties, or as the case may be,*) of :

Whereas it hath been duly certified by J. D., Clerk of the Crown of (*name the Court*) *or* Deputy Clerk of the Crown, *or* Clerk of the Peace of and for the District (or *County, United Counties, or as the case may be*) of that (*&c., stating*

the Certificate) ; And whereas (*I am*) informed that the said A. B. is in your custody in the said Common Gaol at aforesaid, charged with some offence, or other matter ; and it being now duly proved upon oath before (*me*) that the said A. B. so indicted as aforesaid, and the said A. B., in your custody as aforesaid, are one and the same person ; These are therefore to command you, in Her Majesty's name, to detain the said A. B. in your custody in the Common Gaol aforesaid, until by Her Majesty's Writ of *Habeas Corpus* he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (*my*) Hand and Seal, this day of , in the year of our Lord at , in the District (or *County, &c.*,) aforesaid.

J. S. [L. S.]

(K) *See* s. 25.

ENDORSEMENT IN BACKING A WARRANT.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , that the name of J. S., to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned ; I do therefore hereby authorize W. T. who bringeth to me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom it may be lawfully executed, and also all Constables and other Peace Officers of the said District (or *County, United Counties, or as the case may be*,) of , to execute the same within the said last mentioned District (or *County, United Counties, or as the case may be*).

Given under my Hand, this day of , in the year of our Lord , at , in the District (*County, &c.*,) aforesaid.

J. L.

(L 1) *See* s. 27.

SUMMONS TO A WITNESS.

Canada,
Province of
District (or *County, United Counties, or as the case may be,*)
of

To E. F. of , (*labourer,*) :

Whereas information hath been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said District (or *County United Counties, or as the case may be,*) of , that A. B. (*&c., as in the Summons or Warrant against the accused,*) and it hath been made to appear to me upon (*oath*), that you are likely to give material evidence for (*prosecution*); These are therefore to require you to be and to appear before me on next, at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the Peace of the same District (*or County, United Counties, or as the case may be,*) of , as may then be there to testify what you shall know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

Given under my Hand and Seal, this day of in the year of Our Lord , at , in the District (*County &c.,*) aforesaid.

J. S. [L. S.]

(L 2). *See* s. 28.

WARRANT WHEN A WITNESS HAS NOT OBEYED A SUMMONS.

Canada,
Province of
District (or *County, United Counties, or as the case may be,*)
of

To all or any of the Constables or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of

Whereas information having been laid before , (*one*) of Her Majesty's Justices of the Peace, in and for the said District (*county, &c.,*) of , that A. B., (&c., *as in the Summons*;)

And it having been made to appear to (*me*) upon oath that E. F. of , (*laborer*), was likely to give material evidence for the prosecution, (*I*) did duly issue (*my*) summons to the said E. F., requiring him to be and appear before (*me*) on , at , or before such other Justice or Justices of the Peace for the same District (or *County*, *United Counties*, *or as the case may be*,) as might then be there, to testify what he should know respecting the said charge so made against the said A. B. as aforesaid; And whereas proof hath this day been made upon oath before (*me*) of such summons having been duly served upon the said E. F.; and whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse has been offered for such neglect; These are therefore to command you to bring and have the said E. F. before (*me*) on at o'clock in the (*fore*) noon, at , or before such other Justice or Justices for the same District (or *County*, *United Counties*, *or as the case may be*,) as may then be there, to testify what he shall know concerning the said charges so made against the said A. B. as aforesaid.

Given under (*my*) Hand and Seal, this day of in the year of Our Lord , at in the District (*County*, *&c.*) aforesaid.

J. S. [L. S.]

(L 3) *See* s. 29.

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,) of

To all or any of the Constables, or other Peace Officers in the said District (or *County*, *United Counties*, *or as the case may be*) of

Whereas information has been laid before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of that (*&c.*, *as in the summons*); and it having been made to appear to (*me*) upon oath, that E. F. of , (*laborer*,) is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so; These are therefore to command you to bring and have the said E. F. before (*me*) on , at o'clock in the (*fore*) noon, at , or

before such other Justice or Justices of the Peace for the same District (or *County*, *United Counties*, *or as the case may be*,) as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my Hand and Seal, this day of in the year of Our Lord , at in the District (*County*, *&c.*,) aforesaid.

J. S. [L. S.]

(L 4) *See* s. 30.

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN, OR TO GIVE EVIDENCE.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

To all or any of the Constables, or other Peace Officers, in the District (or *County*, *United Counties*, *or as the case may be*,) of , and to the keeper of the Common Gaol at , in the said District (or *County*, *United Counties*, *or as the case may be*,) of :

Whereas A. B. was lately charged before (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*) of , for that (*&c. as in the Summons*); And it having been made to appear to (*me*) upon oath that E. F. of was likely to give material evidence for the prosecution, (*I*) duly issued (*my*) Summons to the said E. F. requiring him to be and appear before me on , at , or before such other Justice or Justices of the Peace for the same District (or *County*, *United Counties*, *or as the case may be*) as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; And the said E. F. now appearing before (*me*) (*or* being brought before (*me*) by virtue of a Warrant in that behalf, to testify as aforesaid,) and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, (*or* being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following) without offering any just excuse for such refusal; These are therefore to command you, the said Constables, Peace Officers, or any one of you, to take the said E. F. and him safely convey to the Common Gaol at , in the District (*County*, *&c.*) aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And (*I*) do

hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, and him there safely keep for the space of days, for his said contempt, unless he shall in the meantime consent to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient Warrant.

Given under (*my*) Hand and Seal, this day of , in the year of Our Lord , at , in the District (*County &c.*) aforesaid.

(M) *See* s. 31.

DEPOSITIONS OF WITNESSES.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

The examination of C. W. of , (*farmer*) and E. F. of (*laborer*), taken on (*oath*) this day of , in the year of our Lord , at , in the District (*County, or as the case may be*) aforesaid, before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District (or *County, United Conties, as the case may be*) in the presence and hearing of A. B. who is charged this day before (*me*) for that he, the said A. B. at , (*&c. describe the offence as in a Warrant of Commitment.*)

This Deponent, C. D. upon his (*oath*) saith as follows: (*&c. stating the depositions of the witness as nearly as possible in the words he uses. When his deposition is completed, let him sign it.*)

And this Deponent, E. F. upon his (*oath*) saith as follows: (*&c.*)

The above depositions of C. D. and E. F. were taken and (*sworn*) before me, at on the day and year first above mentioned.

J. S.

(N) *See* s. 33.

STATEMENT OF THE ACCUSED.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

A. B. stands charged before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the District (or *County*, *United Counties*, *or as the case may be*,) aforesaid, this day of in the year of our Lord , for that the said A. B., on , at , (*&c. as in the caption of the depositions ;*) And the said charge being read to the said A. B., and the witnesses for the prosecution C. D. and E. F. being severally examined in his presence, the said A. B. is now addressed by me as follows: "Having "heard the evidence, do you wish to say any thing in answer "to the charge? You are not obliged to say any thing, unless "you desire to do so; but whatever you say will be taken "down in writing, and may be given in evidence against you "at your trial." Whereupon the said A. B. saith as follows: (*Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it if he will.*)

A. B.

Taken before me, at , the day and year first above mentioned.

J S.

(O 1) *See* s. 38

RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

Be it remembered, That on the day of in the year of our Lord , C. D. of , in the of , in the (*Township*) of , in the said District (or *County*, *&c.*,) of , (*farmer*,) (*or* C. D. of No. 2, Street, , in the Town *or* City of , *Surgeon*, of which said house he is (*tenant*,) personally came before me, one of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *as the case may be*) of and acknowledge himself to owe to our Sovereign Lady the Queen the sum of , of good and lawful current money of Canada,

to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said C. D. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at before me.

J. S.

CONDITION TO PROSECUTE.

The condition of the within (*or* above) written Recognizance is such, that whereas one A. B. was this day charged before me, J. S., Justice of the Peace within mentioned, for that (*&c., as in the caption of the depositions;*) if, therefore, he, the said C. D. shall appear at the next Court of Oyer and Terminer *or* General Gaol Delivery, (*or* at the next Court of General *or* Quarter Sessions of the Peace,) to be holden in and for the District (or *County, United Counties, or as the case may be*) of , and there prefer or cause to be preferred a Bill of Indictment for the offence aforesaid, against the said A. B. and there also duly prosecute such indictment, then the said Recognizance to be void, or else to stand in full force and virtue

CONDITION TO PROSECUTE AND GIVE EVIDENCE.

(*Same as the last form, to the asterisk,* * *and then thus :*—"And " there prefer or cause to be preferred a Bill of Indictment " against the said A. B. for the offence aforesaid, and duly " prosecute such Indictment, and give evidence thereon, as " well to the Jurors who shall then enquire into the said " offence, as also to them who shall pass upon the trial of the " said A. B., then the said Recognizance to be void, or else to ' stand in full force and virtue."

CONDITION TO GIVE EVIDENCE.

(*Same as the last form but one, to the asterisk,* * *and then thus :*) " And there give such evidence as he knoweth upon a Bill of " Indictment to be then and there preferred against the said " A. B. for the offence aforesaid, as well to the Jurors who " shall there enquire of the said offence, as also to the Jurors " who shall pass upon the trial of the said A. B. if the said Bill " shall be found a True Bill, then the said Recognizance to be " void, otherwise to remain in full force and virtue."

(O 2) *See* s. 39.

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE PROSECUTOR AND HIS WITNESS.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

Take notice that you C. D. of , are bound in the sum of to appear at the next Court of Oyer and Terminer and General Gaol Delivery, (*or* at the next Court of General Quarter Sessions of the Peace, in and for the District (or *County*, *United Counties*, *as the case may be*) of to be holden at , in the said District (*County*, *&c.*) and then and there (*prosecute and*) give evidence against A. B., and unless you then appear there, (*prosecute*) and give evidence accordingly, the Recognizance entered into by you will be forthwith levied on you.

Dated this day of one thousand eight hundred and

J S.

(P 1) *See* s. 41.

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO THE RECOGNIZANCE.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,) of

To all or any of the Constables or other Peace Officers in the said District (or *County*, &c.,) of , and to the Keeper of the Common Gaol of the said District, (or *County*, *United Counties*, *or as the case may be*,) at , in the said District (or *County*, *or as the case may be*) of :

Whereas A. B. was lately charged before the undersigned, (*or name of Justice of the Peace* (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *&c.*,) of , for that *&c.*, *as in the Summons to the Witness*), and it having been made to appear to (*me*) upon oath that E. F., of , was likely to give material evidence for the prosecution, (*I*) duly issued (*my*) Summons to the said E. F., requiring him to be and appear before (*me*) on , at or before such other Justice or Justices of the Peace as should then be

there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (*me*) (or being brought before (*me*) by virtue of a Warrant in that behalf to testify as aforesaid), hath been now examined before (*me*) touching the premises, but being by (*me*) required to enter into a Recognizance conditioned to give evidence against the said A. B. hath now refused so to do; These are therefore to command you the said Constable or Peace Officers, or any one of you, to take the said E. F. and him safely convey to the Common Gaol at in the District (or *County*, *&c.*,) aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. shall duly enter into such Recognizance as aforesaid, in the sum of , before some one Justice of the Peace for the said District, (or *County*, *United Counties*, *or as the case may be*,) conditioned in the usual form to appear at the next Court of (Oyer and Terminer, *or* General Gaol Delivery, *or* General Quarter Sessions of the Peace), to be holden in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of , and there to give evidence before the Grand Jury upon any Bill of Indictment which may then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence, if a True Bill should be found against him for the same.

Given under my Hand and Seal, this , day of , in the year of Our Lord , at in the District (or *County*, *&c.*,) of aforesaid.

J. S. [L. S.]

(P 2) *See* s. 42.

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,) of

To the Keeper of the Common Gaol, at , in the District (or *County*, *&c.*) of aforesaid :

Whereas by (*my*) order dated the day of (*instant*), reciting that A. B. was lately before then charged

before (*me*) for a certain offence therein mentioned, and that E. F. having appeared before (*me*), and being examined as a witness for the prosecution in that behalf, refused to enter into Recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such Recognizance as aforesaid; And whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody; These are therefore to order and direct you the said Keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my Hand and Seal, this day of , in the year of Our Lord , at , in the District (or *County*, *&c.*,) of aforesaid.

J. S. [L. S.]

J. S. [L. S.]

(Q 1) *See* s. 43.

WARRANT REMANDING A PRISONER.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

To all or any of the Constables and other Peace Officers in the said District (or *County*, *United Counties*, *or as the case may be*,) of , and to the Keeper of the (*Common Gaol* or *Lock-up House*) , in the said District (or *County*, *&c.*,) of

Whereas A. B. was this day charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of , for that (*&c.*, *as in the Warrant to apprehend*) and it appears to (*me*) to be necessary to remand the said A. B.: These are therefore to command you, in Her Majesty's name, forthwith to convey the said A. B. to the (*Common Gaol or Lock-up House*), at , in the said District (*or County*, *&c.*,) and there to deliver him to the Keeper thereof, together with this Precept; and I hereby command you the said Keeper to receive the said A. B. into your custody in the said (*Common*

Gaol or *Lock-up House*), and there safely keep him until the day of (*instant*,) when I hereby command you to have him at , at o'clock in the (*fore*)noon of the same day before (*me*) or before some other Justice or Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*,) as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my Hand and Seal, this day of , in the year of our Lord , at in the District (or *County*, *&c.*,) of aforesaid.

J. S. [L. S.]

(Q 2) *See* s. 46.

RECOGNIZANCE OF BAIL INSTEAD OF REMAND ON AN ADJOURNMENT OF EXAMINATION.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,) of

Be it remembered, That on the , day of , in the year of Our Lord , A. B. of (*laborer*) L. M. of (*grocer*), and N. O. of , (*butcher*) personally came before me, (*one*) of Her Majesty's Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*), and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he, the said A. B., fail in the condition endorsed.

Taked and acknowledged the day and year first above mentioned, at before me.

J. S.

CONDITION.

The condition of the within written recognizance is such, that whereas the within bounded A. B. was this day (*or on last past*) charged before me for that (*&c., as in the Warrant :*) And whereas the examination of the Witnesses for

the prosecution in this behalf is adjourned until the day of (*instant*); If therefore the said A. B. shall appear before me on the said day of (*instant*), at o'clock in the forenoon, or before such other Justice or Justices of the Peace for the said District (or *County, United Counties*, of *or as the case may be*), as may then be there, to answer (*further*) to the said charge, and to be further dealt with according to law, the said recognizance to be void, or else to stand in full force and virtue.

(Q 3) *See* s. 46.

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS SURETIES.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

Take notice that you A. B. of , are bound in the sum of , and your Sureties L. M. and N. O. in the sum of , each, and you A. B. appear before me J. S., one of Her Majesty's Justices of the Peace for the District (*or County, United Counties, or as the case may be*), of , on the day of (*instant,*) at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the same District, (or *County, United Counties, or as the case may be*) as may then be there, to answer (*further*) to the charge made against you by C. D. and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the Recognizance entered into by yourself and Sureties will be forthwith levied on you and them.

Dated this day of , one thousand eight hundred and

J. S.

(Q 4) *See* s. 47.

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE RECOGNIZANCE.

I hereby certify that the said A. B. hath not appeared at the time and place, in the above condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited. J. S.

(R 1) *See* s. 49.

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,
Province of
District, (or *County, United Counties, or as the case may be,*) of

To all or any of the Constables, or other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of :

Whereas A. B. of (*laborer*), hath this day been charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the District (or *County, United Counties, or as the case may be*) of , for that (*&c. as in the Warrant to apprehend*); And whereas (*I*) have taken the deposition of C. D. a witness examined by (*me*) in this behalf, but inasmuch as (*I*) am informed that the principal witness to prove the said offence against the said A. B. reside in the District (or *County, United Counties, or as the case may be,*) of where the said offence is alleged to have been committed; These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said District (or *County, United Counties, or as the case may be*) of and there carry him before some Justice or Justices of the Peace in and for that District (or *County, United Counties, or as the case may be,*) and near unto the (*Township of*) where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and (*I*) hereby further command you to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this Precept.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District (*County, &c.,*) of aforesaid.

J. S. [L. S.]

(R 2) *See* s. 50.

RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

I, J. P. one of Her Majesty's Justices of the Peace, in and for the District (or *County*, *&c.*) of , hereby certify that W. T. Constable, *or* Peace Officer, of the District (or *County*, *United Counties*, *or as the case may be*) of , has on this day of , one thousand eight hundred and , by virtue of and in obedience to a Warrant of J. S., Esquire, one of Her Majesty's Justices of the Peace in and for the District (or *County*, *United Counties*, *or as the case may be*) of , produced before me, one A. B. charged before the said J. S. with having (*&c.*, *stating shortly the offence*,) and delivered him into the custody of by my direction, to answer to the said charge, and further to be dealt with according to law, and has also delivered unto me the said warrant, together with the information (*if any*) in that behalf, and the deposition (s) of C. D. (*and of*) in the said warrant mentioned, and that he has also proved to me upon oath, the hand-writing of the said J. S. subscribed to the same.

Dated the day and year first above mentioned, at , in the said District (or *County*, *&c.*) of .

J. P.

(S 1) *See* s. 51.

RECOGNIZANCE OF BAIL.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of

Be it remembered, that on the day of in the year of our Lord , A. B. of , (*laborer*,) L. M. of , (*grocer*,) and N. O. of , (*butcher*,) personally came before (*us*) the undersigned, two of Her Majesty's Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*,) and severally acknowledged themselves to owe to our Lady the Queen, the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each,

of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he, the said A. B., fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at before us.

J. S.
J. N.

CONDITION.

The condition of the within written Recognizanses it such, that whereas the said A. B. was this day charged before (*us*,) the Justices within mentioned for that (*&c., as in the warrant*); if therefore the said A. B. will appear at the next Court of Oyer and Terminer or General Gaol Delivery (*or* Court of General Quarter Sessions of the Peace) to be holden in and for the District (or *County*, *United Counties*, *or as the case may be*) of and there surrender himself into the custody of the Keeper of (*Common Gaol* or *Lock-up House*) there, and plead to such Indictment as may be found againt him by the Grand Jury, for and in respect to the charge aforesaid, and take his trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

(S 2) *See* s. 51.

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS BAIL.

Take notice that you A. B., of , are bound in the sum of , and your sureties (*L. M.* and *N. O.*) in the sum of , each, that you A. B. appear (*&c., as in the condition of the Recognizance*), and not depart the said Court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the Recognizance entered into by you and your Sureties shall be forthwith levied on you and them.

Dated this day of , one thousand eight hundred and .

J. S.

(S 3) *See.* ss. 53, 55.

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER ALREADY COMMITTED.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

To the Keeper of the Common Gaol of the District (or *County, United Counties, or as the case may be*) at , in the said District (or *County, United Counties, or as the case may be*) at .

Whereas A. B. late of , (*laborer,*) hath before (*us*) (*two*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , entered into his own Recognizance, and found sufficient sureties for his appearance at the next Court of Oyer and Terminer or General Gaol Delivery (*or* Court of General Quarter Sessions of the Peace) to be holden in and for the District (or *County, United Counties, or as the case may be*) of , to answer Our Sovereign Lady the Queen, for that (*&c., as in the commitment*), for which he was taken and committed to your said Common Gaol; These are therefore to command you, in Her said Majesty's name, that if the said A. B. do remain in your custody in the said Common Gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our Hands and Seals, this day of , in the year of Our Lord , at , in the District (or *County, &c.,*) of aforesaid.

J. S. [L. S.]
J. N. [L. S.]

(T 1) *See* s. 56.

WARRANT OF COMMITMENT.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables, or other Peace Officers, in the District (or *County, United Counties, or as the case may be*) of , and to the Keeper of the Common Gaol of the District (or *County, United Counties, or as the case may be*) at , in the said District (or *County, &c.,*) of

Whereas A. B. was this day charged before (*me*) J. S. (*one*) of Her Majesty's Justices of the Peace in and for the said District

(or *County, United Counties, or as the case may be*) of on the oath of C. D., of (*farmer*,) and others, for that, (*&c. stating shortly the offence*) ; These are therefore to command you the said Constables or Peace Officers, or any of you, to take the said A. B., and him safely convey to the Common Gaol at aforesaid, and there deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B., into your custody in the said Common Gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District (or *County*, *&c.*,) of aforesaid.

(T 2) *See* ss. 57.

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER.

I hereby certify that I have received from W. T. Constable, of the District (or *County*, *&c.*,) of , the body of A. B., together with a Warrant under the Hand and Seal of J S., Esquire, one of Her Majesty's Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*,) of , and that the said A. B., was (sober, *or as the case may be*,) at the time he was delivered into my custody.

P. K.
Keeper of the Common Gaol of the said District (or *County*, *&c.*) at

No. 66.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.

Received and read first time, Wednesday, 1st April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

Printed by G. E. Desbarats.

Bill 67 An Act to regulate the sale of Poisons —

Not printed — withdrawn

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Niagara or on its bed, as shall be found practicable.

2. Such works shall be commenced within two years, and com- Limitation of time.
pleted within four years from the passage of this Act, otherwise this Act and the powers hereby granted shall be void.

Hon. Sir JOHN A. MACDONALD.

Printed by G. E. Desbarats.

No. 68.] **BILL.** [1868.

An Act to authorize the carrying of Gas Pipes across the River Niagara, in order to facilitate the lighting of the Town of Clifton with Gas.

[*As amended by the Standing Committee on Miscellaneous Private Bills.*]

Preamble.

WHEREAS The Niagara Falls Gas Company, incorporated under the Laws of the State of New York, have petitioned for power to extend their pipes and works, by way of the Niagara Falls Suspension Bridge or otherwise, into and through the Town of Clifton, in the County of Welland, for the purpose of supplying the said Town with Gas; and whereas, the Town Council of Clifton have petitioned that such power be granted, and it is expedient to authorize the carrying of Gas Pipes over the River Niagara; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

A Gas Co. to be incorporated.

1. Any Company that may be organized in conformity with the provisions of Chapter sixty-five of the Consolidated Statutes of Canada, intituled, "An Act respecting incorporated Joint Stock Companies for supplying Cities, Towns, and Villages with Gas and Water," for the purpose of supplying the Town of Clifton with Gas, shall have full power and authority to contract in writing with the Niagara Falls Suspension Bridge Company, if such Bridge Company see fit, for permission, upon such terms as may be agreed upon, to carry a Gas Pipe or Pipes from the Town of Clifton, upon and over the said Bridge, towards the United States shore of the River Niagara, and to connect the same with the Gas Pipes of the said Niagara Falls Company; and with further power to such Gas Company as may be organized as aforesaid, to contract with the said Niagara Falls Gas Company for the use of Gas manufactured by the said last mentioned Company at their works at Nigara Falls, in the State of New York, upon such terms as shall be mutually agreed upon; and with power to such Company as may be organized as aforesaid to cause such Pipes to be laid over the said Bridge, on such terms as may be agreed upon as aforesaid, or to be carried in any other way over the said River Niagara or on its bed, as shall be found practicable.

May, by consent, carry pipes over the Suspension Bridge.

And contract with Niagara Falls Gas Co. for Gas.

Limitation of time.

2. Such works shall be commenced within two years, and completed within four years from the passage of this Act, otherwise this Act and the powers hereby granted shall be void.

No. 68.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to authorize the Niagara Falls Gas Company to extend their works for the purpose of lighting the Town of Clifton.

(PRIVATE BILL.)

(As amended by Committee on Miscellaneous Private Bills, and reported on 21st April, 1868.)

Mr. STREET.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY

No. 69.] **BILL.** [1868.

An Act respecting the Inspection of Steamboats, and for the greater safety of passengers by them.

Preamble.

FOR the greater security of life and property on board steamboats navigating the Waters of the Dominion of Canada, or owned or registered in the Dominion of Canada, and departing from or arriving at any port or place in the Dominion of Canada, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

INSPECTORS.

Governor in Council may appoint Inspectors of steamboats.

1. The Governor in Council shall, from time to time, appoint at each of such places as he may find advisable, within the Dominion of Canada, a skilled person or skilled persons competent to inspect steamboats, and the machinery and boilers employed in the same, who shall not be interested in the manufacture of steam-engines, boilers, or other machinery belonging to steamboats, and whose duty it shall be to make such inspection as hereinafter prescribed, and to give to the owner or master duplicate certificates of such inspection; and every such Inspector, before entering upon his duties as such, shall take and subscribe an oath, before any person duly authorized to administer an oath, well, faithfully and impartially to execute the duties assigned to him by this Act.

Inspectors to be sworn.

Inspectors to form a board.

2. The Inspectors shall form a Board to be called the "Board of Steamboat Inspection," of whom the Governor shall name the Chairman; Three of the members shall form a quorum, and the Chairman shall have the right to vote, and in case of an equal division he shall also have a casting vote, and the minutes of the proceedings of the Board shall be kept by him.

No person to be appointed Inspector after 1st Jan., 1869, without previous examination.

2. After the first day of January, 1869, no person shall be appointed an Inspector of Steamboats unless nor until he has passed a satisfactory examination before the Board of Steamboat Inspection, as to his knowledge on the subjects of hulls, boilers and machinery of steamboats, and the working of the same, and received from the Chairman of the Board a certificate in writing of that effect.

Board to meet and make Regulations, for approval by Governor in Council.

3. The Board shall meet at least once every year, at such places as they may agree upon; Their first meeting shall be in the City of Montreal, on the day of next, to frame rules and regulations for their own conduct, and for the uniform inspection of steamboats, the selection of ports of inspection, and granting licences to engineers, and for such other purposes as may be necessary under this Act; and such Regulations shall come into force after they have been approved by the Governor in Council, but not before; and copies of the minutes of the proceedings of the Board, certified by the Chairman, shall be transmitted to the Minister of Marine and Fisheries.

Board to inquire into supposed ne-

2. The Chairman of the Board of Steamboat Inspection, may at any time inspect or examine the hull, boiler and machinery of any steamboat, and if he suspects any Inspector of having neglected his duty in relation

glect of duty by Inspector.

to such steamboat, he may call a meeting of the Board to investigate the case; and the result of every such investigation shall forthwith be communicated in writing to the Minister of Marine and Fisheries, for the information of the Governor in Council.

Board to have power to inquire into causes of fatal accidents.

4. The said Board of Steamboat Inspection shall have power to investigate the cause of any accident involving loss of life on any steamboat, and for that purpose to summon witnesses and compel their attendance before them by the same process as in Courts of Law, and to administer oaths and examine witnesses touching the cause of any such accident.

INSPECTION.

Hull, boilers and machinery to be inspected once a year.

5. The master or owner of every steamboat shall cause the hull, boilers and machinery thereof to be inspected at least once every year, and shall deliver to the Collector of Customs at the Port where such inspection is made, or at which such steamboat shall arrive next after such inspection, where it has not been made in port, a duplicate certificate thereof; and for every neglect to cause such inspection to be made, and a duplicate certificate thereof to be delivered to the proper Collector, such master or owner shall incur a penalty of four hundred dollars, and such steamboat shall be liable for the same and chargeable therewith.

Penalty for default.

In case of approval, certificate to be granted, as in Schedule.

6. If the Inspector who inspects any steamboat in the manner required by this Act, approves of such steamboat and her machinery, boilers and equipments, he shall grant a certificate according to the form in the Schedule of this Act, and duplicates of such certificate shall be delivered to the owner, or master, of the steamboat, one of which such owner or master, shall deliver to the Collector as aforesaid, and the other he shall cause to be posted up in some conspicuous part of the steamboat for the information of the public.

Boiler to be tested by hydrostatic pressure.

7. Any Inspector may, whenever he deems it necessary so to do, and some one of them shall at least once in every year, subject the boiler of every steamboat to a test by hydrostatic pressure, the limit of which shall in no case exceed one hundred and fifty pounds to the square inch, and shall satisfy himself by examination and experimental trials, that such boiler is well made, of good and suitable material: and the owner of the steamboat shall provide the necessary pump and apparatus for such test, to be worked by the crew of the steamboat; and no Inspector shall make or deliver to the owner or master of any steamboat, any such duplicate certificate as is mentioned in the next foregoing section of this Act, without having first subjected the boiler of such steamboat to such test by hydrostatic pressure.

Otherwise no certificate.

Rules to be observed in apylying such test,

2. In subjecting boilers to the hydrostatic test aforesaid, the Inspectors shall assume one hundred pounds to the square inch as the maximum pressure allowable as a working power for a new boiler forty-two inches in diameter, made of the best refined iron, at least one quarter of an inch thick, in the best manner and of the quality herein required—and shall rate the working pressure of all boilers, whether of greater or less diameter, according to this standard; and in all cases the test applied shall exceed the working pressure allowed, in the ratio of one hundred and fifty pounds to one hundred, using the water in such tests at a temperature not exceeding sixty degrees Fahrenheit;

Proportion of test pressure to working pressure.

Exceptions allowed.

3. But if any such Inspector is of opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure, he may, for reasons to be stated specifically in his certificate, fix the working pressure of such boiler at less than two thirds of the test pressure;

4. And these Rules shall be observed in all cases, unless the proportion between such boilers and the cylinders, or some other cause,

renders it manifest that their application would be unjust, in which case the Inspector may depart from these rules, if it can be done with safety; but in no case shall the working pressure allowed exceed the proportion hereinbefore mentioned, as compared with the hydrostatic test; Further exceptions. Maximum proportion.

5. And no valve, under any circumstances, shall at any time be so loaded, or so managed in any way, as to subject a boiler to a greater pressure than that allowed by the Inspector at the then last inspection thereof; and no boiler or pipe shall be approved which is made in whole or in part of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use, or any other cause; Valves not to be loaded beyond pressure last allowed by Inspector.

6. And no boiler made after the passing of this Act, shall be made of boiler plate which has not been stamped or marked with the name of the maker thereof, nor shall a certificate be granted with respect to any boiler made wholly or in part of plate not so marked. Maker's name to be stamped on boiler plate.

INFORMATION TO BE GIVEN TO INSPECTORS.

8. Any Inspector may at all times, when inspecting, visiting or examining the hull or the boiler and machinery of any steamboat, ask of any or all of the owners, officers or engineers of such steamboat, or other person on board thereof and in charge or appearing to be in charge of the same, or of the boiler or machinery thereof, such pertinent questions concerning the same, or concerning any accident that may have happened thereto, as he may think fit; and every such person shall fully and truly answer every such question so put to him respectively, to the best of his knowledge and ability; and every person refusing to answer, or falsely answering such question, or preventing any such inspection, or obstructing any Inspector in the same, shall, by so acting, incur a penalty of forty dollars. Pertinent questions of Inspector to be answered. Penalty for refusing &c.

9. Any Inspector shall be carried free of expense on any steamboat which he shall desire to inspect while under-way, and during such period as may be necessary for such inspection, and for his return to the port at which he embarked on such steamboat for such purpose, or for his disembarkation at any port at which such steamboat touches on her voyage. Inspectors to be carried free of expense.

10. The master, owner, or engineer of every steamboat, or the person in charge thereof, shall at the earliest opportunity after the occurrence of any event whereby the same, or the machinery, or boiler thereof, or any part of any or either of the same, is in any material degree injured, strained, or weakened, report such occurrence to the Inspector by whom the said steamboat was last inspected, or to the Inspector of the port or place where the steamboat is, or first arrives after such event occurs; and in case of omission to give such notice the owner of the steamboat shall forfeit to Her Majesty two hundred dollars for every day during which such omission continues, and if the injury be to the machinery or boiler or any part of the same, the license of the engineer shall be revoked. Master &c., to report to Inspector in certain cases. Penalty in case of default.

PRECAUTIONS AGAINST EXPLOSIONS, &C.

11. In a conspicuous and easily accessible place, in every steamboat, there shall be a steam-guage properly constructed and open to the view of all passengers and others on board such steamboat, and shewing at all times the true pressure of the steam in the boiler thereof; A steam-guage, to be open to view of passengers.

2. And whenever any steamboat is stopped for any purpose, the master or person in charge of such steamboat shall open the safety valve, so as to keep the steam in the boiler down to ten pounds below Pressure to be reduced when steamboat stops.

the pressure limited by the Inspector's certificate if the engine be a high pressure engine, and to five pounds below the pressure limited as aforesaid if the engine be a low pressure engine, under the penalty of two hundred dollars for every contravention of this provision;

Penalty for allowing presure to exceed limits or tampering with steam-guage.

3. And if any master or engineer of any steamboat at any time allows the pressure of steam to which the boiler of such steamboat is subjected, to exceed that limited as aforesaid, or alters or conceals or otherwise deals with the said steam-guage, so as to prevent the real pressure of steam from being seen and ascertained by any passenger, he shall thereby incur a like penalty of two hundred dollars for every such offence.

Construction and position of guage to be approved by Inspector.

12 The steam-guage required by this Act to be open to the view of all passengers and others on board any steamboat, shall be put in such places and positions, and be of such construction, as the Inspector inspecting, visiting or examining such steamboat, shall from time to time direct.

Water-guages.

Blow-off-valv in salt water.

13. Each boiler of every steamboat shall be provided with a suitable water-guage, capable of showing the water level within each boiler at all times: And all steamboats navigating in brakish or salt water, shall be provided with surface blow-off valves, such as are commonly used on board seagoing steamboats.

Safety valves to be examined by Inspector.

He may assume exclusive control of one.

14. Every Inspector, when inspecting, visiting or examining the boiler or machinery of any steamboat, shall satisfy himself that the safety-valves attached thereto are of suitable dimensions, sufficient in number, well managed and in good working order, and only loaded so as to open at or below the certified working pressure; and he may, if he thinks proper, order and cause one of such safety valves, of sufficient dimensions to discharge all the steam the boiler can generate, and of such construction as he approves, to be locked up and taken wholly away from the control of all persons engaged in navigating such steamboat, and placed under his own sole control.

Certain steamboats to have bilge njection valves and pipes.

15. Every steamboat carrying passengers and having a condensing engine, shall be provided with a bilge injection valve and pipe of suitable dimensions, leading from the floor frames of the steamboat into the condenser of the engine.

BOATS TO BE CARRIED BY STEAMERS.

Passenger steamboats to carry a life boat, and other boats in proportion to tonnage.

16. No steamboat shall depart by sea from any port or place within the Dominion of Canada, or depart from any port or place, on either of the Lakes Memphramagog, Ontario, Erie, Huron, Simcoe or Superior, or on the River St. Lawrence, or on the River Ottawa, with passengers, without having on board or attached to such steamboat one good and sufficient life boat made of metal fireproof, with air tight metallic compartments at the ends and sides, according to the directions of the Inspector, capable of sustaining inside and outside fifty persons, with life lines attached to the gunwale at suitable distances, and also good suitable and sufficient boats, in good condition, properly equipped, as follows:—For every steamboat of the registered tonnage of two hundred tons and upwards, not less than four boats; and for every steamboat of the registered tonnage of less than two hundred tons, not less than three boats; and every such boat to be provided with not less than six oars, and other necessary tackle, and to be of sufficient capacity to carry not less than twelve adult persons, exclusive of the crew of such boat, and shall be of not less than seventeen feet length of keel.

PRECAUTIONS AGAINST FIRE.

One life preserver for every passenger, and at least certain numbers, in proportion to tonnage, in all cases to be carried.

17. Every sea-going steamboat and every steamboat on any of the lakes or rivers specified in the next preceding section, or navigating any bay or bays or arm or arms of the sea in connection with the Dominion employed in the carriage of passengers, shall be provided with and shall carry on board on every voyage at least one life preserver for each and every passenger; Provided always, that each and every such steamboat of the registered tonnage of two hundred tons and upwards, shall be provided with not less than two hundred life preservers, and each and every such steamboat of the registered tonnage of less than two hundred tons shall be provided with not less than three life preservers for every five tons register, and each steamboat carrying passengers on rivers or inland navigation, except on the lakes and rivers specified in the next preceding section, of the registered tonnage of two hundred tons and upwards, shall be provided with not less than one hundred life preservers, and each such steamboat as last aforesaid, of less than two hundred tons register with not less than fifty life preservers; and all such life preservers shall be made of the size and material approved of by the Inspector, and shall be fitted with shoulder straps and fastenings, suitable for securing the same round the body, under the arms, and each such preserver shall have a buoyancy of sixteen pounds, and shall at all times be kept in convenient and accessible places in such steamboat, and in readiness for the use of passengers; and no steamboat shall proceed to sea or on any voyage without being fully provided in compliance with the requirements of this section.

Also fire-buckets and axes.

18. Every steamboat employed in the carriage of passengers, whether in sea, bay, lake or river navigation, shall be provided with and have on board, in some convenient place, not less than twenty-five sufficient fire buckets of metal or leather, five axes, and six good and sufficient lanterns approved of by the Inspector.

Boats to be carried by steamers other than those mentioned in section sixteen.

19. Every steamboat employed in the carriage of passengers which shall be used in the navigation of rivers, or inland navigation only, except as specified in section sixteen of this Act shall carry not less than two good boats, provided with four oars each, and of sufficient capacity to carry not less than twelve persons with safety, besides the crew, except steamboats confined to the navigation of the River St. John, above Fredericton, which shall carry one good boat of the like size, and provided as aforesaid, and except also steamboats of less than fifty tons burthen, which shall carry one good boat of the size and description, and provided in the manner approved of in each case by the Inspector.

Precautions against fire by isolation &c. of combustible materials.

20. Suitable and safe provision shall be made throughout to guard against danger from fire; and no combustible material liable to take fire from heated iron, or any other heat generated on board of steamboats in and about the boilers, pipes or machinery, shall be placed at less than six inches distant from such heated metal or other substance likely to cause ignation; and further, when wood is so exposed to ignition, it shall, as an additional preventative, be shielded by some incombustible material, in such manner as to allow the air to circulate freely between such material and the wood; and metallic vessels or safes shall be provided and kept in some convenient place to receive cotton-waste, hemp and other inflammable substances, which are in use on board.

Deviations to be allowed by Inspectors.

2. Provided, however, that when the structure of the steamboat is such, or the arrangements of the boiler or machinery is such, that the requirements aforesaid, cannot, without serious inconvenience or sacrifice, be complied with, Inspectors may allow deviations from the said requirements, if in their judgment it can be done with safety.

Passenger steamers to have pumps and hose for putting out fires.

21. Every steamboat carrying passengers shall have at least three double acting forcing pumps, with chamber at least four inches in diameter, two to be worked by hand and one by steam, if steam can be employed independent of and not worked by the main engine, otherwise all three by hand, one whereof shall be placed near the stern, one near the stem, and one amidships, each having a suitable well fitted hose, of at least two-thirds the length of the steamboat, kept at all times in perfect order and ready for immediate use; and each of the said pumps shall be supplied with water by a pipe connected therewith, and passing through the side of the steamboat, so low as to be at all times in the water when the steamboat is afloat.

Proviso, as to steamers below a certain size.

2. Provided, that in steamboats not exceeding two hundred tons measurement, engine-room included, two of such pumps (one of which may be the steam-pump) may be dispensed with, and in steamboats of over two hundred tons, but not exceeding five hundred tons measurement, engine room included, one of such hand-pumps may be dispensed with, but in these cases the hose shall be of such length as to reach easily to every part of the steamboat.

Steam pony pump.

22. Every steamboat of more than twenty tons burthen, shall also be provided with a steam pony pump, that may be used as a fire engine, to be worked independent of the main engine.

Means of escape from lower to upper deck.

23. Every steamboat carrying passengers on the main or lower deck, shall be provided with sufficient means convenient to such passengers for their escape to the upper deck, in case of fire or other accident endangering life.

Copy of Act and particulars of provisions for safety to be posted in view.

24. And on board every steamboat there shall be placed, in some conspicuous place, accessible to all the passengers, a copy of this Act and a printed paper shewing the number of pumps and boats with their capacity, and also the number of fire buckets, axes and life-preservers on board of such steamboat, and a statement of the places where such buckets, axes and life-preservers are kept.

ENGINEERS.

Examination and annual certificate of Engineer.

25. Any person claiming to be qualified to perform the duties of an Engineer in steamboats, shall apply for a certificate to the Board of Inspectors, who shall examine, or shall cause an Inspector or Inspectors to examine and report upon the applicant and the proofs that he produces in support of his claim; and any such examination may be upon oath, which any Inspector may administer; and if upon full consideration the Board of Inspectors are satisfied that his character, habits of life, knowledge and experience in the duties of an engineer are all such as to authorize the belief that the applicant is a suitable and safe person to be intrusted with the powers and dutiesof such a station, the said Board of Inspectors shall give him a certificate to that effect for one year, under the hand and Seal of the Chairman, and the said certificate, subject to the above conditions, shall be renewed yearly, or oftener if applied for; and for every such certificate the applicant shall pay the sum of five dollars, and for every renewal one dollar, which shall go to the Steamboat Inspection Fund hereinafter mentioned:

License may be revoked for cause.

2. But the license of any such Engineer may be revoked by the said Board upon proof of negligence, unskilfulness or drunkenness, or upon the finding of a Coroner's Inquest.

Classification of Engineers.

26. And such Engineers as may be appointed shall be classified according to the following grades:—

1st Class Engineers,
2nd Class Engineers,
3rd Class Engineers,
1st Class Assistant Engineers,
2nd Class Assistant Engineers,
3rd Class Assistant Engineers.

A first class Engineer to be qualified to take charge of any steamboat.

A second class Engineer to be qualified to take charge of any steamboat, except a sea-going steamboat of more than three hundred tons burthen.

A third class Engineer to be qualified to take charge of any passenger steamboat of less than one hundred tons burthen, except on any of the Lakes Memphragog, Ontario, Erie, Huron, Simcoe or Superior, or of any freight steamboat or tug steamboat.

A first class Assistant Engineer to be qualified to take charge of any small passenger steamboat or tug of less than fifty tons burthen, except on any of the Lakes above named.

Temporary certificate of qualification as engineer.

And any Inspector duly appointed under this Act shall have power with the consent of the Chairman to grant to any person claiming to be qualified to perform the duties of an engineer in steamboats, a temporary certificate of his qualification, according to the grade to which he may consider him entitled after examination of the applicant, on oath, administered by the Inspector; and such certificate shall have all the force and effect of a certificate of a similar grade, granted by the Board of Inspectors, for a period not exceeding sixty days from the day on which it was granted, and such Inspector shall immediately after granting such certificate forward a copy of it to the Chairman of the Board of Inspectors, along with a report on the qualification of the applicant; and for every such certificate so granted the applicant shall pay the sum of one dollar, which shall go to the Steamboat Inspection Fund hereinafter mentioned.

None but licensed Engineers to be employed.

27. It shall not be lawful for any person to employ another as engineer, or for any person to serve as engineer, on any steamboat unless the person serving or employed as engineer is licensed by the said Board, except as hereinafter provided, and any one so offending shall incur a penalty of two hundred dollars; provided, however, that if a steamboat leaves a port with a complement of engineers, and on her voyage is deprived of their services or the services of any of them without the consent, fault or collusion of the master, owner or any one interested in the steamboat, the deficiency may be temporarily supplied until others licensed can be obtained.

Commencement of three last sections.

28. The three next preceding sections shall not come into force until the first day of January, one thousand eight hundred and sixty-nine.

Limitation of application of sections 16, 17, 18, and 19

29. Sections sixteen, seventeen, eighteen and nineteen of this Act shall not apply to ferry boats or tug boats plying elsewhere than on the River St. Lawrence.

MISCELLANEOUS PROVISIONS—DUTY, PENALTIES, &C.,—INTERPRETATION.

Inspectors may examine steamers at any time. Those reported unsafe may be stopped.

30. Every Inspector may at any time visit, within the limits assigned to him, any steamboat, and inspect and examine the same, and if he considers such steamboat unsafe or unfit to carry passengers, he shall report thereon to the Governor in Council, who may, by Order in Council, direct that such steamboat shall not be used or run until per-

Penalty for running them.

mitted so to do by the Inspector who shall have made such report, or by Order of the Governor in Council: and any steamboat run or used in contravention of any such Order in Council, shall be liable to forfeiture and to seizure by the Collector of Customs at any port, and to sale, in the same way as goods liable to forfeiture for non-payment of duties.

Governor may regulate number of passengers.

Order in Council to be published.

31. The Governor in Council may, by an Order or Orders in Council, from time to time prescribe and regulate the number of cabin or steerage or other passengers, that may be carried by any steamboat or class of steamboats in the Dominion of Canada, either in proportion to the dimensions or tonnage thereof, or both, or otherwise howsoever; But no such Order in Council shall take effect until after it has been published at least twice, at an interval of at least six days between each publication, in the *Canada Gazette*.

Duty on steamboats and fees for Inspection.

32. The owner or master of every steamboat in the Dominion of Canada shall pay, yearly and every year, a rate or duty fixed by the Governor in Council, and not exceeding ten cents for every ton which such steamboat measures, and the owner or master of every propeller, freight or tug steamer, and of every ferry steamer not exceeding one hundred tons burthen, shall also pay an inspection fee of five dollars, and the owner or master of every ferry or passenger steamboat over one hundred tons burthen, shall also pay an inspection fee of eight dollars, for each inspection made imperative by this Act.

Tonnage, how to be reckoned.

2. And for the purposes of this section, every ton of the gross tonnage of a steamboat shall be reckoned, and no allowance or deduction shall be made for the space occupied by the propelling power.

To be paid over, and form an Inspection Fund.

3. And the amount of such rate or duty and inspection fee or fees, shall in each case be paid to and received by the Collector of Customs, in some one of the ports in the Dominion of Canada, who shall account for and pay over the same to the Receiver General, at such times and in such manner as the Governor in Council may from time to time direct; and such sums, so from time to time collected and paid over, shall form a special fund for the purposes of this Act, to be called "The Steamboat Inspection Fund."

Collector may seize steamer on which duty has not been paid.

33. Every Collector of Customs shall from time to time demand of the owner or master of every steamboat, which he may have reason to think has not been inspected as required by this Act, or in respect of which he may have reason to think the rate or duty aforesaid is due and unpaid, the exhibition of the receipt and certificate in that behalf, appertaining to such steamboat; and if such receipt and certificate as aforesaid, to his satisfaction is not produced within a reasonable time, then such Collector shall seize and detain such steamboat until the same are produced and exhibited, and any penalty incurred and lawfully imposed in respect of such steamboat, under the provisions of this Act, has been paid in full; and in default of payment such Collector shall sell such steamboat for the payment of such rate or duty or penalties, in the usual manner as if they were incurred for violation of the Customs Laws.

If duty not paid, Inspector to withhold certificate, and make report.

34. No Inspector shall make or deliver a certificate respecting any steamboat under this Act, unless the receipt of a Collector of Customs for the rate or duty, payable in respect of such steamboat for the then current year, has been produced and shewn to him, nor unless he is satisfied by careful examination, that all the conditions and requirements of this Act have been fulfilled and complied with, by and in respect of such steamboat; and every Inspector shall report to some one of the Collectors of Customs any case of omission to pay such rate or duty,

or of omission to apply for such inspection as aforesaid, for more than one year from the date of the then last inspection, or of refusal to submit to inspection at any time, which at any time or in any way comes to his knowledge.

Appeal from Inspector to Governor in Council.

35. Any Engineer who feels himself aggrieved by any order or act of an Inspector, may within two weeks thereafter appeal therefrom to the Chairman of the Board of Steamboat Inspection, who may confirm, modify or disallow such order or act; and any other person who feels himself aggrieved by any order or act of an Inspector, may, within two weeks thereafter, appeal therefrom to the Governor in Council, who may confirm, modify or disallow such act or order.

In case of damage from non-observance of this Act, wilful default to be presumed.

36. If any damage to any person or property is sustained in consequence of the non-observance of any of the provisions of this Act, the same shall be deemed, in the absence of proof to the contrary, to have been caused by the wilful default of the master or other person having charge of the steamboat, in respect of which such non-observance has occurred or by which such damage is done, and the owner of such steamboat, in all civil proceedings, and the master or other person having charge thereof, in all proceedings, whether civil or criminal, shall be subject to the legal consequences of such default.

Penalty for contravention.

37. For every contravention in respect of any steamboat in the Dominion of Canada, on any one voyage or trip thereof, of any provision in this Act, or in any Order in Council made under it, the owner or master thereof shall incur a penalty of not more than two hundred and not less than forty dollars: And Inspectors of steamboats, duly appointed under this Act, are hereby empowered to detain any steamboat on board of which the provisions of this Act have not been fully complied with; and in case any such Inspector gives notice in writing to any Collector of the Customs that any of the provisions of this Act have not been fully complied with in respect to any steamboat, such Collector shall not grant any clearance for such steamboat, unless nor until he receives the certificate in writing of such Inspector, to the effect that such provisions have been fully complied with in respect to such steamboat.

Inspector may detain steamer.

Recovery and application of penalties.

38. All penalties incurred under this Act may be recovered in the name of Her Majesty, by any Inspector or by any party aggrieved by any act, neglect or omission, on the evidence of one credible witness, who may be the prosecuting Inspector himself, before any Stipendiary Magistrate, or two Justices of the Peace, and in default of payment of such penalty, such Stipendiary Magistrate or Justices may commit the offender to gaol for any period not exceeding three months; and all penalties recovered under this Act shall be paid to the Receiver General, and shall be by him placed to the credit of and form part of "The Steamboat Inspection Fund."

Annual Report to be made by Board.

39. The Chairman of the Board of Steamboat Inspection, shall, once a year, furnish the Minister of Marine and Fisheries with a Report of the proceedings of the Board, and a return of all steamboats inspected, and of all penalties collected under the provisions of this Act.

Inspectors to make monthly returns.

2. And each Inspector shall make monthly returns to the Chairman of all steamboats inspected by him, their tonnage and power, and general descriptions of their machinery and hulls, and of the fees collected by him upon the same.

Board may require

40. It shall be lawful for the Board of Steamboat Inspection, from time to time, by Regulations to be framed and approved and to come into

steamers in certain waters to have masts and sails.

force as provided by the Third Section of this Act, to require that all or any description of steamboats navigating all or any of the waters of this Dominion from the City of Kingston upwards (that is, to the head of navigation on Lake Superior), and from the City of Quebec downwards, throughout the River and Gulf of St. Lawrence, and also on the sea coasts of the Dominion, at all or any seasons or season of the year, shall be provided with masts and sails, and to prescribe the dimensions of such masts and sails, respectively, or the proportion the same, or any of them, must bear to such steamboats, respectively, whether as respects size, or tonnage, or power, or all of these together, and the materials of which the same must be made, and how they must be rigged.

Exempting of certain steamers from operation of Act.

41. This Act shall not apply to steamboats belonging to Her Majesty the Queen, nor to steamboats registered in Great Britain or Ireland, or in any foreign country, and plying between any port or place in the Dominion of Canada and any port or place outside of the Dominion of Canada.

Governor may subject certain steamers to operation of Act.

42. The Governor in Council may direct that any Steamboat not registered in the Dominion of Canada, but employed in the Dominion of Canada in carrying mails, passengers or troops, shall be subject to the provisions of this Act.

PROVISIONS APPLYING TO ONTARIO ONLY.

Passenger steamers &c., to be provided with gang-boards and at night with lights.

43. Every steamboat or vessel carrying passengers shall be provided with good and sufficient gang-boards and with substantial hand-rails; and the master of such steamboat or vessel shall, on stopping at any wharf or landing place, cause a gang-board to be firmly secured to the vessel and wharf or landing place, for the safe and convenient transit of passengers; and he shall cause to be affixed to the gang-way (in the night time) good and sufficient lights.

Owners of Wharfs to exhibit lights at night.

44. The owner or occupier of every such wharf or landing place, shall also (in the night time) cause to be shown conspicuously, on such wharf or landing place, and at every angle or turn thereof, a good and sufficient light.

Extent of "night."

45. For the purposes of the two next preceding sections of this Act, the night shall be deemed to extend from one hour after sunset, till one hour before sunrise, at all seasons of the year.

Penalty for contravention of section 43.

46. Any person commanding or having charge of any steamboat, schooner or other vessel navigating the waters of any of the lakes or rivers in Ontario, who offends against the forty-third section of this Act, shall be liable to a penalty of twenty dollars and costs, to be recovered on conviction before any two Justices of the Peace, upon the oath of one credible witness.

Commitment in default of payment of penalty and costs.

47. In default of payment of the penalty and the costs of and incident to the conviction, the Justices, or one of them, shall commit the offender to the Gaol of the County in which the conviction is had, for a period of not more than thirty days, unless such penalty and costs are sooner paid.

Liability for damage in case of non-compliance with provisions of section 43.

48. The owner and owners of all steamboats and other vessels, the persons commanding or in charge of which neglect to comply with the provisions of the forty-third section of this Act, shall be liable for all damages sustained by any person or persons from any accident arising from the non-compliance with the provisions of this Act or during such time as the provisions of this Act are not complied with,—such damages to be recoverable at law, before either of Her Majesty's Superior Courts of Common Law for Ontario.

49. The six next preceding sections apply to Ontario only.

INTERPRETATION OF WORDS IN THIS ACT.

50. In this Act the word "Steamboat" means any vessel used in navigation, propelled wholly or in part by Steam; and the word "Owner" includes the Lessee or Charterer of any such vessel; the word "Boiler" is to be construed as a Boiler or Boilers," in the case of a steamboat having more than one; and the word "Year" means the Calendar year, commencing on the first day of January, and ending on the thirty-first day of December. "Steamboat." "Owner." "Boiler." "Year."

51. The Act "*Respecting the Inspection of Steamboats, and for the greater safety of Passengers by them,*" forming the forty-fifth chapter of the Consolidated Statutes of the late Province of Canada, and the Acts of the Legislature of the said late Province twenty-third Victoria, chapter twenty-eight, and twenty-seventh and twenty-eighth Victoria, chapter fifteen, amending the same, chapter seventy-seven "*Of Steam Navigation*" of the Revised Statutes of the Province of Nova Scotia, (third series), and the Act of the Legislature of the Province of New Brunswick, passed in the twenty-eighth year of Her Majesty's Reign, chapter four, intituled "*An Act relating to Steam Navigation in this Province,*" and every enactment or provision in any other Act or Law in force before the coming into force of this Act, inconsistent with this Act, or making any provision for any matter provided for by this Act other than such as is hereby made, are hereby repealed. Con. Stat. Can., c. 45. Acts of Canada, 23 V., c. 28; 27, 28 V., c. 15; R.S. N.S., c. 77, and Act of N.B., 28 V., c. 4, repealed.

SCHEDULE.

Having examined the Steam Boat (*name*) of whereof are owners, and is master, on this day of A.D. 18 .

I, (*Inspector's name*) do certify that she is in all respects staunch, seaworthy, and in good condition for navigation; that her engine, machinery, pumps and boilers are sufficient and suitable to be employed in the carriage of passengers without hazard to life, on the route for which placed, and that the boilers of such steamer can carry with safety from to pounds (*here insert number of pounds*) per square inch, and no more: and I further certify that the equipment of the vessel throughout, including boats, life boats, life preservers, lights, and other things, is in conformity with the provisions of the law: and I declare it to be my deliberate conviction, founded on the inspection I have made, that the said steam boat may be employed in the waters hereinafter specified, without peril to life from any imperfections, or from materials, workmanship, or arrangements of the several parts, or from age or use. And I further certify that the said vessel to run is in the following waters (*here insert the waters, &c.*)

No. 69.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL

An Act respecting the Inspection of Steamboats, and for the greater safety of Passengers by them.

Received and read first time, Friday, 3rd April, 1868.

Second reading, Tuesday, 7th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

[No. 70.] **BILL.** [1868.]

An Act to confirm the Amalgamation of the Commercial Bank of Canada and the Merchants' Bank; and to amend and consolidate the Acts of Incorporation of the said Banks.

Preamble.

WHEREAS, under and by virtue of the provisions of the Act of the present Session of Parliament, intituled, "An Act to "amend the Act of Incorporation of the Commercial Bank of "Canada, to authorize its amalgamation with any other Bank or "Banks, or for its winding up," the Commercial Bank of Canada entered into an agreement of amalgamation with the Merchants' Bank, thereby forming one Corporation under the name of the "Merchants' Bank of Canada," which agreement was confirmed by the shareholders of the said two Banks as provided by the said Act; And, whereas, an indenture, setting forth the terms thereof, was duly executed by the said Banks on the twenty-seventh day of February last past, and a duplicate of such indenture duly filed in the office of the Secretary of State for Canada; and the said amalgamation was completed and took effect upon, from, and after, the second day of March last past.

And, whereas, the said Merchants' Bank of Canada has, by its petition, represented that it is for the interest of the shareholders and others interested in the said Banks, and of the public, that the said amalgamation should be confirmed, the Acts of Incorporation of the said Amalgamated Banks consolidated, their issue of bank notes called in and redeemed, the period of their incorporation extended, and other provisions hereinafter contained, enacted for the better conduct and management of the said Merchants' Bank of Canada, and have prayed that under the said circumstances an Act of the Parliament of Canada should be passed to contain the provisions hereinafter mentioned; And, whereas it is expedient that the prayer of the said petition be granted; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Amalgamation of Commercial Bank and Merchants' Bank confirmed.

1. The said indenture of amalgamation, and the said amalgamation of the said Commercial Bank of Canada and of the Merchants' Bank by virtue thereof, and of the proceedings thereafter had, are hereby ratified and confirmed: And the said amalgamated Banks and the shareholders therein, and in the Corporation thereby created, and their assigns, shall have been deemed to have been, upon and from the second day of March last past, and hereafter to be, a Corporation, body corporate and politic, by the name of "The Merchants' Bank of Canada," and shall continue to be such Corporation, and shall have perpetual succession and a corporate seal, with power to alter and change the same at pleasure, and may sue and be sued, implead or be impleaded in all Courts of Law and Equity as other corporations may, and shall have the power to acquire and hold real and immoveable estate for the management of their business, not exceeding the yearly value of forty thousand dollars currency, and may sell, alienate or exchange the same, and acquire other instead, and may make, ordain and establish such rules, regulations and by-laws as to them shall seem meet and necessary for the due and proper administration of their affairs, and the

due management of the said Bank (such by-laws and regulations not being inconsistent with this Act or contrary to the laws of the Province); Provided, however, that such rules, regulations and by-laws shall be submitted for approval to the stockholders or shareholders in the said Bank at their regular annual meeting, or at a special general meeting thereof duly called for the purpose.

Proviso.

Shareholders to be shareholders of Merchants' Bank.

2. By virtue of the said amalgamation the shareholders of the said Banks became and are shareholders in the said Merchants' Bank of Canada, in the amounts and according to the relative values of the stocks of the said amalgamated Banks, as provided for and set forth in the said indenture and union, in lieu of and in proportion to the amount of their shares in the said amalgamated Banks; and each share in the capital stock in the said Merchants' Bank of Canada shall entitle the holder thereof to one vote at all general meetings of the shareholders of the said Bank, unless he shall be in default in respect of any calls upon such share, and all the estate and effects, real and personal, rights, property, credits, choses in action, claims and demands of whatsoever nature or quality, or wherever situate of the said Commercial Bank of Canada, and of the Merchants' Bank, thereby became and are vested in the said Merchants' Bank of Canada, its successors or assigns as and for its own use absolutely, and it may in its own name sue for, collect, and get in, all and every part of the said estate, rights and effects. And the said Merchants Bank of Canada thereby became and was and is subject and liable to pay and discharge all of the debts, obligations, bills and promissory notes or other liabilities of each of the said amalgamated Banks, and may be directly sued and proceeded against in respect thereof, as fully and effectually as if the same were originally the debts, obligations, promissory notes and liabilities of the said Merchants' Bank of Canada, and shall be taken and construed so to be; Provided always, however, that the said Bank shall have power, by a by-law or by-laws to be made as hereinafter provided, to call in the outstanding bills of the said amalgamated Banks within such delay, not less than two years, as may be fixed by such by-law, and for the extinction of its liability for such bills, as shall not be produced for redemption during the said period, or during any further period to which such delay shall be extended by any subsequent by-law of the said Bank.

Capital Stock

3. The Capital Stock of the said Bank shall be Six Millions of Dollars, divided into sixty thousand shares of one hundred dollars each, which said shares shall be, and are hereby, vested in the several persons now entitled thereto, or who shall hereafter subscribe for the same, their heirs, legal representatives and assigns; and the subscription for so many of the said shares as shall be unsubscribed for when this Act shall come into force, shall be made in such proportions or numbers and at such times and places, and under such regulations, and at such rate of premium, to be paid by the subscribers, over and above the amount of the shares, and upon such terms and conditions, as shall be provided by a by-law or by-laws, made in conformity with the third, fourth and sixth paragraphs of section two of the said Act. And Executors, Administrators and Curators paying instalments upon Shares of deceased Shareholders, shall be and are hereby respectively indemnified, for paying and are required to pay the same: Provided, always, that no share shall be held to be lawfully subscribed for unless the premium (if any) which shall have been fixed by the By-laws, and at least ten per centum on the amount of such share, be paid at the time of subscribing.

In case shares are paid up in full at time of subscribing.

4. If any person or party subscribing for shares of the capital Stock of the said Bank, shall also be willing to pay up at the time of subscribing the full amount of the shares subscribed for, together with such premium thereon, if any, as aforesaid, it shall and may

be lawful for the Directors of the Bank, and at any time within the periods hereinbefore limited for subscribing for such Stock, to admit and receive such subscriptions and full payment, or payment of any number of instalments together with such premiums ; and in every case, the premium so received on any stock subscribed for, shall be carried to the account of the ordinary profits of the said Bank.

Refusal or neglect to pay instalments.

5. If any Shareholder or Shareholders shall refuse or neglect to pay any or either of the Instalments upon his, her, or their Shares of the said capital stock when the same may become due, such Shareholder or Shareholders shall incur a forfeiture to the use of the said Corporation of a sum of money, equal to ten per centum on the amount of such Shares. And moreover, it shall be lawful for the Directors of the said Corporation, (without any previous formality other than thirty days public notice of their intention,) to sell at Public Auction the said shares, or so many of the said shares as shall, after deducting the reasonable expenses of the sale, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares, and the amount of forfeitures incurred upon the whole ; and the President, or Vice-President, or Cashier of the said Corporation shall execute the transfer to the purchaser of the shares of stock so sold, and such transfers being accepted, shall be as valid and effectual in law as if the same had been executed by the original holder or holders of the shares of the stock thereby transferred ; Provided always, that nothing in this section contained shall be held to debar the Directors or Shareholders, at a general meeting, from remitting, either in whole or in part and conditionally or unconditionally, any forfeiture incurred by the non-payment of the instalments as aforesaid, or to prevent the said Bank from enforcing the payment of any call or calls by suit, in lieu of forfeiting the same.

Places of business.

6. The chief place or seat of business of the said Corporation shall be in the City of Montreal, aforesaid ; but it shall and may be lawful for the Directors of the Corporation to retain, open and establish in other cities, towns, and places in this Province, branches or offices of discount and deposit of the said Corporation, under such rules and regulations for the good and faithful management of the same, as to Directors shall from time to time seem meet, and as shall not be repugnant to any law of this Province, to this Act, or to the By-laws of the said Corporation.

Election of Directors.

7. For the management of the affairs of the said Corporation, there shall be seven Directors, who shall be annually elected by the shareholders of the capital stock of the Corporation, at a general meeting of them, to be held annually, on the first Monday in July, in each year ; and the Directors elected, by a majority of votes, shall be capable of serving as Directors for the ensuing twelve months ; and, at their first meeting after such election, shall choose out of their number a President and Vice-President, who shall hold their offices respectively during the same period ; and in case of a vacancy occurring in the said number of seven Directors, the remaining Directors shall fill the same by election from among the shareholders, and the Director so elected shall be capable of serving as a Director until the next annual general meeting of the shareholders ; and if the vacancy occurring in the said number of seven Directors shall also cause the vacancy of the office of President, or Vice-President, the Directors, at the first meeting after their number shall have been completed as aforesaid, shall fill the vacant office by choice, or election, from among themselves, and the Director so chosen, or elected, shall fill the office to which he shall be so chosen, or elected until the next general annual meeting of the shareholders ; Provided always, that the foregoing provisions respecting

Proviso.

Proviso. the choice and selection of Directors may be changed in the respects, hereinafter mentioned, by a by-law, to be made as hereinafter provided; And provided, also, that each of the Directors shall be the holder and proprietor, in his own name, of not less than forty shares of the capital stock of the said Corporation, upon which not less than four thousand dollars shall have been paid up, and shall be a natural born, or naturalized, subject of Her Majesty, and shall have lived seven years in Canada.

Failure in election not to dissolve corporation.

8. If at any time it shall happen that an election of Directors shall not be made, or take effect, on the day fixed by this Act, the said Corporation shall not be deemed, or taken to be, thereby dissolved, but it shall be lawful at any subsequent time to make such election, at a general meeting of the Shareholders to be called for that purpose; and the Directors in office, when such failure of election shall take place, shall remain in office until such election shall be made.

Books, &c., may be inspected by Directors.

9. The books, correspondence, and funds, of the said Bank, shall, at all times, be subject to the inspection of the Directors, but no Shareholder, not being a Director, shall inspect, or be allowed to inspect, the account, or accounts, of any person, or persons, dealing with the said Bank.

Quorum.

10. At the meetings of the Directors of the said Corporation, not less than four of them shall constitute a board or quorum for the transaction of business, and at the said meetings the President, or in his absence, the Vice-President, or in their absence, one of the Directors present, to be chosen *pro tempore*, shall preside, and the President, Vice-President, or President *pro tempore*, so presiding, shall vote as a Director, and, if there be an equal division on any question, shall have a casting vote.

By-laws.

11. It shall and may be lawful for the Directors of the said Bank, from time to time, to make and enact By-laws, Rules and Regulations (the same not being repugnant to this Act, or to the Laws of this Province) to regulate the retirement in each year, subsequent to the present year, of a part only of the Directors, the number of the Directors who shall so retire, the mode in which the retiring Directors shall be selected, and all other matters in connection with the change to be thereby made in the mode of selecting the Directors; Provided always, that the number of Directors to be elected at each annual meeting shall not be less than four. And also for the proper management of the affairs of the said Corporation; and from time to time, to alter or repeal the same, and others to make and enact in their stead; Provided always, that no By-law, Rule or Regulation so made by the Directors, shall have force or effect until the same shall, after six weeks' public notice, have been confirmed by the shareholders at an annual general meeting, or at a special general meeting called for that purpose; And provided also, that the By-laws of the said Merchants' Bank in force at the time when this Act shall come into force, in so far as they are not repugnant to this Act, or to law, shall be the By-laws of the Merchants' Bank of Canada until others shall have been made and enacted and confirmed, as provided for by this section, except only in so far as they would affect the election of Directors in the said Bank, to take place in July next.

No Director to act as a private banker.

12. No Director of the Corporation hereby constituted shall, during the period of his services, act as a private Banker, or Director of any other Bank, but the President and Directors may be compensated for their services, either by an annual vote of a sum of money by the shareholders at their annual general meetings, or if not so provided for, then in such manner and at such rates as the

Directors may see fit to fix and regulate by resolution; Provided always, that the sum of money to be appropriated by the Directors for that purpose shall not in any one year exceed ten thousand dollars.

Appointment of officers.

13. The Directors of the said Corporation shall have power to appoint such Cashiers, Officers, Clerks and Servants under them as shall be necessary for conducting the business of the Corporation, and to allow reasonable compensation for their services, respectively; and also, shall be capable of exercising such power and authority, for the well-governing and ordering of the affairs of the said Corporation, as shall be prescribed by the by-laws thereof; Provided always, that before permitting any Cashier, Officer, Clerk or Servant of the Corporation, to enter upon the duties of his Office, the Directors shall require every such Cashier, Officer, Clerk or Servant, to give security to the satisfaction of the Directors, in such sum of money as the Directors consider adequate to the trust to be reposed, with conditions for good and faithful behaviour.

Dividends.

14. It shall be the duty of the Directors to make half-yearly dividends of so much of the profits of the said Bank as to them shall appear advisable, and such dividends shall be payable at such place, or places, as the Directors shall appoint, and of which they shall give public notice thirty days previously: Provided always, that such dividends shall not in any manner lessen or impair the capital stock of the said Bank.

Annual general meeting.

15. The annual general meeting of the Shareholders of the Corporation, to be held in the City of Montreal, on the first Monday in the month of July, in each year, for the purpose of electing Directors, in the manner hereinbefore provided, shall also take into consideration all other matters generally touching the affairs and and the management of the affairs of the Corporation; and, at each of the said annual general meetings of the Directors, shall submit a full and clear statement of the affairs of the Corporation, containing, on the one part, the amount of capital stock paid in, the amount of notes of the Bank in circulation, the net profits in hand, the balances due to other banks and institutions, and the cash deposited in the Bank, distinguishing deposits bearing interest from those not bearing interest; and, on the other part, the amount of current coins and gold and silver bullion in the vaults of the Bank, the value of buildings and other real estate belonging to the Bank, the balance due to the Bank from other banks or institutions, and the amount of debts owing to the Bank, including and particularizing the amounts so owing on bills of exchange, discounted notes, mortgages and hypothèques, and other securities; thus exhibiting, on the one hand, the liabilities of, or debts due by, the Bank, and on the other hand, the assets and resources thereof; and the said statement shall also exhibit the rate and amount of the last dividend declared by the Directors, the amount of profits reserved at the time of declaring such dividend, and the amount of debts to the Bank overdue and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts.

Votes.

16. At all meetings of the Corporation, the shareholders shall be entitled to give one vote for every share held by them; and it shall be lawful for absent shareholders to give their votes by proxy, such proxy being also a shareholder, and being provided with a written authority from his constituent or consituents, in such form as shall be established by a by-law, and which authority shall be lodged in the Bank; Provided always, that a share or shares of the capital stock of the said Corporation that shall have been held for a less period than three calendar months immediately prior to any

meeting of the shareholders, shall not entitle the holder or holders to vote at such meeting either in person or by proxy; Provided, also that where two or more persons are joint holders of shares it shall be lawful that only one of such joint holders be empowered by letter of attorney from the other joint holder or holders, or a majority of them, to represent the said shares, and vote accordingly.

Officers of bank not to vote.

17. No Cashier, Assistant Cashier, Bank Clerk or other officer of the Bank shall vote, either in person or by proxy, at any meeting for the election of Directors, or hold a proxy for that purpose.

Special general meetings.

18. Any number not less than twenty of the shareholders of the said Bank, who together shall be proprietors of at least one thousand shares of the paid up capital stock of the said Bank, by themselves or their proxies; or the Directors of the said Bank, or any four of them; shall respectively have power at any time to call a special general meeting of the shareholders of the said Bank, to be held at their usual place of meeting in the City of Montreal, upon giving six weeks' previous public notice thereof, and specifying in such notice the object or objects of such meeting; and if the object of any special general meeting be to consider of the proposed removal of the President or Vice-President, or of a Director or Directors of the Corporation, for maladministration, or other specified and apparently just cause, then and in such case the person or persons whom it shall be so proposed to remove, shall from the day on which the notice shall be first published, be suspended from the duties of his or their office or offices; and if it be the President or Vice-President whose removal shall be proposed as aforesaid, his office shall be filled up by the remaining Directors (in the manner hereinbefore provided in the case of a vacancy occurring in the office of President or Vice-President), who shall choose or elect a Director to serve as such President or Vice-President, during the time such suspension shall continue or be undecided upon.

Shares to be personal estate.

19. The shares of the capital stock of the said Corporation shall be held adjudged to be personal estate and be transmissible accordingly, and shall be assignable and transferable at the Bank according to such form as shall be prescribed by the by-laws for that purpose; but no assignment or transfer shall be valid and effectual unless it be made and registered in a book or books, to be kept in the office of the said Bank for that purpose, nor until the person or persons making the same shall previously discharged all debts actually due and exigible by him, her, or them, to the Corporation, which may exceed in amount the amount paid up on the remaining stock (if any) belonging to such person or persons; and no fractional part or parts of a share, or other than a whole share, shall be assignable or transferable; and when any share or shares of the said capital stock shall have been sold under a writ of execution, the Sheriff by whom the writ shall have been executed, shall, within thirty days after the sale, leave with the Cashier of the Corporation an attested copy of the writ, with the certificate of such Sheriff endorsed thereon, certifying to whom the sale has been made; and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Corporation shall have been discharged as aforesaid) the President or Vice-President or Cashier of the Corporation shall execute the transfer of the share or shares, so sold, to the purchaser, and such transfer being duly accepted, shall be to all intents and purposes, as valid and effectual in law as if it had been executed by the original holder or holders of the said shares; any law or usage to the contrary notwithstanding. And shares in the capital stock of

the said Bank may be made transferable, and the dividends accruing thereon may be made payable in the United Kingdom, in like manner as such shares and dividends are respectively transferable and payable at the Chief Office of the said Bank in the City of Montreal; and, to that end, the Directors may, from time to time, make such rules and regulations, and prescribe such forms, and appoint such agent, or agents, as they may deem necessary. Provided always, that at no time shall more than one-half of the whole capital stock be registered in the book to be kept for that purpose in the United Kingdom.

Shares in the United Kingdom.

20. The said Bank shall have a preferential lien for any debt due to it by any Shareholder thereof, upon the shares of such Shareholder, and shall be entitled to charge any overdue note or bill held by the Bank against the deposit account of any person liable thereon; any law, statute, or usage to the contrary notwithstanding.

Bank to have preferential lien.

21. The said Corporation hereby constituted shall not, either directly or indirectly, hold any lands or tenements (save and except such as by the first section of this Act they are specially authorized to acquire and hold) or any ships or other vessels, or any share or shares of the Capital Stock of the Corporation, nor in any other Bank in this Dominion; nor shall the said Corporation, either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation (*hypothèque*) of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the capital stock of the Corporation, or of any goods, wares or merchandise; nor shall the said Corporation, either directly or indirectly, raise loans of money or deal in the buying, selling or bartering of goods, wares, or merchandise, or be engaged in any trade whatever, except as dealers in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as legitimately appertains to the business of banking; Provided, always, that the fifty-fourth chapter of the Consolidated Statutes of Canada, intituled: *An Act respecting Incorporated Banks*, and each and every of the provisions thereof, shall apply to the Corporation hereby created as fully and completely as if incorporated in the present Act.

Corporation not to hold lands or tenements.

22. The aggregate amount of the liabilities of all the Directors to the said Corporation shall not exceed at any one time one tenth of the total amount of the then current discounts or advances made by the Corporation.

Liabilities of Directors limited.

23. It shall and may be lawful for the said Corporation to allow and pay interest upon moneys deposited in the Bank; and also, it shall and may be lawful for the Corporation, in discounting promissory notes or other negotiable securities, to receive or retain the discount thereon, at the time of discounting or negotiating the same; any law or usage to the contrary notwithstanding.

Interest.

24. The bonds, obligations and bills obligatory or of credit of the said Bank, under its common seal and signed by the President, Vice-President, and countersigned by the Cashier or Assistant Cashier thereof, which shall be made payable to any person or persons, shall be assignable by endorsement thereon under the hand or hands of such person or persons, and of his, her or their assignee or assignees so as absolutely to transfer and vest the property thereof in the several assignees successively, and to enable such assignee or asssignees to bring and maintain an action or actions thereon in his, her or their name or names; and signification of any assignment by endorsement shall not be necessary, any law or usage to the contrary notwith-

Bonds, &c., to be assignable.

standing; And bills or notes of the said Bank, signed by the President, Vice-President, Cashier or other officer appointed by the Directors of the said Bank to sign the same, promising the payment of money to any person or persons, his or their order or to the bearer, though not under the corporate seal of the said Bank, shall be binding and obligatory upon it, in the like manner and with the like force and effect as they would be upon any private person if issued by him in his private or natural capacity, and shall be assignable in like manner as if they were so issued by a private person in his natural capacity; Provided always that nothing in this Act shall be held to debar the Directors of the said Bank from authorizing or deputing from time to time, any Cashier, Assistant Cashier or officer of the Bank, or any Director other than the President or Vice-President, or any Cashier, Manager or local Director of any branch or office of discount and deposit of the said Bank, to sign or countersign the bills or notes of the Coporation intended for general circulation and payable to order or bearer on demand.

Proviso.

Date of notes or bills.

25. The notes or bills of the said Bank made payable to order or to bearer, and intended for general circulation, whether the same shall issue from the chief seat or place of business of the said Bank in the city of Montreal or from any of its Branches shall bear date at that place of issue and not elsewhere; and shall be payable on demand in specie or in such other funds as shall by law be a legal tender in lieu of specie at the same place of issue; and each and every office of discount and deposit established or hereafter to be established shall be subject to the restriction as to the issuing and redemption of notes provided in this section.

Notes for a less sum than $5.

26. The total amount of the notes or bills of the said Corporation, being for a less sum than five dollars, current money of Canada, each, that shall or may have been issued and put in circulation, shall not exceed at any one time one-fifth of the amount of the capital stock of the Corporation then paid in; Provided, always, that no notes, under the nominal value of one dollar, shall, at any time be issued or put in circulation by the Corporation; nor shall any further limitation by the Legislature of the total amount of notes to be issued or re-issued by the said Corporation be held to be any infringement upon the privileges hereby granted.

Debt of Bank limited.

27. The total amount of the debt which the said Bank shall at any one time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of its capital stock paid in and the average amount of deposits made in the Bank in specie and Government securities for money; and at no one period after the passing of this Act shall the notes or bills of the said Bank, or for which it is liable, payable on demand or to bearer, then in circulation, exceed the amount of the actually paid up stock of the Bank, and if at any time the Directors of the said Bank shall wilfully and knowingly contract such debts, or issue or cause to be issued such notes or bills to an amount exceeding that hereinbefore limited, then and in that case the said Bank shall forfeit its charter and all the privilege granted to it by this or any other Act, and those of the Directors with whose knowledge and participation such contracting of debts or excessive issue of notes or bills shall take place, shall be liable jointly and severally for such excess their private capacities, as well to the shareholders as to the holders of the bonds, bills and notes of the said Bank, and an action or actions in this behalf may be brought against them or any of them, and the heirs, executors, administrators, or curators of them or any of them, and be prosecuted to judgment and execution according to law, but such action

or actions, shall not exempt the said Bank or its lands, tenements, goods or chattels, from being also liable for such excess; Provided always, that if any Directors present at the time of contracting any such excess of debt, do forthwith, or if any Director absent at the time of contracting any such excess of debt, do within twenty-four hours after he shall have obtained a knowledge thereof, enter on the minutes or register of the Bank, his protest against the same, and do within eight days thereafter publish such protest in at least two newspapers published in the City of Montreal, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors, and administrators or curators, from the liability aforesaid, anything herein contained or any law to the contrary notwithstanding; Provided always, that such publication shall not exonerate any Director from his liability as a shareholder. Proviso.

28. A suspension by the said Corporation (either at the chief place or seat of business or at any of their branches or offices of discount and deposit at other places in this Province) of payment, on demand, in specie or in such other funds as shall by law be a legal tender in lieu of specie, of the notes or bills of the said Corporation, payable on demand, shall, if the time of suspension extend to sixty days, consecutively or at intervals, within any twelve consecutive months, operate as and be a forfeiture of this Act of Incorporation, and all and every the privileges hereby granted. Suspension of payment by bank in certain cases to cause forfeiture of Act.

29. And whereas it may be deemed expedient that the name or names of the person or persons instructed and authorized by the Bank to sign bank notes and bills on behalf of the Bank, should be impressed by machinery, in such form as may from time to time be adopted by the Bank, instead of being subscribed in the hand-writing of such person or persons respectively: And whereas doubts might arise respecting the validity of such notes; Be it therefore further declared and enacted, that all bank notes and bills of the Merchants' Bank of Canada, whereon the name or names of any person or persons instructed and authorized to sign such notes or bills on behalf of the Bank shall or may become impressed by machinery provided for that purpose by or with the authority of the Bank, shall be and be taken to be good and valid, to all intents and purposes as if such notes and bills had been subscribed in the proper hand-writing of theperson or persons intrusted and authorized by the Bank to sign the same respectively, and shall be deemed or taken to be bank notes or bills within tbe meaning of all laws and statutes, whatever; and shall and may be described as bank notes or bills, in all indictments and civil or criminal proceedings whatsoever; any law, statute or usage to the contrary notwithstanding. Signatures to notes may be impressed by machinery.

30. In the event of the property and assets of the said Bank becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of its stock, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of their respective shares, that is to say, the liability and responsibility of each Shareholder to the creditors of the said Bank, shall be limited to a sum of money equal in amount to his stock therein, over and above any instalment or instalments which may be unpaid on such stock, for which he shall also remain liable and shall pay up; Provided, always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the said Bank hereinbefore mentioned and declared. Liability of Shareholders.

31. Besides the detailed statement of the affairs of the said Bank hereinbefore required to be laid before the Shareholders thereof, at their annual general meeting, the Directors shall make up and Statement of assets and liabilities.

publish on the first day in each and every month, statement of the assets and liabilities of the said Bank, in the form of the Schedule A hereunto annexed, shewing under the heads specified in the said form the average amount of the notes of the said Bank in circulation, and other liabilities, at the termination of the month to which the statement shall refer, and the average amount of specie and other assets, that at the same time were available to meet the same ; And it shall also be the duty of the Directors to submit to the Governor of this Dominion, if required, a copy of each such monthly statement ; and if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the monthly balance sheet, from which the said statement shall have been compiled ; And furthermore, the said Directors shall from time to time, when required, furnish to the Governor, such further information respecting the state and proceedings of the Bank and of the several branches and offices of discount and deposit thereof as such Governor may reasonably see fit to call for ; Provided always, that the monthlybalance sheet, and the further information that shall be so produced and given, shall be held by the Governor, as being produced and given in strict confidence that he shall not divulge any part of the contents of the said monthly balance sheet or of the information that shall be so given ; And provided also, that the Directors shall not make known, nor shall anything herein contained be so construed as to authorize them or any of them, to make known, the private account or accounts of any person or persons whatever, having dealings with the Bank.

Proviso.

Loans to foreign States illegal.

32. It shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly, to advance or lend to, or for the use of, or on account of, any foreign Prince, Power or State, any sum or sums of money, or any securities for money ; and if such unlawful advance or loan be made, then, and from thenceforth, the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted shall cease and determine ; anything in this Act the contrary notwithstanding.

Transmission of shares otherwise than as mentioned in this Act.

33. If the interest in any share in the said Bank become transmitted in consequence of the death, or bankruptcy or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing, as hereinafter mentioned, or in such other manner as the Directors of the Bank shall require ; and every such declaration shall distinctly state the manner in which, and the party to whom, such share shall have been so transmitted, and shall be by such party made and signed ; and every such declaration shall be by the party making and signing the same acknowledged before a Judge or Justice of a Court of Record, or before the Mayor, Provost or Chief Magistrate of a city, town, borough or other place, or before a public notary where the same shall be made and signed ; and every such declaration, so signed and acknowledged, shall be left with the Cashier, or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission, in the register of shareholders ; and until such transmission shall have been so authenticated, no party or person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the Bank, nor to vote in respect of any such share as the holder thereof ; Provided always, that every such declaration and instrument as by this and the following section of this Act is required to perfect the transmission of a share of the Bank, which shall be made in any other country than in this or some other of the British Colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British Consul or Vice-Consul, or other the accredited representative

Proviso.

of the British Government in the country where the declaration shall be made, or shall be made directly before such British Consul or Vice-Consul, or other accredited representative; And provided also, that nothing in this Act contained shall be held to debar the Directors, Cashier, or other officer or agent of the Bank, from requiring corroborative evidence of any fact or facts alleged in any such declaration.

When transfer is virtue of marriage of a female shareholder.

34. If the transmission of any share of the said Bank be by virtue of the marriage of a female shareholder, the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if the transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will, or the letters of administration, or act of curatorship, or an official extract therefrom, shall, together with such declaration, be produced and left with the Cashier, or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such ransmission in the register of shareholders.

In case right of property is disputed.

35. Whenever the interest in any share or shares of the said Bank, or in the dividend accrued thereon, or the right of property of any deposit therein, shall be transmitted by the death of any Shareholder, or otherwise, or whenever the ownership of, or legal right of possession in any such share or shares, dividend or deposit, shall change by any lawful means, other than by transfer, according to the provisions of this Act, or shall be disputed, and the Directors of the said Bank shall entertain reasonable doubts as to the legality of any claim to and upon such share or shares of stock, dividend or deposit, then and in such case, it shall be lawful for the said Bank to make and file in the Superior Court for the Province of Quebec, a declaration and petition in writing addressed to the Justices of the Court, setting forth the facts, and the number of shares previously belonging to the party in whose names such shares stand in the books of the Bank, or the amount of deposits standing in the name of the depositor thereof, and praying for an order or judgment, adjudicating and awarding the said shares, dividends, or deposits to the party or parties, legally entitled to the same; by which order or judgment the Bank shall be guided and held fully harmless, and indemnified and released from all and every other claim, for the said shares or deposits, or arising therefrom; provided always, that notice of such petition shall be given to the party claiming such shares, dividends or deposits; who shall, upon the filing of such petition, establish his right to the shares, dividends or deposits, referred to in such petition. And the delays to plead, and other proceedings in such cases shall be the same as those observed in interventions in cases pending before the said Superior Court; provided also, that the costs and expenses of procuring such order and adjudication, shall be paid by the party or parties to whom the said shares, dividends, or deposits shall be declared lawfully to belong; and such shares, dividends, or deposits shall not be transferred or paid over, as the case may be, until such costs and expenses be paid, saving the recourse of such party, against any party contesting his right.

Bank not bound to see to execution of trust.

36. The Bank shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the shares of the Bank may be subject; and the receipt of the party in whose name any share shall stand in the books of the Bank, or if it stand in the names of more parties than one, the receipt of one of the parties shall, from time to time, be a sufficient discharge to the Bank for any dividend or other sum or money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had

notice of such trust, and the Bank shall not be bound to see to the application of the money paid upon such receipt; and the transfer of any share or the payment of any dividend or deposit shall not cause any liability on the part of the said Bank to the rightful owner or administrator of such shares, dividend or deposit, if such transfer be made by, or such payment be made to, the person in whose name such share shall stand in the books of the said Bank, or to whose credit such deposits may appear therein, whether such person be ordinarily competent to make such transfer to receive such payment or not.

Investments in government securities.

37. It shall be the duty of the Directors of the said Bank to keep invested at all times in the debentures of the late Province of Canada, or of the Consolidated Municipal Loan Fund of the said late Province, or in Dominion Stock, one-tenth part of the whole paid up capital of the said Bank, and to make a return of the numbers and amount of such debentures or stock as the case may be, verified by the oaths and signatures of the President and Chief Cashier or Manager of the said Bank, to the Minister of Finance, in the month of January in each year, under the penalty of the forfeiture of the Charter of the said Bank, in default of such investment and return.

Notices.

38. The several public notices, by this Act required to be given shall be so given by advertisement in one or more of the newspapers published in the City of Montreal, and in the *Canada Gazette*, or such other Gazette as shall be generally known and accredited as the Official Gazette, for the publication of official documents and notices emanating from the Civil Government of this Province.

Continuance of Act.

39. This Act shall be and remain in force until the first day of January, which will be in the year of our Lord one thousand eight hundred and seventy, and from that time until the end of the then next Session of the Parliament of this Dominion, and no longer.

Repeal.

40. So much of "The Commercial Bank Act, 1867," as provides for the winding up of the Commercial Bank of Canada, and as conflicts with the provisions of this Act, is hereby repealed.

Short title.

41. This Act may be cited, and known, as the "Merchants' Bank Act, 1868."

Public Act.

42. This Act shall be a Public Act.

SCHEDULE A.

(*Referred to in the foregoing Act.*)

Return of the average amount of liabilities and assets of the Merchants' Bank of Canada, during the period from the first to one thousand eight hundred and

LIABILITIES.

Promissory Notes in circulation, not bearing interest.....$
Bills of Exchange in circulation, not bearing interest.....$
Bills and Notes in circulation, bearing interest.....$
Balances due to other Banks.....$
Cash deposits, not bearing interest.....$
Cash deposits, bearing interest.....$

Total average Liabilities.....$

ASSETS.

Coin and Bullion.....$
Landed or other property of the Bank.....$
Government Securities .....$
Promissory Notes or bills of other banks .....$
Balances due from other banks.....$
Notes and bills discounted or other debts due to the Bank, not included under the foregoing heads.....$

Total average Assets.....$

No. 70.

1st Session, 1st Parliament, 21 Victoria, 1868.

BILL.

An Act to confirm the amalgamation of the Commercial Bank of Canada and the Merchants' Bank, and to consolidate the Acts of Incorporation of the said Banks.

(PRIVATE BILL.)

Hon. Mr. ABBOTT.

OTTAWA,
PRINTED BY HUNTER, ROSE & COMPANY

No. 71] **BILL.** [1868.

An Act to amend chapter sixty-three of the Consolidated Statutes for Lower Canada, in so far as the same relates to the Measurement and Discharge of Coal.

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Vessels notified as having arrived to be discharged at a certain rate per day.

1. Whenever any canal boat, sailing vessel, or steamer, shall have arrived at her destination freighted with coal, and the master thereof, or his agent, shall have notified the person to whom the freight is consigned, or his agent, either by public advertisement or otherwise, that such freight has reached the place designated in the bill of lading, the person or persons to whom the freight is consigned shall be bound to receive and remove the same on the working day next following the day on which such notice appears by advertisement, or is otherwise given to such consignee, at the rate of fifty tons *per diem* on every working day, until discharged.

Penalty for neglect or refusal.

2. In the event of the consignee refusing or neglecting to discharge and receive the quantity of fifty tons of coal *per diem*, he shall be liable to pay to the owner or master of such canal boat, sailing vessel, or steamer, prosecuting for the same, a penalty of *ten dollars* currency for every day that such quantity of fifty tons of coal shall not be discharged and received as aforesaid, if such canal boat, sailing vessel, or steamer does not exceed two hundred tons burden, and *twenty dollars* for each and every day, if the burden of the same should exceed two hundred tons.

How recoverable.

3. The penalties imposed by this Act, shall be recovered in a summary manner, before any Recorder, Judge of Sessions, Police Magistrate or Justice of the Peace, having jurisdiction at the place where any contravention of this Act occurs.

Information, &c.

4. Prosecutions under this Act shall be commenced by information made without oath, upon which a summons shall be issued, or by information on oath, upon which a warrant may be issued, against the offender or offenders, and in case the consignees are a firm composed of several members, then every member, individually, shall be liable to the said penalties, each for their proportion of the same, and may be joined in one and the same prosecution.

Any number of penalties may be recovered, &c.

5. Any number of penalties may be recovered by one and the same information, and any subsequent information may be laid for the recovery of any additional penalties incurred after the first or any subsequent information shall be laid; and costs may be awarded on every conviction or dismissal of prosecution.

Costs.

6. Costs may be awarded to either party by any conviction or decision rendered in any such prosecution.

Proceeding not to be dismissed for informality.

7. No information, summons or warrant, shall be set aside or dismissed for any defect or informality, but may at any time before conviction, be amended by order of the Recorder, Judge of Sessions, Police Magistrate or Justice of the Peace, before whom the hearing is had, subject, however, to an adjournment of the hearing to some future day, when, from the nature of the amendment, the said adjournment may appear to be reasonable.

Repeal.

8. The fifth and sixth sections of chapter sixty-three of the Consolidated Statutes of Lower Canada are hereby repealed.

No. 71.

1st Session, 1st Parliament, 31 Vict

BILL.

An Act to amend chapter sixty
the Consolidated Statutes for I
nada, in so far as the same rela
Measurement and Discharge of

Received and read, first time, Mo
April, 1868.

Second reading, Thursday, 9th Ap

Mr. Brou

No. 72.] **BILL.** [1868.

An Act to Incorporate the Bank of Agriculture.

WHEREAS John White, G. C. McKindsey, William Hendrie, Thomas Stock, Richard Quance, George Taylor, and others, have, by their petition, prayed that they might be incorporated for the purpose of establishing a Bank in the City of Hamilton, in the Province of Ontario, and whereas it is desirable to grant the prayer of their petition; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Incorpration.

1. The several persons hereinbefore named, and such other persons as may become shareholders in the Company to be by this Act created, and their assigns shall be, and they are hereby created, constituted, and declared to be a Corporation, body corporate and politic, by the name of the "Bank of Agriculture," and shall have the power to acquire and hold real and immoveable estate for the management of their business, not exceeding the yearly value of ten thousand dollars, and may sell, alienate or exchange the same, and acquire other instead.

Corporate name and powers.

Real property limited.

Capital and shares.

2. The capital stock of the said Bank hereby incorporated shall be two hundred and fifty thousand dollars, divided into five thousand shares of fifty dollars each, which said shares shall be, and are hereby vested in the several persons who shall subscribe for the same, their legal representatives and assigns.

Provisional Directors. Stock Book.

3. For the purpose of organizing the said Bank and of raising the amount of the said capital stock, the persons hereinbefore mentioned shall be Provisional Directors thereof: and they, or the majority of them, may cause stock books to be opened, after giving due public notice; upon which stock books shall and may be received the signatures and subscriptions of such persons or parties as desire to become shareholders in the said Bank: and such books shall be opened at Hamilton aforesaid, and elsewhere, at the discretion of the Provisional Directors, and shall be kept open so long as they deem necessary; and so soon as the capital stock shall have been subscribed upon the said stock books, and one hundred thousand dollars thereof actually paid into the Bank of Montreal, at its Branch, in the City of Hamilton, thereupon a public meeting shall be called of the subscribers thereof, by notice published at least two weeks in one or more of the newspapers published at the City of Hamilton, such meeting to be held in Hamilton, aforesaid, at such time as such notice shall indicate; and at such meeting the subscribers shall proceed to elect five Directors having the requisite stock qualification, who shall from thenceforward, manage the affairs of the said Corporation, shall take charge of the stock books hereinbefore referred to, and shall continue in office until the second Tuesday in June, which shall be in the year next after the year in which they are so elected, and until their successors in office shall be duly elected; and the said election shall be had in the same manner as the annual election hereinafter provided for, as respects the regulating of votes according to the number of shares subscribed for, and immediately upon such election being had, the functions of the said Provisional Directors shall cease.

When capital stock subscribed, and $100,000 paid in.

First meeting shall be called.

To elect five directors.

Subscription to be paid the into Bank of Montreal and from time to time invested in Dominion stock, &c. And deposited with Receiver General.

4. The money so paid into the Bank of Montreal, at Hamilton, under the last preceding section, may, from time to time at the option of the said Bank, be vested in the name of the said Bank, in sums of not less than four thousand dollars in Dominion Stock or Government Debentures bearing interest at the rate of six per centum per annum, at a rate not exceeding the par value thereof, which said Dominion Stock or Government Debentures shall be deposited with and held by the Receiver General of Canada, on behalf of the said Bank, until they shall be authorized to commence business under the provisions of this Act; and the investment of such money by the Provisional Directors shall not be considered to be a commencement of the business of banking, or in any way a violation of the provisions of this Act.

Payment of stock.

5. The shares of the capital stock subscribed for shall be paid in and by such instalments and at such times and places as the said Directors shall appoint; and executors, administrators, curators, and others paying instalments upon the shares of deceased shareholders shall be and are hereby respectively indemnified for paying the same; Provided always that no share or shares shall be held to be lawfully subscribed for unless a sum equal at least to ten per centum on the amount subscribed for be actually paid at the time of subscribing, or within thirty days of that time; Provided, further, that it shall not be lawful for the subscribers of the capital stock hereby authorized to be raised, to commence the business of banking until a sum of not less than one hundred thousand dollars shall have been duly paid in by such subscribers; And, provided, that the whole amount of said capital stock shall be fully paid in within two years from the passing of this Act.

No stock subscribed till ten per cent paid.

Not to commence business till $100-000 paid in.

Directors may make calls.

6. The Directors for the time being, or a majority fo them, shall have power to make such calls of money from the several shareholders for the time being upon the shares subscribed for in the said Bank by them respectively, as the said Directors find necessary; and, in the corporate name of the said Bank, to sue for, recover and get in all such calls, or to cause and declare such shares forfeited to the said Bank in case of non-payment of any such call; and an action may be brought to recover any money due on any such call, and it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is holder of one share or more, as the case may be, in the capital stock of the said Bank, and is indebted for calls upon said share or shares to the said Bank, in the sum to which the call or calls amount, as the case may be, stating the amount and number of such calls whereby an action hath accrued to the said Corporation to recover he same from such defendant by virtue of this Act; and it shall be sufficient, to maintain such action, to prove by any one witness (a shareholder being competent) that the defendant at the time of making such call was a shareholder in the number of shares alleged, and to produce the By-law or Resolution of the Board making and prescribing such call or calls, and to prove notice thereof given, in conformity with such By-law or Resolution; and it shall not be necessary to prove the appointment of the said Board of Directors, or any other matter whatsoever: Provided that each such call shall be made at intervals of not less than thirty days, upon notice to be given at least thirty days prior to the day on which such call shall be payable; and no such call, except the first, shall exceed twenty per centum of each share subscribed; And provided further that, by the same Resolution, any number of calls may be made, and notice of said calls respectively may be given at the same time and in the same notice: Provided that the first call may be made for thirty per centum on the shares subscribed instead of twenty per centum; and if any shareholder or shareholders, or the executors, administrators or curators of any deceased shareholder or shareholders refuse or neglect to pay any instalment upon his, her or their shares of the said capital stock at the time and times required by the Direct-

Enforcement of payment.

Form of Action.

Evidence requisite.

Limitation as to amount of calls, and notice to be given.

Shareholders neglecting to pay calls to forfeit ten per cent on amount of

ors, such shareholder or shareholders, their executors, administrators or curators, shall, upon every such neglect or refusal, incur a forfeiture, to the use of the said Bank, of a sum of money equal to ten per centum on the amount of such shares: And, moreover, it shall be lawful for the Directors of the said Bank (without any previous formality other than thirty days' public notice of their intention) to sell, at public auction, the said shares, or so many of the shares as shall, after deducting the reasonable expenses of the sale, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeiture incurred upon the whole; and the President, Vice-President or Cashier, shall execute the transfer to the purchaser or purchasers of the said shares of stock so sold; and such transfer, being duly accepted, shall be as valid and effectual in law as if the same had been executed by the original holder or holders of the shares of stock so transferred when legally qualified to make such transfer; but nothing in this section contained shall be held to debar the Directors or shareholders, at a general meeting, from remitting, either in whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of any instalment, as aforesaid.

shares and shares may be sold to pay calls.

7. The chief place or seat of business of the said Company shall be in the City of Hamilton aforesaid; but it shall and may be lawful for the Directors of the said Corporation to open and establish, in any other part of the Province of Ontario, a branch of the branches, for purposes of their business, under such rules and regulations for the good and faithful management of the same as to the Directors from time to time seem meet, and as shall not be repugnant to any law in force in Canada, to this Act, or to the by-laws of the said Corporation.

Chief place of business.

Branches.

8. For the management of the affairs of the said corporation there shall be five Directors, who shall be annually elected by the shareholders of the capital stock of the Corporation at a general meeting of them, to be held annually in the said City of Hamilton, on the second Tuesday in the month of June, beginning on the second Tuesday in the month of June, which shall be in the year next after the first election of Directors hereinbefore provided for; and the Directors elected by a majority of votes shall be capable of serving as Directors for the ensuing twelve months; and at their first meeting after such election, shall choose out of their number a President and Vice-President, who shall hold their offices respectively during the same period, and in case of vacancy occurring in the said number of Directors, by death or insolvency (the latter shall disqualify any Director from acting as such) the remaining Directors shall fill the same by election among the shareholders; and the Director so elected shall be capable of serving as a Director until the next annual general meeting of the shareholders: and if the vacancy occurring in the said number of Directors shall also cause the vacancy of the office of President or Vice-President, the Directors, at their first meeting after their number shall have been completed as aforesaid shall fill the vacant office by choice or election from among themselves; and the Director so chosen or elected shall fill the office to which he shall be so chosen or elected until the next annual general meeting of the shareholders; and if it should happen at any election that two or more persons have an equal number of votes, then the Director who shall have had a greater number of votes or the majority shall determine which of the said persons so having an equal number of votes shall be the Director or Directors, so as to complete the whole number of five; Provided, always, that each of the Directors shall be holder and proprietor, in his own name, and continue the holdor and proprietor in his own name, of not less than twenty shares of the capital stock of the said Corporation upon which all the calls then due are paid up; and the said Directors shall be

Directors.

President.

Vacancies, how filled.

Equality of votes how decided.

Qualification for Directors.

British subjects, by birth or naturalization ; Directors shall be eligible for re-election at the expiration of the year for which they were previously elected.

Failure to elect Directors or appoint President.

9. If at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, or that the choice or election of a President and Vice-President shall not be made by the Directors at their first meeting, the said Corporation shall not be deemed or taken to be thereby dissolved ; but it shall be lawful at any subsequent time to make such election of Directors at a general meeting of the shareholders, to be duly called for that purpose, and to elect or choose a President or Vice-President, at any meeting of the Directors.

Books, &c., open to inspection by Directors.

10. The books, correspondence, and funds of the Corporation shall at all times, be subject to the inspection of the Directors ; but no shareholder not being a Director, shall inspect or be allowed to inspect the accounts of any person or persons dealing with the Corporation.

Quorum of Directors.

Who to preside.

Casting vote.

11. At all meetings of the Directors of the said Corporation, not less than three of them shall constitute a Board or quorum for the transaction of business ; and at the said meetings the President, or in his absence, the Vice-President, or in their absence, one of the Directors to be chosen *pro tempore* shall preside ; And the President, or Vice-President, or President *pro tempore* so presiding shall vote as a Director ; and if there be an equal division on any question, he shall have a casting vote.

Directors may make By-laws &c.

12. It shall and may be lawful for the Directors of the Corporation hereby constiuted, from time to time, to make and enact by-laws, rules and regulations, (the same not being repugnant to this Act, or to the laws of Canada,) for the proper management of the affairs of the said Corporation, and from time to time to alter or repeal the same, and others to make and enact in their stead ; Provided always, that no by-law, rule or regulation, so made by the Directors, shall have force or effect until the same shall, after three weeks of public notice, have been confirmed by the shareholders, at an annual or special general meeting called for that purpose ; Provided that it shall not be necessary in such notice, to embody the proposed by-law or by-laws, but simply that a by-law or by-laws are intended to be taken into consideration for the purpose of being confirmed.

Remuneration of Directors.

13. The Directors, including the said President and Vice-President, shall be entitled to such emolument for their services as may be fixed by any by-law as hereinafter provided.

Appointment of officers.

