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Commentaires supplémentaires:

Pagination is as follows: p. 219-238.

Pages 232-233 are incorrectly numbered pages 230-231.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, Anno Domini 1765, in the Fifth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Eighteenth Day of *June*, 1768, in the Eighth Year of His said Majesty's Reign; being the Sixth Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for determining Differences by Arbitration.

HEREAS References made by Rule of Court may contribute much to the Ease of the Subject, in the determining of Controversies, because the Parties become thereby obliged to submit to the Award of the Arbitrators, under the Penalty of Imprisonment for their Contempt in Case they refuse Submission; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That it shall and may be lawful for all Merchants and Traders, and others desiring to end any Controversy, Suit, or Quarrel, Controversies, Suits, or Quarrels, for which there is no other Remedy but by Personal Action, or Suit in Equity, by Arbitration, to agree that their Submission of their Suit to the Award or Umpirage of any Persons, should be made a Rule of His Majesty's Supream Court, or of any of His Majesty's Inferior Courts of Common Pleas within this Province, which the Parties shall choose, and to insert such their Agreement in their Submission, or the Condition of the Bond or Promise, whereby they oblige themselves respectively to submit to the Award or Umpirage of any Person or Persons; which Agreement being so made and inserted in their Submission or Promise, or Condition of their respective Bonds, shall or may, upon producing an Affidavit thereof made by the Witnesses thereunto, or any one of them, in the Court of which the same is agreed to be made a Rule, and reading and filing the said Affidavit in Court, be entered of Record

Preamble.

Eng. Stat. 9. & 10.  
Will. 3. c. 15.

Merchants &c. desiring to end Controversies by Arbitration, may agree their Submission to be made a Rule of Court.

Agreement so made to be inserted in their Submission &c.

Parties to be finally concluded by such Arbitration,

in case of Disobedience Parties subject to Penalty, &c.

unless Arbitrators misbehaved themselves.

Corrupt Arbitrations void, and may be set aside.

cord in such Court, and a Rule shall thereupon be made by the said Court, that the Parties shall submit to, and finally be concluded by the Arbitration or Umpirage which shall be made concerning them by the Arbitrators or Umpire, pursuant to such Submission; and in Case of Disobedience to such Arbitration or Umpirage, the Party neglecting or refusing to perform and execute the same, or any Part thereof, shall be subject to all the Penalties of contemning a Rule of Court, when he is a Suitor or Defendant in such Court, and the Court on Motion shall issue Procefs accordingly, which Procefs shall not be stopped or delayed in its Execution, by any Order, Rule, Command, or Procefs, of any other Court, either of Law or Equity, unless it shall be made appear on Oath to such Court, that the Arbitrators or Umpire misbehaved themselves, and that such Award, Arbitration, or Umpirage, was procured by Corruption, or other undue Means.

II. *And be it further Enacted*, That any Arbitration or Umpirage procured by Corruption, or undue Means, shall be judged and esteemed void and of none Effect, and accordingly be set aside by any Court of Law or Equity, so as Complaint of such Corruption or undue Practice be made in the Court where the Rule is made for Submission to such Arbitration or Umpirage, before the last Day of the next Term after such Arbitration or Umpirage made and published to the Parties; any Thing in this Act contained to the contrary notwithstanding.

C A P. II.

An A C T for giving like Remedy upon Promissory Notes, as is now used upon Bills of Exchange.

Preamble.

Eng. Stat. 3. & 4. Aug. c. 9.

*HEREAS* it has been held that Notes in Writing, signed by the Party who makes the same, whereby such Party promises to pay unto any other Person, or his Order, any Sum of Money therein mentioned, are not assignable or indorsible over, within the Custom of Merchants, to any other Person; and that such Person to whom the Sum of Money mentioned in such Note is payable, cannot maintain an Action, by the Custom of Merchants, against the Person who first made and signed the same; and that any Person to whom such Note should be assigned, indorsed, or made payable, could not, within the said Custom of Merchants, maintain any Action upon such Note against the Person who first drew and signed the same: Therefore to the Intent to encourage the Trade and Commerce of this Province, which will be much advanced, if such Notes shall have the same Effect as Inland Bills of Exchange, and shall be negotiated in like Manner: Be it Enacted by the Lieutenant Governor, Council, and Assembly, That all Notes in Writing, made and signed by any Person or Persons, or by the Servant or Agent of any Merchant, Trader, or other Person or Persons, who is usually intrusted by him, her, or them, to sign such Promissory Notes for him, her,

her, or them, whereby such Person or Persons, his, her, or their Servant or Agent, as aforesaid, doth or shall promise to pay to any other Person or Persons, his, her, or their Order, or unto Bearer, any Sum of Money mentioned in such Note, shall be taken and construed to be, by virtue thereof, due and payable to any such Person or Persons, to whom the same is made payable; and also every such Note payable to any Person or Persons, his, her, or their Order, shall be assignable or indorsible over, in the same Manner as Inland Bills of Exchange are or may be, according to the Custom of Merchants; and that the Person or Persons, to whom such Sum of Money is or shall be by such Note made payable; shall and may maintain an Action for the same, in such Manner as he, she, or they might do, upon any Inland Bill of Exchange, made or drawn according to the Custom of Merchants, against the Person or Persons, who, or whose Servant or Agent, as aforesaid, signed the same; and that any Person or Persons, to whom such Note that is payable to any Person or Persons, his, her, or their Order, is indorsed or assigned, or the Money therein mentioned ordered to be paid by Indorsement thereon, shall and may maintain his, her, or their Action for such Sum of Money, either against the Person or Persons, who, or whose Servant or Agent, as aforesaid, signed such Note, or against any of the Persons that indorsed the same, in like Manner as in Cases of Inland Bills of Exchange: And in every such Action the Plaintiff or Plaintiffs shall recover his, her, or their Damages and Costs of Suit; and if such Plaintiff or Plaintiffs shall be Nonsuited, or a Verdict be given against him, her, or them, the Defendant or Defendants shall recover, his, her, or their Costs against the Plaintiff or Plaintiffs; and every such Plaintiff or Plaintiffs, Defendant or Defendants, respectively recovering, may sue out Execution for such Damages and Costs.