14. The Directors of the said Corporation shall have power to appoint such cashiers, officers, clerks and servants, under them as shall be necessary for conducting the business of the Corporation, and to designate them by such names or titles as they see fit, and from time to time, to vary and alter such designations, and to allow reasonable compensation for their services respectively ; and also shall be capable of exercising such power and authority, for the well-governing and ordering of the affairs of the Corporation, as shall be prescribed by the by-laws thereof ; Provided always, that before permitting any cashier, officer, clerk or servant, of the Corporation to enter upon the duties of his office, the Directors shall require every such cashier, officer, clerk or servant to give security to the satisfaction of the Directors in such an amount as the Directors may consider adequate to the trust to be reposed, and for faithful and good behaviour.

Security to be given.

15. It shall be the duty of the Directors to make half-yearly dividends of so much of the profits of the Corporation as to them shall appear advisable, and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously; Provided always that no such dividend shall in any manner lessen or impair, or be paid out of the capital stock of the Corporation, or so much thereof as may have been paid up. Half yearly dividends.

16. The annual general meeting of the shareholders of the Corporation, to be held in the City of Hamilton aforesaid, on the second Tuesday in the month of June in each year, for the purpose of electing Directors in the manner hereinbefore provided, shall also take into consideration all other matters generally touching the affairs and the management of the affairs of the Corporation; and at each of the said annual general meetings the Directors shall submit a full and clear statement of the affairs of the Corporation. Business of the general annual meeting. Statement of affairs to be submitted.

17. At all meetings of the Corporation the shareholders shall be entitled to one vote for each share held by them, and it shall be lawful for absent shareholders to give their votes by proxy, such proxy being also a shareholder, and being provided with a written authority from his constituent or constituents, in such form as shall, after the first meeting, be established by by-law, and which authority shall be lodged in the Bank; Provided that no shareholder shall be entitled to represent more than five hundred votes by proxies; Provided also that a share or shares of the capital stock of the said Corporation that shall have been held for a less period than three calendar months immediately prior to any meeting of the shareholders, except the first meeting, or upon which any call or calls are due and unpaid, shall not entitle the holder or holders to vote at such meeting, either in person or by proxy; Provided also that where two or more persons are joint holders of shares, it shall be lawful that only one of such joint holders be empowered by letter of attorney from the other joint holder or holders, or a majority of them, to represent the said shares, and vote accordingly. Voting at any meeting. Proxies. Shares disqualified from representation. How joint holders are to vote.

18. No cashier, bank clerk or other officer of the Bank shall vote, either in person or by proxy, at any meeting for the election of Directors, or hold a proxy for that purpose. Bank officers not to vote at election of Directors.

19. Any number not less than twenty of the shareholders of the said Corporation, who together shall be the proprietors of at least five hundred shares of the capital stock of the Corporation on which all calls then due have been paid, by themselves or proxies, or the Directors of the Corporation, or any three of them shall, respectively, have power at any time to call a special general meeting of the shareholders of the Corporation, to be held at their usual place of meeting in the City of Hamilton, upon giving six weeks' previous public notice thereof, and specifying in such notice the object or objects of such meeting; and if the object of such special general meeting be to consider of the proposed removal of the President or Vice-President or a Director or Directors of the Corporation, for maladministration or other specified or apparently just cause, then and in such case the person or persons whom it shall be so proposed to remove, shall, from the day on which the notice shall first be published, be suspended from the duties of his or their office or offices, and if it be the President or Vice-President whose removal shall be proposed as aforesaid his office shall be filled up by the remaining Directors (in the manner hereinbefore provided in the case of a vacancy occurring in the office of President) who shall choose or elect a Director to serve as such President or Vice-President during the time such suspension shall continue or be undecided upon. Special general meetings. How called. Removal of President o Vice-President or Directors.

Shares personal estate. How transferred.

20. The shares of the capital stock of the said Bank shall he held and adjudged to be personal estate, and shall be assignable and transferable at the chief place of business of the said Bank, and according to such form as the Directors shall prescribe; but no assignment or transfer shall be valid unless it be made and registered in a book or books to be kept by the Directors for that purpose, nor until the person or persons making the same shall have previously discharged al debts or liabilities due or contracted, and not then due by him, her or them to the Bank which may exceed in amount the value of the remaining stock, if any, belonging to such person or persons, nor until the person or persons to whom the said transfer or assignment is so to made shall have accepted the same in a book or books to be kept by the Directors for that purpose; and no fractional part or parts of a share or less than a whole share shall be assignable or transferable and when any shares of the said capital stock shall have been sold under a Writ of Execution, the Sheriff by whom the Writ shall have been executed shall, within thirty days after the sale, leave with the Cashier of the Bank an attested copy of the Writ with the certificate of such Sheriff endorsed thereon, certifying to whom the sale has been made, and thereupon (but not until after all debts due or liabilities contracted and not then due by the holder or holders of the shares to the Bank shall have been discharged as aforesaid) the President or Vice-President or Cashier or Manager of the Corporation shall execute the transfer of the share or shares so sold to the purchaser or purchasers; and such transfer being duly accepted, shall be to all intents and purposes as valid and effectual at law as if it had been executed by the holder or holders of the said share or shares; any law orusa geto the contrary notwithstanding.

If sold under Writ of execution.

Powers of Corporation as to business to be done by them.

21. The said Corporation hereby constituted shall not, either directly or indirectly, hold any lands or tenements (save and except such as by the first section of this Act they are especially authorized to acquire and hold), or any ships or other vessels, or any share or shares in the capital stock of the Corporation, nor in any Bank in Canada; nor shall the said Corporation, either directly or indirectly, lend money or make advances upon the security, mortgage, or hypothecation, of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the capital stock of the Corporation, or of any goods, wares, or merchandise; nor shall the Corporation, either directly or indirectly, raise loans of money, or deal in the buying, selling, or bartering of goods, wares or merchandise, or be engaged in any trade whatever, except as dealers in gold and silver bullion, bills of exchange, or other securities for money, discounting of promissory notes and negotiable securities, and in such trade generally as legitimately appertains to the business of banking, save and except the issuing of their own notes payable on demand, and intended to be used as a circulating medium: Provided always, that the Bank may take and hold mortgages and hypothèques on real estate, ships, vessels, and other personal property, in this Province, by way of additional security for debts contracted to the Bank in the course of its dealings, and may, also, for such purpose, purchase and take any outstanding mortgages, judgments, or other charges, upon the real or personal property of any debtor of the Bank; Provided, always, that the fifty fourth chapter of the Consolidated Statutes of the late Province of Canada, intituled, "An Act, respecting Incorporated Banks as amended by the Act passed by the Legislature of the said late Province, in the twenty-fourth year of "Her Majesty's reign," chapter twenty-three, and by the Act passed by the said Legislature in the twenty-ninth year of Her Majesty's reign, chapter nineteen, andany other Act, or Acts, amending the same, and each and every of the provisions thereof (save and except those applicable to the issuing of notes payable on demand, and intended to be used as a circulating medium), shall apply to the Corporation hereby created,

Cap. 54, Con. Stat. of Canada.

24 Vic., cap. 23.

29 Vic., cap. 19 to apply.

as fully and completely as if incorporated in the present Act; Provided, also, that in the event of any future legislation in respect to the present chartered Banks of Canada, the Corporation hereby created shall be entitled to the full benefit of such legislation. Also any future general legislation as to chartered Banks.

22. The aggregate amount of current discounts and advances made by the Bank upon commercial paper or securities, bearing the name of any Director of the said Bank, or the name of any copartnership or firm, in which any Director of the said Bank shall be a partner, shall not, at any one time, exceed one-twentieth part of the capital stock of the said Corporation actually paid in; that is, the liability of the whole of the Directors together shall not exceed the above amount. Limit as to paper of Directors under discount.

23. The Bank may allow and pay interest upon money deposited in the Bank; and in discounting promissory notes, bills or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same, and the rate of discount then charged shall continue until the said note or negotiable paper so discounted, or any judgment thereon be paid or satisfied; and the Bank may charge any note or bill held by, or made payable at the Bank, against the deposit account of the maker or acceptor of such note or bill at the maturity thereof. May receive money on deposit at interest and retain discount.

24. The bonds, obligations, and bills obligatory and of credit, of the said Corporation under its corporate seal, signed by the President or Vice-President, and countersigned by the Cashier thereof, which shall be made payable to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees successively, and to enable such assignee or assignees, to briug and maintain an action or actions thereon in his, her or their own name or names; and signification of any assignment by endorsement shall not be necessary, any law or usage to the contrary notwithstanding; and obligations not under seal shall be binding and obligatory upon the said Corporation, in the like manner and with the like force and effect as they would be upon any private person or persons if executed by him, her or them, in his, her or their private or natural capacities, and shall be assignable or negotiable in like manner as if they were so executed by such private person or persons. Obligations of the Bank binding, though not under seal.

25. The Directors shall have power by by-law to authorize the Cashier or Manager for the time being, or any other officer of the said Bank, to sign all bills of exchange, drafts and other negotiable paper, also deposit receipts and all other like documents required and used in the course of the business of the said Bank. Power to Cashier to sign drafts, &c.

26. A suspension of payment by the said Corporation shall, if the time of suspension extends to sixty days consecutively, or at intervals within any twelve consecutive months, operate as, and be a forfeiture of this Act of Incoporation, and all and every the privileges hereby granted. Effect of suspension.

27. In the event of the asssets and property of the Corporation hereby constituted becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of the Corporation in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of capital stock held by them, that is to say, that the liability and responsibility of each shareholder shall be limited to the amount of his or her share or shares of the said capital stock, and a sum of money equal in amount thereto. Liability of Shareholders.

28. Besides the statements of the affairs of the said Corporation,

hereinbefore required to be laid before the shareholders thereof, at their general annual meeting, the Directors shall make up and publish, on the first Monday of each month in every year, statements of the assets and liabilties of the Corporation in the form of the Schedule A, hereunto annexed, showing, under the head specified, in the said form, the average liabilities at the termination of each month, and the average of amount of Provincial and Dominion notes and specie, and other assets, which at the same time were available to meet the same; and it shall also be the duty of the Directors to submit to the Governor of Canada a copy of each such monthly statement, and if by him required to verify all, or any part, of the said statement, the said Directors shall verify the same by the production of the monthly balance sheet, from which the said statement shall have been compiled; and furthermore, the said Directors shall, from time to time, when required, furnish to the Governor such further information respecting the state and proceedings of the Corporation as the Governor may reasonally see fit to call for; Provided, always, that the monthly balance-sheet, and the further information that shall be so produced and given, shall be held by the Governor as being produced and given in strict confidence; that he shall not divulge any part of the contents of the said monthly balance sheet, or of the information, that shall be so given, and provided, also, that the Directors shall not, nor shall anything herein contained be construed to authorized them, or any of them, to make known the private account, or accounts, of any person or persons whatever having dealings with the Corporation.

Monthly statement of affairs.

Verification of same, if required.

29. It shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly to advance or lend to, for the use of or on account of any foreign Prince, Power or State any sum or sums of money or any securities for money; and if such unlawful advance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted shall cease and determine anything in this Act to the contrary notwithstanding.

Bank not to lend money to any foreign State.

30. The several public notices by this Act required to be given shall be given by advertisement in one or more of the newspapers published in the said City of Hamilton and in the *Canada Gazette* or such other Gazette as shall be generally known and accredited as the official Gazette for the publication of official documents and notices emanating from the Civil Government of the Dominion of Canada.

Notices, how to be published.

31. Shares of the capital stock of the Bank may be made transferable, and the dividend accruing thereon may be made payable, in any part of the United Kingdom or the Dominion of Canada in like manner as such shares and dividends are respectively made transferable and payable at the Bank in the said City of Hamilton; and to that end the Directors may, from time to time, make such rules and regulations, and prescribe such forms, and appoint such Agent or Agents as they may deem necessary.

Transfer of shares.

32. If the interest in any share or shares in the capital stock of the said Bank become transmitted in consequence of the death or bankruptcy or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, the Directors may require such transmission to be authenticated by a declaration in writing, as hereinafter mentioned, or in such other manner as the Directors of the Bank shall require; and every such declaration shall distinctly state the manner in which and the party to whom such share or shares shall have been transmitted, and shall be by such party made and signed; and every such declaration shall be, by the party making and signing the same, acknowledged before a Judge of a Court of Record, or before the Mayor, Provost or Chief Magistrate of a city,

Transmission of shares, how to be proved.

town, borough or other place, or before a public notary where the same shall be made and signed; and every such declaration or other instrument so signed, made, and acknowledged shall be left at the Bank with the Cashier or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission in the register of shareholders, and until such transmission shall have been authenticated, and the share or shares shall have been accepted in the usual manner by the party or parties so entitled to such share or shares by virtue of such transmission, no such party or parties shall be entitled to receive any share of the profits of the Bank, nor to vote in repect of any such share or share as the holder thereof; Provided, always, that every such declaration and instrument as by this and the three following sections of this Act is required to perfect the transmission of a share or shares in the capital stock of the Bank which shall be made in any other country than in this or some other of the British Colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British Consul or Vice-Consul, or other the accredited representative of the British Government in the country where the declaration shall be made, or shall be made directly before such British Consul or other accredited representative; and, provided also, that nothing in this Act contained shall be held to debar the Directors, Cashier, or other officer or agent of the Bank from requiring corroborative evidence of any fact or facts alleged in any such declaration; and, provided also, that any person or persons wilfully making any false statement in any such declaration shall be deemed guilty of perjury, notwithstanding any informality in the making thereof; and, provided also, that nothing herein contained shall be deemed or construed to give the husband of any female shareholder any other or greater right to the share or shares owned by her before marriage than he would otherwise have, or to deprive such female shareholder of any of the benefits of the Act relating to the separate property of married women, chapter seventy-three of the Consolidated Statutes of Upper Canada, and until such marriage shall have been duly proved as herein provided, the Director shall be exonerated from all liability by paying the dividends on such share or shares to, or permitting the transfer of such share or shares by, such female shareholder under the name in which the said share or shares are registered, and after the proof of such marriage, if the said female shareholder shall before such marriage or after the same, and before the said share or shares held by her shall have been actually reduced into possession by the husband, lodge with the said Bank a declaration that it is her intention that such share or shares shall remain her separate property, the Directors shall be justified in paying the dividends upon such share or shares to the said female shareholder, notwithstanding her coverture upon her own receipt without the consent of her husband, and in permitting the transfer, by her, of such share, or shares, in like manner.

Proof if executed in foreign country.

False statements to be perjury.

Female shareholder, right of husband.

33. If the transmission of any share in the Bank be by virtue of the marriage of a female shareholder, the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if the transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will, or the will itself, or the letters of administration or act of curatorship or an official extract therefrom, or the requisite certificate of birth and marriage shall, together with such declaration be produced and left with the Cashier or other officer or agent of the Bank, who, on being satisfied by the same or other evidence, shall enter the name of the party entitled under such transmission in the register of shareholders.

Transmission by marriage or death.

34. If the transmission of any share or shares in the capital stock of the Bank be by the decease of any shareholder the production to

Transmission of shares of

deceased shareholder.

the Directors and deposit with them of any probate of the will of the deceased shareholder, or of letters of administration of his estate granted by any Court in Canada having power to grant such probate or letters of adminstration, or by prerogative, diocesan or peculiar Court or authority in England, Wales, Ireland, India or any other British Colony, or of any testament testamentary or testament-dative expede in Scotland, or if the deceased shareholder shall have died out of Her Majesty's Dominions, the production to and deposit with the Directors of any probate of the will of letters of administration of the property of such deceased shareholder or other document of like import, granted by any Court or authority having the requisite authority in such matters, shall be sufficient justification and authority to the Directors for paying any dividend or transfering or authorizing the transfer of any share or shares in pursuance of and in conformity to such probate letters of administation or such other documents as aforesaid; Provided, that the Directors may, in their discretion, accept and keep in lieu of any of such original documents, a copy thereof certified under the seal of the Court by which the same was granted, or if the original document is submitted for their inspection, may return the same to the party or parties producing the same and retain in lieu thereof a copy certified under the hand and seal of a Notary Public.

Further provisions as to shares, &c., transmitted by death.

35. Whenever the interest in any share or shares of the said Bank, or in the dividend or dividends accrued thereon, or the right of property in any deposit therein shall be transmitted by the death of any shareholder or shareholders, or otherwise, or whenever the ownership of a legal right of possession in any such share or shares, dividend or deposit, shall change by any lawful means other than by transfer, or shall be disputed and the Director of the said Bank shall entertain reasonable doubt as to the legality of any claim to and upon any such share or shares of stock, dividend or dividends, or deposit, then and in such case it shall be lawful for such Bank to make and file a bill or petition in the Court of Chancery, for the Province of Ontario, addressed to the Judges thereof, setting forth the facts and the number of the said shares previously belonging to the party in whose name such share or shares stand in the books of the Bank, or the amount of deposits standing in the name of the depositor thereof, and praying for an order, decree, or judgment, adjudicating and awarding the said shares, dividends, or deposits, to the said party or parties legally entitled to the same, by which order, decree or judgment, the Bank shall be guided and held harmless and indemnified and released from all and every other claim for the said shares, dividend, or deposits or arising therefrom; Provided always that notice of such bill or petition shall be given to all parties claiming such shares, dividends, or deposits who shall, upon the filing of such bill or petition, declare and show his, her or their claim or right referred to in such bill or petition, and all costs and expenses attending such proceedings shall be paid by the party or parties to whom the said shares, dividends, or deposits shall be declared lawfully to belong, and such shares, dividends or deposits shall not be transferred or paid over as the case may be, until costs and expenses be paid saving the recourse of such party against any party contesting his, or their right, and the Bank shall be entitled to a first lien upon said shares, dividends or deposits for the amount of such costs and expenses, and be entitled to a writ of execution to enforce the payment by sale of the shares, or to deduct the same from such dividends or deposits. The provisions in the foregoing sections thirty-two, thirty-three, thirty-four, and this section shall be held to apply to shares in the capital stock of the Bank, and also to dividends thereon and money deposited in the said Bank on deposit receipt at interest or otherwise, or any debt due from the Bank so far as applicable to the same respectively.

Bank not bound to see

36 The Bank shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any of the

shares of the Bank may be subject, and the receipt of the party in whose name any share shall stand in the books of the Bank, or if it, stand in the names of more parties than one the receipt of one of the parties shall from time to time be a sufficient discharge to the Bank for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had notice of such trust, and the Bank shall not be bound to see the application of the money paid upon such receipt and the transfer of any share, and the payment of any dividend or deposit shall not cause any liability on the part of the said Bank to the rightful or beneficial owner of such share, dividend or deposit if such transfer be made by, or such payment be made to, the person in whose name such share shall stand in the books of the said Bank, or to whose credit such deposit may appear therein, whether such person be ordinarily competent to make such transfer or receive such payment or not.

to the execution of trusts, &c.

37. If any cashier, assistant cashier, manager, clerk, or servant, of the the Bank, shall secrete, embezzle, or abscond, with any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money, or effects, intrusted to him, as such cashier, assistant cashier, manager, clerk, or servant, whether the same belong to the said Bank, or belong to any person, or persons, body, or bodies, politic or corporate, or institution, or institutions, and be lodged with the said Bank, the said cashier, assistant cashier, manager, clerk, or servant, so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony.

Embezzlement by officers of Bank to be felony.

38. Any person found guilty of felony under this Act shall be punished, by imprisonment, at hard labour in the Penitentiary, for any term of less than two years, or by imprisonment in any other gaol or place of confinement, for any term less than two years, in the discretion of the Court.

Punishment of such felony

39. Chapter fifty-four of the Consolidated Statutes of Canada, intituled: "An Act respecting Incorporated Banks," as amended by he Act of Parliament, of the late Province of Canada, passed in the twenty-fourth year of Her Majesty's Reign, chapter twenty-three, and by the Act passed in the twenty-ninth year of Her Majesty's Reign, chapter nineteen; and the said Acts amending the same, save and except such portions of said Acts relating to the issuing of notes by Banks to be used as money, as are inconsistent with, and inapplicable to, this Act, shall extend to the Bank hereby incorporated, and shall be read and taken, to be, and form a part of the charter of the said Bank.

Chap.55,Con. Stat. of Can., as amended by 24 Vic., c. 23, and 29 Vic., c. 19, to apply.

40. So sonn as one hundred thousand dollars of the capital stock of the Coporation shall be actually paid in and invested in Dominion Stock or Government Debentures, as aforesaid, and deposited with the Receiver General, as provided in section four of this Act, the Bank shall be authorized to commence business; and, upon the requistion of the President of the said Bank, countersigned by the Cashier or Manager thereof, the Receiver General shall issue to the said Bank Provincial or Dominion notes of such denominations and value as may be specified in such requisition, if the same are available for issue, and if not, such others as the Bank may accept, in lieu thereof, to the amount of——per centum of the par value of such Stock or Debentures so deposited; and the Receiver General shall, also, from time to time, upon the deposit with him of gold, invest the same on behalf of the Bank, in Dominion Stock or Government Debentures, bearing interest at the rate of not less than six per centum per annum, at a rate not exceeding the par value thereof; or such other securities (by the consent of the Bank) as the Receiver General may be willing to hold for the purpose aforesaid, and, upon the re-

How Provincial notes to be obtained.

per cent. of the par value of securities to be advanced in notes.

Securities to be received in deposit for obtaining notes limited.

quisition of the President, countersigned by the Cashier or Manager, of the said Bank, issue to the said Bank Provincial or Dominion notes as aforesaid, in the proportion before mentioned, until the amount of securities so deposited by the Bank is equal to the amount of the capital stock of the said Bank actually paid up; Provided always, that such Stock or Debentures so held by the Receiver General shall remain the property of the Bank, subject to the lien for the amount of Provincial or Dominion notes issued to the Bank upon them, and may at any time be redeemed by the Bank on payment of the amount advanced upon them respectively; and the Receiver General shall either receive the interest upon such securities, and account to the Bank for the same, or, at his option, allow the same to be received by the Bank; And, in the event of any securities so held by the Receiver General being paid at the maturity thereof, the amount so paid shall forthwith be invested as aforesaid, and held in lieu of the securities so paid. And the said Bank shall circulate and use Provincial or Dominion notes only, and the coins current in Canada, and shall not issue notes of their own or any substitute for or device in lieu thereof, or the notes of any other Bank or Banks whatever.

Bank to circulate Provincial notes only and current coin.

Power from time to time to increase the Capital Stock.

41. It shall be lawful for the Bank, from time to time, to add to teeir capital stock until the same shall amount to one million of dollars, such additional capital to be in shares of fifty dollars each, which shares may be subscribed for either within or without the Dominion of Canada, in such proportions or numbers, and at such times and places, and under such regulations, and at par or at such rate of premium to be paid by the subscribers, over and above the amount of the shares, as the Directors of the said Bank shall, from time to time, establish; and the shares so subscribed for shall be paid in by such instalments, and at such time and place, as the said Directors shall, from time to time, appoint; and all the provisions of this Act shall apply to the said new shares to the same extent and in like manner as to the original shares subscribed; and executors, administrators, and curators, paying instalments on shares of deceased shareholders, shall be, and are hereby respectively, indemnified for paying, and are required to pay the same; Provided always, that no share shall be held to be lawfully subscribed for unless the premium (if any) which shall have been fixed by the Directors, and at least ten per centum on the amount of such share be paid at the time of subscribing; And persons who shall subscribe for such new shares shall be, in all respects, on the same footing, shall have the same rights, and be subject to the same rules and regulations, as the original shareholders; Provided, that no snch person shall have a vote, or votes, at any meeting of the shareholders of the Bank, or be qualified to act as a Director of the Bank, upon the qualification of any shares, except upon those shares on which the whole amount of fifty dollars shall have been paid in; Provided also, that person, who may subscribe for any such new shares, shall be at liberty, at the time of subscribing, to pay up the full amount of fifty dollars, and the premium (if any) upon each of such shares.

Capital Stock only to be increased by a ¾ vote of shareholders.

42. Before any such addition shall be made to the capital stock of the Bank, and before every such addition, the question shall be submitted to the shareholders at a general annual or general special meeting after six week's previous notice thereof, and the question of increasing the capital stock and the amount of such increase shall be decided by the shareholders present in person or by proxy, but no such increase shall be made to the capital stock unless the same is carried by at least a three-fourth vote of the said shareholders.

Duration of Act.

43. This Act shall remain in force until the day of which will be in the year of our Lord one thousand eight hundred and , and from that time until the end of the then next Session of the Parliament of Canada.

SCHEDULE A.

(Referred to in the foregoing Act.)

Return of the average amount of liabilities of the Bank of Agriculture during the period from the first day of one thousand eight hundred and to the last day of the said month :—

Balances due to other Banks	$
Cash deposits not bearing interest	$
Cash deposits bearing interest	$
Total average liabilities	$

ASSETS.

Coin and bullion and Provincial notes	$
Landed or other property of the Bank	$
Government securities	$
Promissory notes or bills of other Banks	$
Balance due from other Banks	$
Notes and bills discounted	$
Other debts due to the Bank not included under the foregoing heads	$
Total average Assets	$

No. 72.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to incorporate the Bank of Agriculture.

(*PRIVATE BILL.*)

Mr. WHITE.

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[No. 73.] **BILL.** [1868.]

An Act to amend the Act of the late Province of Canada, 25 Vic., Cap. 72, by declaring the intention of the same, and confirming Conveyances made by the Trust and Loan Company, thereunder.

WHEREAS, by an Act of the Parliament of the late Province of Canada, passed in the twenty-fifth year of the reign of Her Majesty Queen Victoria, and chaptered seventy-two, entitled, "An Act "for facilitating the conveyance by the Trust and Loan Company of "Upper Canada, of lands in the Province of Canada, by and through "their Commissioners or Attorneys,"— 25 V., c. 72.

After reciting as is recited in the preamble of the said Act, provision was made for giving publicity to and perpetuating the evidence of the appointments, from time to time, made of the persons authorized to conduct the affairs of the said Company in Canada, and to execute deeds and other documents, and perform other acts on behalf of the said Company, and for facilitating the conveyance, transfer, release and acquittance of real estate and other property by the said Company, through the said persons; And whereas the said Company did, from time to time, appoint two Commissioners or Attorneys whom, and each of whom, the said Company by Commission or Power of Attorney made, registered and advertised, in compliance with the provisions of the said Act, empowered jointly and severally to conduct the business of the said Company in Canada; And whereas, from the death of one of such Commissioners, it has happened that at times there was only one Commissioner or Attorney authorized or empowered by the said Company to conduct their business, as aforesaid; And whereas, it was the intention of the said Act to authorize the said Company to appoint either one or more Commissioner or Commissioners, Attorney or Attorneys, for the purposes therein mentioned, and in case of the appointment of more than one, to empower each severally to do and execute, on behalf of the said Company, all and every of the matters and things in any such Commission or Power of Attorney expressed, and to execute, under his private seal, valid conveyances and releases of real estate and other property of the said Company, and many such conveyances and releases have been so executed by a single Commissioner so appointed, as aforesaid; And whereas, doubts have arisen whether such intention sufficiently appears in the said Act, and it is expedient that such doubts should be removed and that the meaning of the said Act should be declared, and that all conveyances and releases heretofore made and executed in manner aforesaid, by a single Commissioner, should be confirmed; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Conveyances may be made by one or more Commissioners.

1. It is hereby declared that by the said Act the said Company were and are authorized and empowered to appoint one or more Commissioner or Commissioners, and by any Commission or Power of Attorney, under the corporate seal of the said Company, registered and advertised pursuant to the provisions of the said Act, to give such Commissioner or Commissioners, and to each of them jointly and severally, and to the survivor of them, in case of the appointment of more than one, full power and authority to conduct the affairs of the said Company in

Canada, and to execute in manner in the said Act provided, any and all conveyances and releases as aforesaid, and that all such conveyances and releases heretofore so executed by a single Commissioner were, and the same are declared to have been, and all such releases and conveyances hereafter so executed shall be deemed to be properly executed and valid and effectual to all intents and purposes, and to as full an extent as if the same had been executed by the said Company under their corporate seal, and no further or other evidence of the sufficiency of such execution, or of the power or authority of the person or persons executing the same, shall be required for any purpose, or by any Court or person, than is required by the said Act, nor shall the said Company or any such Commissioner or Commissioners be bound to furnish or produce to any purchaser or person dealing with the said Company, any certified or other copy of any such Commission or Power of Attorney, as aforesaid.

Registration thereof.

2. The provisions for registration contained in the second section of the said Act, shall be held to have applied and to apply to any deed, conveyance, memorial or other instrument executed, or to be executed, under such Commission or Power of Attorney, whether the same shall have been or shall be executed by one or more Commissioner or Commissioners.

Certain forms not obligatory.

3. The use of the forms of conveyance in the Schedule A, to the said Act annexed, is declared to have been merely permissive and not obligatory, and all conveyances, assurances and releases heretofore made or which shall be made according to any form which would be effectual for the purpose between persons, *sui juris*, shall be deemed to have been and to be effectual to vest the subjects thereof according to the intent thereof.

No. 78.

1st Session, 1st Parliament, 21 Victor

BILL.

An Act to amend the Act of the l
vince of Canada, 25 Vic., cap.
declaring the intention of the sa
confirming Conveyances made
Trust and Loan Company thereu

(PRIVATE BILL.)

Hon. Sir J. A. MACI

OTTAWA,

74

No. 74.] BILL. [1868.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders.

Preamble.

WHEREAS it is expedient to assimilate the statute law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders, and to amend and consolidate the same: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Where an information is laid, &c., before a Justice of the Peace, &c., such Justice may issue a summous to such party.

1. In all cases where an information is laid before one or more of Her Majesty's Justices of the Peace for any Territorial Division of Canada, that any person has committed or is suspected to have committed any offence or act over which the Parliament of Canada has jurisdiction and being within the jurisdiction of such Justice or Justices, for which he is liable by law, upon a Summary Conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint is made to any such Justice or Justices in relation to any matter over which the Parliament of Canada has jurisdiction, and upon which he or they have authority by law to make any order for the payment of money or otherwise, such Justice or Justices of the Peace may issue his or their Summons (A), directed to such person, stating shortly the matter of the information or complaint, and requiring him to appear at a certain time and place, before the same Justice or Justices, or before such other Justice or Justices of the same Territorial Division as may then be there, to answer to the said information or complaint, and to be further dealt with according to law.

How summons to be served.

2. Every such Summons shall be served by a Constable or other Peace Officer, or other person to whom the same may be delivered, upon the person to whom it is directed, by delivering the same to the party personally, or by leaving it with some person for him at his last or most usual place of abode.

Constables to attend to depose, &c.

3. The Constable, Peace Officer, or person who serves the same, shall attend at the time and place, and before the Justices in the Summons mentioned, to depose, if necessary, to the service thereof.

Justices not obliged in certain cases to issue summons.

4. But nothing hereinbefore contained shall oblige any Justice or Justices of the Peace to issue any such Summons in any case where the application for any Order of Justices is by law to be made *ex parte*.

No objection allowed for want of form.

5. No objection shall be allowed to any information, complaint or summons, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint or summons, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint; but if any such variance appears to the Justice or Justices present and acting at such hearing to be such that the person summoned and appearing has been thereby deceived or misled, such Justice or Justices, may, upon such terms as he or they think fit, adjourn the hearing of the case to a future day.

If summons not obeyed, Justice may issue warrant, &c.

6. If the person served with a Summons does not appear before the Justice or Justices at the time and place mentioned in the Summons, and it be made to appear to the Justice or Justices, by oath or affirmation, that the Summons was duly served, what the Justice or Justices deem a reasonable time before the time therein appointed for appearing to the same, then the Justice or Justices, upon oath or affirmation being made before him or them, substantiating the matter of the information or complaint to his or their satisfaction, may, if he or they think fit, issue his or their Warrant (B) to apprehend the party so summoned, and to bring him before the same Justice or Justices or before some other Justice or Justices of the Peace in and for the same Territorial Division, to answer to the said information or complaint, and to be further dealt with according to law; or the Justice or Justices before whom the information is laid, upon oath or affirmation being made before him or them substantiating the matter of the information to his or their satisfaction, may, if he or they think fit, instead of issuing a Summons, issue in the first instance his or their Warrant (C) for apprehending the person against whom the information has been laid, and bringing him before the same Justice or Justices or before some other Justice or Justices of the Peace in and for the same Territorial Division to answer to the information and to be further dealt with according to law.

Or if the summons having been duly served, &c., be not obeyed, the Justice may proceed *ex parte*.

7. If where a summons has been issued, and upon the day and at the place therein appointed for the appearance of the party summoned, the party fails to appear in obedience to the Summons, then, if it be proved upon oath or affirmation to the Justice or Justices present, that a Summons was duly served upon the party a reasonable time before the time appointed for his appearance, the Justice or Justices of the Peace may proceed *ex parte* to the hearing of the information or complaint, and adjudicate thereon, as fully and effectually

to all intents and purposes as if the party had personally appeared before him or them in obedience to the Summons.

Warrant to be under hand and seal of Justice.

8. Every Warrant to apprehend a Defendant that he may answer to an information or complaint shall be under the Hand and Seal or Hands and Seals of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the Territorial Division within which it is to be executed, or to such Constable and all other Constables in the Territorial Division within which the Justice or Justices who issued the Warrant hath or have jurisdiction, or generally to all the Constables within such Territorial Division, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the Constable or other Peace Officer to whom it is directed, to apprehend the Defendant, and to bring him before one or more Justice or Justices of the Peace, of the same Territorial Division, as the case may require, to answer to the information or complaint and to be further dealt with according to law.

It need not be returnable at any particular time.

9. It shall not be necessary to make the Warrant returnable at any particular time, but the same may remain in full force until executed; and the Warrant may be executed by apprehending the Defendant at any place in the Territorial Division within which the Justices who issued the same have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, within seven miles of the border of the first mentioned Territorial Division, without having the Warrant backed as hereinafter mentioned.

By whom warrant may be executed.

10. In all cases where the Warrant is directed to all Constables or Peace Officers in the Territorial Division within which the Justice or Justices who issued the same have jurisdiction, any Constable or Peace Officer for any place within the limits of the jurisdiction may execute the Warrant in like manner as if the Warrant was directed specially to such Constable by name, and notwithstanding that the place in which the Warrant is executed be not within the place for which he is a Constable or Peace Officer.

Endorsement of warrant when taken into another jurisdiction how performed and its effects.

11. If the person against whom any Warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it issued, or, if he escapes into, or is, or is suspected to be in any place within Canada, out of the jurisdiction of the Justice or Justices who issued the Warrant, any Justice of the Peace, within whose jurisdiction such person may be or be suspected to be, upon proof upon oath of the handwriting of the Justice or Justices issuing the Warrant, may make an endorsement upon it, signed with his name, authorizing the execution of the Warrant within his jurisdiction; and such endorsement shall be a sufficient authority to the

person bringing the Warrant, and to all other persons to whom it was originally directed, and to all Constables or other Peace Officers of the Territorial Division wherein the endorsement has been made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the Warrant or some other Justice having the same jurisdiction.

No objection allowed for want of form in the warrant.

12. No objection shall be taken or allowed to any Warrant issued as aforesaid, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Informant or Complainant, but if it appears to the Justice or Justices present and acting at the hearing, that the party apprehended under the Warrant has been deceived or misled by any such variance, such Justice or Justices may, upon such terms as he or they think fit, adjourn the hearing of the case to some future day, and in the meantime commit (D) the Defendant to the Common Gaol, or other prison, or place of security within the Territorial Division or place wherein the Justice or Justices may be acting, or to such other custody as the Justice or Justices think fit, or may discharge him upon his entering into a Recognizance (E), with or without surety or sureties, at the discretion of the Justice or Justices, conditioned for his appearance at the time and place to which the hearing is so adjourned.

Where a defendant is discharged on recognizance and fails to appear, &c.

13. In all cases where a Defendant is discharged upon Recognizance, and does not afterwards appear at the time and place in the Recognizance mentioned, the Justice who took the Recognizance, or any Justice or Justices who may then be present, having certified (F) upon the back of the Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Officer appointed by law to receive the same in the Province in which such Recognizance has been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the said Defendant.

Description of property of partners, &c., in any information or complaint or proceedings thereon.

14. In any information or complaint or proceedings thereon, in which it is necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another, or others, as the case may be, and whenever in any information or complaint or the proceedings thereon, it is necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and whenever in any information or complaint, or the proceedings thereon, it is necessary to describe the owner-

ship of any work or building made, maintained or repaired at the expense of any Territorial Division or place, or of any materials for the making, altering or repairing the same, they may be therein described as the property of the inhabitants of such Territorial Division or place.

Abettors, &c., how punishable.

15. Every person who aids, abets, counsels or procures the commission of any offence which is punishable on Summary Conviction, shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction, and shall be liable, on conviction, to the same forfeiture and punishment as the principal offender, and may be proceeded against and convicted either in the Territorial Division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling or procuring was committed.

Power to Justices to summon witnesses to attend and give evidence.

16. If it be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the Jurisdiction of such Justice is likely to give material evidence on behalf of the Prosecutor or complainant or Defendant, and will not voluntarily appear as a witness at the time and place appointed for the hearing of the information or complaint, the Justice shall issue his Summons (G 1) to such person, requiring him to be and appear at a time and place mentioned in the Summons, before the said Justice, or any other Justice or Justices of the Peace for the Territorial Division, who may then be there, to testify what he knows concerning the information or complaint.

If summons be disobeyed, &c., Justice may issue warrant.

17. If any person so summoned neglects or refuses to appear at the time and place appointed by the Summons, and no just excuse be offered for such neglect or refusal, then (after proof upon oath or affirmation of the Summons having been served upon him, either personally or by leaving the same for him with some person at his last or most usual place of abode) the Justice or Justices before whom such person should have appeared may issue a Warrant (G 2) to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the Summons, or before any other Justice or Justices of the Peace for the same Territorial Division who may be then there, to testify as aforesaid, and the said Warrant may, if necessary, be backed as hereinbefore mentioned, in order to its being executed out of the jurisdiction of the Justice who issued the same.

When Justice may issue his warrant in the first instance.

18. If the Justice is satisfied, by evidence upon oath or affirmation, that it is probable that the person will not attend to give evidence without being compelled so to do, then instead of issuing a Summons he may issue his Warrant (G 3) in the first instance, and the warrant may, if necessary, be backed as aforesaid.

Witnesses refusing to be examined may be committed.

19. If on the appearance of the person so summoned before the last mentioned Justice or Justices, either in obedience to the Summons, or upon being brought before him or them, by virtue of the Warrant, such person refuses to be examined upon oath or affirmation concerning the premises, or refuses to take an oath or affirmation, or having taken the oath or affirmation refuses to answer such questions concerning the premises as are then put to him, without offering any just excuse for his refusal, any Justice of the Peace then present, and having jurisdiction, may, by Warrant (G 4), commit the person so refusing to the Common Gaol or other prison for the Territorial Division where the person then is, there to remain and be imprisoned for any time not exceeding ten days, unless in the meantime, he consents to be examined and to answer concerning the premises.

Certain complaints must be in writing.

Exception.

20. In all cases of complaints upon which a Justice or Justices of the Peace may make an Order for the payment of money or otherwise, such complaint shall be in writing and on oath, (T) unless it is enacted or provided to the contrary by some particular Act of Parliament upon which such complaint is framed.

As to any variance between information and the facts or evidence.

21. In all cases of informations for offences or acts punishable upon Summary Conviction, any variance between the information and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material if it be proved that such information was in fact laid within the time limited by law for laying the same ; and any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material, if the offence or act be proved to have been committed within the jurisdiction of the Justice or Justices by whom the information is heard and determined.

If deemed material, Justice may adjourn the case.

22. If any such variance, or any other variance between the information and the evidence adduced in support thereof, appears to the Justice or Justices present, and acting at the hearing, to be such that the party charged by the information has been thereby deceived or misled, the Justice or Justices, upon such terms as he or they think fit, may adjourn the hearing of the case to some future day, and in the meantime commit (D) the Defendant to the Common Gaol, or other prison, or to such other custody as the Justice or Justices think fit, or may discharge him upon his entering into a Recognizance (E), with or without Surety or Sureties, at the discretion of the Justice or Justices, conditioned for his appearance at the time and place to which the hearing is adjourned.

23. In all cases where a Defendant has been discharged upon Recognizance, and does not afterwards appear at the time and place in the Recognizance mentioned, the Justice who took the Recognizance, or any other Justice or Justices who may then be there present, having certified (F) upon the back of the Recognizance the non-appearance of the Defendant, may transmit the Recognizance to the Officer appointed to receive the same by the laws of the Province in which the Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and the Certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the Defendant.

In case the defendant is bailed and fails to appear afterwards.

What to be done.

Recognizance to be sent to the proper officer.

24. All complaints upon which a Justice or Justices of the Peace are authorized by law to make an Order, and all informations for any offence or act punishable upon summary conviction, unless some particular Act or Law otherwise permits, shall be laid on oath or affirmation as to the truth thereof.

Complaint or information must be made upon oath, except in certain cases.

25. In all cases of informations, where the Justice or Justices receiving the same thereupon issue his or their Warrant in the first instance, to apprehend the Defendant, and in every case where the Justice or Justices issue his or their Warrant in the first instance, the matter of the information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before the Warrant shall be issued, and every complaint shall be for one matter of complaint only and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences, and every complaint or information may be laid or made by the Complainant or Informant in person, or by his Counsel or Attorney, or other person authorized in that behalf.

And always where warrant is issued in the first instance, complaint or information to be for one matter only.

26. In all cases where no time is specially limited for making any complaint or laying any information in the Act or Law relating to the particular case, the complaint shall be made and the information shall be laid within three months from the time when the matter of the complaint or information arose.

For information or complaint.

27. Every complaint and information shall be heard, tried, determined and adjudged by one or two or more Justice or Justices of the Peace, as may be directed by the Act or Law upon which the complaint or information is framed, or by any other Act or Law in that behalf.

As to the hearing of complaints and informations.

28. If there be no such direction in any Act or Law, then the complaint or information may be heard, tried, determined and adjudged by any one Justice for the Territorial District where the matter of the complaint or information arose.

If there be no such direction.

To be deemed an open Court.

29. The room or place in which the Justice or Justices sit to hear and try any complaint or information, shall be deemed an open and public Court to which the public generally may have access, so far as the same can conveniently contain them.

Defendant may make full defence, and produce witnesses.

30. The party against whom the complaint is made or information laid, shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by Counsel or Attorney on his behalf.

Prosecutor may be heard by counsel or attorney.

31. Every Complainant or Informant in any such case shall be at liberty to conduct the information, and to have the Witnesses examined and cross-examined by Counsel or Attorney on his behalf.

In case the defendant does not appear.

32. If on the day and at the place appointed by the Summons for hearing and determining the complaint or information, the Defendant against whom the same has been made or laid does not appear when called, the Constable, or other person who served him with the Summons, shall declare upon oath in what manner he served the Summons; and if it appear to the satisfaction of the Justice or Justices that he duly served the Summons, then the Justice or Justices may proceed to hear and determine the case in the absence of the Defendant, or the Justice or Justices, upon the non-appearance of the Defendant, may, if he or they think fit, issue his or their Warrant in manner hereinbefore directed, and shall adjourn the hearing of the complaint or information until the Defendant is apprehended.

When defendant has been apprehended, &c.

33. When the Defendant has been apprehended under the Warrant, he shall be brought before the same Justice or Justices, or some other Justice or Justices of the Peace for the same Territorial Division who shall thereupon, either by his or their Warrant (H) commit the Defendant to the Common Gaol, or other prison, or if he or they think fit, verbally to the custody of the Constable or other person who apprehended him, or to such other safe custody as he or they deem fit, and may order the Defendant to be brought up at a certain time and place before him or them, of which Order the Complainant or Informant shall have due notice.

If defendant appears, &c.

34. If upon the day and at the place so appointed, the Defendant appears voluntarily in obedience to the Summons in that behalf served upon him, or be brought before the Justice or Justices by virtue of a Warrant, then, if the Complainant or Informant, having had due notice does not appear by himself, his Counsel or Attorney, the Justice or Justices shall dismiss the complaint or information unless for some reason he or they think proper to adjourn the hearing of the same until some other day, upon such terms as he or they think fit, in which case the Justice or Justices may commit (D) the Defendant in the meantime to the Common Gaol, or other prison, or to such other

custody as he or they think fit, or may discharge him upon his entering into a Recognizance (E) with or without Surety or Sureties, at the discretion of the Justice or Justices, conditioned for his appearance at the time and place to which such hearing may be adjourned.

If defendant afterwards fail to appear, &c.

35. If the Defendant does not afterwards appear at the time and place mentioned in his Recognizance, then the Justice who took the Recognizance, or any Justice or Justices then there present, having certified (F) on the back of the Recognizance the non-appearance of the Defendant, may transmit the Recognizance to the proper officer appointed to receive the same, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the Defendant.

If both parties appear, Justice to hear and determine the case.

36. If both parties appear, either personally or by their respective Counsel or Attorneys, before the Justice or Justices who are to hear and determine the complaint or information, then the said Justice or Justices shall proceed to hear and determine the same.

Proceedings on the hearing of complaints or informations.

37. In case the Defendant be present at the hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to shew why he should not be convicted, or why an Order should not be made against him, *as the case may be.*

Justice may convict party if he admit the truth.

38. If he thereupon admits the truth of the information or complaint, and shews no sufficient cause why he should not be convicted, or why an Order should not be made against him, as the case may be, the Justice or Justices present at the hearing, shall convict him or make an Order against him accordingly.

If he does not admit the truth, &c.

39. If he does not admit the truth of the information or complaint, the Justice or Justices shall proceed to hear the Prosecutor or Complainant and such Witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint, and shall also hear the Defendant and such Witnesses as he may examine, and such other evidence as he may adduce in his defence, and also hear such Witnesses as the Prosecutor or Complainant may examine in reply, if such Defendant has examined any Witnesses or given any evidence other than as to his the Defendant's general character.

Complainant or defendant not to make observations in reply upon the evidence, &c.

40. The Prosecutor or Complainant shall not be entitled to make any observations in reply upon the evidence given by the Defendant, nor shall the Defendant be entitled to make any observations in reply upon the evidence given by the Prosecutor or Complainant in reply.

After hearing the evidence, Justice to determine the matter.

41. The Justice or Justices, having heard what each party has to say, and the Witnesses and evidence adduced, shall consider the whole matter and unless otherwise provided determine the same, and convict or make an Order upon the Defendant or dismiss the information or complaint as the case may be.

If defendant is convicted, a minute to be made gratis, and conviction drawn up afterwards.

42. If he or they convict or make an Order against the Defendant, a Minute or Memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I 1, 3) or Order (K 1, 3) shall afterwards be drawn up by the Justice or Justices in proper form, under his or their Hand and Seal or Hands and Seals.

Or if he dismiss the complaint, &c.

43. If the Justice or Justices dismiss the information or complaint, they may, when required so to do, make an Order of Dismissal of the same (L,) and shall give the Defendant a Certificate thereof (M,) which Certificate upon being afterwards produced, shall without further proof, be a bar to any subsequent information or complaint for the same matters, against the same party.

If information or complaint negative any exemption.

44. If the information or complaint in any case negatives any exemption, exceptions, proviso, or condition in the Statute on which the same is framed, it shall not be necessary for the Prosecutor or Complainant to prove such negative, but the Defendant may prove the affirmative thereof in his defence, if he would have advantage of the same.

Prosecutors and complainants in certain cases to be deemed competent witnesses and examined upon oath, &c.

45. Every Prosecutor of any information not having any pecuniary interest in the result, and every complainant in any complaint whatever his interest may be in the result of the same, shall be a competent Witness to support such information or complaint; and every Witness at any hearing shall be examined upon oath or affirmation, and the Justice or Justices before whom any Witness appears for the purpose of being examined, shall have full power and authority to administer to every Witness the usual oath or affirmation; provided that no *prosecutor shall be deemed incompetent as a witness on the ground only that he may be liable to costs.*

Justice may adjourn hearing of any case and commit defendant or suffer him to go at large, &c.

46. Before or during the hearing of any information or complaint, any one Justice or the Justices present, may in their discretion, adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective Attorneys or Agents then present, and in the meantime the Justice or Justices may suffer the Defendant to go at large or may commit (D) him to the Common Gaol or other prison, within the Territorial Division for which the Justice or Justices are then acting, or to such other safe custody as the Justice or Justices think fit, or may discharge the Defendant upon his Recogni-

zance (E,) with or without sureties, at the discretion of the Justice or Justices, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned.

If defendant or prosecutor appear the case may be heard.

47. If, at the time and place to which the hearing or further hearing has been adjourned, either or both of the parties do not appear, personally or by his or their Counsel or Attorneys respectively, before the Justice or Justices, or such other Justice or Justices as may then be there, the Justice or Justices then there present may proceed to the hearing or further hearing as if the party or parties were present.

If the prosecutor do not appear case may be dismissed.

48. If the Prosecutor or Complainant do not appear, the Justice or Justices may dismiss the information with or without costs, as to them seems fit.

If defendant fail to re-appear, &c.

49. In all cases when a Defendant is discharged upon his Recognizance, and does not afterwards appear at the time and place mentioned in the Recognizance, the Justice or Justices who took the Recognizance, or any other Justice or Justices who may then be there present, having certified (F) on the back of the recognizance the non-appearance of the accused party, may transmit such Recognizance to the proper officer appointed to receive the same by the laws of the Province in which the Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the Defendant.

Form of convictions and orders to be as in Schedule where no particular form is given in the Statute creating the offence.

50. In all cases of conviction where no particular form of conviction is given by the Statute creating the offence or regulating the prosecution for the same, and in all cases of conviction upon Statutes hitherto passed, whether any particular form of conviction has been therein given or not, the Justice or Justices who convict, may draw up his or their conviction, on parchment or on paper, in such one of the forms of conviction (I 1, 3) as may be applicable to the case, or to the like effect.

Where no special form is given; form in (K 1, 3) may be adopted.

51. In case an Order be made, and no particular form of Order is given by the Statute giving authority to make such Order, and in all cases of Orders made under the authority of any Statutes hitherto passed, whether any particular form of Order is therein given or not, the Justice or Justices by whom the Order is made, may draw up the same in such one of the forms of Orders (K 1, 3) as may be applicable to the case, or to the like effect.

Defendant to be served with copy of order before distress

52. In all cases when by any Statute authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying an Order of a Justice or Justices, the Defendant shall be served with a copy of the

or commitment.

Minute of the Order before any Warrant of Commitment or of Distress is issued in that behalf, and the Order or Minute shall not form any part of the Warrant of Commitment or of Distress.

Power to Justices to award costs not inconsistent with the fees established by law to be taken.

53. In all cases of Summary Conviction, or of Orders made by a Justice or Justices of the Peace, the Justice or Justices making the same, may in his or their discretion, award and order in and by the Conviction or Order that the Defendant shall pay to the Prosecutor or Complainant such costs as to the said Justice or Justices seem reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before Justices of the Peace.

Costs may be awarded to defendant when the case is dismissed.

54. In cases where the Justice or Justices, instead of convicting or making an Order, dismiss the information or complaint, he or they, in his or their discretion, may, in and by his or their Order of Dismissal, award and order that the Prosecutor or Complainant shall pay to the Defendant such costs as to the said Justice or Justices seem reasonable and consistent with law.

Costs so allowed shall be specified in conviction or order of dismissal.

55. The sums so allowed for costs shall in all cases be specified in the Conviction or Order, or Order of Dismissal, and the same shall be recoverable in the same manner and under the same Warrants as any penalty adjudged to be paid by the Conviction or Order is to be recovered.

And may be recovered by distress.

56. In cases where there is no such penalty to be recovered, such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labour, for any time not exceeding one month, unless the costs be sooner paid.

Powers to Justices to issue warrant of distress in cases where a pecuniary penalty, &c., has been adjudged.

57. Where a Conviction adjudges a pecuniary penalty or compensation to be paid, or where an Order requires the payment of a sum of money, and by the Act or Law authorizing such Conviction or Order the penalty, compensation, or sum of money is to be levied upon the goods and chattels of the Defendant, by distress and sale thereof; and also in cases where, by the Act or Law in that behalf, no mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, the Justice or any one of the Justices making such Conviction or Order, or any Justice of the Peace for the same Territorial Division, may issue his Warrant of Distress (N 1, 2) for the purpose of levying the same, which Warrant of Distress shall be in writing, under the Hand and Seal of the Justice making the same.

Proceeding if sufficient distress be not found.

58. If, after delivery of the Warrant of Distress to the Constable or Constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits

of the jurisdiction of the Justice granting the Warrant, then upon proof being made upon oath of the handwriting of the Justice granting the Warrant, before any Justice of any other Territorial Division, the Justice shall thereupon make an endorsement (N 3) on the Warrant, signed with his Hand, authorizing the execution of the Warrant within the limits of his jurisdiction, by virtue of which Warrant and endorsement the penalty or sum, and costs, or so much thereof as may not have been before levied or paid, shall be levied by the person bringing the Warrant, or by the person or persons to whom the Warrant was originally directed, or by any Constable or other Peace Officer of the last mentioned Territorial Division, by distress and sale of the goods and chattels of the Defendant therein.

When the issuing of a warrant would be ruinous to defendant or when there are no goods, Justice may commit him to prison.

59. Whenever it appears to any Justice of the Peace to whom application is made for any Warrant of Distress, that the issuing thereof would be ruinous to the Defendant and his family, or whenever it appears to the Justice, by the confession of the Defendant or otherwise, that he hath no goods and chattels whereon to levy such distress, then the Justice, if he deems it fit, instead of issuing a Warrant of Distress, may (O 1, 2) commit the Defendant to the Common Gaol, or other prison in the Territorial Division, there to be imprisoned with or without hard labor, for the time and in the manner the Defendant could by law be committed in case such Warrant of Distress had issued, and no goods or chattels had been found whereon to levy the penalty or sum and costs.

When distress issued, defendant may be bailed until it is returned.

60. In all cases where a Justice of the Peace issues any Warrant of Distress, he may suffer the Defendant to go at large, or verbally, or by a written Warrant in that behalf, may order the Defendant to be kept and detained in safe custody, until Return has been made to the Warrant of Distress, unless the Defendant gives sufficient security, by Recognizance or otherwise, to the satisfaction of the Justice, for his appearance before him at the time and place appointed for the Return of the Warrant of Distress, or before such other Justice or Justices for the same Territorial Division, as may then be there.

If defendant does not afterwards appear the recognizance to be certified and transmitted to the proper officer.

61. In all cases where a Defendant gives security by Recognizance, and does not afterwards appear at the time and place in the said Recognizance mentioned, the Justice who hath the same, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of the Defendant, may, transmit the Recognizance to the proper officer appointed to receive the same by the laws of the Province in which the recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the Defendant.

In default of sufficient distress Justice may commit defendant to prison.

62. If at the time and place appointed for the Return of any Warrant of Distress, the Constable, who has had execution of the same, returns (N 4) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of, or occasioned by the levy of the same, the Justice of the Peace before whom the same is returned may issue his Warrant of Commitment (N 5) directed to the same or any other Constable, reciting the Conviction or Order shortly, the issuing of the Warrant of Distress, and the Return thereto, and requiring the Constable to convey the Defendant to the Common Gaol, or other prison of the Territorial Division for which the Justice is then acting, and there to deliver him to the Keeper thereof, and requiring the Keeper to receive the Defendant into such Gaol, or prison and there to imprison him, or to imprison him and keep him to hard labor, in the manner and for the time directed by the Act or Law on which the Conviction or Order mentioned in the Warrant of Distress is founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the Defendant to prison, if such Justice thinks fit so to order (the amount thereof being ascertained and stated in such commitment,) be sooner paid; but if no term of imprisonment be specified in the Act or Law, the period for which the Justice shall order the Defendant to be so imprisoned shall not exceed three months.

Imprisonment for a subsequent offence to commence at expiration of that for previous offence.

63. Where a Justice or Justices of the Peace, upon any information or complaint adjudges the Defendant to be imprisoned, and the Defendant is then in prison undergoing imprisonment upon conviction for any other offence, the Warrant of Conviction for the subsequent offence shall be forthwith delivered to the Gaoler or other Officer to whom it is directed, and the Justice or Justices who issued the same, if he or they think fit, may award and order therein, that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the Defendant was previously sentenced.

If information be dismissed; costs may be recovered by distress upon prosecution.

64. When any information or complaint is dismissed with costs, the sum awarded for costs in the Order for Dismissal may be levied by distress [Q 1] on the goods and chattels of the Prosecutor or Complainant in the manner aforesaid; and in default of distress or payment, the Prosecutor or Complainant may be committed [Q 2] to the Common Gaol or other Prison, in manner aforesaid, for any time not exceeding one month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of the Prosecutor or Complainant to prison (the amount thereof being ascertained and stated in the commitment), be sooner paid.

65. In all cases where the sum adjudged to be paid on any summary conviction or order exceeds ten dollars, or the imprisonment adjudged exceeds one month, or the conviction has taken place before or the order has been made by one Justice only, any person who thinks himself aggrieved by any such conviction or order, may appeal to the next Court of General or Quarter Sessions, which shall be holden not less than 12 days after the day of such conviction or order, for the district, county or place wherein the cause of the complaint has arisen, or, in the province of Quebec, to any other Court for the time being discharging the functions of the Court of General or Quarter Sessions, in and for such district; Provided that such person shall give to the prosecutor or complainant a notice in writing of such appeal, and of the cause and matter thereof, within four days after such conviction or order, and eight days, at the least, before the holding of such Court, and shall also either remain in custody until the holding of the Court, or shall enter into a recognizance, with two sufficient sureties, before a Justice or Justices of the Peace, conditioned personally to appear at the said Court and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; or if such appeal is against any conviction or order whereby only a penalty or sum of money is adjudged to be paid, shall deposit with the Justice or Justices convicting or making the order such a sum of money as such Justice or Justices deem to be sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction or order and the costs of the appeal; and upon such notice being given and such recognizance being entered into, or such deposit being made, the Justice or Justices before whom such recognizance is entered into, or such deposit is made, shall liberate such person, if in custody; and the Court shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the Court seems meet; and in case of the dismissal of the appeal, or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction, or the defendant to pay the amount adjudged by the said order and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing such judgment; and in any case where, after any such deposit has been made as aforesaid, the conviction or order is affirmed, the Court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, to be paid out of the money deposited, and the residue thereof, if any, to be repaid to the defendant; and in any case where, after any such deposit, the conviction or order is quashed, the Court shall order the money deposited to be repaid to the defendant, and in every case where any conviction or order is quashed on appeal as aforesaid, the Clerk of the Peace or other proper officer shall forthwith endorse on the conviction or order a memorandum that the same has been quashed; and whenever any copy or

Parties may appeal in certain cases to the Court of General or Quarter Sessions.

Proviso.

Appellant to deposit with convicting Justice such sum of money as will cover amount of judgment and costs, with costs of appeal.

In case conviction or order is quashed the Court to order re-payment of deposit to appellant and a memorandum to be endorsed on the conviction or order.

certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction or order has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction or order.

Appeal not to be based on alleged defect in form or substance.

66. No judgment shall be given in favor of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant, issued upon any such information, complaint or summons, for any alleged defect therein in substance or in form, or for any variance between such information, summons or warrant and the evidence adduced on the part of the informant at the hearing of such information,—unless it shall be proved before the Court hearing the appeal that such objection was made before the Justice or Justices of the Peace before whom the case was tried and by whom such conviction, judgment or decision was given, —nor unless it is proved that notwithstanding it was shewn to such Justice or Justices of the Peace that by such variance the person summoned and appearing or apprehended, had been deceived or misled, such Justice or Justices refused to adjourn the hearing of the case to some further day as provided by this Act.

Decision to be given on the merits notwithstanding defect of form in conviction.

67. In all cases of appeal from any summary conviction or order made or had before any Justice or Justices of the Peace, the Court to which such appeal is made shall hear and determine the charge or complaint on which such conviction or order is made or had upon the merits, notwithstanding any defect of form or otherwise in such conviction or order; and if the person charged or complained against is found guilty the conviction or order shall be affirmed and the Court shall amend the same if necessary, and any conviction or order so affirmed or affirmed and amended shall be enforced in the same manner as convictions or orders affirmed in appeal.

If appeal abandoned after notice given, costs may be ordered.

68. And for the more effectual prevention of frivolous appeals, the Court of General and Quarter Sessions or other Court to which an appeal is made, upon proof of notice of the appeal to such Court having been given to the person entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if such appeal has not been abandoned according to law, at the same Court for which such notice was given, order to the party or parties receiving the same such costs and charges as by the said Court shall be thought reasonable and just to be paid by the party or parties giving such notice, such costs to be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction.

Proceedings after appeal.

69. In case an appeal against any conviction or order be decided in favor of the Respondents, the Justice or Justices

who made the conviction or order, or any other Justice of the Peace for the same Territorial Division, may issue the Warrant of Distress or Commitment for execution of the same, as if no Appeal had been brought.

No certiorari.

70. No conviction, or adjudication made in appeal therefrom shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's Superior Courts of record, and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted and there be a good and valid conviction to sustain the same.

Powers of Recorders' Courts.

71. In respect of appeals against summary convictions or orders, Recorders' Courts shall have the same powers and jurisdiction as the Courts of General or Quarter Sessions.

Justice convicting to return the conviction.

72. Every Justice of the Peace before whom any person shall be summarily convicted of any offence by virtue of this Act, shall transmit the conviction to the Court of General or Quarter Sessions or to any other Court discharging the functions of the Court of General or Quarter Sessions as aforesaid, to be holden for the District, County or place wherein the offence has been committed, before the time when an appeal from such conviction could be heard, there to be kept by the proper officer among the records of the Court; and if such conviction has been appealed against, and a deposit of money made, shall return the deposit into the said Court; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against, until the contrary be shown.

Effect of conviction if no appeal.

73. In all cases where it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the conviction where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case.

To whom costs to be payable.

74. If upon any Appeal the Court trying the Appeal orders either party to pay costs, the Order shall direct the costs to be paid to the Clerk of the Peace or other proper officer of the Court, to be by him paid over to the party entitled to the same, and shall state within what time the costs shall be paid.

Enforcement of payment.

75. If the same be not paid within the time so limited, and the party ordered to pay the same has not been bound by any Recognizance conditioned to pay such costs, the Clerk of the Peace or his Deputy, on application of the party entitled to the costs, or of any person on his behalf and on payment of a Fee of twenty cents, shall grant to the party so applying, a Certificate [R] that the costs have not been paid, and upon production of the Certificate to any Justice or Justices of the Peace for the same Territorial Division, he or they may enforce the payment of the costs by Warrant of Distress [S 1] in manner aforesaid, and in default of distress he or they may commit [S 2] the party against whom the Warrant has issued in manner hereinbefore mentioned, for any time not exceeding two months, unless the amount of the costs and all costs and charges of the distress, and also the costs of the commitment and conveying of the party to prison, if the Justice or Justices think fit so to order, (the amount thereof being ascertained and stated in commitment), be sooner paid.

Justices of the Peace to make returns to the Quarter Sessions of all convictions and fines in cases adjudicated by them and of the application of moneys received.

76. Every Justice of the Peace, shall make a return in writing under his hand of all convictions made by him to the next ensuing General or Quarter Sessions of the Peace, for the District or County in which such conviction takes place, and of the receipt and application by him of the moneys received from the Defendants and in the case of any convictions before two or more Justices, such Justices, being present and joining therein, shall make a joint Return thereof, in the following Form.

RETURN of Convictions made by me (*or* us, *as the case may be*) in the month of 18 .

Name of the Prosecutor.	Name of the Defendant.	Nature of the charge.	Date of Conviction.	Name of Convicting justice.	Amount of penalty, fine or damage.	Time when paid or to be paid to said justice.	To whom paid over by said justice.	If not paid, why not, and general observations, if any.

A. B. Convicting Justice
or
A. B. and C. D. Convicting Justices, (*as the case may be.*)

77. And any Justice or Justices to whom any such moneys may be afterwards paid, shall make a Return of the receipts and application thereof, to the next General Quarter Sessions, which return shall be filed by the Clerk of the Peace, with the records of his office.

A return to be also made of subsequent receipts and application of moneys to the next General or Quarter Sessions.

78. In case the Justice or Justices, before whom any such conviction takes place or who receives any such moneys, neglect or refuse to make such return thereof, or in case any such Justice or Justices wilfully make a false, partial or incorrect return, or wilfully receive a larger amount of fees than by law they are authorized to receive, such Justice or Justices, so neglecting, or refusing, or wilfully making such false, partial or incorrect return, or wilfully receiving a larger amount of fees as aforesaid, shall forfeit and pay the sum of eighty dollars, together with full costs of suit, to be recovered by any person who sues for the same by action of debt or information in any Court of Record in the Province of Ontario, one moiety whereof shall be paid to the party suing, and the other moiety into the hands of Her Majesty's Receiver General to and for the public uses of the Province.

Penalty for Justices of the Peace neglecting to comply with the provisions of this Act.

79. All prosecutions for penalties arising under the provisions of the next preceding section shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the District or County wherein such penalties have been incurred, and if a verdict or judgment passes for the defendant, or the plaintiff becomes non-suit, or discontinues the action after issue joined, or if upon demurrer, or otherwise, judgment be given against the plaintiff, the defendant shall recover his full costs of suit, as between Attorney and Client, and shall have the like remedy, for the same as any defendant hath by law in other cases.

Actions for penalties under this Act limited to six months after cause.

80. The Clerk of the Peace of the District or County in which any such returns are made shall, within seven days after the adjournment of the next ensuing General or Quarter Sessions, cause to be published the said returns in one public newspaper in the District or County, or if there be no such newspaper, then in a newspaper of an adjoining District or County, and shall also fix up in the Court House of the District or County, and also in a conspicuous place in the Office of such Clerk of the Peace, for public inspection, a Schedule of the returns so made by such Justices ; and the same shall continue to be so fixed up, and exhibited until the end of the next ensuing General or Quarter Sessions of the Peace, and for every Schedule so made and exhibited by the said Clerk of the Peace, he shall be allowed the fee of four dollars, besides the expense of publication.

Clerk of the Peace to publish and put up in Court House the returns so made to General or Quarter Sessions.

81. The Clerk of the Peace of each District or County within twenty days after the end of each General or Quarter

Copy of returns to be sent to

Minister of Finance.

Sessions of the Peace, shall transmit to the Minister of Finance a true copy of all such returns made within his District or County.

This Act not to deprive persons aggrieved of the right to prosecute a Justice liable to be indicted for any offence.

82. Nothing in the six next preceding sections shall have the effect of preventing any person aggrieved, from prosecuting by Indictment, a Justice of the Peace, for any offence, the commission of which would subject him to Indictment at the time of the passing of this Act.

In case of tender or payment of the amount mentioned in the warrant.

83. In all cases where a Warrant of Distress has issued against any person, and such person pays or tenders to the to the Constable having the execution of the same, the sum or sums in the Warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the Constable shall cease to execute the same.

Payment may be made to the keeper of the prison.

84. In all cases in which any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the Keeper of the prison in which he is imprisoned, the sum in the Warrant of Commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also mentioned, and the Keeper shall receive the same, and shall thereupon discharge the person, if he be in his custody for no other matter.

In what cases one Justice may act.

85. In all cases of Summary proceedings before a Justice or Justices of the Peace out of Sessions, upon any information or complaint, one Justice may receive the information or complaint and grant a Summons or Warrant thereon and issue his Summons or Warrant to compel the attendance of any Witnesses for either party and do all other acts and matters necessary, preliminary to the hearing, even in cases where by the Statute in that behalf the information or complaint must be heard and determined by two or more Justices.

After hearing, &c.

86. After a case has been heard and determined, one Justice may issue all Warrants of Distress or Commitment thereon.

Proceedings after judgment.

87. It shall not be necessary that the Justice who acts before or after the hearing, shall be the Justice or one of the Justices by whom the case is or was heard and determined.

In case two Justices are required.

88. In all cases where by any Act or Law it is required that an information or complaint shall be heard and determined by two or more Justices, or that a conviction or order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case.

Application of sum forfeited in certain cases.

89. Every sum of money forfeited for, or as the value of any property stolen or of any injury done (such value or amount

to be assessed in each case by the convicting Justice or Justices) shall be paid to the party aggrieved, if known, except where such party has been examined in proof of the offence, and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty.

Amount to be paid to party aggrieved limited.

90. When several persons join in the commission of the same offence, and upon conviction thereof, each is adjudged to forfeit a sum equivalent to the value of the property, or to the amount of the injury done, no further sum shall be paid to the party aggrieved than the amount forfeited by one of such offenders only, and the corresponding sum, forfeited by the other offenders, shall be applied in the same manner as other penalties imposed by a Justice or Justices of the Peace are directed to be applied.

Within what time proceedings may be commenced.

91. When not otherwise provided, the prosecution for every offence punishable on summary conviction shall be commenced within three months after the commission of the offence, and not otherwise; and the evidence of the party aggrieved and also the evidence of any inhabitant of the District, County or place in which the offence was committed, shall be admitted in proof of the offence notwithstanding any forfeiture or penalty incurred by the offence, may be payable to any public fund of such District, County or place.

Certain officers to have the powers of two Justices.

92. Any one Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate, appointed for any City, Borough, Town, Place or Territorial Division, and sitting at a Police Court or other place appointed in that behalf, shall have full power to do alone whatever is authorized by this Act to be done by two or more Justices of the Peace; and the several forms hereinafter contained may be varied so far as it may be necessary to render them applicable to Police Courts, or to the Court or other place of sitting of such Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate.

Power to preserve order, &c.

93. Any Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate, sitting at any Police Court or other place appointed in that behalf, shall have such and like powers and authority to preserve order in the said Courts during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any Courts of Law in Canada, or by the Judges thereof respectively, during the sittings thereof.

Powers of Police Magistrates, &c., in certain cases.

94. Inspectors and Superintendents of Police, Police Magistrates and Stipendiary Magistrates, in all cases where any resistance is offered to the execution of any Summons, Warrant of Execution or other Process issued by them, may enforce the due execution of the same by the means provided by the law

for enforcing the execution of the Process of other Courts in like cases.

Meaning of certain words.

95. The word "Territorial Division" whenever used in this Act shall mean—County, Union of Counties, Township, City, Town, Parish or other place to which the context may apply.

Meaning of certain words.

96. The words "Common Gaol" or "Prison," whenever it occurs in this Act, shall be held to mean any place other than a Penitentiary where parties charged with offences against the law are usually kept and detained in custody.

Forms.

97. The several forms in the Schedule to this Act contained, or forms to the like effect, shall be deemed good, valid and sufficient in law.

SCHEDULES.

(A) *See* s. 1.

SUMMONS TO THE DEFENDANT UPON AN INFORMATION.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be,*) of ,

To A. B. of (*laborer*):

Whereas information hath this day been laid (*or* complaint hath this day been made) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, City, Town, &c., as the case may be*) of , for that you (*here state shortly the matter of the information or complaint*): These are therefore to command you in Her Majesty's name, to be and appear on , at o'clock in the forenoon, at , before me, or such Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) as may then be there, to answer to the said information (*or* complaint), and to be further dealt with according to law.

Given under (*my*) Hand and Seal, this day of , in the year of Our Lord , at , in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.]

(B.) *See* s. 6.

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be,*)
of ,

To all or any of the Constables or other Peace Officers in the District (or *County, United Counties, or as the case may be*) of

Whereas on last past, information was laid (*or* complaint was made) before , (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of , for that A. B. (*&c., as in the Summons*): And whereas (*I*) the said Justice of the Peace then issued (*my*) Summons unto the said A. B., commanding him in Her Majesty's name to be and appear on , at o'clock in the forenoon, at , before (*me*) or such Justices of the Peace as might then be there, to answer unto the said information (*or* complaint), and to be further dealt with according to law; And whereas the said A. B. hath neglected to be and appear at the time and place so appointed in and by the said Summons, although it hath now been proved to me upon oath that the said Summons hath been duly served upon the said A. B.: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (*me*) or some one or more of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) to answer to the said information (*or* complaint); and to be further dealt with according to law.

Given under my Hand and Seal, this day of , in the year of Our Lord at , in the District (or *County, United Counties, or as the case may be*) aforesaid.

J. S. [L. S.]

(C) *See* s. 6.

WARRANT IN THE FIRST INSTANCE.

Canada,
Province of ,
District (or *County*, *United Counties or as the case may be*,)
of

To all or any of the Constables or other Peace Officers in the said District (or *County*, *United Counties*, *or as the case may be*,) of

Whereas information hath this day been laid before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of for that A. B. (*here state shortly the matter of information*); and oath being now made before me substantiating the matter of such information: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (*me*) or some one or more of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*,) to answer to the said information, and to be further dealt with according to law.

Given under my Hand and Seal, this day of in the year of our Lord , at , in the District (*County*, *&c.*, *or as the case may be*) aforesaid.

J. S. [L. S.]

(D) *See* ss. 12, 22, 34, 46.

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN ADJOURNMENT OF THE HEARING.

Canada,
Province of ,
District (or *County*, *United Counties*, *or as the case may be*)
of ,

To all or any of the Constables or Peace Officers in the District (or *County*, *United Counties*, *or as the case may be*) of , and to the Keeper of the (*Common Gaol* or *Lock-up House*) at :

Whereas on last past, information was laid (*or* complaint made) before , (*one*) of Her Majesty's

Justices of the Peace in and for the said District (or *County, United Counties, as the case may be*) of , for that (*&c., as in the Summons*); And whereas the hearing of the same is adjourned to the day of (*instant,*) at o'clock in the (*fore*) noon, at , and it is necessary that the said A. B. should in the meantime be kept in safe custody: These are therefore to command you, or any one of the said Constables or Peace Officers, in Her Majesty's name, forthwith to convey the said A. B. to the (*Common Gaol or Lock-up House,*) at , and there deliver him into the custody of the Keeper thereof, together with this Precept: And I hereby require you, the said Keeper, to receive the said A. B. into your custody in the said (*Common Gaol or Lock-up House*) and there safely keep him until the day of , (*instant*) when you are hereby required to convey and have him, the said A. B., at the time and place to which the said hearing is so adjourned as aforesaid, before such Justices of the Peace for the said District (or *County, United Counties, as the case may be*) as may then be there, to answer further to the said information (*or* complaint), and to be further dealt with according to law.

Given under my Hand and Seal, this day of in the year of our Lord , at , in the District (or *County, &c., or as the case may be*) aforesaid.

J. S. [L. S.]

(E) *See* ss. 12, 22, 34, 46.

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHEN THE CASE IS ADJOURNED, OR NOT AT ONCE PROCEEDED WITH.

Canada,
Province of
District (or *County, United Counties, or as the case may be*)
of ,

Be it remembered, That on , A. B. of (*laborer,*) and L. M. of , (*grocer,*) and O. P. of (*yeoman,*) personally came and appeared before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say: the said A. B. the sum of and the said L. M. and O. P. the sum of , each, of good and lawful current money of Canada, to be made and levied of their

several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed (*or* hereunder written.)

Taken and acknowledged the day and year first above mentioned at before me.

J. S. [L. S.]

The condition of the within (*or* the above) written Recognizance is such that if the said A. B. shall personally appear on the day of , (*instant*,) at o'clock in the (*forenoon*), at , before me or such Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*) as may then be there, to answer further to the information (*or* complaint) of C. D. exhibited against the said A. B. and to be further dealt with according to law, then the said Recognizance to be void, or else to stand in full force and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT AND HIS SURETIES.

Take notice that you, A. B., are bound in the sum of and you L. M. and O. P., in the sum of , each, that you, A. B., appear personally on at o'clock in the (*forenoon*) at , before me or such Justices of the Peace for the District (or *County*, *United Counties*, *or as the case may be*) of as shall then be there, to answer further to a certain information (*or* complaint) of C. D. the further hearing of which was adjourned to the said time and place, and unless you appear accordingly, the recognizance entered into by you, A. B., and by L. M. and O. P. as your Sureties, will forthwith be levied on you and them.

Dated this day of , one thousand eight hundred and .

J. S. [L. S.]

(F) *See* ss. 13, 23, 35, 49, 62.

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE DEFENDANT'S RECOGNIZANCE.

I hereby certify, that the said A. B. hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited.

J. S. [L. S.]

(G 1.) *See* s. 16.

SUMMONS TO A WITNESS.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of ,

To E. F. of , in the said District (or *County*, *United Counties*, *or as the case may be*) of

Whereas information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*) of , for that (*&c.*, *as in the Summons*,) and it hath been made to appear to me upon (*oath*) that you are likely to give material evidence on behalf of the Prosecutor (*or* Complainant *or* Defendant) in this behalf; These are therefore to require you to be and appear on , at o'clock in the (*fore*) noon, at before me or such Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*) as may then be there, to testify what you shall know concerning the matter of the said information (*or* complaint.)

Given under my Hand and Seal, this day of in the year of Our Lord , at in the District (or *County*, *or as the case may be*) aforesaid.

J. S. [L. S.]

(G 2) *See* s. 17.

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*) of ,

To all or any of the Constables and other Peace officers in the said District (or *County*, *United Counties*, *or as the case may be*) of

Whereas information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace, in and for

the said District (or *County*, *United Counties*, *or as the case may be*) of for that (*&c.*, *as in the Summons*,) and it having been made to appear to (*me*) upon oath, that E. F., of , in the said District (or *County*, *United Counties*, *or as the case may be* (*laborer*) was likely to give material evidence on behalf of the (*prosecutor*) (*I*) did duly issue (*my*) Summons to the said E. F., requiring him to be and appear on , at o'clock in the (*fore*) noon of the same day, at , before me or such Justice or Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*) as might then be there, to testify what he should know concerning the said A. B., or the matter of the said information (*or* complaint): And whereas proof hath this day been made before me, upon oath, of such Summons having been duly served upon the said E. F.; And whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse hath been offered for such neglect; These are therefore to command you to take the said E. F., and to bring and have him on , at o'clock in the noon, at before me or such Justice or Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*) as may then be there to testify what he shall know concerning the said information (*or* complaint).

Given under my Hand and Seal, this day of in the year of Our Lord , at in the District (*or County*, *or as the case may be*) aforesaid.

J. S. [L. S.]

(G 3) *See* s. 18.

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada,
Province of ,
District (or *County*, *United Counties*, *or as the case may be*,)
of ,

To all or any of the Constables, or other Peace Officers in the said District (or *County*, *United Counties*, *or as the case may be*) of

Whereas information was laid (*or* complaint was made) before the undersigned (*one*) of Her Majesty's Justice of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*) of , for that (*&c.*, *as in the summons*,) and it

being made to appear before me upon oath, that E. F., of (*laborer*,) is likely to give material evidence on behalf of the (*prosecutor*) in this matter, and it is probable that the said E. F., will not attend to give evidence without being compelled so to do; These are therefore to command you to bring and have the said E. F., before me, on , at o'clock in the (*fore*) noon, at , or before me or such other Justice or Justices of the Peace, for the said District (or *County*, *United Counties*, *or as the case may be*) as may then be there, to testify what he shall know concerning the matter of the said information (*or* complaint).

Given under (*my*) Hand and Seal, this day of , in the year of Our Lord , at , in the District (or *County*, *or as the case may be*,) aforesaid.

J. S. [L. S.]

(G 4) *See* s. 19.

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN OR GIVE EVIDENCE.

Canada,
Province of ,
District, (or *County*, *United Counties*, *or as the case may be*,) of ,

To all or any of the Constables or other Peace Officers in the said District (or *County*, *United Counties*, *or as the case may be*) of and to the Keeper of the Common Gaol of the said District (or *County*, *United Counties*, *or as the case may be*) at

Whereas information was laid (*or* complaint was made) before (*me*) (*one*) of Her Majesty's Justices of the Peace, in and for the said District (or *County*, *United Counties*, *or as the case may be*) of for that (*&c.*, *as in the Summons*,) and one E. F., now appearing before me such Justice as aforesaid, on , at , and being required by me to make oath or affirmation as a witness in that behalf, hath now refused so to do, (*or* being now here duly sworn as a witness in the matter of the said information (*or* complaint) doth refuse to answer a certain question concerning the premises which is now here put to him, and more particularly the following question (*here insert the exact words of the question*,) without offering any just excuse for such his refusal); These are therefore to command you, or any one of said Constables or Peace officers to take the said E. E., and him safely to convey to the Common

Gaol at aforesaid, and there deliver him to the said Keeper thereof, together with this precept; and I do hereby command you the said Keeper of the said Common Gaol to receive the said E. F., into your custody in the said Common Gaol and there imprison him for such his contempt for the space of days, unless he shall in the meantime consent to be examined and to answer concerning the premises, and for so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of in the year of our Lord, , at , in the district (or *County*, *United Counties*, *or as the case may be*) aforesaid.

J. S. [L. S.]

(H) *See* s. 33.

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Canada,
Province of ,
District (or *County*, *United Counties*, *or as the case may be*,)
of ,

To all or any of the Constables, or other Peace Officers in the said District (or *County*, *United Counties*, *or as the case may be*) of , and to the Keeper of the (*Common Gaol* or *Lock-up House*) at

Whereas information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace in and for the District (or *County*, *United Counties*, *or as the case may be*) of , for that (*&c., as in the summons or warrant*); And whereas the said A. B. hath been apprehended under and by virtue of a warrant, upon such information (*or* complaint) and is now brought before me as such Justice as aforesaid; These are therefore to command you, or any one of the said Constables, or Peace Officers, in Her Majesty' name forthwith to convey the said A. B. to the (*Common Gaol* or *Lock-up House*) at , and there to deliver him to the said Keeper thereof, together with this Precept; And I do hereby command you the said Keeper to receive the said A. B. into your custody in the said (*Common Gaol* or *Lock-up House*,) and there safely keep him until next, the day of (*instant*), when you are hereby commanded to convey and have him at , at o'clock in the noon of the same

day before me, or such Justice or Justices of the Peace of the said District (or *County*, *United Counties*, *or as the case may be*) as may then be there, to answer to the said information (*or* complaint,) and to be further dealt with according to law.

Given under my hand and seal, this day of , in the year of our Lord, , at , in the district (*County*, *or as the case may be*) aforesaid.

J. S. [L. S.]

(I 1) *See* ss. 42, 50.

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF SUFFICIENT DISTRESS, BY IMPRISONMENT.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*,)
of

Be it remembered, That on the day of , in the year of our Lord, , at , in the said District (or *County*, *United Counties*, *or as the case may be*), A. B. is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*,) for that the said A. B., (*&c., stating the offence, and the time and place when and where committed*,) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (*stating the penalty, and also the compensation, if any*,) to be paid and applied according to law, and also to pay to the said C. D. the sum of , for his costs in this behalf; and if the said several sums be not paid forthwith on or before the of next,) * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B., to be imprisoned in the Common Gaol of the said District (or *County*, *United Counties*, *or as the case may be*,) at in the said District (or *County*) of (*there to be kept to hard labor*) for the space of unless the said several sums and all costs and charges of the said distress (*and of the commitment and conveying of the said A. B. to the said Gaol*) shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at in the District (or *County*, *United Counties*, *or as the case may be*) aforesaid.

J. S. [L. S.]

* *Or, when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears he has no*

*goods whereon to levy a distress, then, instead of the words between the asterisks * * say,* " inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. or his family, " (*or*, " that the said A. B. hath no goods or chattels whereon to levy the said sums by distress. ") I adjudge, &c., (*as above, to the end.*)

(I 2)

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT, IMPRISONMENT.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be,*) of ,

Be it remembered, That on the day of , in the year of our Lord, , at , in the said District (or *County, United Counties, or as the case may be,*) A. B., is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) for that he the said A. B., (*&c., stating the offence, and the time and place when and where it was committed,*) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (*stating the penalty, and the compensation, if any*), to be paid and applied according to law; and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (*or*, on or before next,) I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be,*) at in the said District *or* County of (*and there to be kept at hard labor*) for the space of , unless the said sums and the costs and charges of conveying the said A. B. to the said Common Gaol, shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at in the District (or *County, United Counties, or as the case may be,*) aforesaid.

J. S. [L. S.]

(I 3) *See* ss. 42, 50.

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &c.

Canada,
Province of ,
District (or *County*, *United Counties*, *or as the case may be*,)
of

Be it remembered, That on the day of , in the year of Our Lord , in the said District (or *County*, *United Counties*, *or as the case may be*,) A. B. is convicted before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*), for that he the said A. B. (*&c., stating the offence and the time and place when and where it was committed*); and I adjudge the said A. B. for his said offence to be imprisoned in the Common Gaol of the said District (or *County*, *United Counties*, *or as the case may be*,) at in the County of (*and there to be kept at hard labor*) for the space of ; and I also adjudge the said A. B. to pay to the said C. D. the sum of for his costs in this behalf, and if the said sum for costs be not paid forthwith, (*or* on or before next,) then * I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the said Common Gaol, (*and kept there at hard labor*) for the space of , to commence at and from the term of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned at in the District (or *County*, *United Counties*, *or as the case may be*) aforesaid.

J. S. [L. S.]

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* *Or, when the issuing of a Distress Warrant would be ruinous to the Defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks* * * say, " inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B., and his family, " (*or*, " that the said A. B. hath no goods or chattels whereon to levy the said sum for costs by distress) " I adjudge, &c.

(K 1) *See* ss. 42, 51.

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF DISTRESS, IMPRISONMENT.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

Be it remembered, That on complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of for that (*stating the facts entitling the Complainant to the order, with the time and place when and where they occurred,*) and now at this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (*or*, the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here on this day before me or such Justice or Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) as should now be here, to answer the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the said sum of forthwith, *or* on or before next, (*or as the Statute may require*), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (*or* on or before next) then,* I hereby order that the same be levied by distress, and sale of the goods and chattels of the said A. B.) and in default of sufficient distress in that behalf,* I adjudge the said A. B.

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* *Or, when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears he has no goods whereon to levy a distress, then, instead of the words between the asterisks * * say,* " inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. and his family," (*or*, " that the said A. B. hath no goods or chattels whereon to levy the said sums by distress.") I adjudge, &c., to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at in the said District (or *County*) of , (*and there kept to hard labour*) for the space of unless the said several sums and all costs and charges of the said distress (*and of the com-*

mitment and conveying of the said A. B. to the said Common Gaol) shall be sooner paid.

Given under my Hand and Seal, this day of in the year of our Lord , at in the District (or *County, or as the case may be,*) aforesaid.

J. S. [L. S.]

(K 2)

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF PAYMENT' IMPRISONMENT.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

Be it remembered, That on complaint was made before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , for that (*&c., stating the facts entitling the Complainant to the order, with the time and place when and where they occurred*), and now at this day, to wit, on , , at , the parties aforesaid appear before me the said Justice, (*or* the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in his behalf, requiring him to be and appear here on this day before me or such Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) as should now be here, to answer the said complaint, and be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the sum of forthwith, *or* on or before next, (*or as the Statute may require,*) and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith, (*or* on or before next), then I adjudge the said A. B. to be imprisonned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at in the said District (*or* County of) (*there to be kept to hard labor*) for the space of , unless the said several sums (*and costs and charges of commitment and conveying the said A. B. to the said Common Gaol*) shall he sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District (*or County or as the case may be*) aforesaid.

J. S. [L. S.]

(K 3) *See* ss. 42, 51.

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS PUNISHABLE WITH IMPRISONMENT.

Canada,
Province of
District (or *County*, *United Counties*, *or as the case may be*, of

Be it remembered, That on complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, *or as the case may be*,) of , for that (*stating the facts entitling the Complainant to the order*, *with the time and place where and when they occurred*,) and now at this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (*or* the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here this day before me, or such Justice or Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*,) as should now be here, to answer to the said complaint, and to be further dealt with according to law,) and now having heard the matter of the said complaint, I do therefore adjudge the said A. B. to (*here state the matter required to be done*), and if upon a copy of the Minute of this Order being served upon the said A. B. either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A. B. for such his disobedience to be imprisoned in the Common Gaol of the said District (or *County*, *United Counties*, *or as the case may be*,) at , in the said County of (*there to be kept at hard labor*) for the space of unless the said order be sooner obeyed, (*if the Statute authorize this*); and I do also adjudge the said A. B. to pay to the said C. D. the sum of for his costs in this behalf, and if the said sum for costs be not paid forthwith, (*or*, on or before next,) I order the same to be levied by distress and sale of the goods and chattels of the said A. B. and in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said Common Gaol (*there to be kept at hard labor*) for the space of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District (or *County*, *United Counties*, *or as the case may be*) aforesaid.

J. S. [L. S.]

(L) *See* s. 43.

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,
Province of
District (or *County, United Counties, or as the case may be*)
of

Be it remembered, That on information was laid (*or* complaint was made) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , for that (*&c., as in the Summons to the Defendant,*) and now at this day, to wit, on , at , both the said parties appear before me in order that I should hear and determine the said information (*or* complaint) (*or* the said A. B. appeareth before me, but the said C. D. although duly called doth not appear,) whereupon the matter of the said information (*or* complaint) being by me duly considered (it manifestly appears to me that the said information (*or* complaint) is not proved,* and) I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf: and if the said sum for costs be not paid forthwith, (*or* on or before ,) I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at in the said County of (*and there to be kept at hard labor*) for the space of , unless the said sum for costs and all costs and charges of the said distress (*and of the commitment of the said C. D. to the said Common Gaol,*) shall be sooner paid.

Given under my hand and seal, this day of , in the year of Our Lord , at , in the District (or *County, United Counties, or as the case may be*) aforesaid.

J. S. [L.S.]

**If the Informant* (or *Complainant*) *do not appear, these words may be omitted.*

(M) *See* s. 43.

CERTIFICATE OF DISMISSAL.

I hereby certify that an information (*or* complaint) preferred by C. D. against A. B. for that (*or as in the Summons,*) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the District (or *County, United Counties, or as the case may be*) of , and was by me dismissed (*with costs.*)

Dated this day of , one thousand eight hundred and .

J. S. [L. S.]

(N 1) *See* s. 57.

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables, or other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of

Whereas A. B., late of , (*laborer*) was on this day (*or* on last past) duly convicted before (*one*) of Her Majesty's Justices of the Peace, in and for the said District (or *County, United Counties, or as the case may be*) of for that (*stating the offence as in the conviction*) and it was thereby adjudged that the said A. B., should for such his offence forfeit and pay, (*&c., as in the conviction*), and should also pay to the said C. D. the sum of for his costs in that behalf; and it was thereby ordered that if the said several sums should not be paid (*forthwith*) the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was thereby also adjudged that the said A. B., in default of sufficient distress, should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at in the said County of (*and there to be kept at hard labor*) for the space of , unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B., to the said Common Gaol should be sooner paid; And

whereas the said A. B., being so convicted as aforesaid, and being (*now*) required to pay the said sums of and hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me (*the convicting Justice* or *one of the convicting Justices*) that I may pay and apply the same as by law is directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then, that you certify the same unto me, to the end that such further proceedings may be had thereon as to law doth appertain.

Given under my hand and seal, this day of in the year of Our Lord , at in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.]

(N 2) *See* s. 57.

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Canada,
Province of
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables, or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of

Whereas on last past, a complaint was made before (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) for that (*&c., as in the order,*) and afterwards, to wit, on , at , the said parties appeared before (*as in the order,*) and thereupon having considered the matter of the said complaint, the said A. B. was adjudged (*to pay to the said C. D. the sum of on or before then next,*) and also to pay to the said C. D. the sum of for his costs in that behalf; and it was ordered that if the said several sums should not be paid on or before the said then next, the same should be levied by dis-

tress and sale of the goods and chattels of the said A. B.; and it was adjudged that in default of sufficient distress in that behalf, the said A. B. should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at , in the said County of (*and there kept at hard labor*) for the space of , unless the said several sums and all costs and charges of the distress (*and of the commitment and conveying of the said A. B. to the said Common Gaol*) should be the sooner paid; And* whereas the time in and by the said order appointed for the payment of the said several sums of and hath elapsed, but the said A. B. hath not paid the same, or any part thereof, but herein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me, (*or some other of the convicting Justices, as the case may be*) that I (*or* he) may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my Hand and Seal, this day of in the year of Our Lord , at , in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.]

(N 3) *See* s. 58.

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Canada,
Province of
District (or *County, United Counties, or as the case may be*)
of

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) that the name of J. S. to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned, I do therefore authorize U. T. who bringeth me this Warrant, and

all other persons to whom this Warrant was originally directed, or by whom the same may be lawfully executed, and also all Constables and other Peace Officers in the said District (or *County, United Counties, or as the case may be*,) of to execute the same within the said District (or *County, United Counties, or as the case may be*) and of

Given under my Hand, this day of , one thousand eight hundred and

O. K.

(N 4) *See* s. 62.

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., Constable of , in the District (or *County, United Counties, or as the case may be*) of , hereby certify to J. S., Esquire, one of Her Majesty's Justices of the Peace for the District (or *County, United Counties, or as the case may be*) that by virtue of this Warrant, I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my Hand, this day of , one thousand eight hundred and .

(N 5) *See* s. 62.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

To all or any of the Constables and other Peace Officers in the District, (or *County, United Counties, or as the case may be*,) of , and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*,) of , at , in the said District (*or* County) of :

Whereas (*&c., as in either of the foregoing Distress Warrants N* 1, 2, *to the asterisks,* and then thus*): And whereas afterwards on the day of , in the year aforesaid, I, the said Justice issued a Warrant to all or any of the Constables or other Peace Officers of the District (or *County, United Counties, or as the case may be*) of commanding them, or any of them, to levy the said sums of and by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress, by the Constable who had the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above

mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the common Gaol at aforesaid, and there deliver him to the said Keeper, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody, in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of , unless the said several sums, and all the costs and charges of the said distress, (*and of the commitment and conveying of the said A. B. to the said Common Gaol*) amounting to the further sum of , shall be sooner paid unto you, the said Keeper; and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord , at in the District (or *County, as the case may be*) aforesaid.

J. S. [L. S.]

(O 1)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY IN THE FIRST INSTANCE.

Canada.
Province of
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables and other Peace Officers in the said District (or *County, United Counties, or as the case may be*,) of , and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*,) of , at , in the said District (*or* County of :

Whereas A. B., late of (*laborer*,) was on this day convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the said District (or *County, United Counties, or as the case may be*) for that (*stating the offence as in the conviction*,) and it was thereby adjudged that the said A. B., for his offence should forfeit and pay the sum of (*&c., as in the conviction*,) and should pay to the said C. D. the sum of for his costs in that behalf; and it was thereby further adjudged that if the said several sums should not be paid (*forthwith*) the said A. B. should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at in the said District (*or* County of (*and there kept at hard labor*) for the space of ,

unless the said several sums (*and the costs and charges of conveying the said A. B. to the said Common Gaol*) should be sooner paid ; And whereas the time in and by the said conviction appointed for the payment of the said several sums hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default ; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at aforesaid, and there to deliver him to the Keeper thereof, together with this Precept ; and I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of , unless the said several sums (*and costs and charges of carrying him to the said Common Gaol, amounting to the further sum of*), shall be sooner paid ; and for your so doing, this shall be your sufficient Warrant.

Given under (*my*) Hand and Seal, this day of in the year of Our Lord , at , in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.]

(O 2)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Province of Canada, }
District (or *County, United Counties, or as the case may be*) of }

To all or any of the Constables and other Peace Officers in the said District, (or *County, United Counties, or as the case may be*) of , and to the Keeper of the Common Gaol of the District (or *County, United Counties, or as the case may be*) of at in the said District (*or* County) of :

Whereas on last past, complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of for that (*&c., as in the order*), and afterwards, to wit, on the day of , at the parties appeared before me the said Justice (*or as it may be in the order*) and thereupon having considered the matter of the said complaint, I adjudged the said A. B. to pay the said C. D. the sum of , on or before the day of then next, and also to pay to the said C. D. the sum of for his costs in that behalf ; and I also thereby adjudged

that if the said several sums should not be paid on or before the day of then next, the said A. B. should be imprisoned in the Common Gaol of the District (or *County, United Counties, or as the case may be*) of at in the said County of (*and there be kept at hard labor*) for the space of , unless the said several sums (*and the costs and charges of conveying the said A. B. to the said Common Gaol, as the case may be*) should be sooner paid ; And whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default ; These are therefore to command you the said Constables and Peace Officers, or any of you, to take the said A. B. and him safely to convey to the said Common Gaol, at aforesaid, and there to deliver him to the Keeper thereof, together with this Precept ; and I do hereby command you the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of , unless the said several sums (*and the costs and charges of conveying him to the said Common Gaol, amounting to the further sum of*), shall be sooner paid unto you the said Keeper ; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord at , in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.

(Q 1)—*See* s. 64.

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*,) of

Whereas on last past, information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Coun-*

ties, or as the case may be) of for that (*&c., as in the order of dismissal,*) and afterwards, to wit, on at , both parties appearing before in order that (*I*) should hear and determine the same, and the several proofs adduced to (*me*) in that behalf being by (*me*) duly heard and considered, and it manifestly appearing to (*me*) that the said information (*or* complaint) was not proved, (*I*) therefore dismissed the same and adjudged that the said C. D. should pay to the said A. B. the sum of for his costs incurred by him in his defence in that behalf; and (*I*) ordered that if the said sum for costs should not be paid (*forthwith*) the same should be levied on the goods and chattels of the said C. D., and (*I*) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of at in the said District *or* County of (*and there kept at hard labor*) for the space of , unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said Common Gaol should be sooner paid; * And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, hath not paid the same, or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then that you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to me (*the Justice who made such order or dismissal as the case may be*) that (*I*) may pay and apply the same as by law directed, and may render the overplus (if any,) on demand to the said C. D., and if no such distress can be found, then that you certify the same unto me, (*or to any other Justice of the Peace for the same District* (or *County, United Counties, or as the case may be*) to the end that such proceedings may be had therein as to law doth appertain.

Given under my Hand and Seal, this day of , in the year of Our Lord , at in the District (or *Counties, or as the case may be*) aforesaid.

J. S. [L. S.]

(Q 2) *See* s. 64.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables or Peace Officers in the said District (or *County, United Counties, or as the case may be*) of , and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of at in the said District (*or* County) of .

Whereas (*&c., as in the last form, to the asterisk, * and then thus :*) And whereas afterwards, on the day of , in the year aforesaid, I, the said Justice, issued a warrant to all or any of the Constables or other Peace Officers of the said District (or *County, United Counties, or as the case may be*) commanding them, or any one of them to levy the said sum of for costs, by distress and sale of the goods and chattels of the said C. D.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or* Peace Officer) charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found; These are therefore to command you, the said Constables and Peace Officers, or any one of you, to take the said C. D. and him safely convey to the Common Gaol of the said District (or *County, United Counties, or as the case may be,*) at aforesaid, and there deliver him to the Keeper thereof, together with this Precept; and I hereby command you, the said Keeper of the said Common Gaol, to receive the said C. D. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of unless the said sum, and all the costs and charges of the said distress (*and of the commitment and conveying of the said C. D. to the said Common Gaol amounting to the further sum of* ,) shall be sooner paid up unto you the said Keeper; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.]

(R) *See* s. 67.

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID.

Office of the Clerk of the Peace for the District (or *County, United Counties, or as the case may be*) of

TITLE OF THE APPEAL.

I hereby certify, that at a Court of General Quarter Sessions of the Peace, (*or other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be*) holden at , in and for the said District (or *County, United Counties, or as the case may be*) on last past, and appeal by A. B. against a conviction (*or* order) of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) came on to be tried, and was there heard and determined, and the said Court of General Quarter Sessions (*or other Court as the case may be*), thereupon ordered that the said conviction (*or* order) should be confirmed (*or* quashed) and that the said (*Appelant*) should pay to the said (*Respondent*) the sum of for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace of the said District (or *County, United Counties, or as the case may be*) on or before the day of instant, to be by him handed over to the said (*Respondent*,) and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated this day of , one thousand eight hundred and .

G. H.
Clerk of the Peace.

(S 1) *See* s. 67.

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST A CONVICTION OR ORDER.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables or other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of

Whereas (*&c., as in the Warrants of Distress, N* 1, 2, *ante, and to the end of the Statement of the Conviction or Order,*

and then thus): And whereas the said A. B. appealed to the Court of General Quarter Sessions of the Peace (*or other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be*) for the said District (or *County, United Counties, or as the case may be*) against the said Conviction or Order, in which appeal the said A. B. was the Appellant, and the said C. D. (*or* J. S. Esquire, the Justice of the Peace who made the said Conviction *or* Order) was the Respondent, and which said appeal came on to be tried and was heard and determined at the last General Quarter Sessions of the Peace (*or other Court as the case may be*) for the said District (or *County, United Counties, or as the case may be*) holden at , on , and the said Court thereupon ordered that the said Conviction (*or* Order) should be confirmed (*or* quashed,) and that the said (*Appellant*) should pay to the said (*Respondent*) the sum of for his costs incurred by him in the said appeal, which said sum was to be paid to the Clerk of the Peace for the said District (or *County, United Counties, or as the case may be*) on or before the day of , one thousand eight hundred and , to be by him handed over to the said C. D. ; and whereas the Clerk of the Peace of the said District (or *County, United Counties, or as the case may be*) hath on the day of instant, duly certified that the said sum for costs had not been paid ;* These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B., and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Peace for the said District (or *County, United Counties, or as the case may be*) of , that he may pay and apply the same as by law directed ; and if no such distress can be found, then that you certify the same unto me or any other Justice of the Peace for the same District (or *County, United Counties, or as the case may be*) to the end that such proceedings may be had therein, as to law doth appertain.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District (or *County, as the case may be*) aforesaid.

O. K. [L. S.]

(S 2) *See* s. 67.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables, or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of , and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of , at , in the said County of :

Whereas (*&c., as in the last form, to the asterisk,* and then thus*) : And whereas, afterwards, on the day of , in the year aforesaid, I, the undersigned, issued a Warrant to all or any of the Constables and other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of , commanding them, or any of them, to levy the said sum of , for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or* Peace Officer), who was charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol of the said District (or *County, United Counties of as the case may be*,) at aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of , unless the said sum and all costs and charges of the said Distress (*and of the commitment and conveying of the said A. B. to the said Common Gaol, amounting to the further sum of* , shall be sooner paid unto you, the said Keeper, and for so going, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. N. [L. S.]

(T) *See* s. 20.

GENERAL FORM OF INFORMATION OR COMPLAINT ON OATH.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be*)
of

The information (*or* complaint) of C. D., of the township of ,in the said District (or *County, United Counties, or as the case may be*,) of (*laborer*). (*If preferred by an Attorney or Agent, say :*) " by D. E., his duly authorized Agent (*or Attorney*), in this behalf, taken upon oath, before me, the undersigned, one of Her Majesty's Justices of the Peace, in and for the said District (or *County, United Counties, or as the case may be*) of , at N., in the said District, (*County, or as the case may be*) of this day of , in the year of our Lord, one thousand eight hundred and , who saith * that (he hath just cause to suspect and believe, and doth suspect and believe that) A. B., of the (*township*) of , in the said District (or *County, or as the case may be*) of , (within the space of , (*the time within which the information (or complaint) must be laid,*) last past, to wit, on the day of instant, at the township of , in the District (*County, or as the case may be*) aforesaid, did (*here set out the offence, &c.,*) contrary to the form of the Statute in such case made and provided.

C. D. (*or* D. E.)

Taken and sworn before me, the day and year and at the place above mentioned.

J. S.

FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,
Province of ,
District (or *County United Counties, or as the case may be*)
of

Be it remembered, that on , information was laid (*or* complaint was made) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or

County, United Counties, or as the case may be) of , for that (*&c., as in the Summons to the Defendant*) and now at this day, to wit, on , at , (*if at any adjournment, insert here :* " To which day the hearing of this case hath been duly adjourned, of which the said C. D. had due notice," both the said parties appear before me in order that I should hear and determine the said information, (*or* complaint) (*or* the said A. B. appeareth before me, but the said C. D., although duly called, doth not appear) ; whereupon the matter of the said information (*or* complaint) being by me duly considered, (it manifestly appears to me that the said information (*or* complaint) is not proved, and (*If the Informant (or Complainant) do not appear, these words may be omitted*) I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (*or* on or before), I order that the same be levied by distress and sale of the goods and chattels of the said C. D. and in default of sufficient distress in that behalf, I adjudge the saidC. D. to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of at in the said County of (*and there kept at hard labor*) for the space of , unless the said sum for costs, and all costs and charges of the said distress (*and of the comitment and conveying of the said C. D. to the said Common Gaol*) shall be sooner paid.

Given under my Hand and Seal, this day of in the year of our Lord, at in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. S.]

FORM OF CERTIFICATE OF DISMISSAL.

I hereby certify, that an information (*or* complaint) preferred by C. D. against A. B. for that (*&c., as in the summons*) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , and was by me dismissed (with costs),

Dated this day of , one thousand

J S.

GENERAL FORM OF NOTICE OF APPEAL AGAINST A CONVICTION.

To C. D. of &c., and (*the names and additions of the parties to whom the notice of appeal is required to be given.*)

Take notice, that I, the undersigned A. B., of &c., do intend to enter and prosecute an appeal at the next General Quarter Sessions of the Peace, (*or to any other Court discharging the functions of the Court of General or Quarter Sessions as the case may be,*) to be holden at , in and for the District (or *County, United Counties, or as the case may be,*) of , against a certain conviction (*or* order) bearing date on or about the day of instant, and made by C. D., Esquire, (*one*) of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) of , whereby the said A. B., was convicted of having , (*here state the offence as in the conviction, information or summons, as correctly as possible :*) And further, take notice that the grounds of my appeal are, first, that I am not guilty of the said offence ; secondly, that the formal conviction drawn up and returned to the Sessions is not in law sufficient to support the said conviction of me the said A. B., (*together with any other grounds, care being taken that all are stated, as the appellant will be precluded from going into any other than those stated.*)

Dated this day of , one thousand eight hundred and

A. B.

MEM.—*If this notice be given by several Defendants, or by an Attorney, it can easily be adapted.*

FORM OF RECOGNIZANCE TO TRY THE APPEAL, &C.

Be it remembered, that on , A. B., of (*laborer,*) and L. M. of (*grocer*) and N. O. of (*yeoman,*) personally came before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of , and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at , before me.

J. S.

The condition of the within written Recognizance is such, that if the said A. B. shall, at the (*next*) General Quarter Sessions of the Peace, (*or other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be*) to be holden at , on the day of next, in and for the said District (or *County, United Counties, or as the case may be,*) of , enter and prosecute an appeal against a certain conviction bearing date the day of instant, and made by me the said Justice, whereby he the said A. B. was convicted, for that he the said A. B. did on the day of , at the township of , in the said District (or *County, United Counties, or as the case may be,*) of , (*here set out the offence as stated in the conviction*;) And further, that if the said A. B. shall abide by and duly perform the order of the Court to be made upon the trial of such appeal, then the said Recognizance to be void, or else to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT (APPELLANT) AND HIS SURETY.

Take notice, that you, A. B., are bound in the sum of , and you, L. M. and N. O. in the sum of each, that you the said A. B. at the next General or Quarter Sessions of the Peace to be holden at , in and for the said District, (or *County, United Counties, or as the case may be,*) of , enter and prosecute an Appeal against a conviction dated the day of [(*instant,*) whereby you, A. B. were convicted of (*stating offence shortly*), and abide by and perform the Order of the Court to be made upon the trial of such Appeal; and unless you prosecute such Appeal accordingly, the Recognizance entered into by you will forthwith be levied on you.

Dated this day of one thousand eight hundred and

SURETIES.

COMPLAINT BY THE PARTY THREATENED FOR SURETIES FOR THE PEACE.

Proceed as in the Form (T) *to the asterisk* * , *then :* that A. B. of the (*Township*) of , in the District (*County, or as the case may be,*) of ; did, on the day of (instant *or* last past, *as the case may be*), threaten the said C. D. in the words or to the effect following, that is to say, (*set them out, with the circumstances under which they were used*) :

and that from the above and other threats used by the said A. B. towards the said C. D., he the said C. D. is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient Sureties to keep the peace and be of good behaviour towards him the said C. D.; and the said C. D. also saith that he doth not make this complaint against nor require such Sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM OF RECOGNIZANCE FOR THE SESSIONS.

Be it remembered, that on the day of , in the year of Our Lord , A. B. of (*laborer*), L. M. of (*grocer*), and N. O. of (*butcher*), personally came before (*us*) the undersigned, (*two*) of Her Majesty's Justices of the Peace for the said District (or *County*, *United Counties*, *or as the case may be*,) of and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at , before us.

J. S.
J. T.

The condition of the within written Recognizance is such, that if the within bounden A. B. (of &c.) shall appear at the next Court of General or Quarter Sessions of the Peace to be holden in and for the said District (or *County*, *United Counties*, *or as the case may be*) of , to do and receive what shall be then and there enjoined him by the Court, and in the meantime shall keep the peace and be of good behaviour towards Her Majesty and all Her liege people, and specially towards C. D. (of &c.) for the term of now next ensuing, then the said Recognizance to be void, or else to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Canada,
Province of ,
District (or *County, United Counties, or as the case may be*) of

To the Constable of the in the District (or *County*) (or *one of the United Counties , or as the case may be*) of and to the Keeper of the Common Gaol of the said District, County (*or* United Counties, *as the case may be*) at , in the said District or County (*or in the County of*

Whereas on the day of instant, complaint on oath was made before the undersigned (*or* J. L. Esquire,) (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties or as the case may be*) of , by C. D. of the township of , in the said District (*County, or as the case may be*) (laborer,) that A. B. of &c., on the day of , at the township of aforesaid, did threaten (*&c., follow to end of complaint, as in form above, in the past tense, then*): And whereas the said A. B. was this day brought and appeared before the said Justice (*or* J. S., Esquire, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , to answer unto the said complaint: And* having been required by me to enter into his own Recognizance in the sum of with two sufficient sureties in the sum of each, as well for his appearance at the next General Quarter Sessions of the Peace, to be held in and for the said District (or *County, United Counties, or as the case may be,*) of , to do what shall be then and there enjoined him by the Court, as also in the meantime to keep the Peace and be of good behaviour towards Her Majesty and Her liege people, and especially towards the said C. D., hath refused and neglected, and still refuses and neglects to find such sureties); These are therefore to command you the said Constable of the Township of to take the said A. B., and him safely to convey to the (*Common Gaol*) at aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the (*Common Gaol*) to receive the said A. B. into your custody, in the said (*Common Gaol,*) there to imprison him until the said next General Quarter Sessions of the Peace, unless he, in the meantime, find sufficient sureties as well for his appearance at the said Sessions, as in the meantime to keep the peace as aforesaid.

Given under my Hand and Seal, this day of in the year of Our Lord , at in the District (*County, or as the case may be*) aforesaid.

J. S. [L. S.]

[No. 74.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders.

Received and read first time, Thursday, 16th April, 1868.

Second reading, Friday, 18th April, 1868.

Hon. Sir John A. Macdonald.

Printed by G. E. Desbarats.

No. 75.] **BILL.** [1868.

An Act respecting proceedings to Outlawry in criminal cases.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

The first process in outlawry, shall be a capias or Bench Warrant.

1. The process upon every indictment to bring the person indicted into Court shall be a capias, in the usual form, issued from the Court before which the indictment is found, directed to the Sheriff of the County or District wherein the said Court is sitting, commanding him to take the person indicted and to bring him before the said Court; and if the person cannot be taken during the sitting of the said Court, then so soon after as he can be taken, to bring or cause him to be brought before some Justice of the Peace of the County or District to be dealt with according to law.

Returnable in the Court of Queen's Bench or Common Pleas, &c., Then an Alias.

2. The capias shall be made returnable in the Court of Queen's Bench or Common Pleas, in the Province of Ontario,—into the Court of Queen's Bench in the Province of Quebec,—or into the Supreme Court in the Province of Nova Scotia, or of New Brunswick, on the first day of the term thereof next after the sitting of the Court before which the indictment is found; and if upon the return of the writ the Sheriff returns that the person therein named is not to be found in his county or district, then an alias writ of capias shall issue from the Court to which the return is made, under the seal of the Court, tested on the first day of the term, if in term, or on the last day of the preceding term, if in vacation, returnable before such Court on the first day of the next ensuing term.

If return *non est inventus*, then a writ of Exigent.

3. If to the said writ of alias capias the Sheriff returns that the person therein named is not to be found in his county or district, then upon motion in Court, or before a judge in vacation, a writ of exigent shall issue under the seal of the Court, tested on the first day of term, if in term time, or on the last day of the preceding term, if in vacation, directed to the Sheriff of the county or district into which the said writs of capias issued; which writ of exigent shall be returnable on the first day of the *fifth* term from that in which the same is awarded, and may be in the form following, that is to say:

Form of Writ.

"Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

"To the Sheriff of the (County) of —Greeting:

"We command you, that you cause A.B., late of to be demanded from General Quarter Sessions to General Quarter Sessions in your county (*or* district) until, according to law, he be outlawed if he doth not appear, and if he doth appear, then that you take him and cause him to be safely kept, so that you may have his body before us, in Our Court of , at , on the day of term next (*the return of the writ*) to answer to a certain bill of indictment found against him for (*whatsoever the crime may be*) and have then there this writ.

"Witness, the Honorable Chief Justice (*or* Senior Judge) at , this day of , in the year of Our reign."

How the Sheriff shall proceed thereon.

4. The Sheriff to whom the said writ of exigent issues shall, at three successive Courts of General Quarter Sessions of the Peace, to be holden in and for his county or district, before the return of the said writ, in open Court, immediately after the charge to the Grand Jury, make or cause to be made proclamation of the person named in the said exigent, requiring him to render himself to answer to the said indictment.

Return thereof,

5. If the person so demanded does not appear, the Sheriff to whom the said writ of exigent is directed, shall endorse upon the writ of exigent a return in the following form:

Form.

"By virtue of the within writ, to me directed, at the Court of General Quarter Sessions of the Peace, held at , in and for the (county) of , on , the day of , in the year within written, the within named A. B. was a first time demanded, and did not appear; And at the Court of General Quarter Sessions of the Peace, held at aforesaid, for the (county) aforesaid, on , the day of , in the year aforesaid (*or as it may be*), the said A. B. was a second time demanded, and did not appear; And at the Court of General Quarter Sessions of the Peace held at aforesaid, for the (county) aforesaid, on , the day of , in the year aforesaid (*or as it may be*), the said A. B. was a third time demanded, and did not appear; therefore the said A. B., according to the law of Canada, is outlawed.

The answer of
C. D., Sheriff."

When a Writ of Proclamation shall be awarded.

6. In all criminal cases wherein any writ of exigent is awarded under this Act, against any person described in the indictment, as being lately conversant in any other county or district than that in which the said exigent is so awarded, a writ of proclamation shall be awarded and made out of the same Court, or by order of a Judge in vacation, having day of test and return as the writ of exigent has, and shall be directed or delivered to the Sheriff of the county or district in which the person indicted is in the said indictment described as having lately been conversant, which writ of proclamation may be in the following form:

"Victoria, &c., &c., &c.

"To the Sheriff of the (county) of —Greeting:

Form of.

"Whereas, by a writ, We lately commanded Our Sheriff of the (county) of that he should cause A. B. late to be demanded from General Quarter Sessions to General Quarter Sessions, until, according to the law of Canada he should be outlawed if he did not appear, and if he did appear, then that he should take him and cause him to be safely kept, so that he might have his body before us in Our Court of , at , on the day of term then next, to answer to a certain bill of indictment found against him for ; therefore, We command you, that in pursuance of the Statute in that behalf, you cause the said A. B. to be proclaimed upon three several days according to the form of the said Statute, that he render himself to Our Sheriff of , so that he may have his body before us, at the time and place aforesaid, to answer to the said indictment, and have there then this writ.

"Witness, the Honorable , at , this day of , in the year of Our reign."

Sheriff to obey the Writ.

And the Sheriff to whom the said writ of proclamation issues shall, at three successive Courts of General Quarter Sessions of the Peace, before the return of the said writ, in open Court, on the first day of the said Court, make or cause to be made proclamation of the person named in the said writ of proclamation according to the command of the said writ.

Return to.

7. When the said writ of proclamation has been executed, as aforesaid, the Sheriff to whom the same is directed, shall endorse thereon a return in the following form:

"By virtue of the within writ, to me directed, I caused the within named A. B. to be proclaimed three several days, according to the effect of the within mentioned Statute, as it is within commanded me. The answer of C. D., Sheriff."

Consequences of non-appearance.

8. After the return of the said writ of exigent, and of the writ of proclamation, when required to be issued in the manner aforesaid, the person against whom the same issued, shall, in default of appearance, incur and suffer the same forfeiture and disabilities, and the like process shall be had thereupon, as in cases of outlawry for the same offences by the criminal law in force in the Province in which the indictment against him was found, as it stood at the time of the commission of such offence for which he was indicted.

Proceedings to be had against persons indicted for High Treason, &c.

9. In case of an indictment being found by a Grand Jury, at any Court of competent jurisdiction in Canada, against any person for High Treason, Misprision of Treason, or Treasonable Practices, or for Felony under the Act of the present Session, intituled, *An Act for the better security of the Crown and of the Government*, and in case the Sheriff makes return to any warrant or capias issued thereupon, that such person is not to be found in his county or district, the Governor, by and with the advice and consent of the Executive Council, may, immediately upon the making of such return, issue a Proclamation, to be published not less than six weeks in the *Canada Gazette*, calling upon and requiring the person against whom such indictment has been found, to surrender himself to the custody of the Sheriff of the county or district within which the Court was held, before which such indictment was found, by a day to be named in the said Proclamation, such day not being less than three months from the first publication of such Proclamation in the *Gazette;* and if such person does not, by the day in such Proclamation named, surrender himself to the custody aforesaid, and submit to justice, then and in such case, after the day in such Proclamation named, he shall stand and be adjudged attainted of the crime expressed and set forth in such indictment, and shall suffer and forfeit, as a person attainted of such crime by the laws of the land, ought to suffer and forfeit.

Pc amation - to issue calling upon person indicted to surrender himself.

Justices of Oyer and Terminer to certify into the Court of Queen's Bench &c., the indictment and return of the Sheriff that the party has not been arrested.

10. The Justices of every Court of Oyer and Terminer and General Gaol Delivery, or other Court at which any such indictment may be found as aforesaid, shall, upon the return of the Sheriff that the person named in such indictment is not to be found within his county or district, certify the said indictment, and the proceedings thereon, into the Court of Queen's Bench or Common Pleas in the Province of Ontario, into the Court of Queen's Bench (Appeal side) in the Province of Quebec, or into the Supreme Court in the Province of Nova Scotia or of New Brunswick; and every such Sheriff, at the expiration of the time limited in the Proclamation in the next preceding section mentioned, shall make a return to the said Court into which the indictment has been certified, of the name of the person, who being named in any such Proclamation as aforesaid, has not surrendered himself to the custody of the said Sheriff, pursuant to the exigency of such Proclamation; and the said Court shall, during the term in or before which such last mentioned return is made, direct Judgment of Attainder against such person to be entered on record.

In case party surrenders himself.

11. If any person against whom any such Judgment of Attainder has been entered does within three months next after the day of entry of such Judgment, surrender himself to the custody of the Sheriff of the county or district wherein the Court to which the indictment was certified hold its sittings, and by the oath of two credible witnesses, establishes to the satisfaction of such Court that such person was actually and *bonâ fide* prevented from surrendering himself, pursuant to the exigency of such Proclamation, by reason of absence beyond

seas, sickness or other inevitable necessity, then the said Court may reverse the said Judgment of Attainder, and transmit the indictment to any Court of Oyer and Terminer, or other Court having power to try the offence for which the indictment was found, to be held in and for the county or district wherein it was found; and such person so surrendering shall be tried for the offence charged in such indictment in like manner as if no such Judgment of Attainder had been entered.

The Court may reverse the Outlawry.

No. 75.

1st Session, 1st Parliament, 31 Victoria, 1867-8.

BILL.

An Act respecting proceedings to Outlawry in criminal cases.

Received and read, first time, Monday 16th April, 1868.

Second reading, Friday, 17th April, 1868

Hon. Sir JOHN A. MACDONALD.

OTTAWA:

PRINTED BY HUNTER, ROSE & COMPANY.

No. 76] **BILL.** [1868.

An Act respecting Riots and Riotous Assemblies.

WHEREAS, it is expedient to assimilate, amend and consolidate the Laws in force in the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, in relation to Riots and Riotous Assemblies, and to extend the same as so consolidated to all Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

Justices of the Peace may enjoin persons riotously assembled, to disperse.

1. In case any persons to the number of twelve or more, being unlawfully, riotously and tumultuously assembled together, to the disturbance of the public peace, be by Proclamation, in the Queen's name, made in the form in this Act directed, by any one or more Justice or Justices of the Peace, or by the Sheriff of the District or County, or his Deputy Sheriff, or by the Mayor, or other head officer, or Justice of the Peace of any city or town corporate, where such persons are so assembled, required or commanded to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, and in case such persons to the number of twelve or more (notwithstanding such Proclamation made) unlawfully, riotously and tumultuously remain or continue together by the space of fifteen minutes after such command or request, such persons or any of them so continuing together to the number of twelve or more, after such command or request, so made by Proclamation, are guilty of felony, and shall be liable, at the discretion of the Court, to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other prison or place of confinement, for any term less than two years.

Form of Proclamation.

2. The order and form of the Proclamation to be made by the authority of this Act shall be as follows, that is to say: The Justice of the Peace, or other person authorized to make the said Proclamation, shall, among the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be, while Proclamation is making; and after that, shall openly and with a loud voice, make, or cause to be made, Proclamation in these words, or like in effect:

"Our Sovereign Lady the Queen chargeth and commandeth all "persons being assembled immediately to disperse themselves, and "peaceably to depart to their habitations or to their lawful busi- "ness, upon the pains contained in the Act respecting Riots and "Riotous assemblies.—God save the Queen."

Justices of the Peace, Sheriffs, Mayors, &c., to repair to place of riot, and there make Proclamation.

3. Every Justice and Justices of the Peace, Sheriff, Deputy Sheriff, Mayor and other Head Officer, within the limits of their respective jurisdictions, shall, on notice or knowledge of any such unlawful, riotous and tumultuous assembly of persons to the number of twelve or more, resort to the place where such unlawful, riotous and tumultuous assembly is, and there make, or cause to be made, Proclamation in manner aforesaid.

Consquence, if persons riotously assembled, not dispersing in obedience to the proclamation.

4. If twelve or more of the persons so unlawfully, riotously and tumultuously assembled, continue together, after Proclamation made in manner aforesaid, and do not disperse themselves within fifteen minutes, then every Justice of the Peace, Sheriff, and Deputy Sheriff of the District or County where such assembly may be, and also every High and Petty Constable, and other Peace Officer within such District or County, and also every Mayor, Justice of the Peace, Sheriff and other Head Officer, High or Petty Constable, and other Peace Officer, of any city or town corporate where such assembly may be, and any person or persons commanded to assist such Justice of the Peace, Sheriff or Deputy Sheriff, Mayor, Bailiff, or other Head Officer aforesaid (who may command all Her Majesty's subjects of age and ability to be assisting to them therein), shall seize and apprehend the persons so unlawfully, riotously and tumultuously continuing together, after Proclamation made as aforesaid, and shall forthwith carry the persons so apprehended before one or more of Her Majesty's Justices of the Peace of the District, County or place where such persons are so apprehended, in order to their being proceeded against for such their offences according to law.

Persons suppressing riot justified–even though death of a rioter ensues.

5. If in the dispersing, seizing or apprehending or endeavoring to disperse, seize or apprehend any of the persons so unlawfully, riotously and tumultuously assembled, any such person happen to be killed, maimed or hurt, by reason of their resisting the persons dispersing, seizing or apprehending, or endeavoring to disperse, seize or apprehend them, then every such Justice of the Peace, Sheriff, Deputy Sheriff, Mayor, Head Officer, High or Petty Constable, or other Peace Officer, and all persons who were aiding and assisting them, or any of them, shall be free, discharged and indemnified, as well against the Queen's Majesty, as against all and every other person and persons, of, or concerning, the killing, maiming or hurting, of any such person or persons so unlawfully, riotously and tumultuously assembled as aforesaid.

Consequences of any person opposing Peace Officer and others suppressing riot.

6. If any person or persons with force and arms, wilfully and knowingly oppose, obstruct, or in any manner let, hinder or hurt, any person or persons who begin to proclaim, or go to proclaim, according to the Proclamation hereby directed to be made, whereby such Proclamation cannot be made, then every such person so opposing, obstructing, letting, hindering or hurting such person or persons so beginning or going to make such Proclamation, as aforesaid, is guilty of felony, and shall be liable, at the discretion of Court, to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other prison or place of confinement for any term less than two years.

The same.

7. And every such person or persons so being unlawfully, riotously and tumultuously assembled, to the number of twelve or more, as aforesaid, to whom Proclamation should or ought to have been made, if the same had not been hindered, as aforesaid, who, to the number of twelve or more, continue together, and do not disperse themselves within one hour after such let or hindrance so made, having knowledge thereof, are guilty of felony, and shall be liable, at the discretion of the Court, to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other prison or place of confinement for any term less than two years.

Prosecutions for acts under this statute to be commenced within 12 months.

8. No person or persons shall be prosecuted for any offence or offences committed contrary to this Act, unless such prosecution be commenced within twelve months after the offence committed.

No. 76.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Riots and Riotous Assemblies.

Received and read first time, Thursday, 16th April, 1868.

Second reading, Friday, 17th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

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No. 77.] BILL. [1868.

An Act respecting the preservation of the Peace in the vicinity of Public Works.

Preamble.

FOR the preservation of the peace, and for the protection of the lives, persons and property of Her Majesty's subjects, in the neighbourhood of public works on which large bodies of labourers are congregated and employed: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Proclamation may be issued.

1. The Governor in Council may, as often as occasion requires, declare by Proclamation the several places in Canada, within the limits whereof any Railway, Canal or other public work of Canada or of any of the Provinces of Quebec, Ontario, Nova Scotia and New Brunswick thereof, or any Railway, Canal or other work undertaken, or carried on by any Incorporated Company under authority of any Act of the Parliament of Canada, or any Act of the Legislature of any of the Provinces thereof, is in progress of construction, or such places as are in the vicinity of any such Canal or Railway or other work as aforesaid, within which he deems it necessary that this Act should be in force,—and this Act shall, upon and after the day to be named in any such Proclamation, take effect within the places designated in such Proclamation:

And renewed.

2. The Governor in Council may, in like manner, from time to time, declare this Act to be no longer in force in any of such places; but this shall not prevent the Governor in Council from again declaring the same to be in force in any such place or places;

3. But no such Proclamation shall have effect within the limits of any City.

Effect of Proclamation.

2. Upon and after the day to be fixed in such Proclamation, no person employed in or upon any such Canal, Railway or other work as aforesaid, within the limits specified in such Proclamation, shall keep or have in his possession or under his care or control, within such limits, any gun, blunderbuss, pistol, or other fire-arm, or any stock, lock, barrel, or any other part of such gun, blunderbuss, pistol, or other fire-arm, or any bullets, sword, sword blade, bayonet, pike, pikehead, spear, spearhead, dirk, dagger, or other instrument intended for cutting or stabbing, or other arms, ammunition, or weapon of war, under a penalty of not less than two dollars, nor more than four dollars for every such weapon found in his possession.

Delivery of arms.

3. Within the time appointed as aforesaid in such Proclamation, every person employed in or upon the Canal, Railway or other work to which the same relates, shall bring and deliver up to some Justice of the Peace or Commissioner, to be appointed by the Governor for the purposes of this Act every such weapon in his possession, and shall obtain from such Justice of the Peace or Commissioner a receipt for the same.

Return of the same.

4. When this Act ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or when the owner or person lawfully entitled to any such weapon satisfies the Magistrate or Commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the Magistrate or Commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt so given for it.

Seizure of arms.

5. Every such weapon found in the possession of any person employed as aforesaid, after the day named in any Proclamation as that on or before which such weapon ought to be delivered up, and within the limits or locality set forth in the Proclamation bringing this Act into force, shall be liable to be seized; and being seized by any Justice, Commissioner, Constable or other Peace Officer, shall be forfeited to the use of Her Majesty.

Concealing arms.

6. If any person, for the purpose of defeating this Law, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this Act is at the time in force, any such weapon as aforesaid belonging to or in the custody of any person employed on any such Railway, Canal or other work, such person shall forfeit a sum of not less than forty dollars nor more than one hundred dollars; one half to belong to the informer, and the other half to Her Majesty.

Search for arms.

7. Any Justice of the Peace, or any Commissioner appointed under this Act, having authority within the place where this Act is at the time in force, upon the oath of a credible witness that he believes that any such weapon as aforesaid is in the possession of any person contrary to the provisions of this Act, or in any house or place,—may issue his warrant to any Constable or Peace Officer to search for and seize the same, and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place:

Entry for search.

2. And in case admission to any such house or place cannot be obtained after demand, such Constable or Peace Officer, and person in his aid, may enter the same by force by day or by night, and seize such weapon; and unless the party in

whose possession or in whose house or place the same has been found, do, within four days next after the seizure, prove to the satisfaction of such Justice or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty.

Carrying arms.

8. Any Justice or Commissioner, Constable or Peace Officer, or any person acting under a Justice's or Commissioner's warrant, or in aid of any Justice, Commissioner, Constable or Peace Officer,—may arrest and detain any person employed on any such Railway, Canal, or other work, found carrying any such weapon as aforesaid, within the limits or locality within which this Act is at the time in force, at such time and in such manner as in the judgment of such Justice, Commissioner, Constable or Peace Officer, or person acting under a warrant, affords just cause of suspicion that they are carried for purposes dangerous to the public peace,—And the act of so carrying any such weapon by any person so employed shall be a misdemeanor, and the Justice or Commissioner arresting such person, or before whom he is brought under such a warrant, may commit him for trial for a misdemeanor, unless he gives sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, to answer to any indictment to be then preferred against him.

Monthly return.

9. Every such Justice or Commissioner shall make a monthly return to the Secretary of State of all weapons delivered to him, and by him detained under this Act.

Sale of forfeited arms.

10. All weapons declared forfeited under this Act, shall be sold under the direction of the Justice or Commissioner by whom or by whose authority the same were seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such Justice or Commissioner and paid over by him to the Receiver General for the use of Canada.

Police Force may be organized.

11. And for better carrying this Act into effect, the Governor in Council may cause a body of men not exceeding one hundred, inclusive of officers, and to be called *The Mounted Police Force*, to be raised, mounted, armed and equipped, and to be placed under the command of such Officers as the Governor in Council deems necessary, and may cause such Police Force or any portion thereof, to be employed in any place in which this Act is then in force, under such Orders and Regulations as the Governor in Council shall from time to time issue.

Officers, &c., may be Justices of the Peace.

12. The Governor may appoint the Chief Officer and such of the Subordinate Officers of the said *Mounted Police Force*, and such other persons as he deems necessary, to be respectively Justices of the Peace for the purposes of this Act within

any of the places in which this Act is in force; and such Officers and persons respectively may act as Justices of the Peace although they may not have the qualification in property required of others;—Provided that in so far as regards the detention, conveyance to gaol and imprisonment of any person committed by any Justice of the Peace appointed under this Act, his order and commitment shall be valid and shall be executed, although the common gaol to which the prisoner is committed be out of the limits of any place within which this Act has been proclaimed in force.

Men to be Peace Officers.

13. The men in such *Mounted Police Force* are hereby constituted respectively Constables and Peace Officers for the purposes of this Act, for the District or County in which they are employed for the time being.

Expenses.

14. The expenses of carrying the foregoing provisions of this Act into effect upon or near any Public Work of Canada, shall be paid through the Minister of Public Works out of the moneys appropriated for the work on which such expenses are incurred, and shall be charged as part of the cost of such work; and the sum to be so charged against each work, shall be proportionate to the number of Policemen employed on such work and the time during which they are so employed—but the sum so expended in any one year shall not exceed thousand dollars.

In case of Provincial works.

15. The expenses attending the carrying into effect of this Act upon or near any public Provincial Work, shall in the first instance be paid by the Governor out of the Consolidated Revenue Fund, of Canada and be afterwards reimbursed by the Government of the Province in which such public work is being executed.

Other works.

16. The expenses attending the employment of such Police Force in any place, in or in the vicinity whereof, any Railway Canal or Work undertaken and carried on by any such incorporated Company as aforesaid is in progress of construction, shall be in the first instance paid by the Governor out of the Consolidated Revenue Fund and shall on demand be repaid to the Receiver General by such Incorporated Company, or if not so repaid may be recovered from such Company as a debt due to the Crown, and when recovered shall form part of the said Consolidated Revenue Fund.

Interpretation.

17. In this Act the term "weapon" includes every species of weapon, arms or ammunition enumerated in the second section of this Act.

Sale of liquors prohibited.

18. Upon and after the day to be fixed in such Proclamation, and during such period as the Proclamation may remain in force, no person shall at any place within the limits speci-

fied in such Proclamation barter, sell, exchange or dispose of directly or indirectly to any other person, any alcoholic, spirituous, vinous, fermented or other Intoxicating Liquor, or any mixed Liquor a part of which is spirituous, or vinous, fermented or otherwise intoxicating,—and every such Liquor or mixed Liquor shall be included in the expression "Intoxicating Liquor" when used in this Act,—nor shall expose, keep or have in his possession for sale, barter or exchange, any intoxicating Liquor:

2. This section shall not extend to any person selling Intoxicating Liquors by wholesale, and not retailing the same, if such person be a licensed Distiller or Brewer. Restriction.

19. Any person who, in contravention of the next preceding section, by himself, his clerk, servant or agent, exposes or keeps for sale or barters, or sells, disposes of, gives or exchanges for any other matter or thing, to any other person, any Intoxicating Liquor, shall be liable to a fine of twenty dollars on the first conviction, forty dollars on the second, and on the third and every subsequent conviction to such last mentioned fine and imprisonment for a period not more than six months. Penalty.

20. If any clerk, servant or agent, or other person in the employment or on the premises of another, sells, disposes of, or exchanges for any other matter or thing, or assists in selling, disposing of, exchanging for any other matter or thing, any Intoxicating Liquor, in contravention of this Act, for the person in whose service or on whose premises he is, he shall be held equally guilty with the principal, and shall suffer the like penalty. Case of Agent.

21. If any three persons resident within the Municipality within which the complaint is made, make oath or affirmation before any Justice, Commissioner, Police Magistrate or Recorder,—that they have reason to believe and do believe that any Intoxicating Liquor intended for sale or barter in contravention of this Act, is kept or deposited in any steamboat or other vessel, or in any carriage or vehicle, or in any store, shop, warehouse, or other building or place in such Municipality, or on any river, lake or water adjoining the same, at any place within which such Intoxicating liquor is by Proclamation under this Act prohibited to be sold or bartered or kept for sale or barter,—the said Justice, Commissioner, Police Magistrate or Recorder, shall issue his Warrant of Search to any Sheriff, Police Officer, Bailiff or Constable, who shall forthwith proceed to search the premises, steamboat, vessel or place described in such Warrant, and if any Intoxicating Liquor be found therein, he shall seize the same, and the barrels, casks or other packages in which it is contained, and convey them to some proper place of security, and there keep them until final action is had thereon;—But no dwelling Search for and seizure of liquor.

house in which, or in part of which a shop or bar is not kept, shall be searched, unless one at least of the said complainants testifies on oath to some act of sale of Intoxicating Liquor therein or therefrom in contravention of this Act within one month of the time of making the said complaint :

Forfeiture.

2. The owner or keeper of the Liquor seized as aforesaid, if he is known to the Officer seizing the same, shall be summoned forthwith before the Justice or person by whose warrant the Liquor was seized, and if he fails to appear, and it appears to the satisfaction of the said Justice or person who issued the Warrant, that the said Liquor was kept or intended for sale or barter, in contravention of this Act, it shall be declared forfeited with any package in which it is contained, and shall be destroyed by authority of the written Order to that effect of the said Justice, Commissioner, Police Magistrate or Recorder, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, and who shall join with the Officer by whom the said Liquor has been destroyed, in attesting that fact upon the back of the Order by authority of which it was done ; And the owner or keeper of such Liquor shall pay a fine of forty dollars and costs, or be committed to prison for three months in default thereof.

In case owner be unknown.

22. If the owner, keeper or possessor of Liquor seized under the next preceding section is unknown to the Officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure has been advertised, with the number and description of the package as near as may be, for two weeks, by posting up a written or printed notice and description thereof in at least three public places :

Delivery back in certain cases.

2. And if it is proved within such two weeks to the satisfaction of the Justice, Commissioner, Police Magistrate, Recorder or Judge by whose authority such Liquor was seized, that it was not intended for sale or barter in contravention of this Act, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the Warrant, which shall be returned to the said Justice or person who issued the same ; but if after such advertisement as aforesaid, it appears to such Justice, Commissioner, Police Magistrate, Recorder or Judge, that such Liquor was intended for sale or barter, in contravention of this Act, then such Liquor, with any package in which it is contained, shall be forfeited, condemned and destroyed.

Payment for liquor may be recovered.

23. Any payment or compensation for liquor sold or bartered in contravention of this Act, whether in money or securities for money, labor or property of any kind, shall be held to have been received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the party making,

paying or furnishing the same;—and all sales, transfers, conveyances, liens and securities of every kind which either in whole or in part have been given for or on account of Intoxicating Liquor sold or bartered in contravention of this Act, shall be null against all persons, and no right shall be acquired thereby, and no action of any kind shall be maintained either in whole or in part for or on account of Intoxicating Liquor sold or bartered in contravention of this Act.

Procedure.

24. Any Justice of the Peace or Commissioner, any Police Magistrate, or a Recorder of any City or Town, may hear and determine in a summary manner any case arising within his jurisdiction under this Act; and every person making complaint against any other person for contravening this Act, or any part or portion thereof, before such Justice, Commissioner, Police Magistrate or Recorder, may be admitted as a witness; and if the Justice, Commissioner, Police Magistrate or Recorder, before whom the examination or trial is had so orders, as he may if he thinks there was probable cause for the prosecution, the defendant shall not recover costs though the prosecution fails.

Procedure.

25. All the provisions of any Law respecting the duties of Justices of the Peace in relation to summary convictions and orders, and to appeals from such convictions, and for the protection of Justices of the Peace when acting as such, or to facilitate proceedings by or before them, in matters relating to summary convictions and orders, shall in so far as they are not inconsistent with this Act, apply to every Functionary mentioned in this Act or empowered to try offenders against this Act, and such Functionary shall be deemed a Justice of the Peace within the meaning of any such Law, whether he be or be not a Justice of the Peace for other purposes.

Limitation of actions.

26. Any action brought against any Justice or Commissioner, Constable, Peace Officer, or other person, for any thing done in pursuance of this Act, must be commenced within six months next after the fact;—and the venue shall be laid or the action instituted in the District or County where the fact was committed; and the Defendant may plead the general issue and give this Act and the special matter in evidence; And if such action is brought after the time limited, or the venue is laid or the action brought in any other District or County than as above declared, the Jury shall find for the Defendant; and in such case, or if the verdict is given for the Defendant on the merits, or if the Plaintiff becomes nonsuit or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the Defendant shall be entitled to recover double costs.

Defect of form not to void.

27. No action or other proceeding, Warrant, Judgment, Order or other instrument or Writing, authorized by this Act, or necessary to carry out its provisions, shall be held void, or be allowed to fail for defect of form.

[No. 77.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Riots near Public Works.

Received and read 1st time Thursday, 16th April, 1868.

Second reading Friday, 17th April, 1868.

Hon. Sir J. A. Macdonald.

Printed by G. E. Desbarats.

No. 78.] **BILL.** [1868.

An An respecting Cruelty to Animals.

WHEREAS it is expedient that provision should be made, extending to all Canada, for the punishment of Cruelty to Animals; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. Whosoever wantonly, cruelly, or unnecessarily beats, binds, illtreats, abuses or tortures any Horse, Mare, Gelding, Bull, Ox, Cow, Heifer, Steer, Calf, Mule, Ass, Sheep, Lamb, Pig, or other Cattle, or any Poultry, or any Dog, or Domestic Animal or Bird, or whosoever driving any cattle or other animal, is by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal, shall upon being convicted of any or either of the said offences before any one Justice of the Peace for the City, Town, District or County in which the offence has been committed, for every such offence, forfeit and pay (over and above the amount of the damage or injury, if any, done thereby, which damage or injury shall and may be ascertained and determined by such Justice,) such a sum of money not exceeding *ten dollars*, nor less than *one dollar* with costs, as to such Justice seems meet. Cruelty to animals, how punishable.

2. The offender shall in default of payment be committed to the Common Gaol or House of Correction, for the city, town, district or county in which the offence was committed, there to be imprisoned for any time not exceeding fourteen days. In default of payment of fine

3. Nothing in this Act contained shall prevent or abridge any remedy by action against the employer of any such offender where the amount of the damage is not sought to be recovered by virtue of this Act. Prosecutions under this Act nor to affect civil remedy.

4. Nothing hereinbefore contained shall make it unlawful for any person to bind any sheep, lambs, calves or pigs for the purpose of conveying and delivering them to or at any market, at a distance not exceeding fifteeen miles from the owner's house or premises; but such animals shall not remain so bound for a longer space than half an hour after their arrival at such market. Restrictions as to binding of animals

5. When any of the offences aforesaid are committed, any constable or other peace officer, or the owner of any such horse, cattle, animal or poultry, upon view thereof, or upon the information of any other person (who shall declare his or their name or names and place or places of abode to the said constable or other peace officer) may seize and secure by the authority of this Act, and forthwith, and without any other authority or warrant, may convey any such offender before a Justice of the Peace within whose jurisdiction the offence has been committed, to be dealt with according to law; and such Justice shall forthwith proceed to examine upon oath any witness or witnesses who appear or are produced to give information touching any such offence, which oath such Justice may administer. Apprehension of offenders against this Act

In case offender refuses to state his name &c.,

6. If any person apprehended for having committed any offence against this Act refuses to discover the name and place of abode to the Justice before whom he is brought, such person shall be immediately delivered over to a constable or other peace officer, and shall by him be conveyed to the Common Gaol or House of Correction for the city, town, district or county within which the offence has been committed, or in which the offender has been apprehended, there to remain for a space not exceeding one month, or until he makes known his name and place of abode to the said Justice.

Limitation of prosecutions

7. The prosecution of every offence punishable under this Act must be commenced within three months next after the commission of the offence, and not otherwise.

8. Every offence punishable under this Act may be prosecuted to the manner directed by the Act of the present Session intituled "An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders," so far as no provision is hereby made for any matter or thing which may be required to be done in the case of such prosecution, and all the provisions contained in the said Act shall be applicable to such prosecutions, in the same manner as if they were incorporated in this Act.

Application of penalties

9. All pecuniary penalties recovered before any Justice of the Peace under this Act, shall be divided, paid and distributed in the following manner, that is to say: one moiety thereof to the Treasurer of the city, town, village, township or parish in which the offence was committed, to be by such Treasurer applied in repairing streets and roads therein, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such or person as to such Justice may seem proper.

As to amounts paid as damages

10. Every sum of money ascertained, determined, adjudged, and ordered by any Justice of the Peace under this Act to be paid as the amount of any damage or injury occasioned by the commission of any of the offences hereinbefore mentioned, shall be paid to the person who has sustained such damage or injury.

Actions for proceeding under this Act

11. All actions and prosecutions brought against any person for anything done in pursuance or under the authority of this Act, shall be commenced within one month after the fact committed and not afterwards, and shall be brought and tried in the district, county or place where the cause of action arose, and not elsewhere.

Notice of such action

12. Notice in writing of any such action, and specifying the cause thereof, shall be given to the defendant fourteen clear days at least before the commencement of any such action.

Pleading.

13. The defendant in such action may plead the general issue, and give this Act and any other matter or thing in evidence at any trial to be had thereupon.

Judgment for defendant in certain cases

14. If the cause of action appears to arise from or in respect of any matter or thing done in pursuance of and by the authority of this Act, or if any such action be brought after the expiration of one month, or be brought in any other district, county or place than as aforesaid, or if notice of such action be not given in manner aforesaid, or if tender of sufficient amends be made before such action is commenced, or if a sufficient sum of money be by or on behalf of the defendant paid into court after such action is commenced, the jury shall find a verdict, or (if the case be not tried by jury) judgment shall be given for the defendant.

Costs.

15. If a verdict pass for the defendant, or if the plaintiff becomes non-suit, or discontinues any such action, or if on demurrer or otherwise judgment be given against him, the defendant shall recover his full costs of suit as between attorney and client, and shall have the like remedy for the same as every defendant may have for costs of suit in other cases at law.

Costs in case judgment is for plaintiff

16. And although a verdict be given or judgment be rendered for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the Judge or Judges before whom the trial may be had certifies his or their approbation of the action or verdict (if any) obtained thereupon.

Interpretation

17. Where the word "cattle" is used alone in this Act, the same shall be understood and taken for any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep or lamb, or any other cattle or domestic animal.

Existing Municipal by-laws saved

18. Nothing in this Act contained shall be held to repeal any By-laws which may be construed to have reference to any of the provisions, matters and things contained in this Act, made by any Municipal Council under and by virtue of the provisions of the Municipal laws of any Province in Canada, excepting in so far as the same may be at variance with the provisions of this Act, but such By-law so made, shall remain and continue in force and effect, until legally repealed or amended.

No. 78.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Cruelty to Animals.

Received and read first time, Thursday, 16th April, 1868.

Second reading, Friday, 17th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 79.] **BILL.** [1868.

An Act respecting Perjury.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law relating to Perjury, in force in the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, and to extend the same as so consolidated to all Canada; Thereore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

Perjury to be a misdemeanor.

1. Perjury or subornation of perjury is a misdemeanor, and any person guilty thereof shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, and to pay such fine as the Court may award.

Making, &c., false declarations, &c., under any Act to be perjury.

2. In every case in which, by any Act or Law now or hereafter to be in force in the Dominion of Canada, or in any Province forming part of the Dominion of Canada, it is required or authorized that facts, matters or things be verified, or otherwise assured or ascertained, by or upon the oath, affirmation, declaration or affidavit of some or any person, if any person having in any such case taken or made any oath, affirmation or declaration so required or authorized, knowingly, wilfully and corruptly, upon such oath, affirmation or declaration, deposes, swears to or makes any false statement as to any such fact, matter or thing,—or if any person knowingly, wilfully and corruptly, upon oath, deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do,—or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit, as to any such fact, matter or thing, such statement, affirmation or declaration being untrue, in the whole or any part thereof,—or knowingly, wilfully and corruptly omits from any such affidavit, made or sworn under the provisions of any law, any matter which, by the provisions of such law, is required to be stated in such affidavit, such person shall be deemed to be guilty of wilful and corrupt perjury, and be punished accordingly: Provided that nothing herein contained shall affect any case amounting to perjury at the Common Law, or the case of any offence in respect of which other or special provision is made by any Act. Proviso.

Trial, punishment, &c., for making false affidavits, &c., out of Canada.

3. Any person who wilfully and corruptly makes any false affidavit, affirmation, or declaration out of Canada, or out of any Province of Canada, before any functionary authorized to take the same for the purpose of being used in Canada, or in such Province, shall be deemed guilty of perjury, in like manner as if such false affidavit, affirmation or declaration had been made in Canada, or in such Province, before competent authority; and such person may be dealt with, indicted, tried and, if convicted, be sentenced, and the offence may be laid and charged to have been committed, in that district, county or place where he has been apprehended or is in custody.

Any Judge may direct that person guilty of perjury be prosecuted.

4. It shall be lawful for any Judge of any Superior Court of Law or Equity, or for any Judge of any Court of Record or any Commissioner before whom any inquiry or trial is held, and which he is by law required or authorized to hold, in case it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence

given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceeedings made or taken before him to direct such person to be prosecuted for such perjury, in case there appears to such Judge or Commissioner a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next term, sittings or session of any Court having power to try for perjury, in the jurisdiction within which such perjury was committed, or to permit such person to enter into a recognizance with one or more sufficient surety or sureties conditioned for the appearance of such person, at such next term or session, and that he will then surrender and take his trial and not depart the Court without leave, and to require any person such Judge may think fit, to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid.

All evidence material with respect to perjury.

5. All evidence and proof whatsoever, whether given or made orally, or by or in any affidavit, affirmation, declaration, examination or deposition, shall be deemed and taken to be material with respect to the liability of any person to be proceeded against and punished for wilful and corrupt perjury, or for subornation of perjury.

Venu in cases of perjury.

6. Any person accused of perjury may be tried and convicted in any district, county or place where he is apprehended or is in custody.

Form of indictment in perjury.

7. In any indictment for perjury, or for unlawfully, illegally, falsely, fraudulently, deceitfully, maliciously or corruptly, taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

Form of indictment for subornation of perjury.

8. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly, to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, whenever such perjury or other offence aforesaid has been actually committed, to allege the offence of the person who actually committed such perjury or other offence, in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, wilfully and corruptly, did cause and procure the said person, the said offence in manner and form aforesaid to do and commit; and whenever such perjury or other offence aforesaid has not actually been committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Perjury.

9. A certificate, containing the substance and effect only (omitting the formal part) of the indictment and trial for any felony or misdemeanor, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanor, without proof of the signature or official character of the person appearing to have signed the same.

No. 79.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL

An Act respecting Perjury.

Received and read, first time, Thursday 16th April, 1868.

Second reading, Friday, 17th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 80.] **BILL.** [1868.

An Act to limit the rate of Interest in the Dominion of Canada.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Corporations not being banks, may take 7 per cent interest.

1. No corporation, company, or association of persons, not being a bank, authorized to lend or borrow money, shall upon any contract take directly or indirectly for loan of any moneys, merchandise or other commodities whatsoever above the value of seven dollars for the advance or forbearance of one hundred dollars for a year, and so after that rate for a greater or less sum or value, or for a longer or shorter time, except it be otherwise expressly prescribed and authorized by this Act or by some other Act or Law.

Individuals may take 8 per cent.

2. In all contracts between individuals, either for the borrowing of money, merchandise or other commodities, or for any other object whatsoever, a rate of interest not exceeding eight dollars for one hundred dollars for a year may be agreed upon, and so after that rate for a greater or less sum or value, and for a longer or shorter time, and such rate of interest shall be granted and collected in all cases in which the parties have agreed to pay the same.

Powers of banks, &c., not extended by this Act.

3. This Act shall not be construed to allow any bank or incorporated society, or any association of persons authorized to lend money, merchandise or other commodities, to exact a higher rate of interest that that prescribed and limited by their charters or acts of incorporation, or by any other law.

Penalty for contravention of this Act.

4. Any bank, corporation or association of persons, which directly or indirectly takes, covenants for, accepts or receives a higher rate of interest than that mentioned and limited in and by their respective charters, or by any special law, or, in default of such special law, in and by this Act, and any individual who directly or indirectly, takes, accepts, receives or covenants for a higher rate of interest than that mentioned and limited in and by this Act, shall forfeit and lose for every such offence, treble the value of the moneys, merchandise or other commodities which shall constitute the subject of any such contract, agreement or obligation, to be recovered by action of debt before any of the Courts of the Dominion of Canada having jurisdiction in civil matters ; and one moiety of such penalty shall be paid to the Receiver General for the uses of Her Majesty towards the support of the Civil Government of the Dominion of Canada, and the other moiety to the person who sues for the same ; and all contracts, obligations and agreements whatsoever upon and by which a higher rate of interest than that allowed by this Act shall be covenanted for, agreed upon or levied, shall be entirely null and void.

Six per cent. when no agreement.

5. Six per cent. per annum shall continue to be the rate of interest in all cases where by the agreement of the parties or by law, in terest is payable, and no rate has been fixed by the parties or by the law.

Contrary provisions.

6. All laws and parts of laws, incompatible with this Act, are hereby repealed.

No. 80.

1st Session, 1st Parliament, 31 Victoria, 1867-8.

BILL.

An Act to limit the rate of Interest in the Dominion of Canada.

Received and read, first time, Friday, 17th April, 1868.

Second reading, Monday, 20th April, 1868.

Mr. GODIN.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 81.] **BILL.** [1868.

An Act to enable Her Majesty to provide for the Widow and Children of the late Honorable Thomas D'Arcy McGee.

MOST GRACIOUS SOVEREIGN:

WE, Your Majesty's dutiful and loyal subjects ,the Commons of Canada in Parliament assembled, having taken into consideration the Message of His Excellency the Governor General, bearing date the Fourteenth day of April, in the year of our Lord one thousand eight hundred and sixty-eight, wherein His Excellency is pleased to state that being deeply impressed with the severe loss which the Country has sustained, in consequence of the Murder of the Honorable Thomas D'Arcy McGee, and being desirous of marking his sense of the public and private virtues of Mr. McGee, and of affording relief and assistance to his afflicted Family, His Excellency recommends to the House of Commons to enable him to make such provision for the Widowand Family of the Honorable Thomas D'Arcy McGee, as to the liberality of Parliament may seem proper, and having resolved to grant to Your Majesty the sums hereinafter mentioned, to enable Your Majesty to make the provision recommended by His Excellency's Message, —do most humbly beseech Your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that— Preamble.

1. An annuity or yearly sum of twelve hundred dollars of lawful money of Canada shall be issued and payable out of, and charged and chargeable upon the Consolidated Revenue Fund of Canada free and clear of all taxes and deductions to McGee, the widow of the said Thomas D'Arcy McGee, for and during the natural life of the said McGee, which annuity shall commence from the seventh day of April, in the year of Our Lord one thousand eight hundred and sixty-eight, and the first payment on account of the same shall be computed from the seventh day of April to the thirtieth day of June, one thousand eight hundred and sixty-eight, and from thence the said annuity shall be paid by half yearly payments on the first day of January and the first day of July in each year, and a rateable payment of the said annuity to be computed from the last half yearly payment before the death until the day of the death of the said McGee shall on such death be paid to her executors, administrators or assigns. Annuity to the widow of the Hon. T. D. McGee.

2. The sum of eight thousand dollars of lawful money of Canada shall be paid out of any of the aids or supplies granted for the service of the year one thousand eight hundred sixty-eight, free and clear of all taxes and other deductions whatsoever, to the Minister of Finance for the time being in two separate sums of four thousand dollars each, in trust for the use of each of the two children of the said Thomas D'Arcy McGee, in such manner as the Governor in Council shall direct. Sum guaranteed for the children of said T. D. McGee.

3. Until such sum of eight thousand dollars shall be so paid to the Minister of Finance as aforesaid, there shall be paid to the Interest on each sum until paid.

Minister of Finance for the time being from time to time out of the said Consolidated Revenue Fund, in trust as aforesaid, interest for such sum of eight thousand dollars at the rate of six per centum per annum, clear of all deductions, and such interest shall commence and take effect from the said seventh day of April, one thousand eight hundred and sixty-eight, the first payment of interest to be computed and made rateably from the said seventh day of April, to the said thirtieth day of June, one thousand eight hundred and sixty eight, and from thence such interest to be payable half yearly on the first day of January and the first day of July in each year, until such sum of eight thousand dollars shall be so paid as aforesaid, and any fraction of any half yearly payment of such interest shall be computed and paid to the day of such payment of the principal.

Receipts for sums paid.

4. The acquittance or acquittances, receipt or receipts of the said McGee, for the said annuity or yearly sum of one thousand two hundred dollars, and of such person as may be directed by the Governor in Council as the person to acquit the warrant for payment of the said sum of eight thousand dollars, or any part thereof, or of the interest thereon, or any part thereof, shall be a good and sufficient discharge for the payment of the said annuities or yearly sums or interest respectively, and the same shall be free and clear from all taxes, impositions and other public charges whatsoever, in respect of the same.

Accounting clause.

5. A detailed account of the moneys expended under the authority of this Act, shall be laid before the House of Commons during the first fifteen days of the Session of Parliament next after such expenditure.

No. 81.

1st Session, 1st Parliament, 31 Victoria

BILL.

An Act to enable Her Majesty to
for the Widow and Children o
Hon. Thomas D'Arcy McGee.

Received and read, first time,
17th April, 1868.

Second reading, Tuesday, 21st A

Hon. Sir JOHN A. MACD

OTTAWA:
PRINTED BY HUNTER, ROSE &

[No. 82.] **BILL.** [1868.]

An Act to incorporate "The Merchants' Express Company of the Dominion of Canada."

WHEREAS, the several parties hereinafter named have, by their Petition, represented that they have associated themselves together, with divers others, for the purpose of the transport and carriage and conveyance of money, of packages, of goods, chattels, wares, and merchandise, and of every description of property that may be intrusted to their care, for transport, carriage and delivery to and from any part or portion of the country, being within the Dominion of Canada. And the more effectually to carry out this enterprise, they have prayed that an Act be passed incorporating them with powers hereinafter mentioned: Therefore Her Majesty, by and with the consent of the Senate and House of Commons of the Dominion of Canada, enacts as follows: Preamble.

1. Joseph Woodruff, of the town of St. Catharines, in the Province of Ontario, Esquire; John C. Rykert, of the same place, Esquire; Gilbert McMickin, of the town of Windsor, in the said Province, Esquire; Samuel Smith Macdonell, of the same place, Esquire; Francis Smith, of the city of Toronto, in the said Province, Merchant; Robert Gilmor, of the same place, Esquire; F. W. Cumberland, of the same place, Esquire; John Walker, of the city of London, in the said Province, Esquire; George Macbeth, of the same place, Esquire; Edward Griffin, of the city of Ottawa, in the said Province, Esquire; John Ferguson, of Glencoe, in the said Province, Esquire; and such others as may be associated with them, and their successors, and such and so many of other persons or parties who have become or may become shareholders in the Capital Stock hereinafter mentioned, shall be, and they are hereby constituted a Body politic and corporate, in fact and in name, and by the title of "The Merchants' Express Company of the Dominion of Canada," with power to acquire and hold real estate and Personal Estate for the use of the said Corporation, and may sell and alienate the same as they may deem convenient. Company incorporated. May hold real estate.

2. The Capital Stock of the said Corporation shall be one hundred thousand dollars, divided into one thousand shares of the value of one hundred dollars each. Capital Stock

3. No shareholder in the said Corporation shall be in any manner liable or charged with the payment of any debt or demand due by the said Corporation beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation. Liability limited.

4. And it shall and may be lawful for the said Company—

1. To enter into treaties and make contracts with Railway Companies, Steamboat Companies or owners, Stage or Wagon Proprietors and others, for the carriage and transport of any goods, chattels, merchandise, money, packages or parcels that may be entrusted to them for conveyance from one place to another within the Dominion of Canada. Business to be transacted by Company.

2. To enter into treaties and make contracts with British and

foreign Express Companies, and other parties for co-operating with and transacting business in connection with the said Company.

3. To acquire, construct, charter and maintain boats, vessels, vehicles and other conveyances for the carriage and transport of any goods or chattels whatsoever for the Company.

4. To purchase or lease and hold such lands and real immoveable property as may be necessary for carrying on their business in any places within the Dominion of Canada.

5. To make by-laws for the following purposes:—

(*i.*) For establishing main routes by which goods and merchandise are to be conveyed, as well as side, by, or off routes or lines connected therewith;

(*ii.*) And for the establishment of Company Offices in any of the cities, towns, villages, stations or places within the Dominion of Canada;

(*iii.*) And for the appointment of officers, agents, and servants of the Company, and prescribing their duties, and fixing their remuneration;

(*iv.*) And for establishing a tariff or rates of charges for the conveyance of goods and merchandise of the Company.

Railways to transport goods for the Company.

5. All Railway Companies within the Dominion of Canada shall transport the goods, chattels and merchandise that may be consigned to them by the said Company upon as favorable terms and rates, and with the same facilities as they may grant to any other Express Company or Association.

Transfer of shares.

6. The shares of the Stock of the said Corporation shall be assignable by the delivery of the certificate to be issued to the holder of such shares respectively, and by assignment to be made in some convenient form and on conditions to be prescribed by any By-law of the said Corporation, and by such assignment the party accepting such transfer shall thenceforward become in all respects a member of the said Corporation in respect of such share or shares in the place of the party so transferring the same, and a certified copy of such transfer extracted from the proper book of entry, and purporting to be signed by the officer of the Company duly authorized thereto, shall be sufficient *primâ facie* evidence of every such transfer in all the Courts of the said Dominion of Canada.

Shares to be personal estate.

7. The Stock of said Corporation shall be deemed personal estate, notwithstanding the conversion of any portion of the funds constituting the same into lands. And at all meetings of the shareholders held in pursuance of this Act, whether the same be general or special, every shareholder shall be entitled to as many votes as he, she or they shall have shares in the said Stock, and such votes shall be given in person or by proxy, and all questions proposed or submitted for the consideration of the said meeting, shall be determined by the majority of votes: Provided that no person

Voting on shares.

shall be entitled to vote as proxy at any meeting unless he shall be a shareholder in the said Corporation, and produce written authority as such proxy in the form to be prescribed by any by-law of the said Corporation.

Election of Directors.

8. For the managing of the affairs of the said Corporation, there shall, from time to time, be elected out of the members of the said Corporation, five persons, being each a proprietor of not less than ten shares of the said Capital Stock, to be Directors of the said Corporation; and any three Directors shall form a quorum of the Board, and may exercise all the powers of the Directors.

Sale of real estate.

9. No by-law, rule or resolution for the raising of money or disposing of the real estate of the Corporation shall be finally passed

until confirmed by the shareholders at a meeting specially called for that purpose.

2. And whenever any vacancy shall happen among the Directors, by death or resignation, such vacancy shall be filled up until the next General Meeting of shareholders, by the appointment of some one of the shareholders to the vacancy so occuring by death or resignation as aforesaid. And the majority of the Directors, for the time being, shall have power and authority to elect or appoint the person to fill or supply the vacancy made in the Board of Directors by either of the causes aforesaid. And the Directors shall have power and authority to make such calls for money from the several shareholders, for the time being, as may be provided for by any by-law, rule or regulation of the said Corporation. And they may sue for and get in all calls, whether already made or hereafter to be made, or to cause and declare the said shares to be forfeited to the said Corporation in case of non-payment, on such terms and in such ways as shall be prescribed by some by-law of the said Corporation. And in order to maintain an action for the recovery of calls due, it shall be sufficient to prove by any one witness that the defendant, at the time of making such call, was a stockholder in the number of shares alleged, and that the calls sued for were made and notice thereof given in conformity with the by-laws of the said Corporation. And it shall not be necessary to prove the appointment of Directors or any other matter whatsoever. Vacancies. Calls.

10. The first General Meeting of the Shareholders of the said Corporation shall be holden at the Office of the said Corporation in the City of Toronto, at which place the said Corporation shall have its principal place of business, on the fifteenth day of April, in the year of our Lord one thousand eight hundred and sixty nine, and at such time and place and upon the like day in each and every year thereafter, until otherwise provided by By-law. The said Shareholders shall elect five qualified persons to be Directors of the said Corporation, which said Directors so elected shall elect a President. And until such first election, the Directors of the said Corporation are hereby declared to be and they or the successor or successors of them shall be and are constituted to be Directors of the said Corporation and shall have and exercise all and every the powers, and shall be subject to all and every the clauses, conditions and restrictions imposed upon the Directors to be chosen under the Act; Provided, that at the first meeting of the Directors to be chosen after the passing of this Act, the said Directors shall choose and elect from among themselves some one to be President. First General Meeting.

11. The failure to hold the said first General Meeting, or any other meeting, to elect Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any special meeting to be called by the Directors in conformity with the By-laws of the said Corporation, and until the election of Directors by Shareholders as aforesaid those who may be in office, for the time being, shall be and continue in office, and exercise all the rights and powers thereof until such election so to be made by the Shareholders, as hereinbefore proved. Failure to hold a Meeting.

12. It shall not be lawful for the said Corporation to proceed with their operations under this Act, unless they shall have paid up the sum of ten per centum on the amount of their Capital Stock. Ten per cent. to be paid on Stock.

13. It shall and may be lawful for the said Company at any time upon a vote of the Stockholders or a majority of them at a Power to increase capital.

meeting to be specially called for the purpose, to increase the Capital Stock of the Company as they may find or deem their business to require, to any amount not exceeding $1,000,000 (one million of dollars). Provided always, that upon such increase of Capital, there shall be at the time of subscribing the same, at least ten per centum thereof paid in, and such order made for the calling in of the remainder as the Directors by By-law may direct.

No. 82.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to incorporate "The Merchants' Express Company of the Dominion of Canada."

(PRIVATE BILL.)

Mr. ANGUS MORRISON

OTTAWA,
PRINTED BY HUNTER, ROSE & COMPANY.

No. 83.] **BILL.** [1868.

An Act to confirm a certain By-law passed by the Directors of the Lake Memphremagog Navigation Company, and for other purposes.

Preamble.

WHEREAS, a large number of shareholders of the Lake Memphremagog Navigation Company have, by their Petition, represented amongst other things, that they have established a Line of Steamers and Vessels extending beyond the limits of the Province of Quebec, and that it is necessary in order to carry out their undertaking, that the Capital Stock of the said Company should be increased by the issue of Preferential Shares, and that the Directors of the said Company have passed a By-law for that purpose, which the said shareholders desire to have confirmed; and have also prayed that power be given to the Directors to borrow money on behalf of the said Company, and it is expedient to grant the prayer of the said Petitioners; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

General advantage.

1. The works of the said Company are hereby declared to be for the general advantage of Canada.

By-law confirmed.

2. The By-law, number fourteen, passed by the Directors of the Lake Memphremagog Navigation Company, on the eighteenth day of January last, is hereby confirmed, and shall be legal and valid to all intents and purposes whatsoever, anything in the charter of the said Company, or in any law, to the contrary notwithstanding.

Recovery of calls.

3. The amount of any subscription for ordinary stock of the said Company remaining unpaid, may be recovered, notwithstanding the passing of the said By-law.

Redemption of preferential stock.

4. The Directors of the Company may make provision for the redemption and paying off of the said preferential stock or of any part thereof, in such way and after such notice as they may think fit, and the holders of such preferential shares shall have all the privileges of the holders of ordinary stock.

Power to borrow money.

5. The Directors of the said Company may, from time to time, with the consent of two thirds in value of the shareholders present, or represented in a general meeting, borrow money on behalf of the Company at such rates of interest and upon such terms as they may think proper; and may for that purpose make or cause to be made, bonds or other instruments under the common seal of the Company for sums not less than one hundred dollars, which may be payable at any place, and either to order or bearer, and may have interest coupons attached, provided that the aggregate of the sum or sums so borrowed shall not at any time exceed the amount of the paid-up capital of the Company, and no lender shall be bound to inquire into the occasion of any such loan, or into the validity of any resolution authorizing the same, or the purpose for which such loan is wanted.

No. 83.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act to confirm a certain By-law passed by the Directors of the Lake Memphremagog Navigation Company, and for other purposes.

(PRIVATE BILL.)

Mr. COLBY.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 84.] **BILL.** [1868.

An Act to incorporate The Canada Shipping Company.

WHEREAS, William Murray, Alexander Urquhart, Thomas Rimmer, John Ogilvy, William Dow, Edwin H. King, Gilbert Scott, George W. Campbell, Alexander Gunn, George H. Frothingham, Preamble.

have petitioned for the incorporation of themselves and others by the name of "The Canada Shipping Company," for the purpose of carrying on Shipping and Shipping Agency business; And it is expedient to grant their petition, and to incorporate them with the powers hereinafter mentioned; Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The aforesaid persons and all others who shall become Shareholders in the said Company, are hereby constituted a body politic and corporate by the name of "The Canada Shipping Company." Company incorporated.

2. The said Company are empowered to carry on general Shipping and Shipping Agency business, with all business and affairs incident thereto, including and without limiting the generality of their powers; the construction, owning, maintaining, hiring, leasing, chartering, employing, insuring and navigating, selling and disposing of all kinds of vessels, boats, ships, and other craft used for navigation, trade or other purposes with their appurtenances: they may also purchase in whole or in part and again dispose of cargoes for any such vessels, boats, ships or craft. Business powers.

3. The Company may acquire by purchase, lease or otherwise, and may hold absolutely or conditionally any lands, tenements, real or immoveable estates, for the convenient conduct and management of their business, not exceeding the yearly value of ten thousand dollars, and may sell, alienate, let, release and dispose of the same from time to time, and may acquire others in their stead not exceeding at any time the value aforesaid. Power to hold lands.

4. The Capital of the Company shall be five hundred thousand dollars with power to increase the same as occasion may require to two million dollars, and shall be divided into shares of one thousand dollars each, which shares shall be held to be personal estate, and be assignable in such manner and form as may from time to time be prescribed by the By-laws of the Company. Capital Stock

5. The said William Murray, Alexander Urquhart, Thomas Rimmer, William Dow, Edwin H. King, Gilbert Scott, John Ogilvy and Thomas Workman, shall be the Directors of the said Company until a choice of Directors by election of the Shareholders shall take place in the manner hereinafter prescribed, and the subscription of shares in the capital stock of the said Company already made is hereby confirmed and declared valid, and the said Directors and their successors, or any three of them shall Provisional Directors.

have power to open books for the subscription of shares, receiving subscriptions to the stock of the Company, and allotting shares to the several subscribers; and no person shall hereafter be qualified to be a Director who does not hold in his own right five shares of the capital stock of the Company.

Annual meetings.

6. An annual meeting of the Shareholders of the Company for the transaction of the general business of the Company, and the election of Directors from among the Shareholders for the management of the affairs of the Company, shall be held at such time and place, and under such regulations with regard to notice, as may be determined by the By-laws of the Company; and the holding of such other meetings as may be found necessary, or judged expedient, may also be provided for by such By-laws: and a first meeting for the putting into force of this Act, the election of Directors and the transaction of business generally shall be held within thirty days next after the passing of this Act; and one week's previous notice of the time and place of the holding of the said first meeting shall be given in one or more public newspapers by three of the Directors; and of subsequent annual meetings a like notice shall be given under the hand of the Secretary of the Company unless and until otherwise regulated by the By-laws thereof, and all or any of the Directors may be removed at any meeting of the Shareholders called for the purpose, or for that purpose together with any other object or business.

First meeting.

Votes on shares.

7. Each share shall entitle the holder thereof to one vote at all meetings of the Company either personally or by proxy, such proxy being also a Shareholder, and having a written authority; Provided always that no single Shareholder shall be entitled to vote for any greater number of shares than one-fourth of the subscribed capital of the Company, and all questions shall be determined by the majority of votes given in respect thereof.

Appointment of officers.

8. The Company shall have a President and Vice-President, who shall be elected by the Directors from among themselves; the Directors shall also appoint a Secretary, and may appoint such other officers and employ such agents and managers as they may from time to time judge expedient, and may require such officers and Secretary, agents and managers, to give such security for the faithful performance of their duties as the Directors shall see fit to exact, and may pay and allow such Secretary and officers, agents and managers, such salaries as may be agreed upon.

Calls.

9. The Directors may make such calls upon the respective Shareholders, in respect to the shares subscribed or held by them respectively, as they may from time to time deem expedient, and may require the same to be paid with or without interest, and may impose penalties for failure of payment, not exceeding two per centum at any one time, on the amount of the call or calls made; and likewise, subject to such rules and conditions as may be imposed by By-law, may declare forfeited all such shares as may be in arrear in respect of any call or calls, interest or penalty, and such shares shall, upon such declaration, be and become forfeited in favor of the Company as well as the amounts paid thereon, and may thereupon be sold and disposed of in such manner as the Directors may see fit, and the net proceeds applied in reduction of the claims of the Company against the Shareholders in default, or the Directors may in their discretion, should they see fit, proceed by suit or action, for the recovery of any sum or sums due for a call or calls on such shares, with or without interest and penalties or either, as the case may be, and may afterwards, if not recovered in full, proceed by forfeiture as above directed, without prejudice to their recourse by suit in any case until the shares shall have been paid for in full.

10. In any action or proceeding which may be brought by the Company against any Shareholder for the recovery of any sum due on any call or calls, or for interest or penalties thereon, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more in the Capital Stock of the Company, and is indebted in the sum to which the arrears on the call or calls made on such share or shares amount (together with interest and penalties if any), and it shall only be necessary to prove that defendant was proprietor of a share or shares, and that a call or calls had been made thereon. Actions on calls.

11. The Directors may make By-laws, and may from time to time alter, repeal, amend, or wholly substitute others for the government of the said Company, its affairs, business managers, agents, officers and servants, which By-laws will be subject to approval or disallowance by the Shareholders, and will not be in force until approved of either at the annual or any general meeting of the Shareholders, and may, among other things, besides comprehending all matters hereinbefore referred to as the subject of By-laws, be made subject to the special provisions of this Act for the following objects and purposes, viz.:— Power to make By-laws for various purposes.

1. To fix and determine the number of Directors, the manner of filling up vacancies that may occur prior to the annual election, how many Directors shall constitute a quorum, and generally the manner in which their powers shall be exercised including subsidiary Boards of Directors for Great Britain or elsewhere.

2. The manner of calling meetings as well of the Directors as of the Shareholders, and fixing the time for annual meetings.

3. The forfeiture of shares in arrear in respect of a call or calls, and the conditions and manner in which such forfeiture shall be declared.

4. The keeping of registers and transfer books for shares, prescribing the manner in which transfers shall be made, and the conditions in respect to the previous payments of calls or unpaid balance of the stock on which transfers shall be allowed; also the vouchers and evidence required to be lodged with the Company in case of transmission of shares by marriage, bequest, inheritance, bankruptcy or otherwise than by sale, and the forfeiture of shares for non-payment of anything due thereon, or in respect thereof.

5. The keeping of minutes of the proceedings and the accounts of the said Company, and rectifying any errors which may be therein, the auditing of accounts and appointment of Auditors.

6. The imposing of penalties against officers and servants of the Company, to an amount not exceeding five pounds for each offence.

7. The manner in which the assent of the Company shall be given to contracts, deeds, bills, notes, cheques, or other instruments, so as to bind the Company.

8. The declaration and payment of profits of the said Company and dividends in respect thereof.

9. The remuneration of Directors.

10. The borrowing or advancing of money for promoting the purposes and interests of the Company, and the securities to be given by or to the said Company for the same, such borrowing not to exceed the limit hereinafter stated.

11. The times and manner of proposing and voting for increasing the capital stock of the Company, the mode of taking subscriptions for, and allotting shares for such increase, and making calls thereon and collecting the same.

12. Generally the transaction and management of the affairs and business of the Company, and the carrying into effect all the powers and duties conferred or imposed on the Company, its Shareholders and Directors by this Act.

May borrow money.

12. The Company are authorized to borrow money at any time to the amount and extent of one half or fifty per cent. of their paid-up capital, at such rate of interest as may be agreed upon.

On promissory notes, &c.

13. The Company may become a party to promissory notes and bills of exchange, cheques, agreements, deeds, mortgages, pledges, bottomry, and other bonds, and may pledge and mortgage their property in the same manner as individuals being natural persons could do.

$200,000 to be subscribed before commencing.

14. It shall not be lawful for the said Company to proceed with their operations under this Act until two hundred thousand dollars currency of the capital stock shall have been subscribed, and ten per cent. shall have been paid thereon.

Liability of shareholders.

15. No Shareholder in the Company shall in any manner be liable to, or charged with the payment of any debt or demand due by the Company, beyond the amount of his or her subscribed share or shares in the capital stock of the Company.

Failure to elect Directors.

16. No failure to elect Directors, nor to hold the first meeting or any annual meeting, shall operate as a dissolution of the Company, but anything omitted to be done may be afterwards performed at a meeting called in conformity to the By-laws, or at a meeting called for the purpose by the Secretary, or any three Directors.

No. 84.

1st Session, 1st Parliament, 31 V

BILL.

An Act to incorporate The (ping Company.

(PRIVATE BIL

MR.

OTTAWA:

PRINTED BY HUNTER, RO

No. 85] **BILL.** [1868.

An Act to Incorporate The Canadian Mutual Life Insurance Company.

Preamble.

WHEREAS, Richard L. Denison, Archibald A. Riddell, Andrew T. McCord, John Webster Hancock, William T. O'Reilly, John W. Bridgman, Joseph Adams, Archibald Baker, Henry Jackson, Charles Unwin, Charles Unwin, Junior, Herbert M. Jarvis, Alexander Rutherford, William Myers, Robert W. Anderson, William B. Phipps, John Burns, Herbert Hancock, James Dudley, Noah L. Piper, John Carter, and John S. Donaldson, have petitioned the Legislature of Canada, praying that a company under the style and title of "The Canadian Mutual Life Insurance Company" may be incorporated, for the purpose of enabling the said petitioners and others more effectually to carry on the business of a Mutual Life Insurance Company; And whereas the practice of life assurance is highly commendable, and the principle of mutual assurance is especially worthy of protection and encouragement; Therefore, Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:

Made a body corporate.

1. The said Richard L. Denison, Archibald A. Riddell, Andrew T. McCord, John Webster Hancock, William T. O'Reilly, John W. Bridgman, Joseph Adams, Archibald Barker, Henry Jackson, Charles Unwin, Charles Unwin, Junior, Herbert M. Jarvis, Alexander Rutherford, William Myers, Robert W. Anderson, William B. Phipps, John Burns, Herbert Hancock, James Dudley, Noah L. Piper, John Carter, and John S. Donaldson, and all other persons who may hereafter become members of the said Company, in conformity with the provisions of this Act, and their several and respective heirs, executors, curators, administrators, successors, and assigns, shall be, and are hereby constituted, and declared to be a corporation, body corporate and politic, by and under the name and style of "The Canadian Mutual Life Insurance Company."

Membership.

2. The persons hereinbefore mentioned shall be members of the said Company having one vote each, and all persons insured in, or subscribing to the guarantee stock of the said Company shall be members thereof and have votes according to their respective interests therein as is hereinafter defined, provided always that in twelve months after the right to issue policies of insurance first accrues to the said Company, agreeably to section number eight of this Act, all persons who are not policy holders, or holders of guarantee stock therein shall cease to be members thereof.

May hold real estate.

3. The Company shall have power to acquire by purchase, lease, mortgage or otherwise, and to hold absolutely or conditionally any lands, tenements and real or immoveable estate, and the same to sell, alienate, let, lease, transfer and dispose of as to them may seem expedient; Provided always that the said Company shall not hold any real estate which is not necessary for the convenient accommodation of its own business, but shall be bound to sell and dispose of the same within five years after its acquisition by the Company, excepting such as may have been mortgaged or otherwise conveyed to it by way of security.

Proviso.

Exception.

Not to buy goods.

4. The Company shall not employ its funds or any part thereof in buying and selling goods, wares and merchandize, nor shall the Company or the Directors in any way exercise the business of banking.

May invest.

5. The Company may purchase and hold for the purpose of investment any of the public securities of the Dominion of Canada, the stocks of any of the banks or chartered companies, and the bonds or debentures of any of the incorporated cities, towns or municipal divisions, and may also sell and transfer the same.

Must deposit to one hundred thousand dollars.

6. For the better security of the assured the Company shall peremptorily deposit in the hands of the Receiver-General yearly, and every year, one-third in amount of the moneys received by them on policies of insurance issued, until the total sum so deposited shall amount to one hundred thousand dollars, and shall ascertain the same to the satisfaction of the Government by the periodical report hereinafter mentioned, or otherwise in pursuance of any Act of Parliament or Order in Council respecting the same.

Power to issue policies.

7. So soon as applications for insurances to the amount of fifty thousand dollars shall have been received, the Company shall have power to make and effect contracts with any person or persons, bodies corporate or politic, upon life or lives, or in any way dependent on life or lives; to grant endowments to children or other persons, and generally to enter into any transactions dependant upon the contingency of life, and all other transactions usually entered into by mutual life insurance companies including reassurance.

May take premium notes.

8. The Company may take from any or every member a promissory note for such sum of money as the Directors may determine in part of the consideration for any policy or policies of insurance issued by them, and the same shall be payable in full or in part at any time or times when the Directors may deem it requisite for the payment of losses or other purposes of the company.

May raise guarantee capital.

9. In order to provide for the speedy and certain payment of losses incurred by them, the Company may raise by subscription of its members or some of them, or by loan or otherwise, a guarantee capital of any sum not exceeding five hundred thousand dollars which shall belong to the Company and be liable to all the losses, debts and expenses of the Company; Provided always that the Directors may pay off the same or any part thereof at such time and in such manner as they may think expedient.

And pay off the same.

Rights of Shareholders.

10. Subscribers to the said guarantee capital shall in respect thereof have such rights as the Directors of the Company declare, and fix by a By-law to be passed before such capital is raised, and unless such capital be paid off the said By-law shall not be repealed or altered without the consent of a majority of votes of the shareholders of such capital either personally or by proxy at a meeting held for that purpose or the holders of such capital.

Their votes.

11. Each holder of such guarantee capital shall be entitled to one vote at all such meetings, and at all meetings of the Company for every share of forty dollars held by him.

Shares to be transferable

12. Shares in the said guarantee capital shall be transferable by leave of the Directors, if all calls made thereon have been paid, but not otherwise.

When paid off.

13. After the said guarantee capital is paid off the affairs and property of the company shall revert to and be vested in the parties assured as the sole members thereof.

14. The Company may hold its annual meeting for the election of directors at such time in each year as may appear most expedient to the Board of Directors for the time being, giving fourteen days notice thereof by advertisement in the two leading newspapers of the City of Toronto, and in such other manner as they may think fit. Annual meeting.

15. Special general meetings of the Company may be called by the Directors at any time, on a notice of fourteen days, naming, the day, place and hour of meeting, and the cause thereof, and published in manner aforesaid ; Provided always that if the Directors refuse to call such a meeting or meetings on the requisition of not less than twenty members having an insured interest in the Company of not less than twenty thousand dollars, or on the requisition of not less than ten holders of guarantee-stock, holding shares therein to the amount of not less than four thousand dollars. The said requisitionists or either class of them may call such meeting in manner aforesaid, and the proceedings thereof shall be as valid and effectual as if called by the Directors. Special general meetings.

16. In order to constitute a general meeting, whether annual or special there shall be personally present at least seven Members or guarantee Stockholders of the Company. Quorum.

17. Every meeting of the Members, Stockholders or Directors of the Company may be adjourned from time to time; Provided always that at such adjourned meeting no business shall be entered upon which did not form part of the programme of the primary meeting. All meetings may adjourn.

18. At all general meetings of the Company, members insured therein to an amount not exceeding one thousand dollars, shall have one vote; above one thousand and not exceeding two thousand dollars, two votes, and so on for every additional thousand dollars insured. And guarantee Stockholders shall have one vote for every share of forty dollars held by them. Voters and votes.

19. The property funds and affairs of the Company shall be managed by a Board of Directors, consisting of nine Members, with power to any general meeting of the Members of the Company to increase the number so that it do not exceed fifteen. Management.

20. The Directors shall be Members of the Company and Policy-holders therein to the amount of one thousand dollars at the least, or guarantee Stock-holders to the amount of four hundred dollars at the least. Qualification of Directors.

21. The first Board of Directors shall be elected within six months after the passing of this Act, and one-third of them and of every subsequent Board shall retire annually. First board.

22. The said first Board of Directors shall before the first annual meeting of the Company determine among themselves by ballot which third of them shall go out of office at the end of the first year from their election; and which third shall go out at the end of the second year from their election. The residue and all other Directors subsequently elected shall go out at the end of the third year from their election, or at the end of the third annual meeting thereafter. Rotation of office.

23. One-third of the Directors shall be elected at each annual meeting of the Company, to serve for the term of three years or until the third annual meeting thereafter, but the retiring Directors shall always be eligible for re-election. One-third to be elected annually. Retiring Directors eligible.

Election by Ballot.

24. The election of directors shall be by the ballot of Members personally present or represented by proxy, and the persons who have the majority of legal votes shall be the Directors elected; Provided always that no proxy shall be valid unless it be entered by the Secretary in a book kept for that purpose at least one month before the meeting at which it is to be acted upon.

In case of a tie.

25. If at any such election two or more Members have an equal number of votes, and a sufficient number of Members have not more votes than they, then and in such case the meeting shall ballot again and ascertain which of the said Members having an equal number of votes shall be added to the Directors already elected, and complete the required number.

If election not made on the annual day.

26. In case an election of Directors is not made on the day on which it ought to be made pursuant to the notice hereinbefore mentioned, the corporation shall not for that reason be dissolved, but the election may be made on any subsequent day notified in like manner, so as the same shall not exceed three months from the day first notified, and the old Directors, and all officers and servants of the Company who are, or ought to be annually elected or appointed, shall continue in office until their successors are elected or appointed.

Subsequent election.

27. The directors elected at such subsequent day shall have the same powers as if elected on the day first notified, but shall hold office only for the remainder of the current year of their election.

Disqualification.

28. No Agent, Sub-Agent, or Person paid by the Company shall be a Director or hold proxies for or interfere in the election of Directors; provided nevertheless that the Managing Director may be paid.

Quorum.

29. Three Directors shall be a quorum for the transaction of business, and the decision of a majority of the quorum or of any larger number present at any sitting of the Board shall be binding and conclusive.

Casual vacancies.

30. Casual vacancies occurring in the Board of Directors shall be supplied by the nomination of the majority of Directors still remaining in office.

How created.

31. Such casual vacancies shall be created in the event of death, resignation, ceasing to have the necessary qualification under section number two, insolvency, or being absent from Board meetings for the space of four months consecutively without leave of the Board.

Dissent may be recorded.

32. Any Director who disagrees with the majority of the Board at any meeting may enter his dissent with his reasons therefor on record.

Election of President and Vice President.

33. The Board of Directors shall at their first meeting and at every first meeting after the annual re-constitution of the Board, choose by ballot out of their number a President and a Vice-President who, in the absence of the President, shall have all the powers and perform all the duties of the President.

Duties of the President.

34. The President shall preside at all meetings of the Company or of the Directors when present, and do all such acts and perform all such duties as are usually done and performed by the chief officer of a body corporate.

Chairman.

35. If the President or the Vice-President be not present at any general meeting of the Company or of the Board of Directors, the Managing Director shall take the Chair, and in his absence such other Director, Member or Stock-holder as the meeting may choose.

Casting vote.

36. The President and any one performing his duties shall have a casting vote in addition to his ordinary vote.

Directors may make bye-laws.

37. The Directors of the Company may from time to time ordain and make such by-laws, rules, and regulations as they may deem necessary respecting the funds and property of the Company, and all such other matters as appertain to the business of the Company so as the same be not contrary to law, and may from time to time alter or repeal the same, except in cases with regard to which it is provided that any such by-law shall not be altered or repealed, or where such alteration or repeal would affect the rights of others who are not Members of the Company, in any of which cases such by-laws shall not be altered nor repealed.

Power to assess.

38. The Directors may annually, or from time to time, assess on the premium notes of the members of the Company or any of them, such sum or sums of money in proportion to the amount of each of the said premium notes respectively, as they may deem necessary to pay the losses and expenses of the Company, or any debentures, notes, bills, drafts, or the interest thereon which the Company may have at any time outstanding.

Re-insurance.

39. The Directors may make and effect contracts of Insurance for the purpose of re-insurance with any other Life-Insurance Company.

Division of profits.

40. The Directors may make a periodical division of the profits of the Company, equitably among the stock-holders and policy-holders of the Company, after providing for the Governmental deposit hereinbefore mentioned.

May issue debentures, promissory notes, &c.

41. The Directors may, from time to time, under By-Laws to be passed for regulating the manner thereof, issue or make debentures or promissory notes of the Company bearing interest, or make or accept bills or drafts for such sums and to such amount as they may deem necessary for the purpose of paying any loss or losses, damages or expenses of the Company, or for other purposes thereof, or for raising money by way of loan therefor, providing always that they shall not issue any note payable to bearer or intended to circulate as money or as a Bank note.

42. The whole amount of such debentures, promissory notes, bills and drafts at any one time out-standing, shall not exceed one-fourth part of the amount then unpaid on the premium notes held by the Company, and any excess shall make the Directors personally liable to pay the same.

Not less than $100 each.

43. No such debenture, promissory note, bill or draft, shall be for a less sum than one hundred dollars, nor payable in more than twelve months from the issuing thereof; Provided always that the same or any of them may be renewed from time to time for any term not exceeding twelve months.

44. The Directors may from time to time :

Duties of the Board of Directors.

(*a*) Appoint a Managing Director, Treasurer, Secretary, and such other officers, agents, and assistants as they may deem necessary.

(*b*) Prescribe their duties.

(*c*) Fix their compensation or allowances.

(*d*) Take such security from them as they may think fit, or as may be required by this Act, for the faithful performance of their duties.

(*e*) Remove them at pleasure and appoint others instead.

(*f*) Determine the rates of insurance, the sum to be insured or re-insured, the amount to be paid thereon, and direct the making and issuing of all policies of insurance.

(*g*) Provide books, stationery and other things needful for the office of the Company, and for carrying on the affairs thereof.

(*h*) Draw upon the Treasurer for the payment of all losses by and expenses incurred in transacting the business of the Company, and for the governmental deposit aforesaid as well as for the paying off of the debentures, promissory notes, bills and drafts which may be at any time outstanding against the Company.

(*i*) They shall hold their meetings monthly and oftener, if necessary, for transacting the business of the Company.

(*j*) They shall keep a record of their proceedings.

Account to the anual meeting.

45. The Directors shall submit to every annual meeting of the Company a full and correct account of the business and affairs of the Company, shewing

(*a*) The receipts and expenditure for the past year.

(*b*) The number of policies issued, lapsed and paid.

(*c*) The amount covered by the policies in force.

(*d*) A general abstract of the estimated liabilities and assets of the company.

And a copy thereof shall be sent by post to every member of the Company.

Treasurer and Secretary to give security.

46. The Treasurer and Secretary shall, before entering upon the duties of their respective offices, each give a bond to the Company, in the sum of two thousand dollars with a sufficient surety or sureties in a like sum to the satisfaction of the Directors, conditioned for the faithful discharge of the duties of their respective offices, agreeably to the provisions of this Act and to the by-laws, rules and regulations of the Company, made pursuant thereto.

Execution of policies, &c.

47. All policies, contracts, securities, deeds and writings, touching or concerning the Company, shall be signed and executed by the President, or in his absence by the Vice-President, and countersigned by the Secretary.

Payment of claims.

48. Claims under policies issued by the Company shall be settled by the Directors within three months after due notice and proof of the same, and fulfilment of the conditions of such policies respectively.

Claims in right of marriage, &c.

49. Every person claiming an interest in any policy issued by the Company, or in the said guarantee capital, either in the right of marriage or by bequest, or under letters of administration, shall prove the same by the production of such affidavits and other documentary evidence as is usual in like cases in courts of justice, or otherwise to the satisfaction of the Directors, whereupon such payment, acknowledgment or transfer shall be made as the case may require.

If dispute arbitration.

50. If the settlement tendered by the Directors in any case is not satisfactory to the claimant, he may refer the matter to the sole arbitrament of the County Judge of the County in which the assur-

ed resided, or the same may be decided by arbitrators named by the parties in difference.

If more recovered.

51. If on such reference the claimant recover more than the sum tendered by the Directors he shall have judgment therefor against the Company with interest from the time that payment became due, and costs of suit.

If no more recovered.

52. If no more be recovered than the amount so tendered the Plaintiff shall have judgment for that amount only without costs, but the Company shall be entitled to costs against the claimant as in case of a verdict for the defendant.

Proof of call or assessment.

53. Whenever any assessment is made on any premium note given to the Company as part of the consideration for any policy of insurance issued by them, and whenever any call is made upon any holder of guarantee stock, the certificate of the Company specifying such assessment or call and the amount due to the Company by means thereof, shall be taken and received as *prima facie* evidence thereof in all courts and places whatsoever.

Examination on oath.

54. Any Justice of the Peace may examine upon oath or solemn affirmation any person or persons who come before him to give evidence touching any matter or thing in relation to life insurance in which this Company is or may be interested, and may administer the requisite oath or affirmation.

Perjury.

55. Wilful and corrupt false swearing or affirming, concerning any matter or thing in relation to life insurance in which this Company is interested, before any one having lawful authority to administer an oath or affirmation, shall be wilful and corrupt perjury ; and notice to the defendant to produce any document in his possession, power or control, shall in all actions, suits and prosecutions by the Company let in secondary evidence thereof if the same be not produced in pursuant to the said notice.

Secondary evidence.

56. No action or suit shall be brought against the Company save within one year of the event, damage or loss which is the cause thereof, nor shall any execution issue against the Company upon any judgment until after the expiration of six months from the time of the recovery thereof.

Limitations of actions and executions.

57. In all actions suits and prosecutions in which the Company is in any way concerned, the Secretary or other officer of the Company shall be a competent witness notwithstanding any interest he may have therein.

Officers may be witnesses.

58. The Head Office of the Company shall be at Toronto, but branch offices may be established in such other cities, towns, and places of the Dominion of Canada as the Directors may think fit.

Head Office and Branches.

59. The Company shall present to the Governor General and both Houses of the Parliament of Canada, during the first fifteen days of the first Session thereof in every year, a full and unreserved account of the affairs of the Company, and of its funds, property and securities, shewing—

(*a*) The amount in real estate.

(*b*) The amount in bonds and mortgages.

(*c*) The amount in premium notes.

(*d*) The amount in public debt or other stock.

(*e*) The amount of moneys due to and from the Company.

(*f*) The names of all the Directors and guarantee Stockholders of the Company.

No. 85.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to incorporate The Canadian Mutual Life Insurance Company.

(PRIVATE BILL.)

MR. HARRISON.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 86.] **BILL** [1868.

An Act to amend the Act for the incorporation of the North West Navigation and Railway Company.

WHEREAS the Directors of the North West Navigation and Railway Company have, by their Petition, prayed that the period allowed them for commencing operations, surveying and locating the line of works may be extended; and it is expedient to grant the prayer of the petition: Therefore Her Majesty by and with the consent of the Senate and House of Commons of the Dominion of Canada, enacts as follows:— Preamble.

1. The period limited by the twenty-first section of the Act for the incorporation of the said Company, passed in the twenty-fifth year of Her Majesty's reign, and chaptered sixty-seven, for the commencement of the Company's operations, shall be extended to the eighth day of June, eighteen hundred and seventy; and the time therein and thereby limited for the completion of the Company's works and improvements, shall be extended to the eighth day of June, one thousand eight hundred and seventy-four. 25 V., c. 67, s. 21 extended

No. 86.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to amend the Act for the incorporation of the North West Navigation and Railway Company.

(PRIVATE BILL.)

Mr. SIMPSON.

OTTAWA,
PRINTED BY HUNTER, ROSE & COMPANY.

No. 87] **BILL.** [1868.

An Act to amend the Act of the present Session, intituled, "An Act relating to the Indemnity to Members and Salaries of the Speakers of both Houses of Parliament."

WHEREAS it is expedient for the more economical Government of the Dominion, to reduce the amount of indemnity heretofore allowed to Members of Parliament; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Certain sections repealed

1. The first, second, third and fifth Sections of the Act of the Parliament of Canada, passed during the present Session thereof, and intituled, "An Act relating to the Indemnity to Members and the "Salaries of the Speakers of both Houses of Parliament," are hereby repealed, and the following Sections shall be substituted therefor and read in lieu thereof, and bear the numbers of the repealed Sections respectively:—

Sessional allowance to to Members.

"1. In each Session of Parliament, there shall be allowed to each "Member of the Senate and of the House of Commons attending at "such Session, five dollars for each day's attendance, if the Session do "not extend beyond sixty days; and if the Session extends beyond "sixty days, then there shall be payable to each Member of the Senate "and of the House of Commons, attending at such Session, a Sessional "allowance of four hundred and fifty dollars, and no more."

Deduction therefrom in certain cases.

"2. A deduction at the rate of four dollars per day shall be made, "from the said Sessional allowance, for every day on which the Member "does not attend a sitting of the House of which he is a Member, or of "some Committee thereof, provided the House sits on such day; but "each day during the Session, after the first, on which the Member "attends as aforesaid, on which there has been no sitting of such House, "in consequence of its having adjourned over such day, or on which "the Member was in the place where the Session was held, but was "prevented by sickness from attending any such sitting as aforesaid, "shall be reckoned as a day of attendance at such Session, for the "purposes of this Act: and a Member shall, for the purposes aforesaid, "be held to be at the place where the Session is held, whenever he is "within ten miles of such place."

For attendance under 61 days.

"3. A Member shall not be entitled to the said Sessional allowance "for less than sixty-one days' attendance reckoned as aforesaid, but "his allowance for any less number of days shall be five dollars for "each day's attendance."

In case a person is Member for part of Session only.

"5. If any person is, from any cause, a Member of either House for "a part only of any Session, then provided he is a Member for upwards "of sixty days' attendance during such Session, he shall be entitled to "the Sessional allowance hereinbefore mentioned, subject to the deduc-"tion aforesaid for non-attendance as a Member, and also to a deduction "of four dollars for each day of such Session before he was elected or "after he ceased to be a Member; but if he is a Member for only sixty "days or less, then he shall be entitled only to five dollars for each "day's attendance at such Session, whatever be the length thereof."

Commencement of Act.

2. This Act shall have force and effect from and after the first day of July next.

No. 87.

1st Session, 1st Parliament, 31 Victoria, 1867-8.

BILL.

An Act to amend the Act of the present Session, intituled, "An Act relating to the Indemnity to Members and Salaries of the Speakers of both Houses of Parliament."

Received and read, first time, Wednesday, 22nd April, 1868.

Second reading, Monday, 27th April, 1868.

Mr. CHAMBERLIN.

No. 88.] BILL. [1868.

An Act respecting the Geological Survey of Canada.

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Appropriation of $30,000 yearly for 5 years for Geological Survey.

1. Out of any unappropriated monies forming part of the Consolidated Revenue Fund of Canada, the sum of thirty thousand dollars shall be annually applied for the term of five years from the first day of July, one thousand eight hundred and sixty-seven, to defray the expenses of the Geological Survey of Canada, during the said term ; which sum shall be paid at such times and in such manner as the Governor in Council may direct, subject to the provisions hereinafter made ; and any balance remaining unexpended out of the sum appropriated for any one year, may be applied and expended in the next or any subsequent year, in addition to the sum appropriated for such next or subsequent year.

Employment of competent persons authorized.

Museum.

Distribution of reports, &c.

2. The Governor may employ a suitable number of competent persons to make, continue and complete the Geological Survey of Canada, and to furnish a full and scientific description of its rocks, soils and minerals, which shall be accompanied with proper maps, diagrams and drawings and a collection of specimens to illustrate the same, and may direct the publication of such maps and drawings as he may deem necessary for that purpose, and the deposit thereof in the Geological Museum, as a collection for the whole Dominion of Canada, and which shall be open at all reasonable hours to the public, and shall be furnished with such books and instruments as may be necessary for the illustration of the science and the prosecution of the Survey, and may from time to time order the distribution of the publications relative to the Survey and of duplicate specimens, to scientific institutions in Canada and other countries.

Permanent marks of latitude and longitude and level.

3. For the purpose of obtaining an accurate basis from which the geological and topographical features of the country may be ascertained, and for the purpose of connecting together local and partial Surveys, the Director of the Geological Survey shall cause permanent marks in some public buildings, or other marks of a durable description, to be made at several convenient stations in Canada, and shall fix accurately the latitude and longitude and the relative levels thereof as points of reference.

Certain Railway Companies to furnish copies of plans, &c.

4. All Railway and Canal Companies over which the Parliament of Canada has jurisdiction, shall, if incorporated after the passing of this Act, furnish to the Geological Survey, without charge, certified copies of all plans and sections of their Surveys ; and all such Companies theretofore incorporated

shall furnish such plans and sections upon the demand of the Director of the Geological Survey and at the cost of the same.

Yearly report

5. The Director of the Geological Survey, shall make and transmit yearly to the Governor, on or before the first day of May, a report shewing generally the progress made in the Survey.

Accounts.

6. An Account of the moneys expended under the authority of this Act, shall be laid yearly before the House of Commons, during the first fifteen days of each session of Parliament.

[No. 88.]

1st Session, 1st Parliament, 31 Victoria, 1867.

BILL.

An Act respecting the Geological Survey of Canada.

Received and read first time, Friday, 24th April, 1868.

Second reading, Monday, 27th April, 1868.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

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An Act to Amend the Acts relating to the Niagara District Bank.

WHEREAS the Niagara District Bank, has by petition prayed that the time for subscribing for and paying up the balance of the Capital Stock of the said Bank may be extended, and it is expedient to grant the prayer of the said petition; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

1. For and notwithstanding any thing contained in the several Acts of the Legislature of the late Province of Canada, relating to the said Bank, the sum still remaining to be subscribed for, or still remaining unpaid, of the Capital Stock of the said Bank, may be paid up, or may be subscribed for and paid up, at any time within two years from and after the passing of this Act.

2. It is hereby declared that none of the privileges granted by the said Acts, or any or either of them, have been forfeited by reason of any portion or portions of the Capital Stock of the said Bank not having been subscribed for and paid up at any time before the passing of this Act, as required by any or either of the said Acts, and that the said privileges, and each and every one of them, still are and shall continue to be vested in and enjoyed by the said Corporation in as full and ample a manner to all intents and purposes whatsoever, as they have ever been vested in or enjoyed by it, subject only to the terms and conditions of the said Acts, as amended by this Act.

3. The said Acts, as amended by this Act, and this Act itself, amending the same, shall be and remain in force until the first day of June, which will be in the year of our Lord one thousand eight hundred and seventy, and thence until the end of the then next Session of the Parliament of Canada, and no longer.

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An Act respecting the Navigation of Canadian Waters.

WHEREAS the following rules of navigation and regulations for preventing collisions between vessels, being those in use in the United Kingdom and other countries, were adopted in the late Province of Canada in the year one thousand eight hundred and sixty-four, and have since continued and do still continue in force there under the Act of the Parliament of the said late Province hereinafter mentioned; and whereas it is expedient and highly desirable that the same rules and regulations should be extended to and prevail throughout all the waters of the Dominion of Canada, and that for that purpose the said Act should be repealed and re-enacted; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act shall come into force on the first day of September next after its passing; and on and after the said day, the Act of the Legislature of the late Province of Canada, passed in the Session thereof held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, chapter thirteen, intituled "*An Act to amend the Law respecting the Navigation of Canadian Waters*," and the Act of the Legislature of the Province of New Brunswick, passed in the session held in the twenty-first year of Her Majesty's Reign, chapter thirteen, intituled "An Act to compel vessels navigating the Bay of Fundy to "carry Lights," shall be repealed, except only as regards offences committed or liabilities incurred under either of the said Acts before the said day, with respect to which, and to all proceedings relating to which, the said Acts shall remain in force; and every enactment or provision in any other Act or law in force in any part of Canada before the coming into force of this Act, inconsistent with this Act, or making any provision for any matter provided for by this Act other than such as is hereby made shall also be repealed on and after the said day.

REGULATIONS FOR PREVENTING COLLISIONS.

2. And with respect to lights, fog signals, steering and sailing, and rafts, the following rules shall, on and after the day last aforesaid, apply to all the rivers, lakes, and other navigable waters whatsoever within this Dominion, or within the jurisdiction of the Parliament thereof; that is to say:

Preliminary.

Art. 1. In the following rules every steamship which is under sail and not under steam is to be considered a sailing ship; and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

Rules concerning Lights.

Art. 2. The lights mentioned in the following articles, numbered three, four, five, six, seven, eight, and nine, and no others, shall be carried in all weathers, from sunset to sunrise.

Art. 3. Steamships when under weigh shall carry :

(*a*) *At the foremast head*, a bright white light, so constructed as to show an uniform and unbroken light over an arc of the horizon of twenty points of the compass ; so fixed as to throw the light ten points on each side of the ship, viz., from right ahead to two points abaft the beam on either side ; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles :

(*b*) *On the Starboard side*, a green light so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass ; so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side ; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles :

(*c*) *On the port side*, a red light so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass ; so fixed as to throw the light from right ahead to two points abaft the beam on the port side ; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles :

(*d*) The said green and red side lights shall be fitted with inboard screens, projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Art. 4. Steamships when towing other ships or rafts, shall carry two bright white mast-head lights vertically, in addition to their side lights, so as to distinguish them from other steamships. Each of these mast-head lights shall be of the same construction and character as the mast-head lights which other steamships are required to carry.

Art. 5. Sailing ships under weigh or being towed, shall carry the same lights as steamships under weigh, with the exception of the white mast-head lights, which they shall never carry.

Art. 6. Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for instant exhibition, and shall, on the approach of or to other vessels, be exhibited on their respective sides, in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side,

(*a*) To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with suitable screens.

Art. 7. Ships, whether steamships or sailing ships, when at anchor in roadsteads or fairways, shall exhibit, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light, in a globular lantern of eight inches in diameter, and so constructed as to show a clear, uniform and unbroken light visible all round the horizon, and at a distance of at least one mile.

Art. 8. Sailing pilot vessels shall not carry the lights required for other sailing vessels, but shall carry a white light at the mast-head, visible all round the horizon,—and shall also exhibit a flare-up light every fifteen minutes.

Art. 9. Open fishing boats and other open boats shall not be required to carry the side lights required for other vessels, but shall, if they do not carry such lights, carry a lantern having a green slide on the one side and a red slide on the other side; and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

(*a*) Fishing vessels and open boats when at anchor, or attached to their nets and stationary, shall exhibit a bright white light.