Promissory Notes may be assigned or indorsed, and Action maintained thereon, as on Inland Bills of Exchange.

Plaintiff or Defendant may recover Costs.

II. *And be it further Enacted*, That all and every such Actions shall be commenced, sued and brought, within such Time as is appointed for commencing or suing Actions upon the Case, by the Act of this Province, made in the Thirty Second Year of his late Majesty's Reign, intituled *An Act for Limitation of Actions, and for avoiding Suits of Law*.

How Actions shall be brought.

### C A P. III.

*An ACT* in Addition to and further Amendment of an Act made in the Thirty Second Year of his late Majesty's Reign, intituled *An Act relating to Treasons and Felonies*.

32. Geo. 2: c. 13.



HERE AS it may be doubted in what County the Crime of Murder may be tried, where the Stroke is given in one County and Death ensues in another County, or where any Persons shall be Accessaries to Murders or Felonies committed in several Counties, Therefore be it Enacted

Preamble.

Eng. Stat. 2. & 3. Ed. 6. c. 24

ted

The Trial of a Murderer that strikes or poisons a Man in one County which dieth thereof in another County.

ted by the Lieutenant Governor, Council, and Assembly, That where any Person or Persons shall be feloniously stricken or poisoned in one County, and die of the same stroke or poisoning in another County, that then an Indictment thereof found by Jurors of the County where the Death shall happen, whether it shall be found before the Coroner upon the Sight of such dead Body, or before the Justices of the Peace, or other Justices or Commissioners which shall have Authority to enquire of such Offences, shall be as good and effectual in the Law as if the stroke or poisoning had been committed and done in the same County where the Party shall die, or where such Indictment shall be so found; any Law or Usage to the contrary notwithstanding: And that the Justices of Oyer and Terminer and Gaol Delivery, in the same County where such Indictment at any Time hereafter shall be taken, shall and may proceed upon the same in all Points, as they should or ought to do, in Case such felonious Stroke and Death thereby ensuing, or poisoning and Death thereof ensuing, had grown all in one and the same County. And that such Party to whom Appeal of Murder shall be given by the Law, may commence, take, and sue Appeal of Murder in the same County where the Party so feloniously stricken or poisoned shall die, as well against the Principal and Principals, as against every Accessary to the same Offences, in whatsoever County or Place the Accessary or Accessaries shall be guilty to the same. And further, the Justices before whom any such Appeal shall be commenced, sued, and taken, within the Year and Day after such Murder and Manslaughter committed and done, shall proceed against all and every such Accessary and Accessaries, in the same County where such Appeal shall be so taken, as well concerning the Trial by the Jurors, or Twelve Men of such County where such Appeal or Appeals shall be hereafter taken upon the Plea of Not Guilty pleaded by such Offender or Offenders, as otherwise.

Where an Appeal of Murder in the Case aforesaid shall be pursued.

Appeal against the Accessary.

Trial of an Accessary in one County to a Murder or Felony done in another County.

II. And be it further Enacted, That where any Murder or Felony hereafter shall be committed and done in one County, and another Person or more shall be Accessary or Accessaries in any Manner of wise to any such Murder or Felony in any other County, that then an Indictment found or taken against such Accessary and Accessaries upon the Circumstance of such Matter before Justices of Oyer and Terminer, and Gaol Delivery, appointed to enquire of Felonies in the County where such Offences of Accessary or Accessaries in any Manner of wise shall be committed or done, shall be as good and effectual in the Law, as if the said principal Offence had been committed or done within the same County where the same Indictment against such Accessary shall be found. And that every such Accessary and other Offenders above expressed, shall answer upon their Arraignments, and receive such Trial, Judgment, Order, and Execution, and suffer such Forfeitures, Pains and Penalties, as is used in other Cases of Felony; any Law, or Custom to the contrary heretofore used in any wise notwithstanding.

III. And

III. *And Whereas by the Act of this Province made in the Thirty Second Year of His late Majesty's Reign, intituled An Act relating to Treasons and Felonies, no Declaration is made respecting the Crime of Petit Treason: Be it therefore Enacted,* That if any Woman with Malice prepense, shall kill or procure any other Person or Persons to kill her Husband; or if any Servant with Malice prepense, shall kill or procure any other Person or Persons to kill his or her Master or Mistress; the Persons so offending, their Counsellors, Aiders, and Abettors, privy to the Offence, shall upon due Conviction, be adjudged guilty of Petit Treason, and suffer Death without Benefit of Clergy accordingly.

*Eng. Stat. 25 Ed. 3.  
Stat. 5. c. 2.*

Petit Treason.

IV. *And Whereas by the said Act of the Province, relating to Treasons and Felonies, it is among other Things Enacted,* "That if any Person with Malice prepense, shall kill or procure any other Persons to kill, or shall on Purpose and of Malice forethought, and by laying in Wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member, of any Person, with Intention to kill or to maim or disfigure any such Person; the Persons so offending, their Counsellors, Aiders and Abettors, privy to the Offence, shall be Felons without Benefit of Clergy;" *And it is thereby also Provided* "That no Attainder of such Felony shall work Corruption of Blood, or Forfeiture of Dower, Lands, or Goods of the Offender." *And Whereas Doubts may arise as to what Offences the said Proviso was meant to extend; Be it therefore Enacted and Declared,* That the said Proviso was meant and intended, and shall be construed, deemed, and taken to extend only to the Felony of Maiming, as declared and expressed in the recited Clause in the said Act.

No Corruption of Blood &c. to extend to the Felony of Maiming.