(*b*) Fishing vessels and open boats shall, however, not be prevented from using a flare-up in addition, if considered expedient.

Rules concerning Fog Signals.

Art. 10. Whenever there is fog, whether by day or night, the fog signals described below shall be carried and used, and shall be sounded at least every five minutes, viz.:—

(*a*) Steamships under weigh shall use a steam whistle placed before the funnel, not less than eight feet from the deck.

(*b*) Sailing ships under weigh shall use a fog horn.

(*c*) Steamships and sailing ships, when not under weigh shall use a bell.

Steering and Sailing Rules.

Art. 11. If two sailing ships are meeting end on or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Art. 12. When two sailing ships are crossing so as to involve risk of collision, then if they have the wind on different sides, the ship with the wind on the port side shall keep out of the way of the ship with the wind on the starboard side; except in the case in which the ship with the wind on the port side is close hauled and the other ship free, in which case the latter ship shall keep out of the way; but if they have the wind on the same side, or if one of them has the wind aft, the ship which is to windward shall keep out of the way of the ship which to leeward.

Art. 13. If two ships under steam are meeting end on or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Art. 14. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 15. If two ships, one of which is a sailing ship, and the other a steamship, are proceeding in such directions as to involve risk of collision, the steamship shall keep out of the way of the sailing ship.

Art. 16. Every steamship, when approaching another ship so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse; and every steamship shall, when in a fog, go at a moderate speed.

Art. 17. Every vessel overtaking any other vessel shall keep out of the way of the said last mentioned vessel.

Art. 18. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course, subject to the qualifications contained in the following article.

Art. 19. In obeying and construing these rules, due regard must be had to all dangers of navigation ; and due regard must also be had to any special circumstances which may exist in any particular case rendering a departure from the above rules necessary in order to avoid immediate danger.

Art. 20. Nothing in these rules shall exonerate any ship, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

RAFTS AND HARBOUR OF SOREL.

Art. 21. Rafts while drifting or at anchor on any navigable water shall have a bright fire kept burning thereon from sunset to sunrise. Whenever any raft is going in the same direction as another which is ahead, the one shall not be so navigated as to come within twenty yards of the other; and every vessel meeting or overtaking a raft shall keep out of the way thereof.

(*a*) Rafts shall be so navigated and anchored as not to cause any unnecessary impediment or obstruction to vessels navigating the same waters.

Art. 22. Unless it is otherwise ordered by the Trinity House of Montreal, ships and vessels entering or leaving the Harbour of Sorel shall take the port side, anything in the preceding articles to the contrary notwithstanding.

Art. 23. The rules of navigation contained in articles twenty-one and twenty-two shall be subject to the provisions contained in articles nineteen and twenty.

INTERPRETATION, PENALTIES, &C.

3. In this Act the word "vessel" includes every description of vessel used in navigation,—the word "ship" includes every description of vessel not propelled by oars,—the expression "steam ship" includes every vessel propelled wholly or in part by steam or by any machinery or motive power other than sails or oars,—and the expression "ordinary practice of seamen," as applied to any case, includes the ordinary practice of skilful and careful persons engaged in navigating the waters of this Dominion in like cases,—and the word "owner" includes the lessee or charterer of any vessel having the control of the navigation thereof.

4. No Trinity House rule or by-law, or other local rule or by-law, inconsistent with this Act, shall be of any force or effect; but so far as it is not inconsistent with this Act, any such rule or by-law made by any Trinity House or other competent local authority, shall be of full force and effect within the locality to which it applies.

5. All owners, masters, and persons in charge of any ship, vessel, or raft, shall obey the rules prescribed by this Act, and shall not carry and exhibit any other lights nor use any other fog signals than such as are required by the said rules; and in case of wilful default, such master or person in charge, or such owner, if it appears that he was in fault, shall, for each occasion in which any of the said rules is infringed, incur a penalty not exceding two hundred dollars nor less than twenty dollars.

6. If in any case of collision it appears to the court before which the case is tried, that such collision was occasioned by the non-observance of any of the rules prescribed by this Act, the vessel by which such rules have been infringed shall be deemed to be in fault; and the owner of such vessel shall not be entitled to recover any recompense whatever for any damage sustained by such vessel in such collision, unless it can be shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said rules necessary.

7. In case any damage to person or property arises from the non-observance by any vessel or raft of any of the rules prescribed by this Act, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of such raft, or of the deck of such vessel at the time, unless the contrary be proved, or it be shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said rules necessary; and the owner of the vessel or raft, in all civil proceedings, and the master or person in charge as aforesaid, or the owner if it appears that he was in fault, in all proceedings, civil or criminal, shall be subject to the legal consequences of such default.

8. Except as hereinbefore provided, all penalties incurred under this Act may be recovered in the name of Her Majesty, by any Inspector of Steamboats, or by any party aggrieved by any act, neglect or wilful omission by which the penalty is incurred, before any two Justices of the Peace on the evidence of one credible witness; and in default of payment of such penalty, such Justices may commit the offender to gaol for any period not exceeding three months; and except as hereinafter provided, all penalties recovered under this Act, shall be paid over to the Receiver General, and shall be by him placed at the credit of, and shall form part of "The Steamboat Inspection Fund;" except always, that all penalties incurred for any offence against this Act, shall, if such offence be committed within the jurisdiction of the Trinity House of Quebec, or of the Trinity House of Montreal, be sued for, recovered, enforced and applied in like manner as penalties imposed for contravention of the by-laws of the Trinity House within whose jurisdiction the offence is committed.

9. Every Inspector of Steamboats shall, whenever he visits and inspects any steamboat, examine whether such steamboat is properly provided with lights, and with the means of making fog signals in pursuance of the rules prescribed by this Act, and shall for that purpose, have all the power, vested in him by the Act of this Session *respecting the inspection of steamboats, and for the greater safety of passengers by them*, for obtaining information as to the observance of the requirements of the said Act, and shall refuse to grant any certificate with respect to any steamboat which he finds to be not so provided, and shall report such steamboat as unsafe to the Governor in Council, who shall

on such report have all the powers mentioned in section twenty-nine of the said Act; and any Order in Council made on such report shall have the effect and be enforced in the manner provided by the said section.

10. Whenever foreign ships are within Canadian waters the rules for preventing collision prescribed by this Act, and all provisions of this Act relating to the said rules, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any court of justice in Canada concerning matters happening within Canadian waters, foreign ships shall, so far as regards such rules and provisions, be treated as if they were British or Canadian ships.

DUTY OF MASTERS, LIABILITY OF OWNERS, AS TO COLLISIONS.

11. In every case of collision between two ships, it shall be the duty of the person in charge of each ship, if and so far as he can do so without danger to his own ship and crew, to render to the other ship, her master, crew and passengers (if any) such assistance as may be practicable and as may be necessary in order to save them from any danger caused by such collision. In case he fails so to do, and no reasonable excuse for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect or default.

12. The owners of any ship, whether Canadian, British or foreign, shall not, in cases where all or any of the following events occur without their actual fault or privity, that is to say:

(1.) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2.) Where any damage or loss is caused to any goods, merchandize, or other things whatsoever on board any such ship;

(3.) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person in any other ship or boat;

(4.) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandize or other things whatsoever on board any other ship or boat;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods merchandize or other things, nor in respect of loss or damage to ships, goods, merchandize or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding thirty-eight dollars and ninety-two cents for each ton of the ship's tonnage, such tonnage to be the registered tonnage in the case of sailing ships; and in the case of steamships the gross tonnage without deduction on account of engine room:

(*a*) In the case of any British or Canadian ship, such tonnage shall be the registered or gross tonnage, according to the British or Canadian law, and in the case of a foreign ship which has been or can be measured according to British or Canadian law, the tonnage as ascertained by such

measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship:

(*b*) In the case of any foreign ship which has not been and cannot be measured according to British or Canadian law, the Secretary of the Minister of Marine and Fisheries shall, on receiving from or by direction of the court hearing the case, such evidence concerning the dimensions of the ship as it may be found practicable to furnish, give a certificate under his hand, stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to Canadian law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

13. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.

14. No owner or master of any ship shall be answerable to any person whatever for any loss or damage occasioned by the fault or incapacity of any qualified pilot acting in charge of such ship, within any place where the employment of such pilot is compulsory by law.

SCHEDULE TO REPEALED ACT.

15. The schedule annexed to the Act of the Legislature of the late Province of Canada hereby repealed illustrates the use of the lights to be carried by vessels under the provisions of this Act, and shall be printed at the end of this Act by the Queen's printer in the official copy of the statutes of the present Session.

Navigation of
Canadian Waters

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An Act to facilitate the winding up of the affairs of Incorporated Companies.

WHEREAS it is expedient, for the benefit of the Creditors and also of the Members of such Companies as are hereinafter mentioned, to provide a mode whereby the affairs of such Companies may be wound up speedily, and not expensively, when a necessity therefor arises;— Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The word "Company," when used in this Act, shall be construed to mean and include any Company incorporated by or under any Act of the Parliament of the Dominion of Canada, and also any Company, not being a Company with Provincial objects according to the true intent and meaning of the ninety-second Section of the British North America Act, 1867, incorporated before the first day of July 1867, by or under any Act of any Provincial Parliament or Legislature in any part of what is now Canada, and also any Company incorporated or to be incorporated by or under any Act of any of the heretofore Provinces of Canada, Upper Canada, or Lower Canada, or of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, which shall be insolvent within the meaning of this Act.

2. The word "Court," when used in this Act, shall be construed to mean the Court of Chancery for Upper Canada when proceedings shall be taken under its provisions in Ontario, the Superior Court for Lower Canada when proceedings shall be taken thereunder in Quebec, the Court of the Equity Judge, when proceedings shall be taken thereunder in Nova Scotia, and the Supreme Court of Judicature of New Brunswick when proceedings shall be taken thereunder in New Brunswick; and each of such Courts shall have exclusive jurisdiction for the purposes of this Act over all Companies coming within its purview, whose chief place of business is within the territorial limits of the ordinary jurisdiction of such Court.

2. Provided, always, that the powers of a Curator appointed in one Province, as hereinafter provided, shall extend over any assets of the Company, in respect of which he shall have been so appointed, which may be found in any other Province, in which he shall have all the rights and powers required to perform his duties in conformity with this Act.

3. The term "contributory" shall mean every person liable to contribute to the assets of a Company, under this Act, in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

4. A Company may be wound up under this Act by the Court—

1. Whenever the Company at a general meeting has passed a special resolution, concurred in by a majority in number and value of the shareholders therein, requiring the Company to be wound up by the Court.

2. Whenever the Company has forfeited its Charter by non-user or otherwise, or suspended its business for the space of a whole year, or has become dissolved by effluxion of time;

3. Whenever the Company is insolvent;

4. Whenever three-fourths of the Capital of the Company has been lost or become unavailable.

5. Whenever the Members are reduced in number below the number required to form such a Company by the terms of the Act under which the Company was formed, if it was formed under a general Act, or below five if it was incorporated by a special Act.

6. Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

5. A Company shall be deemed to be insolvent within the meaning of this Act—

1. Whenever any writ of execution against such Company, addressed to the Sheriff of the County or District in which the chief place of business of such Company is situate is returned unsatisfied in whole or in part.

2. Whenever it is proved to the satisfaction of the Court that it is unable to pay its debts.

6. Any application for the winding up of any Company, shall be by petition, filed in the office of the Registrar or proper Clerk or Prothonotary of the Court, and shall be verified by affidavit or other sufficient evidence; and in cases where the Company is insolvent, such petition may be filed, either by a creditor whose debt has remained unsatified, after such proceedings as aforesaid taken to compel payment thereof, or by any member of the Company, liable to become a contributory towards the payment of its debt; but when any ground other than insolvency is alleged for the winding up of the Company, such contributory alone shall be entitled to make such application.

7. Notice of the filing of such petition, and of the day on which such petition is to be presented for hearing thereof before the Court, shall be served upon the Company, at least ten days before such presentation thereof, and shall also be given by advertisement, to be twice inserted in the *Gazette* published by authority in the Province, and twice in some newspaper published at the place where the chief place of business of the Company is situate; or, in case no newspaper be published at such place, then, in the newspaper whose office of publication is nearest thereto; Provided always, that the Court may, at the hearing of the petition, direct the same to stand over, and order such further notice to be given, as to the Court shall seem meet; Provided also, that the Court may, in its discretion, proceed upon the production of the *Gazette*, with such notice as aforesaid, in case no better service, after due diligence, can, in the opinion of the Court, be effected within a reasonable time.

8. Service of any notice, order, rule or writ, in, or incident to, or preliminary to any proceeding under this Act, against or in respect of any Company, may be made upon such Company, by leaving a copy thereof, at the chief place of business of such Company, with any grown person in charge thereof, or elsewhere with the President or Secretary thereof; or if the Company have no known place of business, or be without any known President or Secretary, then, upon a statement to that effect being made under oath to the Court having the requisite juris-

diction, such Court shall order the publication for one month in some local newspaper, of such notice, order, rule or writ, or the substance thereof respectively, which publication shall be held to be due service thereof.

9. A winding up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

10. Where any Company is being wound up by the Court, all dispositions of the property, effects and things in action of the Company, and every transfer of shares or alteration in the status of the Members of the Company made between the commencement of the winding up and the order for winding up shall, unless the Court otherwise orders, be void.

11. Where any company is being wound up by the Court, any attachment, sequestration, distress or execution put in force against the estate or effects of the Company after the commencement of the winding up, shall be void to all intents.

12. The Court may, at any time after the presentation of a petition for winding up a Company under this Act, and before making an Order for winding up the Company, upon the application of the Company, or of any creditor or contributory of the Company, restrain further proceedings in any action, suit or proceeding against the Company, subject to such provision as to future costs and upon such terms as the Court thinks fit.

2. And the Court may also, at any time after the presentation of such petition, and before the first appointment of a Curator of the Company, appoint provisionally a Curator of the estate and effects of the Company.

3. Upon hearing the petition the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order, or any other order that it deems just.

13. Upon the hearing of any petition for the winding up of any Company, filed by such creditor or contributory as aforesaid, the Court may make an order for the winding up of the Company, and shall therein fix a day for the appointment of a Curator to such Company, and shall therein require the creditors and members of such Company to appear before any Judge of such Court, on such day, to give their advice as to such appointment; and as soon as may be after making an order for winding up a Company, the Court shall settle a list of the contributories to the Company; and such Judge shall, on such day, after hearing any suggestion made by any creditor or contributory, but without being bound by any such suggestion, nominate and appoint a Curator of such Company; and in the event of such Curator neglecting to put in security, as hereinafter provided, or refusing to accept such appointment, or resigning the same, or becoming incompetent, by reason of death, absence from the jurisdiction, removal by the Court, or other cause, to perform the duties thereof, another and other appointments of a Curator may be, from time to time, made in like manner to the first appointment.

14. When an order has been made for winding up a Company, under this Act, a copy of such order shall forthwith be forwarded by the

Company to the Secretary of State of Canada, who shall make a minute thereof in a book to be kept by him for that purpose; and if the Company have been formed under any general Act, by the acknowledging and receiving or filing and entering before and by, or by the making and filing in the office of, any Mayor, Registrar or other public officer, of any statement or declaration, then another copy of such order shall forthwith be forwarded by the Company to such Mayor, Registrar or other public officer, who shall make a minute thereof in any book in which he may have entered or transcribed the statement or declaration of the formation of the Company, or otherwise file the same with the duplicate of such declaration.

15. When an order has been made for winding up a Company, all suits against the Company shall be stayed, unless the Court, on application to that effect by the Plaintiff, and after notice to the Curator, authorizes the Plaintiff to proceed with such suit; and such order may be made subject to such provision as to future costs as the Court may think fit to make; and no member or officer of the Company shall, after such order has been made as aforesaid, dispose of any of the property or effects of the Company; and no subsequent transfer of any share or interest in the Company shall be valid.

16. Where an order has been made for winding up a Company by the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just; and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

17. The Court may, at any time after an order has been made for winding up a Company, upon the application by motion of any creditor or contributory of the Company, and upon proof, to the satisfaction of the Court, that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

18. Such Curator shall give such description and amount of security for the due performance of his duties, as the Court, or any Judge thereof in Chambers may determine, and may be called upon by the Court from time to time to substitute and give, and he shall thereupon give fresh or additional security, and upon the completion of such security shall become and be vested, in his capacity of Curator, with all moneys and securities for money, documents, papers, books of account, estate, effects and assets of the Company generally, and shall have power forthwith thereupon as such Curator to take possession thereof, and in his said capacity to institute and maintain any kind of action, attachment or proceeding for obtaining and maintaining possession of such estate and effects, and of every part and portion thereof, which could be instituted or maintained by such Curator if he were the absolute and unconditional proprietor thereof; and a copy of the order appointing such Curator, authenticated in the manner usual in the Court wherein it shall be made, shall be *primâ facie* evidence of such appointment and of such security having been given.

2. And all powers vested in any Company being wound up under this Act, which such Company might legally execute for its own benefit, shall vest in and be executed by the Curator to such Company, in like manner and with like effect as they were vested in such Company, and might have been executed by it.

19. The Curator so appointed shall, as soon as possible, without unreasonable sacrifice thereof, convert the personal or moveable assests into money and collect the outstanding debts and unpaid stock-subscriptions due to the Company, and for that purpose may sue or be sued in his name as such Curator, and may sell, in the manner he may deem most advantageous, all personal or moveable property of the Company, and subject to an order of the Court to be obtained in that behalf, may refer debts or claims to arbitration, or compound or compromise the same; and as to the real or immoveable property thereof, the same shall be sold by such Curator, when so ordered by the Court, after such publications and notices, and after the expiration of such time as the Court in such order shall appoint, and when regularly made, such sale shall have the same effect as if made by the authority of Justice in the place where such real or immoveable property is situate.

2. In case any work such as a Railway, pier, road, harbour or wharf constructed by any Company be sold under this Act, the sale shall be deemed to pass such work to the purchaser thereof with the right of using the same, or permitting the same to be used, for the benefit of or by the public, upon the same terms and conditions as those upon which the Company could have used the same or permitted it to be used, and subject to the same liabilities, and subject to all the duties and obligations, which the law gave or imposed with reference to such work whilst the same continued the property of the Company.

20. The proceeds of the realization of the assets and debts of such Company shall, from time to time, be paid into Court with the privity of the Registrar, or proper Clerk or Prothonotary of the Court; and an account current between the Company and the Curator, sworn to by such Curator, shewing the amount so paid in, shall, at the same time be filed with the Registrar, Clerk or Prothonotary aforesaid, and the balance shown thereby paid in as aforesaid, at intervals not exceeding one month; and previous to the special order hereinafter mentioned, any creditor of the Company may file his claim either in the hands of the Curator, or in the office of the Court by which such Curator shall have been appointed; and such claim may be in effect in the form of Schedule (A) to this Act appended; and any claim so filed in the hands of the Curator shall be returned into the Court with the next subsequent statement of account to be made by such Curator.

21. Whenever the amount of moneys realized from the assets of any Company shall appear to the Court to warrant a dividend thereof, the Court shall make an order to call in the creditors of the Company, and to require them to file their claims in the office of the Registrar or proper Clerk or Prothonotary of such Court, on or before a day to be fixed by such order; and notice of such order or the substance thereof shall be twice inserted in the *Gazette*, published by authority in the Province, and twice in some newspaper published in the County or District wherein the chief place of business of such Company shall have been situate; Provided always, that in Quebec every such notice or the substance thereof shall be published in the *Gazette*, published by authority in the Province, and in such local newspaper or newspapers, both in the French and English languages; and after the expiration of the time so limited, the Court shall proceed to the distribution of the money so realized, according to the rights of the claimants thereon, in Quebec, in the manner recognized by law for the distribution of the moneys of a vacant estate in the hands of a Curator, and in

Ontario in the manner in which such assets are, or but for this Act would be, distributed by the Court of Chancery.

22. The Curator of any Company appointed in manner aforesaid shall be an officer of the Court appointing him, subject to the summary jurisdiction of that Court as to all matters, things and duties confided to and imposed upon him by this Act, and his accounts shall be subject to contest, the performance of his duties to be enforced, and his acts in his said capacity restrained and regulated in every respect, only on summary application by petition or motion to the Court which appointed him, and he shall be liable to be removed by the Court for misconduct or want of sufficient security, or may resign; and during any vacancy in the office of Curator, all the property of the Company shall be deemed to be in the custody of the Court.

23. When the bringing or defending of any suit or the doing of any Act, in the winding up of any Company shall or may be attended with more cost than the Curator thereof shall consider it expedient to expend or to risk, and any application be made to compel him to bring or defend such suit or to do such act, the Court may order such Curator to bring or defend such suit, or to do such act, as the case may be, but on the condition only that the applicant shall give good and sufficient security to such Curator for the payment to him of any costs which may be incurred by him in obedience to such order.

24. The Court may, at any time, and from time to time, after the appointment of such Curator as aforesaid, make calls on all or any of the contributories to the extent of their respective liabilities, for payment of all or any of the sum or sums for which they are liable, under what is known as the "double liability" clause of the Act of Incorporation or otherwise howsoever, and in the proportion in which the contributories are so liable, and to the amount thereof which the Court may deem necessary to satisfy the debts of the Company, and the costs, charges and expenses of winding it up; and it may, in making such calls, take into consideration the probability of some assets, not yet collected, being realized, and some liabilities, not yet ascertained, becoming debts, and also the probability that some of the contributories upon whom the same are made may partly or wholly fail to pay their respective portions of the same.

25. The liability of any contributory under this Act in the event of a Company being wound up shall create a debt in the nature of a specialty accruing due from such person at the time when such liability commenced, but payable only at the time or respective times when calls are made, as herein mentioned, for enforcing such liability; and it shall be lawful, in the case of the insolvency of any contributory, to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

26. No contributory to any company in process of being wound up under this Act, shall be entitled to set off any claim he may have against such Company by way of set-off to the unpaid balance of stock held by him in such Company, or plead such claim in compensation of such balance, unless previous to the insolvency of the Company, such set-off shall have been allowed and credited to him on the books of the Company on account of such unpaid balance, in the ordinary course of its business, or unless by the law of the place where such

Company has its chief place of business such compensation was complete, or such set-off enforceable, before the insolvency.

27. If there be any surplus of the funds realized from the assets of any Company, after the payment of all the creditors thereof in full, the same shall first be devoted to the adjustment of the rights of the contributories among themselves, and afterwards shall be distributed *pro rata* among the contributories.

28. When the affairs of the Company have been completely wound up, the Court shall make an order declaring the Company to be dissolved from the date of such order, and thereupon the Company shall be dissolved accordingly.

29. Any order so made shall be reported by the Curator to the Secretary of State of Canada, who shall make a minute accordingly in the book in which the order for winding up the Company is recorded, of the dissolution of such Company; and if the Company have been formed under any general Act by the acknowledging and receiving, or filing and entering before and by, or by the making and filing in the office of, any Mayor, Registrar or other public officer, of any statement or declaration, then such order shall also be reported by the Curator to such Mayor, Registrar or other public officer, who shall make a minute thereof in the book in which he made a minute of the order for winding up the Company.

30. If the Curator makes default in reporting to the Secretary of State, or to such Mayor, Registrar, or other public officer, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding for every day during which he is so in default.

POWERS OF THE COURT.

31. The Court may, as to all matters relating to the winding up, have regard to the wishes of the creditors or contributories, as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

2. In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on each contributory by the Act of Incorporation or other instrument by which the Company was created or by the by-laws of the Company.

32. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company, of the costs, charges and expenses incurred in winding up any Company, in such order of priority as the Court thinks just.

33. The Court may, as often as circumstances require, make such rules concerning the mode of proceeding to be pursued for winding up

a Company, and such tariff of fees applicable to all proceedings under this Act, as from time to time may seem necessary or convenient; and until such rules and tariff are made, it shall be competent to the Court to make any order it may deem just, and which shall not be inconsistent with this Act, for winding up any Company, and for the proceedings necessary therefor under this Act; and any power or direction contained in any such order shall be deemed to have been fully authorized by this Act.

34. Any Judge of the Courts mentioned in section two of this Act, may do in Chambers any act which the Court of which he is a Judge is hereby authorized to do.

2. For the purposes of this section, Chief Justices, Chancellors, and Vice Chancellors are to be deemed Judges of their respective Courts.

ENFORCEMENT OF ORDERS.

35. Any order made by the Court in any Province, for or in the course of the winding up of a Company under this Act, shall be enforced in any other Province, in the Court that would have had jurisdiction in respect of such Company if the chief place of business of the Company had been situate in such other Province, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

36. Where an order made by one Court is required to be enforced by another Court, as hereinbefore provided, an office copy of such order shall be produced to the proper officer of the Court required to enforce the same; and the production of such office copy shall be sufficient evidence of such order having been made; and thereupon such last mentioned Court shall take such steps in the matter as may be requisite for enforcing such order, in the same manner as if it were the order of the Court enforcing the same.

37. The word "order" in the two next preceding sections of this Act shall mean also and include any Interlocutor, Decree or Judgment; and in all proceedings under the said sections, all Courts, Judges and persons judicially acting, and all other officers, judicial or ministerial, of any Court or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court having jurisdiction under this Act, and also of the official seal or stamp of the several offices of such other Courts, when such seal or stamp is appended to or impressed upon any document made, issued or signed under the provisions of the said sections, or any official copy thereof.

MISCELLANEOUS PROVISIONS.

38. The Curator shall be described by the style of the Curator of the particular Company in respect of which he is appointed, and not by his individual name.

39. There shall be paid to the Curator such salary or remuneration, by way of percentage or otherwise, as the Court may direct.

40. Where any Company is being wound up by the Court, all books, accounts and documents of the Company and of the Curator shall, as

between the contributories of the Company be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

41. Any person to whom any thing in action belonging to the Company is assigned in pursuance of this Act, may bring or defend any action or suit relating to such thing in action in his own name.

42. In the event of any Company being wound up under this Act, all debts payable on a contingency, and all claims against the Company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the Company, a just estimate being made by the Curator, so far as is possible, of the value of all such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

43. Any such contract, conveyance, sale, deposit, pledge, transfer, purchase, mortgage, delivery of goods, payment, execution or other act relating to property as would, if made or done in Quebec by or against any individual trader, or in Ontario by or against any individual whether a trader or non-trader, be deemed in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such individual, and with intent to defraud such creditors, shall, if made or done in Ontario or Quebec against or by any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such company, and shall be invalid accordingly; and for the purposes of this section, the presentation of a petition for winding up a Company shall be deemed to correspond with the execution of a deed of assignment or the issuing of a writ of attachment in the case of such an individual.

44. Where, in the course of the winding up of any Company under this Act, it appears that any past or present Director, Manager, or Curator, or any officer of such Company has misapplied or retained in his own hands, or become liable or accountable for any moneys of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any Curator, or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such Director, Manager or other officer, and compel him to repay any moneys so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

45. Where any order is made for winding up a Company by the Court under this Act, if it appear in the course of such winding up that any past or present Director, Manager, Officer or Member of such Company, has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding up, or of its own motion, direct the Curator to institute and conduct a prosecution or prosecutions for such offence, and may order the costs and expenses to be paid out of the assets of the Company.

46. This Act shall not apply to or affect suits now pending, or to any Companies which have discontinued business or which have been dissolved before the passing of this Act.

47. Nothing in this Act contained shall affect any existing privilege or priority of one creditor or class of creditors over another, or be construed to operate any change in the liabilities of parties.

48. An appeal from any order or judgment rendered under this Act shall be allowed in the same manner and to the same Court as appeals in ordinary cases instituted in the Court rendering such judgment are allowed or would lie, and may be made by such form of proceeding as prevails in such Court in other cases; and such order or judgment may also be reviewed in like manner.

49. The Secretary of State of Canada shall lay, or cause to be laid before the Senate and House of Commons of Canada, within fourteen days after the opening of the Session of the Parliament of Canada next after the passing of this Act, a Return of all Companies reported to him to be dissolved under this Act, since the passing of this Act, together with copies of all orders for the winding up of Companies under this Act received by him since the passing of this Act, and within fourteen days after the opening of each subsequent Session, a Return of all Companies reported to him to be dissolved under this Act, since the date of his then last return, together with copies of all orders for the winding up of Companies under this Act since the same date.

50. The nineteenth section of the Act passed by the Legislature of the Province of Nova Scotia, in the twenty-fifth year of Her Majesty's Reign, chapter two, intituled, "*An Act for the incorporation and winding up of Joint Stock Companies,*" and the Act passed by the Legislature of the Province of New Brunswick in the twenty-seventh year of Her Majesty's Reign, chapter forty-four, intituled, "*An Act to facilitate the winding up of the affairs of Incorporated Companies,*" are hereby declared inapplicable, so far as relates to Companies that can be wound up under this Act; save and except that in case proceedings have been commenced before the passing of this Act, for the winding up of any such Company, under the said section or the said Act, such proceedings may be carried on and concluded under the same, in the same manner and to the same effect as if this Act had not been passed.

SCHEDULE A.

Canada, }
Province of } In the [*name of the Court.*]
The (*name of Company.*) *In re.*

A. B. of (*residence*), (*occupation*), claims of the (*name of Company*), the sum of dollars due him as follows:

[*Particulars of the claim, which may refer to an account in detail annexed.*]

The above named claimant, [or A. C., *Agent or Clerk of the above named claimant,*] being duly sworn declares, that the foregoing claim is correct, and that thesum thereby demanded is justly due him by the Company,—and he hath signed.

Sworn before me at } A. B.
this day of 186 . }

An Act respecting Aliens and Naturalization.

WHEREAS the laws in force in the Provinces of Ontario and Quebec, in the Province of Nova Scotia, and in the Province of New Brunswick, providing for the naturalization of Aliens are various, and are local and limited in their effects; and whereas it is expedient that one uniform provision should be made for Canada, with respect to the naturalization of Aliens, saving always the rights, titles and claims of all persons, according to the laws of each Province, at the time of the passing of this Act; and whereas it is also expedient to provide that the benefits heretofore obtained by any person by naturalization in any part of Canada, shall henceforth extend to and be available for such person in every other part of Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

LOCALLY NATURALIZED SUBJECTS OF HER MAJESTY.

1. Each and every person who, being by birth an Alien, had, on or before the passing of this Act, become entitled to the privileges of British birth, within any part of Canada, by virtue of any general or special Act of Naturalization in force in such part of Canada, shall hereafter be entitled to all the privileges by this Act conferred on persons naturalized under this Act.

NATURALIZATION OF ALIENS.

2. Every Alien-born woman married to a natural-born British subject, or person naturalized under the authority of this Act, or of any law either of the Province of Nova Scotia, or of the Province of New Brunswick, or of the late Province of Canada, or of the late Province of Upper Canada, or of the late Province of Lower Canada, shall be deemed to be herself naturalized, and shall have all the rights and privileges of a natural-born British subject.

3. Every Alien (not being a woman married to a natural-born or naturalized British subject) now residing in, or who shall hereafter come to reside in any part of this Dominion, with intent to settle therein, and who after a continued residence therein for a period of three years or upwards, has taken the oaths or affirmations of residence and allegiance, and procured the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a Certificate of Naturalization as hereinafter provided, shall thenceforth enjoy and may transmit all the rights and capacities which a natural born subject of Her Majesty can enjoy or transmit.

4. Every such Alien (not being a woman married to a natural-born or naturalized British subject) in order to become entitled to the benefit of this Act, shall take and subscribe the following Oath of Residence, or being one of those persons who are allowed by the Laws of the Province in which he or she then is, to affirm in judicial cases, shall make affirmation to the same effect, that is to say:—

J

Oath of Residence.

"I, A. B., do swear, (*or, being one of the persons allowed by Law "to affirm in judicial cases*, do affirm) that I have resided three years "in this Dominion, with intent to settle therein, without having "been during that time a stated resident in any foreign country. "So help me God."

2. And every such Alien, in order to become entitled to the benefit of this Act, shall also take and subscribe the following Oath of Allegiance, (or being one of those persons who are allowed by the Laws of the Province, in which he or she then is to affirm in judicial cases, shall make affirmation to the same effect,) that is to say:

Oath of Allegiance.

"I, A. B., do sincerely promise and swear (*or, being one of the "persons allowed by Law to affirm in judicial cases*, do affirm) that I "will be faithful and bear true allegiance to Her Majesty Queen "Victoria, as lawful Sovereign of the United Kingdom of Great "Britain and Ireland, and of the Dominion of Canada, dependent "on and belonging to the said United Kingdom, and that I will "defend Her to the utmost of my power against all traitorous con- "spiracies and attempts whatever which shall be made against "Her Person, Crown and Dignity; and that I will do my utmost "endeavour to disclose and make known to Her Majesty, Her Heirs "and Successors, all treasons and traitorous conspiracies and "attempts which I shall know to be against Her, or any of them; "and all this I do swear without any equivocation, mental evasion, "or secret reservation, and renouncing all pardons and dispensa- "tions from any person or persons whatever to the contrary. So "help me God."

2. And every such oath or affirmation shall be taken and subscribed by such Alien, and may be administered to him or her by any Judge of any Court of Record in that Province of Canada in which such Alien resides, or by any person authorized to administer oaths in any of the Courts hereinafter mentioned, or by any Commissioner to be appointed by the Governor for that purpose, which said Judge or Commissioner, on being satisfied by evidence produced by such Alien, that he or she has been a resident of Canada, for a continuous period of three years or upwards, and is a person of good character, shall grant to such Alien a Certificate, setting forth that such Alien has taken and subscribed the said oath or affirmation, and that such Judge or Commissioner has reason to believe that such Alien has been so resident within Canada for a period of three years or upwards, that he or she is a person of good character, and that there exists to the knowledge of such Judge or Commissioner no reason why such Alien should not be granted all the rights and capacities of a natural-born British subject.

5. Such Certificate shall be presented to the Court of Quarter Sessions of the Peace, or the Recorder's Court of the County or City within the jurisdiction of which the Alien resides in Ontario, or to the Circuit Court in and for the Circuit within which he or she resides in Quebec, or to the Supreme Court if he or she resides in Nova Scotia, or to the Supreme Court of Judicature of New Brunswick, if he or she resides in New Brunswick, in open Court,

on the first day of some general sitting of such Court, and thereupon such Court shall cause the same to be openly read in Court; And if during such general sitting the facts mentioned in such Certificate are not controverted, or any other valid objection made to the Naturalization of such Alien, such Court, on the last day of such general sitting, shall direct that such Certificate be filed of record in the said Court, and thereupon such Alien shall be thereby admitted and confirmed in all the rights and privileges of British birth, to all intents whatever, as if he or she had been born within Canada.

6. Every such person shall be then entitled to receive a Certificate of Naturalization under the seal of such Court, and the signature of the Clerk thereof, that he or she hath complied with the several requirements of this Act; which Certificate of Naturalization may be in the following form, or to the like effect, that is to say:

Dominion of Canada,
Province of
Circuit, (*or* County *or* City) of
to wit:
In the Court of

Whereas A. B., of, &c. (*describing him or her as formerly of such a place, in such a Foreign Country, and now of such a place in Canada, and adding his or her addition*), hath complied with the several requirements of the *Act respecting Aliens and Naturalization*, and the certificate thereof has been read in open Court, and therupon, by order of the said Court, duly filed of record in the same, pursuant to the said Act. These are therefore to certify to all whom it may concern, that under and by virtue of the said Act, the said A. B. hath obtained all the rights and capacities of a natural-born British subject, to have, hold, possess and enjoy the same upon, from and after the day of , (*the day of filing the Certificate of Residence,*) in the year of our Lord one thousand eight hundred and ; and this Certificate thereof is hereby granted to the said A. B., according to the form of the said law.

Given under my Hand and the Seal of the said Court, this day of , in the year of our Lord one thousand eight hundred and

(*Signature,*) C. D.,
Clerk of the Peace,
(*or* Clerk of the Recorder's Court, *or* Clerk of the Circuit Court, *or* Clerk of the Supreme Court, *as the case may be.*)

7. A copy of such Certificate of Naturalization may, at the option of the party, be registered in the Registry Office of any County or District or Registration Division within Canada, and a certified copy of such Registry shall be sufficient evidence of such Naturalization in all Courts and places whatsoever.

8. Any Alien entitled, at the time of the passing of this Act, to be naturalized under the provisions of any of the Acts mentioned in the twelfth and fourteenth sections of this Act, may take the oaths or affirmations of Residence and of Allegiance, and obtain Certificates as aforesaid, in the same manner as Aliens entitled to be naturalized under the provisions of the third section of this Act, and with the same effect, to all intents and purposes.

2. Notwithstanding anything in this Act, all Aliens now resident within the Province of Nova Scotia, and entitled to be naturalized by virtue of the said thirty-fourth Chapter of the said Revised Statutes of Nova Scotia, shall hereafter, on fulfilling the requirements of the said last mentioned Chapter, be entitled to all the privileges by this Act conferred on persons naturalized under this Act.

9. The Clerk of the Peace or Clerk of the Recorder's Court, or Clerk of the Circuit Court, or Clerk of the Supreme Court, shall, for reading and filing the Certificate of Residence, and preparing and issuing the Certificate of Naturalization under the Seal of the Court, be entitled to receive from such person the sum of and no more;—And the Registrar shall, for recording the said last mentioned Certificate, be entitled to receive from such person, the sum of and a further sum of for every search and certified copy of the same, and no more.

10. The privileges of Naturalization imparted by this Act to the several classes of persons herein mentioned, are imparted to such persons respectively on the terms and conditions herein set forth, and are to be by such persons exercised and enjoyed, according to the true intent and meaning of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for the Naturalization of Aliens.*

11. Nothing in this Act contained shall repeal or in any manner affect the Act of the Legislature of Upper Canada, passed in the fifty-fourth year of the Reign of His late Majesty King George the Third, intituled, *An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty*, or any proceedings had under the said Act.

12. Nor shall any thing in this Act contained repeal or in any manner affect the Act passed in the session held in the fourth and fifth years of Her Majesty's reign, chapter seven, intituled, *An Act to secure to and confer upon certain inhabitants of this Province, the civil and political rights of Natural-born British Subjects*, or the first, second or third section of the Act passed in the twelfth year of Her Majesty's reign, chapter one hundred and ninety-seven, intituled, *An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens*,—or impair or affect the naturalization of any person naturalized under the said Acts, or either of them, or any rights acquired by such person or by any other party by virtue of such naturalization, all which shall remain valid and be possessed and enjoyed by such person or party respectively.

PENALTY FOR FALSE SWEARING.

13. Any person wilfully swearing falsely, or making any false affirmation under this Act, shall be deemed guilty of wilful and corrupt perjury, and shall, on conviction, in addition to any other punishment authorized by Law, forfeit all the privileges or advantages which he or she would otherwise, by making such oath or affirmation, have been entitled to under this Act, but the rights of others in respect to estates derived from or held under him or her, shall not thereby be

prejudiced, excepting always such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him or her was created.

14. The following Acts are hereby repealed, that is to say: The Act *respecting the Naturalization of Aliens*, forming the eighth chapter of the Consolidated Statutes of Canada, save and except the ninth section thereof, the thirty-fourth chapter of the Revised Statutes of Nova Scotia, third series, *Of the privileges and Naturalization of Aliens*, save and except the first, second and third sections thereof; the Act of the Legislature of New Brunswick, passed in the twenty-fourth year of Her Majesty's reign, chapter fifty-four, intituled, *An Act relating to the Naturalization of Aliens;* and the Act of the same Legislature passed in the twenty-eighth year of Her Majesty's reign, chapter five, intituled, *An Act to amend the Act relating to the Naturalization of Aliens;* but nothing in this section contained shall impair or affect the naturalization of any person naturalized under the said Acts, or either of them, or any rights acquired by such person, or by any other party, by virtue of such naturalization, all which shall remain valid, and be possessed and enjoyed by such person or party respectively.

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An Act for the Organization of the Department of Agriculture.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. There shall be a Department, called "The Department of Agriculture," over which the Minister of Agriculture, for the time being, appointed by Commission under the Great Seal, shall preside; and the said Minister shall have the management and direction of the Department, and shall hold office during pleasure.

2. The Governor may appoint a Deputy of the Minister of Agriculture, and such other officers and clerks as may be required for the proper conduct of the business of the Department, all of whom shall hold office during pleasure.

3. It shall be the duty of the said Deputy, and he shall have authority (subject always to the Minister) to oversee and direct the other officers and servants of the Department; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council, and in the absence of the Minister and during such absence, may suspend from his duties any officer or servant of the Department who refuses or neglects to obey his directions as such Deputy.

4. The duties and powers of the Minister of Agriculture, shall extend to the execution of laws enacted by the Parliament of Canada, and of orders of the Governor in Council, relating to the subjects enumerated in the following section, as well as to the direction of all public bodies, officers and servants employed in the execution of such laws and orders.

5. The following subjects shall be under the control and direction of the Department of Agriculture, viz:

1. Agriculture;
2. Immigration and Emigration;
3. Public Health and Quarantine;
4. The Marine and Emigrant Hospital at Quebec;
5. Arts and Manufactures;
6. The Census, Statistics, and the Registration of Statistics;
7. Patents of Invention;
8. Copyright;
9. Industrial Designs and Trade Marks.

6. The Governor in Council may at any time assign any other duty or power to the Minister of Agriculture, and may also assign any of the duties or powers hereinbefore enumerated to any other Member of the Privy Council of Canada.

7. The Minister of Agriculture shall make and submit to the Governor an annual report of the proceedings of his Department, to be laid before both Houses of Parliament within twenty-one days from the commencement of each session.

8. The Act of the Legislature of the late Province of Canada, passed in the twenty-fifth year of Her Majesty's Reign, chapter seven, is hereby repealed,—and all laws or parts of laws inconsistent with this Act, in so far as they are inconsistent herewith, are also repealed.

No. 94.] **BILL.** [1868.

An Act respecting the Consolidated Revenue Fund.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows: Preamble.

1. All Duties and Revenue over which the respective Legislatures of the late Province of Canada, Nova Scotia and New Brunswick, before and at the time of the passing the British North America Act, 1867, had, and over which the Parliament of Canada now has, the power of appropriation, shall form and are hereby declared to have formed since the Union, one Consolidated Revenue Fund to be appropriated for the public service of Canada, in the manner and subject to the charges hereinafter mentioned, and in the following order, that is to say: What moneys shall form part of the said Fund. Charges thereon.

Firstly.—The costs, charges and expenses, incident to the collection, management and receipt thereof, subject to be reviewed and audited in such manner as is now or may hereafter be by law provided. First.

Secondly.—The annual interest of the Public Debts of the several Provinces of Canada, Nova Scotia and New Brunswick, at the Union. Second.

Thirdly.—The salary of the Governor General. Third.

Fourthly.—The Principal and Interest at a rate not exceeding four per cent. per annum of the Loan of three million pounds sterling, to be raised for the purpose of constructing the Intercolonial Railway, under the provisions of an Act of the present Session of the Parliament of Canada, Chapter thirteen, upon the guarantee of the payment of Interest on such loan at a rate not exceeding four per centum per annum, by the Commissioners of Her Majesty's Treasury or, the principal and interest at a like rate of such part of the said loan as may be raised. Fourth.

Fifthly.—An annual sum at the rate of one per centum per annum, as a Sinking Fund on the entire amount of principal money of the loan herein last before mentioned. Fifth.

Sixthly.—Any sum which shall be issued out of the Consolidated Fund of the United Kingdom under the Canada Railway Loan Act, 1867, with the interest thereon at the rate of five per centum per annum. Sixth.

Seventhly.—The sum of one million pounds sterling, which, by the thirty-second section of the Act of the present session of the Parliament of Canada, chapter thirteen, the Government of Canada is empowered to raise for the completion of the Intercolonial Railway, but without the guarantee of the Commissioners of Her Majesty's Treasury, and interest thereon. Seventh.

Governor in Council to make regulations as to payment of interest.

Fiscal agent, &c.

2. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management of the Public Debt of the Dominion and the payment of the interest thereon, and may appoint one or more fiscal agents of the Dominion in the City of London or elsewhere, and agree with them as to the rate of compensation to be allowed them for negotiating loans and for paying the interest on the Public Debt and for other services connected with the management of the said debt, and may pay such compensation out of the Consolidated Revenue Fund.

Public accounts how to be kept.

Annual statement and what it shall shew.

3. The Public Accounts of the Dominion shall be kept by double entry in the Offices of the Receiver General and of the Minister of Finance; and an annual statement shall be prepared as soon as possible after the termination of each fiscal year exhibiting the state of the Public Debt and the amount chargeable against each of the Public Works for which any part of the debt has been contracted; also the state of the Consolidated Revenue Fund and of the various Trusts and special Funds under the management of the Government of the Dominion, and such other accounts and matters as may be required to shew what the liabilities and assets of the Dominion really are at the date of such statement.

94.

1st Session, 1st Parliament, 31 Victori

BILL.

An Act respecting the Consc
Revenue Fund.

Received and read, first time, M
27th April, 1868.

Second reading, Tuesday, 28th
1868.

Hon. Mr R

No. 95.] **BILL.** 8.

An Act to impose a duty on Foreign Reprints of British Copyright Works.

Preamble.

WHEREAS, by an Act of the Imperial Parliament of the United Kingdom, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to amend the Law relating to the protection in the Colonies of Works entitled to Copyright in the United Kingdom*, it is provided that in case the Legislature of any British Possession shall be disposed to make due provision for securing or protecting the rights of British Authors in such Possession, and shall pass an Act for that purpose, and transmit the same, in the proper manner, to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty should be of opinion that such Act is sufficient for the purpose of securing to British Authors reasonable protection within such Possession, it shall be lawful for Her Majesty to express Her Royal approval of such Act, and thereupon, by order in Council, to suspend, so long as the provision of such Act shall continue in force in such Colony, the provision contained in the Imperial Acts in the said above recited Act mentioned or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing, Foreign Reprints of Books first composed, written, printed or published in the United Kingdom and entitled to Copyright therein, and it is expedient to pass such Act as aforesaid, to the end that Foreign Reprints of such Works may, under the provisions of the said Imperial Act, be lawfully imported into Canada, under provisions common to the whole Dominion, and to remove doubts as to the intent of the Act passed in the present Session of the Parliament of Canada, intituled, *An Act imposing duties of Customs, with the Tariff of duties payable under it*; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Imp. Act, 10, 11 V., c. 95.

Act of Canada, 30 V., c. 7.

Governor in Council may impose a duty on such Reprints of British Copyright Works for the benefit of the authors.

1. It shall be lawful for the Governor in Council to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom, of books first composed, or written, or printed or published in the United Kingdom, of which the Copyright shall be still subsisting, and with regard to which the notice to the Commissioners of Customs required by any Act of the Parliament of the United Kingdom in that behalf, shall have been given, an *ad valorem* duty not exceeding twenty per cent., and, from time to time, to alter the said duty (not exceeding in any case the rate aforesaid), and from time to time, to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force, as he may deem requisite and equitable, with regard to the admission of such books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the Copyright, and such duty shall be collected in like manner as duties of Customs, and under the provisions of the Act relating to such duties.

Interpretation.

2. The word "Book" in this Act shall include every volume, part or division of a volume, pamphlet, sheet of letter press, sheet of music, map, chart, or plan separately published.

When to come into force.

3. The foregoing provisions of this Act (except in so far as it may be otherwise directed in any such order as aforesaid, of Her Majesty in Council) shall come into operation upon, from and after the day to be appointed for that purpose in any Proclamation of the Governor, signifying Her Majesty's Royal Approval of this Act, and the issuing of such order of Her Majesty in Council, and not before.

Former duty to remain until a duty is imposed under this Act.

4. And it is hereby declared, that it was not the intent of the Act of the Parliament of Canada, cited in the Preamble to this Act, that any duty imposed on copies of such British Copyright Books, as are mentioned in the foregoing sections of this Act, by any Act of the late Province of Canada, or by any order of the Governor of that Province in Council made or to be made under such Act, or by any Act of the Legislature of the Province of Nova Scotia, or of New Brunswick, for the purpose of being distributed to or among the party or parties beneficially interested in the Copyright, and any such duty shall continue to be collected for the purposes aforesaid, until a duty shall be imposed for like purposes under this Act, after which it shall cease.

No. 95.

1st Session, 1st Parliament, 31 Vic., 186 .

BILL

An Act to impose a duty on Foreign Reprints of British Copyright Works.

Received and read, first time, Monday, 27th April, 1868.

Second reading, Tuesday, 28th April, 1868.

Hon. Mr. TILLEY.

OTTAWA:

PRINTED BY HUNTER, ROSE & COMPANY.

No. 96.] **BILL.** [1868.

An Act respecting the prompt and summary administration of Criminal Justice in certain cases.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :— Preamble.

1. Where any person is charged before the Recorder of any City with having committed— Power to try certain offences in a summary way by consent of the party accused.

1. Simple larceny, embezzlement, or obtaining money or property by false pretences, and the value of the whole of the property alleged to have been stolen, embezzled, or obtained does not in the judgment of the Recorder exceed two dollars; or,

2. With having attempted to commit larceny from the person, or simple larceny; or,

3. With having committed an aggravated assualt, by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously cutting, stabbing or wounding any other person; or,

4. With having committed assault upon any female whatever, or upon any male child whose age does not in the opinion of the Recorder exceed fourteen years, such assault being of a nature which cannot in the opinion of the Recorder be sufficiently punished by a summary conviction before him under any other Act, and such assault if upon a female not amounting in his opinion to an assault with intent to commit a rape; or,

5. With having assaulted any magistate, bailiff, or constable or other officer in the lawful performance of his duty, or with intent to prevent the performance thereof; or,

6. With keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy house; Jurisdiction absolute. See S. 14.

Such Recorder may, subject to the provisions hereafter made, hear and determine the charge in a summary way.

2. Whenever the Recorder before whom any person is charged as aforesaid proposes to dispose of the case summarily under the provisions of this Act, such Recorder, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the party charged for any statement which he may wish to make, shall state to such person the substance of the charge against him, and (if the charge is not one that can be tried summarily without the consent of the accused), shall then say to him, these words, or words to the like effect: "Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a jury at the (*naming the Court at which it could soonest be tried*);" and if the person charged Accused to be asked if he consents to be tried summarily.

consents to the charge being summarily tried and determined as aforesaid, or if the power of the Recorder to try it does not depend on the consent of the accused, the Recorder shall reduce the charge into writing, and read the same to such person, and shall then ask him whether he is guilty or not of such charge.

If he admits the charge.

3. If the person charged confesses the charge, the Recorder shall then proceed to pass such sentence upon him as may by law be passed, subject to the provisions of this Act, in respect to such offence; but if the person charged says that he is not guilty, the Recorder shall then examine the witnesses for the prosecution, and when the examination has been completed, the Recorder shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence, the Recorder shall hear such defence, and shall then proceed to dispose of the case summarily.

And if he has a defence.

In case of conviction of larceny.

4. In the case of larceny or attempt to commit larceny charged under the first or second sub-sections of the first section of this Act, if the Recorder, after hearing the whole case for the prosecution and for the defence, finds the charge proved, then such Recorder shall convict the person charged and commit him to the Common Gaol or House of Correction or other place of confinement, there to be imprisoned, with or without hard labour, for any period not exceeding three months.

Offence not proved.

5. If in any case the Recorder finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal.

Form of conviction.

6. Every such conviction and certificate respectively may be in the forms A and B, in this Act, or to the like effect.

If the accused does not consent or the Recorder thinks the case proper to be otherwise tried.

7. If (when his consent is necessary) the person charged does not consent to have the case heard and determined by the Recorder, or in any case if it appears to the Recorder that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such Recorder shall deal with the case in all respects as if this Act had not been passed; but a previous conviction shall not prevent the Recorder from trying the offender summarily, if he thinks fit so to do.

Discharge in certain cases.

8. If upon the hearing of the charge such Recorder is of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, he may dismiss the person charged without proceeding to a conviction.

If the Recorder thinks the case one to be tried summarily.

9. Where any person is charged before any Recorder with simple larceny of property exceeding in value one dollar, *or with having obtained such property by false pretences*, or with stealing from the person, or with larceny as a clerk or servant, and the evidence in support of the prosecution is in the opinion of the Recorder sufficient to put the person charged on his trial for the offence charged, such Recorder, if the case appear to him to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers of this Act, shall reduce the charge into writing, and shall read it to the said person, and (unless such person is one who can be tried summarily without his consent) shall then put to him the question mentioned in section two, and shall explain to him that he is not obliged to plead or answer before such Recorder at all, and that if he do not plead or answer before him, he will be committed for trial in the usual course.

If the offender pleads guilty.

10. If the person so charged consents to be tried by the Recorder, the Recorder shall then ask him whether he is guilty or not of h e charge, and if such person says that he is guilty, the Recorder shall thereupon cause a plea of guilty to be entered upon the proceedings, and shall convict him of the offence, and commit him to the Common Gaol or House of Correction or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months, and every such conviction may be in the form C, or to the like effect.

Full defence allowed.

11. In every case of summary proceedings under this Act, the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined, by counsel or attorney.

Power to summon and compel attendance of witnesses.

12. The Recorder before whom any person is charged under this Act, may by summons require the attendance of any person as a witness upon the hearing of the case at a time and place to be named in such summons; and such Recorder may bind by recognizance all persons whom he may consider necessary to be examined touching the matter of such charge, to attend at the time and place to be appointed by him, and then and there to give evidence upon the hearing of such charge; And in case any person so summoned or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, then upon proof being first made of such persons having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the Recorder before whom such person ought to have attended may issue a warrant to compel his appearance as a witness.

Mode of summoning.

13. Every summons issued under this Act may be served by delivering a copy of the summons to the party summoned, or by delivering a copy of the summons to some inmate of such party's usual place of abode; and every person so required by any writing under the hand of any Recorder to attend and give evidence as aforesaid, shall be deemed to have been duly summoned.

Jurisdiction of Recorder absolute in certain cases.

14. The jurisdiction of the Recorder in the case of any person charged within the Police limits of any City in Canada, with therein keeping or being an inmate or an habitual frequenter of any disorderly house, house of ill-fame or bawdy house, shall be absolute, and shall not depend on the consent of the party charged to be tried by such Recorder, nor shall such party be asked whether he consents to be so tried.

And as to certain persons.

15. The jurisdiction of the Recorder shall also be absolute in the case of any person, being a seafaring person and only transiently in Canada, and having no permanent domicile therein, charged, either within the City of Quebec as limited for the purpose of the Police Ordinance or within the City of Montreal as so limited, or in any other Seaport, City or Town in Canada, where there is a Recorder, with the commission therein of any of the offences mentioned in the first section of this Act, and in the case of any other person charged with any such offence on the complaint of any such sea-faring person whose testimony is essential to the proof of the offence, and such jurisdiction shall not depend on the consent of any such party to be tried by the Recorder, nor shall such party be asked whether he consents to be so tried.

Interpretation. Sentence on parties convicted of certain offences.

16. In any case summarily tried under the third, fourth, fifth, or sixth sub-section of the first section of this Act, if the Recorder finds the charge proved, he may convict the person charged and commit him to the Common Gaol or House of Correction or other place of confinement, there to be imprisoned with or without hard labour for any period not

exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, *one hundred dollars*, or to both fine and imprisonment, not exceeding the said period and sum; and such fine may be levied by warrant of distress under the hand and seal of such Recorder, or the party convicted may be condemned (in addition to any other imprisonment on the same conviction) to be committed to the Common Gaol or other place of confinement, for a further period not exceeding six months unless such fine be sooner paid.

Forms in such cases.

17. Whenever the nature of the case requires it, the forms given at the end of this Act shall be altered by omitting the words stating the consent of the party to be tried before the Recorder, and by adding the requisite words stating the fine imposed (if any) and the imprisonment (if any) to which the party convicted is to be subjected if the fine be not sooner paid.

Persons brought before J. P's may be remanded for trial under this Act.

18. Where any person is charged before any Justice or Justices of the Peace, with any offence mentioned in this Act, and in the opinion of such Justice or Justices, the case may be proper to be disposed of by a Recorder, or by a Judge of the Sessions of the Peace, or by a Police Magistrate, as herein provided, the Justice or Justices before whom such person is so charged may, if he or they see fit, remand such person for further examination before the Recorder or before the Judge of the Sessions of the Peace of the nearest City, or before the nearest Police Magistrate, in like manner in all respects as a Justice or Justices are authorized to remand a party accused for trial at any Court, under any general Act respecting the duties of Justices of the Peace out of Sessions in like cases.

But not into any other Province.

19. No Justice or Justices of the Peace in any Province, shall so remand any person for further examination or trial before any Recorder, Judge of the Sessions of the Peace, or Police Magistrate in any other Province.

Before whom to be tried.

20. Any person so remanded for further examination before the Recorder of any City, may be examined and dealt with by the Judge of the Sessions of the Peace or Police Magistrate of the same City, and any person so remanded for further examination before the Judge of the Sessions of the Peace, or the Police Magistrate of any City, may be examined and dealt with by the Recorder of the same City.

Party not appearing according to his recognizance

21. If any person suffered to go at large upon entering into such recognizance as the Justice or Justices are authorized under any such Act as last mentioned to take, on the remand of a party accused conditioned for his appearance before a Recorder under the preceding sections of this Act, does not afterwards appear pursuant to such recognizance, then the Recorder before whom he ought to have appeared shall certify (under his hand on the back of the recognizance, to the Clerk of the Peace of the District, County or Union of Counties or Local Division, (as the case may be) the fact of such non-appearance, and such recognizance shall be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of such non-appearance

Convictions to be transmitted to Q S.

22. The Recorder adjudicating under this Act shall transmit the conviction, or a duplicate of a certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the next Court of Quarter Sessions for the District or County or Union of Counties or local Division, there to be kept by the proper Officer among the Records of the Court.

23. A copy of such conviction, or of such certificate of dismissal, certified by the proper Officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein, in any legal proceedings whatever. Proof of conviction or dismissal.

24. The Recorder, by whom any person has been convicted under this Act, may order restitution of the property stolen, taken or obtained *by false pretences*, in those cases in which the Court before whom the person convicted would have been tried but for this Act, might by law order restitution. Restitution of property.

25. Every Recorder's Court, for the purposes of this Act, shall be an open public Court, and a written or printed notice of the day and hour for holding such Court, shall be posted or affixed by the Clerk of the Court upon the outside of some conspicuous part of the building or place where the same is held. Recorder's Court to be open.

26. The provisions of the Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders, and the provisions of the Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences, shall not be construed as applying to any proceedings under this Act except as mentioned in section eighteen. Certain provisions not to apply to cases under this Act.

27. Every conviction by a Recorder under this Act shall have the same effect as a conviction upon indictment for the same offence would have had, save that no conviction under this Act shall be attended with forfeiture. Effect of conviction.

28. Every person who obtains a certificate of dismissal or is convicted under this Act, shall be released from all further or other criminal proceedings for the same cause. And of dismissal.

29. No conviction, sentence or proceeding under this Act shall be quashed for want of form; and no warrant of commitment upon a conviction shall be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted, and there be a good and valid conviction to sustain the same. No conviction to be quashed for want of form.

30. The Judge of the Sessions of Peace for the City of Quebec, the Judge of the Sessions of the Peace for the City of Montreal, and any Police Magistrate, sitting in open Court, may respectively, in the case of persons charged before them, do all acts by this Act authorized to be done by a Recorder, and all the provisions of this Act referring to Recorders and Recorders' Courts and the Clerks of the Recorders' Courts, shall be read and construed also as referring to such Judges of the Sessions of the Peace, and Police Magistrates and the Courts and the Clerks of the Courts held by them respectively, and as giving then full power to do all acts authorized to be done by Recorders in the case of persons charged before them respectively. Powers of Recorders under this Act vested in certain other functionaries.

31. All the jurisdiction and powers vested in the Recorder of any City are hereby conferred upon and vested in any two or more Justices of the Peace for any district in the Province of Quebec when present at the *chef-lieu* thereof, and there sitting in open Court, and upon and in the Sheriff of any district in the Province of Quebec, (other than the districts of Quebec and Montreal,) and upon and in any Deputy Sheriff in the District of Gaspé, sitting in open Court; But the jurisdiction and powers aforesaid shall not be exercised by any two or more Justices of the Peace or Sheriff in any District unless such District has been established as such for all purposes of the administration of justice in criminal as well as civil matters, under a proclamation to that effect. And in the Province of Quebec on Sheriffs. Proviso.

Clerks of the Peace to assist the Sheriffs.

32. The Sheriffs of such districts as aforesaid in the Province of Quebec, or any Deputy Sheriff in the District of Gaspé, when sitting or acting under the provisions of this Act, shall be assisted, attended and obeyed by the Clerk of the Peace, Bailiffs, Constables and other Officers of such districts respectively, in the same manner as Justices of the Peace in and for the said districts respectively, would be attended, assisted and obeyed by them respectively, under the same or similar circumstances; and the Clerk of the Peace for each such district shall be and act as the Clerk of the Court of the Sheriff of such district under the provisions of this Act.

Recorders of Quebec and Montreal declared Justices of the Peace.

33. The Recorders of the Cities of Quebec and Montreal respectively, have been and are, by virtue of their offices, Justices of the Peace for the Judicial Districts in which the said Cities are respectively situate, and vested with all the powers and authorities, within the limits of their respective jurisdictions, of any one or two Justices of the Peace, as the case may require.

Act not to affect that for trial of Juvenile offenders.

34. Nothing in this Act shall affect the provisions of the Act *respecting the Trial and Punishment of Juvenile Offenders;* and this Act shall not be extended to persons punishable under that Act, so far as regards offences for which such persons may be punished thereunder.

How Fines under this Act shall be applied.

35. Every fine imposed under the authority of this Act shall be paid to the Recorder, Judge of the Sessions of the Peace, Sheriff, Deputy Sheriff or Justices of the Peace, who has or have imposed the same, or to the Clerk of the Recorder's Court or Clerk of the Peace, as the case may be, and shall be by him or them paid over to the County Treasurer for county purposes if it has been imposed in the Province of Ontario,—and if it been imposed in any new district in the Province of Quebec, constituted by any Act of the Legislature of the late Province of Canada passed in or after the year one thousand eight hundred and fifty-seven, then to the Sheriff of such District as Treasurer of the Building and Jury Fund for such District, in to form part of the said Fund,—and if it has been imposed in any other District in the said Province, then to the Prothonotary of such District, to be by him applied under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the Court House in such District, or to be by him added to the moneys and fees collected by him for the erection of a Court House and Gaol in such Districts, so long as such fees shall be collected to defray the cost of such erection. And in the Province of Nova Scotia

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and in the Province of New Brunswick

Interpretation.

36. In the interpretation of this Act "property" shall be construed to include everything included under the words "chattel" or "money" or "valuable security," as used in the *Act respecting Larceny and other similar offences;* and in case of any "valuable security," the value of the share, interest or deposit to which the security may relate, or of the money due thereon, or secured thereby, and remaining unsatisfied, or of the goods or other valuable thing mentioned in the warrant or order, shall be deemed to be the value of such security.

FORM (A) *See* s. 5.

CONVICTION.

Province of , }
City of , to wit: }

Be it remembered that on the day of , in the year of our Lord , at , A. B., being charged before me the undersigned , of the said City, (and consenting to my deciding upon the charge summarily,) is convicted before me, for that he the said A. B., &c., (*stating the offence, and the time and place when and where committed,*) and I adjudge the said A. B., for his said offence, to be imprisoned in the (and there kept to hard labour) for the space of .

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L. S.]

FORM (B) *See* s. 5.

CERTIFICATE OF DISMISSAL.

Province of , }
City of , to wit: }

I, the undersigned, , of the City of , certify that on the day of in the year of our Lord , at aforesaid, A.B., being charged before me (and consenting to my deciding upon the charge summarily), for that he the said A. B., &c., (*stating the offence charged, and the time and place when and where alleged to have been committed,*) I did, having summarily adjudicated thereon, dismiss the said charge.

Given under my hand and seal, this day of , at aforesaid.

J. S. [L. S.]

FORM (C) *See* s 10.

CONVICTION UPON A PLEA OF GUILTY.

Province of , }
City of , to wit: }

Be it remembered that on the day of , in the year of our Lord , at A. B., being charged before me the undersigned , of the said City, (and consenting to my deciding upon the charge summarily) for tha he the said A.B., &c., (*stating the offence, and the time and place when and where committed,*) and pleading guilty to such charge, he is thereupon convicted before me of the said offence ; and I adjudge him the said A. B. for his said offence, to be imprisoned in the (and there kept to hard labour) for the space of

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L. S.]

No. 96.

1st Session, 1st Parliament, 31 Victoria, 1868

BILL.

An Act respectng the prompt and summary administration of Criminal Justice in certain cases.

Received and read, first time, Monday, 27th April, 1868.

Second reading, Tuesday, 28th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 97.] **BILL.** [1868.

An Act respecting the trial and punishment of Juvenile Offenders.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows; Preamble.

Persons not more than sixteen years of age may be summarily convicted of certain offences before two Justices.

1. Every person charged with having committed or having attempted to commit, or with having been an aider, abettor, counsellor or procurer in the commission of any offence which is simple larceny, or punishable as simple larceny, and whose age at the period of the commission or attempted commission of such offence does not, in the opinion of the Justice before whom he is brought or appears as hereinafter mentioned, exceed the age of sixteen years, shall, upon conviction thereof, in open Court, upon upon his own confession or upon proof, before two or more Justices of the Peace for any district, county, or union of counties, city or place, be committed to the common gaol or other place of confinement within the jurisdiction of such Justices, there to be imprisoned with or without hard labour, for any term not exceeding three months, or, in the discretion of such Justices, shall forfeit and pay such sum, not exceeding *twenty dollars*, as the said Justices may adjudge.

Case dismissed if offence is not proved.

2. If the Justices, upon the hearing of any such case, deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the party charged on his finding sureties for his future good behaviour, or without sureties, and then make out and deliver to the party charged, a certificate under the hands of such Justices stating the fact of such dismissal.

Form of certificate.

3. Such certificate shall be in the form or to the effect set forth in the form following:

To wit: { We, , of Her Majesty's Justices of the Peace for the , of , (*or if a Recorder, &c., under section seven,*) I, a , of the of , *as the case may be*) do hereby certify, that on the day of , in the year of our Lord, , at , in the said of , M. N., was brought before us the said Justices (*or* me the said) charged with the following offence, that is to say (*here state briefly the particulars of the charge*), and that we the said Justices (*or* I the said) thereupon dismissed the said charge.

Given under our hands (*or* my hand) this day of

Justices may send case to be tried by a Jury, if they see fit.

4. If the Justices are of opinion, before the person charged has made his defence, that the charge is from any circumstance a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Act, such Justices shall, instead of summarily adjudicating thereupon, deal with the case in all respects as if this Act had not been passed.

And must if the offender objects to summary trial.

5. The Justices before whom any person is charged and proceeded against under this Act, before such person is asked whether he has any cause to shew why he should not be convicted, shall say to the person so charged, these words, or words to the like effect:

"We shall have to hear what you wish to say in answer to the "charge against you; but if you wish to be tried by a Jury, you "must object now to our deciding upon it at once:"

And if such person, or a parent or guardian of such person, then objects, such person shall be dealt with as if this Act had not been passed.

What Justices may act.

6. Any two or more Justices of the Peace, for any district, city, county or union of counties, or other juridical division, sitting in open Court, before whom any such person, as aforesaid, charged with any offence made punishable under this Act, is brought or appears, may hear and determine the case under the provisions of this Act.

Certain functionaries to have like powers with the Justices.

7. The Recorder, or the Judge of the Sessions of the Peace of either of the Cities of Quebec or Montreal, the Sheriff of any District in the Province of Quebec, other than the Districts of Quebec and Montreal, any Deputy Sheriff in the District of Gaspé, any Judge of a County Court in the Province of Ontario, being a Justice of the Peace, any Recorder of a city in the said Province, being a Justice of the Peace, any Police Magistrate, and any Stipendiary Magistrate in the said Province, and any

in the Province of Nova Scotia, and any

in the Province of New Brunswick, sitting in open Court, *usually required to be done by two or more Justices of the Peace*, may and shall, within their respective jurisdictions, hear and determine every charge under this Act, and exercise all the powers herein contained, in like manner and as fully and effectually as two or more Justices of the Peace can or may do by virtue of this Act.

Sheriffs sitting under this Act to be attended by Clerks of the Peace.

8. The Sheriffs of such districts as aforesaid respectively, and any Deputy Sheriff in the District of Gaspé, when sitting or acting under the provisions of this Act, shall be assisted, attended and obeyed by the Clerks of the Peace, Bailiffs, Constables and other Officers of such districts respectively, in the same manner as Justices of the Peace in and for the said districts respectively would be assisted, attended and obeyed by them respectively, under the same or similar circumstances; and the Clerk of the Peace of each such district shall be and act as the Clerk of the Court of the Sheriff of such district, under the provisions of this Act.

No further prosecution for the same offence.

9. Every person obtaining such certificate of dismissal as aforesaid, and every person convicted under the authority of this Act, shall be released from all further or other proceedings for the same cause.

Compelling party accused to attend.

10. In case any person whose age is alleged not to exceed sixteen years be charged with any offence mentioned in section one, on the oath of a credible witness before any Justice of the Peace, such Justice may issue his summons or warrant, to summon or to apprehend the person so charged to appear before any two Justices of the Peace, at a time and place to be named in such summons or warrant.

Power to remand or take bail.

11. Any Justice or Justices of the Peace, if he or they think fit, may remand for further examination or for trial, or suffer to go at

large upon his finding sufficient sureties, any such person charged before him or them with any such offence as aforesaid.

Condition of recognizance.

12. Every such surety shall be found by recognizance to be conditioned for the appearance of such person before the same or some other Justice or Justices of the Peace for further examination, or for trial before two or more Justices of the Peace as aforesaid, or for trial at some Superior Criminal Court, as the case may be.

Enlarging or discharging recognizance.

13. Every such recognizance may be enlarged from time to time by any such Justice or Justices or Court to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward when the party has appeared according to the condition thereof.

To whom and for what purpose fines shall be paid over.

14. Every fine imposed under the authority of this Act, shall be paid to the Justices who impose the same, or to the Clerk of the Recorder's Court, or the Clerk of the County Court, or the Clerk of the Peace, or the Clerk of , as the case may be, and shall be by him or them paid over to the County Treasurer for County purposes, if the same was imposed in the Province of Ontario, and if it was imposed in any new district in the Province of Quebec, then to the Sheriff of such district as Treasurer of the Building and Jury Fund for such district, to form part of the said Fund, and if it was imposed in any other district in the Province of Quebec, then to the Prothonotary of such district, to be by him applied, under the direction of the Governor in Council, towards the keeping in repair of the Court House in such district, or to be by him added to the moneys or fees collected by him, for the erection of a Court House or Gaol in such district, so long as such fees are collected to defray the cost of such erection, and if it was imposed in the Province of Nova Scotia, it shall be paid over to and if it was imposed in the Province of New Brunswick, it shall be paid over to

Summoning witnesses.

15. Any Justice of the Peace may, by summons, require the attendance of any person as a witness upon the hearing of any case before two Justices under the authority of this Act, at a time and place to be named in such summons.

Binding witnesses over.

16. Any such Justice may require and bind by recognizance all persons whom he considers necessary to be examined touching the matter of such charge, to attend at the time and place appointed byhim, and then and there to give evidence upon the hearing of such charge.

Compelling attendance in case of refusal.

17. In case any person so summoned or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, then upon proof being first given of such person's having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, either of the Justices before whom any such person ought to have attended, may issue a warrant to compel his appearance as a witness.

Summons to witness, how served.

18. Every summons issued under the authority of this Act, may be served by delivering a copy thereof to the party, or to some inmate at such party's usual place of abode, and every person so required by any writing under the hand or hands of any Justice or Justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned.

Form of conviction.

19. The Justices before whom any person is summarily convicted of any such offence as hereinbefore mentioned, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, that is to say:

, } Be it remembered that on the day of
To wit: } , in the year of our Lord one thousand eight hundred and , at , in the District of , (County *or* United Counties, &c., *as the case may be*) A. O. is convicted before us J. P. and J.R., two of Her Majesty's Justices of the Peace for the said District (*or* City, &c.,) *or* me, S. J., Recorder , of the of , *or as the case may be*) for that he the said A. O. did (*specify the offence and the time and place when and where the same was committed, as the case may be, but without setting forth the evidence*), and we the said J. P. and J. R. (*or* I the said S. J.) adjudge the said A. O. for his said offence to be imprisoned in the (*or* to be imprisoned in the , and there kept at hard labour, for the space of , (*or* we (*or* I) adjudge the said A. O. for his said offence to forfeit and pay ,) (*here state the penalty actually imposed,*) and in default of immediate payment of the said sum, to be imprisoned in the (*or* to be imprisoned in the , and kept to hard labour) for the space of , unless the said sum shall be sooner paid.

Given under our hands and seals (*or* my hand and seal) the day and year first above mentioned.

And the conviction shall be good and effectual to all intents and purposes.

Conviction not void for want of form, &c.

20. No such conviction shall be quashed for want of form, or be removed by *certiorari* or otherwise, into any of Her Majesty's Superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same.

Convictions to be sent to Clerks of the Peace.

21. The Justices of the Peace before whom any person is convicted under the provisions of this Act, shall forthwith transmit the conviction and recognizances to the Clerk of the Peace for the district, city, county or union of counties wherein the offence was committed, there to be kept by the proper officer among the records of the Court of General or Quarter Sessions of the Peace.

Returns to Secretary of State.

22. Each such Clerk of the Peace shall transmit to the Secretary of State of Canada, a quarterly return of the names, offences and punishments mentioned in the convictions, with such other particulars as may from time to time be required.

No forfeiture, but restitution may be ordered.

23. No conviction under the authority of this Act shall be attended with any forfeiture, but whenever any person is deemed guilty under the provisions of this Act, the presiding Justices may order restitution of the property in respect of which such offence was committed, to the owner thereof or his representatives.

Or the payment of the value in money.

24. If such property be not then forthcoming, the same Justices, whether they award punishment or dismiss the complaint, may inquire into and ascertain the value thereof in money, and if they think proper, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments at such periods as the Court deems reasonable.

Recovery of such value.

25. The party so ordered to pay may be sued for the same as a debt in any Court in which debts of the like amount may be by law recovered, with costs of suit, according to the practice of such Court.

Enforcing payment of penalties.

26. Whenever any Justices of the Peace adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act, and such penalty is not forthwith paid, such Justices if they deem it expedient, may appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so to be appointed, unless such offender gives security to the satisfaction of such Justices for his appearance on such day, and such Justices may take such security by way of recognizance or otherwise at their discretion.

Committal for non-payment.

27. If at any time so appointed such penalty has not been paid, the same or any other Justices of the Peace may, by Warrant under their hands and seals, commit the offender to the Common Gaol or other place of confinement within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication; such imprisonment to cease on payment of the said penalty.

Costs of prosecution may be awarded.

28. The Justices of the Peace before whom any person is prosecuted or tried for any offence cognizable under this Act, may, at their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution of such sums of money as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein, and may order payment to the Constables and other Peace Officers for the apprehension and detention of any person so charged.

Even without conviction.

29. And although no conviction takes place, the said Justices may order all or any of the payments aforesaid, when they are of opinion that the parties or any of them have acted *bonâ fide*.

Certificate of expenses.

30. The amount of expenses of attending before the examining Justices and the compensation for trouble and loss of time therein, and the allowances to the Constables and other Peace Officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such Justices, but the amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one exceed the sum of eight dollars.

By whom such expenses shall be paid.

31. Every such order of payment to any prosecutor or other person after the amount thereof has been certified by the proper Justices of the Peace as aforesaid, shall be forthwith made out and delivered by the said Justices or one of them, or by the Clerk of the Recorder's Court, Clerk of the County Court or Clerk of the Peace, as the case may be, unto such prosecutor or other person, upon such Clerk being paid for the same, the sum of *twenty-cents*, and no more, and shall be made upon the officer to whom fines imposed under the authority of this Act are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed, who upon sight of every such order, shall forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, the money in such order mentioned, and shall be allowed the same in his accounts.

Protection of persons acting under this Act.

32. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be laid and tried in the district in the Province of Quebec, or in the county or union of counties or other juridical division in any other Province, where the fact was committed, and shall be commenced within three months after the fact committed, and not otherwise.

Notice of action.

33. And notice in writing of such action or prosecution and of the cause thereof, shall be given to the defendant, one month at least before the commencement of the action or prosecution.

General issue may be pleaded, &c.

34. In any such action or prosecution, the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon.

Plaintiff not to recover if awards are endered.

35. No plaintiff shall recover in any such action, if tender of sufficient amends was made before such action brought, or if a sufficient sum of money has been paid into Court after such action brughot by or on behalf of the defendant.

If the defendant is successful.

36. If a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues any such action or prosecution after issue joined, or if, upon demurrer or otherwise, judgment be given against the plaintiff, the defendant shall recover his full costs and have the like remedy for the same as any defendant hath by law in other cases

No. 97.

1st Session, 1st Parliament, 31

BILL.

An Act respecting the trial ment of Juvenile Offenders

Received and read, first tim 27th April, 1868.

Second reading, Tuesday, 1868.

Hon. Sir JOHN A. MA

OTTAWA:

PRINTED BY HUNTER, ROSE &

No. 98.] **BILL.** [1868.

An Act respecting the Manufacture or Importation of Copper Coins or Tokens.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Prenmble.

1. Except the lawful copper coin of the United Kingdom, or copper coins legally current in Canada, under any Act then in force in Canada, or in any of the Provinces in Canada, or any Proclamation issued under the authority of any such Act, no person, body politic or corporate, shall, without authority from the Governor in Council, import into Canada, or manufacture therein any Copper or Brass Coin or Tokens of any description. Copper Coin or not to be imported or manufactured without permission.

2. The Governor in Council may grant such permission to any certain person, body politic or corporate, whom he sees fit to authorize to import or manufacture any such Coins or Tokens, whereof a description, the quantity thereof to be imported or manufactured, and the time during which such permission shall be in force, shall be mentioned in the order in Council; and such permission shall be announced in the Official Gazette. Permission may be granted by the Governor in Council.

3. No Coins or Tokens imported or manufactured as aforesaid, shall in purity, weight and quality, be of less intrinsic value in proportion to their nominal or face value, than British Copper Coins are to their nominal value; and no such permission shall be granted for the importation or manufacture of any Copper or Brass Coins or Tokens, under the provision of this Act, by any person, body politic or corporate, unless such Coins or Tokens be stamped with the nominal value thereof, and with the name of the person, or body politic or corporate to whom the permission is granted. Conditions of such permission.

4. The person, body corporate or politic, to whom such permission is granted, shall on demand pay or redeem such Coins and Tokens at the nominal value thereof, as in payment of a debt equal to such nominal value, and shall so pay or redeem the same in lawful current Coin being a legal tender in Canada, or in that Province in which the Coins or Tokens are presented for redemption. Such Coin or Tokens to be redeemable on demand.

5. Whosoever without authority of the Governor in Council, manufactures in Canada any Brass or Copper Coin or Tokens or imports into Canada any Copper or Brass Coin or Tokens, other than such as are lawfully current therein, under any Act or law then in force in any of the Provinces constituting Canada, with the intention of putting the same into circulation as current Coin or Tokens, shall incur a penalty not exceeding *twenty dollars*, for every pound Troy of the weight thereof; and all such Coin or Tokens as aforesaid imported or manufactured shall be forfeited to Her Majesty, for the public uses of Canada. Penalty for unauthorized manufacture of copper coin.

Seizure of such coin.

6. Any two or more Justices of the Peace, on the oath of a credible person, that any such Coin or Tokens have been unlawfully manufactured or imported as aforesaid, shall cause the same to be seized and detained, and shall summon the person in whose possession the same has been found, to appear before them, and if it appears to their satisfaction, on the oath of a credible witness, other than the informer, that such Coin or Tokens have been manufactured or imported in contravention of this Act, such Justices shall declare the same forfeited, and shall place them in safe keeping to await the disposal of the Governor, for the public uses of Canada.

When penalty to be enforced.

7. If in like manner, it appears to the satisfaction of such Justices, that the person in whose possession such Coin or Tokens were found knew the same to have been so illegally manufactured or imported, they may condemn the offender to pay the penalty aforesaid with costs, and may commit him to the Common Gaol of the district, county or place, or other place of confinement, for a period not exceeding two months, if such penalty and costs are not forthwith paid, or until the same be paid.

Recovery of penalty from the owner in certain cases.

8. If it appears to the satisfaction of such Justices of the Peace, that the person in whose possession such Coins or Tokens were found, was not aware of their having been so illegally manufactured or imported, the penalty may, on the oath of any one credible witness other than the plaintiff, be recovered, from the owner thereof, by any person who sues for the same in any Court of competent jurisdiction.

Officer of customs may seize such coin.

9. Any officer of Her Majesty's Customs may seize any Coin or Tokens, imported or attempted to be imported into Canada in contravention of this Act, and may detain the same as forfeited, to await the disposal of the Governor, for the public uses of Canada.

Uttering illegal copper coin.

10. Whosoever utters, tenders, or offers in payment any Copper or Brass Coin, other than current Coin or Tokens issued under lawful authority, or such Coins or Tokens as have been lawfully imported into, or manufactured in Canada, according to the provisions of any Act or law heretofore in force in any of the Provinces now constituting Canada, shall forfeit double the nominal value thereof.

Recovery of penalty.

11. Such penalty may be recovered, with costs, in a summary manner, on the oath of one credible witness, other than the informer, before any Justice of the Peace, who if such penalty and costs be not forthwith paid, may commit the offender to the Common Gaol of the district, county or place or other place of confinement, for a period not exceeding eight days, or until the same be paid, if sooner paid.

Disposal of penalties.

12. One moiety of any of the penalties imposed by any of the next preceding six sections of this Act (but not the Coins or Tokens forfeited under the provisions thereof), shall go to the informer or person suing for the same, and the other moiety shall belong to Her Majesty for the public uses of Canada.

Interpretation.

13. The words "Copper or Brass Coins or Tokens" in this Act shall include Coins or Tokens of Bronze, or of any other mixed metal, or other than gold or silver.

No. 98.

1st Session, 1st Parliament, 31 Vict., 1868

BILL.

An Act respecting the Importation or Manufacture of Copper Coins or Tokens.

Received and read first time, Monday, 27th April, 1868.

Second reading, Tuesday, 28th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

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No. 99.] **BILL.** [1868.

An Act respecting persons in custody charged with High Treason or Felony.

WHEREAS it is expedient to make provision for the safe custody of persons charged with High Treason or Felony; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

Governor in Council may order the removal of such persons from one gaol to another, in case of insecurity of gaol, &c.

1. If from the insecurity or unfitness of any gaol of any county or district, for the safe custody of persons charged with the crimes of High Treason or Felony, or if from any other cause it shall seem expedient to the Governor in Council so to do, it shall be lawful for the Governor in Council to order that any person or persons charged with the said crimes, or either of them, confined in such gaol, shall be removed to any other gaol or any other county or district in the same Province, to be named in such order, there to be detained until discharged in due course of law, or removed for the purpose of trial to the gaol of the county or district in which the trial is to take place; and a copy of such order, certified by the Clerk of the Queen's Privy Council for Canada, or by any person acting as such Clerk, shall be a sufficient authority to the Sheriffs and Gaolers of the counties or districts respectively named in such order to deliver over and to receive the bodies of any person or persons named in such order.

And direct Sheriff to remove them.

2. It shall be lawful for the Governor in Council to direct in any such order that the Sheriff in whose custody the person or persons to be removed may then be, shall convey the said person or persons to the gaol of the county or district in which they are to be confined, and to direct the Sheriff or Gaoler of such county or district to receive the said person or persons, and to detain him or them until he or they shall be discharged in due course of law, or be removed for the purpose of trial to any other county or district.

Removal for trial into County where indictment is found.

3. If a True Bill for High Treason or Felony, except for Felony under the provisions of the Act of the present Session, chapter fourteen, shall afterwards be returned by any Grand Jury of the county or district from which any such person may have been removed, against any such person, it shall be lawful for the Court into which such True Bill shall have been returned, to make an order for the removal of any person against whom such bill shall have been found, from the gaol in which he shall then be confined, to the gaol of the county or district in which such Court may be sitting, for the purpose of his being tried in such county or district.

No. 99.

1st Session, 1st Parliament, 31 Victoria, 1868

BILL.

An Act respecting persons in custody charged with High Treason or Felony.

Received and read, first time, Monday, 27th April, 1868.

Second reading, Tuesday, 28th April, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

100

No. 100.] BILL. 1868.

An Act for the regulation of Fishing and protection of Fisheries.

(NOTE.—*The portions of clauses printed between brackets thus* [ ] *are proposed to be moved and inserted in Committee.*)

HER Majesty, by and with the advice and consent of the Senate and Commons of Canada, enacts as follows : Preamble.

FISHERY OFFICERS.

1. The Governor may appoint Fishery Officers, whose powers and duties shall be defined by this Act and the Regulations made under it, and by instructions from the Department of Marine and Fisheries; and every Officer so appointed under oath of office and instructed to exercise magisterial powers, shall be *ex officio* a Justice of the Peace for all the purposes of this Act and the Regulations made under it, within the limits for which he is appointed to act as such Fishery Officer : Fishery Officers to be appointed. Powers and duties.

2. Each Fishery Officer shall take and subscribe the following oath :— Oath of Office.

" I, A. B., a Fishery Officer in and for the district described " in my appointment, do solemnly swear, that to the best of " my judgment, I will faithfully, honestly and impartially " fulfil, execute and perform the office and duty of such Officer " according to the true intent and meaning of the Fisheries Act " and Regulations, and in accordance with my instructions. " So help me God. "

FISHERY LEASES AND LICENSES.

2. The Minister of Marine and Fisheries may, where the exclusive right of fishing does not already exist by law, issue or authorize to be issued fishery leases and licenses for fisheries and fishing wheresoever situated or carried on ; but leases or licenses for any term exceeding nine years shall be issued only under authority of an Order of the Governor in Council. Fishery leases and licences. If for more than nine years.

DEEP SEA FISHERIES.

3. Every subject of Her Majesty may use vacant public property, such as by law is common and accessory to public As right to use vacant public

property for fishing purposes and as to taking bait,&c.

rights of fishery and navigation, for the purposes of landing, salting, curing and drying fish, and may cut wood thereon for such purposes, and no other person shall occupy the same station unless it shall have been abandoned by the first occupant for twelve consecutive months; and at the expiration of that period any new occupier shall pay the value of flakes and stages and other property thereon of which he may take possession, or the buildings and improvements may be removed by the original owner; and all subjects of Her Majesty may take bait or fish in any of the harbours or roadsteads, creeks or rivers; subject always, and in every case, to the provisions of this Act as affects the leasing or licensing of fisheries and fishing stations; but no property leased or licensed shall be deemed vacant.

Proviso.

COD FISHERY.

Nets for taken Cod.

4. No one shall use mackerel, herring nor caplin seines for taking codfish, and no codfish seine shall be of a less sized mesh than four inches in extension in the arms, and three inches in the bunt or bottom of the seine.

WHALE FISHERY.

Whales &c., not to be killed by rockets or shells. Penalty.

5. Whales, seals and porpoises shall not be hunted or killed by means of rockets, explosive instruments or shells, under a penalty not exceeding *three hundred dollars*, or at least three months' and not exceeding six months' imprisonment, in default of payment.

SEAL FISHERY.

Sedentary fisheries not be disturbed.

Penalty.

6. During the time of fishing for seals, no one shall, with boat or vessel, knowingly or wilfully, disturb, impede or injure any sedentary seal fishery, nor prevent, hinder or frighten the shoals of seals coming into such fishery, under a penalty not to exceed *sixty dollars* for each offence, or imprisonment in default of payment not exceeding one month; the defendant being also liable for damages, to be adjudged by any Fishery Officer or other magistrate before whom the injured party may complain:

Disputes as to Seal fisheries how settled.

2. Disputes between occupiers of seal fisheries concerning limits and the mode of fishing or setting nets, shall be decided summarily by any Fishery Officer or other magistrate, on the report of arbitrators, and any damages assessed or accrued, or that may afterwards arise out of a repetition or continuance of the difficulty ordered to be remedied, may be levied under the warrant of any Fishery Officer or other magistrate.

SALMON FISHERY.

Close Season

7. Salmon shall not be fished for, caught or killed, between the thirty-first day of July and the first day of May, in the

Provinces of Ontario and Quebec, and between the fifteenth day of August and the first day of March, in the Province of New Brunswick; provided always, that it shall be lawful to fish for, catch and kill salmon with a rod and line, in the manner known as fly-surface-fishing, between the thirtieth day of April and the thirty-first day of August, in the Provinces of Ontario and Quebec, and between the first day of March and the fifteenth day of September, in the Province of New Brunswick :

Proviso as to fly surface fishing.

2. Salmon shall not be fished for, caught or killed in the Province of Nova Scotia, save as provided and authorized by the laws now in force in that Province ;

In Nova Scotia.

3. Foul or unclean salmon shall not be at any time caught or killed ;

Foul Salmon.

4. Salmon fry, parr and smolt, shall not be at any time fished for, caught or killed, and no salmon or grilse of less weight than three pounds shall be caught or killed ; but where caught by accident in nets lawfully used for other fish, they shall be liberated alive at the cost and risk of the owner of the fishery, on whom shall in every case devolve the proof of such actual liberation ;

Fry, parr, or smolt not to be killed.

5. Meshes of nets used for capturing salmon, shall be at least five inches in extension, and nothing shall be done to practically diminish or nullify their size ;

Size of meshes of Salmon nets.

6. The use of nets or other apparatus which capture salmon shall, except in the Provinces of Nova Scotia and New Brunswick, be confined to tidal waters, and any Fishery Officer may determine the length and place of each net or other apparatus used in any of the waters of the Dominion; provided, that nothing contained in this section shall prevent the use of nets for catching salmon in the lakes of the Province of Ontario, nor preclude the Minister from authorizing, by special fishery licenses or leases, the capture of salmon by nets in fresh water streams ;

Use of nets regulated.

Proviso as to Ontario, &c.

7. The Minister, or any Fishery Officer authorized to such effect, shall have power to define the tidal boundary of estuary fishing for the purposes of this Act; and above the actual limit so to be laid down, it shall be unlawful, without the special fishery lease or license above provided for, to fish for salmon except with a rod and line, in the manner known as fly-surface-fishing, under a penalty not to exceed *one hundred dollars*, and imprisonment in default of payment for any term not exceeding two months ;

Boundaries of estuary fishing.

8. All nets, or other lawful appliances which capture salmon, shall be placed at distances of not less than two hundred and fifty yards apart, without intermediate fishing materials of

Distance of nets apart, &c.

any kind being set or used in and about any other part of the stream, and drifting for salmon shall be illegal ;

Further distance may be prescribed.

Proviso.

9. Any Fishery Officer may prescribe either in writing or orally on sight, if deemed necessary, a further distance apart to be left between salmon nets, or other fishing apparatus, and their dimensions and extension ; but gill or float-nets shall not be used to lengthen, extend or enlarge any other kind of fishery ;

As to spawning rivers.

10. No salmon shall be captured within two hundred yards of the mouth of any tributary creek or stream which salmon frequent to spawn ;

Mode of killing at certain places.

11. Except in the manner known as fly-surface-fishing with a rod and line, salmon shall not be fished for, caught or killed at any artificial pass or salmon leap, nor in any pool where salmon spawn ;

Salmon spawn.

12. Except under the authority and for the special purpose provided for in this Act, no one shall take, buy, sell, destroy, use or possess any salmon roe, nor injure any spawning bed.

LAKE AND RIVER TROUT FISHERY.

Not to be killed in certain ways at certain seasons.

Proviso.

Speckled trout.

8. It shall not be lawful to fish for, catch or kill any kind of trout (or " lunge ") in any way whatever between the first day of October and the first day of January ; and no one shall at any time fish for, catch or kill trout by other means than angling by hand with hook and line, in any inland lake, river or stream, except in tidal waters ; Provided always, that as affecting the waters of the Province of Ontario, such prohibitions shall apply only to the kind known as " Speckled trout " :

Exception as to fish used for bait, &c.,

2. Nothing in the above clause shall prevent the use of small sized trout for the *bonâ fide* purpose of baiting traps, nor affect the taking and using the same by fishermen as bait for codfishing in tidal waters, nor subject them to penalty if by accident in *bonâ fide* fishing for herrings or white-fish by means of nets trout shall become enclosed or taken.

WHITE-FISH AND SALMON TROUT FISHERY.

Close season for White Fish.

9. It shall not be lawful to fish for or catch white-fish in any manner between the nineteenth day of November and the first day of December, nor by means of any kind of seine, between the thirtieth day of May and first day of August, in the Province of Ontario, or between the thirty-first day of July and first day of December in the Province of Quebec, nor shall the fry of the same be at any time destroyed :

2. Gill nets for catching salmon trout or white-fish, shall have meshes of at least five inches extension measure; and gill nets shall not be set within two miles of any seining ground; Gill nets.

3. Seines for catching white-fish shall have meshes of not less than four inches extension measure. Seines.

BASS AND PICKEREL FISHERY.

10. Close-seasons for bass, pike, pickerel (*dorée*), maskinongé and other fish, may be fixed by the Governor in Council to suit different localities. Close Season.

POSSESSION OF FISH.

11. No one shall, without lawful excuse, the proof of which shall devolve wholly on the party charged, buy, sell or possess any fish named in this Act, or parts thereof, caught or killed during seasons when and by means whereof catching or killing the same is prohibited by law : Prohibition to buy, sell, or have in close season.

2. It shall be the duty of every customs officer, excise officer, police officer or constable, clerk of a market or other party in charge of any market-place in any village, town or city, to seize and forfeit on view to his own proper use, or gift, any fish enumerated in this Act, caught or killed during prohibited seasons, or which appears to have been killed by unlawful means; but every such seizure and appropriation, with the date, place, and circumstances thereof, shall be duly reported, together with the name, residence and calling of the person in whose possession such fish was found, to the Fishery Officer having jurisdiction over the district within which such seizure, forfeiture and appropriation have taken place. Certain Officers to seize fish exposed for sale in close season. And report the same.

CONSTRUCTION OF FISHWAYS.

12. Every dam, slide, or other obstruction across or in any stream where the Minister may determine it to be necessary for the public interest that a fish-pass should exist, shall be provided by the owner or occupier with a durable and efficient fishway, to be maintained in practical and effective condition, in whatever place and of whatever form and capacity will admit of the passage of fish through the same, (which place, form and capacity any Fishery Officer may by written notice determine) under a penalty of *four dollars* for each day during which any such obstruction remains unprovided with a fishway after three days' notice in writing to the owner or occupier thereof: To be made where and in such manner as Fishery Officer may determine. Penalty.

2. Fishways shall be kept open and unobstructed and be supplied with a sufficient quantity of water to fulfil the purposes of this enactment, during such times as may be required by any Fishery Officer; To be kept open, &c.

Minister may pay one half the cost.

3. [The Minister may authorize the payment of one-half of the expense incurred by such owner or occupier in constructing and maintaining any fishway ;]

May construct and recover the cost in certain cases.

4. Should it be expedient to procure the construction of any fishway pending proceedings against any owner or occupier for the penalty imposed by this Act, the Minister may give directions to make and complete the same forthwith, and to enter upon the premises with the necessary workmen, means and materials, and may recover from the owner or occupier the whole expense so incurred by action before any competent tribunal ;

Not to be obstructed or injured.

4. No person shall injure or obstruct any fishway, nor do anything to deter or hinder fish from entering and ascending or descending the same, nor injure or obstruct any authorized barrier.

GENERAL PROHIBITIONS.

Penalty for fishing in limits leased to another.

Right of lessee, &c.

Proviso.

13. Whosoever fishes for, takes, catches or kills fish in any water, or along any beach, or within any fishery limits described in any lease or license, or places, uses, draws or sets therein any fishing gear or apparatus, except by permission of the occupant under such lease or license for the time being, or disturbs or injures any fishery, shall incur a penalty not exceeding *one hundred dollars*, with costs, or imprisonment not exceeding two months, and the forfeiture of fishing apparatus so used, and all fish taken or caught; and any Fishery Officer or any such lessee or licensee may, upon his own view, forthwith seize and remove any net or apparatus so used in trespass, to be afterwards dealt with according to law; provided always, that the occupation of any fishing station or waters so leased or licensed for the express purpose of net fishing shall not interfere with the taking of bait used for codfishing, nor prevent angling for other purposes than those of trade and commerce :

Navigation not to be obstructed.

2. Seines, nets or other fishing apparatus, shall not be set in such a manner, or in such places as to obstruct the navigation with boats and vessels, and no boats or vessels shall be permitted to destroy or wantonly injure in any way, any seines, nets or other fishing apparatus lawfully set ;

Stakes to be removed.

3. Stakes or other timber placed for fishing purposes in any water shall be removed by the user within forty-eight hours after last using the same, or at the expiry of the fishing season ;

Main channels not to be obstructed.

4. The main channel or course of any stream shall not be obstructed by any nets or other fishing apparatus ; and one-third of the course of any river or stream, and not less than two-thirds of the main channel at low tide, in every tidal stream, shall be

always left open, and no kind of fishing apparatus or material shall be used or placed therein; provided that weirs used exclusively for catching eels, and the usage of mill-dams for catching eels, shall be subject to interference only in cases where, and at times when, they injure other fisheries, or by completely barring any passage, shall deprive other weirs of a share in the run of eels, and such place, time and circumstance may be determined by any Fishery Officer; Proviso: as to eel fishing.

5. No net or other device shall be so used as entirely to obstruct the passage of fish to and from any of the waters of the Dominion by any of the ordinary channels connecting such waters, or debar their passage to and from accustomed resorts for spawning and increasing their species; No net, &c., to obstruct entirely the passage of fish.

6. The catching, killing or molesting of fish when passing or attempting to pass through any fishway, or fishpass, or in surmounting any obstacle or leaps—the use of any invention to catch, kill or molest fish in the mill-dams, fishways, mill-heads and water-courses appurtenant thereto, are hereby forbidden; Killing fish at certain places forbidden.

7. Bag-nets and trap-nets and fish-pounds are prohibited, except under special licenses for capturing deep-sea fishes, other than salmon; Certain nets forbidden.

8. It shall not be lawful to fish for, catch or kill salmon, trout (or "lunge") of any kind, maskinongé, winnoniche, bass, bar-fish, pickerel, white-fish, herring, or shad, by means of spear, grapnel hooks, negog, or nishagans, nor by aid of torchlight, or any other artificial light; provided, the Minister may appropriate and license or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in and at whatever manner and time are specified in the license or lease, and may permit spearing in certain localities; Fish not to be killed in certain ways. Proviso: as to Indians.

9. No person shall fish for, catch, kill, buy, sell or possess the young of any of the fish named in this Act, or in any Regulation or Regulations under it; Young of fish.

10. Seines for bar-fish, shall have meshes of not less than three inches, extension measure; Seines for bar-fish.

11. Fishery Officers may determine or prescribe the distance between each and every fishery, and shall forthwith remove any fishery which the owner neglects or refuses to remove, and such owner shall be moreover liable for a breach of this Act, and for the cost and damages of removing the same; Distance between fisheries.

12. Every fascine fishery with a box-trap (*coffre*), instead of pound, shall have across the outside end of such box (*coffre*) a wire covering or a net work, the meshes of which shall be at least one inch square; but this shall not apply to eel weirs during autumn; Fascine fisheries with box-traps.

Nets &c., in small rivers.

13. Nets or other fishing apparatus shall not be so used as to impede or divert the course of fish in any small rivers.

Fish to be allowed free passage on Sunday.

14. From the time of low water nearest six of the clock in the evening on every Saturday, and the time of low water nearest six of the clock in the morning on every Monday, in tidal waters, and from six of the clock in the evening on every Saturday to six of the clock in the morning of the following Monday, in fresh water, seines, nets or other apparatus used for catching fish shall be so raised or adapted as to admit of the free passage of fish through, past or out of the same, for the purpose of affording a free pass from six of the clock on every Saturday evening to six of the clock on every following Monday morning; and during this close time it shall be unlawful to catch fish by such means; and any fish so taken, caught or killed, together with the nets or other apparatus used, shall be forfeited, in addition to the penalties imposed by this Act.

And forfeited if then taken.

INJURIES TO FISHING GROUNDS AND POLLUTION OF RIVERS.

Penalty for throwing overboard certain substances prejudicial to fisheries.

14. Whoever throws overboard ballast, coal ashes, stones, or other prejudicial or deleterious substances, in any river, harbour or roadstead, or any water where fishing is carried on, or throws overboard or lets fall upon any fishing bank or ground, or leaves, or deposits, or causes to be thrown, left, or deposited upon the shore, beach, or bank of any water, or upon the beach between high and low water mark, inside of any tidal estuary, or within two hundred yards of the mouth of any salmon river, remains or offals of fish, or of marine animals, or leaves decayed or decaying fish in any net or other fishing apparatus, shall incur for any such offence a fine not exceeding *one hundred dollars*, or imprisonment for not more than two months; and every person so doing, whether master or servant, and the master or owner of any vessel or boat from which such ballast, or offals, or other prejudicial substance are thrown, shall severally become liable for each offence; provided always, that it shall be lawful to bury such remains, or offals ashore, beyond high water mark, and at establishments situated inside of the mouths of rivers, for carrying on deep sea fisheries, to drop the same into perforated boxes or enclosures built upon the beach, or under stage-heads, in such manner as to prevent the same from being floated or drifted into the streams, or to dispose of them in such other manner as may be prescribed by any Fishery Officer:

Proviso.

Poisonous substances not to be used.

2. Lime, chemical substances or drugs, poisonous matter, (liquid or solid,) dead or decaying fish, or any other deleterious substance, shall not be drawn into, or allowed to pass into, be left or remain in any water frequented by any of the kinds of fish mentioned in this Act; and saw-dust or mill-rubbish shall not be drifted or thrown into any stream frequented by fish, under a penalty not exceeding *one hundred dollars*: Provided

Saw-dust.

Proviso.

always that the Minister shall have power to exempt from the operation of this subsection, wholly or from any portion of the same, any stream or streams in which he considers that its enforcement is not requisite for the public interest;

Penalty for kindling fires in certain places at certain times.

3. Whoever at any time between the first day of June and the thirtieth day of September, of any year, kindles, makes or places any fire in or near any wood, trees, brushwood, or any wild or uncultivated land, at any place north of the River or Gulf of St. Lawrence, to the east or north of the Saguenay River, or on any of the islands below or to the eastward of Red Island, within the said river or gulf, whereby the fire spreads or extends through standing trees, brushwood or scrub, to a distance exceeding one arpent, shall for such offence, incur a penalty not exceeding *fifty dollars*, and shall besides be responsible to the Crown, or whoever may be the owner of the land, for all damages occasioned by such fire; provided, that nothing herein contained shall prevent proprietors from burning the wood, trees or brushwood on their own land, or otherwise using fire to clear their lands, without injury or prejudice to their neighbours.

Proviso.

MISCELLANEOUS PROVISIONS.

Waters may be set apart for the propagation of fish.

15. The Minister may authorize to be set apart, and to be leased, any river or other water for the natural or artificial propagation of fish; and any person who wilfully destroys or injures any place set apart or used for the propagation of fish, or fishes therein without written permission from a Fishery Officer, or from the holder under lease or license, or uses therein any fishing light or other implement for fishing, during the period for which such waters are so set apart, shall incur a fine not exceeding *two hundred dollars*, or in default of payment, shall be imprisoned for not more than four months:

Penalty for trespass.

Licences to take spawn, &c.

2. Nothing contained in this Act shall preclude the granting by the Minister of written permission to obtain fish and fish spawn, for purposes of stocking or artificial breeding, or for scientific purposes;

Fishery lessees in arrears.

3. Lessees or licensees of fisheries shall have no claim to renewal of leases or licenses if in arrears of rent or percentage, during four months after the same is due, and any lessee or licensee convicted of an infraction of this Act, or any Regulation or Regulations under it, shall be liable to forfeit his lease or license;

Special licenses for Oyster beds.

4. Special licenses and leases for any term of years, may be granted to any party or parties who may wish to plant or form oyster beds in any of the bays, inlets, harbours, creeks or rivers, or between any of the islands on the coast of Canada; and the holder of any such lease or license shall have the

exclusive right to oysters produced or found on the beds, within the limits of such license, for the term of such lease ;

Minister may expend Parliamentary Grant for making or restocking Oyster beds.

5. The Minister may authorize to be expended annually any sum appropriated by Parliament, for the formation of oyster beds in various waters and places found adapted for that purpose, and transplanting oysters, and towards re-stocking exhausted fisheries by natural or artificial means, and to improve streams where natural obstructions exist, and may authorize the construction, erection or placing of any artificial barrier or grating in any stream or river, or in any water-course, and in the channels or beds thereof ;

Protection of oyster beds.

6. With a view to protect the oyster beds in different parts of the bays and coasts of the Dominion, it shall not be lawful for any person to take oysters, or in any way to injure or disturb such oyster beds, except during times and on terms permitted by Regulation or Regulations under this Act, under a penalty of not more than *one hundred dollars*, nor less than *forty dollars*, together with the forfeiture of the vessel and all the apparatus employed therein ; and in default of payment, the party convicted shall be imprisoned for not less than one month, nor more than two months ;

Penalty.

Shell-fish Fisheries.

7. Shell-fish fisheries shall be subject to the provisions of this Act, and any Regulation or Regulations to be made under it.

FINES AND FORFEITURES.

Penalty in cases where no other is provided.

16. Except for offences to which penalties are already attached, each and every offender against the provisions of this Act, or the Regulations under it, shall for each offence incur a fine of not more than *twenty dollars*, besides all costs; and in default of payment of each fine, shall be imprisoned in each case for not less than eight days, and not exceeding one month ;

Proviso.

provided, whenever it shall appear to the satisfaction of the convicting magistrate, that the offence has been committed in ignorance of the law, and that because of the poverty of the defendant, the penalty imposed would be oppressive, a discretionary power may be exercised, and any Fishery Officer or other magistrate may grant a warrant of distress for the amount of fine and costs imposed in any case :

Separate offence on each day.

2. The contravention on any day of any of the provisions of this Act, or of any Regulation made under it, shall constitute a separate offence, and may be punished accordingly ;

Distress for penalty &c.

3. Should any defendant have goods and chattels whereon the costs may be levied, the complainant may distrain for the amount under warrant by any Fishery Officer or other magistrate, notwithstanding the imprisonment of the party convicted and fined ;

4. All materials, implements or appliances used, and all fish had in contravention to this Act or any Regulation or Regulations under it, shall be confiscated to Her Majesty, and may be seized and confiscated on view by any Fishery Officer, or taken and removed by any person for delivery to any magistrate, and the proceeds of disposal thereof may be applied towards defraying expenses under this Act ; Forfeiture of articles used in contravention of this Act.

5. One moiety of every fine or penalty levied by virtue of this Act, shall belong to Her Majesty, and the remaining half thereof shall be paid to the prosecutor, together with costs taxed to him for attendance as a witness or otherwise. Appropriation of pecuniary penalties.

6. Her Majesty's share of each fine or penalty and all proceeds derived from the sale of confiscated articles under this Act, shall be paid to the Receiver General through the Department of Marine and Fisheries, and be applied towards the expenses incurred for the protection of fisheries; and persons aggrieved by any such conviction may appeal by petition to the Minister, who shall have power to remit fines and restore forfeitures under this Act. How paid. Appeal to Minister.

MODE OF RECOVERY.

17. Each penalty or forfeiture imposed by this Act, or Regulations made under it, may be recovered, on parole complaint, before any Fishery Officer, stipendiary or other magistrate, in a summary manner, on the oath of one credible witness : Before whom to be sued for.

2. Three days shall elapse between the service and the return of summons to any defendant for the first five leagues, and one day more for each additional five leagues of the distance between the place at which the summons is dated and the place of service ; Provided that, when it is expedient to proceed against a defendant without delay, any Fishery Officer or other magistrate may issue a summons, returnable immediately, to compel the defendant to appear before him forthwith, or may issue a warrant for the apprehension of such defendant simultaneously with the summons; Service of Summons, &c. Proviso : for cases not admitting delay.

3. Penalties incurred under this Act, or the Regulations made under it, shall be sued for within two years from the commission of the offence ; Limitation of suits.

4. When not otherwise specified, every proprietor or proprietress, owner, agent, tenant, occupier, partner, or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for penalties or moneys recoverable under any of the provisions of this Act or any Regulation or Regulations under it ; Who shall be liable.

No quashing for want of Form, &c.

5. No proceeding under this Act or under any Regulation or Regulations made under it shall be dismissed, and no conviction thereunder shall be quashed for want of form; nor shall any warrant of arrest or commitment be held void by reason of any defect therein, provided it is the alleged that party has been convicted, and there is a good and valid conviction to sustain the same;

POWERS OF FISHERY OFFICERS AND OTHER MAGISTRATES.

Fishery Officer may convict on view.

18. Any Fishery Officer or other magistrate may convict upon his own view of any of the offences, both as infractions and for non-compliance, punishable under the provisions of this Act; and shall remove or cause to be removed instantly and detain any materials illegally in use:

May cause search to be made.

2. Any Fishery Officer or other magistrate may search, or shall grant a warrant to have searched, any vessel or place where there is cause to believe that any fish taken in contravention of this Act, or anything used in violation thereof may be concealed;

In what locality to be prosecuted.

3. Where any offence under this Act is committed in, upon or near any waters forming the boundary between different counties or districts, or fishery districts, such offence may be prosecuted before any magistrate in either of such counties or districts, or before the Fishery Officer for either contiguous fishery district;

Right of Fishery Officer to pass over lands.

4. In the discharge of his duties any Fishery Officer, or other person or persons by him accompanied or authorized to such effect, may enter upon and pass through or over private property without being liable for trespass;

Disputes as to boundaries.

5. Disputes between parties relative to fishing limits or claims to fishery stations, or position and usage of nets and other fishing apparatus, shall be settled by the local Fishery Officer;

Gurry-grounds.

6. Gurry-grounds may be designated or defined by any Fishery Officer;

Certain Officers in the Canadian or British Navy to have magisterial powers under this Act.

7. Any Fishery Officer, stipendiary magistrate, or commissioned officer of Her Majesty's Navy, on board of any vessel belonging to or chartered by the Canadian Government employed in the service of protecting fisheries, and each commissioned officer of Her Majesty's Navy serving on board of any vessel cruising and being in the waters, harbors or ports of Canada, for the purposes of affording protection to Her Majesty's subjects engaged in the fisheries, and to enforce any laws relating to such fisheries, shall exercise magisterial powers in all the waters, harbors or ports, and on all the coasts of the

Dominion of Canada where for the time being and for the purposes above described they are so engaged, without property qualification and without taking any oath of office;

Seizures how to be dealt with.

8. Seizures made by any Fishery Officer, Stipendiary Magistrate or Naval Officer, so acting as aforesaid, may be taken for disposal to the nearest or most convenient port where there shall reside any revenue officer or other public officer empowered to dispose of the case;

Powers of Fishery Officer &c., for the detention of prisoners when he cannot convey them to gaol.

9. Whenever it may be impracticable for any Fishery Officer, stipendiary magistrate or naval officer, acting in such capacity, to cause any prisoner or prisoners to be conveyed to, and committed to the nearest Common Goal, he shall have power to detain him or them on board of the vessel, or transfer him or them to another vessel for conveyance and delivery at the most convenient place, and with all convenient dispatch, where he or they can be duly committed into the custody of the Sheriff or other officer of the county or district in which the Common Goal is situated to which he or they shall be ordered to be committed; and until such prisoner or prisoners shall be so delivered into the immediate custody of any Sheriff or Gaoler, the Fishery Officer, Stipendiary Magistrate or Naval Officer having him or them in charge, shall have in all parts through which it may be necessary to convey any prisoner or prisoners, the same authority and power over and in regard to such person or persons, and to command the aid of any of Her Majesty's subjects in preventing his or their escape, or in retaking him or them in case of escape, as any county or district sheriff or peace officer would have while lawfully conveying a prisoner from one part to another of his own district;

Where the offence shall be held to have been committed.

10. The offence for which any person or persons may be so committed to any Common Gaol shall always be held to have taken place in the county or district to the Common Gaol of which the commitment has been actually made.

FISHERY REGULATIONS.

Governor in Council may make fishery regulations.

19. The Governor in Council may from time to time make, and from time to time vary amend or alter, all and every such Regulation or Regulations as shall be found necessary or deemed expedient for the better management and regulation of the sea-coast and inland fisheries, to prevent or remedy the obstruction and pollution of streams, to regulate and prevent fishing, to prohibit the destruction of fish and to forbid fishing except under authority of leases or licences, every of which Regulations shall have the same force and effect as if herein contained and enacted, notwithstanding that such Regulations may extend, vary or alter any of the provisions of this Act respecting the places or modes of fishing or the terms specified as prohibited or close seasons, and may fix such other modes,

And may thereby vary certain provisions of this Act.

times or places as may be deemed by the Governor in Council to be adapted to different localities, or may be thought otherwise expedient :

Publication and proof of regulations.

2. The publication of such Regulations in the *Canada Gazette*, shall be sufficient notice to give legal effect to the same ; and the production of a copy of a paper purporting to be " The Canada Gazette " and containing any such Regulation or Regulations, shall be admitted as full and sufficient evidence of the same in all courts of law or equity in Canada ;

Stating offences against this Act.

3. Every offence against any Regulation or Regulations made under this Act may be stated as in contravention of the *Fisheries Act.*

PROVINCIAL ACTS AND REGULATIONS REPEALED OR CONTINUED.

Acts and parts of Acts repealed.

20. The following Acts and parts of Acts are hereby repealed :

Can. 29 V. C. 11.

The Act passed by the Legislature of the late Province of Canada, (29 Vic. Cap. 11) intituled : *An Act to amend chapter sixty-two of the Consolidated Statutes of Canada, and to provide for the letter regulation of Fishing and protection of Fisheries*, and also the several sections of the said sixty-second chapter of the Consolidated Statutes of Canada therein excepted from repeal, Provided, always, that the Regulations of 7th May, 1859, adopted under chapter 62 of the said Consolidated Statutes of Canada, and relating to fisheries at and around the Magdalen Islands, and the Regulations of 4th August, 1866, 9th August, 1866, and 26th April, 1867, adopted under the Statute 29 Victoria, Cap. 11, shall continue in force in the Provinces of Quebec and Ontario, until amended or superseded by other Regulations under this Act :

Proviso.

N. B. 23 V. C. 52.

The Act passed by the Legislature of the Province of New Brunswick, (23 Vic. Cap. 52) intituled : *An Act relating to the Fisheries of the County of Restigouche ;*

N. B. 26 V. C. 6.

The Act passed by the said Legislature, (26 Vic. Cap. 6) intituled : *An Act relating to the Coast and River Fisheries* ;

N. B. 30 V. C. 14.

The Act passed by the said Legislature, (30 Vic. cap. 14.) intituled : *An Act to encourage the formation of Oyster Beds ;* but any Regulation or Regulations made under either of the three last mentioned Acts and not inconsistent with the provisions of the present Act, shall remain in force in the Province of New Brunswick until amended or superseded by Regulation or Regulations to be made under this Act, and shall be subject in every respect to the authority by this Act vested in the respective Fishery Officers appointed under this Act, who are hereby empowered to enforce the same ;

Proviso : as to regulations under it.

21. The following Acts shall continue in force in the Provinces of New Brunswick and Nova Scotia : Acts contained in N. B. & N. S.

An Act passed by the Legislature of the Province of New Brunswick (16 Vic. Cap. 69) intituled : *An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade ;* N. B. 16 V. C. 69.

Chapter 94, Revised Statutes, *third series*, " *Of the Coast and Deep Sea Fisheries*," as amended by subsequent Acts of the Legislature of Nova Scotia : Provided always, that such Fishery Officers as may be especially empowered in that behalf by the Governor in Council, shall also exercise the powers by the said recited Act and chapter of Acts vested in Revenue and other Officers, Sheriffs and Magistrates, and all penalties and forfeitures imposed under the same shall be paid over to the Receiver General through the Department of Marine and Fisheries to be applied towards the Fisheries Protection Service, in like manner as other fines and confiscations under the present Act ; N. S. Revised Stat. C. 94. Proviso.

Chapter 95 of the Revised Statutes of Nova Scotia, *third series*, " *Of River Fisheries* ;" Same Cap. 95.

The Act (28 Vic. Cap. 35) intituled : *An Act to amend chapter 95 of the Revised Statutes " Of River Fisheries* ;" N. S. 28 V. C. 35.

The Act (29 Vic. Cap. 35,) intituled : *An Act to amend Chapter 94 of the Revised Statutes " Of the Coast and Deep Sea Fisheries* ;" N. S. 29 V. C. 35.

The Act (29 Vic. Cap. 36,) intituled : *An Act to amend Chapter 95 of the Revised Statutes, " Of River Fisheries* ;" N. S. 29 V. C. 36.

And all Regulations adopted in pursuance of the said chapter of the said Revised Statutes or of the said Acts amending the same shall remain in force until amended or superseded by any Regulation or Regulations under this Act ; And regulations under them.

Provided always, that the powers and duties in the above named chapters and Acts devolving on the Governor in Council under the said Acts, shall vest in the Governor of Canada in Council, and the powers and duties belonging to the General or Special Sessions, and the Grand Jury shall, as affects the making of any Regulation or Regulations, order or orders, be vested in the Governor General in Council, and as affecting the appointment and control of Fishery Inspectors or Wardens, and the declaring of exemptions, shall vest in the Minister ; and any Fishery Officer or Officers appointed under this Act shall fulfil the duties of Fishery Inspectors or Wardens, and exercise the functions which by the said above recited chapters and Acts attach to justices and sheriffs, for all the purposes of the aforesaid chapters and Acts or any such Regulation or Regulations ; Proviso : as to the exercise of powers under the said Acts.

Fishery Officers to exercise powers under Rev. Stat. N. S. cap. 103.

Each and every Fishery Officer shall also exercise the power and perform the duty assigned to Commissioners, or Overseers of River Fisheries by the second section of Chapter 103, of the Revised Statutes, (*third series*) of the Province of Nova Scotia;

Penalties under the said Acts.

22. All fines and penalties levied under the several chapters and Acts recited, or under any Regulation or Regulations referred to in the two next preceding sections, shall be disposable in the same manner as if imposed and levied under the present Act.

FORMS OF PROCEDURE.

Forms of proceedings under this Act.

23. Forms of proceedings, Orders and Notices used under this Act and Regulations, may for respective processes, be in the forms prescribed in the Schedule hereunto annexed, or in any other form; and in other respects the laws relating to summary convictions and orders, shall apply to cases under this Act.

Short Title.

24. This Act shall be known and cited as *The Fisheries Act*.

SCHEDULE A.

Form of Complaint.

Province of }
County (*or* District) of }

This day of , 18 .

To J. S., a Justice of the Peace for the said County (*or* District).

A. B., of , complains that C. D. of , hath (*state the offence briefly in any intelligible terms, with the time and place at which it was committed,*) in contravention of the Fisheries Act; Wherefore the complainant prays that judgment may be given against the said C. D., as by the said Act provided.

(*Signature*) A. B.

SCHEDULE B.

Summons to Defendant.

Province of }
County (*or* District) of 18 . }

To C. D., of , &c.

Whereas complaint has (*this day*) been made before me that you (*state the offence in the words of the complaint, or to the like effect*) in contravention of the Fisheries Act : Therefore you are hereby commanded to come before me, at on the day of , at o'clock in the , to answer the said complaint and to be dealt with according to law.

Witness my hand and seal, this day of , 18 .

Justice of the Peace for

[L. S.]

SCHEDULE C.

Subpœna to a Witness.

Province of }
County (*or* District) of }

To E. F., of &c.

Whereas complaint has been made before me that C. D. did (*state the offence as in the Summons*), and I am informed that you can give material evidence in the case : Therefore, you are commanded to appear before me, at , on the day of , at o'clock in the , to testify what you know concerning the matter of the said complaint.

Witness my hand and seal, this day of 18 .

J. S.,
(*as in Summons.*)

[L. S.]

SCHEDULE D.

Form of Conviction.

Province of }
County (*or* District) of }

Be it remembered, that on this day of 18 , at in the said County (*or* District), C. D., of , is convicted before me, for that he did, &c. (*stating the offence briefly, and the time and place where committed*), in contravention of the Fisheries Act ; And I adjudge the said C. D. to forfeit (and pay) the sum of (*or mention the thing forfeited under this Act*), to be applied according to law, and also to pay to A. B. (*the complainant*) the sum of for costs :

(*If the penalty be not forthwith paid, add*), and the said C. D. having failed to pay the said penalty and costs forthwith after the said conviction, I adjudge him to be committed to and imprisoned in the Common Gaol of the County (*or* District) of for the period of

Witness my hand and seal, this day of , 18 .

J. S.,
(*as in Summons.*)
[L. S.]

SCHEDULE E.

Form of Warrant of Commitment for non-payment of penalty or forfeiture and costs.

Province of }
County (*or* District) of }

To the Constable and Peace Officers of the County (*or* District) of and the Keeper of the Common Gaol of the said County (*or* District), at

Whereas C. D., of , was on the day of 18 , convicted before me, for that he, &c. (*as in Conviction*), and I did thereupon adjudge the said C. D. to forfeit and pay to A. B., &c. (*as in Conviction ;*) And whereas the said C. D. hath not paid the said penalty or forfeiture and costs : Therefore, I command you, the said Constables and Peace Officers, or any of you, to convey the said C. D. to the Common Gaol for the of , at and deliver him to the keeper thereof with this warrant ; and

I command you the said keeper of the said Gaol, to receive the said C. D. into your custody, and keep him safely imprisoned in the said Gaol for the space of , and for so doing this shall be your sufficient warrant.

Witness my hand and seal, this day of , 18 .

J. S.,
(*as in Summons.*)
[L. S.]

[No. 100.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act for the regulation of Fishing and protection of Fisheries.

Received and read first time, Monday, 27th April, 1868.

Second reading, Tuesday, 28th April, 1868.

Hon. Sir John A. Macdonald.

Printed by G. E. Desbarats.

No. 101.] **BILL.** [1868.

An Act to incorporate "The Canadian Lake Underwriters' Association."

WHEREAS the Provincial Insurance Company of Canada, the British America Assurance Company, and other Insurance Companies, have, by their petition, represented that on the seventeenth day of February, in the year of our Lord one thousand eight hundred and sixty-two, they formed themselves into an Association called "The Association of Canadian Lake Underwriters," for the purpose of adopting a uniform system of inspection and classification of all Steamers and Sailing Vessels navigating the St. Lawrence above Montreal, and the inland waters of Canada,—the investigation into the capacity and character of masters and officers of vessels, and into the causes of marine losses and disasters, and other like purposes; that they have, through their Agents and Inspectors, obtained valuable information on these subjects, from which, they have reason to believe, the commercial community has derived great benefit, and that they are desirous of obtaining a special Act of incorporation with a view to promoting more effectually the objects of the said Association, and it is expedient to grant their prayer; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of the Dominion of Canada, enacts as follows:— Preamble.

1. The Provincial Insurance Company of Canada, the British America Assurance Company, and the Western Assurance Company, and such other Insurance Companies as may associate with them, are hereby constituted a body corporate and politic, by the name of "The Canadian Lake Underwriters' Association," for the purpose of collecting and disseminating information upon subjects of marine or commercial interest, of encouraging and advancing worthy and well qualified commanders and other officers of steamers or sailing vessels in the merchant service, of ascertaining and certifying the qualifications of such persons as shall apply to be recommended as such commanders or officers, and of promoting the security of life and property on the inland waters of Canada, between the Port of Montreal and the head of Lakes Huron and Superior. Association incorporated. General objects.

2. The said Corporation shall have power to make and adopt a Constitution and By-laws, Rules and Regulations, for the purposes, objects and government thereof, for the admission of new associate companies, for granting masters and other officers of vessels certificates of competency, for the regulation and payment of fees and dues, and for the management of its funds and property, and from time to time to alter, modify and repeal the same. Constitution to be adopted.

3. The said Corporation may purchase and hold any real estate necessary for actual use and occupation, to an extent not exceeding in value five thousand dollars per annum; and may apply its funds and property, from time to time, in bestowing premiums or medals for praiseworthy acts in the merchant service, and in such other ways as may seem conducive to the purposes aforesaid. Power to hold real estate.

Board of Managers.

4. The business, property and affairs of the said Corporation shall be under the control of a Board of Managers, consisting of the President, the Vice-President and the Secretary or General Manager for the time being, of each of the Insurance Companies associated with it; but any such Company may, at their option, select some other person from among their Directors, to represent them in lieu of their President, Vice-President, Secretary or Manager; and the person so chosen shall continue in office until the first meeting of the Directors of such Company after the annual election; and if his place at the Board become vacant by death, resignation or otherwise, another Director may be selected by the said Company to fill the same for the remainder of the term.

Provisional Board.

5. The Honorable John Hillyard Cameron, the Honorable John McMurrich, George Percival Ridout, the Honorable William Cayley, Charles Magrath, Lewis Moffatt, James Sydney Crocker, Barnard Haldan, Thomas W. Birchall,

shall constitute the first Board of Managers, and shall continue in office until the third Monday in December next after the passing of this Act, when they shall be replaced by a Board constituted in the manner provided by the last preceding section.

Inspectors may be appointed.

6. The Board of Managers may, from time to time, appoint one or more persons as Inspectors, to report to them upon the following matters, that is to say:

1. Upon the nature and causes of any accident or damage which any vessel has sustained or caused, or is alleged to have sustained or caused, or to any goods, merchandise, or other things whatsoever, aboard such vessel.

2. Whether the provisions of the Act respecting the Navigation of Canadian waters, or any regulations made under or by virtue thereof, have been complied with.

3. Whether the hull, rigging, equipments and appurtenances of vessels are sufficient and in good condition.

May inspect vessels.

7. Every such Inspector, while the navigation is closed, shall have power to go on board any vessel and inspect the same or any part thereof, or any of the boats, equipments or articles on board thereof.

Provision for investigation into the cause of marine losses.

8. And whereas the said Canadian Lake Underwriters' Association have further prayed that they may be authorized, at their own expense, to cause investigation to be made by competent authority into the cause of and the circumstances attending the total or partial loss on the lakes or inland waters of the Provinces of Ontario and Quebec, above Montreal, of any vessel or cargo, in which any of the Companies forming the said Association may be interested, as having issued any policy of Inland Marine Insurance thereon,—and it is expedient to grant their prayer; therefore, the eighty-eighth chapter of the Consolidated Statutes of Canada, intituled, "An Act respecting the investigation of accidents by fire," as extended and amended by the Acts twenty-third Victoria, chapter twenty-five, and twenty-fourth Victoria, chapter thirty-three, except the third and eight sections of the Act first cited, shall extend and apply to all cases of the total or partial loss of any vessel or cargo, on any of the inland lakes or waters of the Provinces of Ontario and Quebec, above Montreal; and the Coroner within whose jurisdiction any such loss shall have occurred, or within whose jurisdiction the vessel shall afterwards be, shall institute an enquiry into the cause, origin and

circumstances of such loss, and as to whether it was caused by design, or was the result of want of skill, negligence or accident, and shall act according to the result of such inquiry; and such Coroner and any Jury or Juror by him impaneled in the case, and any witness by him summoned to attend at such inquiry, shall, with regard to such case, have the same powers and duties and liabilities, as such Coroner, jury, juror or witness would have in any case mentioned in the said Act; Provided that no Coroner shall institute any such inquiry except upon the requisition, in writing, of the President for the time being of the said Canadian Lake Underwriters' Association, which corporation shall pay all the expenses and costs attending such inquiry.

No. 101.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to incorporate "The Canadian Lake Underwriters' Association."

(*PRIVATE BILL.*)

MR. ANGUS MORRISON.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 102.] **BILL.** [1868.

An Act to increase the Excise Duty on Spirits, to impose an Excise Duty on Refined Petroleum, and to provide for the inspection thereof.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

ADDITIONAL DUTY ON SPIRITS.

1. There shall be imposed, levied and collected, on all Spirits distilled or made in Canada, on which the Duty of Excise was not paid before the twenty-ninth day of April, in the present year one thousand eight hundred and sixty-eight, a Duty of Excise of three cents for every wine gallon thereof of the strength of proof, and so in proportion for any greater or less quantity, or for any greater or less strength, and such duty shall be held to have been imposed and payable on and after the day last aforesaid, and shall be in addition to the Duty of Excise imposed on such Spirits by the Act of the present Session, intituled, "An Act respecting the Inland Revenue," and shall be computed, levied and collected in the same manner, and under the same conditions and provisions as the duty imposed by the said Act, and as if it had been imposed by that Act as part of such last mentioned duty. Additional Duty of Excise of three cents per gallon on Spirits.

PETROLEUM.

2. The words "Crude Petroleum" whenever they occur in this Act, shall mean and include all kinds of unrefined Rock or Mineral Oil or Naptha. The words "Refined Petroleum" whenever they occur in this Act, shall mean and include every description of Coal Oil, Naptha, Benzine, Benzole, Kerosene, Parafine, Lubricating or Illuminating Oil, or other Oil or Fluid distilled, manufactured or produced by any process or treatment whatever from Crude Petroleum, Rock or Mineral Oil, Coal, Coal Tar, Bitumen, Bituminous Shale or Slate, or from any other mineral substance; and unless it be otherwise specially provided, or there be something in the context inconsistent with or repugnant to such construction, all words and expressions in this Act shall have the meaning assigned to them in the said Act respecting the Inland Revenue. Interpretation clause.

3. Crude Petroleum and Refined Petroleum, and all places or premises wherever they or either of them are or is produced, distilled, made, manufactured, treated or stored, and all tools, utensils, buildings and premises used for producing, making, manufacturing, treating or storing them or either of them, shall be "subject to excise" within the meaning of the Act last above cited. Petroleum and places where it is refined to be subject to Excise.

4. From and after the first day of July in the present year, one thousand eight hundred and sixty-eight, no person except such as shall have been licensed as herein provided, shall carry on the trade or business of refining Petroleum or use any still, apparatus or utensil suitable therefor; No person to act as a Refiner without a license.

2. Neither shall it be lawful for any person to have in his possession, any such still, apparatus or utensil without making a return thereof to the Collector of Inland Revenue in the same manner, with the like particulars, and under the same conditions, as to the periods, form and

manner of making the same, and the like penalties for any neglect or failure to make the same, as are provided with respect to apparatus and utensils subject to Excise, by the Act last above cited, and any such apparatus or utensil not so returned shall be forfeited.

Conditions, &c., on which a license may be granted.

5. A license to carry on the trade or business of refining Petroleum, may be granted by the Collector of Inland Revenue within whose division the business is to be carried on, upon the like application and security, and on the like conditions, and under the like restrictions, as are provided with respect to a Distiller's license, by the Act last above cited, and shall remain in force, (if not forfeited for any contravention of this Act) until the thirtieth day of June next after the date thereof.

Fee for license.

6. The party in whose favor a license to refine Petroleum is granted, shall upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars.

Duty on Refined Petroleum.

7. There shall be imposed, levied and collected, on every wine gallon of refined Petroleum, refined, manufactured or made in Canada, on or after the twenty-ninth day of April, in the present year, one thousand eight hundred and sixty-eight, a duty of excise of five cents, and the said duty shall be held to have been imposed on the day last mentioned.

Quantity how ascertained.

8. The quantity of the refined Petroleum made at any refinery, before or after the passing of this Act, which shall be liable to duty, shall be determined under such Regulations and by such means as may from time to time be made and prescribed by any Order of the Governor in Council.

Duties, &c., to be payable under Inland Revenue Act.

9. All duties, inspection fees, license fees, penalties and forfeitures imposed, incurred or payable by this Act, or by or under any Regulation made by authority thereof, shall be due and payable and shall be collected, recovered or enforced, at the like periods, in the like manner, and under the like conditions as duties, fees, forfeitures and penalties are due, payable, collected, recovered or enforced under the said Act respecting the Inland Revenue.

Parties licensed to be subject to the provisions of the said Act.

10. All persons licensed, or carrying on any business subject to Excise under the provisions of this Act, shall keep such accounts and books and make all such returns as to their business and the quantity of Petroleum, whether crude or refined, obtained, received, produced, refined, treated or manufactured by them, as may be required by any departmental regulations in that behalf; and every such person shall be liable to the like penalties, punishment and forfeitures, for failure to make such returns, for making false or imperfect returns, for failing to make true entries, for failing to pay duties, fees, fines or penalties at the proper time, for obstructing any officer of Inland Revenue or Excise in the performance of his duties, for failing to comply with regulations made by the Governor in Council or by the Minister of Inland Revenue, or other departmental competent authority, and generally for any offence against the said Act or this Act, or any default to comply with the requirements thereof, as a Distiller would be liable to for a like offence or default under the provisions of the Act last above cited; and in any case of doubt, the Governor in Council may make such regulations as may be necessary for determining how far and in what manner the provisions of the said Act are applicable to the enforcement of the requirements of this Act.

Petroleum which will not bear a certain test not to be imported or kept

11. Upon and after the fifteenth day of June, in the present year, one thousand eight hundred and sixty-eight, it shall not be lawful to import into Canada, or to sell or offer for sale therein, or for any person except persons licensed under this Act, to have in possession (except in the

cases hereinafter specially provided for), any Refined Petroleum which will not bear the "*fire test*" of at least one hundred and fifteen degrees of Fahrenheit's thermometer, without giving off vapor that will ignite or explode on the application of fire thereto.

Refined Petroleum subject to inspection. Penalty for keeping or selling it without inspection.

12. From and after the day last aforesaid, all Refined Petroleum shall be subject to inspection under this Act, and it shall not be lawful after the said day to sell, offer for sale, or to have in possession, any Refined Petroleum which has not been inspected or offered for inspection under this Act; and every person having in possession any Refined Petroleum on or after the day last aforesaid, shall immediately ascertain whether the same has been inspected as required by this Act, and if it has not, he shall forthwith make application to the nearest officer authorized to inspect Petroleum, who shall thereupon make the inspection; and every person who shall fail to apply forthwith to the proper officer, or who shall fail or neglect to take all necessary steps to have the Petroleum in his possession inspected, or who shall retain in his possession (except in the cases hereinafter specially provided for), after the inspection has been made, any Petroleum which will not bear the aforesaid "*fire test*," shall be held guilty of a misdemeanor, and shall be liable on conviction thereof, to punishment by imprisonment for a period not exceeding six months, or by a fine not exceeding *five hundred dollars*, or by both, at the discretion of the Court, before which the conviction shall be had: Provided always, that the Governor in Conncil may permit the importation, manufacture, sale and storage of Benzine and similar products of Petroleum, which will not stand the above mentioned fire test, under such regulations as he may deem necessary, and may also in like manner modify the "*fire test*" by allowing a lower degree of heat than one hundred and fifteen degrees of Fahrenheit, as regards stocks of Refined Petroleum, which, before the passing of this Act, were in the possession of persons who are not refiners.

Proviso: as to Benzine, &c.

Regulations for the storage of Petroleum.

13. The Governor in Council may from time to time make such regulations respecting the storage of Petroleum, crude or refined, as he may deem necessary for the public safety, making special regulations as to Benzine or other similar products of Petroleum if he sees fit: and may also make regulations for warehousing Refined Petroleum without payment of the duty hereby imposed, and for the application of the warehousing regulations contained in or made under the Act last above cited, to Refined Petroleum so warehoused, subject to any modification which he may consider expedient.

Party requiring inspection shall furnish implements, &c.

14. Every person having in his possession any Refined Petroleum shall, when any officer is about to inspect it, furnish for the use of such officer all necessary implements and conveniences, and shall provide all such assistance as may be required for making such inspection.

Forfeiture of uninspected Petroleum.

15. All Refined Petroleum sold or offered for sale without having been inspected and branded as herein required, or on which the duty, inspection fee, or other impost has not been paid, or secured as herein required, and all Refined Petroleum imported into Canada, or sold or offered for sale or retained in the possession of any party therein in contravention of any provision of this Act, or with respect to which any Regulation for the storage thereof has been contravened, shall be forfeited and shall be seized by any officer of Customs or Excise having a knowledge thereof, and dealt with accordingly.

Articles forfeited to be dealt with under Inland Revenue Act.

16. Any article or property seized as forfeited under this Act shall be secured, disposed of, and dealt with in like manner as is provided with respect to any article or property seized under the provisions of the Act last above cited; and any Refined Petroleum which will not stand the fire test herein provided or allowed in the special case by the

Governor in Council, may, when not in the possession of a licensed Refiner be seized as forfeited, and if in the opinion of the proper officer no suitable storage is available, shall be destroyed, but if there be suitable storage available, it may be stored and afterwards sold to any licensed Refiner, or otherwise disposed of as other forfeited goods, under any departmental regulation in that behalf.

By whom Petroleum shall be inspected, and under what regulations.

17. The inspection of Petroleum required by this Act shall be performed by officers of the Inland Revenue or Customs duly authorized thereto, and such authority may be given and such inspection performed at any time after the passing of this Act, and the Governor in Council may from time to time make such regulations as he may think proper, for determining the nature of the fire test to be applied, the instruments to be used for applying such test, the classification to be made of the several qualities of Refined Petroleum inspected, the designation under which each quality shall be known, the mode of stamping the barrels, casks or packages containing the refined Petroleum, the prevention of frauds in relation to such stamps, the disposal of such refined Petroleum as will not stand the required fire test, and generally for giving effect to the provisions of this Act, and ensuring strict compliance with all the requirements thereof.

As to Regulations by Governor in Council.

18. Every regulation or order made by the Governor in Council or by the Department of Inland Revenue, under the authority of this Act, shall upon publication thereof, in the manner provided by the Act last above cited with respect to Regulations and orders made under it, be construed as forming part of the said Act and of this Act, and shall until repealed or altered by any subsequent regulation, have the force of law.

Fees for inspection.

19. On and after the fifteenth day of June, in the present year, one thousand eight hundred and sixty-eight, there shall be imposed, levied and collected an inspection fee of twenty cents, upon every barrel, cask or package containing not less than twenty gallons of refined Petroleum inspected under this Act, and upon every barrel, cask or package so inspected and containing less than twenty gallons, an inspection fee equal to one cent per gallon, and such fees shall immediately after such inspection be paid by the person owning or having the custody of such refined Petroleum, to the officer inspecting it, to be accounted for by such officer as may be provided by departmental regulations as Inland Revenue.

As to stamps under this Act.

20. All the provisions of the Act last above cited respecting stamps and all penalties imposed by the said Act for any contravention of any provision thereof in respect to stamps, shall equally apply to stamps attached or impressed or affixed under this Act, to or upon any barrels, casks or packages, as well as to such barrels, casks or packages, and to the contents thereof.

Certain Acts of N. S. and N.B. repealed.

21. The Act of the Legislature of the Province of Nova Scotia, passed in the thirtieth year of Her Majesty's Reign, and intituled, "*An Act to provide for the inspection of Petroleum and Coal Oils, and Burning Fluids, and to regulate the manufacture and sale thereof,*—and the Act of the Legislature of the Province of New Brunswick, passed in the thirtieth year of Her Majesty's Reign, and intituled, "*An Act to provide for the Inspection of Petroleum and Coal Oils, and Burning Fluids, and other Oils and Fluids analogous thereto, and to regulate the manufacture and sale thereof,* shall be and are hereby repealed.

This Act to be construed as one Act with the Inland Revenue

22. This Act shall be read and construed as one Act with the said Act passed in the present Session, and intituled, *An Act respecting Inland Revenue*, and the Act of the present Session amending it, which shall be understood when the said Act is herein mentioned:

and all the provisions thereof with respect to the obligations of persons holding licenses, the notice of intention to work, the lists of apparatus used, the designation of apartments used for particular purposes, the keeping of proper books to show the quantity of any article subject to duty by any person licensed, the inspection of such books by any officer of Inland Revenue, and his right to make entries therein, or take extracts therefrom, the payment of duties and the rendering of accounts for ascertaining the amount payable, and the penalties for non-payment of duties, or the not rendering of such accounts, shall apply to all persons licensed under this Act; the provisions of the said Act respecting the powers and duties of officers of Inland Revenue and Excise, Judges, Justices of the Peace, and other officers and functionaries, shall extend and apply to persons, places, premises, apparatus, and things subject to Excise under this Act; the penalties and forfeitures imposed by the said Act or persons carrying on any business subject to excise without being thereunto licensed, or in any place to which the license does not extend, or using any fraudulent apparatus, or apparatus of which no proper return has been made, or refusing to admit officers of Inland Revenue or Excise to premises subject to excise or to assist them in the performance of their duty, or for neglecting to keep proper books, or not making the entries therein, or for using any scales, weights or measures not inspected, or breaking the Crown's lock, or abstracting goods seized or forfeited, or taking any goods from any place where they are retained under the supervision of any officer of Inland Revenue, or for counterfeiting any stamp, label, or seal, or not admitting officers of Inland Revenue, or persons assisting them or for any other contravention of the Act, shall extend and apply to, and shall be incurred by any person committing similar offences, or similar contraventions of this Act, which shall be held to be offences or crimes of the like nature and degree: the provisions of the said Act for the protection of officers and persons acting under it shall extend and apply to officers and persons acting under this Act; and the provisions of the said Act for the recovery of duties and penalties, and the liability of stock and materials, apparatus and property on the premises of the party owing any duty or having incurred any penalty, and the appropriation of penalties and forfeitures, shall extend and apply to duties, forfeitures and penalties, under this Act: and generally (and without that the general provision shall impair the effect of the special provisions in this section, or that they shall impair the effect of this general provision) all the provisions of the said Act shall extend and apply, be construed, and have effect as if the foregoing sections of this Act formed part of the said Act.

Act, the provision of which shall apply to things done under this Act.

23. This Act may be cited as the "Inland Revenue Act, 1868." Short title.

No. 102.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to increase the Excise Duty on Spirits, to impose an Excise Duty on Refined Petroleum, and to provide for the inspection thereof.

Received and read, first time, Thursday, 30th April, 1868.

Second reading, Friday, 1st May, 1868.

Hon. Mr. HOWLAND.

OTTAWA:

PRINTED BY HUNTER, ROSE & CO.

103

No. 103.] BILL. [1868.

An Act to amend the Act of the present Session, intituled : *An Act imposing duties of Customs, with the Tariff of Duties payable under it.*

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as as follows : Preamble.

Repeal of existing Tariffs, &c.

1. The first, second, third, fourth, seventh, ninth, twelfth and fifteenth sections of the Act passed in the present session, Chapter seven, and intituled : *An Act imposing duties of Customs, with the Tariff of Duties payable under it*, and the Schedules A, B, C, D and E, annexed to the said Act, are hereby repealed.

New Tariff substituted.

2. In lieu and instead of the duties of Customs imposed by the Act hereinbefore cited, there shall be raised, levied, collected and paid, upon the goods enumerated in Schedules A and B to this Act, imported into Canada or taken out of Warehouse for consumption therein, the several duties of Customs respectively set forth and described in the said Schedules A and B, the duty of fifteen per centum *ad valorem* being payable upon all goods not charged with any other duty, and not declared free of duty.

Free goods.

3. The goods enumerated in the Schedules C and D to this Act, may, subject to the provisions and conditions therein mentioned, be imported into Canada or taken out of Warehouse for consumption therein, without payment of any duty of Customs thereon.

Value of sugar for duty how ascertained.

4. The value for duty on which the *ad valorem* duties hereby imposed on sugar, molasses, melado, syrup of sugar or sugar cane, syrup of molasses or of sorghum, concentrated melado or concentrated molasses, and sugar candy, shall be calculated and taken, shall include the value of the packages containing the same, and the shipping and other charges on such articles, and the value for duty shall be the value of the goods "free on board," at the place or port whence last exported direct to Canada;—and the Governor in Council shall have power to declare what charges shall be included in such value so defined ; and the Governor in Council shall have power to interpret, limit or extend the meaning of the conditions upon which it is provided in schedule C, that any article may be imported free of duty for special purposes or for particular objects

Powers of Governor in Council as regards schedule C (free goods).

or interests; and to make regulations either for declaring or defining what cases shall come within the conditions of the said schedule, and to what objects or interests of an analogous nature the same shall apply and extend, and to direct the payment or non-payment of duty in any such case or the remission thereof by way of drawback if such duty has been paid.

Goods from B. N. A. Provinces.

5. Any other articles than those mentioned in Schedule D, being of the growth and produce of any of the British North American Provinces, may be specially exempted from Customs duty by order of the Governor in Council.

Goods from U. S., in case of Reciprocity.

6. Any or all of the articles mentioned in Schedule D, when the growth and produce of the United States of America, may be imported into Canada from the said United States free of duty, or at a less rate of duty than is provided in the said schedule, upon proclamation of the Governor in Council, whenever the United States shall provide for the importation of similar articles from Canada into that country free of duty, or at a less rate of duty than is now imposed on the importation from Canada of such articles into the United States.

Prohibited goods.

7. The Goods enumerated in Schedule E shall not be imported into Canada, under the penalty therein mentioned, and if imported shall be forfeited and forthwith destroyed.

Packages what to be free.

8. Packages of every description in which goods are usually imported, and cases covering casks of Wine or Brandy, in wood, and cases containing bottled Wine or bottled Spirits or other liquors, shall be free,—except only Bottles, Jars, Demi-Johns, Brandy-Casks, Barrels, or other packages in which Spirituous Liquors, Wines and Malt Liquors are contained and Carboys containing Sulphuric Acid.

New duties—from what time to be in force.

9. The foregoing sections of this Act shall be held to have come into force, and the duties mentioned therein and in the Schedules to this Act, shall be held to have been imposed and to have been substituted for those imposed by the Act hereby amended, on the twenty-ninth day of April, in the present year of our Lord one thousand eight hundred and sixty-eight, and to have been and to be payable on all goods imported or taken out of Warehouse for consumption upon or after the said day.

Drawback on duty paid goods exported.

10. The Governor in Council may, under Regulations to be made for that purpose, allow, on the exportation of goods which have been imported into Canada, and on which a duty of customs has been paid, a drawback equal to the duty so paid;—and in cases to be mentioned in such Regulations and subject to such provisions as may be therein made, such drawback may be allowed on duty paid goods, manufactured or wrought in Canada, into goods exported therefrom as aforesaid; and the period within which such drawback may be

allowed after the time when the duty was paid shall be limited in such Regulations.

Export duties on Lumber.

11. Upon from and after the day of in the present year of our lord one thousand eight hundred and sixty-eight, there shall be raised, levied, collected and paid, upon the goods enumerated in Schedule F to this Act, the export duties mentioned in the said Schedule, and such duty shall be paid to the proper Officer of Customs, at the intended port of exportation; the export of such goods without payment of the said duty shall be unlawful, and the Collector or any Officer of Customs shall prevent the exportation of such goods until such duties thereon are paid; and if any sttempt be made to export such goods contrary to the provisions of this Act, they shall be liable to seizure and be forfeited, and shall be dealt with as other goods forfeited for breach of the customs law.

Act 29 & 30 V. c. 6 of Canada amended.

12. So much of section nine, of the Act of the Legislature of the late Province of Canada, passed in the session held in the twenty-ninth and thirtieth years of Her Majesty'y Reign, and intituled: *An Act to amend the Acts respecting duties of Customs, and the Tariff of duties payable under them*, as requires the payment of any duty of Customs on the importation of goods from any of the Free Ports abolished under the said section, into any other part of Canada, or imposes any restrictions upon such importation, is hereby repealed.

Sect. 133, of 31 V. c. 7, repealed and new section substituted.

13. The one hundred and thirty-third section of the Act of the present session, intituled: *An Act respecting the Customs* is hereby repealed, and the following section substituted for it:

"**133.** All bonds, documents and papers necessary for the transaction of any business at the respective Custom Houses or places or ports of entry in Canada, shall be in such form as the Minister of Customs shall from time to time direct."

How this Act shall be construed.

14. This Act shall be construed as one Act with the said Act of the present session, intituled: *An Act respecting the Customs*, and with the Act hereinbefore cited and amended, the fifth section whereof shall be construed as referring to schedule C annexed to this Act; and all words and expressions used in this Act shall have the meaning assigned to them in the said Acts, and all provisions of the said Acts and of the Regulations made or to be made under them or either of them, or continued in force by them or either of them, shall apply to the duties imposed by this Act, except in so far as this may be inconsistent with it.

SCHEDULE A.

Goods paying specific duties.

		Duties. $ cts.
Animals, viz:—		
Horses	Per Head	15 00
Horned Cattle	"	10 00
Swine	"	2 00
Sheep	"	1 00
Acid—Sulphuric	Per lb.	0 0½
Butter	"	0 04
Cigars :—Value not over $10 per Mille	Per Mille.	3 00
Do over $10 and not over $20	"	4 00
Do over $20 and not over $40	"	5 00
Do over $40	"	6 00
Cheese	Per lb.	0 03
Coffee, green	"	0 03
Do roasted or ground	"	0 04
Chicory or other root or vegetable used as Coffee, raw or green	"	0 03
Chicory, kiln-dried, roasted or ground	"	0 04
Fish, salted or smoked	"	0 01
Lard and Tallow	"	0 01
Meats, fresh, salted or smoked	"	0 01
Malt	Per Bushel	0 40
Oils :—viz.		
Coal and Kerosene, distilled, purified and refined	Per Gallon	0 15
Naptha, Benzole and Refined Petroleum	"	0 15
Products of Petroleum, coal, shale and lignite, not otherwise specified	"	0 10
Crude Petroleum	"	0 06
Soap Common	Per lb.	0 01
Starch	"	0 02
Spirits and strong waters, viz:		
Brandy, Gin, Rum, Whiskey, Spirits of Wine, Alcohol, Bitters containing Spirit, Vermouth and other Spirituous Liquors of whatever strength, not otherwise specified, on every gallon of the strength of Proof of Sykes' Hydrometer, and so in proportion for any greater strength, and for every less quantity than a gallon		0 80
Cordials	Per Gallon	1 20
Perfumed spirits	"	1 20
Tinctures	"	0 63

SUGAR AND MOLASSES.

Sugar :—All sugar equal to, or above No. 9, Dutch Standard, twenty-five per centum *ad valorem* and a specific duty of one cent per lb.

Below No. 9 Dutch Standard, twenty-five per centum *ad valorem* and a specific duty of three fourths of one cent per lb.

Cane Juice, Syrup of Sugar or of Sugar Cane, Syrup of Molasses or of Sorghum, Melado, concentrated Melado, or concentrated Molasses, twenty-five per centum *ad valorem* and a specific duty of five-eighths of one cent per lb.

Sugar Candy, brown or white, and confectionary, twenty-five per centum *ad valorem*, and a specific duty of one cent per lb.

Molasses, if used for refining purposes, or for the manufacture of sugar..... .....Per 100 lbs. 0 73

Molasses, if not so used, twenty-five per centum *ad valorem*.

SCHEDULE B.

GOODS PAYING TWENTY-FIVE PER CENTUM AD VALOREM :

Cassia, ground,
Cinnamon, "
Ginger, "
Mace,
Nutmegs,
Pepper, ground,
Perfumery, not otherwise specified,
Perfumed and fancy soaps,
Pimento, ground,
Playing cards,
Proprietary Medicines, commonly called Patent Medicines, or any medicine or preparation of which the recipe is kept secret, or the ingredients whereof are kept secret, recommended by advertisement, bill or label for the relief or cure of any disorder or ailment.

GOODS PAYING TEN PER CENTUM AD VALOREM :—

Sole and Upper Leather.

GOODS PAYING FIVE PER CENTUM AD VALOREM :—

Books, periodicals and pamphlets, printed,—not being foreign reprints of British Copyright Works, nor blank account books, nor copy books, nor books to be written or drawn upon, nor reprints of books printed in Canada, nor printed sheet music.

Iron—viz :—Bar, Rod, Hoop and Sheet.
Canada plates and tinned plates.
Nail and Spike Rod, round, square and flat.
Rolled plate and Boiler plate.
Wire,

Type.

GOODS PAYING AD VALOREM AND SPECIFIC DUTY.

Ale, Beer and Porter, ten per centum *ad valorem* and a specific duty of five cents per Gallon in Casks, and seven cents per Gallon in bottles. (5 quart and 10 pint bottles to be held to contain a gallon.)

Tea, black, fifteen per centum *ad valorem*, and a specific duty of three cents and one half of a cent per lb.

Do. Green including Japan, fifteen per centum *ad valorem*, and a specific duty of seven cents per lb.

Tobacco, manufactured, except Cigars, and including Snuff, five per cent *ad valorem*, and a specific duty of fifteen cents per lb.

Wines of all kinds, including Ginger, Orange, Lemon, Gooseberry, Strawberry, Raspberry, Elder and Currant Wines, twenty per centum *ad valorem*, and a specific duty of ten cents per gallon, (5 quart and 10 pint bottles to be held to contain a gallon.)

The following packages, that is to say: — Bottles, Jars, Demi-Johns, Brandy Casks, Barrels or Packages in which Spirituous Liquors, Wines and Malt Liquors are contained and Carboys containing Sulphuric Acid, and all goods not enumerated in any of the Schedules to this Act, as charged with any other duty, and not declared to be free of duty, shall be charged with a duty of Customs of fifteen per centum *ad valorem*.

SCHEDULE C.

FREE GOODS.

ARTS AND SCIENCE : —
Anatomical preparations,
Botany, specimens of,
Cabinets of Antiquities,
" Coins,
" Gems,
" Medals,
Drawings, not in oil,
Gems,
Medals,
Mineralogy, Specimens of,
Models,
Natural History, specimens of,
Sculpture, specimens of,

WORKS OF ART, viz :

Busts—Natural size, not being casts nor produced by any mere mechanical process.

Casts—As models for the use of schools of design.

Paintings—In oil, by artists of well-known merit, or copies of the old masters by such artists.

Statues—Of bronze, marble or alabaster, natural size.

DRUGS, DYE STUFFS, OILS AND COLORS NOT ELSEWHERE SPECIFIED, VIZ :

Acids of every description, except acetic and sulphuric acid and vinegar.
Alum,
Antimony,
Argol,
Bark, when chiefly used in dyeing,
Barilla,
Berries, when chiefly used in dyeing,
Borax,
Bleaching powders,
Brimstone in roll or flour.

Colors and other articles, when imported by room-paper makers and stainers, to be used in their trade only, viz:

Bichromate of potash,
Blue Black,
British gum,
Chinese Blue,
Lakes, scarlet and morone, in pulp,
Paris and permanent Greens,
Satin and fine washed White,
Sugar of lead,
Ultra Marine,
Umber, raw.

Cream of tartar in crystals,
Drugs, when chiefly used in dyeing,
Indigo,
Kelp,
Kryolite,
Metallic Oxides, dry, ground or unground, washed or unwashed, not calcined,
Nitre,
Nuts, when chiefly used in dyeing,
Ochres, dry, ground or unground, washed or unwashed, not calcined,
Oils, cocoa nut, pine and palm in their natural state,
Phosphorus,
Red Lead, dry,
Roots, Medicinal, in their natural state,
Sal ammoniac,
Sal Soda,
Saltpetre,
Soda ash,
Soda caustic,
Soda, nitrate of
Soda, silicate of
Sulphur in roll or flour,

Vitriol, blue,
Vegetables, when chiefly used for dying,
White lead, dry,
Whiting or whitening,
Woods, when chiefly used in dying,
Zinc, white, dry.

MANUFACTURES AND PRODUCTS OF MANUFACTURES:

Anchors.
Ashes, pot, pearl and soda,
Bread and biscuit from Great Britain and the B. N. A. Provinces,
Bolting, cloth,
Book binders' tools and implements,
Brim moulds for gold beaters,
Burrstones,
Candle wick, cotton,
Cement, Marine unground,
Cement, Hydraulic do
Church Bells,
Clothing—donations of for charitable institutions,
Communion Plate,
Cocoa Paste, from Great Britain and the B. N. A. Provinces,
Coin and Bullion, except United States silver coin,
Cotton Netting for India Rubber Shoes,
Cotton Waste,
Cotton Wool,
Drain tiles,
Duck for belting and hose,
Emery paper and emery cloth,
Electrotype Blocks, for printing purposes.
Farming implements and utensils when imported by Agricultural Societies for the encouragement of Agriculture.
Felt for Hats and Boots.
Fire Brick.
Fire Engines—Steam—when imported by the Municipal Corporations of Cities, Towns and Villages, for the use of such Municipalities.
Fish hooks, nets and seines, lines and twines,
Flax Waste.
Glass paper and Glass cloth.
Gold Beaters Skin.
Gold Leaf,
Hoop skirt manufacture, the following articles for, Crinoline thread for covering Crinoline wire, clasps of tin and brass, slides, spangles and slotted tapes, and flat or round wire uncovered,
Junk,
Linen Machine Thread,
Lithographic Stones,
Lumber, plank and sawed, of mahogany, rosewood, walnut, cherry and chestnut, and Pitch Pine,
Machine Silk Twist,
Machinery when used in the original construction of Mills or Factories, not to include Steam Engines, Boilers, Water Wheels, or Turbines,

Nails,—Composition,
Nails,—Sheathing,
Oakum,
Oil Cake,
Philosophical instruments and apparatus, including globes, when imported by, and for the use of Colleges and Schools, Scientific or Literary Societies,
Platers' Leaf,
Printing Ink,
Printing Presses, except portable hand printing presses,
Prunella,
Plush for Hatters use,
Rags,
Sand paper and sand Cloth.
Ships' Binnacle Lamps,
" Blocks and patent bushes for blocks,
" Bunting,
" Cables, iron chain, over one half of an inch, shackled or swiveled, or not.
" Compasses,
" Dead Eyes,
" Dead Lights,
" Deck Plugs,
" Knees, Iron,
" Masts or parts of, Iron.
" Pumps and pump-gear,
" Riders, Iron,
" Shackles,
Ships' Sheaves,
" Signal Lamps,
" Steering apparatus,
" Travelling Trucks
" Wedges,
" Wire-rigging,
And the following articles when used for ships or vessels, only, viz :
Cables, hemp and grass,
Cordage,
Sail cloth or canvas from No. 1 to No. 6,
Varnish, black, and bright.
Silver Leaf,
Spikes, composition,
Straw Plaits, Tuscan and grass, Fancy.
Stereotype Blocks for printing purposes,
Treenails,
Twists, silk, for hats, boots and shoes,
Veneering of wood or ivory,
Weaving or tram silk, for making elastic webbing,
" " cotton " "
Wire cloth of brass and copper,
Woollen netting for India rubber shoes.
METALS—
Brass,—Bar, Rod, Sheet and Scrap,

Cranks for Steamboats, forged in the rough,
Do and Mills, do do
Copper, in Pig, Bars, Rods, Bolts and Sheets, and Sheathing.
Iron of the descriptions following :—
Scrap, Galvanized or Pig,
Puddled, in Bars, Blooms and Billets,
Bolts and Spikes, galvanized,
Locomotive Engine Frames, Axles, Cranks, Hoop Iron or Steel for tires of wheels, bent and welded,
" Crank Axles, Piston Rods, Guide and Slide Bars, Crank Pins, Connecting Rods.
Lead in Sheet or Pig.
Litharge.
Railroad Bars, and frogs, wrought iron or steel Chairs, wrought iron or steel Fish Plates, and Car Axles.
Shafts for Mills and Steamboats, in the rough.
Spelter, in blocks, sheets or pig.
Steel, wrought or cast in bars and rods.
" plates cut to any form, but not moulded.
Tin, in bar, blocks, pig or granulated.
Tubes and piping—of brass, copper or iron, drawn.
Type Metal, in blocks or pigs.
Wire, of brass or copper, round or flat.
Yellow Metal, in bolts, bars, and for sheathing.
Zinc in sheets and blocks and pigs.

NATURAL PRODUCTS,
Bristles,
Broom Corn,
Bulbs,
Caoutchouc, unmanufactured,
Clays,
Coal and Coke,
Cocoa, bean and shell,
Cork wood,
Cork wood bark,
Diamonds, unset,
Earths,
Eggs,
Emery,
Flour, Wheat and Rye,
Fibre, Mexican,
Fibre, vegetable, for manufacturing purposes,
Fibrilla,
Flax, undressed,
Fire Clay,
Fire Wood,
Fish, fresh, not to include Oysters or Lobsters in Tins or Kegs.
Fish bait,
Furs, undressed,
Grain of all kinds,
Gravels,
Grease and Grease Scrap,

Gutta Percha, unmanufactured,
Gypsum, not ground nor calcined,
Hair, Human, Goat, Angola, Thibet, Horse, Hog and Mohair, unmanufactured,
Hay,
Hemp, undressed,
Hides,
Hops,
Horns,
Indian Corn,
Indian Meal,
India Rubber, unmanufactured,
Manilla Grass,
Manures,
Marble in blocks unwrought, or sawn on two sides only, or slabs sawn from such blocks, having at least two edges unwrought,
Moss for Upholstery purposes,
Ores of metals of all kinds,
Osiers,
Pelts,
Pipe clay,
Pitch,
Plants,
Plaster of Paris not ground nor calcined,
Precious Stones, unset,
Ratan for chair makers,
Roots,
Rosin,
Salt,
Sand,
Sea Grass,
Seeds for agricultural, horticultural or manufacturing purposes,
Shrubs,
Skins undressed,
Slate,
Stone, unwrought,
Tails, undressed,
Tanner's Bark,
Tampico white and black,
Tar,
Teasels,
Tobacco unmanufactured,
Tow undressed,
Trees,
Turpentine, other than spirits of
Vegetables, culinary,
Vegetable fibres,
Whale Oil, in the casks from on Ship-board and in the condition in which it was first landed,
Willow for basket makers,
Wood of all kinds, wholly unmanufactured,
Wool.

SPECIAL EXEMPTIONS FROM DUTY :—

Apparel, wearing of British Subjects dying abroad but domiciled in Canada.
Articles by and for the use of the Governor General.
" for the public uses of the Dominion.
" " use of Foreign Consuls General.
Army and Navy, for the use of,—
Arms,
Clothing,
Musical Instruments for Bands,
Military Stores.
Settlers' Effects of every description, in actual use, not being merchandise, brought by persons making oath that they intend becoming permanent settlers within the Dominion.

UNDER REGULATIONS AND RESTRICTIONS TO BE PRESCRIBED BY THE MINISTER OF CUSTOMS.

Carriages of travellers and carriages laden with merchandise and not to include circus troops, nor hawkers.
Locomotives and railway passenger, baggage and freight cars, running upon any line of road crossing the frontier, so long as Canadian Locomotives and cars are admitted free under similar circumstances in the United States,
Menageries, horses, cattle, carriages and harnesses of.
Travellers' baggage.

SCHEDULE D.

The following goods when the growth and produce of any of the British North American Provinces, may be imported free of duty, viz:
Animals of all kinds.
Fresh, smoked and salted meats.
Green and dried fruits.
Fish of all kinds.
Products of fish and of all other creatures living in water.
Poultry.
Butter.
Cheese.
Lard.
Tallow.
Timber and lumber of all kinds, round, hewed, sawed, but not otherwise manufactured in whole or in part.
Fish oil,
Gypsum, ground or unground.

SCHEDULE E.

The following articles shall be prohibited to be imported under a penalty of two hundred dollars together with the forfeiture of the parcel or package of goods in which the same may be found, viz :

Books, Printed Papers, Drawings, Paintings, Prints and Photographes, of a treasouable or seditious or of an immoral or indecent character.
Coin, base or counterfeit.

SCHEDULE F.

Export Duties.

Shingle Bolts..... ..	per Cord of 128 Cubic Feet.	$1.00
Stave Bolts	" " " "	1.00
Pine and Oak Logs.....	per M	2.00
Spruce Logs.....	" "	1.00

[No. 103.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act imposing Duties of Customs with the Tariff of Duties payable under it.

Received and read first time, Thursday, 30th April, 1868.

Second reading, Friday, 1st May, 1868.

Hon. Mr. Tilley.

Printed by G. E. Desbarats.

No. 104.] **BILL.** [1868.

An Act to amend Chapter Thirty-four of the Consolidated Statutes of Canada, respecting Patents for Inventions.

Preamble.

WHEREAS it is advisable to amend the laws respecting Patents for Inventions now in force in the Dominion of Canada, so as to place the United States of America on the same footing, in respect of the same, as other foreign countries not under the British dominion or subject to the Crown thereof; therefore, Her Majesty, by and with the advice of the Senate and Commons of Canada, enacts as follows:

Sub-sec. 2 of sec. 10 repealed.

1. Sub-section two of section ten of chapter thirty-four of the Consolidated Statutes of Canada, is hereby repealed, and the following substituted in lieu thereof:—

New sub-sec: substituted.

"2. Except nevertheless that nothing in this section shall extend to inventions or discoveries of any new and useful art, machine, manufacture, or composition of matter, made, discovered or used, in any part of Her Majesty's dominions in Europe or America, or shall prevent the free importation thereof into this Dominion of Canada, for sale, by any person or persons, or for their use or otherwise, from any part of Her Majesty's said dominions."

Sec. 11 repealed.

2. Section eleven of chapter thirty-four of the Consolidated Statutes of Canada, is hereby repealed, and the following substituted in lieu thereof:—

New sub-sec. substituted. Persons first introducing inventions from U. S. may obtain a patent therefor, on certain conditions, as well as any other foreign country.

"11. The person so desirous of introducing into this Province any invention, art, machine, manufacture, or composition of matter, which he has discovered or obtained a knowledge of in any foreign country, shall, previous to obtaining a patent for the same, make a solemn declaration—in the manner prescribed in this Act, as to inventors and discoverers—that he believes himself to be the first introducer or publisher of such invention, art, machine, manufacture, or composition of matter, in this Dominion of Canada, and that he discovered or obtained a knowledge thereof while on his travels in some foreign country not part of Her Majesty's dominions in Europe or America."

No. 104.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to amend Chapter Thirty-four, of the Consolidated Statutes of Canada, respecting Patents for Inventions.

Received and read, first time, Friday, 1st May, 1868.

Second Reading, Monday, 4th May, 1868.

MR. MASSON (Soulanges).

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

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B2

An Act respecting the Department of Justice.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. There shall be a Department of the Civil Service of Canada, to be called "The Department of Justice" over which the Minister of Justice, of Canada, for the time being, appointed by the Governor by Commission under the Great Seal, and who shall, *ex-officio*, be Her Majesty's Attorney General of Canada, shall preside; and the said Minister of Justice shall hold office during pleasure, and shall have the management and direction of the Department of Justice.

2. The duties of the Minister of Justice shall be as follows; He shall be the official legal adviser of the Governor and the legal Member of Her Majesty's Privy Council for Canada; It shall be his duty to see that the administration of public affairs is in accordance with law; He shall have the superintendence of all matters connected with the administration of Justice in Canada, not within the exclusive jurisdiction of the Government of the Provinces comprising the same; He shall advise upon the Legislative Acts and proceedings of each of the Legislatures of the Provinces of Canada, and generally advise the Crown upon all matters of Law referred to him by the Crown; and he shall be charged generally with such other duties as may at any time be assigned by the Governor in Council to the Minister of Justice.

3. The duties of The Attorney General of Canada shall be as follows: He shall be intrusted with the powers and charged with the duties which belong to the office of the Attorney General of England by law or usage so far as the same powers and duties are applicable to Canada, and also with the powers and duties which by the laws of the several Provinces belonged to the office of Attorney General of each Province up to the time when the British North America Act, 1867, came into effect, and which Laws under the provisions of the said Act are to be administered and carried into effect by the Government of the Dominion; He shall advise the Heads of the several Departments of the Government upon all matters of Law connected with such Departments; He shall be charged with the settlement and approval of all instruments issued under the Great Seal of Canada; He shall have the superintendence of Penitentiaries and the Prison System of the Dominion; He shall have the regulation and conduct of all litigation for or against the Crown or any Public Department, in respect of any subjects within the authority or jurisdiction of the Dominion; and he shall be charged generally with such other duties as may at any time be assigned by the Governor in Council to the Attorney General of Canada.

4. The Governor may also appoint a "Deputy of the Minister of Justice," who shall be charged, under the Minister of Justice, with the performance of the Departmental duties of The Minister of Justice and of The Attorney General of Canada, and with the control and

management of the officers, clerks and servants of the Department, and with such other powers and duties as may be assigned to him by the Governor in Council.

5. The Governor may also appoint, subject to the Canada Civil Service Act, 1868, such officers, clerks and servants as may be requisite for the proper conduct of the business of the Department, all of whom, as well as the Deputy of the Minister, shall hold office during pleasure.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

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Q

An Act to provide for Oaths to Witnesses being administered in certain cases for the purposes of either House of Parliament.

WHEREAS it may be expedient that witnesses should be examined at the Bar of the Senate in cases of Divorce; and whereas it is also expedient that evidence taken before any Select Committee of either House of Parliament on a Private Bill should be available, if desired, before the Committee of the other House to which the same Bill is referred, and that for this purpose the Select Committees of the Senate and of the House of Commons on Private Bills should be enabled to administer an oath to the witnesses examined before them; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Witnesses may be examined upon oath at the Bar of the Senate upon matters relating to Bills of Divorce, and for that purpose the Clerk of the House may administer an oath to any such witness.

2. Any Select Committee of the Senate to which any Private Bill has been referred by that House may examine witnesses upon oath, upon matters relating to such Bill, and for that purpose the Chairman or any Member of such Committee may administer an oath to any such witness.

3. Any Select Committee of the House of Commons to which any Private Bill has been referred by that House may examine witnesses upon oath, upon matters relating to such Bill, and for that purpose the Chairman or any Member of such Committee may administer an oath to any such witness.

4. Any person examined as aforesaid who shall wilfully give false evidence shall be liable to the penalties of perjury.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 107.] **BILL** [1868.

An Act respecting Copyrights.

Preamble.

WHEREAS it is expedient to assimilate the laws now in force in the several Provinces of Canada respecting Copyrights, and to amend and consolidate the same; therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Acts repealed.

1. Chapter eighty-one of the Consolidated Statutes of Canada, intituled, "An Act respecting Copyrights," and chapter one hundred and sixteen of the Revised Statutes of Nova Scotia (Third Series), intituled: "Of the Law of Copyright," are hereby repealed.

Copyright granted for a certain period.

2. Any person resident in Canada, or any person being a British subject, and resident in Great Britain or Ireland, who is the author of any book, map, chart, or musical composition, already made or composed, but not printed or published, or hereafter made or composed, or who invents, designs, etches, engraves, or causes to be engraved, etched, or made from his own design, any print or engraving, and the executors, administrators, or legal assigns, of such persons, shall have the sole right and liberty of printing, reprinting, publishing, and vending, such book, map, chart, musical composition, print, cut, or engraving, in whole or in part, for the term of twenty years, from the time of recording the title thereof, in the manner hereinafter directed.

Privileges after that period.

3. If, at the expiration of the said term, the author, inventor, designer, engraver, or any of them, where the work had been originally composed and made by more than one person, is still living, and residing in Canada or in Great Britain or Ireland, or being dead, has left a widow, or child, or children living, the same exclusive right shall be continued to such author, designer or engraver, or if dead, then to such widow and child or children (as the case may be), for the further term of ten years; but in such case, within six months after the expiration of the first term, the title of the work secured shall be a second time recorded, and all regulations herein required in regard to original Copyrights shall be complied with in respect to the renewed Copyrights.

Renewal of copyright.

4. In all cases of renewal of Copyright under this Act, the author or proprietor shall, within two months from the date of the renewal, cause a copy of the record thereof to be published in the *Canada Gazette*, for the space of four weeks.

Steps required to confer the right.

5. No person shall be entitled to the benefit of this Act unless he has, before publication, deposited a printed copy of such book, map, chart, musical composition, print, cut or engraving, in the Patent Office of Canada, which shall be recorded forthwith in a book to be kept for that purpose, in the words following:

Dominion of Canada:

Be it remembered, that on the day of , in the year , A. B., of the District (*or County*) of , in the Province of , deposited in this Office a printed book, (map,

chart, *or otherwise as the case may be,*) the title of which is in the words following, that is to say:—(*insert the title*), the copyright whereof he claims as author (*or* as proprietor, *as the case may be.*)

C. D.,
Commissioner of Patents.

For which record the Commissioner shall be entitled to receive from the person claiming such right, as aforesaid, *one dollar*, and the like sum for every copy of such record signed by the Commissioner and given to such person or his assigns.

Deposit of copies.

6. The author shall also, before he is entitled to the benefit of this Act, deposit in the Library of the Parliament of Canada a copy of the work for which he is desirous of obtaining a Copyright, and he shall receive a certificate from the Librarian of such deposit having been made, and such certificate shall be deposited with the copy of the work in the Patent Office before the record thereof is made, as in the next preceding section provided.

Notice required to be prefixed.

7. No person shall be entitled to the benefit of this Act unless he gives information of the Copyright being secured, by causing to be inserted, in the several copies of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, or engraving, by causing to be impressed on the face thereof, or if a volume of maps, charts, music, or engravings, upon the title or frontispiece thereof, the following words, that is to say: "Entered according to Act of the Parliament of Canada, in the year by A. B., in the Patent Office of the Dominion of Canada."

Where the work must be published.

8. To entitle any such literary production or engraving as is in this Act mentioned, being the work of any person residing in Great Britain or Ireland, to the protection of this Act, the same shall be printed and published in Canada, and shall, in addition to the words directed to be inserted by the next preceding section of this Act, and immediately following thereafter, contain the name and place of abode or business in Canada of the printer and publisher thereof.

Consequences of infringing.

9. If any other person, after the recording of the title of any book according to this Act, within the term or terms herein limited, prints, publishes, or imports, or causes to be printed, published, or imported, any copy of such book without the consent of the person legally entitled to the Copyright thereof, first had and obtained by deed duly executed, or, knowing the same to be so printed or imported, publishes, sells, or exposes to sale, or causes to be published, sold, or exposed to sale, any copy of such book, without such consent in writing, such offender shall forfeit every copy of such book to the person then legally entitled to the Copyright thereof; and shall forfeit and pay *two dollars* for every such sheet which may be found in his possession, either printed or printing, published, imported, or exposed to sale, contrary to the intent of this Act; of which penalty one moiety shall be to the use of Her Majesty, and the other to the legal owner of such Copyright, to be recovered in any Court of competent jurisdiction.

Same subject.

10. If any person, after the recording of the title of any print, cut, or engraving, map, chart, or musical composition, according to the provisions of this Act, within the term or terms limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either in the whole or by varying, adding to or diminishing the main design, with intent to evade the law, or prints or imports for sale, or causes to be printed or imported for sale, any such map, chart, musical composition, print, cut, or en-

graving, or any parts thereof, without the consent of the proprietor or proprietors of the Copyright thereof, first obtained, as aforesaid, or knowing the same to be so printed or imported without such consent, publishes, sells, or exposes to sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, or print, without such consent, as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, or print, has been copied, and also every sheet thereof, so copied or printed, as aforesaid, to the proprietor or proprietors of the Copyright thereof, and shall further forfeit two dollars for every sheet of such map, musical composition, print, cut, or engraving, which may be found in his or their possession, printed or published, or exposed to sale, contrary to the true intent and meaning of this Act; and one moiety of such forfeiture shall go to the proprietor or proprietors of the copyright, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any Court of competent jurisdiction.

Exceptions.

11. Nothing herein contained shall extend to prohibit the importation or vending, printing or publishing, of any map, chart, book, musical composition, print or engraving, written, composed, or made, by any person not residing in Canada, and not being a British subject resident in Great Britain or Ireland.

Pirating manuscripts.

12. If any person prints or publishes any manuscript whatever in Canada, or the same having been printed or published elsewhere, offers it, or causes it to be offered, for sale in Canada, without the consent of the author, or legal proprietor, first obtained, as aforesaid, such author or proprietor being resident in Canada, or being a British subject resident in Great Britain or Ireland, such person shall be liable to the author, or proprietor, for all damages occasioned by such injury, to be recovered in any Court of competent jurisdiction. 4, 5 V., c. 61, s. 10.

BILL.

An Act respecting Copyrights.

Received and read first time, Monday, 4th May, 1868.

Second reading, Tuesday, 5th May, 1868.

Hon. Mr. McDOUGALL.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 108.] **BILL.** [1868.

An Act respecting the Banks of the Province of Nova Scotia.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of the Dominion of Canada, enacts as follows:—

1. Any Bank incorporated or carrying on business in Nova Scotia may issue as circulating currency Bank notes of any denomination or for any amount, consistent with its Charter.

2. Section thirteen of Chapter eighty-three of the Revised Statutes of Nova Scotia (Third Series) is hereby repealed.

No. 108.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act respecting the Banks of the Province of Nova Scotia.

Received and read, first time, Monday, 4th May, 1868.

Second reading, Tuesday, 5th May, 1868.

Mr. SAVARY.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

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No. 109.] **BILL.** [1868.

An Act to amend the Acts relating to the Canada West Farmers' Mutual and Stock Insurance Company, and to change the name of the Company to the "Canada Farmers' Mutual Insurance Company."

Preamble.

WHEREAS the Canada West Farmers' Mutual and Stock Insurance Company have, by their Petition, prayed for certain amendments to their Act of Incorporation, and it is expedient that the prayer of their Petition be granted; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Change of name.

1. The Corporate name of the said Company shall henceforth be "The Canada Farmers' Mutual Insurance Company."

Business may extend over the Dominion.

2. The said Company shall henceforth have power and authority to make and effect contracts of Insurance with any person or persons, body or bodies corporate or politic, against loss or damage by fire on any house or houses, store or stores, or other building or buildings whatsoever, situate within the Dominion of Canada, and in like manner on any goods, chattels or personal estate whatsoever within the said Dominion, for such term or terms, period or periods, and for such consideration and subject to such conditions and restrictions as may be agreed upon between the said Company and the person or persons, body or bodies agreeing with them for Insurance, and generally to do and perform all matters and things connected with or requisite to promote those objects.

Limitation of risks.

3. The powers and provisos respecting cases of Mutual Insurance mentioned and contained in the original Act of Incorporation of the said Company and in the Acts amending the same, shall extend and be applicable to contracts of insurance effected under this Act, with this exception, that it shall henceforth be lawful and competent for the said Company to effect an insurance on any one risk for a sum not exceeding four thousand dollars.

Re-Insurance.

4. It shall henceforth be lawful and competent for the said Company to make and effect contracts of re-insurance with any other Company or Companies upon the whole or any part of any property insured by the said Canada West Farmers' Mutual Insurance Company.

Meeting of Directors.

5. Notwithstanding anything in the said Act of Incorporation of the said Company contained, it shall not henceforth be necessary to hold a weekly meeting of the Board of Directors of the said Company, but the said Board of Directors may henceforth hold their meetings so often and at such times as they may from time to time, by By-law, direct.

No. 109.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to amend the Acts relating to the Canada West Farmers' Mutual and Stock Insurance Company, and to change the name of the Company to the "Canada Farmers' Mutual Insurance Company."

PRIVATE BILL.

MR. RYMAL.

OTTAWA:

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An Act for the relief of Joseph Frederick Whiteaves.

WHEREAS, Joseph Frederick Whiteaves, of the City of Montreal, Esquire, Curator of the Museum of the Natural History Society of Montreal, hath, by his petition, humbly set forth that on the eighteenth day of June, one thousand eight hundred and sixty-three, he was married to Julia Wolff; that they lived and cohabited together as husband and wife up to about the seventh day of March, one thousand eight hundred and sixty-six, when he discovered that she had been leading an irregular life, and had been committing adultery with a certain person named in the evidence within a year next preceding that date; that thereupon the said Julia Wolff left the house of the said Joseph Frederick Whiteaves and has ever since continued to live apart from him; that the said Julia Wolff had by her conduct dissolved the Bond of Matrimony on her part; that the said Joseph Frederick Whiteaves had taken measures to establish judicially the adulterous correspondence of the said Julia Wolff, and was ready to prove the allegations of his said petition; wherefore he humbly prayed that the said marriage might be dissolved so as to enable him to marry again, and that such further relief might be afforded him as might be deemed fit; And whereas the said Joseph Frederick Whiteaves hath since procured a judgment against the said Julia Wolff establishing the adultery above mentioned, and it is expedient that the prayer of the said petition should be granted; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The said marriage between the said Joseph Frederick Whiteaves and Julia Wolff, his wife, is and shall be henceforth null and void to all intents and purposes whatsoever, as well as the marriage contract executed between the said Joseph Frederick Whiteaves and the said Julia Wolff, before S. J. Glackemeyer and his colleague, Notaries, on the seventeenth day of June, one thousand eight hundred and sixty-three.

2. It shall and may be lawful for the said Joseph Frederick Whiteaves at any time hereafter, to contract matrimony, and to marry with any other woman with whom he might lawfully marry in case the said marriage had not been solemnized.

3. In case of the said Joseph Frederick Whiteaves again contracting matrimony with any person or persons with whom it would have been lawful for him to contract matrimony, if they, the said Joseph Frederick Whiteaves and Julia Wolff had not intermarried, and having any issue born to him, the said issue so born shall be and are hereby declared to be, to all intents and purposes, legitimate, and the rights of them the said issue, and each of them, and of their respective heirs, as respects their and each of their capacity to inherit, have, hold, enjoy, and transmit all and all manner of property, real or personal, of what nature or kind soever, from any person or persons whomsoever, shall be and remain the same as they would have been, to all intents and purposes whatsoever, if the marriage between the said Joseph Frederick Whiteaves and Julia Wolff had not taken place.

OTTAWA:

No. 111.] **BILL.** [1868

An Act relating to Light-Houses, Buoys and Beacons.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :— Preamble.

1. All Light-Houses and Lights, heretofore acquired, constructed repaired, maintained or improved, and all Buoys and Beacons heretofore erected, placed or laid down, at the expense either of the late Province of Canada, or of the former Province of Upper Canada, or of the former Province of Lower Canada, or of the Province of Nova Scotia, or of the Province of New Brunswick, or acquired, constructed, repaired, maintained or improved, erected, placed or laid down, before or after the passing of this Act, at the expense of Canada, together with all buildings and other works belonging thereto and in connection therewith, shall vest in Her Majesty and be under the direct control and management of the Minister of Marine and Fisheries. Light-Houses &c., to vest in Her Majesty, and be under the control of the Minister of Marine and Fisheries.

2. The Minister shall direct the construction, maintenance and repair of all Lights, Buoys and Beacons, and the maintenance and repair of all Light-Houses, and of all buildings and other works belonging thereto and in connection therewith, in progress, or constructed or maintained at the expense of Canada, and which by this Act are or shall hereafter be placed under his management or control : but nothing in this Act shall give authority to the Minister to cause expenditure not previously sanctioned by Parliament, except for such repairs and alterations as the necessities of the public service may demand. Certain works in relation thereto to be directed by the Minister.

3. No warrant shall be issued for any sum of the public money appropriated for any public work under the management of the Minister, except on the certificate of the Minister or his Deputy, that such sum ought to be paid to any person named in the certificate, in whose favor a warrant may then issue. Warrants for money for such works.

4. The Minister shall, on authority of the Governor in Council, from time to time direct as many Buoys, Beacons and other marks, to be placed in and about the various lakes, rivers, bays and harbors in Canada, as to him may appear necessary for the safety of the shipping and convenient navigation of those lakes, rivers, bays and harbors respectively, and may make regulations for the maintenance of such Buoys, Beacons and marks, as well as of any Buoys, Beacons and marks heretofore placed, or erected or laid down at the expense of any of the Provinces aforesaid, or which, before or after the passing of this Act, may have been or may be placed or erected or laid down at the expense of Canada, and may authorize persons to carry the same into effect. Minister to direct placing of buoys, beacons, &c., and make regulations.

5. Whoever shall wilfully take away, destroy, deface or remove any Buoy or Beacon erected, laid down, placed or replaced under this Act, shall be guilty of a misdemeanor, for which he may be tried either on an indictment, in the usual way, before any Court having cognizance of cases of misdemeanor in the County or District in which the offence is committed, or summarily before any Stipendiary Magistrate, or Police Magistrate, or Judge of the Sessions of the Peace, or two Justices within the limits of whose jurisdiction the offence is committed. Taking away light, buoy or beacon a misdemeanor.

Provision for the summary recovery of penalties.

6. All penalties incurred under this Act may be recovered, in the name of Her Majesty, by any officer of the Department of Marine and Fisheries, or person employed by the Minister in carrying this Act, or regulations made under it, into effect, or by any party aggrieved by any act, neglect or omission, made penal by this Act, on the evidence of one credible witness, who may be the prosecutor himself (unless he is the party aggrieved), before any Stipendiary Magistrate, or Police Magistrate, or Judge of the Sessions of the Peace, or two Justices of the Peace; and in default of payment of such penalty, such Stipendiary Magistrate or Justices may commit the offender to gaol for any period not exceeding three months; and all penalties recovered under this Act shall be paid over to the Receiver General.

Appointment of officers and making of regulations.

7. The Governor in Council may appoint superintendents, keepers, and other such officers as may be necessary for the purposes of this Act, and the Minister may ordain and enforce regulations for the proper lighting and keeping of Light-houses and Lights; and make contracts for supplies, or purchase supplies, for the use of the same, and generally may do all such things as may be necessary for carrying this Act fully into effect.

Tenders to be invited for works, &c.

8. It shall be the duty of the Minister to invite tenders by public advertisement for the execution of all works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it could be more expeditiously and economically executed by the officers and servants of the Department; and also for all contracts for supplies.

Saving clause with respect to Trinity Houses of Quebec and Montreal.

9. Nothing in this Act shall affect or in any wise impair the jurisdiction or powers of the Master, Deputy Master and Wardens of the Trinity House of Quebec, or of the Master, Deputy Master and Wardens of the Trinity House of Montreal, or shall authorize any interference with any Light-House, Light-Ship, floating or other light, lantern or other signal, buoy, beacon, anchor or land-mark under the control and management of either of the said corporations, or abrogate or annul any By-law, Rule or order heretofore lawfully made by either of the said corporations; but both of the said corporations shall report to the Minister from time to time, and as and when he may require, on the subject of such Light-Houses, Buoys, Beacons, and other things as aforesaid, and be subject to his instructions.

Portions of cap. 21 of the Revised Statutes of Nova Scotia repealed.

10. So much of the twenty-first chapter of the Revised Statutes of Nova Scotia (third series), "Of the Board of Works," as enacts that the legal title to and the superintendence and management of all the Light-Houses, Buoys and Beacons erected or to be erected within the said Province, and also Sable Island and the Seal and Mud Islands, and the several provincial establishments for humane objects, is, are and shall be vested in and exercised by the Board of Works mentioned in the said Act; and that lands required for the erection of Light-Houses, Beacons and other uses for the protection of navigation and for roads leading thereto, and for other necessary purposes connected therewith, may, by order of the said Board of Works, be laid off and appropriated to the public service for such uses; and that there shall continue to be a Superintendent of Light-Houses, and Humane Establishments, that his duty under the Board shall be to visit the Light-Houses and Humane Establishments, but who shall be subject to the general direction of the Board, and shall render them such assistance and perform such duties as the Board may from time to time require; and that he shall report to the Board the condition of the Humane Establishments and Light-Houses, and offer suggestions for correcting abuses and effecting improvements, is hereby repealed.

Sections 1, 2, and 4 of c. 23

11. The first, second and fourth sections of the twenty third chapter of the Revised Statutes of Nova Scotia (third series), "Of Sable, Saint Paul and Scatterie Islands, and of Light-Houses," are hereby repealed.

12. The Superintendent, or the resident keeper, or any officer of the Department of Marine and Fisheries, or any other person acting under the authority of the Minister, may apprehend any person who may be found residing on Sable Island or St. Paul's Island, having voluntarily gone there for any purpose whatever, without a license from the Minister, describing such person, and authorizing him to reside thereon, and may bring him and all property found in his possession to Halifax; and any Stipendiary Magistrate or Police Magistrate, or two Justices of the Peace, upon proof that he was so found, may commit him to gaol for not more than six months, and further, until he give security for his future good behaviour; and whatever property may be found on the islands belonging to any such offender shall, by order of such Magistrates or Justices, be sold, and the proceeds applied to that purpose, and the residue, if any, returned to the owner; but if it appear that such property has been cast on the shores of the islands, or proceeds from some wrecked or stranded vessel, it shall be sold, and the proceeds, after payment of the expenses, paid to the owner, or his agent, or otherwise be paid to the Receiver General for the right owner when discovered, who, upon proof to the satisfaction of a Judge of the Supreme Court of Nova Scotia of his right thereto, shall receive the same.

Persons found residing on Sable Island or St. Paul's Island may be punished.

13. The Minister may, from time to time, make rules for the government of these islands, and for regulating the duties of the resident keepers thereon, for administering relief to shipwrecked persons and their removal, preserving and removing shipwrecked property, and preventing persons not authorized by him from taking up their residence thereon, and for the general management of the islands.

Rules for the government of these islands to be made by the Minister.

14. When vessels or goods shall be stranded on Sable Island, or St. Paul's Island, or on any of the bars or coasts thereof, and such vessels or goods, or any part thereof, shall be saved by the Superintendent, or by any other officer of the Department of Marine and Fisheries, or by any person under the authority of the Minister, such vessels or goods shall be taken in charge by the Superintendent or keeper and sent to Halifax, to be disposed of under the direction of the Minister, for the benefit of the owners, after payment of salvage to the establishment of Sable Island and St. Paul's Island, and all other expenses incurred with respect to such vessels or goods, unless the Minister shall give contrary orders to the Superintendent or keepers; and all goods so saved shall be held to be in the possession of the Minister, and shall not, on any pretence, be taken out of the custody of such Superintendent or keepers, or persons employed by either of them, except by order of the Minister, nor until payment of the salvage and expenses; and such goods shall be liable to duties.

Vessels or goods stranded on these islands, how to be dealt with.

15. The first, second, third, fourth, fifth, sixth, eleventh, twelfth, thirteenth, fourteenth and fifteenth sections of chapter twenty of the Revised Statutes of New Brunswick, "*Of the Regulation of Light-houses*," are hereby repealed and the following Acts of the Legislature of the said Province are also hereby repealed, that is to say:

Certain sections of cap. 20 of R.S. N.B., repealed

The Act passed in the twenty-first year of Her Majesty's Reign, chapter twelve, intituled, "*An Act to repeal an Act intituled, 'an Act 'to amend Title III, chapter twenty of the Revised Statutes 'Of the 'Regulation of Light-houses,' and make other provisions.*"

Act of N.B., 21 V., c. 12, repealed.

The Act passed in the twenty-second year of Her Majesty's Reign, chapter seven, intituled, "*An Act to provide a contribution towards the expense of maintaining the Cape Race Light.*"

Act of N.B., 22 V., c. 7, repealed.

Act of N.B., 23 V., c. 6, repealed.

The Act passed in the twenty-third year of Her Majesty's Reign, chapter six, intituled, "*An Act to repeal an Act intituled, 'an Act to "'make further provisions for the support of Buoys and Beacons in the "'Bay and Harbour of Miramichi.'*"

Act of N.B.; 25 V., c. 41, repealed.

The Act passed in the twenty-fifth year of Her Majesty's Reign, chapter forty-one, intituled, "*An Act to amend an Act intituled, 'an Act "'to amend chapter nineteen, Title III, of the Revised Statutes' Of Buoys "'and Beacons,' so far as the same relates to the County of Charlotte.*"

Act of N.B., 26 V., c. 4, repealed.

The Act passed in the twenty-sixth year of Her Majesty's Reign, chapter four, intituled, "*An Act relating to Buoys and Beacons.*"

Effect of repeal of Acts, &c., restricted

16. The repeal of the said portions and sections of the said chapters of the said Revised Statutes of Nova Scotia and of New Brunswick, shall not, nor shall the repeal of the said Acts or any of them, revive any Act or part of an Act, or any provision of law thereby repealed, nor affect any duty accrued, right acquired, or penalty, forfeiture or liability incurred under the said sections or Acts or any of them, or any offence committed against them or any of them before the passing of this Act.

No. 111.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act relating to Light Houses, Buoys and Beacons.

Received and read, first time, Wednesday, 6th May, 1868.

Second reading, Thursday, 7th May, 1868.

Hon. Sir JOHN A. MACDONALD.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 112.] **BILL.** [1868.

An Act respecting the Treatment and Relief of Sick and Distressed Mariners.

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. The words "Sick Mariner," wherever they occur in this Act, mean and include any Master, Mate, Engineer, Seaman, Sailor, Steward, Fireman or other person employed on board of any vessel on which duty has been paid under this Act, who, from sickness, accident or any other cause is in need of medical or surgical assistance and treatment. Interpretation. "Sick mariner."

2. The word "vessel," wherever it occurs in this Act, shall mean and include any vessel used in navigation, not propelled by oars. "Vessel."

3. The Governor in Council may, from time to time, designate and appoint any Hospital or Hospitals in Canada receiving aid from the public funds of Canada to be, during pleasure, but not longer than such Hospital or Hospitals respectively shall continue to receive such aid, a Hospital or Hospitals for the reception, care and medical or surgical treatment, or both, of sick mariners, under this Act. Hospitals for sick mariners to be designated by Governor.

2. The Governor in Council may, from time to time, with the consent of the Governors, Trustees, Directors or other persons having the control and management of any Hospital or Hospitals not receiving aid from the public funds of Canada, designate and appoint such Hospital or Hospitals to be, during pleasure, a Hospital or Hospitals for the reception, care and medical or surgical treatment, or both, of sick mariners under this Act. The same.

4. There shall be levied and collected on every vessel arriving in any port in the Provinces of Quebec, Nova Scotia or New Brunswick, a rate or duty of two cents for every ton which such vessel measures, register tonnage, which shall be paid by the master or person in command of such vessel, or by some person on his behalf, to the collector or other chief officer of the customs at the port at which such vessel is entered, and at the time of making such entry, which shall contain on the face of it the tonnage of such vessel; and no entry shall be validly made, or have any legal effect whatever, unless the rate or duty is so paid as aforesaid, save and except as hereinafter mentioned; and no collector or other chief officer of the Customs shall grant a clearance to any vessel on which such rate or duty or any part thereof is due and unpaid; and the moneys so received shall be paid by such collector or chief officer to the Receiver General of Canada, and shall form a fund to be called and known by the name of "The Sick Mariners' Fund," for the purposes hereinafter mentioned, and no other. A certain duty to be collected on all vessels arriving in any of the Ports in Quebec, Nova Scotia, or New Brunswick.

2. But no vessel of the burthen of one hundred tons or less, shall be subject to the payment of the said duty more than once in any one year. Proviso.

3. Nor shall any other vessel pay such rate of duty more than twice in any one year. Proviso.

4. Every collector or other chief officer of the customs shall transmit quarterly, on the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June in each year, to the Minister of Marine and Fisheries, accounts of the sums received by him and paid over to the Receiver General under this Act. Collector to account quarterly to Minister of Marine and Fisheries.

Masters of vessels may send their sick mariners to such Hospitals where they shall be received gratuitously.

5. The master or person in command of any vessel paying such rate or duty, may send to the said Marine Hospital at Quebec, or to the Marine or Seamen's Hospital at or for any other port in any of the Provinces aforesaid, or to any Hospital so designated and appointed as aforesaid, at any hour of the day (and in case of accident or emergency, at any hour of the night), any sick mariner belonging to his vessel; and such sick mariner, so sent with a written recommendation from such master or person in command of such vessel, endorsed as "approved" by the Collector of the Customs at the port, or other officer appointed for the purpose by the Minister, shall be gratuitously received into such hospital, and receive therein such medical and surgical attendance and such other treatment as the case may require, so long as the same may be required.

Care and treatment of sick mariners to be paid for out of fund created by duty.

6. The Governor may, by warrant under his hand, pay, from time to time, for the purposes of this Act, and out of any moneys paid under it into the hands of the Receiver General, to the managers or directors of the Marine Hospital established at Quebec, and to the managers or directors of any Hospital designated and appointed, as hereinbefore provided, for the reception, care and medical or surgical treatment, or both, of sick mariners under this Act, but not exclusively devoted to that purpose, such sum or sums as he may deem to be a reasonable compensation for the care and treatment of the sick mariners sent to such Hospital.

If no Marine or Seamen's Hospital Collector to make provision for care o sick or disabled sailor.

7. At any port at which such rate or duty as aforesaid is received, and at or for which there is no Marine or Seamen's Hospital, or other Hospital so designated and appointed as aforesaid, it shall be the duty of the Collector or other chief officer of the customs, upon being required so to do at any hour of the day (and in case of accident or emergency, at any hour of the night), by the master or person in command of any vessel paying such rate or duty at such port, to make without delay the best provision in his power for the medical or surgical assistance, or both, and treatment of any sick mariner belonging to such vessel, at the nearest public hospital if there be any such hospital at a safe and convenient distance, and if not, then at some public or private house.

Expenses incurred by Collector to be paid out of fund arising from duty.

8. The Governor may, by warrant under his hand, pay from time to time, for the purposes of the next preceding section, and out of any moneys paid under this Act into the hands of the Receiver General, to the collector or chief officer of the customs at any such port as is described in the said section, such sum or sums of money as such collector or other chief officer of the customs may from time to time prove to his satisfaction that he has lawfully and in good faith expended or become liable for, under and in pursuance and for the purposes of the said section.

Certain sums may be appropriated yearly towards temporary relief of certain other seamen.

9. The Governor may, whenever he deems it necessary, appropriate from the fund arising from the duties imposed under this Act, such sums as he deems requisite towards the temporary relief, in such manner as he deems advisable, of shipwrecked, destitute, or otherwise distressed seamen not entitled to relief under any of the provisions of "The Merchant Shipping Act, 1854," which may be in force in that one of the Provinces aforesaid in which such seamen may be.

Such seaman may be taken care of

2. And any shipwrecked, destitute or otherwise distressed seamen may, by authority from the Minister, be temporarily boarded and lodged and taken care of at any Marine or Seamen's Hospital devoted exclusively to the reception, care and treatment of sick mariners.

All expenses to be paid out of "Sick Mariners Fund."

10. All expenses incurred in any one of the Provinces aforesaid, for the care and medical and surgical treatment of sick mariners, including the cost of the maintenance and support of Marine and Seamen's

Hospitals, devoted exclusively to such purposes, shall be defrayed out of "the Sick Mariners' Fund;" and the Governor in Council shall have the appointment, and power of removal, of the superintendents and other officers of such Hospitals, who shall be such and so many, and receive such salaries or remuneration as the Governor in Council may from time to time appoint.

Expenditure of fund to be accounted for and vouchers produced.

11. Every person intrusted with the expenditure of any portion of the moneys hereby appropriated, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands, and the amount of the moneys hereby appropriated, to the purpose for which such advance has been made, remaining unexpended in the hands of the Receiver General; and every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June, in each year during which such expenditure shall be made, and shall be attested before a Judge of a Superior Court of Law or a Justice of the Peace, and shall be transmitted to the Minister, within teen days next after the expiration of the said periods respectively.

Accounts to be attested.

Annual report to be laid before Parliament.

12. The Minister shall make an Annual Report and Statement to the Governor General, of the receipts and expenditures under this Act, for the purpose of, and in time for, its being laid before Parliament within the first fifteen days of the next Session thereof.

Powers of Minister of Marine and Fisheries.

13. Subject to the approval of the Governor in Council, the Minister shall have the management of all marine and seamen's hospitals and pest houses for the use of sick mariners, and may renew leases of lands on which any such hospitals or pest houses may be erected, and make all necessary contracts for repairing and maintaining the same, and for the cure, care, attendance and support of the patients therein, and may also make such regulations as he may deem advisable for the government of the same, for regulating the visiting of seamen ill of any infectious diseases, and for their removal to any pest house or other building; and until proper buildings shall be erected at the several ports, the Minister may hire and make use of any building which may be convenient for the purposes aforesaid, or any of them.

Certain Hospitals to be under the control of the Minister.

14. All marine and seamen's hospitals, devoted exclusively to the reception, care and treatment of Sick Mariners shall be vested in Her Majesty, and under the exclusive control and management of the Minister of Marine and Fisheries.

Acts repealed R. S. N. S., c. 75, s. 36, 37, and 38. Act of N. S., 29 V., c. 8, s. 6.

15. The thirty-sixth, thirty-seventh and thirty-eighth sections of chapter seventy-five of the Revised Statutes of Nova Scotia (third series) "Of Shipping and Seamen," and the fifth section of the Act of the Legislature of the Province of Nova Scotia, passed in the twenty ninth year of Her Majesty's Reign, chapter eight, intituled "An Act to authorize the establishment of a Quarantine Station at the Port of Halifax," are hereby repealed, and the following Acts are also hereby repealed, namely:

Con. Stat. L. C., c. 59.

The Act "respecting the Medical Treatment of Sick Mariners," forming the fifty-ninth chapter of the Consolidated Statutes for Lower Canada.

R. S. N. B., c. 22.

Chapter twenty-two of the Revised Statutes of New Brunswick "Of "Sick and Disabled Seamen."

Act of N. B., 18 Vic., c. 29.

The Act of the Legislature of the Province of New Brunswick, passed in the eighteenth year of Her Majesty's Reign, chapter twenty-nine, intituled "An Act to amend the Law relating to Sick and Disabled Seamen."

Act of N. B., 20 Vic., c. 1.

The Act of the Legislature of the Province of New Brunswick, passed in the twentieth year of Her Majesty's Reign, chapter one, intituled an Act to alter and amend chapter twenty-two, title III, of the Revised Statutes, "Of Sick and Disabled Seamen."

Act of N. B., 22 Vic., c. 33

The Act of the Legislature of the Province of New Brunswick, passed in the twenty-second year of Her Majesty's Reign, chapter thirty-three, intituled, "An Act relating to Sick and Disabled Seamen."

Act of N. B., 26 Vic., c. 21.

The Act of the Legislature of the Province of New Brunswick, passed in the twenty-sixth year of Her Majesty's Reign, chapter twenty-one, intituled "An Act relating to the Accounts of Commissioners for "Sick and Disabled Seamen."

Effects of repeal restricted

16. The repeal of the said sections of the said chapter of the said Revised Statutes and of the said first mentioned Act, shall not, nor shall the repeal of the said Acts or any of them, revive any Act or part of an Act, or any provision of law thereby repealed, nor affect any duty accrued, right acquired, or penalty, forfeiture or liability incurred under the said sections or Acts or any of them, or any offence committed against them or any of them before the passing of this Act.

Commencement of Act.

17. This Act shall come into force upon, from and after the day of next.

No. 112.

1st Session, 1st Parliament, 31 Vic

BILL.

An Act respecting the Treatmen of Sick and Distressed Marin

Received and read, first time, 6th May, 1868.

Second reading, Thursday, 7th

Hon. Sir JOHN A. M

OTTAWA:

PRINTED BY HUNTER, ROS

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No. 113.] BILL. [1868.

An Act respecting fishing by foreign vessels.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. The Governor may, from time to time, grant to any foreign ship, vessel or boat, or to any ship, vessel or boat not navigated according to the laws of the United Kingdom, or of Canada, at such rate, and for such period not exceeding one year, as he may deem expedient, a license to fish for or take, dry or cure any fish of any kind whatever, in British waters, within three marine miles of any of the coasts, bays, creeks or harbours whatever, of Canada, not included within the limits specified and described in the first article of the convention between His late Majesty King George the Third and the United States of America, made and signed at London on the twentieth day of October, 1818. Governor may grant licenses to foreign vessels, &c., to fish in British waters, within three miles of the coasts of Canada.

2. Any commissioned officer of Her Majesty's Navy serving on board of any vessel of Her Majesty's Navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's Subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, Sheriff, Magistrate or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat within any harbour in Canada or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours in Canada, and stay on board so long as she may remain within such place or distance. Certain British or Canadian officers may board vessels hovering in British waters within the said limits.

3. If such ship, vessel or boat be bound elsewhere, and shall continue within such harbour or so hovering for twenty-four hours after the Master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel or boat into port and search her cargo, and may also examine the Master upon oath touching the cargo and voyage; and if the Master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit *four hundred dollars;* and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, Such vessels refusing to depart may be brought into port, &c. And forfeited in certain cases.

or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel or boat under the first section of this Act, such ship, vessel or boat and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited.

Vessels, &c., forfeited may be seized.

Penalty for resisting seizure.

4. All goods, ships, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit *eight hundred dollars*, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.

How such vessels, &c., shall be secured and kept.

5. Goods, ships, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo seized as liable to forfeiture under this Act, shall be forthwith delivered into the custody of the Collector or other principal officer of the Customs at the port nearest to the place where seized, to be secured and kept as other goods, ships, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo seized are directed by the laws in force in the Province in which such port is situate to be secured and kept, or into such other custody and keeping as the Governor in Council, or a court of Vice-Admiralty shall order.

When condemned to be sold by auction.

Application of proceeds of sale.

Proviso.

6. All goods, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo, condemned as forfeited under this Act shall, by direction of the Collector or other principal officer of the Customs at the port where the seizure has been secured, be sold at public auction; and the proceeds of such sale shall be applied as follows: The amount chargeable for the custody of the property seized shall first be deducted and paid over for that service; one half of the remainder shall be paid without deduction to the officer or person seizing the same; and the other half, after first deducting therefrom all costs incurred, shall be paid to the Receiver General of Canada through the Department of Marine and Fisheries; but the Governor in Council may, nevertheless, direct that any ship, vessel, boat or goods and the tackle, rigging, apparel, furniture, stores and cargo seized and forfeited shall be destroyed, or be reserved for the public service.