V. *And be it further Enacted,* That the Justices of the Peace, before whom any Person shall be brought for any Murder, Manslaughter, or Felony, or for Suspicion thereof, shall take the Examination of such Prisoner, and Information of those that bring him, of the Fact and Circumstance thereof; and the same, or as much thereof as shall be material to prove the Fact, shall put in Writing; and the same shall certify, together with the Bailment of such Prisoner, (in case the Crime whereof such Prisoner is charged, isailable) at the next Sessions of Oyer and Terminer or Gaol Delivery, to be holden within the Limits of their Commission: And that the said Justices shall bind all such by Recognizance or Obligation, as do declare any Thing material to prove such Murder, Manslaughter, or Felony against such Prisoner, to appear at the next Sessions of Oyer and Terminer or Gaol Delivery, to be holden within the County where the Trial of such Murder, Manslaughter, or Felony, shall be, then and there to give Evidence against such Prisoner; and that the said Justices shall certify the said Bonds or Recognizances taken before them, in like Manner as the Examinations of such Prisoner, and the Witnesses, are herein before directed to be certified.

*Eng. Stat. 1. & 2.  
Phil. & Mar. c. 13.  
2. & 3. Phil. &  
Mar. c. 10.*

The Justices Duty in the Examination and Bailment of a Prisoner, and in the Examination of Witnesses, and certifying thereof.

## C A P. IV.

## An A C T for enabling the Sale of Goods distrained for Rent.

Eng. Stat. 2. Will.  
 & Mar. Stat. 1. c. 5.  
 Brit. Stat. 8.  
 Ann. c. 14.  
 11. Geo, 2. c. 19.

Goods Distrained  
 for Rent may be  
 appraised and Sold.

*HEREAS* the most ordinary and ready way for Recovery of Arrears of Rent is by Distress; yet such Distresses not being to be sold, but only detained as Pledges for enforcing the Payment of such Rent, the Persons distraining have little Benefit thereby; For the remedying whereof, Be it Enacted by the Lieutenant Governor, Council and Assembly, That where any Goods or Chattels shall be distrained for any Rent reserved and due upon any Demise, Lease, or Contract whatsoever, and the Tenant or Owner of the Goods so distrained shall not, within Five Days next after such Distress taken, and Notice thereof (with the Cause of such taking) left at the chief Mansion House, or other most notorious Place on the Premises charged with the Rent distrained for, replevy the same with sufficient Security to be given to the Sheriff, according to Law; that then in such Case, after such Distress and Notice as aforesaid, and Expiration of the said Five Days, the Person distraining shall and may with the Provost Marshal or his Deputy, or with the Constable of the Town or Place where such Distress shall be taken (who are hereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained to be appraised by two sworn Appraisers (whom any Justice of the Peace of the County where such Goods shall be distrained, or such Provost Marshal or his Deputy, are hereby impowered to swear) to appraise the same truly according to the best of their Understandings; and after such Appraisement shall and may lawfully sell the Goods and Chattels so distrained, for the best Price can be gotten for the same, towards Satisfaction of the Rent for which the said Goods and Chattels shall be distrained, and of the Charges of such Distress, Appraisement and Sale, leaving the Overplus (if any) in the Hands of the said Provost Marshal, his Deputy, or Constable, for the Owner's use.

II. *And Whereas* no Sheaves or Cocks of Corn loose or in the Straw, or Hay in any Barn, or on any Hovel, Stack, or Rick, can by the Law be distrained, or otherwise secured for Rent, whereby Landlords may be oftentimes coufened and deceived by their Tenants, who may sell their Corn, Grain, and Hay, to Strangers, and remove the same from the Premises chargeable with such Rent, and thereby avoid the Payment of the same, Be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for any Person or Persons having Rent Arrear, and due upon any such Demise, Lease, or Contract, as aforesaid, to seize and secure any Sheaves or Cocks of Corn, or Corn loose, or in the Straw, or Hay lying or being in any Barn, or upon any Hovel, Stack, or Rick, or otherwise upon any Part of the Land or ground charged with such Rent, and to lock up or detain the same in the Place where the same shall be found, for or in the Nature of a Distress, until the same shall be replevied up-

Corn loose &c. may  
 be Distrained and  
 sold.

on such Security to be given as aforesaid; and in Default of replevying the same as aforesaid, within the Time aforesaid, to sell the same after such Appraisement thereof to be made; so as nevertheless such Corn, Grain, or Hay, so distrained as aforesaid, be not removed by the Person or Persons distraining, to the Damage of the Owner thereof, out of the Place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied, or sold in Default of replevying the same within the Time aforesaid.

III. *And be it further Enacted,* That upon any Pound Breach, or Rescuous of Goods or Chattels distrained for Rent, the Person or Persons grieved thereby, shall, in a special Action upon the Case for the Wrong thereby sustained, recover his and their Treble Damages and Costs of Suit, against the Offender or Offenders in any such Pound Breach or Rescuous, any or either of them, or against the Owners of the Goods distrained in case the same be afterwards found to have come to his Use or Possession.

Treble Damages  
for Pound Breach.

IV. *Provided always, and be it further Enacted,* That in case any such Distress and Sale, as aforesaid, shall be made by Virtue or Colour of this present Act, for Rent pretended to be Arrear and due, where in Truth no Rent is Arrear or due to the Person or Persons distraining, or to him or them in whose Name or Names, or Right, such Distress shall be taken as aforesaid, that then the Owner of such Goods or Chattels distrained and sold as aforesaid, his Executors or Administrators, shall and may, by Action of Trespass, or upon the Case, to be brought against the Person or Persons so distraining, any or either of them, his or their Executors or Administrators, recover double of the Value of the Goods or Chattels so distrained and sold, together with full Costs of Suit.

Double Damages  
and Costs against  
wrongful Distrai-  
ner.