Forfeiture how enforced.

7. Any penalty or forfeiture under this Act may be prosecuted and recovered in any court of Vice-Admiralty within Canada.

May be released on security being given.

8. The Judge of the court of Vice-Admiralty may, with the consent of the person seizing any goods, ship, vessel or boat and the tackle, rigging, apparel, furniture, stores and cargo, as forfeited under this Act, order the re-delivery thereof, on security by bond to be made by the party, with two sureties to the use of Her Majesty: and in case any goods, ship, vessel or boat or the tackle, rigging, apparel, furniture, stores and cargo so re-delivered is condemned as forfeited, the value thereof shall be paid into court and distributed as above directed.

Value to be distributed in case of condemnation.

Attorney General for Canada to sue.

9. Her Majesty's Attorney General of Canada may sue for and recover in Her Majesty's name any penalty or forfeiture incurred under this Act.

As to proof of legality of seizure.

10. In case a dispute arises as to whether any seizure has or has not been legally made or as to whether the person seizing was or was not authorized to seize under this Act, oral evidence may be heard thereupon, and the burden of proving the illegality of the seizure shall be upon the owner or claimant.

Claims must be made on oath.

11. No claim to any thing seized under this Act and returned into any Court of Vice Admiralty for adjudication shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed; which oath shall be made by the owner, his attorney or agent, and to the best of his knowledge and belief.

And security must be given.

12. No person shall enter a claim to any thing seized under this Act until security has been given in a penalty not exceeding *two hundred and forty dollars* to answer and pay costs occasioned by such claim; and in default of such security the things seized shall be adjudged forfeited, and shall be condemned.

Protection of officers, &c., acting under this Act.

13. No Writ shall be sued out against any officer or other person authorized to seize under this Act for any thing done under this Act, until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such Writ, his attorney or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his Attorney or Agent; and no evidence of any cause of action shall be produced except such as shall be contained in such notice.

Limitation of suits.

14. Every such action shall be brought within three months after the cause thereof has arisen.

If judgment be for the claimant but there was

15. If on any information or suit brought to trial under this Act on account of any seizure, judgment shall be given for the claimant, and the Judge or Court shall certify on the record

probable cause of seizure, no costs allowed.

that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof; and if any suit or prosecution be brought against any person on account of any seizure under this Act and judgment be given against him, and the Court or Judge shall certify that there was probable cause for the seizure, then the Plaintiff, besides the thing seized or its value, shall not recover more than three and a half cents damages, nor any costs of suit, nor shall the Defendant be fined more than twenty cents.

Tender of amends.

16. Any officer or person who has made a seizure under this Act may, within one month after notice of action received, tender amends to the party complaining, or to his Attorney or Agent, and may plead such tender.

Limitation of suits for penalties.

17. All actions for the recovery of penalties or forfeitures imposed by this Act must be commenced within three years after the offence committed.

As to appeals from decrees under this Act.

18. No appeal shall be prosecuted from any decree, or sentence of any Court touching any penalty or forfeiture imposed by this Act, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

Governor in Council may relieve from penalty.

19. In cases of seizure under this Act, the Governor in Council may, by order, direct a stay of proceedings; and in cases of condemnation may relieve from the penalty in whole or in part, and on such terms as may be deemed right.

Act to apply to inland waters; and other Courts substituted for Vice-Admiralty in such case.

20. The several provisions of this Act shall apply to any foreign ship, vessel or boat in or upon the Inland Waters of Canada; and the provisions hereinbefore contained in respect to any proceedings in a court of Vice-Admiralty shall, in the case of any foreign ship, vessel or boat, in or upon the Inland Waters of Canada, apply to, and any penalty or forfeiture in respect thereof shall be prosecuted and recovered in, one of the Superior Courts of the Province within which such cause of prosecution may arise.

Certain enactments of N. S. and N. B. not to apply to cases provided for by this Act.

21. Neither the ninety-fourth chapter of the Revised Statutes of Nova Scotia, (third series,) "*Of the Coast and Deep Sea Fisheries*," nor the Act of the Legislature of the Province of Nova Scotia, passed in the twenty-ninth year of Her Majesty's Reign, chapter thirty-five, amending the same, nor the Act of the Legislature of the Province of New Brunswick passed in the sixteenth year of Her Majesty's reign, chapter sixty-nine, intituded: "*An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade*," shall apply to any case to which this Act applies; and so much of the said chapter and of each of the said Acts as makes provision for cases provided for by this Act, is hereby declared to be inapplicable to such cases.

No. 113.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting fishing by foreign vessels.

Received and read first time, Wednesday, 6th May, 1868.

Second reading, Thursday, 7th May, 1868.

Hon. Sir JOHN A. MACDONALD.

Printed by G. E. Desbarats.

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No. 114] **BILL.** 1768.

An Act to declare certain persons therein mentioned indemnified for having sat and voted as Members of the House of Commons, while holding certain offices under the Crown.

Preamble.

WHEREAS by the forty-first section of the British North America Act, 1867, it is among other things in effect provided, that until Parliament of Canada otherwise provides, all laws in force in the several Provinces now forming the Dominion of Canada, relative to the qualifications and disqualifications of persons to be elected or to sit and vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, and the vacating of seats of Members, and the execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces; and whereas by the laws in force in the said several Provinces at the time of the passing of the said Imperial Act, persons holding offices of profit or emolument at the nomination of the Crown in the said Provinces respectively, were disqualified from being elected or sitting and voting as Members of the House of Assembly or Legislative Assembly thereof, subject to the exception, that persons holding certain offices and being also Members of the Executive Council of the Province, or holding offices commonly held by Members of such Executive Council, called and known as Ministers of the Crown, might be elected, sit and vote as such Members, if elected after their appointment to such offices: and whereas the several persons hereinafter mentioned while holding the offices also hereinafter mentioned respectively, and being also Members of the House of Commons, that is to say: The Honorable Sir John Alexander Macdonald, K.C.B., while holding the offices of Minister of Justice and Attorney General, was elected Member for the City of Kingston,—the Honorable George Etienne Cartier, while holding the office of Minister of Militia, was elected Member for the electoral district of Montreal East,—the Honorable Samuel Leonard Tilley, C.B., while holding office of Minister of Customs, was elected Member for the City of St. John,—the Honorable Alexander Tilloch Galt, while holding the office of Minister of Finance, was elected Member for the Town of Sherbrooke,—the Honorable William McDougall, C.B., while holding the office of Minister of Public Works, was elected Member for the North Riding of the County of Lanark,—the Honorable William Pearce Howland, C.B., while holding the office of Minister of Inland Revenue, was elected Member for the West Riding of the County of York,—and the Honorable Hector Louis Langevin, while holding the office of Secretary of State of Canada, was elected Member for the County of Dorchester; and the said persons being so elected have since such election, sat and voted in the said House of Commons as Members thereof, while holding the said offices which still they hold respectively, except the Honorable Alexander Tilloch Galt, who after so sitting and voting during a certain time, resigned his said office of Minister of Finance, to which the Honorable John Rose was appointed in his stead, and while holding the said office was elected Member for the County of Huntingdon, and has since his election sat and voted in the said House as a Member thereof; and whereas the said offices, although no salary or emolument was attached to any of them at the time of the acceptance thereof

by the persons aforesaid respectively, or at the time of their said election respectively, may yet, by reason of the expectation that salaries or emoluments would be attached to them, be considered as offices of profit under the Crown; and whereas also the said offices, although not literally the same with those as to which it was provided by the Provincial Acts aforesaid or some of them, that persons holding them might if re-elected after their appointment, sit and vote as Members of the House of Assembly or Legislative Assembly to which such Provincial Acts applied, are yet offices of like nature, and it is consistent with the spirit and intent of the Provincial Laws aforesaid, that persons holding them and being also, Members of the Queen's Privy Council for Canada, responsible Ministers of the Crown, should sit and vote in the House of Commons; And whereas also, the several persons hereinafter mentioned while holding the offices hereinafter mentioned, respectively, and being at the same time Members of Her Majesty's Executive Council for the Province in which they hold such offices, respectively, were elected Members of the House of Commons, that is to say: The Honorable Pierre Joseph Olivier Chauveau, while holding the office of Secretary and Registrar for the Province of Quebec, was elected Member for the County of Quebec,—the Honorable Christopher Dunkin while holding the office of Treasurer for the said Province was elected Member for the County of Brome,—the Honorable Joseph Octave Beaubien, while holding the office of Commissioner of Crown Lands for the said Province was elected Member for the County of Montmagny, —the Honorable George Irvine, while holding the office of Solicitor General for the said Province, was elected Member for the County of Megantic,—the Honorable John Sandfield Macdonald, while holding the office of Attorney General for the Province of Ontario, was elected Member for the County of Glengarry,—the Honorable Edmund Burke Wood, while holding the office of Treasurer for the said Province, was elected Member for the North Riding of the County of Brant,—and the Honorable John Carling, while holding the office of Commissioner of Agriculture and Public Works for the said Province, was elected Member for the City of London,—and the said persons being so elected, have, since such election, sat and voted in the said House of C[illegible] are offices of trust and emolument under the Crown, are not offices in or of the Dominion of Canada, or subject to the control of the Government thereof, and it is therefore in no wise inconsistent with the spirit and intent of the laws of the late Province of Canada referred as aforesaid to in the British North American Act of 1867, that the persons holding them should sit and vote in the said House of Commons: and whereas it is expedient to remove all doubts touching the matters aforesaid, and to declare the persons hereinbefore mentioned to have been and to be capable of being elected and of sitting and voting as Members of the House of Commons, notwithstanding their holding the said offices, and to be indemnified for having so done; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts asfollows:

The several persons mentioned in the Preamble declared capable of sitting and voting and indemnified for having sat and voted.

1. Each of the several persons mentioned in the preamble to this Act is hereby declared to have been and to be capable of being elected and of sitting and voting in the House of Commons as a Member thereof, notwithstanding his having held or holding at the time of his election or of his so sitting and voting, the office mentioned in the preamble as having been or being held by him, and notwithstanding that any salary may heretofore have been paid, or may hereafter be legally attached to the said offices or any of them, provided he was not, and so long as he shall not be, otherwise disqualified; and each of the said persons shall be and is hereby indemnified and exonerated from all liability to any penalty or otherwise for having so sat and voted or for so sitting and voting while not otherwise disqualified as aforesaid.

No. 114.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act to declare certain persons therein mentioned indemnified for having sat and voted as Members of the House of Commons, while holding certain offices under the Crown.

Received and read first time, Wednesday, 8th May, 1868.

Second reading, Thursday, 7th May, 1868.

Hon. Sir J. A. Macdonald.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

No. 115.] **BILL.** [1868

An Act to fix the Salary of the Governor General.

WHEREAS it is expedient to alter the provisions of the one hundred and fifth section of the British North America Act, 1867, as the Parliament of Canada is by the said Act authorized to do, and to fix the Salary of His Excellency the Governor General; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. From and after the first day of July, next, 1868, the Salary of His Excellency the Governor General of the Dominion of Canada shall be thirty-two thousand dollars. Salary to be $32,000.

2. The one hundred and fifth section of the British North America Act, passed by the Imperial Parliament is amended to that effect. Imperial Act amended.

No. 115.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to fix the Salary of the Governor General.

Received and read first time, Wednesday, 6th May, 1868.

Second reading, Thursday, 7th May, 1868.

Mr. DUFRESNE.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

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Corrected

No. 116.] **BILL.** [1868.

An Act to incorporate the Richelieu and Passumpsic Rivers Junction Railway Company.

Preamble.

WHEREAS the persons hereinafter named, and others, have petitioned for incorporation as a Company to construct the Railway hereinafter described, and the construction of such Railway would be of great benefit to the commerce and for the general advantage of the Provinces of Ontario and Quebec and of the Dominion of Canada, and it is expedient to grant their prayer; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Incorporation and corporate name.

1. The Honorable Thomas Wood, Galloway L. Kemp, George H. Boright, George C. Dyer, R. F. Hamilton, Sheldon N. Boright, R. L. Galer, J. B. Gibson, M.D., Edward Finley, William C. Baker, J. A. Galer and Brown Chamberlin, Esquires, with all such other persons and corporations as shall become shareholders in the Company hereby incorporated, shall be and are hereby constituted a body corporate and politic, by the name of "The Richelieu and Passumpsic Rivers Junction Railway Company."

Clauses of Railway Clauses Act, incorporated with this Act.

2. The several clauses of "The Railway Act," with respect of the first, second, third and fourth clauses thereof, and also the several clauses of the said Act, with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their election and duties," "Calls," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for indemnity, and Fines and Penalties and their prosecution," "Working of the Railway," and "General Provisions," shall be incorporated with this Act; and the expression "this Act," when used herein shall be held and understood to include the clauses incorporated with this Act, save and except in so far as they are varied by any of the provisions of this Act; and subject always to the following modification of the tenth section of "the Railway Act," that is to say, that lands to the extent of twenty acres for Stations, Depôts and other works whensoever they may be required, may be taken by the said Company, subject, however, to the provisions of the said Act in that behalf.

Proviso: as to extent of land to be taken.

Line of the Railway. When the first general meeting of shareholders shall be held.

3. The said Company and their Agents and servants may lay out, construct and finish a double or single track iron Railway, of such width or gauge as the Company see fit, from St. John's in the Province of Quebec, or some point on the River Richelieu adjacent thereto, thence to and through the Townships of Dunham, in the County of Missisquoi, and Sutton, in the County of Brome, to the Province Line, there to connect with a line of Railway in the State of Vermont, about to be constructed under the name of the Missisquoi Railroad, and farther to extend the same through the southern portion of the Townships of Sutton and Potton, in the said County of Brome, in order to connect the said Missisquoi Railroad and the aforesaid section of the Railway authorized by this Act, with the Connecticut and Passumpsic Rivers Railroad, at some point in the United

States; and the said Company shall have the power and authority to construct the different sections of the said Railway in such order as they see fit, keeping in view the general direction as hereinbefore provided.

Capital stock and shares; and how to be applied.

4. The Capital Stock of the said Company shall not exceed in the whole the sum of one million five hundred thousand dollars, to be divided into fifteen thousand shares of one hundred dollars each, which amount shall be raised by the persons hereinbefore named, and such other persons and Corporations as may become shareholders in the said Stock, and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of this Act, and for making the surveys, plans and estimates connected with the Railway, and all the rest and remainder of such money shall be applied towards making, completing and maintaining the said Railway and other purposes of this Act; Provided always, that until the said preliminary expenses shall be paid out of the capital stock, it shall be lawful for the Municipality of any County, City, Town or Township interested in the said Railway or otherwise, to pay out of the funds of such Municipality such preliminary expenses, which sums shall be refunded to such Municipality from the stock of the said Company or be allowed in payment of stock.

Proviso: as to preliminary expenses.

5. All manufacturing, mining or other trading Corporations carrying on their operations, in whole or in part, within the limits of the Counties of Missisquoi and Brome, whether incorporated by special Act, or under any general Act, may subscribe for or otherwise acquire, and may hold, any number of shares of the capital stock of the said Company, and may dispose of the same at pleasure.

Certain manufacturing, &c., companies may take stock.

6. The Honorable Thomas Wood, Galloway L. Kemp, George H. Boright, George C. Dyer, R. F. Hamilton, Sheldon N. Boright, R. L. Galer, J. B, Gibson, M.D., Edward Finley, William C. Baker, J. A. Galer and Brown Chamberlin, Esquires, shall be and are hereby constituted a Board of Directors of the said Company, and shall hold office as such until other Directors shall be appointed under the provisions of this Act, by the Shareholders, and shall have power and authority to fill vacancies occurring thereon, to associate with themselves thereon not more than five other persons, who shall thereupon become and be Directors of the Company equally with themselves,—to open Stock Books and procure subscriptions for the undertaking, to make calls upon the subscribers, to cause surveys and plans to be made and executed, to call a general meeting of Shareholders for the election of other Directors as hereinafter provided, and generally to do all such other acts as such Board under the Railway Act may lawfully do.

First Directors and their powers.

7. The said Directors are hereby empowered to take all necessary steps for opening the Stock Books for the subscription of parties desirous of becoming Shareholders in the said Company, and all parties subscribing to the capital stock of the said Company, shall be considered proprietors and partners in the same.

Subscriptions for stock.

8. When and so soon as one-tenth part of the said capital stock shall have been subscribed, as aforesaid, the said Directors, or a majority of them, may call a meeting of Shareholders at such time and place as they shall think proper, giving at least two weeks' notice in one or more newspapers published in the City of Montreal, and in (or as near as may be to) the counties through which the said Railway shall pass, at which the said general meeting and at the annual general meetings in the following sections

mentioned, the Shareholders present either in person or by proxy, shall elect not less than seven nor more than ten Directors in the manner and qualified as hereinafter provided, which said Directors shall constitute a Board of Directors, and shall hold office until the first Monday in September in the year following their election.

Annual elections of directors.

9. On the said first Monday in September, and on the first Monday in September in each year thereafter, at the principal office of the said Company, there shall be holden a general meeting of the shareholders of the said Company, at which meeting the said shareholders shall elect a like number of not less than seven nor more than ten Directors for the then ensuing year, in manner and qualified as hereinafter provided; and public notice of such annual general meeting and election shall be published one month before the day of election, in one or more newspapers published in the towns or counties along the line of railroad; and the elections for Directors shall be by ballot, and the persons so elected, together with the *ex-officio* Directors, under "The Railway Act," shall form the Board of Directors.

Quorum of directors, &c. Qualification.

10. Five Directors shall form a *quorum* for the transaction of business, and the said Board of Directors may employ one or more of their number as paid Director or Directors; Provided, however, that no person shall be elected a Director unless he shall be the holder and owner of at least ten shares of the stock of the said Company, and shall have paid up all calls on the said stock.

One vote for each share.

11. In the elections of Directors under this Act, and in the transaction of all business at General Shareholders' Meetings, each shareholder shall be entitled to as many votes as he holds shares upon which the calls have been paid up.

Calls on shares.

12. The Directors may at any time call upon the shareholders for instalments upon each share which they, or any of them, may hold in the capital stock of the said Company, in such proportion as they may see fit, no such instalment exceeding ten per cent., and giving one month's notice thereof, in such manner as the Directors may appoint.

Forms of deeds of lands to the company, and registration thereof

13. All deeds and conveyances of lands to the said Company for the purposes of this Act, in so far as circumstances will admit, may be in the form given in Schedule A, to this Act subjoined, or in any other form to the like effect; and for the purposes of due enregistration of the same, all Registrars in their respective Counties, are required to be furnished by, and at the expense of the said Company, with a book with copies of the forms given in the said Schedule A, one to be printed on each page, leaving the necessary blanks to suit the circumstances on each separate conveyance, and shall, upon the production and proof of due execution of any such conveyance, enter the same without any memorial, and shall minute the enregistration or entry on the Deed, and the Registrar shall charge and receive from the said Company for all fees, on every such enregistration, fifty cents, and no more, and such enregistration shall be deemed to be valid in law; any Statute or provision of law to the contrary notwithstanding.

Company may become parties to notes, &c.

14. The said Company shall have power and authority to become parties to Promissory Notes and Bills of Exchange, for sums not less than one hundred dollars, and any such Promissory Note made or endorsed by the President or Vice-President of the Company, and countersigned by the Secretary and Treasurer of the said Company, and under the authority of a majority of a quorum of the Directors, shall be binding on the said Company; and every such Promissory Note or Bill of Exchange so made, shall be pre-

sumed to have been made with proper authority until the contrary be shewn, and in no case shall it be necessary to have the seal of the said Company affixed to such Promissory Note or Bill of Exchange, nor shall the said President, or Vice-President, or the Secretary and Treasurer, be individually responsible for the same, unless the said Promissory Notes or Bills of Exchange have been issued without the sanction and authority of the Board of Directors as herein provided and enacted; provided, however, that nothing in this section shall be construed to authorize the said Company to issue Notes or Bills of Exchange payable to bearer, or intended to be circulated as money or as the notes or bills of a bank.

Proviso.

Bonds for raising money by loan, bearing hypothec.

15. The Directors of the said Company shall have the power, upon being duly authorized thereto by a vote of a majority of stockholders in the said Company, present at any Annual Meeting in the month of September, for the purpose of electing Directors, to issue their Bonds, made and signed by the President and Vice-President of the said Company, and countersigned by the Secretary and Treasurer, and under the seal of the said Company, for the purpose of raising money for prosecuting the undertaking, and such Bonds shall be and be considered to be privileged claims upon the property of the said Company, and shall bear *hypothèque* upon the said Railway without registration; provided, however, that no such Bonds bearing such *hypothèque* shall be issued until after ten per cent. of the whole Capital Stock of the said Company, as provided by this Act, shall have been expended in and upon the said Railway; and provided also, that the whole amount raised upon such Bonds shall not exceed five hundred thousand pounds.

Proviso.

Proviso.

Enforcing payment of freight on goods.

16. In case of neglect or refusal to pay the toll or freight due to the said Company on any goods, they shall have the power to detain the same until the payment of such freight be made, and in the meantime such goods shall be at the risk of the owner, and if such goods be of a perishable nature, the said Company shall have a right to sell the same forthwith, on the certificate of two competent persons establishing the fact of their being so perishable; and if such goods are not of a perishable nature, and shall remain unclaimed for twelve months, the Company may, after giving one month's notice in two newspapers nearest the place where the goods may be, dispose of the same by public auction, and the proceeds of the sale, after paying the freight and cost of sale, shall be handed over to the owner if he shall claim the same.

Agreements with other companies.

17. It shall be lawful for the said Company to enter into an agreement with the Stanstead, Shefford and Chambly Railway Company, or the Montreal and Vermont Junction Railway Company, for the establishment of the north western terminus of their railway at any station within Canada on the line of either of the said Railways instead of at the Town of St. John's, or may without such agreement so establish said terminus, and thence to connect as aforesaid with the Missisquoi Railroad and the Connecticut and Passumpsic Rivers Railroad; and may also enter into agreements with the said Railway Companies or any other Railway Company either in Canada or in any Foreign State, for leasing the said Railway or any part thereof, or the use thereof, at any time or times, to such other Company, or for leasing or hiring from such other Company, any Railroad or part thereof, or the use thereof, or for leasing or hiring any locomotives, tenders, or moveable property, and generally to make any agreement or agreements with any such other Company touching the use by one or the other or by both Companies, of the Railroad or moveable property of either or of both, or any part thereof, or touching any service to be rendered by the one Company to the

other, and the compensation therefor, and any such agreement shall be valid and binding, and shall be enforced by Courts of Law, according to the terms and tenor thereof; and any locomotive, car, carriage, or tender of any Foreign Railway Company brought into this Province in pursuance of any such agreement, but remaining the property of such foreign company as intended to pass regularly along the said Railway between Canada and a Foreign State, shall for all purposes of the Laws relative to Customs, be considered as carriages of travellers coming into Canada, with the intent of immediately leaving it again.

Cars from U. S.

18. The Directors of the said Company elected by the shareholders in accordance with the provisions of this Act shall have power and authority to enter into and conclude any arrangements with any other Chartered Railway Company, for the purpose of making any branch or branches to facilitate a connection between this Company and such other Chartered Railway Company, and shall have full power and authority to negotiate with any Company having the chartered right of constructing a bridge across the St. Lawrence River, at or near the City of Montreal, for the right of using the said bridge for the purposes of the Railway, and the advantage and benefit of the Company hereby incorporated.

Agreements for branches, or use of any railway bridge.

19. It shall and may be lawful for the said Company to take and appropriate for the use of the said Railway, but not to alienate, any wild lands of the Crown along the line of the said Railway which may be necessary for the said Railway, with the consent of the Governor in Council, and also so much of the land covered with the waters of any river, stream, lake or canal, as may be necessary for the works of the said Railway; provided that if the said Railway shall cross any navigable river or canal, it shall not be lawful for the said Company to obstruct the navigation of such river or the use of such canal, save and except under and subject to such rules and regulations as may be made from time to time by the Governor in Council, with reference to draw or swing-bridges for the passage of vessels, boats or rafts.

Use of wild lands of the crown; lands covered with water, &c.

Regulations.

20. Any Shareholder in the said Company, whether a British subject or alien, or a resident in Canada or elsewhere, has and shall have equal rights to hold stock in the said Company, and to vote on the same and to be eligible to office in the said Company.

Aliens may vote, &c.

21. The Government of Canada may at any time after the commencement of the said Railway assume the possession and property thereof, and of all the property which the said Company is empowered to hold, and of all the rights and advantages vested in the said Company, upon giving four months' notice of the intention to assume the said Railway and works.

Government may assume the works.

22. In the event of such assumption as aforesaid, the said Company shall make out and submit to the Government of Canada a statement and account in writing of all moneys then expended, and all their ascertained liabilities, and the Provincial Government shall within four months from the time of receiving the said account, pay to the said Company the amount of money so expended, and the amount of such liabilities, with interest at six per cent. and with an addition of ten per cent.; and the Government shall also from time to time pay all such liabilities as shall be further ascertained and established against the said Company; Provided always, that in case of a difference between the Government and the Company as to the amount so to be paid by

Compensation in such case.

Proviso.

the Government, such difference shall be referred to two arbitrators, one to be named by the Government, the other by the Company, and in case of a disagreement such difference shall be referred to an umpire to be chosen by such arbitrators before entering into the consideration of the said difference, and the said award so made by the arbitrators or the umpire shall be final; and provided also that in case of refusal by the Company to appoint an arbitrator on their behalf, the same shall be appointed by any two of the Judges of the Superior Court.

SCHEDULE A.

FORM OF DEED OF SALE.

Know all men by these presents, that I, A.B., of do hereby, in consideration of paid to me by the Richelieu and Passumpsic Rivers Junction Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell and convey unto the said Richelieu and Passumpsic Rivers Junction Railway Company, their successors and assigns, all that tract or parcel of land, (*describe the land*) the same having been selected and laid out by the said Company for the purposes of their Railway, to have and to hold the said land and premises unto the said Company, their successors and assigns forever.

Witness my hand and seal, this day of one thousand eight hundred and

Signed, sealed and delivered, in presence of

A. B.

[L.S.]

No. 116.

1st Session, 1st Parliament, 31

BILL.

An Act to incorporate the Ric
Passumpsic Rivers Junctio
Company.

(CORRECTED COPY

PRIVATE BILL.

Mr. CHAM

OTTAWA:

PRINTED BY HUNTER ROSE

117

No. 117.] BILL. [1868.

An Act respecting the internal Economy of the House of Commons.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. The Speaker of the House of Commons for the time being, and any four Members of Her Majesty's Privy Council for Canada, for the time being, who may be appointed by the Governor in Council as Commissioners under this Act, (they and each of them being also Members of the House of Commons,) and the names and offices of whom and their appointment as Commissioners shall be communicated by message from the Governor to the House of Commons in the first week of each Session of Parliament, shall be, and they are hereby nominated, constituted and appointed Commissioners for the purposes of this Act, and any three of the said Commissioners whereof the Speaker of the House of Commons for the time being shall be one, shall be and they are hereby authorized to carry this Act into execution. Speaker and four other Commissioners to carry this Act into effect. How appointed, &c.

2. An estimate shall annually be prepared by the Clerk of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of the indemnity and mileage of members, and of salaries, allowances, and contingent expenses of the House, and of the several Officers and Clerks thereof under his direction, and of the Printing and Stationery of the House, during the year commencing on the first day of July in each year; and an Estimate shall annually be prepared by the Sergeant at Arms of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of salaries or allowances of the Messengers, Door keepers and Servants of the House under his direction, and of the contingent expenses under his direction, during the year as above mentioned; and such estimates shall be submitted to the Speaker for his approval and shall be subject to such approval and to such alterations as the Speaker shall consider proper; and the Speaker shall thereupon prepare an estimate of the sums requisite for the several purposes aforesaid, and shall sign the same, and such several estimates of the Clerk, Serjeant-at-Arms and Speaker, shall be transmitted by the Speaker to the Minister of Finance for his approval, and shall be laid severally before the House of Commons with the other estimates for the year. Estimate to be made by the Clerk. And by the Serjeant at Arms. To be submitted to the Speaker. Speaker to prepare and Estimate. Estimates to be submitted to Minister of Finance, &c.

Sums voted to be subject to order of Commissioners.

3. All sums of money voted by Parliament upon such estimates or payable to Members of the House of Commons, under *The Members' Indemnity Act*, shall be paid over to and held by the Minister of Finance subject to the order of the said Commissioners or any three of them, of whom the Speaker shall be one, and shall be paid or transferred to them or their order at any time, and from time to time, in such sums as they may deem requisite.

Accountant to be appointed. To give security.

4. All the sums mentioned in the next preceding section, shall be paid according to the directions of the Commissioners from time to time, and the Speaker shall appoint an officer for that purpose, who shall be called the Accountant of the House of Commons, and shall take from him such security for the faithful discharge of his duties as the Commissioners shall think fit, and an account shall be opened in one of the banks of this Province, in the name of the said Accountant; And the Commissioners hereinbefore mentioned, shall, from time to time, pay or transfer such sums as they shall deem necessary for that purpose, to the credit of the said Accountant, by an order signed by the Speaker and two other of the said Commissioners, and in case of the death or removal from office of any such Accountant, the monies standing to his credit in the account aforesaid, shall be forthwith paid by the said bank to the said Commissioners.

Advance of money to Paymaster, &c.

Surplus monies to be repaid to the Receiver General.

5. In case the sums voted by Parliament shall in any year be more than sufficient to pay and discharge all charges thereon, the Commissioners shall, within six weeks after the end of the Session, after retaining in their hands a sum sufficient to answer all demands in respect of the same, which may be likely to arise before the beginning of the then next Session, pay the surplus to the Receiver General, to the credit of the Consolidated Revenue Fund of Canada.

In case of dissolution, Speaker to act until another is chosen.

6. For the purposes of this Act, the person who shall fill the office of Speaker at the time of any dissolution of Parliament, shall be deemed to be the Speaker until a Speaker shall be chosen by the new Parliament; and in the event of the death, or disability, or absence from Canada of the Speaker, during any dissolution or prorogation of Parliament, any three of the Commissioners may execute any of the purposes of this Act.

Speaker may suspend or remove, as the case may be, any Clerk, Officer or Messenger, guilty of misconduct.

7. If any complaint or representation shall at any time be made to the Speaker for the time being, of the misconduct or unfitness of any Clerk, Officer, Messenger or other person attendant on the House of Commons, now or hereafter to be appointed, it shall be lawful for the said Speaker to cause an enquiry to be made into the conduct or fitness of such person; and if thereupon it shall appear to the Speaker that such person has been guilty of misconduct, or is unfit to hold his situation, the Speaker may, if such Clerk, Officer, Messenger or other person has been appointed by the Crown, suspend him and

report such suspension to the Governor in Council, and if he has not been appointed by the Crown then the Speaker may suspend or remove such person, as the case may be, and such person shall be so suspended or removed, as the case may be, accordingly.

Clerk and other Officers, to take Oath of Allegiance.

8. Immediately after the passing of this Act, the Clerk of the House of Commons shall take and subscribe before the Speaker, the oath of allegiance, and all other Officers, Clerks and Messengers of the House of Commons shall take and subscribe before the Clerk of the House of Commons, the oath of Allegiance; and every Officer, Clerk or Messenger who shall hereafter be appointed, shall, before entering upon the duties of his office, take and subscribe the same oath; and the Clerk of the House of Commons shall keep a register of all such oaths.

Provisions respecting the fiscal years 1867-8 and 1868-9.

9. For the purposes of this Act, all sums payable to Members of the House of Commons under the Members' Indemnity Act, and all sums voted and appropriated in the present Session of Parliament, for payment of salaries, allowances and contingent expenses, printing and stationery of the House of Commons for the fiscal year ending on the thirtieth day of June, one thousand eight hundred and sixty-eight, and for the fiscal year ended on the thirtieth day of June, one thousand eight hundred and sixty-nine, shall be deemed and taken as having been estimated under the second section of this Act, and shall be subject to the several provisions of this Act in respect of the mode of payment thereof respectively, and of the disposal of any surplus thereof.

Members' Indemnity Act amended.

10. All sums of money which under the eighth section of The Members' Indemnity Act, might heretofore have been advanced to the clerk of the House of Commons, shall after the passing of this Act, be paid over to the Minister of Finance for the purposes of this Act and shall be subject to the provisions thereof: so much of the seventh or of the ninth section of the said Act, as relates to the clerk of the House of Commons shall be repealed after the passing of this Act, and the accountant shall thereafter perform the duties assigned to the clerk by the said seventh section.

[No. 117.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the internal Economy of the House of Commons.

Received and read first time, Friday, 8th May, 1868.

Second reading, Monday, 11th May, 1868.

Hon. Sir John A. Macdonald.

Printed by G. E. Desbarats.

No. 118.] **BILL.** [1868.

An Act to Incorporate "The Canada Live Stock Insurance Company."

WHEREAS Thomas Stock, Hon. John Carling, Richard L. Denison, Frederick W. Stone, John Walton, William Hendrie, John Weir, William A. Cooley, and others, have petitioned the Legislature for an Act to incorporate them under the style and title of the "*Canada Live Stock Insurance Company*" for the purpose of enabling parties who are owners of or interested in live stock, to insure the same against death and theft, and the hazards of transportation; and whereas such Association would be beneficial to the interests of this Dominion, and tend to the retaining therein a large portion of the moneys annually sent away for such assurances; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. All such persons as now are, or hereafter shall become, stockholders of the said Association, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in law, in fact, and in name, by the style and title of "*The Canada Live Stock Insurance Company,*" and shall be capable in law of purchasing, holding or conveying any estate, real or personal, for the use of the said Corporation, subject to the rules and conditions hereinafter mentioned. Certain persons incorporated. Corporate name and powers.

2. A share in the stock of the said Company shall be ten dollars, and the capital of the Company shall be four hundred thousand dollars, and books of subscription shall be opened in the City of Hamilton and such other of the principal cities and towns of the Dominion of Canada, as the Directors shall see fit, of which public notice shall be given by such person or persons, and under such regulations as the majority of the Directors hereinafter appointed shall direct, provided always that it shall and may be lawful for the said Corporation to increase its capital stock to a sum not exceeding one million dollars, as a majority of the stockholders at a meeting expressly convened for that purpose shall agree upon. Value of share and amount of capital. Proviso for increase thereof.

3. It shall be lawful for any person or persons, or body politic, to subscribe for such and so many shares as he, she or they may think fit, and twenty-five per cent. thereon may be called for by the Directors as soon as they may deem expedient, and the remainder shall be payable in such instalments as the majority of the Directors may determine upon, provided always that no instalment shall exceed ten per cent. of the capital stock in any period of three months, nor be called for nor become payable in less than thirty days after public notice shall have been given in one or more newspapers published in the City of Hamilton, and by circular addressed to each stockholder at his or her last known residence; if any stockholder or stockholders, as aforesaid, shall refuse or neglect to pay to the said Directors the instalment due on any share or shares held by him, her or them, at the time required so to do, such stockholder or stockholders as aforesaid, shall forfeit such share or shares as aforesaid, together with the amount previously paid thereon, Subscription for shares. Proviso, ten per cent. Forfeiture of shares for non-payment

and such forfeited share or shares may be sold at a public sale, or by tender, by the said Directors, after such notice as they may direct, and

Proviso, as to sale of shares forfeited.

the moneys arising therefrom shall be applied for the purposes of this Act; provided always, that in case the money produced by any sale of shares be more than sufficient to pay all arrears and interests, together with the expenses of such sale, the surplus of such money shall be paid on demand to the owner, and no more shares shall be sold than shall be deemed necessary to pay such arrears, interest and expenses; the Directors shall also have power to enforce the payment of such calls by law.

In case of payment of arrears.

4. If payment of such arrears of calls, interest and expenses be made before any share so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, as if such calls had been duly paid;

Action for arrears.

and in all actions or suits for the recovery of such arrears or calls, it shall be sufficient for the said Company to declare in an action of debt in manner following:

Form of declaration.

"For that whereas the defendant heretofore, to wit on the day of eighteen hundred and was indebted to the 'Canada Live Stock Insurance Company,' in the sum of for divers calls and dues upon certain stock and shares of the said Company, held by defendant before, then due and unpaid upon the said stock and shares, and being so indebted then became liable to pay the said amount to the said plaintiffs, to ask and demand the same from the defendant, yet the defendant although often requested, hath not paid the same or any part thereof, to the plaintiffs, damage of , wherefore they bring the suit, &c."

What proof shall suffice.

5. And it shall only be necessary to prove that the defendant was owner of some shares in the Company, that such calls were in fact made, and that notice was given as directed by this Act, and it shall not be necessary to prove the appointment of the directors who made such calls, nor any other matter whatsoever.

Increase of subscription for shares.

6. Provided that if the whole number of shares shall not be subscribed for within six months after the said books of subscription shall be opened, then it shall be lawful for any former subscriber or subscribers to increase his, her or their subscriptions; And provided further, that if the total amount of subscriptions within the period aforesaid shall exceed the capital stock, limited by this Act to four hundred thousand dollars, then and in such case the shares of each subscriber of above fifty shares shall, as near as may be, be proportionably reduced until the total number of shares be brought down to the limits aforesaid;

Reduction of subscriptions

Proviso as to such limitation.

And provided, nevertheless, that the said limitation, in respect to persons subscribing to the said capital stock, shall not extend or be construed to extend to prevent the acquisition of a greater number of shares by purchase, after the said corporation shall have commenced its operations.

Powers and business of corporation.

7. The Corporation hereby erected shall have power and authority to make and effect contracts of assurance with any person or persons, body politic or corporate, against loss or damage by death or theft or the hazards of transportation, of any horses, cattle or mules, under such modifications and restrictions as may be bargained or agreed upon or set forth, and generally to do and perform all other necessary matters and things connected with, and proper to promote these objects.

Corporation may acquire and hold real estate.

8. The said Corporation shall be in law capable of acquiring by purchase, lease, mortgage or otherwise, and of holding, absolutely or conditionally, any lands, tenements, real or personal estate, and the same may sell, let, lease, transfer and dispose of as to them may seem expedient;

Annual value of real estate.

Provided always that nothing in this Act contained shall be considered as permission to hold any real estate beyond the annual value of ten thousand dollars, or such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgment which shall have been obtained for such debts; And provided also that it shall be lawful for the said Corporation to purchase and hold for the purpose of investing therein any part of the said funds or money, any of the public securities of this Dominion, the stocks of any banks or other chartered companies, and the bonds and debentures of any of the incorporated cities or towns, or municipal districts, and also to sell and transfer the same, and again to renew such investment when and as often as a due regard to the interests of the said Company shall require; and also to make loans of the funds on bond and mortgage at any legal rate of interest, and with power to receive the same in advance, and the same investments to call in and re-loan, as occasion may require.

Power to hold certain stocks &c., as investments.

Provisional Directors.

9. The property, affairs and concerns of the said Company, shall be managed and conducted by a board of nine Directors, one of whom shall be chosen President and one Vice-President, which Board, in the first instance and until others shall be chosen and appointed as hereinafter provided, shall consist of Thomas Stock, of East Flamboro', Hon. John Carling of London, Richard L. Denison of Toronto, Frederick W. Stone of Guelph, John Walton of Peterboro', William Hendrie of Hamilton, John Weir of West Flamboro', William A. Cooley of Ancaster, and which said Directors shall hold their offices until the election hereinafter provided for shall take place.

Election of first Board of Directors.

10. As soon as one hundred thousand dollars shall have been subscribed, and twenty-five per cent. paid into some one of the present Chartered Banks of this Dominion on account of the subscribed capital of the Company, it shall and may be lawful for the shareholders or subscribers to proceed to the election, by ballot, of nine Directors, at such time and place as the present board shall appoint, giving fifteen days' notice thereof in one or more newspapers in the City of Hamilton, which Directors shall be stockholders at the time of their election and during their continuance in office to the amount of fifty shares, and shall have power to choose from among themselves a president and vice-president, and the said Directors shall thereupon, at their first meeting thereafter, divide themselves by lot into three classes of three each, who shall go out of office in rotation as hereinafter provided; Provided always that the said Company shall not begin business of Insurance until at least twenty-five thousand dollars is actually paid up.

Qualification of Directors.

Retirement of Directors in rotation.

$25,000 must be first paid up

Scale of votes

Proxies.

Majority.

11. Each stockholder shall be entitled to one vote for each share which he or she shall have held in his or her name, at least one month prior to the time of voting, and all votes given at any meeting may be either personally or by proxy, the holders of such proxies being stockholders, authorized by writing, under the hands of the stockholders nominating such proxies, and every proposition at any such meeting shall be determined by a majority of the parties present, including proxies.

Case of vacancy among the Directors.

12. If any Director of the said Corporation shall die, resign or become disqualified, or incompetent to act as a Director, or shall cease to be a Director through any other cause than that of going out of office by rotation as aforesaid, the remaining Directors, if they think proper so to do, may elect in his place any stockholder duly qualified to be a Director, and the stockholder so elected to fill up any vacancy shall continue in office until the first yearly meeting after such vacancy, and the stockholders then present shall elect a new Director, who shall hold

office for the same period as the Director would have done whose death resignation or disqualification caused the vacancy.

Annual general meeting.

13. A general meeting of the shareholders of the said Company shall be held in the City of Hamilton on such day in each and every year as a majority of the said Directors shall appoint, after giving thirty days' notice thereof, and at such meeting the three Directors whose names stand first on the list of Directors, shall be held to vacate their seats, and the stockholders present at such meeting, either in person or by proxy, shall proceed to elect by ballot three Directors, to serve as Directors for the ensuing year, who shall, upon election, be placed at the bottom of the roll of Directors; Provided always that nothing herein contained shall be held to render the retiring Directors ineligible for re-election.

Election of three Directors.

Proviso.

Annual statement of affairs

14. At the annual general meeting of the Company, and before the shareholders then assembled, the Board of Directors shall exhibit a full and unreserved statement of the affairs of the Company—of the funds, property and securities—shewing the amount of real estate, in bonds and mortgages and other securities, or in public debt or other stock, and the amount due, and by the said Company.

Failure to elect Directors not to operate as a dissolution.

15. If it shall happen at any time, or for any cause, that an election of Directors shall not be made on any day when, pursuant to this Act or the ordinances of the Company, it ought to have been made, the said Corporation shall not, for that cause, be dissolved; but it shall be lawful, on any other day, to hold and make an election of Directors in such manner as shall have been regulated by the by-laws or ordinances of the Company, and the Directors in office shall continue until a new election shall be made.

Directors may make by-laws &c.

16. Any number of Directors of the said Company, being a majority of the said Directors, shall have full power and authority to make, prescribe and alter such by-laws, rules, regulations and ordinances as shall appear to them proper and needful, touching the well ordering of the Company, the rates and amount of assurance and issuing of policies, the management and disposition of its stocks, property, estate and effects, and also to call in any instalment or instalments at such times and seasons as they shall see fit, giving due notice thereof as herein-before provided, and also to declare and cause to be paid or distributed to the respective stockholders of the Company any dividends of profits, at such times and seasons as they shall deem expedient, and also to appoint a Managing Director, Secretary and Treasurer, and two Auditors, or any of them, with such salary or allowances to each, as well as to the Directors, Officers or Agents of the Company as may be thought reasonable, and to take security for the due performance of their respective duties as they shall think advisable; Provided always that for the purposes in this section mentioned, except as hereinafter specially provided, a majority of the Directors shall be present and assenting, and it shall not be competent for a board consisting of a less number of Directors than were present at the time, to alter, repeal or amend any matter or thing so done.

Appointment of Managing Director, &c.

Proviso.

Meeting of Board of Directors. Quorum.

17. There shall be a monthly (as may be fixed by the By-laws of the Company) meeting of the Board of Directors of the said Company, and three or more of the said Directors shall be a quorum for the purpose of transacting and managing the details of the business and affairs of the said Company; and at all meetings of the Board of Directors, all questions before them shall be decided by a majority of voices or votes, and in case of an equality of votes, the President, Vice-President, or presiding Director, shall give the casting vote over and above his proper vote as a Director; Provided always, that nothing herein contained shall be construed to authorize the making, altering or repealing

Casting vote. Proviso as to quorum at such meetings

of any By-laws or ordinances of the Company, or calling in any instalments of stock, or declaring dividends of profits, or the appointment of Managing Director, Secretary or Treasury, or the appointments of salaries to, or the taking of securities from officers or agents of the said Company, by any less number of Directors, or in any other manner than is hereinbefore mentioned and provided.

Signing of Policies, &c.

18. All policies, checks or other instruments used or entered into by the said Company, shall be signed by the President, Vice-President or Managing Director, and countersigned by the Secretary, or as otherwise directed by the rules and regulations of the Company in case of their absence, and being so signed and countersigned, and under the seal of the said Company, shall be deemed valid and binding upon them according to the tenor and meaning thereof.

Transfer of shares, how effected.

19. No transfer of any share of the said Corporation shall be valid until entered in the books of the Corporation, according to such form as the Directors may, from time to time, determine, and until the whole of the capital stock of the said Corporation is paid up, it shall be necessary to obtain the consent of the Directors to such transfer being made; Provided always, that no stockholder indebted to the said Corporation shall be permitted to make a transfer or receive a dividend until such debt is paid, or secured to be paid, to the satisfaction of the Directors.

Misconduct of of Officers, &c

20. Any person who, as Secretary, Clerk or other officer of the Company, shall be guilty of any designed falsehood or fraud, in any matter or thing pertaining to his office or duty, shall be guilty of a misdemeanor, and any person offering to vote in person at any election of Directors of the said Company, who shall falsely personate another, or shall falsely sign or affix the name of any other person, a member of the Company, to any appointment of a proxy, shall be guilty of a misdemeanor.

Officers, &c. may be witnesses in courts.

21. In all actions, suits and prosecutions in which the said Company may at any time be engaged, any officer or stockholder in the said Company, shall be a competent witness notwithstanding any interest he may have therein.

Liabilities of Shsreholders limited.

22. Each shareholder shall be individually liable to the creditors of the Company to an amount equal to the amount unpaid on the stock held by him for the debts and liabilities thereof, but no further.

Forfeiture for non-user.

23. The present Act shall in no wise be forfeited for non-user at any time before the first day of January, one thousand eight hundred and seventy.

Rights conferred by this Act to be subject to future legislation.

24. The corporate rights hereby conferred shall, at all times hereafter, be subject to the provisions of any general enactment hereafter to be passed with reference to Insurance Companies or the business of Insurance.

No. 118.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to incorporate "The Canada Live Stock Insurance Company."

PRIVATE BILL.

Hon. Mr. CARLING.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

No. 119] BILL. [1868.

An Act respecting the Canada Vine Growers' Association.

Preamble.

WHEREAS it is expedient to make further provision for the encouragement of the cultivation of vines and the manufacture of wine in the Dominion; and whereas the Canada Vine Growers' Association is in possession of property the value of which chiefly depends upon its adaptation and usefulness for carrying on the business of Vine Growing and Wine Making: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Period limited by 29, 30, V. c. 121, extended.

1. The period specified in the second section of the Act intituled "An Act for the incorporation of the Canada Vine Growers Association," is extended for a further period of ten years, to commence from and after the expiration of the ten years in the said Act mentioned.

Power to the association to dispose of its property and rights.

2. The Association may, at any time, sell or otherwise dispose of all its estate, real and personal, securities, assets and effects, of whatsoever description, together with all and every the corporate rights, privileges and franchises held by the said Association upon a vote to that effect given personally or by proxy by at least two-thirds of the stockholders having a vote, holding not less than two-thirds of the capital stock then issued, such vote to be taken at a meeting to be specially called for that purpose in the manner provided in the said Act, and by notice sent through the Post Office, addressed to each shareholder having a vote, and the deed of sale and other instruments perfecting such sale and all covenants connected therewith shall be made and executed under the seal of the Association and be signed by the President and Secretary thereof in the usual form of law; and such sale shall transfer to the purchaser all the property and capital stock of the Association with all its corporate rights, franchises and privileges, and he may issue and dispose of the said capital stock or any portion thereof in the manner appointed by the said Act, and he and such other persons as, after the said sale, shall become shareholders, if any there be, shall have the same rights and remedies in relation to the said property and capital stock, and to all the corporate powers, privileges and franchises as the corporators and shareholders now have.

Effect of any transfer thereof.

Liability of purchaser or persons thereafter becoming Shareholders limited

3. The purchaser or any person who may become a shareholder after such sale, shall not be liable to pay any call on the capital stock so sold, or any sum of money whatever due before such sale by reason of any call or debt of the association, but the purchaser shall be liable to pay only the stipulated price or consideration according to the covenants in the deed of sale or other instrument contained, provided that nothing herein contained shall diminish or in any way affect the right or remedy of any person being a creditor of the said association before the time of such sale and conveyance against any shareholder therein, whose stock at the time was not paid up in full.

Division of excess of price beyond debts.

4. In case the amount realized from any sale and conveyance, made as hereinbefore specified, shall exceed the debts and liabilities of the association, such excess shall be divided among the stockholders in proportion to the amount paid up on their respective shares.

Public Act.

5. This Act shall be deemed a Public Act.

No. 119

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Canada Vine Growers' Association.

Received and read, 1st time,

Second Reading,

Mr. O'Connor.

Printed by G. E. Desbarats.

No. 120. **BILL** 1868.

An Act to incorporate the Stratford Board of Trade.

Preamble.

WHEREAS John A. Scott, J. S. Rutherford, C. James, P. J. Southwick, Robert Rutherford, Charles H. Ransom, L. Hayward, A. Marshall, John Ross, P. R. Jarvis, John Innes, John Dutton, James Hogg. W. Porteous, A. Williamson, William Workman, John J. Clark, R. J. Hutor, James Morrison, P. Whelihan, James Gordon, G. Horne, J. R. Williamson, Thos. Miller, S. R. Fuller, S. S. Fuller, R. MacFarlane, and James Redford and others hereinafter named, residents in the Town of Stratford, have by their petition to the Legislature represented that they have associated themselves together for some time past for the purpose of promoting such measures as they have deemed important towards developing the general Trade and Commerce of this Dominion and the Town of Stratford in particular, and have further represented that the said Association would be more efficient in its operations should an Act of Incorporation conferring certain powers on them and their successors be granted; And whereas it is expedient that the prayer of the said petition should be granted; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:—

Incorporation and general powers.

1. The said John A. Scott, J. S. Rutherford, C. James, P. J. Southwick, Robert Rntherford, Charles. H. Ransom, L. Hayward, A: Marshall, John Ross, P. R. Jarvis, John Innes, John Dutton, James Hogg, W. Porteous, A. Williamson, William Workman, John. J. Clark, R. J. Hutor, James Morrison, P. Whelihan, James Gordon, G. Horne, J. R. Williamson, Thomas Miller, S. R. Fuller, S. S. Fuller, R. MacFarlane and James Redford and such other persons residents in the Town of Stratford as are or shall be associated with the persons above named, for the purpose of this Act, in the manner hereinafter provided; and their successors, shall be and are hereby constituted a body politic and corporate, by the name of "The Stratford Board of Trade," for the purposes mentioned in the preamble, and may, by that name, sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in all Courts of Law and Equity and all other places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and by that name they and their successors shall have perpetual succession, and may have a Common Seal, and the same may make, alter and change at their will and pleasure; and they and their successors by their corporate name shall have power to purchase, take, receive, hold and enjoy any estate whatsoever real or personal, and alienate, sell, convey, lease or otherwise dispose of the same, or any part thereof, from time to time, and as occasion may require, and other estate real or personal to acquire instead thereof; Provided; always that the clear annual value of the real estate held by the said Corporation at one time shall not exceed five thousand dollars; and provided also, that the said Corporation shall not have or exercise any corporate powers whatsoever, except such as are expressly conferred on them by this Act, or may be necessary for carrying the same into effect according to its true intent and meaning.

Proviso as to property.

Application of funds.

2. The funds and property of the said Corporation shall be used and applied to and for such purposes only as may be calculated to promote

and extend the lawful Trade and Commerce of this Dominion generally, and of the Town of Stratford in particular, or as may be necessary to attain the objects for which the said Corporation is constituted according to the true intent and meaning of this Act.

Domicile.

3. The usual place of meeting of the said Corporation shall be held to be the legal domicile thereof, and service at such place of any notice or process of any kind addressed to the said Corporation shall be held to be sufficient service of such notice or process on the Corporation.

Council.

4. For the management of the affairs and business of the said Corporation, there shall be a Council to be called, "The Council of the Board of Trade" which shall, from and after the first election hereinafter mentioned, consist of a President, Vice-President, Secretary and twelve other members of the said Council, all of whom shall be members of the said Corporation, and shall have the powers and perform the duties hereinafter mentioned and assigned to the said Council.

Presiding officers.

5. The said John A. Scott shall be President, the said J. S. Rutherford shall be Vice-President, the said Robert J. Hutor the Secretary, and the said Peter R. Jarvis, Charles James, James Hogg, Patrick Whelihan, Charles H. Ransom, James Redford, William Buckingham, Adam. H. Ayer, Walter Marshall, Robert MacFarlane, John P. O. Higgins, Thomas Miller, the other members of the Council until the first election to be had under the provisions of this Act; and the Council hereby appointed shall until the said election, have all the powers assigned to the Council by this Act.

General meeting and elections.

6. The members of the said Corporation shall hold a general meeting every three months, that is to say on the last Friday in January, April, July and October, at some place within the Town of Stratford, of which notice naming the time and place shall be given by the Secretary of the Council; for the time being at least three days previous to such meeting, through one newspaper or otherwise, as may be thought necessary by the said Council; and at the general meeting on the last Friday in the month of April, the members of the said Corporation present, or a majority of them, shall then and there elect in such way as shall be fixed by the by-laws of the Corporation from among the members of the Corporation, one President, one Vice-President and the secretary and twelve other members of the Council, who, with the President, Vice-President and Secretary shall form the Council of the said Corporation, and shall hold their offices until others shall be elected in their stead, at the next general meeting in the month of April as aforesaid, or until they shall be removed from office, or shall vacate the same under the provisions of any by-laws of the Corporation; Provided always, that if the said election shall not take place on the last Friday in the month of April, as aforesaid, the said Corporation shall not thereby be dissolved, but such election may be had at any general meeting of the said Corporation, to be called in the manner hereinafter provided, and the members of the Council in office shall remain members until the election shall be had.

Proviso.

Vacating seats in certain cases.

7. If any member of the said Council shall die or resign his office, or be absent for four months continuously from the meetings of the said Council, it shall be lawful for the said Council, at any meeting thereof to elect a member of the said Corporation to be a member of the said Council in the place of the member so dying or resigning, or being absent, and such new member shall be so elected by a majority of the members of the said Council present at any meeting of the same, in case there is a quorum present at such meeting, and the member so elected shall hold office until the next annual election and no longer unless re-elected.

Quorum.

8. At any annual or general meeting of the said Corporation whether for the purpose of electing members of the Council or for any other purpose, a majority of members present at such meeting, shall be competent to do and perform all acts which, either by this Act, or by any by-law of the said Corporations are or shall be directed to be done at any such general meeting.

Members resigning.

9. Any member of the said Corporation intending to retire therefrom, or resign his membership may at any time do so, upon giving to the Secretary in writing, ten days' notice of such intention, and discharging any lawful liability which may be standing upon the books of the sain Corporation against him at the time of such notice.

Making By-laws.

10. It shall be lawful for the said Corporation or the majority of them present at any general meeting, to make and enact such by-laws, rules and regulations for the government of the said Corporation, providing for the admission and expulsion or the retirement of members, and for the management of its Council, officers and affairs, and for the guidance of the Board of Arbitrators, hereinafter mentioned, and all other by-laws in accordance with the requirements of this Act, or the laws of this Province, as such majority shall deem advisable ; and such by-laws shall be binding on all members of the said Corporation, its officers and servants, and all other persons whomsover lawfully under its control ; provided that no by-law shall be made or enacted by the said Corporation, without notice in writing thereof having been given by one member and seconded by another member at a previous general meeting, and duly entered in the books of the said Corporation as a minute of the said Corporation.

Proviso.

Members of the Corporation, qualification of.

11. Each and every male person then resident in the Town of Stratford shall be eligible to become a member of the said Corporation ; and at any general meeting of the said Corporation, it shall be lawful for any member of the said Council or of the said Corporation to propose any such person as aforesaid as a candidate for becoming a member of the said Corporation, and if such proposition shall be carried by a majority of two-thirds of the members of the said Corporation then present, he shall thenceforth be a member of the Corporation, and shall have all the rights and be subject to all the obligations which the other members possess, or are subject to : Provided always, that any person not being a resident of the said Town of Stratford shall be eligible to become a member of the said Corporation in manner aforesaid, in case such person shall be recommended by the Council of the Board of Trade at any such meeting.

Proviso.

Special general meeting.

12. It shall be lawful for the said Council, or a majority of them, by a notice inserted in one or more newspapers published in the said Town of Stratford, one day previous to the said meeting, or by a circular letter signed by the Secretary of the said Corporation, to each member, and mailed one day previous to the said meeting, to call a general meeting of the said Corporation for any of the purposes of this Act.

Meeting of the Council.

13. It shall be competent to the said Council to hold meetings, from time to time, and to adjourn the same when necessary, and at the said meetings to transact such business as may, by this Act or by the by-laws of the Corporation, be assigned to them ; and such meetings of the Council shall be convened by the Secretary at the instance of the President, or upon the request of any two members of the Council, and the said Council shall, in addition to the powers hereby expressly conferred on them, have such powers as shall be assigned to them by any by-law of the Corporation, except only the power of enacting or altering any by-law or admitting any member, which shall be done in the manner provided for by this Act, and no other ; and any five or more

Quorum.

members of the Council, lawfully met (and of whom the President or Vice-President shall be one, or in case of their absence, any five or more members lawfully met) shall be a quorum any any majority of such quorum, may do all things within the powers of the Council; and at all meetings of the said Council and at all general meetings of the Corporation the President, or in his absence the Vice-President, or if both be absent, any member of the Council then present who may be chosen for the occasion, shall preside, and shall in all casses of equality of votes upon any division, have a casting vote.

Council to frame By-laws.

14. It shall be the duty of the said Council, as soon as may be after the passing of this Act, to frame such by-laws, rules and regulations, as shall seem to the Council best adapted to promote the welfare of the said Corporation and the purposes of this Act, and to submit the same for adoption at a general meeting of the said Corporation called for that purpose, in the manner hereinbefore provided.

Recovery of subscriptions, &c.

15. All subscriptions of members due to the said Corporation, under any by-law, all penalties incurred under any by-law, by any person bound thereby, and all other sums of money due to the said Corporation, shall be paid to the Secretary thereof, and in default of payment, may be recovered in any action brought in the name of the said Corporation, and it shall only be necessary in such action to allege that such person is indebted to the said Corporation in the sum of money, the amount of such average, on account of such subscription, penalty or otherwise, whereby an action hath accrued to the said Corporation by virtue of this Act.

Proof in such case.

16. On the trial or hearing of any such action, it shall be sufficient for the said Corporation to prove that the defendant at the time of making such demand was or had been a member of the said Corporation, and that the amount claimed by such subscription, penalty, or otherwise, was standing unpaid upon the books of the said Corporation.

Meetings of Council to be open.

17. The meetings of the members of the Council shall be open to all members of the said Corporation who may attend at the same, but who shall take no part in any proceedings thereat; and minutes of the proceedings at all meetings, whether of the said Council or the said Corporation, shall be entered in books to be kept for that purpose by the Secretary of the said Corporation; and the entry thereof shall be signed by the President of the said Council, or such other person who at the time shall preside over any such meeting; and such books shall be open at all reasonable hours to any member of the said Corporation, free from any charge

Board of arbitration.

18. At the same time and times as are hereby appointed for the election of the said Council, and in the same manner, it shall be lawful for the members of the said Corporation to elect from their number, five persons, who shall form a Board, which shall be called "The Board of Arbitration," and any three of whom shall have power to arbitrate upon and make their award in any commercial case or difference which shall be voluntarily referred to them by by the parties concerned; and whenever any such parties shall agree to bind themselves, by bond or otherwise, to submit the matter in dispute between them to decision of the said Board of Arbitrators, such submission shall be understood to be made to any three members of the said Board, who may, either by the especial order of the said Board, or by virtue of any general rules adopted by them, or under any by-law of the said Corporation touching he consideration of any cases so submitted, be appointed to hear, rbitrate and decide upon the case or cases so submitted to them, nd such decision shall be binding upon the said Board and the parties making the submission; and any such submission shall be

according to the form set forth in the schedule to this Act, or in words to the same effect.

Oath of office.

19. The several members of the said Board of Arbitration shall, before they act as such, take and subscribe, before the President or Vice-President of the said Corporation, an oath that they will faithfully, impartially, and diligently perform their duties as members of the said Board of Arbitration, and this oath shall be kept among the documents of the said Corporation.

Members.

20. Any member of the Council of the said Corporation may at the same time be a member of the said Board of Arbitration.

Power to examine witnesses on oath.

21. The three members appointed to hear any case submitted for arbitration, as aforesaid, or any two of them, shall have full power to examine upon oath, (which oath any one of such three members is hereby empowered to administer,) any party or witness, who appearing voluntarily before them, shall be willing to be so examined, and shall give their award thereupon in writing, and their decision, or that of any two of them given in such award, shall bind the parties according to the terms of the submission and the provisions of this Act.

Board of examiners of Inspectors.

22. From and after the passing of this Act, it shall be lawful for the Council of the said Corporation to appoint five persons to constitute a Board of Examiners for the Town of Stratford, for the year commencing on the first day of September then next, and ending on the thirty-first day of August following, to examine applicants for the office of Inspector of Flour and Meal, or any other article subject to inspection, and for the said Council to do all such other acts, matters and things, connected with the inspection of flour and meal or any other article, and have as full power and be subject to the same conditions as those conferred upon and required of the Councils of the Boards of Trade, by virtue of the Act, Chapter forty-seven of the Consolidated Statutes of Canada, and the said Examiners and Inspectors shall also be subject to all the conditions, requirements, oaths, matters and things (touching their offices) set forth in the said Act.

Affirmation allowed instead of oath.

23. Any person who may by law, in other cases, make a solemn affirmation instead of taking an oath, may make such solemn affirmation in any case where by this Act an oath is required ; and any person hereby authorized to administer an oath may in such cases as aforesaid, administer such solemn affirmation ; and any person who shall wilfully swear or affirm falsely, in any case where an oath or solemn affirmation is required or authorized by this Act, shall be guilty of wilful perjury.

Her Majesty's rights saved.

24. Nothing in this Act shall affect any rights of Her Majesty, Her Heirs, or Successors, or of any party or person whomsoever, such rights only excepted as are herein expressly mentioned and affected.

Public Act.

25. This Act shall be deemed a Public Act.

SCHEDULE.

Form of a Submission to the Board of Arbitrators :—

Know all men, that the undersigned , and the undersigned if there be more parties that is, more separate interests mentioned therein), having a difference as to the respective rights of the said parties, in the case hereunto subjoined, have agreed and bound themselves under a penalty of dollars, to perform the award to be made by the Board of Arbitration of the Board of Trade of the Town of Stratford, in the case aforesaid, under the

No. 120.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to incorporate the Stratford Board of Trade.

Received and read, first time Monday, 11th May, 1868.

Mr. REDFORD.

PRINTED BY HUNTER, ROSE & CO.

OTTAWA.

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No. 121.] **BILL** [1868.

An Act to make provision for defraying the expense of certain Works of Fortification required for the Defence of the Dominion.

MOST GRACIOUS SOVEREIGN :

Preamble.

WE, Your Majesty's dutiful and loyal Subjects, the Commons of Canada in Parliament assembled, having taken into consideration the Message of His Excellency the Governor General, bearing date the first day of May, in the year of our Lord one thousand eight hundred and sixty-eight, recommending that provision should be made to the amount hereinafter mentioned, to defray the expense of constructing certain Works of Fortification for the Defence of the Dominion, an having resolved to make such provision, and for that purpose to grant to Your Majesty, the sums hereinafter mentioned,—do most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that—

Power to raise loan of £1,100,000 stg., for the purposes of this Act.

1. It shall be lawful for the Governor in Council to authorize the raising by way of loan, upon the guarantee of such loan or the interest thereon by the Commissioners of Her Majesty's Treasury, of such sums not exceeding in the whole the sum of one million one hundred thousand pounds sterling, as may be necessary for the purposes hereinafter mentioned ; and the sums so raised, with the interest thereon, shall be a charge on the Consolidated Revenue Fund of Canada, next after the appropriation for the construction of the Intercolonial Railway, as shall also such sums as may be necessary to repay the said loan, either by way of a Sinking Fund not exceeding one per centum per annum on the principal sum so raised, or in such other way and subject to such conditions as the Governor in Council, with the assent of the Commissioners of Her Majesty's Treasury, may agree upon and determine.

Works to be constructed under this Act.

2. It shall be lawful for the Governor in Council, from time to time, to authorize the payment out of the sums to be raised under the authority of this Act, of such sums as may be necessary to defray the expense of constructing Works of Fortification for the Defence of the City of Montreal and other cities and places west of Montreal, and for the defence of the City of St. John, in the Province of New Brunswick; such works of defence to be Public Works within the purview of the Act of the present Session, intituled, *An Act respecting the Public Works of Canada*, and to be constructed under the provisions of the said Act.

Accounting clause.

3. A detailed account of all moneys raised and expended under the authority of this Act, shall be laid before the House of Commons during the first fifteen days of the Session of Parliament next after they are so raised or expended.

No. 121.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to make provision for defraying the expense of certain Works of Fortification, required for the defence of the Dominion.

Received and read, first time Monday, 11th May, 1868.
Second reading, Tuesday, 12th May, 1868.

Hon. Mr. CARTIER.

PRINTED BY HUNTER, ROSE & CO.
OTTAWA:

No. 122.] **BILL.** [1868.

An Act respecting the Northern Railway of Canada.

Preamble.

WHEREAS, the Northern Railway Company of Canada have by their Petition represented that since the passing of an Act in the Session of the Parliament of the late Province of Canada, held in the twenty-third year of Her present Majesty's Reign, intituled, "An Act relating to the Northern Railway of Canada," and the expenditure of the full amount authorized to be raised by the said Act, in the reconstructions and repairs of the said Road, the country through which the said Railway runs has been rapidly developed, and the traffic of the said Road so largely increased as to have overcome the carrying power of the said Railway; That there is no provision for the extension of the appliances of the said Road, its Works and Rolling Stock to an extent adequate to such increased traffic, and the Company is now unable to afford proper facilities for the same; That it is expedient that provision should be made for giving extended powers to the Company for the development of such increased traffic, and praying that an Act may be passed to enable them to raise new capital for the construction of Elevators, the extension of the Rolling Stock and other equipment, and the construction of such new and additional works as are or may be necessary for the operation and the extension of the traffic, and for other purposes; And whereas it is also represented to us that it is absolutely essential to the future working of the Railway to a capacity sufficient for the increasing traffic thereof, and for the maintenance of existing and construction of extended grain-elevator and storage accommodation, with the same view and for additional Rolling Stock and equipment, that the Company be empowered to raise further capital; and also that without further powers in such respect the present value of the Railway, and its capacity and utility will be greatly impaired or diminished, and its further development prevented; And whereas the said Railway has been and is, by reason as well of water communication from either terminus thereof, as upon and through the medium of the main lines of Railway in Canada, and by connection therewith, respectively, largely used in the carriage and transportation of produce and lumber to and from various parts of Canada and of the United States of America and is therefore a work of general advantage to Canada, and it is therefore expedient to grant the prayer of the said petition; and that for such purposes, the several Acts affecting the Northern Railway of Canada should be amended and enlarged; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title of Act.

1. In citing this Act for any purpose, it shall be sufficient to use the expression, "The Northern Railway Act of 1868," and the expression "The Company" as herein used shall denote "The Northern Railway Company of Canada."

A Work of Canada.

2. The Northern Railway of Canada is hereby declared to be a work for the general advantage of Canada.

Company may issue preferential Bonds.

3. The Company may, with the sanction of a majority of the votes of persons entitled to vote in that behalf at Meetings of the Company, present in person or by proxy, at a General Meeting of

the Company specially convened for the purpose, issue, subject to the conditions and for the purposes hereinafter mentioned, Third Preference irredeemable six per cent. Bonds, of the nominal value of one hundred pounds sterling each, to the amount of one hundred and fifty thousand pounds sterling, and to be divided into two classes, of which Class A. shall be to the extent of fifty thousand pounds and class B. to the extent of one hundred thousand pounds, and such Bonds when issued, shall be a charge on the said Railway in the priority and rank hereinafter mentioned.

Rank for principle.

4. The Third Preference Bonds to be issued under this Act shall constitute a lien or charge upon the Northern Railway of Canada, its property and franchises, next after the Second Preference Bonds issued under the authority of the Act hereinbefore recited, and before the Provincial lien.

Expenditure of portion of proceeds.

5. The Company may, thereupon, and forthwith thereafter, issue and sell fifty thousand pounds sterling of the said Third Preference Bonds, Class A. thereof, and expend the proceeds thereof in the construction of Elevators, the increase and extension of the Rolling Stock and other equipment works and appliances of the Railway, for the further accommodation and facilities of its traffic

Subscription list therefor.

6. A subscription list of parties subscribing for such Class A. Third Preference Bonds to the amount of twenty five thousand pounds sterling, shall be delivered to the Financial Agents of the Dominion (in London, England), and shall be approved by them on or before the first day of January, in the year one thousand eight hundred and sixty-nine, and in case such amount be not subscribed by that day, this Act, so far as relates to issue of Third Preference Bonds, shall be null and void.

Payment of arrears to Government

7. The Company shall also thereupon, pay over fifty thousand pounds sterling, of Class B. Third Preference Bonds to the Receiver General of Canada, on account of the arrears of interest due by the Company at the time of the passing of the Act of the twenty-third year of Her Majesty's Reign hereinbefore mentioned, on the Provincial lien.

Existing arrears of Interest.

8. The Company shall also thereupon call in the existing Arrears of Interest Debentures of the Company, amounting in all to fifty-one thousand nine hundred and eighty-four pounds eight shillings and four pence sterling, and cancel the same, and in lieu thereof fifty thousand pounds sterling Class B. Third Preference Bonds shall by a pro rata allotment be delivered to the holders of Arrears of Interest Debentures, and in case such holders shall not, within six months after notice that such Class B. Third Preference Bonds are prepared and ready for issue in exchange as aforesaid shall have been three times inserted in the *Canada Gazette*, the Toronto *Globe*, and *Leader*, the New York *Herald*, and the *Times*, (London, England,) give up, in Toronto or London, (England,) the Bonds now held by them, and accept such Class B. Third Preference Bonds as hereby authorized in lieu thereof, then such arrears of interest Debentures as shall not within that period be brought in and given up in exchange as aforesaid, shall continue to rank as if this Act had not been passed.

Rank of Bonds for Interest.

9. The Class B. Third Preference Bonds shall not rank for interest dividends thereon until the proceeds of the subscription for Class A. Third Preference Bonds shall have been actually expended for the purposes of this Act, to the satisfaction of the Governor in Council

10. The powers and provisions of the Act hereinbefore mentioned in respect to the transfer and registration of Bonds, and to the right of voting and all other the rights and privileges of the holders of First and Second Preference Bonds at all meetings of the Company are hereby conferred upon the holders of the Third Preference Bonds to be issued under this Act. Powers of Bondholders.

11. Subject to the foregoing conditions, and in lieu of the distribution thereof provided in the Act of the twenty-third year of Her Majesty's Reign hereinbefore mentioned, the future earnings of the Company shall be distributed as follows:— Distribution of earnings.

1st. In the payment of working expenses of the said Railway.

2nd. In payment of the interest on the First Preference Bonds of the Company.

3rd. In payment of the interest on the Second Preference Bonds of the Company.

4th. In payment of the interest on Class A. Third Preference Bonds authorized to be issued under this Act.

5th. In payment of the interest on Class B. Third Preference Bonds authorized to be issued under this Act.

6th. In payment of interest on the Government lien of four hundred and seventy-five thousand pounds sterling.

7th. In payment of interest on the arrears of interest due to the Government of the Dominion.

8th. In payment of the Interest on the arrears of Interest Debentures (if any there be) which, not being given up and exchanged as herein provided, shall continue to rank as if this Act had not been passed.

9th. In Dividends on the share Capital of the Company.

12. The expression "working expenses" when used in this or any former Act relating to the Company, shall henceforth mean and include all expenses of maintenance of the Railway and the maintenance, and extension of the Station Sidings, Buildings, Works, Warehouses, Elevators, appliances and conveniences belonging thereto, and of the Rolling and other Stock and moveable plant used in the working thereof, and also such rents or annual sums as may be paid in respect of warehouses, wharves, or other property including land leased to or held by the Company, and also all expenses of and incident to working the Railway and the traffic thereon, including stores or consumable articles, also rates, taxes, insurance and compensation for accidents or losses, also all salaries and wages of persons employed in or about the working of the Railway and traffic, and all secretarial and establishment expenses, including Director's fees, agency legal and all other incidental working expenses whatsoever. Interpretation.

13. The Company shall have power and authority to erect and maintain all necessary and convenient Buildings, Stations Depôts, Warehouses, Elevators, Wharves and Fixtures, and from time to time to alter, repair or enlarge the same, as the increasing traffic may require, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery and contrivances necessary for the accommo- Company may erect buildings, &c.

dation and use of the passenger, freight and business of the said Railway, and also to make use of, for the purpose of the said Railway the water of any stream or water course over or near which the said Railway passes, doing however, no unnecessary damage thereto, and not impairing the usefulness of such stream or water course.

As to carriage of Mails.

14. The Company shall also have power and authority to enter into contracts with the Postmaster General on behalf of the Dominion, for the carriage of mails to any District or Territory tributary to the said Railway.

Company may become parties to notes, &c.

15. The Company shall also have power to draw, make, accept, and endorse all Bills of Exchange and Promissory Notes in sums of not less than two hundred dollars, necessary for the carrying on of the business of the said Railway ; Provided, that nothing in this section shall be construed to authorize the Company to issue Notes or Bills of Exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

No. 122.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL.

An Act respecting the Northern Railway of Canada.

(PRIVATE BILL.)

Hon. Mr. HOWLAND.

OTTAWA :
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See Bill No. 41.

123 - 4

An Act respecting the Civil Service of Canada.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. The Departmental Staff of the Civil Service of Canada, at the Seat of Government, shall consist of,—
Deputy Heads of Departments,—
Officers or Chief Clerks,—
Clerks,—and
Probationary Clerks.

2. The Outside Service of the several Departments requiring such service, shall be organized and classified as hereinafter provided.

Appointments.

3. No appointment shall be made of any person who is then under the age of eighteen years or over the age of twenty-five years, subject to the following exceptions :

1. A person over the age of twenty-five years may be appointed to any office or clerkship upon the application and report of the Head of the Department, specifying the reasons therefor; but if the appointment is contemplated on the ground that special attainments are required, the person whom it is proposed to appoint, may be subjected to a special examination in that respect ; and if the person appointed is over the age of forty years, a report of the appointment and the reasons thereof, shall be submitted to Parliament at its then next Session ; and

2. Any person may, with the approval of the Governor in Council, be appointed as the Private Secretary of the Head of a Department, but the salary or emoluments of any such Private Secretary payable out of public monies, shall not exceed the rate of six hundred dollars per annum, he shall not by virtue of such appointment be a member of the Civil Service, and his appointment shall cease on the retirement of the Minister who appointed him.

4. No appointment or promotion shall be made, except under the authority of the Governor in Council, upon the application and report of the Head of the Department, in which it is to be made.

5. Every appointment, whether by Commission or otherwise, shall be during pleasure.

Probationary Clerks.

6. Every candidate for admission into the Civil Service shall, as a condition precedent to his nomination, produce such evidence as the Governor may think sufficient as to his age, health and moral character; and upon the delivery of the same, and of the nomination of any Head of a Department, to the Civil Service Board, the said Board shall examine such candidate; and no appointment shall be made until after such nomination, and the passing of such examination: Provided that nothing herein contained shall prevent any special examination being held as to persons to be appointed or promoted in the Outside Service of the Department of Customs, Inland Revenue, Public Works, or Post Office Department, or other outside service, under the supervision of the Department to which such service belongs.

7. A Probationary Clerk shall enter the Service at a salary of three hundred dollars per annum, and shall serve in that capacity and at that rate of salary, for at least one year before being eligible for permanent appointment as a Third Class Clerk:—

But such permanent appointment may be deferred by the Head of the Department; and in such case additional salary, at the rate of fifty dollars per annum, may be allowed; and

If such Probationary Clerk be not at the end of two years found fit for appointment as a Third Class Clerk, his employment in the Civil Service shall cease.

Clerks.

8. Clerks shall be divided into three Classes: First, Second and Third.

9. A Third Class Clerk shall receive a salary of four hundred dollars for his first year's service as such, and may thereafter have an annual increase of fifty dollars per annum, until his salary is six hundred and fifty dollars per annum; but he shall not be eligible for promotion into the Second Class until after five years' service in the Third Class.

10. Second Class Clerks shall be subdivided into Junior Second Class, and Senior Second Class:

A Junior Second Class Clerk shall receive a salary of seven hundred dollars for his first year's service as such, and may thereafter have an annual increase of fifty dollars per annum, until his salary is one thousand dollars per annum, but he shall not be eligible for promotion into the Senior Second Class, until after five years' service in the Junior Second Class;

A Senior Second Class Clerk shall receive a salary of one thousand one hundred dollars for his first year's service as such, and may have an annual increase of fifty dollars per annum, until his salary is one thousand four hundred dollars per annum; but he shall be eligible for promotion into the First Class at any period of his service in the Senior Second Class.

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11. A First Class Clerk shall receive a salary of not less than one thousand two hundred dollars per annum, and may have an annual increase of fifty dollars per annum, until his salary is one thousand eight hundred dollars per annum :

But if any Clerk promoted into the First Class, has at the time of such promotion, a higher salary than one thousand two hundred dollars per annum, he shall continue to receive such salary until by length of service in the First Class he has a right to that amount as a First Class Clerk, from which time he shall receive the annual increase until his salary is one thousand eight hundred dollars per annum ;

A First Class Clerk shall be eligible for promotion at any period of his service in the First Class.

Officers or Chief Clerks.

12. There may be in each Department of the Civil Service, one or more Officers or Chief Clerks, who shall receive such salaries respectively as may be fixed and determined by the Governor in Council, as hereinafter provided.

13. If, in any Department, there are no special duties requiring or assigned to an Officer or Chief Clerk, an additional salary, not exceeding four hundred dollars per annum, may be given by Order in Council to one or other First Class Clerks in such Department, who shall have the rank of Chief Clerk.

Deputy Heads of Departments.

14. The Officers mentioned in Schedule A to this Act, shall be appointed under the Great Seal, and shall be respectively the Deputy Heads of the Departments also mentioned in the said Schedule, and shall receive such salaries respectivel asy may be assigned to them by the Governor in Council as hereinafter provided :

It shall be the duty of the Deputy Head of each Department, and he shall have authority (subject always to the Head of the Department) to oversee and direct the other Officers, Clerks and Servants of the Department ; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council ; and in the absence of the Minister, and during such absence, may suspend from his duties any Officer, Clerk or Servant of the Department who refuses or neglects to obey his directions as such Deputy.

15. As soon as conveniently may be after the passing of this Act, the Governor in Council shall determine the number of Officers or Chief Clerks, and of the Clerks of each class, that are required for the working of the Staff and Outside Service respectively, of each Department, and shall classify the same according to the arrangement so determined ; and such classification shall be submitted to Parliament, not later than the

first week of the session of Parliament next ensuing, and the estimates of the following year shall be based thereon ; and after such classification has been submitted to Parliament, no first class Clerk, and no Officer or Chief Clerk shall be appointed, nor shall any person be rated at a salary higher than the maximum of the first class, except (1) upon a vacancy, or (2) upon the creation of an additional first class Clerkship or Office, or Chief Clerkship, by a special Order in Council, and upon the approval by Parliament of the salary thereunto attached, as a separate item in the estimates of the year in which such first class Clerkship or Office, or Chief Clerkship is created.

16. If the number of Clerks attached to any Department, as Staff or as Outside Service, at the date of such classification by Order in Council, and entitled according to the amounts of their salaries to rank in any class mentioned in such Order, be greater than the number of such class thereby allowed to the Department, as Staff or as Outside Service, then the Head of the Department shall name the persons to fill the several offices, and the remainder shall be Supernumerary Clerks of that class respectively in which their then salaries entitle them to rank ; and every such Supernumerary Clerkship shall lapse upon a vacancy and shall not be filled.

Messengers.

17. No appointment shall be made of any person as messenger who is over thirty-five years of age, or until he has been nominated by the Head of a Department, and has produced such certificates and passed such examination as shall be prescribed by the Civil Service Board and approved of by the Governor in Council.

18. A messenger shall enter the Service at a salary to be fixed by the Governor in Council, not exceeding three hundred dollars for the first year, and may thereafter have an annual increase of thirty dollars per annum, until his salary is five hundred dollars per annum.

No resident male Office Keeper shall be paid more than five hundred dollars per annum.

Extra Clerks.

19. No extra Clerk shall, except under an Order in Council, be employed in any Department, unless for a period not exceeding one month, for which he may be paid at a rate not exceeding one dollar and fifty cents per diem, out of the Contingencies of the Department, on the Certificate of the Head or Deputy Head thereof ;—except only that if such Extra Clerk be an Accountant, a Book-keeper or a person of special attainments, and employed as such, he may be paid at a rate not exceeding four dollars per diem :

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But any Extra Clerk may, under an Order in Council, made on the application and report of the Head of the Department, that the same is requisite, be employed for a longer period than one month, but not exceeding six months, and he shall during such period be borne on the pay-list of the Department ;

After the end of the six months such Extra Clerk shall only be retained in the Department as a Probationary Clerk, if nominated, examined and appointed as such in the manner required by this Act ; but if so appointed, the time during which he has served as an Extra Clerk, may be counted in his service as a Probationary Clerk.

General Provisions.

20. No allowance or compensation shall be made for any extra service whatsoever which any officer or clerk may be required to perform in the Department to which he belongs.

21. No Clerk shall have an absolute right to the annual increase of salary authorized by the Act ; but the same may be suspended and subsequently restored by the Head of the Department, but without payment of arrears :

The annual increase of salary shall be payable from the first day of the quarter next succeeding the date at which from his length of service any Clerk may be eligible for such increase ;

In case of promotion, the increase of salary shall become payable from the first day of the month next succeeding the date at which such promotion took place.

22. Nothing in this Act shall affect the salary or emolument of any Officer or Clerk in the Civil Service at the time of the passing of this Act, so long as he shall be continued in office ; but no provision herein contained shall be construed to impair the power of the Governor to remove or dismiss any such Officer or Clerk.

23. When the Clerks on the Staff or on the Outside Service of any Department cannot, with sufficient speed, perform the duties required on any emergency, the Deputy Head of such Department may require from the Deputy Heads of any other Departments the temporary services of any number of Clerks as may not be then actively engaged in services of their own Departments, but without additional remuneration.

24. The Head of every Department may, at such times as may be convenient, grant to every Officer or Clerk leave of absence for recreation for any period or periods not exceeding in the whole three weeks in each year, and may in cases of illness or other pressing necessity, grant such extended leave not exceeding twelve months and on such terms as the Governor in Council may think fit.

Civil Service Board.

25. There shall be a Board to be called the Civil Service Board, and to be composed of the persons who for the time being fill the offices named in the Schedule A :

Five of the members of the Board shall be a quorum, and may exercise all the functions of the Board ;

A Chairman and Secretary shall be chosen annually from amongst themselves, and minutes of their proceedings shall be kept.

The duties of the Board shall be,—

1. To frame and publish Regulations to be observed by candidates for employment in the Civil Service of Canada, and the subjects of such examination, (varying for each Department according to the peculiar nature of its general functions and duties,) and to alter the same, from time to time, such Regulations being first approved by the Governor in Council ;

2. To examine all candidates who present themselves upon a nomination for office, as hereinbefore mentioned, and in accordance with the regulations of the Board, and any other regulations or restrictions provided under this Act ;

3. To keep a record of the candidates for examination, shewing the name, age, place of birth, and residence of each candidate, by what Head of a Department nominated, and the result of his examination ;

4. To grant certificates of qualification to candidates whose examination as to fitness and capacity, and whose testimonials as to moral character, have been found satisfactory ;

5. To investigate the length of service of any person claiming to be entitled on such ground to promotion from any one class to that next above it, and to report thereon to the Head of the Department ;

6. To report in the month of January in each year, to the Governor in Council, all cases in which there has been any departure, during the previous year, from the Rules and Regulations prescribed by this Act.

7. And the Governor in Council, may at any time refer to such Board, such question as he may think fit, connected with the administration of the Civil Service in the matters of nomination, appointment, promotion or salary, or such enquiry or other questions connected with the efficiency and welfare of such service, and it shall be the duty of such Board to report for the consideration of the Government on every question so referred, and it shall have power and authority to summon and examine witnesses and to call for and obtain papers.

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26. Immediately after the passing of this Act, the Deputy Heads of Departments and all Officers or Chief Clerks, Clerks and Messengers of the Civil Service shall take and subscribe before the Clerk of the Queen's Privy Counell for Canada, the oath of Allegiance and that which is contained in Schedule B of this Act ; and the Clerk of the Queen's Privy Council for Canada shall keep a register of such oaths, and every Deputy Head, Officer or Chief Clerk, Clerk or Messenger who shall hereafter be appointed, shall, before entering upon the duties of his office, take and subscribe the same oaths respectively.

27. In this Act the expression "Head of a Department" means the Minister of the Crown for the time being presiding over such Department.

28. This Act may be cited as "The Canada Civil Service Act, 1868."

SCHEDULE A.

Deputy Heads of Departments.

Clerk of the Privy Council.
Deputy of the Minister of Justice.
Deputy of the Minister of Militia.
Under Secretary of State for Canada.
Under Secretary of State for the Provinces.
Deputy Inspector General.
The Auditor General.
Deputy Receiver General.
Commissioner of Customs.
Commissioner of Inland Revenue.
Deputy of the Minister of Public Works.
Deputy Postmaster General.
Deputy of the Minister of Agriculture.
Deputy of the Minister of Marine and Fisheries.

SCHEDULE B.

"I, (*A.B.*,) solemnly and sincerely swear that I will faithfully "and honestly fulfil the duties which devolve upon me as and that I will not ask, or receive "any sum of money, services, recompense or matter or thing "whatsoever, directly or indirectly, in return for what I have done "or may do in the discharge of any of the duties of my said "office, except my salary or what may be allowed me by law or "by an Order of the Governor in Council.—So help me God."

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124

No. 124.] BILL. 1868]

An Act for better securing the payment of the duty imposed on Tobacco manufactured in Canada.

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Raw tobacco to be imported at certain ports.

1. Raw or Leaf Tobacco shall not be imported into Canada, except at the undermentioned Ports, namely; Halifax, St. Johns in New Brunswick, Miramichi, Quebec, Montreal, Prescott, Kingston, Toronto, Hamilton, Clifton, Sarnia, Windsor and London, and at such other ports of entry as the Governor in Council may authorize.

All such tobacco to be bonded.

2. All Raw or leaf Tobacco imported shall be bonded at one or other of the above named Ports of entry, in a Customs Warehouse which shall be subject to the approval of the Collector of Customs at the Port of entry.

Tobacco grown in Canada to be bonded if removed from the place of growth.

3. All Tobacco grown in Canada and prepared for sale, shall, when it passes out of the possession of the occupant of the farm or premises upon which it was grown, be carried directly to and deposited either in a licensed Tobacco Manufactory, and entered in the Stock Book of the Manufacturer, or it shall be bonded in a Tobacco Warehouse in the same manner and under the same conditions as are herein provided with respect to Raw Tobacco imported from abroad.

Conditions of the Bond.

4. The bond taken for Tobacco warehoused as herein required shall be for a sum equal to fifteen cents per pound on the Tobacco to which it relates and shall be conditioned for the delivery of the Raw or Leaf Tobacco to which it relates, to some one or more Tobacco Manufacturers duly licensed as such under any Act relating to the Inland Revenue, or for its exportation or destruction as herein required; and the evidence of its delivery to a licensed Tobacco Manufacturer shall be the certificate of a Collector of Inland Revenue, that the Tobacco has been delivered into some certain licensed Tobacco Manufactory or Manufactories therein named, and that an account thereof has been entered in the Manufacturer's Books, as required by law.

How long to remain bonded.

5. Tobacco warehoused as herein provided, may remain in warehouse for a period of two years, at the expiration of which period, or sooner, it shall either be removed to and entered in some Licensed Tobacco Manufactory or Manufactories as

herein provided, or entered for exportation, or at the expiration of such period it shall be destroyed under such regulations as may be made in that behalf by competent authority.

As to tobacco stems and sweepings.

6. All stems, sweepings or other waste or refuse tobacco, whether the same be found in a Tobacco Manufactory or elsewhere, and which are not worked up and charged at some manufactory with duty, shall also be destroyed under regulations as above provided, or entered for exportation.

Forfeiture of tobacco imported in contravention of this Act.

7. All raw or leaf tobacco imported or brought into Canada at any port or place other than at the ports of entry herein named, shall be seized by any officer of Customs or Excise having a knowledge thereof, and shall be and remain forfeited to the Crown.

And of Tobacco grown in Canada in certain cases.

8. All imported raw or leaf Tobacco not bonded as herein required, and in the possession of any person except a Licensed Tobacco manufacturer,—

And all raw or leaf Tobacco grown in Canada not bonded as herein required and removed from the farm or premises whereon it was grown, and in the possession of any person other than a Licenced Tobacco manufacturer, except only for the purpose of carrying it directly to some licensed Tobacco Manufactory or to a Tobacco warehouse, the proof whereof shall lie upon the person having possession thereof,—

Shall be seized by any officer of Customs or Excise having a knowledge thereof and shall be and remain forfeited to the Crown.

Governor in Council to make regulations for giving effect to this Act.

9. The Governor in Council may make such regulations for warehousing raw or leaf tobacco, for destroying such as is not entered for exportation or manufacture, for bonding and taking an account of all raw or leaf tobacco heretofore imported or grown in Canada, for removing raw or leaf tobacco from one Warehouse to another, for causing accounts to be kept by Tobacco, Manufacturers or others of raw or leaf tobacco received by them, for determining the quantity of Manufactured Tobacco Snuff or Cigars, which shall in any case or set of cases, be deemed equivalent to one hundred pounds of the raw leaf, and generally for giving effect to the provisions of this Act, as to him may seem necessary.

Sect. 110 of 30 V. c. 8 amended.

10. Section one hundred and ten of the Act chapter eight, passed in the present session, and intituled: *An Act respecting the Inland Revenue*, is hereby amended by substituting the word "any" for the word "the" in the first line of the said section, as printed by the Queen's Printer, and striking out the words "wherein they have been manufactured" in the first and second lines.

11. Section one hundred and fifty-seven of the said Act chapter eight, passed in the present session, is hereby amended by adding the following subsection which shall be held to form and shall be read and construed as forming part of the said section: Sect. 157 of 30 V. c. 8 amended.

"3. Any article or commodity seized as forfeited under this Act or any Act relating to the Inland Revenue, may, at the option of the seizing officer, be kept or stored in the building or place where it was seized, until it is condemned or ordered to be restored to any claimant; and so long as such article or commodity is under seizure, the place or building in which it is so kept or stored shall be held to be in the sole custody of the officer of Excise or other person appointed for that purpose by the seizing officer or by any superior officer of Excise, or such article or commodity, may by direction of such seizing officer or superior officer, be removed to and kept n any other place." How articles seized shall be stored or kept.

12. Section one hundred and seventy-one of the Act last above cited is hereby repealed. Sect. 171 repealed.

13. This Act shall be read and construed as forming one Act with the Act last above cited and as forming part of it, so that all Regulations made under this Act and all penalties imposed thereby, and all forfeitures incurred under this Act or under such Regulations, and all things done under this Act shall be held to be made, imposed, incurred and done under the said Act as hereby amended; and all words and expressions in this Act shall have same meaning as is assigned to them respectively in the said Act, and the expression "this Act," either in the said Act or in this Act shall include the said Act and this Act, unless there is something in the context inconsistent with this provision. This Act to form one with 30 V. c. 8.

14. All Acts or parts of Acts which may be inconsistent with this Act, are hereby repealed. Inconsistent enactments repealed.

15 This Act may be cited as "The Act respecting Raw Tobacco." Short Title.

[No. 124.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act for better securing the payment of the duty imposed on Tobacco manufactured in Canada.

Received and read first time Tuesday, 12th May, 1868.

Second reading Wednesday, 13th May, 1868.

Hon. Mr. Howland.

Printed by G. E. Desbarats.

No. 125] **BILL.** 1868.

An Act to amend "An Act to provide for the improvement and management of the Harbour of Quebec," and the Act amending the same.

Preamble. WHEREAS, it is expedient to amend the Act of the Legislature of the late Province of Canada, passed in the twenty-second year of Her Majesty's reign, chapter thirty-two, intituled, "*An Act to provide for the improvement and management of the Harbour of Quebec;*" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Canada 22 Vic. Ch. 32

How Commissioners shall be appointed in future. **1.** The third section of the said Act, twenty-second Victoria, chapter thirty-two, is hereby amended, so that three Commissioners to be constituted and appointed by the Governor, by an instrument under the Great Seal, and two Commissioners to be elected by the holders of Bonds of the Quebec Harbour Commissioners, as hereinafter provided, shall be and are hereby substituted for and shall be the Commissioners mentioned in the said Act.

Term of Office. **2.** The said five Commissioners shall be so appointed and elected for two years from the fifteenth day of July next, until which day the present Commissioners shall remain in office, and shall be replaced by five Commissioners at the end of the said two years, to be appointed or elected in like manner, and so on at the expiration of every second year, provided that all or any of the said Commissioners shall be eligible for re-appointment or re-election.

Meeting of Bondholders to elect. **3.** The said bondholders shall meet on the first Monday of July, one thousand eight hundred and sixty-eight, and on the first Monday in July of every second year thereafter, at the office of the Quebec Harbour Commissioners, at two o'clock in the afternoon, to elect and name, and shall elect and name, the two elective Commissioners mentioned in the second section of this Act, and for the purposes of this election each of the said bondholders shall have one vote for every five hundred dollars of bonds or debentures so held by him, and no sum less than five hundred dollars shall entitle the holder thereof to any vote, and any such vote may be given by attorney or proxy; and the Chairman of said meeting and the Secretary thereof, having been chosen by the meeting, shall certify the said election to the Secretary of State of Canada, and to the Secretary of the Quebec Harbour Commissioners; and should the said first Monday of July be a legal holiday, then the said election shall be held and take place on the next juridical day thereafter, and one week's notice of every such meeting shall be given in two newspapers published in the City of Quebec, by one of the Commissioners appointed by the Governor in Council: the quorum of Bondholders shall be not less than in value, present in person or by proxy, and if any such election should fail to be made in pursuance of any such notice as aforesaid, such election may be made on any subsequent day after like notice; and in case of the failure of any election, and in case of any vacancy, the remaining Commissioner of Commissioners shall act until such election is made, or such vacancy filled.

Provision in case of failure of any Election notice.

Quorum at meeting.

Borrowing power limited

4. The power, given by the eighth section of the said Act, of borrowing sums of money and issuing debentures or bonds, is hereby limited to the sum of eight hundred thousand dollars, in the whole, including any sum already borrowed, and the Quebec Harbour Commissioners shall have power to issue new bonds or debentures, to redeem debentures or bonds becoming due, but such new debentures or bonds, or the proceeds thereof, shall be employed to no other purpose than that of redeeming the said debentures or bonds so becoming due.

Chairman of Commissioners.

5. The said Commissioners shall select from amongst themselves their Chairman, and shall fill any vacancy occurring in their number, and the person or persons so selected to fill the vacancy or vacancies shall be a Commissioner for the remainder of the period for which his predecessor had been appointed or elected, and no longer; and the said Commissioners as Commissioners or Chairman shall be entitled to and receive no salary, fee or emolument.

Commissioners not to be paid.

Public Act.

6. This Act shall be deemed a public Act, and shall be construed as one Act with Act first above cited and amended, and with any Act amending the same.

No. 125.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act to amend the Act providing for the management of the Harbour of Quebec.

Received and read, first time, Wednesday, 13th May, 1868.

Second reading, second sitting this day.

HON. MR. ROSE.

OTTAWA:

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126

No. 126.] BILL. [1868.

An Act respecting Insolvency.

WHEREAS it is expedient that the Acts respecting Bankruptcy and Insolvency in the several Provinces of Ontario, Quebec, New Brunswick and Nova Scotia, be amended and consolidated, and the Law on those subjects assimilated in the several Provinces of the Dominion: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act shall apply in the Province of Quebec to traders only, and in the other Provinces of the Dominion to all persons whether traders or non-traders:

OF VOLUNTARY ASSIGNMENTS.

2. Any person unable to meet his engagements, and desirous of making an assignment of his estate; or who is required so to do as hereinafter provided, shall make an assignment of his estate and effects to any official assignee resident within or nearest to the county or place where the Insolvent has his domicile; and the official assignee to whom such assignment is made shall be known as the interim assignee: and forthwith upon the execution of the deed of assignment to him, a meeting of the creditors of the Insolvent for the appointment of an assignee, shall be called by the interim assignee to be held at his office, within a period not exceeding three weeks from the execution of the deed of assignment;

3. Such meeting shall be called by advertisement (Form A), and previous to such meeting the interim assignee shall prepare, and shall then exhibit, statements showing the position of the affairs of the Insolvent, and particularly a schedule (Form B), containing the names and residences of all his creditors, and the amount due to each, distinguishing between those amounts which are then actually overdue, or for which he is directly liable, and those for which he is only liable indirectly as endorser, surety or otherwise, and which have not become due at the date of such meeting; the particulars of any negotiable paper bearing his name the holders of which the interim assignee shall be unable to ascertain; the amount due to each creditor; and a statement showing the amount and nature of all the assets of the Insolvent, including a inventory of his estate and effects; and the Insolvent shall assist in the preparation of such statements and of the said schedule, and shall attend at such meeting for the purpose of being examined on

oath touching the contents thereof, and touching his books of account and his estate and effects generally: And the interim assignee shall also produce the Insolvent's books of account, and all other documents and vouchers, if required so to do by any creditor ;

4. At least ten days before the day fixed for such meeting the interim assignee shall mail to each of the creditors of the Insolvent, in so far as he shall then have been able to discover them, a notice of such meeting with a list containing the names of all of such creditors whose claims amount to one hundred dollars, with the amount appearing to be due to each of them ; and the aggregate amount of those under one hundred dollars ;

5. At such meeting, the creditors may name an assignee to the estate of the insolvent ; and if a vote be taken upon such nomination, each creditor shall only represent in such vote the amount of direct liabilities of the Insolvent to him, and the amount of indirect liabilities then actually overdue ;

6. If no assignee be appointed at such meeting, or at any adjournment thereof ; or if the assignee named refuses to act ; or if no creditor attends at such meeting, the interim assignee shall be the assignee to the estate of the Insolvent ; but if an assignee be appointed thereat, he shall thenceforth be the assignee of such estate, and the interim assignee shall immediately deliver over to him the whole of the estate of the Insolvent, and all statements, documents and papers prepared by such interim assignee, and unless he is himself appointed assignee shall also immediately execute a deed of release to such assignee of the estate and effects of the Insolvent ;

7. If any dispute arises at the first meeting of creditors as to the amount which any one of the creditors is entitled to represent in the nomination of an assignee, or upon any other question which may properly be discussed at such meeting, such dispute shall be decided by the votes of the majority in number of the creditors present, or represented by agents or proxies ; but if the dispute have reference to any pretension of any creditor as to the existence or amount of his claim, such creditor shall not vote upon the question ; but no neglect or irregularity in any of the proceedings antecedent to the appointment of the assignee shall vitiate such appointment ;

8. The deed or instrument of assignment may be in the form C., and the deed of release by the interim assignee in the form D, or in any other forms equivalent thereto respectively, and if executed in any part of Canada other than the Province of Quebec, they shall be in duplicate ; and a copy of the list of creditors produced at the first meeting of creditors shall be appended to the deed of release ; and no particular description

or detail of the property or effects assigned need be inserted in either of such deeds.—And any number of counterparts of such deeds required by the assignee shall be executed by the Insolvent or by the interim assignee, as the case may be, at the request of the assignee, either at the time of the execution of such deed or instrument, or afterwards, to which counterparts no list of creditors need be appended ;

9. The assignment shall be held to convey and vest in the interim assignee in the first instance, the books of account of the Insolvent, all vouchers, accounts, letters and other papers and documents relating to his business, all moneys and negotiable paper, stocks, bonds, and other securities, as well as all the real estate of the Insolvent, and all his interest therein, whether in fee or otherwise, and also all his personal estate, and moveable and immoveable property, debts, assets and effects, which he has or may become entitled to at any time before his discharge is effected under this Act, excepting only such as are exempt from seizure and sale under execution, by virtue of the several statutes in such case made and provided ; and if an assignee be subsequently appointed, or if by the failure of election, the interim assignee becomes assignee, such assignee shall have the same rights in the whole of such estate and effects of the Insolvent as were previously held under this Act by the interim assignee ; Provided always that no pledgee of any of the effects of the Insolvent or any other party in possession thereof with a lien thereon, shall be deprived of the possession thereof, without payment of the amount legally chargeable as a preferential claim upon such effects ; except in the case hereinafter provided for of such pledgee or party in possession proving his claim against the estate and putting a value upon his security ;

10. Forthwith upon the execution of the deed of release, the assignee, if appointed in any part of Canada other than the province of Quebec, shall deposit one of the duplicates of the deed of assignment and of such deed of release ; and if in the province of Quebec, authentic copies of each ; in the office of the proper Court ; and in either case the list of creditors shall accompany the instruments so deposited ;

11. If the Insolvent possesses real estate, the deed of assignment with the deed of release annexed thereto, if any such deed of release be required and executed ; or, if such real estate be in the Province of Quebec, authentic copies thereof, may be enregistered in the Registry Office for the Registration Division or County within which such real estate is situate ; and no subsequent registration of any deed or instrument of any kind executed by the Insolvent, or which otherwise would have affected his real estate, shall have any force or effect thereon ; and if the real estate be in any part of Canada other than the province of Quebec, and deeds of assignment and of release be

executed in the province of Quebec before Notaries, copies of such deeds certified under the hand and official seal of the Notary or other public officer in whose custody the originals remain, may be registered without other evidence of the execution thereof, and without any memorial; and a certificate of such registration may be endorsed upon like copies, and if the property be in the province of Quebec and the deeds of assignment and of release be executed elsewhere in the Dominion they may be enregistered at full length in the usual manner; but it shall not be necessary to enregister, or to refer on registration in any manner, to the list of creditors annexed to the deed of release;

12. If such deeds be executed in any part of Canada other than the Province of Quebec according to the form of execution of deeds prevailing there, they shall have the same force and effect in the province of Quebec as if they had been executed in that province before notaries; and if such deeds be executed in that province before notaries they shall have the same force and effect elsewhere in the Dominion as if they had been executed according to the law in force there; and copies of such deeds certified as aforesaid, shall constitute, before all courts and for all purposes, *primâ facie* proof of the execution and of the contents of the originals of such deeds respectively, without production of the originals thereof;

COMPULSORY LIQUIDATION.

13.—A debtor shall be deemed insolvent and his estate shall become subject to compulsory liquidation:

a. If he absconds or is immediately about to abscond from Canada with intent to defraud any creditor, or to defeat or delay the remedy of any creditor, or to avoid being arrested or served with legal process; or if being out of Canada he so remains with a like intent; or if he conceals himself within the limits of Canada with a like intent;

b. Or if he secretes or is immediately about to secrete any part of his estate and effects with intent to defraud his creditors, or to defeat or delay their demands or any of them;

c. Or if he assigns, removes or disposes of; or is about or attempts to assign, remove or dispose of; any of his property with intent to defraud, defeat or delay his creditors, or any of them;

d. Or if with such intent he has procured his money, goods, chattels, lands or property to be seized, levied on or taken under or by any process or execution, having operation where the debtor resides or has property, founded upon a demand in its nature proveable under this Act and for a sum exceeding

two hundred dollars, and if such process is in force and not discharged by payment or in any manner provided for by law;

e. Or if he has been actually imprisoned or upon the gaol limits for more than thirty days in a civil action founded on contract for the sum of two hundred dollars or upwards, and still is so imprisoned or on the limits; or if in case of such imprisonment he has escaped out of prison or from custody or from the limits;

f. Or if he wilfully neglects or refuses to appear on any rule or order requiring his appearance, to be examined as to his debts under any statute or law in that behalf;

g. Or if he wilfully refuses or neglects to obey or comply with any such rule or order made for payment of his debts or of any part of them;

h. Or if he wilfully neglects or refuses to obey or comply with the order or decree of the Court of Chancery or of any of the judges thereof, for payment of money;

i. Or if he has made any general conveyance or assignment of his property for the benefit of his creditors, otherwise than in the manner prescribed by this Act;

j. Or if being a trader, he permits any execution issued against him under which any of his chattels, land or property are seized, levied upon or taken in execution, to remain unsatisfied till within forty-eight hours of the time fixed by the Sheriff or officer for the sale thereof; subject however to the privileged claim of the seizing creditor for the costs of such execution, and also to his claim for the costs of the judgment under which such execution has issued; which shall constitute a lien upon the effects seized, or shall not do so, according to the law as it existed previous to the passing of this Act, in the Province of this Dominion in which the execution shall issue;

14. If a trader ceases to meet his commercial liabilities generally as they become due, any two or more claimants upon him for sums exceeding in the aggregate five hundred dollars, may make a demand upon him (Form E.) requiring him to make an assignment of his estate and effects for the benefit of his creditors;

15. If the trader on whom such demand is made, contends that the claims of such creditors do not together amount to five hundred dollars; or that they were procured in whole or in part for the purpose of enabling such creditors to take proceedings under this Act; or that the stoppage of payment by such trader was only temporary, and that it was not caused by any fraud or fraudulent intent, or by the insufficiency of the assets

of such trader to meet his liabilities; he may after notice to such claimants, but within five days from such demand, present a petition to the judge praying that no further proceedings under this Act may be taken upon such demand ; and, after hearing the parties and such evidence as may be adduced before him, the judge may grant the prayer of his petition ; and thereafter such demand shall have no force or effect whatever ; and such petition may be granted with or without costs against either party ; but if it appears to the judge that such demand has been made without reasonable grounds, and merely as a means of enforcing payment under color of proceeding under this Act, he may condemn the creditors making it to pay treble costs ;

16. If such petition be rejected ; or if while such petition is pending, the debtor continues his trade, or proceeds with the realization of his assets ; or if no such petition be presented within the aforesaid time, and the Insolvent during the same time neglects to make an assignment of his estate and effects for the benefit of his creditors as provided by the second section of this Act, his estate shall become subject to compulsory liquidation ;

17. But no act or omission shall justify any proceeding to place the estate of an Insolvent in compulsory liquidation, unless proceedings are taken under this Act in respect of the same, within three months next after the act or omission relied upon as subjecting such estate thereto ; nor after a voluntary assignment has been made, or an assignee appointed under this Act ;

18. In the Province of Quebec an affidavit may be made by a claimant for a sum of not less than two hundred dollars, or by the clerk or other duly authorized agent of such claimant setting forth the particulars of his debt, the insolvency of the person indebted to him, and any fact or facts which, under this Act, subject the estate of such debtor to compulsory liquidation.—(Form F).—And upon such affidavit being filed with the Prothonotary of the district within which the insolvent has his place of business, a writ of attachment (Form G) shall issue against the estate and effects of the insolvent addressed to the sheriff of the district in which such writ issues, requiring such sheriff to seize and attach the estate and effects of the insolvent, and to summon him to appear before the court to answer the premises ; and such writ shall be subject as nearly as can be to the rules of procedure of the court in ordinary suits, as to its issue, service, return and as to all proceedings subsequent thereto before any Court or Judge ;

19. In the Provinces of Ontario, New Brunswick or Nova Scotia in case any claimant by affidavit of himself or any other individual (Form F), shows to the satisfaction of the judge that

he is a creditor of the insolvent for a sum of not less than two hundred dollars, and also shews by the affidavits of two credible persons, such facts and circumstances as satisfy such judge that the debtor is insolvent within the meaning of this Act, and that his estate has become subject to compulsory liquidation, such judge may order the issue of a writ of attachment (Form G) against the estate and effects of the insolvent, addressed to the sheriff of the county in which such writ issues, requiring such sheriff to seize and attach the estate and effects of the insolvent and to summon him to appear before the court to answer the premises, and such writ shall be subject as nearly as can be to the rules of procedure of the Court in ordinary suits as to its issue, return, and as to all proceedings subsequent thereto before any Court or Judge ;

20. If the defendant in any process for compulsory liquidation, absconds from the Province in which he has his domicile or remains without such Province, or conceals himself within such Province, service of the Writ of Attachment issued against him under this Act, may be validly made upon him in any manner which the Judge may order, upon application to him in that behalf. And in proceedings, for compulsory liquidation, concurrent Writs of Attachment may be issued, if required by the plaintiff, addressed to the sheriffs of districts or counties in any part of this Dominion other than the District or County in which such proceedings are being carried on ;

21. Writs of attachment in proceedings for compulsory liquidation may be made returnable after the expiry of three days from the service thereof, where the defendant resides in the Dominion, and not more than fifteen miles from the place of return ; and of one additional day for every additional distance of fifteen miles between such residence, if in the Dominion, and such place of return. And immediately upon the issue of a writ of attachment under this Act, the Sheriff shall give notice thereof by advertisement thereof (Form H) ;

22. For all the purposes of such writ of attachment and in respect of all his duties regarding it, the Sheriff shall be an officer of the Court issuing such writ, and subject to its summary jurisdiction as such ; and under such writ, he shall by himself or by such agent or messenger as he shall appoint for that purpose ; whose authority shall be established by a copy of the writ addressed to him by name and description, and certified under the hand of the Sheriff ; seize and attach all the estate and effects of the insolvent wherever situate, including his books of account, moneys and securities for money, and all his office or business papers, documents, and vouchers of every kind and description ; and shall return, with the writ, a report under oath stating in general terms his action thereon ;

23. If the Sheriff or officer charged with any writ of attachment is unable to obtain access to the interior of the house, store, or other premises of the defendant named in such writ, by reason of the same being locked, barred or fastened, such Sheriff or officer shall the have right forcibly to open the same ;

24. If, in the County or District in which is situate the place of business of the debtor, official assignees have been appointed for the purposes of this Act, the Sheriff shall place the estate and effects attached in the custody of one of such official assignees, who shall be guardian under such writ; but if not, he shall appoint as guardian such competent and responsible person as may be willing to assume such guardianship ; and the person so placed in possession shall be bound to perform all the duties hereinbefore imposed upon the interim assignee, except the calling of a meeting of creditors for the appointment of an assignee ;

25. Except in cases where a petition has been presented as provided for by the fifteenth section of this Act, the alleged insolvent may present a petition to the Judge at any time within three days from the return day of the writ, but not afterwards ; and may thereby pray for the setting aside of the attachment made under such writ, on the ground that his estate has not become subject to compulsory liquidation ; or if the writ of attachment has issued against a trader by reason of his neglect to satisfy a writ of execution against him as hereinbefore provided, then on such ground, and also on the ground that such neglect was caused by a temporary embarrassment, and that it was not caused by any fraud or fraudulent intent, or by the insufficiency of the assets of such trader to meet his liabilities ; and such petition shall be heard and determined by the Judge in a summary manner, and conformably to the evidence adduced before him thereon; but proceedings for compulsory liquidation shall not be contested either as to form or upon the merits, otherwise than by a summary petition, in the manner, upon the grounds, and within the delay, hereinbefore provided ;

26. Immediately upon the expiration of three days from the return day of the writ, if no petition to quash or to stay proceedings be filed, or upon the rendering of judgment on the petition to quash, if it be dismissed, or immediately upon such return with the consent of the insolvent, the Judge upon the application of the plaintiff, or of any creditor declaring in such application that he thereby intervenes for the prosecution of the cause, shall order a meeting of the creditors to be held before the Judge, at a time and place named in such order, and after due notice thereof by advertisement, for the purpose of giving their advice upon the appointment of an assignee ;

27. At the time and place appointed, and on hearing the advice of the creditors present upon oath (Form I,) the Judge shall appoint some person to be such assignee, which person shall be the person proposed by the creditors present, if they are unanimous ; and if they are not unanimous, then the judge may appoint either one of the persons proposed by the creditors, or some official assignee ;

28. Instead of petitioning to quash the attachment, the debtor may, within the like delay, petition the judge to suspend further proceedings against him, and to that end to submit such petition to a meeting of the creditors and the debtor to be called by advertisement for that purpose, in order that the creditors may determine whether the proceedings against the debtor shall be suspended or not ; and at such meeting the debtor may be present, and may be heard in person ;

29. The debtor shall produce, with such petition, statements shewing the position of his estate, and particularly a Schedule (Form B), containing the names and residences of his creditors, with the amount due to each, distinguishing between those amounts which are then actually overdue, or for which he is directly liable, and those for which he is only liable indirectly as endorser, surety or otherwise, and which have not then become due, with the date of their maturity ; the particulars of any negotiable paper bearing his name, the holders of which are unknown to him ; and also a statement shewing the amount and nature of all his assets, including an inventory of his estate and effects, the whole under oath ; and the guardian shall also produce the books of account of the Insolvent, and all other documents and vouchers appertaining to his estate, if required so to do, by any creditor ; and thereupon, the Judge, instead of ordering a meeting of creditors to be called for the appointment of an Assignee, shall order a meeting of creditors to be called by advertisement, for the purpose of taking into consideration the prayer of such petition, and at such meeting shall take, and record by a writing under his hand, the opinion of the creditors thereon ; and the Judge may adjourn to another day, the meeting so called, if it appears that the creditors have not been properly and reasonably notified, making such order as to further notice to creditors, as he shall deem expedient ;

30. The Judge shall preside at such meeting of creditors, and the question which they shall decide shall be, " shall the debtor be proceeded against under this Act, or not ? " And if the decision of the majority in number, and three fourths in value of the creditors, for sums of one hundred dollars and upwards, present or represented, be in the negative, the Judge shall quash the attachment, but with costs against the petitioner ; and the decision of the creditors shall be in force for three calendar months thereafter, during which time no other

proceedings in insolvency shall be commenced against the debtor, based upon any act of omission of his which took place previous to the institution of the proceedings so stayed by such decision ; but if the decision of such proportions of the creditors at such meeting be not in the negative, the Judge shall at once proceed thereat to take the advice of the creditors as to the appointment of an Assignee, and shall appoint such Assignee as hereinbefore provided ;

31. If any question arises at such meeting respecting the amount of any creditor's claim, or respecting the proportion thereof on which he shall be entitled to vote under this Act at such meeting, it shall be summarily decided by the Judge at such meeting upon the hearing of the parties, and from an inspection of any vouchers which shall be produced by such creditor, of the schedules and list so sworn to by the debtor, and of the statement of the debtor's affairs prepared and produced in the cause by the guardian under the writ of attachment ;

32. Upon the appointment of the assignee, the guardian shall immediately deliver the estate and effects in his custody to such assignee ; and by the effect of his appointment, the whole of the estate and effects of the Insolvent, as existing at the date of the issue of the writ, and which may accrue to him by any title whatsoever, up to the time of his discharge under this Act, and whether seized or not seized under the writ of attachment, shall vest in the said assignee in the same manner, to the same extent, and with the same exceptions as if he had been duly appointed assignee to such insolvent under a voluntary assignment of his estate and effects executed by the insolvent to an interim assignee, and such estate and effects had been duly released to him as hereinbefore provided ;

33. An authentic copy or exemplification, under the hand of the proper officer of the Court, of the order of the Judge appointing an assignee, may be registered at full length in any registry office, without any proof of the signature of the officer and without any memorial ; and such registration shall have the same effect as to the real estate of the insolvent and in all other respects, as the registration under this Act of a deed of assignment with deed of release annexed ;

34. The Board of Trade at any place, or the Council thereof, may name any number of persons within the County or District in which such Board of Trade exists, or within any County or District adjacent thereto in which there is no Board of Trade, to be official assignees for the purposes of this Act, and at the time of such nomination shall declare what security for the due performance of his duties, shall be given by each of such official assignees before entering upon them ; and a copy of the resolution naming such persons, certified by the Secretary of the Board shall be transmitted to the Prothonotary or Clerk of

the Court in the District or County within which such assignees are resident respectively ; but such nomination may be made by the Judge, in any District or County wherein or adjacent to which no Board of Trade exists ; and in that case the Judge shall certify such nomination under his hand, and shall file such certificate in the office of the Court over which he preside ; and such security as such Judge shall declare in such nomination, shall be taken in the name of such Judge and shall have the same effect as if it had been taken in the name of the President of a Board of Trade ; and the Board or Judge who has appointed an Official Assignee, may remove him upon petition to that effect duly notified to such Official Assignee, and upon such notice as such Board or Judge may deem sufficient ; but such removal shall not have theeffect of removing such Official Assignee from the office of Assignee to any estate to which he has previously been appointed ;

35. Such security shall be taken in the name of office of the president of such Board of Trade, for the benefit of the creditors of any person whose estate is or subsequently may be, in process of liquidation under this Act ; and in case of the default of any such assignee in the performance of his duty, his security may be enforced and realized by the assignee who shall be appointed his successor, who may sue in his own name as such assignee upon such security ; Provided always that the giving of such security shall not prevent the creditors of any insolvent from requiring security to be given for their benefit as hereinafter provided ; but in that case the security taken in the name of the president of the Board of Trade shall be regarded as supplementary to the security so required, and shall be enforceable only after discussion of such security ;

36. The interim assignee or guardian shall have the right in his own name, and in his capacity of interim assignee or guardian, as the case may be, to institute any conservatory process that may be necessary for the protection of the estate ; provided that he shall first have obtained the authority of the judge for so doing ;

37. At the first meeting of creditors which shall be held for the appointment of an assignee either on a voluntary assignment or in compulsory liquidation, or at any subsequent meeting, the creditors may appoint inspectors from among themselves, whose services shall be gratuitous, and who shall superintend and direct the assignee in the performance of his duties under this Act, until the next meeting of creditors ; and if their appointment be not then or at some subsequent meeting revoked, they shall continue to hold the same till the final closing of the estate ; and whenever under this Act the consent, authority or direction of the creditors is required to enable the assignee to perform any act, or to adopt any course, the consent, authority or directions of the inspectors, if any there be, shall

be held and taken to be the consent, authority or directions of the creditors in that behalf; subject always however to revision by the creditors at any meeting thereof held for the purpose; and at such meeting and subject to the like revision, the creditors may fix, by resolution, the City, Town, or other place in which meetings of Creditors shall thereafter be held; and thereafter no meetings held elsewhere shall be valid;

OF ASSIGNEES.

38. Immediately upon his appointment the assignee shall give notice thereof by advertisement (Form J);

39. The assignee shall call meetings of creditors, whenever required in writing so to do by the inspectors, or by five creditors, stating in such writing the purpose of the intended meeting; or whenever he is required so to do by the judge, on the application of any creditor, of which application he shall have notice; or whenever he shall himself require instructions from the creditors; and he shall state succinctly in the notice calling any meeting, the purposes of such meeting;

40. The assignee shall be subject to all rules, orders and directions, not contrary to law, or to the provisions of this Act, which are made for his guidance by the creditors at a meeting called for the purpose; and until he receives directions from the creditors in that behalf, if there be a bank or agency of a bank in the place or county in which the insolvent has his place of business, or within fifteen miles of such place, he shall deposit weekly, at interest, in the name of the estate, all moneys received by him, in the Bank or Bank Agency in or nearest to the place where the Insolvent so carries on business; but shall not deposit moneys belonging to any estate, in his own name in any Bank on pain of dismissal by the Judge on the summary petition of any Creditor; and the interest received upon deposits shall appertain to the estate, and shall be distributed in the same manner and subject to the same rights and privileges as the capital from which such interest accrued;

41. The interim assignee, assignee or guardian, as the case may be, shall attend all meetings of Creditors, and take and preserve minutes of such meetings, signed by himself, and signed and certified at the time by the Chairman, or by three Creditors present at the meeting; and the assignee shall also keep a correct register in duplicate of all his proceedings, and of the reception of all papers and documents served upon or delivered to him, and of all claims made to or before him, and shall enter therein in the first place the minutes of all meetings of Creditors held before or at the time of his appointment, as delivered to him; one of which duplicates shall remain in the office of the Prothonotary or Clerk of the Court, and shall be

written up and completed by the assignee monthly from the duplicate in his own possession. And also if required, and independent of the security hereinbefore required to be given in the name of the President of the Board of Trade, the assignee in any case, shall give such security, and in such manner, as shall be ordered by a resolution of the Creditors, and shall conform himself to such directions in respect thereof, and in respect of any change or modification thereof or addition thereto, as are subsequently conveyed to him by similar resolutions ; and in every such case, the bond or instrument of security shall be taken in favor of the Creditors, by the name of the "Creditors of A. B., an Insolvent, under the Insolvent Act of 1868," and shall be deposited in the office of the Court, and in case of default by the assignee on whose behalf it is given, may be sued upon by any assignee who shall be subsequently appointed, in his own name as such assignee ;

42. All powers vested in any Insolvent which he might have legally executed for his own benefit, shall vest in, and be executed by the assignee, in like manner and with like effect as they were vested in the Insolvent, and might have been executed by him ; but no power vested in the Insolvent or property or effects held by him as Trustee or otherwise for the benefit of others, shall vest in the assignee under this Act ;

43. The assignee shall wind up the affairs of the Insolvent, by the sale, in a prudent manner, of all bank and other stocks, and of all moveables belonging to him, and by the collection of all debts ; but in all of such respects shall be guided by the direction of the Creditors or of the Inspectors, given as herein provided ; but nothing in this Act contained shall prevent the assignee from selling the entire estate and effects of the Insolvent, real and personal, in one lot, either for a gross price, or at a dollar rate upon the liabilities of the Insolvent ; and upon such other terms and conditions as to the payment of the price, the payment, or assumption and payment, by the purchaser of mortgages or hypothecary debts, and the payment of privileged debts, as may be considered advantageous ; provided always, that such sale and all and every the terms and conditions thereof and connected therewith, be first approved at a general meeting of the Creditors of the Insolvent called for the purpose. And such meeting may be held at any time after the appointment of an assignee, provided notice by advertisement as provided by this Act has been given by the assignee, *interim* assignee or guardian, as the case may be ;

44. The Assignee, in his own name as such, shall have the exclusive right to sue for the recovery of all debts due to the Insolvent, for rescinding agreements, deeds and instruments made in fraud of creditors, and for the recovery back of monies alleged to have been paid in fraud of creditors, and to take,

both in the prosecution and defence of suits, all the proceedings that the Insolvent might have taken for the benefit of the estate, or that any creditor might have taken for the benefit of the creditors generally ; and may intervene and represent the Insolvent in all suits or proceedings by or against him, which are pending at the time of his appointment, and on his application may have his name inserted therein, in the place of that of the Insolvent ;

45. If a partner in an unincorporated trading company or copartnership, becomes insolvent within the meaning of this Act, and an Assignee is appointed to the estate of such Insolvent, such partnership shall thereby be held to be dissolved ; and the Assignee shall have all the rights of action and remedies against the other partners in such company or copartnership, which any partner could have or exercise by law or in equity against his copartners after the dissolution of the firm ; and may avail himself of such rights of action and remedies, as if such copartnership or company had expired by efflux of time ;

46. After having acted with due diligence in the collection of the debts, if the Assignee finds there remain debts due, the attempt to collect which would be more onerous than beneficial to the estate, he may report the same to the creditors at a meeting thereof, duly called for the purpose, or to the inspectors, and with their sanction he may obtain an order of the Judge to sell the same by public auction, after such advertisement thereof, as may be required by such order ; and pending such advertisements, the Assignee shall keep a list of the debts to be sold, open to inspection at his office, and shall also give free access to all documents and vouchers explanatory of such debts ; but all debts amounting to more than one hundred dollars, shall be sold separately, except as herein otherwise provided ;

47. The person who purchases a debt from the Assignee, may sue for it in his own name, as effectually as the Insolvent might have done, and as the Assignee is hereby authorized to do ; and a Bill of Sale (Form K), signed and delivered to him by the Assignee, shall be *primâ facie* evidence of such purchase, without proof of the handwriting of the Assignee ; and no warranty, except as to the good faith of the Assignee, shall be created by such sale and conveyance, not even that the debt is due ;

48. The Assignee may sell the real estate of the Insolvent, but only after advertisement thereof, for a period of two months, and in the same manner as is required for the actual advertisement of sales of real estate by the sheriff in the district or place where such real estate is situate, and to such further extent as the assignee deems expedient after such further

notice as is required in such place for such sales by the sheriff; but the period of advertisement may be shortened to not less than one month by the creditors with the approbation of the judge; and if the price offered for any real estate at any public sale duly advertised as aforesaid, is, in the opinion of the Assignee, too small, he may withdraw such real estate, and sell it subsequently under such directions as he receives from the creditors;

49. All sales of real estate so made by the Assignee, shall vest in the purchaser all the legal and equitable estate of the insolvent therein; and in all respects shall have the same effect as if the same had been made by a sheriff in the Province in which such real estate is situate, under a writ of execution issued in the ordinary course; and the title conveyed by such sale shall have equal validity with a title created by a sheriff's sale; and the deed of such sale which the assignee executes (Form M.) shall have the same effect as a sheriff's deed has in the Province within which the real estate is situate; but he may grant such terms of credit as he may deem expedient, and as may be approved of by the creditors for any part of the purchase money; and he shall be entitled to reserve a special hypothec or mortgage by the deed of sale, as security for the payment of such part of the purchase money; and such deed may be executed before witnesses or before notaries, according to the exigency of the law of the place where the real estate sold is situate;

50. In the Province of Quebec such sale may be made subject to all such charges and *hypothèques* as are permitted by the law of the said Province to remain chargeable thereon, when sold by the Sheriff, and also subject to such other charges and *hypothèques* thereon, as may be consented to by the holders or creditors of such charges or *hypothèques*. And before advertising any sale of real estate situate within the said Province, the Assignee shall procure, at the expense of the estate, from the Registrar of the County or Registration division wherein such real estate is situate, a certificate containing the names and residences as shewn by the Registry Books of all persons enregistered as hypothecary creditors upon such real estate; and he shall himself deposit in the nearest Post Office a notice with the postage paid thereon, addressed to each of such creditors by the name and to the address contained in such certificate, and also a notice addressed to each creditor at any other place where the Assignee has reason to believe such creditor to be then resident, and also a notice addressed to any other person whom the Assignee has reason to believe to be then the creditor of such hypothecary claim, informing the creditors of the day fixed for the sale of the real estate, and of the time within which the hypothecary creditors are required to file their claims under this Act; and before the day of sale he shall file in the office of the Court the certificate of the Registrar with a return

thereon under oath as to his doings in respect of such notices; and the Assignee shall be directly liable for any neglect of the duty imposed upon him by this section, to any party suffering damage in consequence of such neglect;

51. The Assignee shall be subject to the summary jurisdiction of the Court or Judge in the same manner and to the same extent as the ordinary officers of the Court are subject to its jurisdiction, and the performance of his duties may be compelled; and all remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, *hypothèque*, lien or right of property upon, in or to any effects or property in the hands, possession or custody of the assignee may be obtained; by an order of the Judge on summary petition in vacation, or by the Court on a rule in term; and not by any suit, attachment, seizure or other proceeding of any kind whatever: and obedience by the Assignee to such order may be enforced by such Judge or Court under the penalty of imprisonment, as for contempt of Court or disobedience thereto, may be punished by dismissal in the discretion of the Court or Judge;

52. Before the period at which dividends may be declared any Assignee may be removed by the Judge, upon proof of fraud or dishonesty in the custody or management of the estate, upon the application of any creditor; and if such removal takes place, or if the assignee be dismissed by the Judge or dies more than fifteen days before the said period, the Judge may appoint another assignee in the same manner as he can appoint an assignee to an estate in compulsory liquidation; but if the assignee is removed or is dismissed or dies within fifteen days of the said period, the Judge shall order a meeting of creditors to be held for the purpose of appointing another assignee, and shall cause notice of such meeting to be given by advertisement;

53. Any assignee may be removed after the period at which dividends may be declared, by a resolution passed by the creditors present or represented at a meeting duly called for the purpose, or if the assignee dies or is dismissed by the Judge within fifteen days before the said period, or if the removal is effected by the creditors or the assignee dies or is dismissed after the said period, they shall have the right of appointing another assignee, either at the meeting by which he is removed, or at any other called for the purpose;

54. The assignee so removed or dismissed shall, nevertheless, remain subject to the summary jurisdiction of the court, and of any judge thereof, until he shall have fully accounted for his acts and conduct while he continued to be assignee;

55. The remuneration of the assignee shall be fixed by the creditors at a meeting called for the purpose; but if not so fixed

before a final dividend is declared, shall be put into the dividend sheet at a rate not exceeding five per centum upon the cash receipts, subject to objection by any Creditor as exceeding the value of the services of the assignee, in the same manner as any other item of the dividend sheet ;

56. Upon the death of an assignee the estate of the Insolvent shall not descend to the heirs or representatives of the assignee, but shall become vested in any assignee who shall be appointed by the Creditors in his place and stead ; and until the new assignee is appointed, the estate shall be under the control of the Judge ;

57. After the declaration of a final dividend the assignee may prepare his final account, and may present a petition to the Judge for his discharge from the office of assignee after giving notice of such Petition to the Insolvent and also to the Inspectors if any have been appointed ; and shall produce and file with such petition a bank certificate of the deposit of any dividends remaining unclaimed, or of any balance in his hands ; and thereupon the Judge after causing such account to be audited by the Inspectors or by some Creditor or Creditors named by him for the purpose, and after hearing the parties, may refuse or grant conditionally or unconditionally, the prayer of such petition ;

OF DIVIDENDS.

58. Upon the expiration of the period of one month from the first insertion of the advertisements giving notice of the appointment of an assignee, or as soon as may be after the expiration of such period, and afterwards from time to time at intervals of not more than six months, the assignee shall prepare and keep constantly accessible to the creditors, accounts and statements of his doings as such assignee, and of the position of the estate, and at similar intervals shall prepare dividends of the estate of the insolvent ;

59. All debts due and payable by the insolvent at the time of the execution of a deed of assignment, or at the time of the issue of a writ of attachment under this Act, and all debts due but not then actually payable, subject to rebate of interest, shall have the right to rank upon the estate of the insolvent ; and any person then being, as surety or otherwise, liable for any debt of the insolvent, who subsequently pays such debt ; shall stand in the place of the original creditor, if such creditor has proved his claim on such debt ; or if he has not proved shall be entitled to prove against and rank upon the estate for such debt, to the same extent and with the same effect as such creditor might have done ;

60. If any creditor of the insolvent claims upon a contract dependent upon a condition or contingency, which does not happen previous to the declaration of the first dividend, a dividend shall be reserved upon the amount of such conditional or contingent claim until the condition or contingency is determined; but if it be made to appear to the judge that such reserve will probably retain the estate open for an undue length of time, he may, unless an estimate of the value thereof be agreed to between the claimant and the assignee, order the assignee to make an award upon the value of such contingent or conditional claim, and thereupon the assignee shall make an award after the same investigation, and in the same manner and subject to a similar appeal, as is hereinafter provided for the making of awards upon disputed claims and dividends, and for appeals from such awards; and in every such case the value so established or agreed to shall be ranked upon as a debt payable absolutely;

61. In the preparation of the dividend sheet due regard shall be had to the rank and privilege of every creditor, which rank and privilege, upon whatever they may legally be founded, shall not be disturbed by the provisions of this Act; but no dividend shall be allotted or paid to any creditor holding security from the estate of the insolvent for his claim, until the amount for which he shall rank as a creditor on the estate as to dividends therefrom, shall be established as hereinafter provided; and such amount shall be the amount which he shall be held to represent in voting at meetings of creditors, and in computing the proportion of creditors, whenever under this Act such proportion is required to be ascertained;

62. No lien or privilege upon either the personal or real estate of the Insolvent shall be created for the amount of any judgment debt, or of the interest thereon, by the issue or delivery to the Sheriff of any writ of execution, or by levying upon or seizing under such writ, the effects or estate of the Insolvent; unless such writ of execution shall have issued and been delivered to the Sheriff at least thirty days before the execution of a deed of assignment or the issue of a writ of attachment under this Act. But this provision shall not affect any lien or privilege for costs which the plaintiff heretofore possessed under the law of the Province in which such writ shall have issued;

63. A creditor holding security from the Insolvent, or from his estate, shall specify the nature and amount of such security in his claim, and shall therein on his oath put a specified value on such security; and the assignee, under the authority of the creditors, may either consent to the retention of the property or effects constituting such security, or on which it attaches, by the creditor, at such specified value; or he may require from such creditor an assignment and delivery of such security, property or effects, at an advance of ten per centum upon such

specified value, to be paid by him out of the estate so soon as he has realized such security, in which he shall be bound to the exercise of ordinary diligence ; and in either of such cases the difference between the value at which the security is retained or assumed, and the amount of the claim of such creditor ; shall be the amount for which he shall rank and vote as aforesaid ;

64. But if the security consists of a mortgage upon real estate, or upon ships or shipping, the property mortgaged shall only be assigned and delivered to the creditor, subject to all previous mortgages, *hypothèques* and liens thereon, holding rank and priority before his claim ; and upon his assuming and binding himself to pay all such previous mortgages, *hypothèques* and liens, and upon his securing such previous charges upon the property mortgaged in the same manner and to the same extent as the same were previously secured thereon ; and thereafter the holders of such previous mortgages, *hypothèques* and liens shall have no further recourse or claim upon the estate of the insolvent ;

65. Upon a secured claim being filed, with a valuation of the security, it shall be the duty of the assignee to procure the authority of the Inspectors or of the creditors at their first meeting thereafter, to consent to the retention of the security by the creditor, or to require from him an assignment and delivery thereof ; and if any meeting of creditors takes place without deciding upon the course to be adopted in respect of such security, the assignee shall act in the premises according to his discretion and without delay ;

66. The amount due to a creditor upon each separate item of his claim at the time of the execution of a deed of assignment or of the issue of a writ of attachment, as the case may be, shall form part of the amount for which he shall rank upon the estate of the insolvent, until such item of claim be paid in full, except in cases of deduction of the proceeds or of the value of security as hereinbefore provided ; but no claim or part of a claim shall be permitted to be ranked upon more than once, whether the claim so to rank be made by the same person or by different persons ;

67. If the insolvent owes debts both individually and as a member of a co-partnership, or as a member of two different co-partnerships, the claims against him shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other after all the creditors of that other have been paid in full ;

68. The creditors, or the same proportion of them that may grant a discharge to the debt or under this Act, may allot to the insolvent by way of allowance, any sum of money, or any property they may think proper ; and the allowance so made shall

be inserted in the dividend sheet, and shall be subject to contestation like any other item of collocation therein, but only on the ground of fraud or deceit in procuring it, or of the absence of consent by a sufficient proportion of the creditors ;

69. No costs incurred in suits against the insolvent after due notice of an assignment or of the issue of a writ of attachment in compulsory liquidation has been given according to the provisions of this Act, shall rank upon the estate of the insolvent ; but all the taxable costs incurred in proceedings against him up to that time, shall be added to the demand for the recovery of which such proceedings were instituted ; and shall rank upon the estate as if they formed part of the original debt ;

70. Clerks, and other persons in the employ of the insolvent in and about his business or trade, shall be collocated in the dividend sheet by special privilege for any arrears of salary or wages due and unpaid to them at the time of the execution of a deed of assignment or of the issue of a writ of attachment under this Act, not exceeding three months of such arrears,unless such amount be increased by order of the creditors ;

71. So soon as a dividend sheet is prepared, notice thereof (Form N) shall be given by advertisement, and after the expiry of one juridical day from the day of the last publication of such advertisement, all dividends which have not been objected to within that period shall be paid ;

72. If it appears to the assignee on his examination of the books of the insolvent or otherwise, that the insolvent has ordinary, hypothecary or privileged creditors who have not filed claims before such assignee, it shall be his duty to reserve dividends for such creditors according to the nature of the claims, and to notify them of such reserve, which notification may be by letter through the post, addressed to such creditor's residence as nearly as the same can be ascertained by the assignee ; and if such creditors do not file their claims and apply for such dividends previous to the declaration of the last dividend of the estate, the dividends reserved for them shall form part of such last dividend ;

73. If any claim be objected to at any time ; or if any dividend be objected to, within the said period of one day ; and any dispute arises between the creditors of the insolvent, or between him and any creditor, as to the correct amount of the claim of any creditor, or as to the ranking or privilege of the claim of any creditor upon such dividend sheet ; the assignee shall proceed thereon as hereinafter provided ; shall hear and examine the parties and their witnesses under oath, which oath the assignee is hereby empowered to administer ; and shall take clear notes in writing of the parol evidence adduced before him, and shall examine and verify the state-

ments submitted to him, by the books and accounts of the insolvent, and by such evidence, vouchers, and statements, as may be furnished to him ; and shall make an award in the premises, and as to the costs of such contestation ; which award shall be deposited in the Court and shall be final, unless appealed from within three days from the date of its communication to the parties to the dispute ;

74. Upon a declaration in writing of objection to any claim or to any dividend, and upon the application of either party, the assignee shall fix a day within which the particulars of the objection shall be filed before him in writing ; and the claimant shall have twenty-four hours thereafter to answer the same, which time however may be enlarged by the assignee ; and upon the completion of an issue upon such objection the assignee shall fix a day for proceeding to take evidence thereon, and shall thereafter proceed therewith from day to day, unless he shall otherwise order, until the making of his award in the premises ;

75. In any contestation in insolvency being proceeded with before an assignee, the assignee may issue subpœnas requiring the attendance of witnesses and the production of documents by such witnesses, in the same manner as such subpœnas may be issued by the ordinary courts of law ; and any witness so summoned may be punished for disobedience to any such subpœna, by the Judge, upon summary petition by either of the parties to such contestation, in the same manner as any witness may be punished for disobedience to a subpœna issued from the court in which the Judge has jurisdiction ;

76. The award of the assignee as to costs, may be made executory by execution in the same manner as an ordinary judgment of the Court, by means of an order of the Judge obtained upon the application of the party to whom costs are awarded, made after notice to the opposite party ; and the creditors may by resolution authorize and direct the costs of the contestation of any claim or any dividend to be paid out of the estate, and may make such order either before or pending any such contestation ;

77. Pending any appeal, the assignee shall reserve a dividend equal to the amount of the dividend claimed ;

78. If, at the time of the issue of a Writ of Attachment, or the execution of a Deed of Assignment, any immovable property or real estate of the insolvent be under seizure, or in process of sale, under any writ of execution or other order of any competent court ; such sale shall be proceeded with by the officer charged with the same, unless stayed by order of the Judge upon application by the guardian, interim assignee or assignee, upon special cause shewn, and after notice to the

plaintiff; reserving to the party prosecuting the sale, his privileged claim on the proceeds of any subsequent sale, for such costs as he would have been entitled to be paid by privilege, out of the proceeds of the sale of such property, if made under such writ or order; but if such sale be proceeded with, the moneys levied therefrom shall be paid over to the assignee for distribution, according to the rank and priority of the claimants thereon, and the officer charged with the execution shall make his return accordingly;

79. All dividends remaining unclaimed at the time of the discharge of the assignee shall be left in the bank where they are deposited for three years, and if still unclaimed, shall then be paid over by such bank with the interest accrued thereon, to the Government of Canada, and if afterwards duly claimed shall be paid over to the persons entitled thereto, with interest at the rate of four per centum per annum from the time of the reception thereof by the Government;

80. If any balance remains of the estate of the insolvent, or of the proceeds thereof, after the payment in full of all debts due by the Insolvent, such balance shall be paid over to the Insolvent upon his petition to that effect, duly notified to the creditors by advertisement and granted by the Judge;

OF LEASES.

81. If the insolvent holds under a lease, property having a value above and beyond the amount of any rent payable under such lease, the assignee shall make a report thereon to the Judge, containing his estimate of the value of the estate of the leased property in excess of the rent; and thereupon the Judge may order the rights of the insolvent in such leased premises to be sold, after such notice of such sale as he shall see fit to order; and at the time and place appointed such lease shall be sold, upon such conditions, as to the giving of security to the lessor, as the Judge may order; and such sale shall be so made subject to the payment of the rent and to all the covenants and conditions contained in the lease; and all such covenants and conditions shall be binding upon the lessor and upon the purchaser, as if the purchaser had been himself lessee and a party with the lessor to the lease;

82. If the insolvent holds under a lease extending beyond the year current under its terms at the time of his insolvency, property which is not subject to the provisions of the last preceding section, or respecting which the Judge does not make an order of sale, as therein provided, the creditors shall decide at any meeting which may be held more than three months before the termination of the yearly term of the lease current at the time of such meeting, whether the property so leased should be retained for the use of the estate, only up to the end of the

then current yearly term, or if the conditions of the lease permit of further extension, also up to the end of the next following yearly term thereof, and their decision shall be final ;

83. From and after the time fixed for the retention of the leased property for the use of the estate, the lease shall be cancelled and shall from thenceforth be inoperative and null ; and so soon as the resolution of the creditors as to such retention has been passed, such resolution shall be notified to the lessor, and if he contends that he will sustain any damage by the termination of the lease under such decision, he may make a claim for such damage, specifying the amount thereof under oath, in the same manner as in ordinary claims upon the estate ; and the assignee shall proceed forthwith to make an award upon such claim, in the same manner, and after similar investigation and with the same right of appeal as is herein provided for in the case of claims or dividends objected to ;

84. In making such claim, and in any award thereupon, the measure of damages shall be the difference between the value of the premises leased when the lease terminates under the resolution of the creditors, and the rent which the Insolvent had agreed by the lease to pay during its continuance ; and the chance of leasing or of not leasing the premises again, for a like rent, shall not enter into the computation of such damages ; and if damages are finally awarded to the lessor he shall rank for the amount upon the estate as an ordinary creditor ;

85. The preferential lien of the landlord for rent in the Provinces of Ontario, New Brunswick or Nova Scotia is restricted to the arrears of rent due during the period of one year last previous to the execution of a deed of assignment, or the issue of a writ of attachment under the said Act, as the case may be, and from thence so long as the assignee shall retain the premises leased ;

OF APPEAL.

86. There shall be an appeal to the Judge from the award of an Assignee made under this Act, which Appeal shall be by summary petition, of which notice shall be given to the opposite party and to the Assignee, within three days from the day on which the award is notified to the party complaining of it ; and which shall be presented forthwith after the expiration of the delay required for notice of presentation ; and the Assignee shall attend before the Judge at the time and place indicated in such notice, and shall produce before him all evidence, notes of evidence, books, or proved extracts from books, documents, vouchers or papers having reference to the matter in dispute ; and thereupon the Judge may confirm such award, or modify it, or refer it back to the Assignee for the taking of further evidence, by such order as will satisfy the ends of Justice :

87. If any of the parties to such appeal are dissatified with such order of the Judge, they may in the Province of Quebec move to revise the same or may appeal therefrom in like manner as from any final judgment of the Superior Court, to the Court of Queen's Bench on the appeal side thereof; in the Province of Ontario may appeal therefrom to either of the Superior Common Law Courts or to the Court of Chancery, or to any one of the Judges of the said Courts; in the Province of New Brunswick to the Supreme Court of New Brunswick or to any one of the Judges of the said Court; and in the Province of Nova Scotia to the Supreme Court of Nova Scotia or to any one of the Judges of the said Court; but any appeal to a single Judge in the Provinces of Ontario, New Brunswick or Nova Scotia may, in his discretion, be referred on a special case to be settled, to the full Court, and on such terms in the meantime as he may think necessary and just;

88. Such appeal shall not be permitted unless within five days from the day on which the judgment is rendered, or on which, in the Province of Quebec the delay for moving to revise the same expires if no motion in revision be made, the party desiring to appeal causes to be served upon the opposite party and upon the Assignee, a petition in appeal, setting forth the petition to the Judge, and his decision thereon, and praying for its revision, with a notice of the day on which such petition is to be presented, and also within the said period of five days causes security to be given before the Judge by two sufficient sureties, that he will duly prosecute such appeal, and pay all costs incurred by reason thereof by the respondent;

89. If the party appellant does not present his petition on the day fixed for that purpose, the Court or Judge selected to be appealed to, as the case may be, shall order the record to be returned to the person or officer entitled to the custody thereof, and the party respondent may, on the following or any other day during the same term, produce before the Court, or within six days thereafter before the Judge, the copy of petition served upon him, and obtain costs thereon against the appellant;

90. In the Province of Quebec application may be made to the Court of Review for the revision of any order of a Judge made in the Province of Quebec, upon any of the matters or things upon which he is authorized by this Act to order or adjudicate; and an appeal shall lie from any such order; the whole according to the procedure hereinbefore provided for revising or appealing from an order of the Judge made on appeal from the award of an Assignee, except that no notice need be given to the Assignee of any proceeding connected therewith, unless he is a party thereto;

OF FRAUDS AND FRAUDULENT PREFERENCES.

91. All gratuitous contracts or conveyances, or contracts or conveyances without consideration, or with a merely nominal consideration, made by a debtor afterwards becoming an insolvent with or to any person whomsoever, whether such person be his creditor or not, within three months next preceding the date of the Assignment or of the issue of the Writ of attachment in compulsory liquidation; and all contracts by which creditors are injured, obstructed, or delayed, made by a debtor unable to meet his engagements, and afterwards becoming an insolvent, with a person knowing such inhability or having probable cause before believing such inability to exist, or after such inhability is public and notorious whether such person be his creditor or not, are presumed to be made with intent to defraud his creditors;

92. A contract or conveyance for consideration by which creditors are injured or obstructed, made by a debtor unable to meet his engagements with a person ignorant of such inability, whether such person be his creditor or not, and before such inability has become public and notorious, but within thirty days next before the execution of a deed of assignment or of the issue of a Writ of attachment under this Act, is voidable, and may be set aside by any Court of competent jurisdiction, upon such terms as to the protection of such person from actual loss or liability by reason of such contract, as the Court may order;

93. All contracts or conveyances made and acts done by a debtor, with intent fraudulently to impede, obstruct or delay his creditors in their remedies against him, or with intent to defraud his creditors, or any of them, and so made, done and intended with the knowledge of the person contracting or acting with the debtor, whether such person be his creditor or not, and which have the effect of impeding, obstructing, or delaying the creditors of their remedies, or of injuring them, or any of them, are prohibited, and are null and void, notwithstanding that such contracts, conveyances, or acts be in consideration, or in contemplation of marriage;

94. If any sale, deposit, pledge, or transfer be made of any property real or personal by any person in contemplation of insolvency, by way of security for payment to any creditor; or if any property real or personal, moveable or immoveable, goods, effects, or valuable security be given by way of payment by such person to any creditor, whereby such creditor obtains or will obtain an unjust preference over the other creditors; such sale, deposit, pledge, transfer, or payment shall be null and void; and the subject thereof may be recovered back for the benefit of the estate by the Assignee, in any Court of competent jurisdiction; and if the same be made within thirty days next before the execution of a deed of Assignment, or the issue

of a writ of attachment under this Act, it shall be presumed to have been so made in contemplation of insolvency ;

95. Whether the defendant in any such case appear and plead, or make default, the plaintiff shall be bound to prove the fraud charged, and upon his proving it, if the trial be before a jury, the Judge who tries the suit or proceeding shall immediately after the verdict rendered against the defendant for such fraud (if such verdict is given) ; or if not before a jury, then immediately upon his rendering his judgment in the premises, adjudge the term of imprisonment which the defendant shall undergo ; and he shall forthwith order and direct the defendant immediately to be taken into custody and imprisoned accordingly ; but such judgment shall not affect the ordinary remedies for the revision thereof, or of any proceeding in the case ;

OF COMPOSITION AND DISCHARGE.

86. A deed of composition and discharge, executed by the majority in number, of those of the creditors of an Insolvent who are respectively creditors for sums of one hundred dollars and upwards, and who represent at least three fourths in value of the liabilities of the Insolvent, subject to be computed in ascertaining such proportion, shall have the same effect with regard to the remainder of his creditors, and be binding to the same extent upon him, and upon them, as if they were also parties to it ; and such a deed may be invoked and acted upon under this Act, although made either before, pending or after proceedings upon an assignment, or for the compulsory liquidation of the estate or the insolvent ; whether the estate of such Insolvent shall actually be brought under the provisions of this Act, by the appointment of an assignee thereto or not ; and the discharge therein agreed to shall have the same effect as an ordinary discharge obtained as hereinafter provided ; but if such composition be effected without the appointment of an Assignee under this Act, the discharge thereby effected shall only apply to such debts as are enumerated in a Schedule of the liabilities of the Insolvent, signed and sworn to by him, annexed to the deed of composition and discharge, and signed by the parties thereto ; and not to any other debts or liabilities ; the whole subject to the exception contained in section one hundred and one of this Act ;

97. Such deed of composition and discharge may be so made either in consideration of a composition payable in cash, or on terms of credit, or partially for cash and partially on credit ; and the payment of such composition may be secured or not according to the pleasure of the creditors signing it ; and the discharge therein contained may be absolute, or may be conditional, upon the condition of the composition being carried out, and such deed may contain instructions to the assignee as to the manner in which he is to proceed, and to deal with the

estate and effects of the Insolvent, subsequent to the deposit of such deed with him ; and the reconveyance by the assignee to the Insolvent, or to any person for him of any part of his estate or effects, whether real or personal, if made in conformity with the terms of a deed of composition and discharge, shall have the same effect (except as the same may be agreed by the conditions of such deed or reconveyance,) as if such property had been sold by the Assignee in the ordinary course, and after all the preliminary proceedings, notices and formalities herein required for such sale ; and if such deed of composition and discharge be contested, and pending such contestation, any payment or instalment of the composition falls due under the terms of such deed, the payment thereof shall be postponed till after the expiration of ten days after final judgment upon such contestation ; and if proceedings for revision or appeal be then commenced, then until after the expiration of ten days after the judgment in revision or in appeal, as the case may be ;

98. If the Insolvent procures and deposits with the Assignee a deed of composition and discharge, duly executed as aforesaid, the Assignee shall immediately give notice of such deposit by advertisement; and if opposition to such composition and discharge be not made by a creditor, within three juridical days after the last publication of such notice, by filing with the Assignee a declaration in writing, that he objects to such composition and discharge, the Assignee shall act upon such deed of composition and discharge according to its terms ; but if opposition be made thereto within the said period, or if made be not withdrawn, then he shall abstain from taking any action upon such deed until the same has been confirmed, as hereinafter provided ;

99. The consent in writing of the said proportion of creditors to the discharge of a debtor after an assignment, or after his estate has been put in compulsory liquidation, absolutely frees and discharges him from all liabilities whatsoever (except such as are hereinafter specially excepted) existing against him and proveable against his estate, which are mentioned and set forth in the statement of his affairs exhibited at the first meeting of his creditors, or which are shewn by any supplementary list of creditors furnished by the insolvent, previous to such discharge, and in time to permit the creditors therein mentioned obtaining the same dividend as other creditors upon his estate, or which appear by any claim subsequently furnished to the assignee ; whether such debts be exigible or not at the time of his insolvency, and whether direct or indirect; and if the holder of any negotiable paper is unknown to the insolvent, the insertion of the particulars of such paper in such statement of affairs or supplementary list, with the declaration that the holder thereof is unknown to him, shall bring the debt represented by such paper, and the holder thereof, within the operation of this section ;

100. A discharge under this Act, whether consented to by any creditor or not, shall not operate any change in the liability of any person or company secondarily liable to such creditor for the debts of the insolvent, either as drawer or endorser of negotiable paper, or as guarantor, surety or otherwise, nor of any partner or other person liable jointly or severally with the insolvent to such creditor for any debt; nor shall it affect any mortgage, *hypothèque*, lien or collateral security held by any such creditor as security for any debt thereby discharged;

101. A discharge under this Act shall not apply, without the express consent of the creditor, to any debt for enforcing the payment of which the imprisonment of the debtor is permitted by this Act, nor to any debt due as damages for assault or injury to the person, seduction, libel, slander, or malicious arrest, nor for the maintenance of a parent, wife or child, or as a penalty for any offence of which the insolvent has been convicted, unless the creditor thereof shall file or claim therefore, nor shall any such discharge apply without such consent to any debt due as a balance of account due by the insolvent as an assignee, tutor, curator, trustee, executor or administrator under a will, or under any order of court, or as a public officer; nor shall debts to which a discharge under this Act does not apply; nor any privileged debts, nor the creditors thereof, be computed in ascertaining whether a sufficient proportion of the creditors of the insolvent have done, or consented to any act, matter or thing under this Act; but the creditor of any debt due as a balance of account by the insolvent as assignee, tutor, curator, trustee, executor, administrator or public officer, may claim and accept a dividend thereon from the estate without being by reason thereof in any respect affected by any discharge obtained by the insolvent;

102. An insolvent who has procured a consent to his discharge or the execution of a deed of composition and discharge, within the meaning of this Act, may file in the office of the court the consent or deed of composition and discharge, and may then give notice (Form O.) of the same being so filed, and of his intention to apply by petition to the Court in the Provinces of Quebec and Nova Scotia, or in the Provinces of Ontario and New Brunswick to the Judge, on a day named in such notice; which however shall not be before the day on which a dividend may be declared under this Act, for a confirmation of the discharge effected thereby; and notice shall be given by advertisement in the official *Gazette* for one month, and also for the same period, if the application is to be made in the Province of Ontario, New Brunswick or Nova Scotia, in one Newspaper, and if in the Province of Quebec, in one newspaper published in French, and in one newspaper published in English, in or nearest the place of residence of the insolvent; and upon such application, any creditor of the insolvent may appear and oppose such confirmation, either upon the ground

of fraud or fraudulent preference within the meaning of this Act, or of fraud or evil practice in procuring the consent of the creditors to the discharge, or their execution of the deed of composition and discharge, as the case may be, or of the insufficiency in number or value of the creditors consenting to or executing the same, or of the fraudulent retention and concealment by the insolvent of some portion of his estate or effects, or of the evasion, prevarication or false swearing of the insolvent upon examination as to his estate and effects, or upon the ground that the insolvent has not kept an account book shewing his receipts and disbursements of cash, and such other books of account as are suitable for his trade, or if, having at any time kept such book or books, he has refused to produce or deliver them to the assignee ; But in the Provinces of Ontario and Quebec, the omission to keep such books before the passing of the Insolvent Act of 1864, and in the Provinces of New Brunswick and Nova Scotia, such omission previous to the passing of this Act, shall not be a sufficient ground for contesting the discharge of an Insolvent ;

103. If the insolvent does not deposit such consent or such deed of composition and discharge, as the case may be, in the court, and give notice of his application for a confirmation of such discharge within two months from the time at which the same has been effected under this Act, and proceed therewith thereafter according to such notice, any creditor for a sum exceeding two hundred dollars, may cause to be served a notice in writing upon the insolvent, requiring him to file in the Court the consent, or the deed of composition and discharge, as the case may be ; and may thereupon give one month's notice to the Insolvent (Form P.) of his intention to apply by petition to the Court or Judge, who has authority under this Act to confirm such discharge on a day named in such notice, for the annulling of the discharge ; and on the day so named may present a petition to the Court or Judge, in accordance with such notice, setting forth the reasons in support of such application, which may be any of the reasons upon which a confirmation of discharge may be opposed ; and upon such application, if the insolvent has not at least one week before the day fixed for the presentation thereof, filed in the office of the court the consent or deed under which the discharge is effected, the discharge shall be annulled without further inquiry, except as to the service upon him of the notice to file the same ; but if such consent or deed be so filed, or if upon special application leave be granted him to file the same at a subsequent time, and he do then file the same, the Court or Judge, as the case may be, shall proceed thereon as upon an application for confirmation of such discharge ;

104. The Court or Judge, as the case may be, upon hearing the application for confirmation of such discharge, the objections thereto, and any evidence adduced, shall have power to

make an order, either confirming the discharge or annulling the same; But if the evidence adduced upon such contestation, though insufficient to sustain any of the grounds hereinbefore detailed as forming valid grounds for contesting such confirmation, should nevertheless establish that the insolvent has been guilty of misconduct in the management of his business, by extravagance in his expenses, recklessness in endorsing or becoming surety for others, continuing his trade unduly after he believed himself to be insolvent, incurring debts without a reasonable expectation of paying them, of which reasonable expectation the proof shall lie on him, if such debt was contracted within thirty days of an assignment or the issue of a writ of attachment, or negligence in keeping his books and accounts; or if such facts be alleged by any contestation praying for the suspension of the discharge of the insolvent, or for its classification as second class, the Court or Judge may thereupon order the suspension of the operation of the discharge of the insolvent for a period not exceeding three years, or may declare the discharge to be of the second class, or both, according to the discretion of the Court or Judge;

105. Until the Court or Judge, as the case may be, has confirmed such discharge, the burden of proof of the discharge being completely effected under the provisions of this Act, shall be upon the insolvent; but the confirmation thereof, if not reversed in appeal, shall render the discharge thereby confirmed, final and conclusive; and an authentic copy of the judgment confirming the same shall be sufficient evidence, as well of such discharge as of the confirmation thereof;

106. If, after the expiration of one year from the date of an assignment made under this Act, or from the date of the issue of a writ of attachment thereunder, as the case may be, the insolvent has not obtained, from the required proportion of his creditors a consent to his discharge, or the execution of a deed of composition and discharge, he may apply by petition to the Court or Judge, having power hereunder to confirm his discharge if consented to, to grant him his discharge, first giving notice of such application, (Form Q.) in the manner hereinbefore provided for notice of application for confirmation of discharge;

107. Upon such application any creditor of the insolvent, or the assignee by authority of the creditors, may appear and oppose the granting of such discharge upon any ground upon which the confirmation of a discharge may be opposed under this Act; or may claim the suspension or classification of the discharge or both, and thereupon the Court or Judge, as the case may be, after hearing the insolvent, and the objecting creditor, and any evidence that may be adduced, may make an order either granting the discharge of the insolvent or refusing it, or in like manner and under the like circumstances as those in and upon which the discharge could be

suspended or classified as hereinbefore provided upon an application to confirm it, an order may be made suspending it for a like period, or declaring it to be of the second class, or both ;

108. If at any time before judgment upon an application for obtaining a discharge, the creditors or the same proportion of them, that may bind the remainder by a consent to a discharge —shall file before the Court or Judge before whom such application is pending, a declaration in writing, setting forth that it is their desire that the discharge of the Insolvent should (if granted) be suspended for a period named therein not exceedding three years from the date thereof; or that it should be classed as second class, or both, and thereupon if such Court or Judge should be of opinion to grant a discharge, such discharge shall only be so granted as limited by such declaration of the creditors ; and every discharge or composition or confirmation of any discharge or composition, which has been obtained by fraud or fraudulent preference, or by means of the consent of any creditor procured by the payment of such creditor of any valuable consideration for such consent, shall be null and void ;

EXAMINATION OF THE INSOLVENT AND OTHERS.

109. Immediately upon the expiry of the period of one month from the first insertion of the advertisement giving notice of the appointment of an assignee, a meeting, of the creditors shall be held for the public examination of the insolvent, who shall be summoned to attend such meeting, such meeting being first duly called by advertisement ; and at such meeting the insolvent may be examined on oath, sworn before the assignee, by or on behalf of any creditor present, in his turn ; and the examination of the insolvent shall be reduced to writing by the assignee, and signed by the insolvent ; and any question put to the insolvent at such meeting which he shall answer evasively, or refuse to answer, shall also be written in such examination, with the replies made by the insolvent to such questions ; and the insolvent shall sign such examination, or if he refuse to sign the same, his refusal shall be entered at the foot of the examination, with the reasons of such refusal, if any, as given by himself; and such examination shall be attested by the assignee and shall be filed in the office of the court ;

110. The insolvent may also be from time to time examined as to his estate and effects upon oath, before the Judge, by the assignee or by any creditor, upon an order from the Judge obtained without notice to the Insolvent, upon petition, setting forth satisfactory reasons for such order—and he may also be examined in like manner upon a *subpœna* issued as of course without such order, in any action in which a writ of attachment has been issued against his estate and effects; which *subpœna* may be procured by the plaintiff, or by any creditor intervening in the action for that purpose, or by the assignee ;

111. The insolvent may also be examined by the assignee or by any creditor, on the application of the insolvent for a discharge or for the confirmation or annulling of a discharge, or upon any petition to set aside an attachment in the proceedings for the compulsory liquidation of his estate;

112. Any other person who is believed to possess information respecting the estate or effects of the insolvent, may also be from time to time examined before the Judge upon oath, as to such estate or effects, upon an order from the Judge to that effect, which order the Judge may grant upon petition, setting forth satisfactory reasons for such order, without notice to the insolvent or to the person to be so examined;

113. The insolvent shall attend all meetings of his creditors, when summoned so to do by the assignee, and shall answer all questions that may be put to him at such meetings touching his business, and touching his estate and effects; and for every such attendance he shall be paid such sum as shall be ordered at such meeting, but not less than one dollar;

114. Any person summoned for examination or under examination under this Act shall be subject to proceedings and punishments similar to those which may be taken against or inflicted upon ordinary witnesses; and on application, the Judge may at his discretion order an allowance to be made to persons so examined, of a like amount to that allowed to witnesses in civil cases, and order them to be paid such allowance out of the estate or otherwise;

115. If it be made known to the Judge by the Assignee by Petition substantiated under oath that any probable cause exists therefor, the Judge may order the wife of the Insolvent to be examined as to the retention or concealment by or on behalf of the Insolvent, or any other person, of any of the estate or effects of the Insolvent;

OF PROCEDURE GENERALLY.

116. The operation of sections nine and thirty-two of this Act, shall extend to all the assets of the insolvent, of every kind and description, although they are actually under seizure under any ordinary writ of attachment, or under any writ of execution, so long as they are not actually sold by the Sheriff or Sheriff's officer under such writ; but this clause shall not apply to any writ of execution now in the hands of the Sheriff; and the rights, liens and privileges of the seizing or attaching creditor, for his costs upon any such writ, shall be the same as they were previous to the passing of this Act, in the section of this Province in which such writ shall issue;

117. In any contestation in insolvency being proceeded with before an assignee, the assignee may issue subpœnas requiring the attendance of witnesses, and the production of documents by such witnesses, in the same manner as such subpœnas may be issued by the ordinary courts of law ; and any witness so summoned may be punished for disobedience to any such subpœna, by the Judge, upon summary petition, in the same manner as any witness may be punished for desobedience to a subpœna issued from the court in which the Judge has jurisdiction.

118. Notice of meetings of creditors and all other notices herein required to be given by advertisement, without special designation of the nature of such notice, shall be so given by publication thereof for two weeks in the *Official Gazette*, also in the Province of Quebec in every issue during two weeks of one newspaper in English and one in French, and in the Provinces of Ontario, New Brunswick and Nova Scotia, in one newspaper in English, published at or nearest to the place where the proceedings are being carried on, if such newspapers are published within twenty miles of such place ; and in any case, unless herein otherwise provided, the assignee or person giving such notice shall also address notices thereof to all creditors and to all representatives of foreign creditors, within the Dominion, and shall mail the same with the postage thereon paid, at the time of the insertion of the first advertisement ;

119. All questions discussed at meetings of creditors shall be decided by the majority in number of all creditors for sums of one hundred dollars and upwards, present or represented at such meeting, and representing also the majority in value of such creditors, unless herein otherwise specially provided ; but if the majority in number do not agree with the majority in value, the views of each section of the creditors shall be embodied in resolutions, and such resolutions shall be referred to the Judge, who shall decide between them ;

120. If for any purpose it becomes necessary to ascertain the proportion of the creditors of an insolvent who have voted at any meeting or concurred in any act or document, and if it be found that the whole of the creditors holding claims against an insolvent for sums of one hundred dollars and upwards, do not represent the proportion in value of the liabilities of the insolvent subject to be computed in that behalf and required to give validity to such vote, act or document, such proportion may be completed by the votes or concurrence of creditors holding claims of less than one hundred dollars ;

121. Whenever under the said Act a meeting of creditors cannot be held, or an application made, until the expiration of a delay named therein, the notices of such meeting or application may be given pending such delay ;

122. If the first meeting of creditors which takes place after the expiry of the period of one month from the advertisement of the appointment of an assignee be called for the ordering of the affairs of the estate generally, and it be so stated in the notices calling such meeting, all the matters and things respecting which the creditors may vote, resolve or order, or which they may regulate under this Act, may be voted, resolved or ordered upon and may be regulated at such meeting, without having been specially mentioned in the notices calling such meeting, notwithstanding anything to the contrary in this Act contained, due regard being had, however, to the proportions of creditors required by this Act for any such vote, resolution, order or regulation ;

123. The claims of creditors (Form R) shall be furnished to the assignee in writing, and shall specify what security, if any, the creditor holds for the payment of his claim, and when required by this Act shall also contain an estimate by such creditor of the value of such security ; and if the creditor holds no security, then it shall also be so therein stated ; and they shall be attested under oath, taken in Canada before any Judge, Commissioner for taking Affidavits, or Justice of the Peace, and out of Canada, before any Judge of a Court of Record, any Commissioner for taking Affidavits appointed by any Canadian Court, the Chief Municipal Officer for any Town or City, or any British Consul or Vice-Consul, or before any other person authorized by any statute of this Dominion or of any Province to take affidavits to be used in any part of this Dominion ;

124. Any affidavit requiring to be sworn in proceedings in insolvency, may be sworn before any Commissioner for taking affidavits, appointed by any of the Courts of Law or of Equity in any of the said Provinces ; or before any Judge having Civil Jurisdiction in any of the said Provinces ; and such affidavit may be made by the party interested, or by his agent in that behalf having a personal knowledge of the matters therein stated.

125. Before the preparation of a dividend sheet, the assignee may require from any creditor a supplementary oath declaring what amount, if any, such creditor has received in part payment of the debt upon which his claim is founded, subsequent to the making of such claim, together with the particulars of such payment ; and if any creditor refuses to produce or make such oath before the assignee within a reasonable time after he has been required so to do, he shall not be collocated in such dividend sheet ;

126. The Statutes of set-off shall apply to all claims in insolvency, and also to all suits instituted by an assignee for the recovery of debts due to the insolvent, in the same manner and to the same extent as if the insolvent were plaintiff or defen-

dant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions of this Act respecting frauds and fraudulent preferences ;

127. If, in the Province of Quebec, any claim be secured by *hypothèque* upon the real estate of the insolvent, or if it consists of any *hypothèque* or *privilége* upon such real estate or any part thereof, the nature of such *hypothèque* or *privilége* shall be summarily specified in such claim ; but unless such claim be filed with the assignee, with the deeds and documents in support thereof, within six days from the day of sale of the property affected thereby, or if not, unless leave to file the same be afterwards obtained from the Judge upon special cause shewn, previous to the distribution of the proceeds of such real estate, or unless a dividend upon such claim has been reserved by the assignee, such claim shall not be entitled to any preferential collocation upon the proceeds of such real estate ;

128. One clear day's notice of any petition, motion or rule shall be sufficient if the party notified resides within fifteen miles of the place where the proceedings is to be taken, and one extra day shall be sufficient allowance for each additional fifteen miles of distance between the place of service and the place of proceeding, and service of such notice shall be made in such manner as is now prescribed for similar services in that Province within which the service is made ;

129. The Judge shall have the same power and authority in respect of the issuing and dealing with Commissions for the examination of witnesses, as are possessed by the ordinary Courts of Record in the Province in which the proceedings are being carried on ;

130. All rules, writs of subpœna, orders and warrants, issued by any Judge or Court in any matter or proceeding under this Act, may be validly served in any part of Canada upon the party affected or to be affected thereby ; and the service of them, or any of them, may be validly made in such manner as is now prescribed for similar services in the Province within which the service is made ; and the person charged with such service shall make his return thereof and on oath, or, if a Sheriff or bailiff in the Province of Quebec, may make such return under his oath of office ;

131. In any proceeding in Insolvency, the Court or Judge may order a writ of *subpœna ad testificandum* or of *subpœna duces tecum* to issue, commanding the attendance as a witness of any person within the limits of Canada, whether within the ordinary jurisdiction of such Court or Judge or not ;

132. In case any person so served does not appear according to the exigency of such writ or process, the Court or the Judge

on whose order the same is issued, may, upon proof made of the service thereof, and of such default, transmit a certificate of such default to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as it might have done if such person had neglected or refused to appear to a writ of subpœna or other similar process issued out of such last mentioned Court ;

133. No such certificate of default shall be so transmitted, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpœna or other similar process, unless it be made to appear to the Court or Judge transmitting, and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem*, and per mile allowed to witnesses by the law and practice of the Superior Courts of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence, and of returning from giving evidence, had been tendered to such person at the time when the writ of subpœna, or other similar process, was served upon him ;

134. The costs of the attendance of any such witnesses shall not be taxed against the adverse party to such suit, beyond he amount that would have been allowed on a commission *rogatoire*, to examine witnesses, unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders ;

135. The forms appended to this Act, or other forms in equivalent terms, shall be used in the proceedings for which such forms are provided ; and in every contestation of an application for a discharge, or for confirming or annulling a discharge, the facts upon which the contesting party relies, shall be set forth in detail, with particulars of time, place and circumstance, and no evidence shall be received upon any fact not so set forth ; but in every petition, application, motion, contestation, or other pleading under this Act, the parties may state the facts upon which they rely, in plain and concise language, to the interpretation of which the rules of construction applicable to such language in the ordinary transactions of life shall apply ;

136. No plea or exception alleging or setting up any discharge, or certificate of discharge, granted under the Bankrupt or Insolvent Law, of any country whatsoever beyond the limits of this Dominion, shall be a valid defence or bar to any action instituted in any Court of competent jurisdiction in this Dominion, for the recovery of any debt or obligation contracted within such limits ;

137. The rules of procedure as to amendments of pleadings, which are in force at any place where any proceedings under this Act are carried on, shall apply to all proceedings under this Act; and any Court or Judge before whom any such proceedings are being carried on, shall have full power and authority to apply the appropriate rules as to amendments, to the proceedings so pending before him ; and no pleading or proceeding shall be void by reason of any irregularity or default which can or may be amended under the rules and practice of the Court ;

138. The death of the insolvent, pending proceedings upon a voluntary assignment or in compulsory liquidation, shall not affect such proceedings, or impede the winding up of his estate ; and his heirs or other legal representatives may continue the proceedings on his behalf to the procuring of a discharge, or of the confirmation thereof, or of both ; and the provisions of the said Act shall apply to the heirs, administrators or other legal representatives of any deceased person who, if living, would be subject to its provisions, but only in their capacity as such heirs, administrators or representatives, without their being held to be liable for the debts of the deceased, to any greater extent than they would have been if the said Act and this Act had not been passed ;

139. The costs of the action to compel compulsory liquidation shall be paid by privilege as a first charge upon the assets of the insolvent; and the costs of the judgment of confirmation of the discharge of the insolvent, or of the discharge if obtained direct from the Court, and the costs of winding up the estate, being first taxed by the Judge, after notice to the Inspectors, or to at least three Creditors, shall also be paid therefrom ;

140. The Judge shall have the power, upon special cause being shewn before him under oath for so doing, to order the Postmaster at the place of residence of the insolvent to deliver letters addressed to him received at such Post Office to the Assignee, and to authorize the Assignee to open such letters in the presence of the Prothonotary or Clerk of the Court of which such Judge is a member; and if such letters be upon the business of the estate the Assignee shall retain them, giving communication of them however to the Insolvent on request ; and if they be not on the business of the estate they shall be resealed, endorsed as having been opened by the Assignee and returned to the Post Office ; and a memorandum in writing of the doings of the Assignee in respect of such letters, shall be made and signed by him and by the Prothonotary or Clerk, and deposited in the Court ;

141. If the Judge holds a claim against the estate of an Insolvent, he shall be *ipso facto* disqualified from acting as a Judge in any matter connected with such claim ; and in such case the

Judge competent to act in matters of insolvency, who resides nearest to the place of business of the insolvent, and who is not disqualified under this section, shall be the Judge who shall have jurisdiction in such matter, in the place and stead of the Judge so disqualified; and if the Assignee to any estate be a claimant thereon, or the representative of any claimant thereon, he shall not hear award or determine upon any contestation of his own claim, or of the claim of the person represented by him, or of any dividend thereon, or upon any contestation or issue raised by him, or by the person represented by him; but in such case such contestation shall be decided by the Judge, subject to appeal, as hereinbefore provided; and upon a suggestion being filed before the Judge, or the Assignee, as the case may be, of his disqualification under this section, the Judge or Assignee shall be bound within twenty-four hours thereafter, to declare under his hand, by a writing filed with the Assignee, whether such Judge or Assignee is so disqualified or not, and if he does not, shall be conclusively held to be so disqualified;

142. In the Province of Quebec rules of practice for regulating the due conduct of proceedings under this Act, before the Court or Judge, and tariffs of fees for the Officers of the Court, and for the Advocates and Attorneys practising in relation to such proceedings, shall be made forthwith after the passing of this Act, and when necessary repealed or amended, and shall be promulgated, under or by the same authority and in the same manner as the rules of practice and tariff of fees of the Superior Court, and shall apply in the same manner and have the same effect in respect of the proceedings under this Act, as the rules of practice and tariff of fees of the Superior Court apply to and affect the proceedings before that Court; and bills of costs upon proceedings under this Act, may be taxed and proceeded upon in like manner, as bills of costs may now be taxed and proceeded upon in the said Superior Court; but until such rules of practice and tariff of fees have been made, the rules of practice and tariff of fees in Insolvency, now in force in said Province, shall continue and remain in full force and effect;

143. In the Province of Ontario the Judges of the Superior Courts of Common Law, and of the Court of Chancery, or any five of them, of whom the Chief Justice of the Province of Ontario, or the Chancellor, or the Chief Justice of the Common Pleas, shall be one; in the Province of New Brunswick, the Judges of the Supreme Court of New Brunswick, or the majority of them; and in the Province of Nova Scotia, the Judges of the Supreme Court of Nova Scotia, or the majority of them; shall have power to frame and settle such forms, rules and regulations, as shall be followed and observed in the said Provinces respectively, in the proceedings on insolvency under this Act, as they may deem to be necessary, and to fix and settle the costs, fees and charges which shall or may be had, taken or paid in

all such cases by or to Attorneys, Solicitors, Counsel, Officers of Courts, whether for the Officer or for the Crown, as a fee for the fee fund or otherwise, and by or to Sheriffs, Assignees or other persons whom it may be necessary to provide for ;

144. If by election or by failure of election the interim Assignee shall become Assignee, his appointment shall be established if by election by an instrument in writing certifying the fact signed by three Creditors present at the meeting appointing him, and authenticated by his own affidavit : and if by failure of election by an instrument declaring the fact, and signed and sworn to by himself ; and shall be deposited in the office of the Court with the deed of assignment :—and for the purposes of registration, a duplicate of such instrument shall serve all the purposes of the deed of release hereinbefore provided for, and for that purpose shall be annexed to the deed of assignment or in the Province of Quebec to the copy thereof and registered therewith.

GENERAL PROVISIONS.

145. In all cases of sales of merchandise to a trader in the Province of Quebec, subsequently becoming insolvent, the exercise of the rights and privileges conferred upon the unpaid vendor by the Civil Code of Lower Canada, is hereby restricted to a period of fifteen days from the delivery of such merchandise ;

146. In the Province of Quebec every trader having a marriage contract with his wife, by which he gives or promises to give or pay or cause to be paid, any right, thing, or sum of money, shall enregister the same, if it be not already enregistered, within three months from the execution thereof; and every person not a trader, but hereafter becoming a trader, and having such a contract of marriage with his wife, shall cause such contract to be enregistered as aforesaid (if it be not previously there enregistered,) within thirty days from becoming such trader ; and in default of such registration the wife shall not be permitted to avail herself of its provisions in any claim upon the estate of such insolvent for any advantage conferred upon or promised to her by its terms; nor shall she be deprived by reason of its provisions of any advantage or right upon the estate of her husband, to which, in the absence of any such contract, she would have been entitled by law ; but this clause shall be held to be only a continuance of the second paragraph of section twelve of the Insolvent Act of 1864, and shall not relieve any person from the consequences of any negligence in the observance of the provisions of the said subsection ;

147. The words "any official assignee," used in the second section of the Act twenty-ninth Victoria, Cap. eighteen, are hereby

declared to have meant, and to mean, any official assignee, resident or appointed, in any part of the heretofore Province of Canada. But this declaration shall not affect any contestation now pending respecting the validity of any assignment heretofore made to an official assignee resident in a county or district beyond that in which the domicile or place of business of the insolvent was situate at the time of such assignment;

148. The words "before Notaries" shall mean executed in notarial form, according to the law of the Province of Quebec; the words "the Judge" shall, in the Province of Quebec, signify a Judge of the Superior Court of the Province of Quebec, having jurisdiction at the domicile of the insolvent; in the Provinces of Ontario and New Brunswick a Judge of the County Court of the County or Union of Counties in which the proceedings are carried on, and in the Province of Nova Scotia, a Judge of Probate, except in cases proceeding in the city of Halifax, in which case it shall mean a Judge of the Supreme Court of Nova Scotia; and the words "the Court" shall, in the Province of Quebec, signify the said Superior Court, and in the Provinces of Ontario and New Brunswick the County Court, and in the Province of Nova Scotia, the Supreme Court of Nova Scotia, unless it is otherwise expressed or unless the context plainly requires a different construction;

149. The word "Assignee" shall mean the assignee appointed in proceedings for compulsory liquidation as well as the assignee appointed under a deed of voluntary assignment; the word "day" shall mean a juridical day; the words "Official Gazette" shall mean the Gazette which is used in any Province as the official medium of communication between the Lieutenant Governor and the people; the word "Creditor" shall be held to mean every person to whom the insolvent is liable, whether primarily or secondarily, and whether as principal or surety; and who shall have proved his claim against the estate of an insolvent in the manner provided by this Act. But no proceeding, discharge or composition had or consented to previous to the passing of this Act, and not now the subject of dispute and in litigation on the ground that a creditor voting thereon had not proved his claim, shall be held invalid by reason of any creditor a party thereto not having previously proved his claim as aforesaid, notwithstanding that such creditor or the claims he represents be requisite to complete the proportion necessary to give validity under this Act to such proceeding, discharge or composition. But this construction shall not be held to apply to the creditors at or before the first meeting thereof; no debt shall be doubly represented or ranked for, either in the computation for ascertaining the numbers and proportion of creditors, or in the allotment or payment of dividends; the word "collocated" shall mean ranked or placed in the dividend sheet for some dividend or sum of money; and all the provisions of this Act respecting traders,

shall be held to apply equally to unincorporated trading companies and co-partnerships; and the chief office or place of business of such unincorporated trading companies and co-partnerships shall be their domicile for the purposes of this Act; and the words "Board of Trade" in the said Act, and in this Act shall mean any body of persons openly exercising the ordinary functions of a Board of Trade or Chamber of Commerce, whether incorporated or not;

150. After the expiration of one year from the appointment of an assignee

no suit or proceeding shall be instituted or commenced for the setting aside of any act or proceeding preliminary to such appointment or of such appointment: nor shall any such appointment or the proceedings preliminary thereto be impeached, or the vitality thereof put in issue by any pleading in any suit or proceeding. But after the expiration of the said period such appointment, and the proceedings preliminary thereto, shall be conclusively presumed to be valid and sufficient.

OFFENCES AND PENALTIES.

151. Every interim assignee to whom an assignment is made under this Act, every guardian appointed under a writ of attachment in compulsory liquidation, and every assignee appointed under the provisions of this Act, is an agent within the meaning of the

and every provision of this Act, or resolution of the creditors, relating to the duties of an interim assignee, guardian or assignee, shall be held to be a direction in writing, within the meaning of the said

and in an indictment against an interim assignee, guardian or assignee under any of the said sections, the right of property in any moneys, security, matter or thing, may be laid in "the creditors of the insolvent (*naming him*,) under the Insolvent Act of 1868," or in the name of any assignee subsequently appointed, in his quality of such assignee;

152. From and after the commencement of this Act, any insolvent who shall do any of the acts or things following with intent to defraud, or defeat the rights of, his creditors, shall be guilty of

a misdemeanor and shall be liable, at the discretion of the court before which he shall be convicted, to punishment by imprisonment for not more than three years, or to any greater punishment attached to the offence by any existing statute;

If he shall not upon examination fully and truly discover to the best of his knowledge and belief, all his property real and personal, inclusive of his rights and credits, and how and to whom, and for what consideration, and when he disposed of, assigned or transferred any part thereof, except such part as has been really and *bonâ fide* before sold or disposed of in the way of his trade or business, if any, or laid out in the ordinary expenses of his family; or shall not deliver up to the assignee all such part thereof as is in his possession, custody or power, (except such portion thereof as is exempt from seizure as hereinbefore provided,) and also all books, papers and writings in his possession, custody or power relating to his property or affairs.

If within thirty days prior to the execution of a deed of assignment, or the issue of a writ of attachment under this Act, he shall, with intent to defraud his creditors, remove, conceal or embezzle any part of his property, to the value of fifty dollars or upwards;

If in case of any person having to his knowledge or belief proved a false debt against his estate, he shall fail to disclose the same to his assignee within one month after coming to the knowledge or belief thereof;

If he shall with intent to defraud, wilfully and fraudulently omit from his schedule any effects or property whatsoever;

If he shall with intent to conceal the state of his affairs, or to defeat the object of this Act or of any part thereof, conceal, or prevent or withhold the production of, any book, deed, paper or writing relating to his property, dealings or affairs;

If he shall with intent to conceal the state of his affairs, or to defeat the objects of the present Act, or of any part thereof, part with, conceal, destroy, alter, mutilate or falsify, or cause to be concealed, destroyed, altered, mutilated or falsified any book, paper, writing or security or document relating to his property, trade, dealings or affairs, or make or be privy to the making of any false or fraudulent entry or statement in or omission from any book, paper, document or writing relating thereto;

If, being a trader, he shall, at his examination at any time, or at any meeting of his creditors held under this Act, have attempted to account for any of his property by fictitious losses or expenses.

153. If any creditor of an insolvent, directly or indirectly, takes or receives from such insolvent, any payment, gift, gratuity or preference, or any promise of payment, gift, gratuity or preference, as a consideration or inducement to consent to the discharge of such insolvent, or to execute a deed of composition and discharge with him, such creditor shall forfeit and pay a sum equal to treble the value of the payment, gift, gratuity or preference so taken, received or promised, and the same shall be recoverable by the assignee for the benefit of the estate, by suit in any competent court, and when recovered, shall be distributed as part of the ordinary assets of the estate.

154. If, after the issue of a writ of attachment in insolvency, or the execution of a deed of assignment, as the case may be, the insolvent retains or receives any portion of his estate or effects, or of his moneys, securities for money, business papers, documents, books of account, or evidences of debt, or any sum or sums of money, belonging or due to him, and retains and withholds from his assignee, without lawful right, such portion of his estate or effects or of his moneys, securities for money, business papers, documents, books of account, evidences of debt, sum or sums of money, the assignee may make application to the Judge, by summary petition, and after due notice to the insolvent, for an order for the delivery over to him of the effects, documents or moneys so retained ; and in default of such delivery in conformity with any order to be made by the Judge, upon such application, such insolvent may be imprisoned in the common gaol for such time, not exceeding one year, as such judge may order.

155. The deeds of assignment and of release or in the Province of Quebec authentic copies thereof, or a duly authenticated copy of the order of the judge appointing an assignee, or a duly certified extract from the minutes of a meeting of creditors, or the instrument of appointment certified under oath by the interim Assignee when he becomes Assignee, according to the mode in which the assignee is alleged to be appointed, shall be *primâ facie* evidence in all courts, whether civil or criminal, of such appointment, and of the regularity of all proceedings at the time thereof and antecedent thereto ;

156. One per centum upon all moneys proceeding from the sale by an assignee, under the provisions of this Act, of any immoveable property in the Province of Quebec, shall be retained by the assignee out of such moneys, and shall by such assignee, be paid over to the sheriff of the district, or of either of the counties of Gaspé or Bonaventure, as the case may be, within which the immoveable property sold shall be situate, to form part of the Building and Jury Fund of such District or County ;

157. The Governor in Council shall have all the powers with respect to imposing a tax or duty upon proceedings under this

Act, which are conferred upon the Governor in Council by the thirty-second and thirty-third sections of the one hundred and ninth chapter of the Consolidated Statutes for the Province of Quebec, and by the Act intituled : *An Act to make provision for the erection or repair of Court Houses and Gaols at certain places in the Province of Quebec*, (12 Vic., cap. 112.)

158. The Insolvent Act of 1864, and the Act to amend the same, passed by the Parliament of the late Province of Canada, in the 29th year of Her Majesty's Reign are hereby repealed, except in so far as regards proceedings commenced and now pending thereunder, and as regards all contracts, acts, matters and things made and done before this Act shall come into force, to which the said Acts or any of the provisions thereof would have applied if not so repealed, and specially such as are contrary to the provisions of the said Act, having reference to fraud and fraudulent preferences, and to the enregistration of marriage contracts within the Province of Quebec ; and as to all such contracts, acts, matters and things, the provisions of the said Act shall remain in force, and shall be acted upon as if this Act had never been passed, and all securities given under the said Act shall remain valid ; and may be enforced in respect of all matters and things falling within their terms, whether before or after this Act shall come into force ; and all other Acts and parts of Acts now in force in any of the said Provinces which are inconsistent with the provisions hereof are also hereby repealed.

159. This Act shall be called and known as " The Insolvent Act of 1868," and shall come into force and take effect on and after the first day of September next.

FORM A.

Insolvent Act of 1868.

The Creditors of the undersigned are notified to meet at in on the day of at (*eight*) o'clock to receive statements of his affairs, and to name an Assignee to whom he may make an assignment under the above Act.

(*Domicile of debtor, and date.*)

(*Signature.*)

(*The following is to be added to the notices sent by post.*)

The Creditors holding direct claims and indirect claims, maturing before the meeting, for one hundred dollars each and upwards, are as follows : (*names of Creditors and amount due*) and the aggregate of claims under one hundred dollars is $

(*Domicile of debtor, and date.*)

(*Signature.*)

FORM B.

Insolvent Act of 1868.

In the matter of A. B., an insolvent.

Schedule of Creditors.

1. Direct Liabilities.

Name.	Residence.	Nature of Debt.	Amount.	Total.

2. Indirect liabilities, maturing before the day fixed for the first meeting of creditors.

Name.	Residence.	Nature of Debt.	Amount.

3. Indirect liabilities, maturing after the day fixed for the first meeting of creditors.

Name.	Residence.	Nature of Debt.	Amount.

4. Negotiable paper, the holders of which are unknown.

Date.	Name. of Maker.	Names liable to Insolvent.	When due.	Amount.

FORM C.

INSOLVENT ACT OF 1868.

This assignment made between of the first part, and of the second part, witnesses,

(*or*)

On this day of before the undersigned notaries came and appeared of the first part, and of the second part, which said parties declared to us Notaries.

That under the provisions of "The Insolvent Act of 1868" the said party of the first part, being insolvent, has voluntarily assigned and hereby does voluntarily assign to the said party of the second part, accepting thereof as interim assignee under the said Act, and for the purposes therein provided, all his estate and effects real and personal of every nature and kind whatsoever.

To have and to hold to the party of the second part as interim assignee for the purposes and under the Act aforesaid.

In witness whereof, &c.

or

Done and passed, &c.

FORM D.

INSOLVENT ACT OF 1868.
In the matter of A. B., an Insolvent.

This deed of release made under the provisions of the said Act between (C. D.,) interim assignee to the estate of the said insolvent of the first part; and (E. F.,) of the second part, witnesses:

That whereas by a resolution of the creditors of the insolvent duly passed at a meeting thereof duly called and held at on the day of the said party of the second part was duly appointed assignee to the estate of the said insolvent: Now therefore, these presents witness that the said party of the first part, in his said capacity, hereby releases to the said party of the second part, the estate and effects of the said insolvent, in conformity with the provisions of the said Act; and for the purposes therein provided.

In witness whereof, &c.

(This form may be adapted in the Province of Quebec to the notarial form of execution of documents prevailing there.)

FORM E.

INSOLVENT ACT OF 1868.

To (*name residence and description* of insolvent.)

You are hereby required, to wit, by A. B., a creditor for the sum of $ (*describe in a summary manner the nature of the debt,*) and by C. D. a creditor, &c., to make an assignment of your estate and effects under the above Act, for the benefit of your creditors.

Place *date*

(*Signature of creditors.*)

FORM F.

INSOLVENT ACT OF 1868.

CANADA,
Province of
District of

A. B.———, (*name, residence and description.*)

Plaintiff.

vs.

C. D.——— (*name, residence and description.*)

Defendant.

I, A. B———, (*name, residence and description*) being duly sworn, depose and say :

1. I am the Plaintiff in this cause (*or one of the Plaintiffs, or the clerk, or the agent of the Plaintiff in this cause duly authorized for the purposes hereof ;*

2. The defendant is indebted to the Plaintiff (*or as the case may be*) in the sum of dollars currency for, (*state concisely and clearly the nature of the debt*) ;

3. To the best of my knowledge and belief the defendant is insolvent within the meaning of the Insolvenl Act of 1864, and has rendered himself liable to have his estate placed in compulsory liquidation under the above mentioned Act ; and my reasons for so believing are as follows : (*state concisely the facts relied upon as rendering the debtor insolvent, and as subjecting his estate to be placed in compulsory liquidation.*)

And I have signed ; (*or* I declare that I cannot sign,)

this day of 186 .

and if the deponent cannot sign, add —*the foregoing affidavit having been first read over by me to the deponent.*

(FORM G.)

INSOLVENT ACT OF 1868.

CANADA, PROVINCE OF *District of* } VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.*

To the Sheriff of our District (*or* County) of

No. GREETING:

WE command you at the instance of to attach the estate and effects, moneys and securities for money, vouchers, and all the office and business papers and documents of every kind and nature whatsoever, of and belonging to if the same shall be found in (*name of district or other territorial jurisdiction*) and the same so attached, safely to hold, keep and detain in your charge and custody, until the attachment thereof, which shall be so made under and by virtue of this Writ, shall be determined in due course of Law.

We command you also to summon the said to be and appear before Us, in our Court for at in the County (or District) of on the day of then and there to answer the said of the plaint contained in the declaration hereto annexed, and further to do and receive what, in our said Court before Us, in this behalf shall be considered; and in what manner you shall have executed this Writ, then and there certify unto Us with your doings thereon, and every of them, and have you then and there also this Writ.

IN WITNESS WHEREOF, We have caused the Seal of our said Court to be hereunto affixed, at aforesaid , this day of in the year of our Lord, one thousand eight hundred and sixty- in the

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(FORM H.)

INSOLVENT ACT OF 1868.

A. B.,
Plff.
C. D.,
Deft.

A writ of attachment has issued in this cause.

(*Place date.*)

(*Signature,*)
Sheriff.

(FORM I.)

INSOLVENT ACT OF 1868.

I swear that I (*or, the firm of which I am a member, or, A. B. of of whom I am the duly authorized agent in this behalf,*) am (*or* is) a creditor of the Insolvent, and that I will give my advice in the appointment of an assignee to his estate, honestly and faithfully and in the interest of his creditors generally.

(FORM K.)

INSOLVENT ACT OF 1868.

In the matter of

A. B. (*or* A. B. & Co.),
an insolvent.

The undersigned (*name and residence*), has been appointed assignee to the estate and effects of the Insolvent.

Creditors are requested to file their claims before me, within one month.

(*Place date,*)

(*Signature,*)
Assignee.

(FORM L.)

INSOLVENT ACT OF 1868.

In the matter of

A. B.,
an insolvent.

In consideration of the sum of $ whereof quit; C. D., assignee of the insolvent, in that capacity hereby sells and assigns to E. F. accepting thereof, all claim by the Insolvent against G. H. of (*describing the Debtor*) with the evidences of debt and securities thereto appertaining, but without any warranty of any kind or nature whatsoever.

C. D., *Assignee.*
E. F.

FORM M.

This deed, made under the provisions of the Insolvent Act of 1868, the day of &c., between A. B. of &c., in his capacity of assignee of the estate and effects of an insolvent, under a deed of assignment executed on the day of at in and of release made and executed on the day of

in , (*or under an order of the Judge made at on the day of*) of the one part, and C. D., of &c., of the other part, witnesseth: That he, the said A. B., in his said capacity, hath caused the sale of the real estate hereinafter mentioned, to be advertised as required by law, and hath adjudged and doth hereby grant, bargain, sell, and confirm the same, to wit: unto the said C. D., his heirs and assigns for ever, all (*in* Ontario, Nova Scotia and New Brunswick, *insert* "*the rights and interests of the Insolvent in*") that certain lot of land, (&c., *insert here a description of the property sold*): To have and to hold the same, with the appurtenances thereof, unto the said C. D., his heirs and assigns for ever. The said sale is so made for and in consideration of the sum of $ in hand paid by the said C. D. to the said A. B., the receipt whereof is hereby acknowledged (*or* of which the said C. D. hath paid to the said A. B., the sum of the receipt whereof is hereby acknowledged) and the balance, or sum of $ the said C. D. hereby promises to pay the said A. B., in his said capacity, as follows, to wit—*here state the terms of payment*)—the whole with interest payable and, as security for the payments so to be made, the said C. D. hereby specially mortgages and hypothecates to and in favour of the said A. B., in his said capacity, the lot of land and premises hereby sold. In witness,

A. B. [L.S.]
C. D. [L.S.]

Signed, sealed, and delivered
in the presence of
E. F.

FORM N.

INSOLVENT ACT OF 1868.

In the matter of
A. B. (*or* A. B. & Co.,)
an Insolvent.

A dividend sheet has been prepared, open to objection, until the day of after which dividends will be paid.

(*Place.*) (*Date.*)

Signature of Assignee.

FORM O.

INSOLVENT ACT OF 1868.

CANADA, } (In the (*name of Court*)
PROVINCE OF } (In the matter of A. B. or
District (*or County*) of } A. B. & Co.), an Insolvent.

The undersigned has filed in the office of this Court, a consent by his creditors to his discharge (*or a deed of composi-*

tion and discharge, executed by his creditors), and on the day of next, he will apply to the said Court (*or to the Judge of the said Court, as the case may be*) for a confirmation of the discharge thereby effected.

(*Place* *date.*)

(Signature of Insolvent, or of his Attorney *ad litem.*)

FORM P.

INSOLVENT ACT OF 1868.

CANADA, PROVINCE OF District (*or County*) of } In the (*name of Court*) In the matter of A. B., an insolvent.

To the said Insolvent.

Take notice that the undersigned creditor of the Insolvent hereby requires you to file in the office of this Court, the consent of your creditors, (*or the deed of composition and discharge executed by them,*) under which you claim to be discharged under the said Act ; and that on the day of next, at ten of the clock in the forenoon, or as soon as counsel can be heard, the undersigned will apply to the said Court (*or* to the Judge of the said Court, *as the case may be*) for the annulling of such discharge.

(*Place* *date.*)

(Signature of Creditor, or of his Attorney *ad litem.*

FORM Q.

INSOLVENT ACT OF 1868.

CANADA, PROVINCE OF District (*or County*) of } In the (*name of Court*) In the matter of A. B. (or A. B. & Co.) an insolvent.

On the day of next, the undersigned will apply to the said Court (*or* the Judge of the said Court, *as the case may be*) for a discharge under the said Act.

(*Place*, *date.*)

(Signature of the Insolvent, or his Attorney *ad litem.*)

FORM R.

INSOLVENT ACT OF 1868.

In the matter of
A. B.,
An Insolvent, and
C. D.,
Claimant.

I. C. D., of , being duly sworn in depose and say :

1, I am the claimant (or, *the duly authorized agent of the claimant in this behalf, and have a personal knowledge of the*

matter hereinafter deposed to, or *a member of the firm of claimants in the matter, and the said firm is composed of myself and of E. F. of*)

2. The insolvent is indebted to me (or *to the claimant*) in the sum of dollars, for (*here state the nature and particulars of the claim, for which purpose reference may also be made to accounts or documents annexed.*)

3. I (or *the claimant*) hold no security for the claim, (or *I* or *the claimant holds the following, and no other, security for the claim, namely : (state the particulars of the security.*)

To the best of my knowledge and belief, the security is of the value of dollars.

Sworn before me at this day of } And I have signed.

[No. 126.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Insolvency.

Received and read 1st time Wednesday, 13th May, 1868.

Second reading Thursday, 14th May, 1868.

Hon. Sir J. A. Macdonald.

Printed by G. E. Desbarats.

No. 127.] **BILL.** [1868.

An Act to make better provision for defraying the Expense of the River Police at Quebec, and to provide for the maintenance of a like Police at Montreal and other ports.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :— Preamble.

1. So much of the Act of the Legislature of the late Province of Canada, passed in the session thereof held in the fourteenth and fifteenth years of Her Majesty's reign, and intituled, *An Act to provide for defraying the Expense of the River Police at Quebec*, as imposes or authorizes the imposing of any tonnage duty on vessels entering or clearing at the Port of Quebec, and the whole of the Act of the said Legislature passed in the twentieth year of Her Majesty's Reign, and intituled, *An Act further to provide for defraying the Expense of the River Police at Quebec*, shall be repealed upon, from and after the first day of July, in the present year, one thousand eight hundred and sixty-eight, and any duty imposed by or under the said Acts, shall cease to be payable on any vessel entering or clearing at the said Port, on or after the said day; provided that nothing herein contained shall prevent or affect the collection of any duty, or the recovery of any penalty payable or incurred before the said day, as to which the provisions of the said Acts shall remain in force. Acts of Canada 14, 15 V., c. 25, and 20 V., c. 124. Duties repealed. Proviso.

2. There shall be raised, levied, collected and paid upon every vessel entering at the Port of Quebec, or at the Port of Montreal, on or after the day last aforesaid, a duty of three cents per ton register of such vessel for the purposes of this Act, and the said duty shall be payable by the Master of such vessel to the Collector of Her Majesty's Customs at the port, at the time of the entry, which shall contain on the face of it the register tonnage of the vessel; Provided that any vessel of one hundred tons register, or less, shall be subject to the payment of such duty on her first entry in either of the said ports, in any year, but not on any subsequent entry at the same port, in the same year,—and that any vessel of more than one hundred tons register, shall be subject to the said duty on her first and second entry at either of the said Ports in any one year but not on any subsequent entry in the same year,—and that no vessel bound to or from the Port of Montreal shall be liable to pay such duty at the Port of Quebec for the same voyage. New duties imposed.

3. The Collector of Her Majesty's Customs at either of the said Ports, shall not grant any entry inwards or clearance outwards to any vessel until the duty payable on such vessel under this Act has been paid; and the Master of any vessel liable to such duty, and not requiring any clearance, who shall leave the Port at which it ought to be paid, without having paid it, shall thereby incur a penalty of *two hundred dollars*, to be recoverable in like manner as penalties for breach of the laws relative to Duties of Customs. No clearance until duty is paid.

4. The moneys levied in either of the said Ports, under the authority of this Act, shall be paid over by the Collector receiving the same to the Receiver General, and shall be applied under the control and man- Application of monies levied.

agement of the Minister of Marine and Fisheries, and under such regulations as the Governor in Council may from time to time make, and by such officers and persons as the Governor may from time to time appoint, in defraying the expense of maintaining and of paying the members of the Police Force, acting as Constables in or at that Port in which such moneys were collected, under the provisions of chapter one hundred and two of the Consolidated Statutes for Lower Canada, which shall apply to such Police Force, subject to the provisions of this Act, and to the control and management of the said Minister of Marine and Fisheries.

Governor in Council may impose like duties for like purposes at other ports

5. The Governor in Council may, from time to time, impose a like duty with that imposed by this Act, and to the like amount, and payable in like manner, and under the like conditions and penalties, on vessels entering at any other port in Canada, at which he may deem it expedient that a River or Harbor Police Force should be maintained; and such moneys shall be paid over to the Receiver General in the manner provided with respect to duties imposed by this Act, and shall be applied under the control and management of the Minister of Marine and Fisheries, and under such regulations as the Governor in Council may, from time to time, make, and by such officers and persons as the Governor may, from time to time, appoint, in defraying the expenses of maintaining and of paying the members of a Police Force acting as Constables in or at that port at which such moneys shall have been collected, and aiding in enforcing the law at such Port,

Accounting clause.

6. Every person intrusted with the expenditure of any portion of the moneys collected under this Act, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands; and every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June, in each year during which such expenditure shall be made, and shall be attested before a Judge of a Superior Court of Law or Justice of the Peace, and shall be transmitted to the Minister, within ten days next after the expiration of the said periods respectively.

Minister's Annual Report.

7. The Minister shall make an Annual Report and Statement to the Governor General, of the receipts and expenditures under this Act, for the purpose of, and in time for, its being laid before Parliament within the first fifteen days of the next Session thereof.

No. 127.

1st Session, 1st Parliament, 31 Vic., 1868.

BILL.

An Act respecting Sick and Disabled Seamen and River Police.

Received and read, first time, Thursday, 14th May, 1868.

Second Reading, Friday, 15th May, 1868.

Hon. Mr. Rose.

OTTAWA:
PRINTED BY HUNTER, ROSE & COMPANY.

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No. 128.] BILL. [1868.

An Act respecting the Governor General, the Civil List, and the Salaries of certain Public Functionaries.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : Preamble.

Governor General to be a corporation sole.

1. The Governor General of Canada for the time being, or other Chief Executive Officer or Administrator carrying on the Government of Canada, on behalf and in the name of the Queen, by whatever title he is designated, and his successors, shall be a Corporation sole ;—and all bonds, recognizances and other instruments by law required to be taken to him in his public capacity, shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors by his or their name of office as such ; and the same shall not in any case go to or vest in the personal representatives of the Governor General, Chief Executive Officer or Administrator of the Government in whose name they were so taken.

Sums mentioned in the Schedule to this act, to be payable without an annual vote.

2. Inasmuch as it is not expedient that the payment of the Salaries of the Ministers composing the Queen's Privy Council for Canada, or of the salaries and pensions of the Judges of the Courts hereinafter mentioned, or of the other sums mentioned in the several Schedules hereunto annexed, should depend upon the annual vote of Parliament : therefore—there shall be payable yearly, and *pro rata* for any less period than a year, the salaries, allowances, grants and sums of money mentioned in the Schedules annexed to this Act, to the persons and for the purposes therein specified, and the same shall be payable out of any unappropriated monies forming part of the Consolidated Revenue Fund of Canada.

Retiring allowance to Judges.

3. In case any Chancellor or Vice Chancellor of the Court of Chancery, or any Chief Justice or Judge of the Court of Queen's Bench or of the Court of Common Pleas, in the Province of Ontario,—or of the Court of Queen's Bench or of the Superior Court in the Province of Quebec,—or of the Supreme Court of the Province of Nova Scotia,—or of the Supreme Court of the Province of New Brunswick,—or any Judge of the Court of Vice Admiralty in any of the said Provinces,—has continued in the Office of Judge of one or more of the Superior Courts of Law or Equity or of the Court of Vice-Admiralty, in any one of the said Provinces for fifteen years or upwards, or becomes afflicted with some permanent infirmity,

disabling him from the due execution of his office, then, in case such Judge resigns his office, Her Majesty may, by letters patent under the Great Seal of Canada, reciting such period of office or permanent infirmity, grant unto such Chancellor, Vice Chancellor or Judge an annuity equal to two thirds of the salary annexed to the office he held at the time of his resignation, to commence immediately after his resignation, and to continue thenceforth during his natural life, and to be payable *pro rata* for any period less than a year, during such continuance, out of any unappropriated monies forming part of the Consolidated Revenue Fund of Canada.

When the foregoing provisions shall take effect.

4. The foregoing provisions of this Act, so far as they relate to the salaries and retiring allowances of Judges and to Indian annuities, shall take effect on and after the first day of July, in the present year of Our Lord one thousand eight hundred and sixty-eight, from and after which day no further payment shall be made under the authority of chapter ten of the Consolidated Statutes of the late Province of Canada, nor shall any salary, retiring allowance or pension, or travelling allowance be payable under any authority whatever to any Chancellor, Vice Chancellor, Chief Justice or Judge, except only such as are herein allowed, confirmed and declared payable.

SCHEDULE.

SALARIES, ALLOWANCES, PENSIONS, AND OTHER SUMS OF MONEY PAYABLE UNDER THIS ACT.

Dominion of Canada.