V. *And be it further Enacted,* That no Goods or Chattels whatsoever, lying or being in or upon any Messuage, Lands, or Tenements, which are or shall be leased for Life or Lives, Term of Years, at Will, or otherwise, shall be liable to be taken by virtue of any Execution, on any Pretence whatsoever, unless the Party at whose Suit the said Execution is sued out, shall before the Removal of such Goods from off the said Premises, by virtue of such Execution or Extent, pay to the Landlord of the said Premises, or his Bailiff, all such Sum or Sums of Money as are or shall be due for Rent for the said Premises at the Time of the taking such Goods or Chattels by virtue of such Execution; *Provided* the said Arrears of Rent do not amount to more than one Year's Rent; and in case the said Arrears shall exceed one Year's Rent, then the said Party, at whose Suit such Execution is sued out, paying the said Landlord, or his Bailiff one Year's Rent, may proceed to execute his Judgment, as he might have done before the making of this Act; and the Provost Marshal or his Deputy, or other Officer, is hereby impowered and required to levy and pay to the Plaintiff as well the Money so paid for Rent, as the Execution Money.

No Goods &c. to  
be taken in Execu-  
tion &c. unless the  
Party before Remo-  
val of the Goods  
&c. pay the Land-  
lord the Rent due.

Provided it amounts  
to no more than  
one Year's Rent.

The Provost Mar-  
shall to levy the  
Rent as well as the  
Execution Money.

VI. *And*



If any Lessee for Life &c. shall fraudulently carry off Goods &c. the Lessor &c. may within 21 Days after seizure of such Goods &c. and sell the same as if they had been distrained.

VI. *And be it further Enacted*, That in case any Lessee for Life or Lives, Term of Years, at Will, or otherwise, of any Messuages, Lands, or Tenements, upon the Demise whereof any Rents are or shall be reserved or made payable, shall fraudulently or clandestinely convey or carry off or from such demised Premises, his Goods or Chattels, with Intent to prevent the Landlord or Lessor from distraining the same for Arrears of such Rent so reserved as aforesaid, it shall and may be lawful to and for such Lessor or Landlord, or any Person or Persons by him for that purpose lawfully impowered, within the space of Twenty one Days next ensuing such conveying away or carrying off such Goods or Chattels, as aforesaid, to take and seize such Goods and Chattels wherever the same shall be found, as a Distress for the said Arrears of such Rent, and the same to sell, or otherwise dispose of in such Manner, as if the said Goods and Chattels had actually been distrained by such Lessor or Landlord, in and upon such demised Premises for such Arrears of Rent; any Law, Custom, or Usuage to the contrary in any wise notwithstanding.

Provided such Lessor shall not seize Goods &c. which shall be *bona fide* sold before.

VII. *Provided nevertbeless*, That nothing in this Act contained shall extend, or be construed to extend, to impower such Lessor or Landlord to take or seize any Goods or Chattels as a Distress for Arrears of Rent, which shall be sold *bona fide*, and for a valuable Consideration, before such Seizure made; any Thing herein contained to the contrary notwithstanding.

Debt may be bro't against Tenant for Life, for Rent.

VIII. *And Whereas no Action of Debt lies against a Tenant for Life or Lives, for any Arrears of Rent, during the Continuance of such Estate for Life or Lives, Be it Enacted*, That it shall and may be lawful for any Person or Persons, having any Rent in Arrear or due upon any Lease or Demise for Life or Lives, to bring an Action or Actions of Debt for such Arrears of Rent, in the same Manner as they might have done, in case such Rent were due and reserved upon a Lease for Years.

Rent in Arrear upon a Lease for Life &c. expired may be distrained for after the Determination of the Lease.

IX. *And Whereas Tenants pur auter vic, and Lessees for Years, or at Will, frequently hold over the Tenements to them demised, after the Determination of such Leases; And Whereas after the Determination of such, or any other Leases, no Distress can by Law be made for any Arrears of Rent that grew due on such respective Leases, before the Determination thereof; It is further Enacted*, That it shall and may be lawful, for any Person or Persons, having any Rent in Arrear or due upon any Lease for Life or Lives, or for Years, or at Will, ended or determined, to distrain for such Arrears, after the Determination of the said respective Leases, in the same Manner as they might have done, if such Lease or Leases had not been ended or determined.

Within what Time such Distress shall be made.

X. *Provided*, That such Distress be made within the Space of Six Calendar Months, after the Determination of such Lease and during the Continuance of such Landlord's Title or Interest, and during

during the Possession of the Tenant from whom such Arrears became due.

XI. *And be it further Enacted,* That it shall and may be lawful to and for every Lessor or Landlord, Lessors or Landlords, or his, her, or their Steward, Bailiff, Receiver, or other Person or Persons impowered by him, her, or them, to take and seize, as a Distress for Arrears of Rent, any Cattle or Stock, of their respective Tenant or Tenants, feeding or depasturing upon any Common, Appendant or Appurtenant, or any ways belonging to all or any Part of the Premises demised or holden; and also to take and seize all sorts of Corn and Grass, Hops, Roots, Fruits, Pulse, or other Product whatsoever, which shall be growing on any Part of the Premises so demised or holden, as a Distress for Arrears of Rent; and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the Barns, or other proper Place on the Premises so demised or holden; and in case there shall be no Barn or proper Place on the Premises so demised or holden, then in any other Barn or proper Place which such Lessor or Landlord, Lessors or Landlords shall hire or otherwise procure for that Purpose, and as near as may be to the Premises; and in convenient Time to appraise, sell, or otherwise dispose of the same, towards Satisfaction of the Rent for which such Distress shall have been taken, and of the Charges of such Distress, Appraisalment, and Sale, in the same Manner as other Goods and Chattels may be seized, distrained and disposed of; and the Appraisalment thereof to be taken when cut, gathered, cured, and made, and not before.

Stock or Cattle on the Premises, may be distrained for Arrears of Rent.

XII. *Provided always,* That Notice of the Place where the Goods and Chattels so distrained shall be lodged or deposited, shall, within the space of one Week after the lodging or depositing thereof in such Place, be given to such Lessee or Tenant, or left at the last Place of his or her Abode.

Tenants to have Notice of the Place where the Distress is lodged.

XIII. *Provided always, and it is hereby Enacted,* That nothing in this Act contained shall extend, or be construed to extend, to let, hinder, or prejudice His Majesty, his Heirs or Successors, in the levying, recovering or seizing, any Quit Rents, Debts, Fines, Penalties, or Forfeitures, that are or shall be due, payable, or answerable, to His Majesty, his Heirs or Successors; but that it shall and may be lawful for His Majesty, his Heirs and Successors, to levy, recover, and seize, such Quit Rents, Debts, Fines, Penalties and Forfeitures, in the same Manner as if this Act had never been made; any Thing in this Act contained to the contrary thereof in any wise notwithstanding.

This Act shall not hinder the King &c. to levy &c. any Quit Rents &c. due to the Crown.

## C A P. V.

An ACT in Addition to and Amendment of an Act made and passed in the Third Year of his present Majesty's Reign, intituled *An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor.*

3. Geo. 3. c. 7.  
2. Sess.

Preamble.



*HEREAS in the Act made and passed in the Third Year of his present Majesty's Reign, intituled An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor, The Freeholders are directed to meet on the first Monday in January annually, to make Provision for the Relief of the Poor; And Whereas it has been found inconvenient to have the Meeting at that Season of the Year, Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That the said Meeting shall be held, for the future, on the last Tuesday in October annually.*

Meeting of Freeholders to be on the last Tuesday in October annually.

II. *And Whereas in the said Act, no Power is given to the Freeholders of the several Towns at their annual Meeting to adjourn in case the Business before them cannot be completed on the said Day, Be it therefore Enacted, That it shall and may be lawful for the Chairman of the said Freeholders when so assembled, and the Business before them cannot be finished on the first Day of their Meeting, to adjourn the said Meeting to the Day following, in order to compleat the Business.*

The Meeting may be adjourned to the next Day, if the Business is not completed the first Day.

III. *And Whereas in the said Act, no Provision is made for the Choice of other Assessors, in the Room of such who may refuse to serve in the said Office, to which they shall be appointed, Be it Enacted, That if any such Assessors, so nominated and appointed, shall refuse to serve in the said Office, the said Freeholders shall proceed to nominate and appoint others in their stead.*

If any Assessor refuse to serve, another shall be appointed in his stead.

IV. *And Whereas no Provision is made in the said Act for compelling the Collectors who have accepted the said Office, to put the said Act in Force against such Persons who may refuse to pay the several Sums, in which they shall be assessed, Be it Enacted, That when any such Collector or Collectors so appointed, shall neglect his or their Duty for the Space of Thirty Days, in complying with the Directions in the said Act contained, every such Collector shall forfeit and pay the Sum of Five Pounds for every such Neglect, to be prosecuted and recovered by the Overseers of the Poor of the Town where such Offence shall be committed, by Bill, Plaint, or Information, in any of His Majesty's Courts of Record, to be applied to the Use of the Poor of such Town.*

Collectors neglecting their Duty forfeit £5.

V. *And be it further Enacted, That all former Assessments heretofore*

tofore made, for the Maintenance of the Poor, shall be and are hereby confirmed, any want of Form, or other Defect in the Time of Meeting of the said Freeholders notwithstanding.

Former Assessments confirmed.

### C A P. VI.

*An ACT* in Addition to an Act made and passed in the Fifth Year of his present Majesty's Reign, intituled *An Act for the Choice of Town Officers and regulating of Townships.*

5. Geo. 3. c. 1.

*HEREAS* in and by an Act made and passed in the Fifth Year of his present Majesty's Reign, intituled An Act for the Choice of Town Officers and regulating of Townships, it is among other Things Enacted, "That the Grand Juries of the Quarter Sessions of the Peace shall annually nominate four fit Persons out of whom the Court shall appoint two to be Surveyors of Highways," And Whereas in some Towns two Surveyors of Highways are not sufficient; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That for the future the said Grand Juries of the Quarter Sessions of the Peace shall annually nominate Eight fit Persons, out of whom the said Court of Quarter Sessions shall have Power to appoint two or more Persons to be Surveyors of Highways; any Law, Usage, or Custom to the contrary notwithstanding.

Preamble.

The Grand Jury to nominate Eight Persons, of whom the Court to appoint two or more to be Surveyors of Highways.

### C A P. VII.

*An ACT* for taking Special Bails in the Country, upon Actions depending in His Majesty's *Supream Court* of this Province.

*FOR* the greater Ease and Benefit of all Persons whatsoever, in making Oath to their Debts, and in taking the Recognizances of Special Bails, upon all Actions and Suits depending, or to be depending in His Majesty's *Supream Court* of this Province: Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Chief Justice and other the Justices of His Majesty's said *Supream Court*, or any two of them, whereof the Chief Justice for the Time being to be one, shall or may, by one or more Commission or Commissions under the Seal of the said Court, from Time to Time as Need shall require, empower such and so many Persons, other than common Attornies and Solicitors, as they shall think fit and necessary, in all and every the several Counties within this Province, to administer an Oath in Writing to any Person where it shall be necessary to hold any Defendant to Bail, upon any Original Writ or Process issuing out of the said Court,

Preamble:

4. Will. & Mar. c. 4.

Chief Justice &c. the *Supream Court*, may make any Persons, except Attornies and Solicitors, Commissioners to take Bail &c. in the Country.

Court, and to mark the Writ for Bail accordingly; and also to take and receive all and every such Recognizance or Recognizances of Bail or Bails, as any Person or Persons shall be willing or desirous to acknowledge or make before any of the Persons so impowered, in any Action or Suit depending or hereafter to be depending in the said Court, in such Manner and Form and by such Recognizance or Bail Piece, as the said Justices have used to take the same; which said Oath in Writing, and the said Recognizance or Recognizances of Bail, or Bail Piece, so taken as aforesaid, shall be transmitted to some or one of the Justices of the said Court, who, upon Affidavit made of the due taking of the Recognizance of such Bail or Bail Piece, by some credible Person present at the taking thereof, shall receive the same, upon Payment of a Fee of Two Shillings and no more; which said Oath, and Recognizance of Bail, or Bail Piece, so taken and transmitted, shall be of the like Effect, as if the same were taken *de bene esse* before any of the said Justices of the said Court; for the administering of every which Oath and marking such Writ as aforesaid, the said Commissioners shall receive only the Sum or Fee of Two Shillings and no more; and for the taking of every which Recognizance or Recognizances of Bail or Bail Piece, the said Commissioners shall receive only the Sum or Fee of Five Shillings and no more.