The following Ministers, Members of the Queen's Privy Council for Canada, viz :—		
The Minister of Justice and Attorney General,	$5,000	per annum.
The Minister of Militia and Defence,	$5,000	"
The Minister of Customs,	$5,000	"
The Minister of Finance,	$5,000	"
The Minister of Public Works	$5,000	"
The Minister of Inland Revenue,	$5,000	"
The Secretary of State for the Provinces,	$5,000	"
The President of the Queen's Privy Council.	$5,000	"
The Minister of Marine and Fisheries	$5,000	"
The Post Master General	$5,000	"
The Minister of Agriculture	$5,000	"
The Secretary of State of Canada	$5,000	"
The Receiver General	$5,000	"
The Secretary of the Governor General, while the present Incumbent remains in office.	$3,000	"
And afterwards	$2,400	"

Province of Quebec.

The Lieutenant Governor	$8,000	per annum.
The Chief Justice of the Court of Queen's Bench	$5,000	"
Four Puisné Judges of the said Court, each	$4,000	"
The Chief Justice of the Superior Court	$5,000	"
Seven Puisné Judges of the said Court, each so long as the Hon. Mr. Justice Short remains in office, and afterwards six at the same rate.	$4,000	"
Seven Puisné Judges of the said Court, each. and after the decease or resignation of Mr. Justice Short, eight at the same rate.	$3,200	"
Three Puisné Judges of the said Court	$2,800	"
To each of the said Judges, such travelling expenses as may be allowed him by the Governor in Council, under the provisions of law in that behalf.		
The Judge of the Court of Vice Admiralty	$2,000	"

Province of Ontario.

The Lieutenant Governor	$8,000	"
The Chief Justice of the Court of Queen's Bench	$5,000	"
Two Puisné Justices of the said Court, each	$4,000	"
The Chancellor	$5,000	"
Two Vice Chancellors, each	$4,000	"
The Chief Justice of the Court of Common Pleas	$5,000	"
Two Puisné Judges of the said Court, each	$4,000	"
To each of the said Judges, such travelling expenses as may be allowed him by the Governor in Council.		
To each of County Judges respectively, such salary not exceeding $2,600, nor less than $1,800 per annum, as the Governor in Council may from time to time fix and appoint, but provided that any salary may be reduced to $1,800 after a vacancy.		
To each of the said County Judges, for travelling expenses	$ 200	"

Province of Nova Scotia.

The Lieutenant Governor	$7,000	"
The Chief Justice of the Supreme Court	$4,000	"
The Judge in Equity	$4,000	"
Judge Bliss, one of the Assistant Justices of the Supreme Court, so long as he shall hold the Office	$3,250	"
Three (and after the decease or resignation of Judge Bliss, four) other Assistant Judges of the Supreme Court, each	$3,200	"

To each of the said Judges, such travelling expenses as may be allowed to him by the Governor in Council.

Province of New Brunswick.

The Lieutenant Governor	$7,000	per annum.
The Chief Justice of the Supreme Court	$4,000	"
Mr. Justice Parker, during his incumbency	$4,000	"
Three (and after the decease of Mr. Justice Parker, four) Judges of the said Court, each	$3,200	"
To each of the said Judges, such travelling expenses as may be allowed him by the Governor in Council.		
Five County Judges, each, such salary not exceeding $2,600 nor less than $1,800 per annum, as the Governor in Council may from time to time fix and appoint,—but provided that any salary may be reduced to $1,800 after a vacancy.		
To each of the said County Judges, for travelling expenses	$200	"

Pensions.

To each of the Retired Judges of the Superior Courts of Equity or Law or of Vice-Admiralty mentioned in the foregoing Act, in any one of the four Provinces, such retiring allowance as may have been granted to him under any provision of law in that behalf, before the coming into force of this Act, so long and on the conditions subject to which such retiring allowance or pension was granted, or as may be granted to such Judge under the provisions of this Act, on his resigning office, after it takes effect.

To John G. Marshall, Esquire, formerly one of the Judges of the Court of Common Pleas in Nova Scotia	$1200	per annum.
To William Q. Sawers, Esquire, formerly one of the Judges of the said Court	$1200	"
To John Spry Morris, Esquire, formerly Crown Land Commissioner, Nova Scotia, and	$1200	"
To H. W. Crawley, Esquire, formerly Crown Land Commissioner, Cape Breton	$1200	"
To each so long as he does not accept any office under Government of equal or greater value.		

Miscellaneous.

Indian Annuities (Quebec & Ontario)	$26,664	per an.

[No. 128.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting the Governor General, the Civil List, and the Salaries of certain Public Functionaries.

Received and read first time Thursday, 14th May, 1868.

Second reading Friday, 15th May, 1868.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

129

An Act to provide for taking Evidence in Canada in relation to civil and commercial matters pending before Courts of Justice in any other of Her Majesty's Dominions or before Foreign Tribunals.

WHEREAS it is expedient that facilities be afforded for taking evidence in Canada, in relation to civil and commercial matters pending before Courts of Justice in any other of Her Majesty's Dominions or before Foreign Tribunals; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:

1. Where upon an application for that purpose it is made to appear to any Court or Judge having authority under this Act that any Court or Tribunal of competent jurisdiction, in any other of Her Majesty's Dominions, or in any foreign country, before which any civil or commercial matter is pending is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first mentioned Court, or of the Court to which such Judge belongs, or of such Judge, it shall be lawful for such Court or Judge to order the examination upon oath, upon interrogatories, or otherwise, before any person or persons named in such order of such witness or witnesses accordingly, and by the same or any subsequent order to command the attendance of such witness or witnesses for the purpose of being examined, and for the production of any writings or other documents to bementioned in such order, and of any other writings or documents relating to the matter in question that may be in the possession or power of such witness or witnesses.

2. Upon the service upon such witness or witnesses of such order and of an appointment of a time and place for the examination of such witness or witnesses, signed by the person named in such order for taking the same, or if more than one person be named then by one of the persons named, and upon payment or tender of the like conduct money as is properly payable as upon attendance at a trial, such order may be enforced in like manner as an order made by such Court or Judge in a cause depending in such Court or before such Judge.

3. Every person whose attendance shall be required in manner aforesaid shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial.

4. Any person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the Court by which, or by a Judge whereof, such order is made, would be entitled to, and no person shall be compelled to produce under any such an order any writing or other document that he could not be compelable to produce at a trial of such a cause.

5. It shall be lawful for any person authorized to take the examination of witnesses by any order made in pursuance of this Act to take such examination upon the oath of the witnesses, or upon affirmation in cases where by the law of the Province wherein such examination is taken, affirmation is allowed instead of oath; such oath or affirmation to be administered by the person so authorized, or if more than one, then by one of such persons; and if upon such oath or affirmation, any person making the same, wilfully and corruptly gives any false evidence, every person so offending shall be deemed and taken to be guilty of perjury.

6. The Court of Appeal for Canada, in the event of such Court being constituted, and the Superior Courts of Common Law or Equity in any Province in Canada and any Judge of such Courts shall respectively be Courts and Judges having authority under this Act; and the said Courts may respectively frame rules and orders in relation to the evidence to be produced in support of the application for an order for examination of witnesses under this Act, and generally for carrying this Act into effect; and in the absence of any order in relation to such evidence, letters rogatory from any Court of Justice in any other of the Dominions of Her Majesty, or from any foreign tribunal, in which such civil or commercial matter may be pending shall be deemed and taken to be sufficient evidence in support of such application.

Printed by C. B. Lindsay

No. 130.] **BILL** [1868.

An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service for the financial years ending respectively the thirtieth day of June, 1868, and the thirtieth day of June, 1869; and for other purposes relating to the Public Service.

MOST GRACIOUS SOVEREIGN,

WHEREAS it appears by messages from His Excellency the Right Honorable Charles Stanley Viscount Monck, Governor General of the Dominion of Canada, and the estimates accompanying the same, that the sums hereinafter mentioned, are required to defray certain expenses of the Public Service of the Dominion, not otherwise provided for, for the Financial years ending respectively on the thirtieth day of June, one thousand eight hundred and sixty-eight, and the thirtieth day of June, one thousand eight hundred and sixty-nine, and other purposes connected with the Public Service: May it therefore please Your Majesty, that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that—

1. From and out of the Consolidated Revenue Fund of Canada, there shall and may be applied a sum not exceeding in the whole seven million, five hundred and two thousand eight hundred and seventy-four dollars and four cents, towards defraying the several charges and expenses of the Public Service of the Dominion, from the first day of July, in the year of our Lord one thousand eight hundred and sixty seven, to the thirtieth day of June, in the year of our Lord one thousand eight hundred and sixty-eight, not otherwise provided for, and set forth in the schedule A to this Act, and for the other purposes in the said schedule mentioned. $7,502,874 64 appropriated for certain expenses in 1867-8.

2. From and out of the Consolidated Revenue Fund of Canada, there shall and may be paid and applied a sum not exceeding in the whole seven million, nine hundred and one thousand, eight hundred and fifty-five dollars, and one cent, towards defraying the several charges and expenses of the Public service of the Dominion, from the first day of July, in the year of our Lord, one thousand eight hundred and sixty-eight, to the thirtieth day of June, in the year of Our Lord one thousand eight hundred and sixty-nine, not otherwise provided for, and set forth in the schedule B to this Act, and for the other purposes in the said schedule mentioned. $7,901,855 01 appropriated for certain expenses in 1868-9.

3. The amount of such sums of money as may have been paid in the present financial year 1867--8, for or on account of any of the services mentioned in Schedule A. to this Act, out of the sum of five millions two hundred and sixty-four thousand, two hundred and seventy-nine dollars, granted by Parliament, by the Act passed in the present Session, Chapter four, towards defraying the expenses of the Public Service of the Dominion, not otherwise provided for, from the first day of July, in the year of our Any balance remaining of vote of credit under 31 Vic. c. 7, to be returned to Canada Revenue Fund.

Lord, one thousand eight hundred and sixty-seven, to the thirty-first day of March, in the year of our Lord, one thousand eight hundred and sixty-eight, shall be charged as having been paid out of the sums granted for such services by this Act, and any balance of the said grant, after deducting the amount so expended and accounted for in the Public Accounts laid before the House of Commons as provided in the said Act, up to the day last aforesaid, shall be cancelled and returned to the Consolidated Revenue Fund.

Governor in Council may authorize the raising of money on the Credit of the Consolidated Revenue Fund to the amount of $6,000,000.

4. The Governor in Council may authorize the raising of a sum of money not exceeding six million dollars, upon the credit of the Consolidated Revenue Fund of Canada, and to be a charge upon the same, but subject to the several preferential payments by the British North America Act, 1867, and by the first section of the Act of the Parliament of Canada, passed in the present Session, and intituled *An Act respecting the Consolidated Revenue Fund*, charged on the Consolidated Revenue Fund of Canada, and as a subsequent charge next after those specified in the said first section of the Act last mentioned, and in the Act passed in the present Session, and intituled *An Act to make provision for defraying the expense of certain works of fortification required for the defense of the Dominion*, (and to be in addition to the Public Debt of Canada as constituted by the one hundred and eleventh section of the British North America Act, 1867 ;) and the Governor in Council may authorize the raising of such sum by any of the methods following, or partly by one and partly by another or others of such methods, that is to say : by the issue, or issue and sale of Stock, or of Debentures or of Exchequer Bills, or Exchequer Bonds, or by the granting of Terminable Annuities ; any of which said securities shall be in such form and be made payable for such sums and bearing such rate of interest not exceeding six per centum per annum, and for or redeemable at such periods of time respectively, as the Governor in Council may deem expedient ; and such provisions may be made for the creation of a sinking fund for the repayment of the said loan, and for the management thereof as the Governor in Council may think proper to make ; and all sums of money so raised, shall form part of the Consolidated Revenue Fund of Canada.

Accounts to be laid before Parliament.

5. A detailed account of the moneys expended under the authority of this Act, shall be laid before the House of Commons during the first fifteen days of the Session of Parliament next after such expenditure.

SCHEDULE A.

SUMS granted to Her Majesty by this Act, for the Financial Year 1867-8, and the purposes for which they are granted.

SERVICE.	Amount.	Total.
CIVIL GOVERNMENT.	$ cts.	$ cts.
Lieutenant-Governors of the Provinces	30,000 00	
Additional to late Governors New Brunswick and Nova Scotia	4,957 80	
Governor's Secretary's Office	8,370 00	
Department of Privy Council	17,170 00	
Department of Justice	10,073 32	
Department of Militia	19,750 00	
Department of Secretary of State for Canada	35,090 45	
Department of Secretary of State for the Provinces	13,070 00	
Department of Finance	38,626 65	
Department of Receiver General	20,570 00	
Department of Customs	23,000 00	
Department of Inland Revenue	13,386 19	
Department of Public Works	38,611 66	
Department of Post Office	45,334 99	
Department of Agriculture, Immigration and Statistics	18,466 00	
Department of Marine and Fisheries	15,068 07	
Total Salaries	351,545 13	
Dominion Offices, Nova Scotia	11,500 00	
Dominion Offices, New Brunswick	5,725 00	
Departmental Contingencies	187,733 00	
Arrears of 1867, chargeable against the late Province of Canada	12,786 59	
Total Civil Government		569,289 72
ADMINISTRATION OF JUSTICE.		
Circuit allowances and contingent expenses, Ontario	13,000 00	
Do do Quebec	12,000 00	
Do do Nova Scotia	1,650 00	
Do do New Brunswick.	2,000 00	
Allowance to Judges swearing in Governor General	500 00	
Secret and Detective service	50,000 00	
Arrears of 1867	13,937 13	
Total Administration of Justice		93,087 13
RIVER POLICE.		
Montreal (whereof, $3,700 chargeable against Harbor Commissioners)	16,100 00	
Quebec	16,100 00	
Total River Police		32,200 00
PENITENTIARIES AND PRISON INSPECTORS.		
Penitentiary, Kingston	130,561 26	
Criminal Lunatic Asylum	56,185 66	
Penitentiary, Nova Scotia	16,500 00	
Do New Brunswick	8,200 00	
Prison Inspection	10,800 00	
Total Penitentiaries and Prison Inspection		222,246 92
Carried forward		916,823 77

SCHEDULE A.—*Continued.*

SERVICE.	Amonnt.	Total.
	$ cts.	$ cts.
Brought forward		916,823 77
LEGISLATION.		
Senate, Salaries and Contingencies	68,458 63	
House of Commons, Salaries and Contingencies	200,740 00	
Election Expenses of Members for Nova Scotia	909 82	
Printing, Binding and Distributing Statutes	20,000 00	
Miscellaneous Printing of Government Documents	2,000 00	
Salary and Contingencies of Clerk of the Crown in Chancery.	3,180 00	
Grant to Parliamentary Library	4,000 00	
Consolidation of Criminal Laws	1,000 00	
Grant to Ottawa and Prescott Railway for Extra Trains during the Session	1,800 00	
Additional on account of Printing	10,000 00	
Do Mileage to Members	1,500 00	
Do Expenses of Committees	2,000 00	
Total Legislation		315,588 45
LITERARY AND SCIENTIFIC INSTITUTIONS.		
Observatory, Toronto	4,800 00	
Do Quebec	2,450 00	
Do Kingston	500 00	
Do Montreal	500 00	
Total Literary and Scientific Institutions		8,250 00
ARTS, AGRICULTURE AND STATISTICS.		
Expenses connected with organization of Patent Office	2,000 00	
Registration Department, Nova Scotia	5,185 00	
Registration, Quebec	650 00	
Total Arts, Agriculture and Statistics		7,835 00
IMMIGRATION & QUARANTINE.		
Salaries and Contingencies of Immigration Office	34,500 00	
Expenses of Quarantine, Quebec	18,500 00	
Quarantine Expenses, Halifax	3,000 00	
Do St. John	4,000 00	
Total Immigration and Quarantine		60,000 00
HOSPITALS AND CHARITIES.		
Marine and Emigrant Hospital Quebec	21,958 00	
Marine Hospitals, St. John, St. Andrew's and other Ports, N.B.	9,000 00	
Maintenance of Sick and Disabled Seamen sent to the General Hospital, Nova Scotia	5,000 00	
Shipwrecked and Distressed Seamen	1,500 00	
Humane Establishments, Sable and Seal Islands	8,120 00	
Arrears of 1867	2,022 37	
Total Hospitals and Charities		47,600 37
MILITIA AND GUNBOATS.		
ORDINARY EXPENDITURE.		
Departmental Salaries	31,940 00	
Contingent and Incidental Expenses	38,000 00	
Compensation for Accidents at drill	2,000 00	
Ammunition	17,500 00	
Drill Sheds and Rifle ranges, payable in 1867–8 or in 1868–9	100,000 00	
Improved Fire Arms	43,000 00	
Military Schools	100,000 00	
Public Armouries and Care of Arms	35,000 00	
Carried forward	367,440 00	1,356,097 59

SCHEDULE A.—*Continued.*

SERVICE.	Amount.	Total.
	$ cts.	$ cts.
Brought forward	367,440 00	1,356,097 59
MILITIA AND GUNBOATS.—*Continued.*		
ORDINARY EXPENDITURE—*Continued.*		
Clothing	75,000 00	
Clothing allowances	2,500 00	
Brigade Majors	18,000 00	
Drill Instructors	40,000 00	
Efficient Volunteers Corps	5,000 00	
Annual drill pay for the year 1867–8, but payable in 1867-8 or 1868–9	218,000 00	
General services of Militia	20,000 00	
Militia services, Nova Scotia	140,000 00	
Do New Brunswick	80,000 00	
	965,940 00	
MISCELLANEOUS.		
Pay of Volunteers for Dominion Day Review	18,000 00	
To cover the payment for Stores furnished by the Imperial Government before the 1st July, 1867	180,000 00	
To pay for Barrack fitments made by the Royal Engineers	120,000 00	
For Barrack accommodation, including Rents, Insurance and fitments, made by the Dominion	80,000 00	
For 3,000,000 rounds of Ball Ammunition for the new Snider Enfields	72,000 00	
Arrears of 1867	23,314 36	
	1,459,254 36	
GUNBOATS.		
Gunboat service	25,000 00	
Total, Militia and Gunboats		1,484,254 36
PENSIONS.		
PENSIONS, ONTARIO AND QUEBEC.		
Saml. Waller, late Clerk H. of Assembly	400 00	
L. Gagné, Messenger, do	72 00	
John Bright, do do	80 00	
Mrs. Antrobus	800 00	
P. Bouchard, for wounds received	100 00	
NEW MILITIA PENSIONS.		
Mrs. Caroline McEachern and 5 children	219 00	
Jane Lakey	146 00	
Rhoda Smith	110 00	
Janet Alderson	110 00	
Mary McKenzie	80 00	
Mary A. Richey and 3 children	192 00	
Mary Morrison	80 00	
Louise Prudhomme and 2 children	130 00	
Virginie Charron and 4 children	37 50	
Paul M. Robins	146 00	
Chs. Thos. Bell	73 00	
A. M. Oliphant	109 50	
Charles Lugden	91 24	
John White	109 50	
Thos. Charters	91 24	
Samuel McCrag	109 50	
Charles Thos. Robertson	110 00	
Percy Gore Routh	400 00	
Richard Launders King	400 00	
Geo. Allen McKenzie	73 00	
Edwin Hilder	146 00	
Fergus Scholfield	73 00	
John Bradley	109 50	
Richd. Pentecost	91 24	
John Cole	109 50	
Geo. Prentice	400 00	
Carried forward	5,298 72	2,840,351 95

SCHEDULE A.—*Continued.*

SERVICE.	Amount.	Total.
	$ cts.	$ cts.
Brought forward	5,298 72	2,840,351 95
PENSIONS.—*Continued.*		
NEW MILITIA PENSIONS.—*Continued.*		
George Elliott	73 00	
James Bryan	109 50	
Jacob Stubbs	73 00	
Mary D. Connor	110 00	
Mary Hodgins and 3 children	191 00	
John Martin	110 00	
Gratuities	500 00	
Additional claims for pensions and gratuities now before Government	8,500 00	
PENSIONS, NEW BRUNSWICK.		
Military pensions	700 00	
COMPENSATION TO PENSIONERS IN LIEU OF LAND	9,450 00	
Total, Pensions	.....	25,115 22
PUBLIC WORKS.		
RAILWAYS.		
Towards construction of Railway between Halifax, Truro and Windsor, and between Truro and Pictou	280,500 00	
Construction of Railway between Halifax and Pictou	200,000 00	
Construction of Railway between Windsor and Annapolis	300,000 00	
Construction European and N. A. Railway	31,750 00	
To meet Stock in Western Extension	180,000 00	
To meet subsidy to do	150,000 00	
To meet subsidies, other lines, N. B. (27 Vic., c. 3.)	141,000 00	
Towards location of Intercolonial Railway	50,000 00	
CANALS	105,805 31	
HARBOURS.		
Harbours, Lake Huron	8,000 00	
SLIDES AND BOOMS	7,000 00	
PUBLIC BUILDINGS.		
Parliament and Departmental Buildings, Ottawa	55,000 00	
Rideau Hall, including purchase of property and furniture	60,000 00	
For Public Buildings generally	3,000 00	
LIGHT HOUSES	42,000 00	
ROADS AND BRIDGES	15,500 00	
ARBITRATIONS AND AWARDS	65,000 00	
RENTS AND REPAIRS OF PUBLIC BUILDINGS	58,000 00	
MISCELLANEOUS.		
For purchase of land for construction of Hospital and Quarantine Station at Halifax	10,000 00	
Surveys and Inspections	7,000 00	
Miscellaneous charges in respect of Public Works not otherwise provided for	10,000 00	
Arrears of 1867	6,720 75	
Total Public Works	.....	1,786,276 06
Carried forward	.....	4,651,743 23

SCHEDULE A.—*Continued.*

SERVICE.	Amount.	Total.
	$ cts.	$ cts.
Brought forward		4,651,743 23
LIGHT HOUSES AND COAST SERVICE.		
Trinity House, Quebec	46,739 00	
Trinity House, Montreal	26,000 00	
Maintenance of Light Houses above Montreal	43,000 00	
Guides to Travellers on Kempt Road	400 00	
Light Houses, Buoys, Beacons and Signal Stations, Nova Scotia	52,200 00	
Light Houses, Buoys, Beacons and Signal Stations, New Brunswick	20,600 00	
Arrears of 1867	3,562 55	
Total Light Houses and Coast Service		192,501 55
OCEAN AND RIVER STEAM SERVICE.		
Tug Service between Montreal and Kingston	12,100 00	
Maintenance and Repairs of Dominion Steamers	101,000 00	
Subsidies to Steamers between Prince Edward Island and Port Hood	1,600 00	
Subsidies to Steamers between Windsor, St. John, Digby and Annapolis	4,000 00	
Subsidies to Steamers between Halifax and Newfoundland	1,500 00	
Do do Pictou and Magdalen Islands.	400 00	
Do do New Brunswick and Prince Edward Island	1,000 00	
Subsidies to Steamers betwean Quebec and Maritime Provinces	15,000 00	
Total Ocean and River Service		136,600 00
FISHERIES.		
Expenses of Schooner *La Canadienne*	7,755 00	
Salaries and Expenses of Overseers, Ontario	6,000 00	
Do do Quebec	6,000 00	
Building Fishways and formation of Oyster Beds	1,000 00	
Fine remitted by O. C., February 29	40 00	
Salaries and Expenses of Overseers, Nova Scotia and New Brunswick	5,500 00	
Fishery Bounties for 1867	7,002 50	
Arrears of 1867	5,466 37	
Total Fisheries		38,763 87
INDEMNITIES UNDER SEIGNIORIAL ACTS.		
Expenses of Seigniorial Commission	4,526 84	
Amount due to June 30, 1867, including the Indemnities for the year ending Dec. 31, 1867	140,121 63	
Total Seigniorial		144,648 47
INDIANS.		
New Indian Annuities, Ontario	4,400 00	
Annual grant to Indians, Quebec	400 00	
For blankets to Indians, do	1,100 00	
Indians, Nova Scotia	1,300 00	
Do New Brunswick	1,200 00	
Total Indians		8,400 00
CULLING TIMBER.		
Salaries and expenses of Supervisor's office, and fees of Cullers		70,500 00
Carried forward		5,243,157 12

SCHEDULE A.—*Concluded.*

SERVICE.	Amount.	Total.
	$ cts.	$ cts.
Brought forward		5,243,157 12
RAILWAY AND STEAMBOAT INSPECTION.		
Railway Inspection	3,550 00	
Steamboat Inspection	8,000 00	
Arrears of 1867	592 00	
Total Railway and Steamboat Inspection		12,142 00
MISCELLANEOUS.		
Unforeseen expenses	20,000 00	
Gratuities granted to widows of Civil Servants to March 15.	2,207 33	
To pay lessees of Erie and Ontario Railroad for damage to track during Fenian raid, 1866	2,800 00	
Indemnity to H. Hurley for property burned by Fenians in 1866	200 00	
Claims for compensation for damages by Fenians before Government	725 86	
Miscellaneous Printing	5,000 00	
Advertising and subscription to Canada *Gazette*	8,000 00	
Postages for do	1,200 00	
Shipping Master's Office, Quebec	1,200 00	
Arrears of 1867	9,035 23	
		50,368 42
COLLECTION OF REVENUES.		
Customs	520,016 00	
Do Arrears of 1867	41,622 21	
Inland Revenue	114,434 74	
Post Office	735,000 00	
Do Arrears of 1867	35,391 06	
Public Works	730,742 49	
Minor Revenues	20,000 00	
Total Collection of Revenue		2,197,206 50
Total		7,502,874 04

SCHEDULE B.

Sums granted to Her Majesty by this Act, for the Financial Year 1868-9, and the purposes for which they are granted.

Service.	Amount.	Total.
CIVIL GOVERNMENT.	$ cts.	$ cts.
Lieutenant Governors of the Provinces	30,000 00	
Total Salaries and Contingencies of the Departments of Civil Government, to be distributed under the provisions of the Civil Service and Contingencies Acts	550,000 00	
Total Salaries and Contingencies of the Local Branches of the several Departments of Civil Government at Halifax and St. John, to be distributed under the provisions of the Civil Service and Contingencies Acts	22,700 00	
Total Civil Government		602,700 00
ADMINISTRATION OF JUSTICE.		
To enable additions to be made to the Salaries of certain Judges in Nova Scotia and New Brunswick, for the year 1868 9	8,000 00	
Circuit allowances and contingent expenses, Ontario	13,000 00	
Do Quebec	12,000 00	
Do Nova Scotia	1,600 00	
Do New Brunswick	2,000 00	
Secret and Detective Service	75,000 00	
Frontier and other Police	25,000 00	
Harbour, River and Government Police, Quebec and Montreal	30,000 00	
Miscellaneous Charges of Justice	10,000 00	
Total Administration of Justice		176,600 00
PENITENTIARIES.		
Penitentiary	136,471 55	
General Lunatic Asylum	50,861 68	
Penitentiary, Nova Scotia	20,000 00	
Do New Brunswick	30,000 00	
Directors of Penitentiaries	8,400 00	
Total Penitentiaries		245,733 23
LEGISLATION.		
Senate, Salaries and Contingencies	67,533 63	
House of Commons, Salaries and Contingencies	201,490 00	
Printing and binding Statutes	20,000 00	
Carried forward	289,023 63	1,025,033 23

SCHEDULE B.—*Continued.*

Service.	Amount.	Total.
	$ cts.	$ cts.
Brought forward.....	289,023 63	1,025,033 23
LEGISLATION.—*Continued.*		
Salary and Contingencies of Clerk of Crown in Chancery.....	2,120 00	
Grant to Parliamentary Library.....	6,000 00	
Miscellaneous printing.....	2,000 00	
Total Legislation.....	.....	299,143 63
SCIENTIFIC INSTITUTIONS		
Observatory, Quebec.....	2,450 00	
Do Toronto.....	4,800 00	
Do Kingston.....	500 00	
Do Montreal.....	500 00	
Observatories, Nova Scotia and New Brunswick.	1,500 00	
Total Scientific Institutions.....	.....	9,750 00
ARTS, AGRICULTURE AND STATISTICS		
Expenses in connection with preparation for the Census.....	4,000 00	
Sir W. E. Logan, to refund to him price of Geological Collection sold at Paris.....	500 00	
Expenses of Collecting Statistics of Births, Marriages and Deaths.....	2,500 00	
Total Arts, Agriculture & Statistics...	.....	7,000 00
IMMIGRATION AND QUARANTINE.		
Salaries and Contingencies of Immigration Office, Quebec.....	14,750 00	
Quarantine, Quebec.....	15,055 00	
Expenses of Quarantine, Halifax and St. John.....	7,000 00	
Total Immigration and Quarantine....	.....	36,805 00
MILITIA AND GUNBOATS.		
Salaries of Military Branch and District Staff.	54,000 00	
Do Brigade Majors.....	25,000 00	
Do Drill Instructors.....	50,000 00	
Military Schools.....	120,000 00	
Ammunition.....	50,000 00	
Clothing (annual rate).....	75,000 00	
Military Stores (annual rate).....	55,000 00	
Public Armouries and care of arms.....	50,000 00	
Drill pay and Camp purposes, and other incidental expenses connected with drill and training of Militia.....	327,000 00	
Carried forward.....	806,000 00	1,377,731 86

SCHEDULE B.—*Continued.*

Service.	Amount.	Total.
	$ cts.	$ cts.
Brought forward.....	806,000 00	1,377,731 86
MILITIA AND GUNBOATS.—*Continued.*		
Taking the enrolment, ballot and other unforeseen expenses of the Regular Militia.....	65,000 00	
Contingencies and general service not otherwise provided for, including assistance to Rifle Associations.....	53,000 00	
Barrack accommodation, rents, &c.....	80,000 00	
Military Survey.....	2,607 00	
Targets.....	10,000 00	
Gunboats	25,000 00	
Total Militia and Gunboats	.....	1,041,607 00
PENSIONS.		
Saml. Waller, late Clerk, House of Assembly.	400 00	
L. Gagné, Messenger, House of Assembly.....	72 00	
John Bright, Messenger, House of Assembly.	80 00	
Mrs. Antrobus.....	800 00	
P. Bouchard, for wounds received.....	100 00	
New Militia Pensions.		
Caroline McEachern and five children.....	319 00	
Jane Lakey.....	146 00	
Rhoda Smith.....	110 00	
Janet Alderson	110 00	
Mary McKenzie.....	80 00	
Mary A. Richey and three children.....	192 00	
Mary Morison.....	80 00	
Louise Prudhomme and two children.....	130 00	
Virginie Charon and four children.....	37 50	
Paul M. Robins.....	146 00	
Chs. Thos. Bell	73 00	
A. M. Oliphant.....	109 50	
Charles Lugden.....	91 24	
John White.....	109 50	
Thos. Charters.....	91 24	
Samuel McCrag.....	109 50	
Charles Thos. Robertson.....	110 00	
Percy Gore Routh	400 00	
Rich. Launders King.....	400 00	
Geo. Allen McKenzie.....	73 00	
Edward Hilder.....	146 00	
Fergus Scholfield	73 00	
John Bradley.....	109 50	
Richard Pentecost.....	91 24	
John Cole.....	109 50	
George Prentice.....	400 00	
George Elliott.....	73 00	
James Bryan.....	109 50	
Jacob Stubbs.....	73 00	
Mary D. Connor	110 00	
Carried forward.....	5,664 22	2,419,338 86

SCHEDULE B.—*Continued.*

Service.	Amount.	Total.
	$ cts.	$ cts.
Brought forward	5,664 22	2,419,338 86
New Militia Pensions.—Continued.		
Mary Hodgins and three children	191 00	
John Martin	110 00	
Additional claims, before Council	1,810 00	
Compensation to Pensioners in lieu of land	9,450 00	
Total Pensions		17,225 22
PUBLIC WORKS.		
RAILWAYS.		
Stock, Western Extension, European and North American Railway	120,000 00	
Subsidy, Windsor and Annapolis R.R.	500,000 00	
Do Western Extension, E. & N. A. R.R	500,000 00	
Do Eastern do do	290,000 00	
Do Fredericton Branch	215,000 00	
Do Woodstock Branch	50,000 00	
Halifax, Truro and Pictou Railway	80,000 00	
European and N. American Railway	20,000 00	
Intercolonial Railway Survey	75,000 00	
CANALS	223,000 00	
PUBLIC BUILDINGS.		
Parliament and Departmental Buildings	100,000 00	
Rideau Hall	107,000 00	
Public Buildings generally	25,000 00	
HARBORS, PIERS AND LIGHT HOUSES	120,000 00	
ROADS AND BRIDGES	6,000 00	
SLIDES AND BOOMS	15,000 00	
RENTS AND REPAIRS OF PUBLIC WORKS AND BUILDINGS	80,500 00	
SURVEYS AND INSPECTIONS	15,000 00	
ARBITRATIONS AND AWARDS	14,000 00	
Miscellaneous charges not otherwise provided for	10,000 00	
Total Public Works		2,565,500 00
OCEAN AND RIVER STEAM SERVICE.		
Tug service between Montreal and Kingston	12,100 00	
Carried forward	12,100 00	5,002,064 08

SCHEDULE B.—*Continued.*

Service.	Amount.	Total.
	$ cts.	$ cts.
Brought forward	12,100 00	5,002,064 08
OCEAN AND RIVER STEAM SERVICE. *Continued.*		
DOMINION STEAMERS.		
Maintenance and repairs of steamers, Quebec	60,000 00	
Maintenance of steamer "Druid," Halifax, and Charter of "Piscator"	24,000 00	
STEAM COMMUNICATION, N. S. AND N. B.		
Between P. E. Island and Port Hood	1,600 00	
Halifax and St. John	10,000 00	
Windsor and St. John, Digby and Annapolis	4,000 00	
Halifax and Newfoundland	1,500 00	
Pictou and Magdalen Islands	400 00	
New Brunswick and Prince Edward Island	1,000 00	
Quebec and Maritime Provinces	15,000 00	
Total Ocean and River Steam Service		129,600 00
LIGHT HOUSES AND COAST SERVICE.		
Trinity House, Quebec	41,752 00	
Do Montreal	26,000 00	
Maintenance of Light Houses above Montreal	43,000 00	
Guides to Travellers, Kempt Road	400 00	
Light Houses, New Brunswick	19,000 00	
Light Houses, Nova Scotia	56,500 00	
Buoys, Beacons & Signal Stations, N.S.	2,200 00	
Do do N.B.	4,650 00	
Humane establishments, Sable and Seal Islands	8,120 00	
Cape Race Light	3,000 00	
Total Light Houses, &c.		204,622 00
MARINE HOSPITALS, &c.		
Marine Hospital, Quebec	20,000 00	
Do St. Johns, St. Andrews and other ports	9,500 00	
Maintenance of Sick and Disabled Seamen sent to General Hospital, Halifax	5,000 00	
Shipwrecked and Distressed Seamen	2,500 00	
Total, Marine Hospitals, &c.		37,000 00
FISHERIES.		
Expenses of Schooner "La Canadienne."	10,800 00	
Salaries and Disbursements of Fishery Overseers, Ontario and Quebec	12,000 00	
Carried forward	22,800 00	5,373,286 08

SCHEDULE B.—*Continued.*

Service.	Amount.	Total.
	$ cts.	$ cts.
Brought forward	22,800 00	5,373,286 08
FISHERIES.—*Continued.*		
Fishways and Oyster Beds	4,000 00	
Salaries and Disbursements of Fishery Overseers, Nova Scotia and New Brunswick	10,000 00	
Total Fisheries		36,800 00
CULLING TIMBER.		
Salaries and Contingencies of Culler's Office		75,000 00
RAILWAY AND STEAMBOAT INSPECTION.		
Railways, Salaries and Contingencies	3,550 00	
Steamboats do	8,000 00	
Total Railway and Steamboat Inspection		11,550 00
SEIGNIORIAL INDEMNITIES.		
Expenses of Seigniorial Commission		6,000 00
INDIANS.		
New Indian Annuities, Ontario	4,400 00	
Annual grant to Indians, Quebec	400 00	
Do do Nova Scotia	1,300 00	
Do do New Brunswick	1,200 00	
To purchase blankets for aged and infirm Indians, Ontario and Quebec	1,100 00	
Total Indians		8,400 00
MISCELLANEOUS.		
Unforeseen expenses	100,000 00	
Miscellaneous printing	5,000 00	
Advertising and subscription to *Canada Gazette*	8,000 00	
Postages of do	1,200 00	
Shipping Master's Office, Quebec	1,200 00	
Expenses connected with Confederation and Imperial legislation thereon	93,912 44	
Towards cost of Confederation Medal	2,000 00	
Total Miscellaneous		211,312 44
COLLECTION OF REVENUES.		
Salaries and Contingencies of Customs, to be distributed in accordance with the provisions of the Civil Service Act	488,261 00	
Carried forward	488,261 00	5,722,348 52

SCHEDULE B.—*Continued.*

Service.	Amount.	Total.
	$ cts.	$ cts.
Brought forward.....	488,261 00	5,722,348 52
COLLECTION OF REVENUES.—*Con.*		
Commutation in lieu of remission of duties on articles imported for the use of the Army and Navy and Officers' Mess, to be apportioned by Order in Council.....	75,000 00	563,261 00
Inland Revenue, Salaries of permanent officers, to be distributed in accordance with the provisions of the Civil Service Act.....	109,000 00	
Do travelling and other contingent expenses	49,550 00	158,550 00
Post Office.....	.....	751,000 00
Public Works, Maintenance and Repairs, Ontario and Quebec.....	329,695 49	
Do Nova Scotia.....	240,000 00	
Do New Brunswick.....	125,000 00	694,695 49
Minor Revenues	.....	12,000 00
Total	.....	7,901,855 01

No. 130.

1st Session, 1st Parliament, 31 Vict., 1868.

BILL.

An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the Financial years ending respectively the thirtieth of June, 1868, and the thirtieth June, 1869; and other purposes connected with the Public Service.

Received and read, first time, Thursday, 14th May, 1868.

Second reading, Friday, 15th May, 1868.

Hon. Mr. Rose.

OTTAWA:

PRINTED BY HUNTER, ROSE & COMPANY.

An Act relating to Quarantine and Public Health.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

QUARANTINE.

1. The Governor in Council may from time to time make such Regulations as he thinks proper, for enforcing compliance with all the requirements of this Act, and concerning the entry or departure of boats or vessels at the different ports or places in Canada, and concerning the landing of passengers or cargoes from such boats or vessels, or the receiving of passengers or cargoes on board of the same as may be thought best calculated to preserve the public health, and for ensuring the due performance of Quarantine, by and in respect of vessels, passengers, goods or things arriving at any port within Canada, to which he thinks it right for the preservation of the Public Health that such regulation should apply, and for the thorough cleansing and disinfecting of such vessels, passengers, goods or things, so as to prevent as far as possible, the introduction or dissemination of disease into or in Canada, and may appoint or remove such officers as he may deem necessary for so doing, and assign to them respectively such powers as he may think required for carrying out the provisions of such Regulations, and may from time to time revoke, or amend the same or any of them, and may make others in their stead, and may impose penalties, forfeitures and punishments for the breach thereof, which Regulations shall be notified by proclamation published in the *Canada Gazette* at least twice; and the production of the copies of the *Gazette* containing any such proclamation, shall be evidence of the making, date and contents of such Regulations.

2. Such Regulations shall have the force of law during the time they respectively remain unrevoked, unless they be expressly limited to be in force only during a certain time or at certain times or seasons, in which case they shall have the force of law during the time and at the times and seasons during or at which they have been limited to be in force; and any person disobeying any such Regulation may be prosecuted for a misdemeanor, punishable by fine or imprisonment or both, as the Court may direct, or otherwise such person may be sued for the penalties contained in such Regulation.

3. By such Regulations, the Governor in Council may require the master of every vessel coming up the River St. Lawrence from below the Quarantine Station at *Grosse Ile*, or arriving by sea at any Port or Place in Canada, (except only such vessels as are therein designated and referred to as excepted), to bring his vessel to anchor at the anchorage at the proper Quarantine Station designated in the Regulations, and report such vessel in writing to the officer at such station designated for that purpose in such Regulations with all the particulars relative to the same, and to the voyage, passengers and cargo thereof, required by such Regulations or by any officer duly authorized under them to require the same, and to allow the proper officer to visit and

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for the purpose of carrying out the criminal laws and other laws of the Dominion

inspect such vessel and every part thereof, and the passengers and crew and the cargo and other articles on board the same,—and to answer truly all questions asked of him touching the same,—and to send on shore at such station and at the places there pointed out by the officer thereunto authorized by such Regulations, any or all of the passengers, crew, cargo or other articles on board such vessel, as such officer thinks necessary for preventing the introduction of contagious or infectious disease, and to allow such passengers, crew, cargo or other articles, and also the vessel itself to remain so long at such station and at such places thereat respectively, and to be so treated, cleansed and purified, as such officer shall think necessary for the purpose aforesaid.

4. And by such Regulations the Governor in Council may assign to the several officers and persons to be employed at any such Quarantine Station, the powers and duties necessary for carrying the said Regulations and this Act fully into effect, and may declare that any such officer or person shall, by virtue of his office or employment, be a Justice of the Peace or a Constable or Peace Officer for such Quarantine Station, and for the space around the same described in such Regulations; and such officer shall accordingly be such Justice of the Peace or Peace Officer whether he be otherwise qualified or not; and by such Regulations the Governor in Council may impose penalties not exceeding four hundred dollars in any case, on persons contravening the same, and may provide that the offender shall be imprisoned until such penalty be paid, and may direct that no vessel shall be entered or cleared at any Custom House in Canada, until all the requirements of such Regulations are fully complied with, and may direct that any person, vessel or thing, who or which has passed or departed or been removed from any Quarantine Station, before all the requirements of such Regulations have been complied with in respect of such person, vessel or thing, or without the written permission of the officer empowered to authorize such passing or departure, may be compelled to return or be carried back to such station, and by force if necessary.

5. The Governor in Council may appoint one medical officer at Quebec to board, visit and inspect boats or vessels arriving in the Harbour of Quebec from sea, and to perform such other duties and have such powers as the Governor in Council may by any regulations direct.

6. Every penalty or forfeiture, imposed or declared under the authority of this Act, shall be a special lien upon the vessel by reason whereof it has become payable, and the master whereof has become liable in such penalty, and may be enforced and collected by the seizure and sale of the vessel, her tackle apparel and furniture, under the warrant or process of the Justices or Court, before whom it has been sued for and recovered, and shall be preferred to all other liens or hypothecations, except mariners' wages.

PUBLIC HEALTH.

7. Whenever Canada, or any part thereof, appears to be threatened with any epidemic, endemic, contagious or infectious disease, the Governor may, by proclamation, make such Regulations as he thinks proper and necessary to prevent the introduction of such disease from beyond the limits, or to prevent its spread within the limits of Canada, and otherwise protect the public health, and he may from time to time revoke or amend the same or make others in their

stead in like manner, and may impose penalties, forfeitures and punishments for the breach thereof, and such Regulations shall be published, at least twice, in the *Canada Gazette*, and the production of copies of the *Gazette* containing such proclamation, shall be evidence of the making, date and contents of such regulations.

8. Such Regulations shall have force of law during the time they respectively remain unrevoked, unless they be expressly limited to be in force only during a certain time or certain seasons, during which time or seasons all provincial or local laws and by-laws or other enactments emanating from local authorities which may be in contradiction with such Regulations, shall be suspended in their effect in so far as they may be contrary to such Regulations.

9. By such Regulations the Governor in Council may appoint for any specified time, one or several "Central Boards of Health," and may name the members thereof, and also such medical and other officers and such servants as he may deem necessary to assist such boards, and the powers and duties of the said boards shall be such as are affixed to them by such Regulations, and may be exercised by any number of the members thereof mentioned in the said Regulations, as constituting the quorum thereof; and the powers and duties of such boards shall cease on the revocation or at the time of the expiration of the Regulations aforesaid.

10. When and so long as such Regulations are in force, it shall be the duty of every Municipal Corporation or County Sessions within Canada to organize a "Local Board of Health" for the limits of their respective jurisdictions, and such "Local Boards" or any three members thereof, shall have power to act under the Regulations aforesaid, and the direction of any "Central Board of Health" designated in such Regulations, and the duties of such Local Boards of Health shall be to enforce generally all sanatory measures required and carry out the Regulations of the Governor in Council, and such orders as may be issued by the "Central Boards" in pursuance of the provisions of such Regulations.

11. In the case of Municipal Corporations or County Sessions neglecting or refusing to appoint a Local Board of Health as aforesaid, or in the absence of any such authority in any locality the Governor in Council may nominate persons within the limits of such Municipal Corporation County or locality to constitute such Local Boards of Health.

12. Whosoever wilfully obstructs any person acting under the authority of this law and of the aforesaid Regulations, or wilfully violates the dispositions contained in the said Regulations, concerning the public health, or in orders promulgated by the "Boards of Health" in pursuance with such Regulations, shall be liable for every such offence to a penalty not exceeding twenty dollars, or imprisonment not exceeding ten days, before any two Justices of the Peace, on the evidence of any credible witness.

GENERAL PROVISIONS.

~~**13.** The expenses of the Quarantines and of the Central Boards of Health and of the Local Boards of Health, nominated by the Governor in Council in localities where there are no incorporated local authori-~~

~~ties, shall be defrayed out of any moneys appropriated for that purpose by Parliament, and the expenses of the Local Boards of Health shall be paid by the respective Municipal Corporations or County Sessions in the same manner and by the same means as other expenses incurred by such Corporations or Counties.~~

14. All pecuniary penalties levied under the authority of that part of this Act, which relates to Quarantine, and to localities where no incorporated local authorities exist, shall be paid into the hands of the Receiver General to form part of the Consolidated Revenue ofwhich ada, and all pecuniary penalties levied under that part of this Act which relates to Public Health, shall be paid into the hands of the Treasurer of the Municipal Corporation or County Sessions in whose jurisdiction the recovery has taken place, to form part of the revenue of such Corporation or County.

INTERPRETATION.

15. In this Act, unless there be something in the context inconsistent with such interpretation, the word "master" shall apply to any person in command of a vessel; the word "vessel" shall include all ships, vessels or craft of any kind carrying passengers; the word "passengers" shall apply to all passengers as well as to immigrants usually and commonly known and understood as such, but not to troops or military pensioners and their families, who are carried in transports or at the expense of the Imperial Government; the words "Quarantine Station" shall apply to *Grosse Ile*, Partridge Island, or other place at which quarantine is directed to be performed.

16. The following Acts and parts of Acts, and all other Acts and parts of Acts inconsistent with this Act, or with any provision provided for in this Act, are hereby repealed:—

Chapter Thirty eight of the Consolidated Statutes of the late Province of Canada.

Sections twenty-two, twenty-three and twenty-four of the Act forming the fortieth chapter of the Consolidated Statutes of the late Province of Canada.

Section four of the Act forming the fifty-ninth chapter of the Consolidated Statutes for Upper Canada.

Chapter fifty-two "of Quarantine" of the Revised Statutes of Nova Scotia,—Third Series.

The Act passed by the Legislature of the Province of Nova Scotia, in the twenty-ninth year of Her Majesty's Reign, chapter eight, intituled "An Act to authorize the establishment of a Quarantine Station at the Port of Halifax."

So much of the third section of the fifty eighth chapter of the Revised Statutes of New Brunswick, as authorizes any Sessions or Special Sessions to make Regulations for the performing of quarantine by any vessel, or prohibiting any person from landing from the same, or preventing any intercourse with persons on board.

So much of the eighth section of the Act of the Legislature of the Province of New Brunswick, passed in the eighteenth year of Her Majesty's reign, chapter forty, intituled "An Act to establish a Board of Health in the City and County of St. John," as authorizes the Board of Health for the City and County of St. John to regulate or prohibit the ingress of vessels to any port or place within the district under its jurisdiction.

The tenth section of the said last mentioned Act, save and except so much thereof as enacts that any dangerous or offensive matter or thing may be destroyed by order of the Board of Health.

The fourth section of the Act of the Legislature of the Province of New Brunswick passed in the twenty-first year of Her Majesty's reign, chapter fifty-one, intituled "An Act to amend and continue an Act intituled *An Act to establish a Board of Health in the City and County of St. John,*" and so much of the Act of the said Legislature passed in the twenty-fourth year of Her Majesty's Reign, chapter twenty-six, and of the Act of the said Legislature passed in the twenty-sixth year of Her Majesty's Reign, chapter twenty-nine as continues the said section and causes the same to be and remain in force.

17. In citing this Act, it shall be sufficient to call it the "Quarantine and Health Act of 1868."

I Keeper of the Laws of the Dominion Canada & do hereby certify the foregoing to be a true copy of the original enactment now in my possession which received the Royal Assent on Friday the twenty-second day of May one thousand eight hundred and sixty eight

Office of the Senate of Canada

Ottawa 26th May 1868.

Clk Senate

So much of the eighth section of the Act of the Legislature of the Province of New Brunswick, passed in the eighteenth year of Her Majesty's reign, chapter forty, intituled "An Act to establish a Board of Health in the City and County of St. John," as authorizes the Board of Health for the City and County of St. John to regulate or prohibit the ingress of vessels to any port or place within the district under its jurisdiction.

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er of the Senate
of Canada — [signature]

ttawa 26th May 1868.

No. 132] **BILL.** [1868.

An Act respecting certain Penalties in respect of Stamp Duties.

HER Majesty by and with the advice of the Senate and House of Commons, enacts as follows :—

Preamble.

Whereas Stamp Duties on Promissory Notes and Bills of Exchange were, so far as the Provinces of Nova Scotia and New Brunswick are concerned, first imposed by an Act of this Parliament, in the first part of the present Session ; And whereas in consequence of the provisions of the said Act being unknown in the said Provinces, many of the inhabitants thereof in ignorance of the necessity of affixing stamps to such instruments, have neglected to comply with the provisions of the said Act, and have thereby incurred penalties.

Exemption from penalty in certain cases.

1. No person in either of the said Provinces of Nova Scotia or New Brunswick, being a party to any such Note or Bill made or drawn before the passing of this Act, shall be liable to any penalty in respect of any omission or neglect to affix thereto the proper stamp or stamps ; Provided that this Act shall not affect any pending suit nor any penalty actually paid.

No. 132.

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting certain Penalties in respect of Stamp Duties.

Received and read, first time, Friday, 15th May, 1868.

Second reading, Saturday, 16th May, 1868.

Hon. Mr. Rose.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

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133 2nd-2

An Act respecting Police of Canada.

HER MAJESTY, by and with the advice and consent of the Senate and House or Commons of Canada, enacts as follows:

1. The Governor in Council may, from time to time, appoint by Commission under the Great Seal, one or more fit and proper persons to be and act as a Commissioner or Commissioners of Police within any one or more of the Provinces of Canada, or within any one or more of the Districts or Counties in any Province or withiu any temporary Judicial District, or any Provisional Judicial District in Ontario.

2. The Governor in Council may, from time to time, direct and authorize any Commissioner of Police under this Act to appoint any fit and proper persons to serve as Police Constables under and within the jurisdiction of such Commissioner of Police, and such Commissioner may, at his pleasure, remove any such Police Constable, and every such Police Constable shall obey all lawful directions and be subject to the government of such Commissioner of Police, and shall be charged with all the powers, rights and responsibilities which belong by law to constables duly appointed in the Province, or District or County of the Province, in which they may be appointed.

3. If any Police Constable appointed under the authority of this Act, be guilty of any disobedience of orders, neglect of duty, or any misconduct as such Police Constable, and be convicted thereof before any Commissioner of Police, Police Magistrate or Justice of the Peace, he shall forfeit a sum to be fixed by such Commissioner, Police Magistrate or Justice, not exceeding forty dollars and costs, and in default of immediate payment thereof, shall suffer imprisonment for any time not exceeding three months, unless such fine and costs be sooner paid, and any such person may be proceeded against by indictment for any offence committed by him as such Constable, but not both by indictment and under this Act for the same offence.

4. Every Commissioner of Police appointed under this Act shall, for the purpose of carrying out the Criminal laws and other laws of the Dominion, have and exercise within the Province or Provinces, or District or Districts, or County or Counties, or temporary Judicial District or Provisional Judicial District of a Province for which he is appointed, all the powers and authority, rights and privileges by law appertaining to Police Magistrates of Cities, in the same Province (except as regards offences against Municipal By-laws, and as regards other purely Municipal matters,) and all the powers and authority, rights and privileges appertaining to Justices of the Peace generally, and shall be subject in all respects except as otherwise provided by this Act, to the requirements of the law of the Province in and for which, or any District or County in which he may be appointed, respecting Police Magistrates and the office of Justice of the Peace; but it shall not be necessary for any Commissioner of Police appointed under this Act to possess any property qualification or to be actually resident within any district,

county, temporary judicial district or provisional judicial district of a Province for which he may be appointed.

5. Every such Commissioner of Police shall keep minutes of every proceeding had by and before him, and shall keep such accounts, make such returns and collect such information within his jurisdiction, and perform such other duties as the Governor may from time to time prescribe and require.

6. Every Commissioner of Police and every Police Constable appointed under this Act shall be subject to such regulations in respect to the order, management, and disposition of the Police, and shall receive such rates of pay or allowance as may from time to time be prescribed by the Governor in Council ; and an account shall be laid before Parliament within the first two weeks after the meeting of each Session, of the average number of men employed during each month of the year, and of the cost of pay, and of travelling expenses expended in respect thereof

7. All moneys arising from penalties, forfeitures and fines imposed by any Commissioner of Police shall, if not directed by law to be otherwise appropriated, be from time to time paid to such Commissioner of Police, who shall account for the same and pay over or disburse the moneys arising therefrom at such times and in such manner, and to such person or persons as the Governor may from time to time direct.

OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

An Act to continue for a limited time the several Acts therein mentioned.

WHEREAS, it is expedient further to continue the Acts hereinafter mentioned, which would otherwise expire at the end of the present Session; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The Act of the Parliament of the late Province of Canada, passed in the Session held in the twenty-eighth year of Her Majesty's reign, intituled: "An Act for the prevention and repression of outrages in violation of the Peace on the Frontier of this Province, and for other purposes;" is hereby continued to the first day of January, one thousand eight hundred and sixty-nine, and from thence until the end of the then next ensuing Session of the Parliament of Canada, and no longer.

2. The Act of the Parliament of the late Province of Canada, passed in the seventh year of Her Majesty's reign, and intituled: "An Act to repeal an Ordinance of Lower Canada, intituled: 'An Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects,' and to make provision for the same object throughout the Province of Canada," and the Act amending the same, passed in the ninth year of Her Majesty's reign, and intituled: "An Act to continue and amend the Bankrupt Laws now in force in this Province," in so far as the same are continued by and for the purposes mentioned in the Act passed in the twelfth year of Her Majesty's reign, and intituled: An Act to make provision for the continuance and completion of proceedings in Bankruptcy now pending," and the said last mentioned Act; and the Act of the said Parliament, passed in the Session held in the thirteenth and fourteenth years of Her Majesty's reign, and intituled: "An Act to afford relief to Bankrupts in certain cases," shall respectively be and they are hereby continued, and shall remain in force as respects the Provinces of Quebec and Ontario only, until the said first day of January, one thousand eight hundred and sixty-nine, and thence until the end of the next ensuing Session of the Parliament of Canada, and no longer.

3. And whereas certain Provident Institutions or Savings Banks have been established and are now in operation in the Provinces of Quebec and Ontario, under the conditions, previleges, and restrictions made, granted, and imposed by an Act of the Parliament of the late Province of Canada, passed in the Session thereof held in the fourth and fifth years of Her Majesty's reign, intituled: "An Act to encourage the establishment of and regulate Savings Banks in this Province," and whereas the time thereby fixed for the continuance and operation of such Savings Banks was extended for the period of five years, by an Act of the said Parliament passed in the Session thereof held in the fourteenth and fifteenth years of Her Majesty's reign, intituled: "An Act to continue for a limited time an Act intituled: 'An Act to encourage the establishment of and regulate Savings Banks in this Province;'" and whereas the time thereby limited for the operations of

the said Savings Banks was further extended until the thirtieth day of May, one thousand eight hundred and sixty-two, by an Act of the said Parliament passed in the Session thereof held in the eighteenth year of Her Majesty's reign, intituled: "An Act to regulate Savings Banks and to repeal the Act now in force for that purpose," and subsequently by the seventieth section of chapter fifty-six of the Consolidated Statutes of Canada; and whereas it is expedient that the operations of the said Savings Banks should be further continued for a limited time: Therefore, the said first-cited Act shall continue and remain in force as regards the Savings Banks mentioned in the said seventieth section, until the first day of January, one thousand eight hundred and seventy, and from thence until the end of the next ensuing Session of the Parliament of Canada, and no longer.

4. Provided always, that nothing herein contained shall prevent the effect of any Act passed during the present Session, repealing, amending, rendering permanent, or continuing to any further period than that herein appointed, any of the Acts hereinbefore mentioned and continued, nor shall continue any provision or part of any of the Acts in this Act mentioned, which may have been repealed by any Act passed during the present Session or in any previous Session.

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OTTAWA:
PRINTED BY HUNTER, ROSE & CO.

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No. 135.] BILL. 1868.

An Act respecting Insurance Companies.

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Interpretation clause.

1. The following terms and expressions whenever used in this Act, unless it be otherwise specially provided, or there be something in the context repugnant to, or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say :

"Company," means and includes any Corporation, and any Society or Association, incorporated or unincorporated, and any partnership carrying on the business of Insurance other than that of Marine Insurance only ;

"Agent," means the principal Agent of the Company in Canada, named as such in the power of Attorney hereinafter referred to, by whatever name he may be designated ;

"Chief Agency," means the principal Office or place of business of the Company in Canada.

No company to act without a license.

2. Except Companies transacting in Canada Ocean Marine Insurance business exclusively, it shall not be lawful for any Insurance Company, to issue any Policy of Insurance, or take any risk, or receive any premium or transact any business of Insurance in Canada, or to prosecute or maintain any suit, action or proceeding either at Law or in Equity, or to file any claim in Insolvency, without first obtaining a Licence from the Minister of Finance to carry on business in Canada ; but the premiums to become due on policies actually issued previous to this date, may continue to be received, and the losses arising thereon may be paid as if this Act had not been passed.

Minister of Finance to grant license, and when.

3. The Minister of Finance shall issue such Licence as aforesaid, so soon as the Company applying for the same has deposited through him in the hands of the Receiver General, the sums of money or securities hereinafter mentioned and required, and such Licence shall specify the business to be carried on by the Company.

Deposit to be made.

4. The deposit to be so made as aforesaid, shall be as follows, to wit : by every Life, Fire, Inland Marine, Guarantee or Accident Insurance Company, a sum of not less than Fifty thousand Dollars, and such sum shall be deposited before the Licence is issued, except only in the case of Com-

panies incorporated before the passing of this Act, by Act of the Parliament of Canada, or of the Legislature of any of the late Provinces of Canada, Lower Canada or Upper Canada, or of Nova Scotia or New Brunswick, or which may have been or may hereafter be incorporated by the Parliament of Canada in the Legislature of any Province of the Dominion, and carrying on the business of Fire Insurance or of Inland Marine Insurance or both, but no other, which Companies may make such deposit in three equal annual instalments, the first of which shall be paid before the issue of the Licence, on or before the fisrt day of January, one thousand eight hundred and sixty-nine.

Deposit for each branch of business.

Proviso :

5. When any Company carries on more than one description of Insurance business, it shall make a separate deposit as aforesaid, for each Branch of its business : Provided that a Company combining Life and Accident Insurance or Fire and Inland Marine Insurance shall only be required to make one deposit for each such combination of two branches of business ; and with respect to any Insurance business other than those hereinbefore specified, the Minister of Finance may prescribe the amount of deposit which shall be required.

Obligation of a Company whose deposit is less than $100,000.

6. Except only as regards Companies entitled to make their deposits by instalments as aforesaid, whenever and so long as the deposit of any Company, under this Act, shall be less than one hundred thousand dollars, the Agent of such Company shall send in yearly to the Minister of Finance, within one month after the first day of January of each year, returns under oath, of of the amount of premiums received by the Company on risks in Canada, and after deducting twenty-five per cent. therefrom, and the net amount of losses or claims actually paid, shall deposit in the hands of the Receiver General for the purposes of this Act, and subject to its provisions, the balance of such premiums, until the deposit of such Company shall be equal to one hundred thousand dollars ; and so long as such deposit is under one hundred thousand dollars, no interest or dividends shall be paid on the actual deposit, but such interest or dividend shall be added to the principal every half year until, with the premiums hereinbefore mentioned, the deposit shall amount to one hundred thousand dollars : Provided, that any Company combining the business of Fire and Life Insurance, shall be required to make such additional deposit only as regards the premiums received for Life Insurance : and provided also that any Life Insurance Company incorporated in Canada since the Union which shall deposit all the balance of the premiums received by it, after the deductions above provided for, until such deposit amounts to one hundred thousand dollars, and that any Fire Insurance Company so incorporated, which shall deposit all its receipts from payments on its shares, and the balance of premiums as aforesaid, shall not be subject to any provision of this Act requiring any other deposit.

7. It shall be the duty of the Receiver General forthwith to invest the amount of any such deposit made in cash, in Canada Dominion Stock, in Trust for the Company making such deposit, for the purposes of this Act; and except as hereinafter provided, in case of the Insolvency of the Company, such Stock or the amount of such deposit, shall not be lessened, disposed of or surrendered to the Company without the order of the Governor in Council. Investment of deposit.

8. Except in the cases with respect to which it is otherwise provided so long as the amount of the deposit which any Company is required to have then made is unimpaired, and no notice of any judgment or order to the contrary is served upon the Minister of Finance and the Receiver General, the interest upon the Stock or securities representing or forming part of such deposit shall be payable to the Company. Interest on investment.

9. Every Company obtaining such Licence as aforesaid, shall, before the transaction of any business of Insurance, file in the Office of either of the Superior Courts of Law or Equity in that one of the Provinces of Ontario, Nova Scotia, or New Brunswick, in which it has its Chief Agency, (if such Chief Agency be in one of those Provinces) or if the Chief Agency be in the Province of Quebec, with the Prothonotary of the Superior Court of the district wherein such Chief Agency is established, a certified copy of the Charter, Act of Incorporation or Articles of Association of the Company, and also a Power of Attorney from the Company to its Agent in Canada, under the Seal of the Company, (if it have a Seal) and signed by the President and Secretary thereof, and verified as to its anthenticity by the oath of the Agent of such Company in Canada, or of some person cognizant of the facts necessary to its verification, which power of Attorney must declare at what place in Canada, the Chief Agency of the Company is, or is to be, established and must expressly authorize such Agent to receive process in all suits and proceedings against such Company in Canada, for any liabilities incurred by the Company therein, and must declare that service of process for or in respect of such liabilities, at such Chief Agency or personally on such Agent at the place where such Chief Agency is established, shall be legal and binding on the Company to all intents and purposes whatever. Certain documents to be filed in the Courts by Companies.

10. After the certified copies referred to in the next preceding section, and such Power of Attorney are filed as aforesaid, any process in any suit or proceeding against such Company, for any liabilities incurred in Canada, may be served on the Company at its Chief Agency, in the same manner as process may be served upon any Company incorporated in Canada, and all proceedings may be had thereupon to judgment and execution in the same manner and with the same force and effect as in proceedings in any Civil suit in Canada. Service of process on Companies.

Company to give notice of its being licensed.

11. Every Company obtaining such Licence as aforesaid, shall forthwith give due notice thereof in the Canada Gazette, and in at least one Newspaper in the County, City, or place where the Chief Agency is established, and shall continue the publication thereof for the space of one calendar month, and the like notice shall be given when such Company shall cease, or notify that they intend to cease, to carry on business in Canada.

Every Company must have at least $100,000 unimpaired capital.

12. No Stock Company shall transact any business of Insurance in Canada, unless such Company is possessed of at least one hundred thousand dollars of paid up and unimpaired Capital, or accumulated surplus Funds invested in good and sufficient securities, nor shall any Licence be issued in favour of such Company, until a statement under oath to that effect is filed with the Minister of Finance sworn to by some one whose duty it is to know and who is personally cognisant of the fact sworn to; Provided that the unimpaired amount of the deposit of any Company then in the hands of the Receiver General shall be reckoned as part of its capital, except companies incorporated in Canada after the Union, which shall be allowed three years from the date of their incorporation to call up or accumulate capital to the said amount.

Penalty for issuing policy, &c., without licence.

13. Any person who shall deliver any Policy of Insurance or collect any premium, or transact any business of Insurance on behalf of any such Company as aforesaid, without such Licence as aforesaid, or if such Licence has been withdrawn, without the renewal thereof, or without filing the copy of the Charter, Act of Incorporation, or Articles of Association of the Company, and a Power of Attorney as hereinbefore provided, shall be liable to a penalty of *one thousand dollars* for each such contravention of this Act, which penalty may be sued for and recovered on information filed in the name of the Attorney General for Canada, and shall be paid to the Crown, and in case of non-payment of such penalty in one month after such judgment, the person so offending shall be liable to imprisonment in any gaol or prison in the jurisdiction where he is convicted, for the space of three months.

How recoverable, &c.

Annual statements to be transmitted to the Minister of Finance.

14. Subject to the exception in the next following section, every Company so licensed shall transmit annually, to the Office of the Minister of Finance, a statement in duplicate, verified by the oath of the President, Manager, or Agent of such Company, or of any person cognizant of the facts, containing the particulars mentioned in the form in the Schedule to this Act, applicable to the case, such statement to be made up to the First day of July next preceding, or to the usual balancing day of the Company, provided such balancing day be not more than twelve months in the case of Life Assurance Companies and six months in the case of other Companies before the filing of such statement, and a copy of

such statement shall be published in the *Canada Gazette* ; and the Minister of Finance shall cause the statements or an analysis thereof to be laid before Parliament, within thirty days after the commencement of each Session thereof, and any Company failing to comply with the provisions of this section shall forfeit and pay to the Crown, the sum of *one thousand dollars* to be recovered on information to be filed in the name of the Attorney General for Canada, in that behalf; and with respect to any kind of business not provided for in the said schedules, the Minister of Finance may prescribe the form of return which shall be made, under the like penalty, and recoverable in the like manner, and the Minister of Finance may from time to time vary the forms in the said schedules, as far as regards the business done by any Company in Canada, or grant an extension of time for fyling the same according as experience or the special constitution of any Company may require.

Analysis to be laid before Parliament.

Form of statement.

15. No Insurance Company established in the United Kingdom, and which is not bound by the laws in force there to furnish or publish statements of its affairs, shall be liable to the obligation, or to the penalty mentioned in the *next preceding* section, provided such Company, if a Fire Insurance Company only, has deposited not less than one hundred thousand dollars, if a Life, or Fire and Life Insurance one hundred and fifty thousand dollars, in the hands of the Receiver General, for the purposes of this Act, and subject to all the provisions thereof, but every such Company shall publish and file with the Minister of Finance on or before the thirty-first day of January in each year, a general statement under oath of the Agent in Canada, containing the particulars mentioned in the form D, in the Schedule annexed to this Act.

Exception as to statements by certain Companies established in the United Kingdom.

16. In case of the Insolvency of any Company, the stock representing the deposit of such Company shall be applied *pro rata* towards the payment of all claims duly authenticated against such Company, upon or in respect of policies issued in Canada ; and any such Company shall be deemed Insolvent upon failure to pay any undisputed claim arising or loss insured against in Canada for the space of *thirty* days after being due, or, if disputed, after final judgment and tender of a legal valid discharge and (in either case) after notice thereof to the Minister of Finance ; and the distribution of the proceeds of such stock may, if applied for in the Province of Ontario, or of Nova Scotia, or of New Brunswick, be made by order in Chancery, or in Equity, or if applied for in the Province of Quebec, may be made, by judgment or order or distribution of the Superior Court within the district where the Chief Agency is situated : Provided that in any case when a claim for loss is by the terms of the policy payable on proof of such loss, without any stipulated delay, the notice to the Minister of Finance under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due.

Application of deposit to pay claims in case of Insolvency of a Company.

Order of the Court in such case.

17. For the purposes of such distribution the Court may order that the stock of the Company so Insolvent be transferred to and inscribed in the Government stock books, at or nearest to the place of the Chief Agency, and within the jurisdiction of the Court, if such stock be not already inscribed there, and may order that no further interest on such stock be thereafter paid to the Company, and that such stock or any part thereof be sold in such manner and after such notice and formalities as the Court may appoint.

Licence to be null on failure to pay deposits, or balance of premiums: and in case of insolvency.

18. Whenever any Company entitled to make the deposits required by this Act by instalments, fails to pay any such instalment when due,—or if any Company fails to pay to the Receiver General the proper balance of its premiums as required by this Act, and at the time required by it,—or whenever notice has been given to the Minister of Finance under the next preceding section but one, so that the amount of the stock representing the deposit of such Company is liable to be reduced by sale of any portion thereof, the license of such Company shall *ipso facto* be null and void and shall be deemed to be withdrawn; but such Licence may, in the case last mentioned, be renewed and the Company may again transact business, if within sixty days after notice to the Minister of Finance of the Company's failure to pay any undisputed claim, or the amount of any final judgment, as provided in the said section, undisputed claims or final judgments upon or against the Company in Canada, are paid and satisfied and the Company's deposit is restored to the amount required by this Act.

And in case of the Company ceasing to do business in Canada.

19. After any Company has ceased to transact business in Canada, and given the notice required by this Act to that effect, it shall be lawful for the Governor in Council on the report of the Treasury Board, to authorize the whole or any portion of the stock or other securities so held in deposit for any Company as aforesaid, to be released and transferred to the Company upon being satisfied that it has no liabilities upon policies issued in Canada, and that no suit or legal proceedings are pending against the Company therein, or on proper proof on oath of the state of its affairs being given that such Company has ample assets to meet all its liabilities; and upon such authority being given by the Governor in Council, the Company shall be entitled to receive, instead of any Dominion stock so held, the amount thereof in money at par.

Mutual Insurance Companies to be subject to this Act in certain cases only.

20. Mutual Fire Insurance Companies having their head office in any part of Canada, shall register their names with the Minister of Finance, and shall make annual returns in such form as may be prescribed by him. Any such Mutual Fire Insurance Company receiving cash or part cash premiums in lieu of premium notes, or accepting risks other than from its own members, shall deposit in the hands of the Receiver General one third of the cash premiums received by it, but the

total amount of such deposit need never exceed the average annual amount of the cash premiums received by the Company during the three years next preceding the date of its then last Return, or the average annual amount of losses sustained during the same period; and if such Mutual Fire Insurance Company receive no cash premiums whatever in lieu of premium notes, and act wholly and exclusively on the Mutual Principle, it shall not be bound to make such deposit.

As to Companies in Ontario and Quebec, licensed under Acts of the late Province of Canada.

21. As regards Fire Insurance Companies in the Provinces of Ontario and Quebec, licensed under the Acts of the Legislature of the late Province of Canada, twenty-third Victoria, chapter thirty-three, and twenty-sixth Victoria, chapter forty-three, the securities given under those Acts by any such Company complying with the requirements of this Act, may be delivered up to them respectively on the warrant of the Minister of Finance, who shall grant such warrant on the conditions herein specified, on being satisfied that there is no claim for which such securities are liable under the provisions of the said Acts, or he may grant such warrant for the delivery of part thereof, provided he is satisfied that the remaining part is sufficient to satisfy any such claim: provided always, that any sum deposited under this Act, shall stand as security for the payment of any claim against the Company depositing it, if licensed under the said Acts, whether such claim accrued before or after the coming into force of this Act; but any Company which has deposited securities of the late Province of Canada under the Acts last mentioned may have the same accepted as so much of the deposit required under this Act, and as respects other securities given under the said Acts it shall be lawful for the Minister of Finance to allow such securities to remain for a period of two years, during which they may be reckoned as part of the deposit required by this Act, and subject to its provisions, and during which the interest of such securities shall be taken by the Receiver General and remain in his hands as part of the deposit: but at the lapse of such time, the said Company shall be bound to make the deposit in cash in the *fourth* and *sixth* sections of this Act specified; And the deposit already made by any such Company of the Power of Attorney and other documents specified in the *ninth* section of this Act, shall, if the same fulfil the requirements of this Act, be construed as made under its provisions.

Provision as to deposit under this Act.

As to British or Foreign companies which cannot by law invest in canadian securities.

22. And as regards British and other Foreign Insurance Companies actually doing business in Canada at the time of the passing of this Act, which cannot by the terms of their constitutions or charters or by law, invest in Canadian securities, it shall be lawful for the Minster of Finance, with the approval of the Governor in Council, to receive the amount of the deposit required of them under this Act, in British or Foreign Government securities, including Stock of any one or more of the United States, at their

then market value, but with power to him to require from time to time, if such market value should decline, additional security equivalent to their diminution in value;—and the portion of the premiums received by any such Company required to be deposited under this Act, may be invested by the Company in any such British or Foreign Stock as aforesaid, and such Stock may be deposited with the Receiver General subject to the provision above made as to value, and diminution in value;—but all such Stock shall be replaced by cash or investment to the amount aforesaid within three years from the issue of the license to the Company, otherwise such license shall be void;

Notice as any such company on the mutual principle.

And as regards any such Company acting on the mutual principle in such wise as to be unable legally to make a deposit under this Act, for the security of policy holders resident in Canada the deposit may be for the general benefit of all its members, but the Company shall specify the fact when making the deposit and in all returns made or published by them.

Lists of companies licensed to be published.

23. The Minister of Finance shall publish quarterly in the Canada Gazette, a list of Companies licensed under this Act with the amount of deposits made by each, stating whether such deposit is for the security of the Canadian Policy holders, exclusively, or for the general security of all policy holders.

Commencement of this Act.

24. This Act shall come into force on the first day of August next, from and after which day the Acts mentioned in the next preceding section shall be repealed, subject to the provision made in the said section; and chapter forty-five of the Acts of the Legislature of New Brunswick, passed in the nineteenth year of Her Majesty's Reign, and intituled: "An Act relating to Insurance Companies not incorporated by Act of Assembly in this Province," shall be repealed on and after the said day, except as regards penalties or liabilities theretofore incurred under it.

Repeal of former Acts.

Exception.

25. The Provisions of this Act as to deposit shall not apply to any Insurance Company incorporated by any Act of the late Province of Canada, or of either of the Provinces of Nova Scotia or New Brunswick, for the purpose of carrying on the business of Insurance in one only of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, so long as it shall carry on business solely and exclusively in one of the said Provinces, and in that one only for which it was incorporated, and in which its Head Office may be situated.

SCHEDULE—FORMS.

Form A.

Statement to be made by every Life or Accident Insurance Company, except Companies mentioned in Section fifteen.

(*Name of the Company.*)	$ cts.
Assets of the Company.....	
Liabilities of do.	
Amount of Capital Stock.....	
Amount paid thereon.....	
Of what the assets of the Company consist, viz: (*insert particulars*).	
Total premiums received during the year.....	
Number and amount of Policies issued during the year	
Amount of claims from death (or accident) do. .	
Expenses of management, agency, &c.....	
Total premiums received during the year in Canada	
Number and amount of Policies issued do.	
Amount at risk on total policies issued in Canada.	
Number and amount of policies that have become claims in Canada, during the year by death (or accident.....	

Form B.

Statement to be made by a Fire or Guarantee Insurance Company, whose deposits are not less than one hundred thousand dollars, (except Companies mentioned in section 15,) referred in section four.

	$ cts.
Assets of the Company.....	
Liabilities of the Company.....	
Amount of Capital Stock.....	
Amount paid thereon.....	
Of what the assets of the Company consist, viz: (*insert particulars*).....	
Amount of losses paid during the year.....	
Amount of losses due and unpaid.....	
Losses adjusted and not due.....	
Losses in suspense and waiting further proof...	
Losses, the payment of which is resisted and for what cause.....	
All other claims against the Company.....	
Amount of premiums earned for the past year...	
Amount of premiums unearned for the past year.	
Number and amount of policies issued during the year.....	

Amount at risk on total policies in force in Canada .....
Losses in Canada paid during the year.....
Do. adjusted and not due.....
Do. in suspense and waiting for further proof.....
Do. the payment of which is resisted and for what cause.
All other claims against the Company.....
Premiums earned in Canada during the year...
Do. unearned do do

FORM C.

Statement to be made by a Fire or Guarantee Insurance Company whose deposits are under one hundred thousand dollars, except those referred to in section four.

Amount of Premiums received during the year on risks effected in Canada less twenty-five per cent. and the net amount of losses actually paid.....
Deposit in conformity with the second section of the said Act.....
Assets of the Company.....
Liabilities of the Company.....
Amount of Capital Stock.....
Amount paid thereon.....
Of what the assets of the Company consist, viz : (*insert particulars*).....
Amount of losses paid during the year.....
Amount of losses due and unpaid.....
Losses adjusted and not due.....
Losses in suspense and waiting for further proof.....
Losses the payment of which is resisted, and for what cause.....
All other claims against the Company.....
Amount of premiums earned during the past year.
Amount of premiums unearned.....
Amount at risk on total policies in force in Canada .....
Losses in Canada paid during the year.....
Losses in Canada adjusted and not due.....
Losses in suspense and waiting for further proof.....
Losses the payment of which is resisted and for what cause.....
All other claims against the Company.....
Premiums earned in Canada during the year..
Premiums unearned in Canada during the year.

FORM D.

Statement to be made by an Insurance Company referred to in Section fifteen.

	$ cts.
Total premiums received during the year, in Canada	
Number and amount of policies issued do. do.	
Amount at risk in total policies in force in Canada.	
Number and amount of policies that have become claims in Canada during the year.....	
Amount of losses in Canada paid during the year.	
Amount of losses in Canada in suspense and waiting further proof.....	
Losses in Canada the payment of which is resisted and for what cause.....	
Amount of premiums earned for the past year in Canada	
Amount of premiums unearned in Canada.....	

[No. 135.]

1st Session, 1st Parliament, 31 Victoria, 1868.

BILL.

An Act respecting Insurance Companies.

Received and read 1st time Tuesday, 19th May, 1868.

Second reading same day.

Hon. Mr. Rose.

Printed by G. E. Desbarats.

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An Act respecting Copyrights.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The Minister of Agriculture shall cause to be kept in his Office, a book to be called the "Register of Copyrights" in which proprietors of literary, scientific, and artistical works or compositions, may have the same registered in accordance with the provisions of this Act.

2. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as may appear to him necessary and expedient for the purposes of this Act; such regulations and forms being circulated in print for the use of the public shall be deemed to be correct for the purposes of this Act, and all documents, executed according the same and accepted by the said Minister of Agriculture, shall be held valid so far as relates to all official proceedings under this Act.

3. Any person resident in Canada or any person being a British subject, and resident in Great Britain or Ireland, who is the author of any book, map, chart, or musical composition, or of any original painting, drawing, statuary, sculpture or photograph, or who invents, designs, etches, engraves or causes to be engraved, etched or made from his own design, any print or engraving, and the legal representatives of such persons, shall have the sole right and liberty of printing, reprinting, publishing reproducing and vending such literary, scientific or artistical works or compositions, in whole or in part, and of allowing translations to be made of such literary works from one language into other languages, for the term of twenty-eight years, from the time of recording the title thereof in the manner hereinafter directed; but no immoral or licencious, treasonable or seditious book or any other such literary, scientific or artistical work or composition shall be the subject of such registration or Copyright.

4. If at the expiration of the aforesaid term, such author, or any of the authors, where the work has been originally composed and made by more than one person, be still living, and residing in Canada or in Great Britain or Ireland, or being dead, has left a widow or a child, or children living, the same exclusive right shall be continued to such author, or if dead, then to such widow and child or children, (as the case may be) for the further time of fourteen years; but in such case within one year after the expiration of the first term, the title of the work secured shall be a second time recorded, and all other regulations herein required to be observed in regard to original Copyrights shall be complied with in respect to such renewed Copyrights.

5. In all cases of renewal of Copyright under this Act, the author or proprietor shall, within two months from the date of such renewal, cause a copy of the record thereof to be published once in the *Canada Gazette.*

6. No person shall be entitled to the benefit of this Act, unless he has deposited in the Office of the Minister of Agriculture two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving, and in case of paintings, drawings, statuary and sculptures, unless he has furnished a written description of such works of art, and the Minister of Agriculture shall cause the same to be recorded forthwith in a book to be kept for that purpose, in the manner prescribed by the rules and forms which may be made, from time to time, as herebefore provided, for which record the person claiming such right as aforesaid, shall pay into the hands of the Minister of Agriculture *one dollar*, and the like sum for every copy actually given to such person or his legal representatives, and the sums so paid shall be paid over to the Receiver General to form part of the Consolidated Revenue of Canada.

7. The Minister of Agriculture shall cause one of the two copies of such book, map, chart, musical composition, photograph, print, cut or engraving aforesaid, to be deposited in the Library of the Parliament of Canada.

8. No person shall be entitled to the benefit of this Act, unless he gives information of the Copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, engraving or photograph, by causing to be impressed on the face thereof, or if a volume of maps, charts, music or engravings, upon the title or frontispiece thereof, the following words, that is to say: "Entered accor- "ding to Act of the Parliament of Canada, in the year " by A. B., in the Office of the Minister of Agri- "culture." But as regards paintings, drawings, statuary and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship.

9. To entitle any such literary production or engraving as is in this Act mentioned, being the work of any such person residing in Great Britain or Ireland, to the protection of this Act, the same shall be printed and published in Canada, and shall, in addition to the words directed to be inserted by the last section of this Act, and immediately following thereafter, contain the name and place of abode or business in Canada of the printer and publisher thereof.

10. If any other person, after the recording of the title of any book according to this Act, within the term or terms herein limited, prints, publishes or imports, or causes to be

printed, published or imported, any copy or any translation of such book without the consent of the person legally entitled to the Copyright thereof, first had and obtained by deed duly executed, or, knowing the same to be so printed or imported, publishes, sells, or exposes to sale or causes to be published, sold or exposed to sale any copy of such book without such consent in writing, such offender shall forfeit every copy of such book to the person then legally entitled to the Copyright thereof; and shall forfeit and pay *two dollars*, for every such copy which may be found in his possession, either printed or printing, published, imported or exposed to sale, contrary to the intent of this Act; of which penalty one moiety shall be to the use of Her Majesty, and the other to the legal owner of such Copyright, to be recovered in any Court of competent jurisdiction.

11. If any person, after the recording of any painting, drawing, statuary or sculpture work, within the term or terms limited by this Act, reproduces in any manner or causes to be reproduced, made or sold, in part or in the whole, copies of the said works of arts, without the consent of the proprietor or proprietors, such offender or offenders shall forfeit the plate or plates on which such reproduction has been made, and also every sheet thereof so copied, printed or photographed to the proprietor or proprietors of the Copyright thereof and shall further forfeit *two dollars* for every sheet of the same reproduction so published or exposed to sale contrary to the true intent and meaning of this Act; and one moiety of such forfeiture shall go to the proprietor or proprietors and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any Court of competent jurisdiction.

12. If any person, after the recording of the title of any print, cut or engraving, map, chart, musical composition or photograph, according to the provisions of this Act, within the term or terms limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either in the whole or by varying, adding to or diminishing the main design, with intent to evade the Law, or prints or imports for sale, or causes to be printed or imported for sale, any such map, chart, musical composition, print, cut or engraving, or any parts thereof, without the consent of the proprietor or proprietors of the Copyright thereof, first obtained, as aforesaid, or knowing the same to be so printed or imported without such consent, publishes, sells or exposes to sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph or print, without such consent, as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph or print, has been copied, and also every sheet thereof, so copied or printed as aforesaid, to the proprietor or proprietors of the Copyright thereof, and shall further forfeit *two dollars* for every sheet of such map, musical composition, print, cut or engraving, which may be found in his or their possession, printed or published,

or exposed to sale, contrary to the true intent and meaning of this Act; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any Court of competent jurisdiction.

13. A literary work, intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical may be the subject of registration within the meaning of the present Act, while it is so preliminarily published, provided that the title of the manuscript and a short analysis of the work are deposited in the office of the Minister of Agriculture, the registration fee be duly paid and that every separate article so published is preceded by the words "Registered in accordance with the Copyright Act of 1868"; but the work when published in book or pamphlet form, shall be subject, besides, to the other requirements of this Act.

14. Nothing herein contained, however shall prejudice the right of any person to represent any scene or object, notwithstanding that there may be Copyright in some other representation of such scene or object.

15. Whenever the author of a literary, scientific or artistical work or composition which may be the subject of Copyright has executed the same for another person or has sold the same to another person for due consideration, such author shall not be entitled to obtain or to retain the proprietorship of such Copyright, which is by the said transaction virtually transferred to the purchaser who may avail himself of such privilege, unless a reserve of the said privilege is specially made by the author or artist in a deed duly executed.

16. If any person prints or publishes any manuscript whatever in Canada, or the same having been printed or published elsewhere, offers it or causes it to be offered for sale in Canada, without the consent of the author or legal proprietor first obtained, such author or proprietor being resident in Canada, or being a British subject resident in Great Britain or Ireland, such person shall be liable to the author or proprietor for all damages occasioned by such injury, to be recovered in any Court of competent jurisdiction.

17. If any person prints, publishes or reproduces any book, map, chart, musical composition, print, cut or engraving, or other work of art or photograph and not having legally acquired the Copyright thereof, inserts therein, or impresses thereon, that the same hath been entered according to this Act, or words purporting the same, every person so offending, shall incur a penalty not exceeding *sixty dollars*, (one moiety thereof to the person who sues for the same, and the other moiety to the use of Her Majesty,) to be recovered in any Court of competent jurisdiction.

18. No action or prosecution for the recovery of any penalty under this Act, shall be commenced more than two years after the cause of action arose.

19. Chapter eighty-one of the Consolidated Statutes of the late Province of Canada, and chapter one hundred and sixteen of the Revised Statutes of Nova Scotia, (third series), and all other Acts or parts of Acts, inconsistent with the provisions of the present Act, are hereby repealed, subject to the provisions of the next section.

20. All Copyrights heretofore acquired under the Acts or parts of Acts hereby repealed, shall, in respect of the unexpired terms thereof, continue unimpaired, and shall have the same force and effect as regards the Province or Provinces to which they now extend and shall be assignable and renewable, and all penalties and forfeitures incurred and to be incurred under the same may be sued for and enforced, and all prosecutions commenced before the passing of this Act for any such penalties or forfeitures already incurred may be continued and completed as if such Acts were not repealed.

21. In citing this Act it shall be sufficient to call it "The Copyright Act of 1868."

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An Act respecting Trade Marks and Industrial Designs.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The Minister of Agriculture, shall cause to be kept in his office books to be denominated respectively the "Trade Mark Register," and "The Register of Industrial Designs," in which any proprietor of a Trade Mark or of a Design may have the same registered by depositing with the said Minister a drawing and description in duplicate of such Trade Mark or Design, together with a declaration that the same was not in use to his knowledge by any other person than himself at the time of his adoption thereof; and the said Minister of Agriculture, on receipt of the fee hereinafter provided, shall cause the said Trade Mark or Design to be examined; to ascertain whether it resembles any other Trade Mark or Design already registered; and if he find that such Trade Mark or Design is not identical with or does not so closely resemble as to be confounded with any other Trade Mark or Design already registered, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with a certificate signed by the Minister or his Deputy to the effect, that the said Trade Mark or Design has been duly registered in accordance with the provisions of this Act; and there shall be further stated in such certificate the day, month and year of the entry thereof, in the proper Register; and every such certificate shall be received in all Courts of Law or of Equity in Canada, as evidence of the facts therein alleged, without proof of the signature.

2. The Minister of Agriculture, may from time to time, subject to the approval of the Governor in Council, make such rules and regulations and adopt forms for the purposes of this Act, and such rules, regulations and forms circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act, and all documents executed according the same and accepted by the Minister of Agriculture shall be held valid so far as relates to the official proceedings under this Act.

TRADE MARKS.

3. For the purposes of this Act, all marks, names, brands, labels, packages or other business devices, which may be adopted for use by any person in his trade, business, occupation or calling, for the purpose of distinguishing any manufacture, product or article of any description by him manufac-

tured, produced, compounded, packed or offered for sale, no matter how applied, whether to such manufacture, product or article, or to any package, parcel, case, box or other vessel or receptacle of any description whatever containing the same, shall be considered and known as Trade Marks, and may be registered for the exclusive use of the party registering the same in the manner hereinafter provided; and thereafter he shall have the exclusive right to use the same, to designate articles manufactured or sold by him, and for the purposes of this Act, timber and lumber of any kind upon which labor has been expended by any person in his trade, business, occupation or calling shall be deemed a manufacture, product or article.

4. Any person having registered a Trade Mark may petition for the cancellation of the same, and the Minister of Agriculture may cause, on receiving such petition, the said Trade Mark to be so cancelled; and the same shall after such cancellation be considered as if it had never been registered under the name of the said party.

5. Every Trade Mark registered in the office of the Minister of Agriculture shall be assignable in law, and on the assignment being produced and the fee hereinafter provided being paid, the Minister of Agriculture shall cause the name of the assignee, with the date of the assignment and such other details as he may see fit, to be entered on the margin of the Register of Trade Marks on the folio where such Trade Mark is registered.

6. If any person shall make application to register, as his own, any trade mark, which has been already registered, the Minister of Agriculture shall cause all parties interested therein to be notified to appear, in person or by Attorney, before him, with their witnesses, for the purpose of establishing which is the rightful owner of such trade mark, and after having heard the parties and their witnesses, the said Minister shall order such entry or cancellation, or both, to be made as he shall deem just; in the absence of the said Minister, his Deputy may hear and determine the case and make such entry or cancellation, or both, as to right and justice may appertain, and, similarly, any error in Registering Trade Marks or any oversight about conflicting registrations of Trade Marks may be settled in the same manner.

7. If any person, other than the party who has registered the same, shall mark any goods or any article of any description whatever with any trade mark registered under the provisions of this Act, or with any part of such trade mark, whether by applying such trade mark or any part thereof to the article itself or to any package or thing containing such article, or by using any package or thing so marked which has been used by the proprietor of such trade mark, or shall knowingly sell or offer for sale any article marked with such trade mark, or with any part thereof, with intent to deceive and to induce persons to believe that such article was manufactured, produced, com-

pounded, packed or sold by the proprietor of such trade mark, he shall be guilty of a misdemeanor, and, on conviction thereof, shall forfeit, for each offence, a sum of not less than twenty dollars and not exceeding one hundred dollars, which amount shall be paid to the proprietor of such trade mark, together with the costs incurred in enforcing and recovering the same; Provided, always, that every complaint under this section shall be made by the proprietor of such trade mark, or by some one acting on his behalf and duly authorized thereto.

8. If any person shall knowingly and wilfully register as his own any trade mark, the property of a person not resident in Canada, he shall be guilty of a misdemeanor, and shall be subject and liable to the penalty mentioned in the preceding section; And the entry of every such trade mark in the Trade Marks Register, shall be cancelled on receipt of a certificate signed by the Clerk of the Court, or the Justices of the Peace before whom the conviction was had, of any such conviction; and one-half of every such penalty shall be paid to the party prosecuting, and the other half to the Crown.

9. If any person shall counterfeit or use the trade mark of any person, not resident in Canada, with intent to deceive the public and lead to the belief that the articles or package so marked were manufactured or put up by the owner of such trade mark, although the same is not registered in Canada, he shall, on conviction thereof, forfeit a sum of not less than ten dollars nor more than fifty dollars for each offence, with costs, one-half of which penalty shall be paid to the complainant and the other half to the Crown.

10. Complaints under either of the two next preceding sections may be brought by any party or person whatever, and the penalties mentioned in the three next preceding sections shall be enforced and recovered in the same manner, and subject to the same provisions as are provided in the sections of this Act respecting the registration and protection of designs.

11. The use of any trade mark either identical with that of any manufacturer, producer, packer, or vender, or so closely resembling it as to be calculated to be taken for it by ordinary purchasers, shall be held to be a use of such trade mark.

12. Notwithstanding anything in the preceding sections contained, a suit may be maintained by any proprietor of a trade mark against any person using his registered trade mark, or any fraudulent imitation thereof, or selling articles bearing such trade mark, or any such imitation thereof, or contained in packages being or purporting to be his, contrary to the provisions of this Act.

Registration of Designs.

13. The Copyright acquired for an industrial design by the Registration of the same as aforesaid shall be valid for the term of five years.

14. Every design to be protected must be registered before publication; and, after Registration, the name of the proprietor, who must be a resident of Canada, shall appear upon the article to which his design applies; if the manufacture be a woven fabric, by printing upon one end; if another substance, at the edge or upon any convenient parts, the letters Rd., with the mention of the year of the Registration; the mark may be put upon the manufacture by making it on the material itself, or by attaching thereto a label containing the proper marks.

15. The author of the design shall be considered the proprietor thereof, unless he has executed the design for another person, for a good or valuable consideration, in which case such other person shall be considered the proprietor, and shall alone be entitled to register it; but his right to the property shall only be co-extensive with the right which he may have acquired.

16. Every design shall be assignable in law, either as to the whole interest or any undivided part thereof, by an instrument in writing, which assignment shall be recorded in the office of the Minister of Agriculture, on payment of the fees hereinafter provided; And every proprietor of a design may grant and convey an exclusive right, under any copyright, to make, use and vend, and to grant to others to make, use and vend such design within and throughout Canada, or any part thereof, for the unexpired term thereof or any part thereof; which exclusive grant and conveyance shall be called a license, and shall be recorded in the same manner and within the same delay as assignments.

17. During the existence of the right (whether it be of the entire or partial use of such design,) no person shall, without the license in writing of the registered proprietor, apply such design, or a fraudulent imitation thereof, to the ornamenting of any article of manufacture, &c., for the purposes of sale, or publish, sell, or expose for sale or use any article of manufacture, &c., to which such design, or fraudulent imitation thereof shall have been applied, under penalty of not less than twenty dollars, and not exceeding one hundred and twenty dollars, to the proprietor of the design, and costs—to be recovered by the registered proprietor, or his assignee, by suit in any Court, having jurisdiction in suits of a like amount.

18. Every person placing the words "registered," or the letters "Rd.," upon any unregistered article, or upon any article the copyright of which has run out, or advertising the same for sale as a registered article, or unlawfully selling, publishing, or exposing for sale such article, knowing the same to have been fraudulently stamped or that the copyright thereof has expired, shall forfeit for every offense a sum not less than four dollars and not exceeding thirty dollars, to be recovered in the same manner as penalties under the next preceding section, and that by any person whatever, who shall receive one-half the

amount of the said last mentioned penalty, on the recovery of the amount which the offender may have been condemned to pay.

19. A suit may be maintained by the proprietor of any design for the damages he has sustained by the application or imitation of the design, for the purpose of sale, against any person so offending, he (the offender) knowing that the proprietor of the design had not given his consent to such application.

20. If any person, not being the lawful proprietor of a design, be registered as proprietor thereof, the rightful owner may institute an action in the Superior Court in the Province of Quebec, in the Court of Queen's Bench in the Provinces of Ontario, and in the Supreme Court in the Provinces of Nova Scotia or New Brunswick as the case may be, and the Court having cognizance of such suit may, if it appear that the design has been registered in the name of a wrong person, either direct the registration to be cancelled, or that the name of the lawful proprietor shall be substituted for the name in the register, with costs in its discretion, and on application by the Plaintiff supported by affidavit, it shall be lawful for any such Court, pending such action or proceedings, at its discretion, to issue an order upon the defendant prohibiting the use of such design, pending such suit or proceedings, under pain of being held in contempt of such Court.

21. The Minister of Agriculture, after due service of such order and payment of the fee hereinafter provided, shall cause such alteration to be made in the Register as shall in said order be directed.

22. All proceedings, under the preceding sections of this Act, shall be brought within twelve months from the commission of the offence, and not after; nor shall any of the clauses of this Act apply to protect any design which does not belong to a person resident within Canada and is not applied to a subject matter manufactured in Canada.

23. On the copy returned to the person registering, a certificate shall be given, signed by the Minister or by his Deputy, that the design has been registered, the date of registration, the name of the registered proprietor, his address, the number of such design, and the number or letter employed to denote or correspond with the registration, which said certificate, in the absence of proof to the contrary, shall be sufficient proof of the design, of the name of the proprietor, of the registration of the commencement and period of registry, of the person named as proprietor being proprietor, of the originality of the design, and of compliance with the provisions of this Act; and generally the writing so signed shall be received as evidence of the facts therein stated, without proof of the signature.

24. Any person may be allowed to inspect the Register of Trade Marks and the Register of Industrial Designs; and the Minister may cause copies or representations of Trade Marks or Industrial Designs to be delivered, on the applicant for the same paying the fee which shall be deemed sufficient for the purpose of having the same copied or represented.

25. The Minister of Agriculture shall have power to refuse to register such designs as do not appear to him to be within the provisions of this Act, or when the design is contrary to public morality or order, subject, however, to appeal to the Governor in Council.

26. The Minister of Agriculture shall, from time to time, cause to be published in the *Canada Gazette* the titles of the designs registered and the names and places of abode of the registered proprietors.

27. Clerical errors happening in the drawing up or copying of any instrument, shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Minister of Agriculture.

28. The following fees shall be payable, to wit:—

On every application to register a design or trade mark, including certificate.....	$5.00
For each certificate of registration not already provided for.....	1.00
For each copy of any drawing, the reasonable expenses of preparing the same.	
For recording any assignment.....	2.00

For office copies of Documents or entries, not above mentioned, the following charges shall be exacted:

For every single or first folio.....	$0.50
For every subsequent hundred words, (fractions from and under fifty being not counted, and over fifty being counted for one hundred).....	0.25

All of which fees shall be paid over by the Minister of Agriculture to the Receiver General of Canada.

29. The Act twenty-fourth Victoria, chapter twenty-first of the Statutes of the late Province of Canada, and the thirtieth Victoria, chapter thirty-first of the Province of New Brunswick, and all other Acts or parts of Acts inconsistent with the present Act are hereby repealed as to any further registration or the granting of any new exclusive right under the provisions thereof; but all rights heretofore acquired by virtue of such

provisions shall remain good and valid and assignable in law, and all penalties and forfeitures incurred or to be incurred under the same may be sued for and enforced, and all prosecutions commenced before the passing of this Act for any such penalties or forfeitures already incurred may be continued and completed, and entries and registrations under the said Acts respectively may be cancelled, as if the said Acts and parts of Acts had not been repealed.

30. For all the purposes of the Act of Canada cited in the next preceding section of this Act, so far as the same remains in force after the passing of this Act, the Deputy of the Minister of Agriculture shall be and is hereby substituted for the Secretary of the Board of Registration and Statistics mentioned in the said Acts, and shall have all the powers and duties of these officers.

31. In citing this Act it shall be sufficient to call it " The Trade Mark and Design Act of 1868."

BILL.

An Act respecting forgery, perjury, and intimidation in connection with the Provincial Legislatures and their Acts.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. The Act chapter ninety-four of the Consolidated Statutes of Canada, intituled: "An Act respecting Forgery," is hereby extended so as to apply as fully in each of the Provinces of Quebec and Ontario, as if it had been re-enacted at the time of the Union with the following extensions: Chapter 94 of Con. Stat. Can. extended to Ontario and Quebec.

1. The Great Seals mentioned in section one of the said Act shall include and mean the Great Seal of each of the said Provinces respectively;

3. The Seal at Arms mentioned in section two of the said Act shall include and mean the Seal at Arms of the Lieutenant Governor of each of the said Provinces respectively;

4. All words mentioning or referring to the late Province of Canada, or the Legislature or Statutes thereof, shall include and mean each of the said Provinces, and the Legislatures and Statutes thereof respectively.

2. Whosoever forges, counterfeits or imitates or procures to be forged, counterfeited or imitated any stamp or stamped paper, issued or authorized to be used by any Act of the Parliament of Canada, or the Legislature of any of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, by means whereof any duty thereby imposed, or any sum of money may be paid, or any part or portion of any such stamp, or knowingly uses, offers, sells or exposes to sale, any such forged, counterfeited or imitated stamp, or engraves, cuts, sinks or makes any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of any officer or person who, being duly authorized in that behalf by the Government of Canada, or of any of the Provinces aforesaid, may lawfully grant such permission—or has possession of any such plate, die or other thing, without such permission, or without such permission uses or has possession of any such plate, die or thing lawfully engraved, cut or made,—or tears off or removes from any instrument, on which a duty or sum of money is payable, any stamp by which such duty or sum of money has been wholly or in part paid, or removes from any such stamp any writing or Forgery of certain stamps to be felony and punished accordingly.

mark indicating that it has been used for or towards the payment of any such duty or sum of money—shall be deemed guilty of felony, and shall on conviction be liable to be imprisoned in the Penitentiary of the Province in which the offence was committed for any term not exceeding twenty-one years and not less than two years, or in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

Contravention of Provincial Acts, a misdemeanor.

3. Any wilful contravention of any Act of the Legislature of any of the Provinces within Canada, which is not made an offence of some other kind shall be a misdemeanor, and punishable accordingly.

Consequences of oath under Act of Provincial Legislature.

4. Any oath or soleum affirmation now or hereafter made, subscribed or administered under the authority of any such Act shall be as binding, and shall entail the same legal liabilities and the same consequences with respect to false swearing, perjury or subornation thereof, as if such oath or affirmation were made, subscribed or administered under the authority of an Act of the Parliament of Canada, or of any Act or law in force in such Province at the time of the Union.

Conspiracy to intimidate a Provincial Legislative body a felony.

5. Whenever two or more persons confederate, combine or conspire to do any act of violence, in order to intimidate, or to put any force or constraint upon any Legislative Council, Legislative Assembly or House of Assembly in any one of the provinces within Canada, each of such persons shall be guilty of felony, and on being convicted thereof, shall be imprisoned in the penitentiary of the Province in which the offence was committed, for any time not less than two years nor more than years, or in any other prison for any period less than two years with or without hard labor.

B. B.

B I L L.

An Act respecting Forgery, Perjury and intimidation in connection with the Provincial Legislatures and their Acts.

Received and read first time, Monday, 18th May, 1868.

Second reading, Monday, 18th May, 1868.

Hon. Mr. Campbell.

Printed by G. E. Desbarats.

C.C. 140

An Act relating to interest in Nova Scotia.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No greater amount than the sum of seven dollars on the hundred dollars per annum, and at and after that rate for a longer or shorter period, shall be recovered in any Court of law as interest on any contract entered into within the Province of Nova Scotia, except in cases of hypothecation as provided in section three, chapter eighty-two, of the Revised Statutes of that Province, second series.

2. Where no rate of interest is agreed upon in writing, six per cent per annum shall be held to be the legal rate in Nova Scotia.

3. Section one of said chapter eighty-two, second series, is hereby repealed.