Justices to receive the Bail Piece &c. upon Affidavit of due Execution.

Justices Fee.

Bail taken below to be as *de bene esse*.

Commissioners Fee.

Power given to the Justices to make Rules for justifying the Bail.

II. *And be it further Enacted*, That the Justices of the said *Supream Court* shall make such Rules and Orders for the justifying of such Bails, and making of the same absolute, as to them shall seem meet, so as the Cognizor or Cognizors of such Bail or Bails be not compelled to appear in Person in the said Court, to justify him or themselves, but the same may be and hereby is directed to be determined by Affidavit or Affidavits duly taken before the said Commissioners, who are hereby impowered and required to take the same, and also to examine the Sureties upon Oath, touching the Value of their respective Estates, unless the Cognizor or Cognizors of such Bail do live within the Town of *Halifax*, or within Twenty Miles thereof,

Felony for any Person to be Bail in another Man's Name.

III. *And be it further Enacted*, That any Person or Persons, who shall before any Person or Persons impowered by virtue of this Act, as aforesaid, to take Bail or Bails, represent or personate any other Person or Persons, whereby the Person or Persons so represented or personated may be liable to the Payment of any Sum or Sums of Money, for Debt or Damages to be recovered in the same Suit or Action, wherein such Person or Persons are represented and personated, as if they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted or attainted do by the Law of England lose and forfeit.

## C A P. VIII.

An ACT for the convenient and speedy Assignment  
of Dower.

♦♦♦♦♦ **ORASMUCH** as some Directions in the Law are necessary,  
 ♦♦♦♦♦ **F** that Women may be enabled to come by their Dower; Be it  
 ♦♦♦♦♦ **Enacted** by the Lieutenant Governor, Council, and Assem-  
 ♦♦♦♦♦ **bly**, That when and so often as the Heir or other Person  
 having the Freehold, shall not within one Month next after De-  
 mand made, assign and set out to the Widow of the Deceased, her  
 Dower or just third Part of and in all Houses, Lands, Tenement  
 or Hereditaments, whereof she is Dowable at the Common Law  
 to her Satisfaction according to the true Intendment of Law, the  
 such Widow may sue for and recover the same by Writ of Dower  
 to be therefore brought against such Persons as have, or claim  
 have Right as aforesaid in the said Estate, in Manner and Form  
 following, *That is to say.*

Preamble.  
 Heir &c. to reas.  
 Dower within one  
 Month next after  
 Demand.

II. **GEORGE** the Third, by the Grace of **GOD** of Great Britain,  
 France and Ireland, **KING**, Defender of the Faith, &c.

*To the Provost Marshal of Our Province of Nova Scotia, or his Depu-  
 ty, Greeting.*

**COMMAND** A. B. within the said County, that instantly with-  
 out Delay render to C. D. who was the Wife of E. D. Writ of Dower.  
 late of aforesaid deceased, her reasonable Dower whic'  
 happens to her of a certain Messuage or Tenement with the Appurte-  
 nances, situate in aforesaid; in the Possession of the said A. B.  
 which was in the Seizin and Possession of her said Husband E. D. an  
 whereof he was seized in his Demesne as of Fee during the Coverture  
 and whereof she hath nothing (as she saith) and the said C. D. com-  
 plains that the said A. B. hath desorced her thereof. And unless the  
 said A. B. shall so do, then summon by good and lawful Men in the sai-  
 County, the said A. B. that be before our Justices of Our  
 Court next to be holden at for the County of  
 aforesaid, on the Day of then and there to shew Cause,  
 why to the said C. D. her reasonable Dower as aforesaid doth  
 not render. And have you the Names of them by whom you summon  
 the said A. B. and this Writ. Witness E. H. Esquire, at  
 the Day of in the Year of Our Reign, Annoque  
 Domini

A. D. Clerk,

II. *And be it further Enacted*, That upon Judgment being given  
 for any Woman to recover her Dower in any Estate of Houses and  
 Lands, and other Hereditaments, which were her Husband's,  
 reasonable Damage shall also be assigned to her from the Time of  
 the Demand made, and a Writ of Seizin shall be directed to the

Reasonable Da-  
 mage to be af-  
 signed to the Wi-  
 dow.

Provost Marshal or his Deputy, in Manner and Form following;  
That is to say.

ff. GEORGE the Third, by the Grace of GOD, of Great Britain,  
France, and Ireland, KING, Defender of the Faith, &c.

To the Provost Marshal of Our Province of Nova Scotia, or his Deputy,  
Greeting.

**W**HEREAS C. D. Widow, who was the Wife of E. D. late  
of in the County aforesaid deceased, before our  
Justices of our Court holden at for Our County aforesaid,  
on the Day of now last past, did recover her Seizin a-  
gainst A. B. of aforesaid of one Third Part of a certain  
Messuage or Tenement, &c. with the Appurtenances, situate in  
aforesaid, in the Possession of the said A. B. as her Dower of the En-  
dowment of the said E. D. her certain Husband, by Our Writ of  
Dower, whereof she hath nothing. Therefore We Command you that  
to the said C. D. full Seisin of one Third Part of the aforesaid Mes-  
suage or Tenement, &c. with the Appurtenances you cause to be had  
without Delay: To hold to her in Severalty by Metes and Bounds.  
We Command you also, that of the Goods or Chattels of the said A. B.  
within your Precinct, you cause to be paid and satisfied unto the said  
C. D. at the Value thereof in Money, the Sum of for Damages  
awarded her by our said Court, for her being held and kept out of her  
Dower aforesaid, and Costs expended on this Suit, with more  
for this Writ; and thereof also to satisfy yourself your own Fees. And  
for want of Goods or Chattels of the said A. B. to be by him shewn unto  
you, or found within your Precinct, to satisfy the same, We Command  
you to take his Body, and commit him to the Keeper of Our Gaol in  
in Our County aforesaid within the said Prison. Whom we  
likewise Command to receive the said A. B. and him safely to keep, until  
he pay unto the said C. D. the full Sum above mentioned, and also satisfy  
your Fees. Hereof fail not, and make Return of this Writ, and how  
you shall have executed the same, to Our next Court to be  
holden at for Our said County of on the Day of  
next. Witness E. H. Esquire, at the Day of  
in the Year of Our Reign, Annoque Domini 17  
A. D. Clerk.

And where no Damages shall be awarded, the Writ to run only for  
Seisin and Costs of Suit.

III. And be it further Enacted, That the Provost Marshal or  
his Deputy, to whom such Writ is directed, is to cause her Third  
Part of Dower in such Estate, to be set forth unto her by five  
Freeholders of the Neighbourhood, upon their Oaths, (Three at  
least to agree) who shall be sworn before a Justice of the Peace,  
to set forth the same equally and impartially without Favor or Af-  
fection, as convenient as may be; which Oath every Justice of  
the Peace is hereby impowered to administer.

IV. And

IV. *And be it further Enacted*, That of Inheritances that be intire, where no Division can be made by Metes and Bounds, so as a Woman cannot be endowed of the Thing itself, she shall be endowed thereof in a special and certain Manner, as of a Third Part of the Rents, Issues, or Profits thereof, to be computed and ascertained in Manner as aforesaid. And no Woman that shall be endowed of any Lands, Tenements, or other Inheritances, as aforesaid, shall commit or suffer any Strip or Waste thereupon, but shall maintain the Houses or Tenements, with the Fences and Appurtenances thereof, with which she shall be so endowed, in good Repair during her Term, and leave the same so at the Expiration thereof, and shall be liable to Action for any Strip or Waste by her done, committed or suffered.

Widow shall not  
make Strip or  
Waste.

### C A P. IX.

*An ACT* in further Addition to and in Amendment of an Act made and passed in the Thirty Fourth Year of his late Majesty's Reign, intituled *An Act for appointing Commissioners of Sewers.*

*HEREAS* in an Act made and passed in the Thirty Fourth Year of his late Majesty's Reign, intituled *An Act for appointing Commissioners of Sewers*, it is amongst other Things Enacted, "That the Commissioners of Sewers shall be impowered to meet and convene together from Time to Time, as occasion may require, to view, consider, consult, and contrive such Ways and Methods for building and repairing such Dykes and Wears, as are necessary to prevent Inundations, and for drowning and draining of Swamps and other unprofitable Grounds, and to employ Workmen and Labourers for such reasonable Wages as may be agreed on for effecting the Premises, and from Time to Time, to assess and tax all such Persons as may or shall be Owners of such Meadows, Marshes, or such unprofitable Swamps or Lands aforesaid: towards the Charge thereof." *And Whereas many of the Commissioners of Sewers complain that assessing the Owners of such Lands as aforesaid, by no means answers the Intention proposed by said Act, as Labourers cannot be hired in lieu of such Owners of Lands as aforesaid, whereby it may happen that large Quantities of Corn or Grass on the Marsh Lands, may be greatly damaged or utterly spoiled by the Sea overflowing the same, for want of immediate Labour, to the great Loss and Discouragement of the industrious Farmer, and to the Detriment of the Province; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council, and Assembly*, That from and after the Publication hereof, each and every Owner or Possessor of Marsh Lands in any Township, District, or Place, within this Province, (where Commissioners of Sewers are appointed) shall in all common Cases, either in raising new or repairing old Dykes, or ditching or drain-

Owner &c. of  
Marsh Lands shall  
attend himself or  
send a sufficient  
hourer in

ning



ing Lands, attend either by himself or provide a sufficient Labourer with proper Tools, to work at the Time and Place appointed by the said Commissioners of Sewers, agreeable to the Rules and Regulations made for that purpose; and when it shall happen that any Owner or Possessor of any such Marsh Lands in any Township, District, or Place, shall have, occupy, or receive, the Produce of a greater Quantity of said Lands than one Right or Share, in such Marsh, that then and in such Case every Owner or Possessor shall furnish a Number of Labourers in Proportion to their respective Quantities of Lands, as agreed on by the Commissioners of Sewers: And where it may be necessary to employ Oxen or Carts, for the more expeditiously carrying on their Work, each and every Owner or Possessor of such Lands, who have Oxen or Carts, shall in like Manner be obliged to attend with, or send such Oxen or Carts for the Work aforesaid, and in the aforesaid Proportion, in Lieu of Labourers.

in Proportion to the Quantities of Lands he shall possess.

Oxen and Carts may be employed in lieu of Labourers

Six Days Notice to be given of the Time and Place where the work is to be done.

II. *Provided always* That such Owner or Possessor of such Lands to be dyked or drained, shall have at least *Six Days* Notice of the Time and Place where such Work is required to be done, by one or more of the Commissioners of Sewers, or by some Person appointed by them for that Purpose.

In Case of a sudden Breach in any Dyke &c., every Owner or Possessor of Lands within such Dyke, shall immediately repair to the Place directed, and endeavour to repair such Breach. &c.

III. *And be it further Enacted,* That in Case of any sudden Breach in any Dyke, or where any Breach is likely to be made or Inundation occasioned by Storms, high Tides, or otherwise, each and every Owner or Possessor of Land within such Dykes shall immediately, on Notice being given by any one or more of the Commissioners of Sewers or Persons appointed by them, repair to the Place directed, with proper Tools, to labour and use their utmost Endeavours to repair such Breach or Place likely to be a Breach; and shall continue to work from Day to Day on the same, so long as the Commissioners of Sewers shall judge it absolutely necessary, for preserving the Land and Produce within such Dyke from Damage.

Owners or Possessors of Marsh or Dyke Lands, refusing or neglecting to Labour.

IV. *And be it also Enacted,* That if any Owner or Possessor of any Marsh or Dyke Lands within any Township, District, or Place within the Province as aforesaid, shall neglect or refuse to attend and labour, or to send a sufficient Number of Labourers at the Time and Place to be appointed by the Commissioners of Sewers as aforesaid, in Proportion to the Quantity of Land in his or their Possession, (due Notice having been given as aforesaid) each and every delinquent Owner or Possessor of such Lands shall forfeit and pay, over and above their Assessment or Tax to be made by virtue of the aforementioned Act, the Sum of Five Shillings for every Day's Neglect or Refusal for each and every Labourer such Owner or Possessor of such Land ought to have sent. And if such Owner or Possessor of such Lands shall neglect or refuse to attend and labour, where any sudden Breach shall happen, or be likely to happen to any such Dykes, on immediate Notice given to such Owner or Possessor, such Delinquent Owner or Possessor shall forfeit and pay the Sum

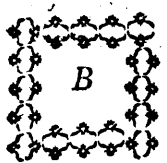
of Ten Shillings for each Day's Neglect, for each and every Person which should have been sent by him, and so in like Proportion for Oxen and Carts; to be recovered by Warrant of Distress, on Conviction before any one of His Majesty's Justices of the Peace for the County where the Offence shall be committed, and for want of Goods and Chattels to satisfy such Distress and Charges, the Lands of such Delinquent, or so much as shall be sufficient, shall be held and let out by said Justice until the Produce thereof shall amount to the Fine and Charges so levied, in the same Manner as is directed by Law for a Delinquent's Proportion of Assessments or Taxes for making and repairing Dykes; and the Monies arising from such Fines to be paid into the Hands of the Commissioners of Sewers to be appropriated for the making and repairing Dykes, in the Township, District, or Place, where the same shall be recovered.

To be recovered before any Justice of the Peace for the County,

and appropriated for making and repairing Dykes.

## C A P. X.

*An ACT* for discharging the Penalties and Forfeitures in Bonds, Contracts, and Agreements, on Payment and Satisfaction of the principal Sum and Damages due upon the same.



*E it Enacted by the Lieutenant Governor, Council, and Assembly,* That in every Action upon any Bond, Contract, and Agreement, with Penalty for Performance of the Condition contained in such Bond, Contract, or Agreement, it shall and may be lawful for the respective Courts, where such Action shall be brought, upon due Proof of the just Sum due upon the Condition of such Bonds, Contracts, and Agreements, together with all such Damages and Costs as have been incurred by Non performance of the Condition, to direct and receive a Verdict for the Sum and Damages so proved at the Trial; and to cause Satisfaction to be entered upon the Judgment upon such Bond, Contract and Agreement, upon Payment of the Debt and Damages, so to be ascertained by Verdict or otherwise.

4. Ann. c. 16.

In Actions brought upon Bonds, &c. with Penalties, Verdict shall be only for the Sum justly due.

II. *And be it further Enacted,* That when any Action of Debt shall be brought on any single Bill, or where Debt or *Scire facias* shall be brought on any Judgment, if the Defendant hath paid the Money, such Payment may be pleaded in Bar; and where Debt is brought on any Bond which hath a Condition or Defeazance to make void the same upon Payment of a lesser Sum, if the Obligor,

In Action of Debt brought on single Bill or Judgment, after Money paid, such Payment may be pleaded in Bar.

his Heirs, Executors, or Administrators, have, before the Action brought, paid the Principal and Interest due, though such Payment was not made strictly according to the Condition of the De-feazance, yet it may be pleaded in Bar, and shall be as effectual as if the Money had been paid at the Day and Place according to the Condition, and had been so pleaded.

Principal and Inter-  
est on Bonds, &c.  
being paid in  
Court, &c. the  
Court may dis-  
charge the Defen-  
dant.

III. *And be it further Enacted*, That if at any Time pending an Action upon such Bond with a Penalty, the Defendant shall bring into Court the Principal and Interest due, and all Costs already expended in any Suit in Law or Equity upon such Bond, the Money shall be taken in Satisfaction of the Bond, and the Court shall give Judgment to discharge such Defendant.

## C A P. XI.

*An ACT* to prevent the malicious killing or mai-  
ming of Cattle.

22. & 23. Car. 2.  
c. 7. s. 5.

Treble Damages  
for killing or  
maiming of Cattle.

*Be it Enacted by the Lieutenant Governor, Council, and As-  
sembly*, That if any Person or Persons, shall maliciously, unlawfully, and willingly, kill, maim, wound, or other-  
wise hurt, any Horses, Sheep, or other Cattle, every such Offender or Offenders shall lose and forfeit unto the Party grieved, Treble the Damage which he or they shall sustain, to be recovered by Action of Trespas, or upon the Case, in any of His Majesty's Courts of Record in this Province.

## C A P. XII.

*An ACT* in further Addition to, and in Amend-  
ment of an Act made and passed in the Thirty Se-  
cond Year of His late Majesty's Reign, intituled *An  
Act for preventing Trespas*ses.

25. Geo. 2. c. 14.

Preamble.

*HEREAS* the common Method of fencing is generally with  
*W* Poles in the Manner of Virginia Fence, which Kind of  
Fence is not clearly expressed in any former Act of this Pro-  
vince relating to Trespas; *Be it therefore Enacted by the  
Lieutenant Governor, Council, and Assembly*, That the Pole Fence,

as is now commonly used, or any other Fence made of Brush or other Materials, to the Judgment of the Fence Viewer, shall be deemed and held to be lawful, and if any dispute shall arise thereon, the same shall be adjudged and determined immediately and without Delay by any two Men of known Reputation, to be mutually chosen by the Parties, which two Men, together with the Fence Viewer, or the Majority of them, shall and are hereby impowered to determine the same; and in Case either of the said Parties shall neglect or refuse to make such Choice and Appointment, then the said Choice shall and may be made by the Party willing and ready to do the same; any Law, Usage, or Custom to the contrary notwithstanding.

Pole Fences &c. to be deemed lawful, according to the Judgment of the Fence Viewer, &c.

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At

