

Prince Edward Island. Laws, statutes, etc.

Oct 4

Session laws 47

THE

ACTS

OF THE

GENERAL ASSEMBLY

OF

PRINCE EDWARD ISLAND.

ANNO SEXTO VICTORIÆ REGINÆ.



CHARLOTTETOWN:

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1843.

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1843.

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ANNO SEXTO

VICTORIÆ REGINÆ.

At the General Assembly of Her Majesty's Island of Prince Edward, begun and holden at Charlottetown, the Twenty-fourth day January, *Anno Domini* 1843, in the Sixth Year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith:

1843.
Sir HENRY
V. HUNTLEY,
Lt. Governor.

R. HONGSON,
President of
Council.

JOSEPH POPE,
Speaker.

Being the First Session of the Sixteenth General Assembly convened in the said Island.

CAP. I.

An ACT to consolidate and amend the Laws relating to STATUTE LABOUR, and the Expenditure of Public Moneys on the Highways.

[Passed *April* 4th, 1843.]

WHEREAS it is deemed necessary to consolidate and amend the several Laws now in force, regulating the performance of Statute Labour on the Highways: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, an Act passed in the Third year of the Reign of His late Majesty King William the Fourth, intituled *An Act to*

Repeals Act of
the 3d William
4th, Cap. 2.

Also, Act of the
1st Victoria,
Cap. 1.

And also, Act of
the 3d Victoria,
Cap. 1.

regulate the performance of Statute Labour, on the Highways, and for other purposes therein mentioned; and an Act passed in the First year of the Reign of Her present Majesty, intituled, *An Act to amend an Act passed in the Third year of His late Majesty's Reign; intituled 'An Act to regulate the performance of Statute Labour on the Highways, and for other purposes therein mentioned;'* and also, an Act passed in the Third year of the Reign of Her present Majesty, intituled *An Act to amend an Act, intituled 'an Act to regulate the performance of Statute Labour on the Highways, and for other purposes therein mentioned;'* be, and the same are hereby respectively repealed.

Lt. Governor to
appoint a Road
Commissioner
for each District
named in the
Schedule annexed.

And also to
nominate to any
vacancy occurring
from death, &c.

Such Commissioners not to
continue in Office
longer than three
years, unless re-
appointed.

Commissioners
to appoint Over-
seers, direct
where labour
shall be perform-
ed, and receive
Overseers re-
turns.

And make a
yearly return to
Lt. Governor in
Council of Sta-
tute Labour with-
in their Districts.

Such part of Dis-
trict No. 8, as
comprises Char-

II. And be it enacted, That from and after the passing of this Act, it shall and may be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Council, to nominate and appoint a Commissioner of Highways, for each of the Districts, named in the Schedule to this Act annexed marked (A,) and who shall be a resident therein, and from time to time to fill up any vacancy occurring in any such office, by death, removal, resignation, or otherwise, of any such Commissioner, and which Commissioner so appointed, shall not continue in office for a longer period than Three years, unless re-appointed as aforesaid, and it shall be the duty of every such Commissioner to appoint Overseers of Statute Labour annually, and to direct such Overseers, where and when such Statute Labour shall be performed, and to receive from such Overseers, returns of their doings in manner herein-after directed, and to make a yearly return to the Lieutenant Governor in Council, of all their actings and doings relative to the performance of Statute Labour within the District, to which such Commissioner shall or may be appointed. Provided always, That so much of the District Number Eight, (8), as comprises Charlottetown, and

the Common and Royalty thereof, shall be subject only to such of the enactments and provisions of this Act, as shall in themselves relate expressly by designation to the said Town, Common and Royalty, or as shall by any other clause or enactment therein be made expressly to extend to the said Town, Common and Royalty.

lottetown, its Common and Royalty, only to be subject to such of the enactments herein contained as relate expressly to said Town, Common and Royalty.

III. And be it enacted, That every male person between the ages of Sixteen and Sixty years, shall, when appointed, or required thereto, either by himself or some sufficient substitute, and provided with such necessary implement or implements, as may be directed by the Overseer of the Precinct, work for the space of Four days or Thirty-two hours in every year, on the said Highways, Streets, or Bridges.

All male persons between 16 and 60 years of age, to work on Highways, &c. 4 days or 32 hours, in each year.

IV. And be it enacted, That every such Male person as aforesaid, possessing a Horse and Cart, or possessing a Cart and two Horses, or possessing two working Oxen and a Cart, or possessing one Horse or two Horses, or two working Oxen without a Cart, shall each of them respectively, if so directed by the Overseer of the Precinct within which he resides, bring out, or send, such Horse or Horses, or such Oxen or Carts, accompanied by one able-bodied man, for Three days in every year, to work on the Highways, Streets or Bridges of the Precinct, wherein such male person as aforesaid, shall reside, Eight hours being allowed to complete each day's work. Provided always, That nothing herein-contained, shall extend or be construed to extend, to render liable to Statute Labour any person whomsoever, who shall not have been at the time of appointing the Overseers, a resident of the Island, for at least Six Calendar Months. And provided also, That when in the opinion of the Overseers, the labor of men will be more useful than that of cattle; all persons liable to send two Horses or two working Oxen, with or

Rates of labour for males possessing horses, &c. or working cattle.

Number of day's work in each year.

Eight hours to be a day's work.

Exempts certain persons from Statute Labour.

If Overseer shall see fit, he may call upon the possessor of horses &c. to send men

to labor in lieu
of them.

Horses, teams
&c. of persons
over 60 years of
age, liable to the
performance of
Statute Labour,
in like manner
as horses, teams
&c. of persons
under that age.

Exempts horses,
teams, &c. of
Widows, in
certain cases.

Persons liable to
Statute Labour,
absent from the
Colony, or not
attending, to for-
feit 4d. for every
hour neglect, or
non-attendance.

Mode of recovery
of the fine.

without a Cart as aforesaid, shall instead thereof, send two Men for three days, or one man for six days or Forty-eight hours, to labour on the Roads, which said labor shall complete their yearly Statute Labour; and a person owning one Horse, with or without a Cart, or one pair of Oxen only, shall in such case, work or cause to be worked, five days' labour or forty hours. And provided further, That the Horses and Teams of all persons, shall be liable to the performance of Statute Labour, in like manner as the horses and teams of persons under Sixty years of age; and the Owners thereof respectively shall send out such Teams when so required, by any Commissioner or Overseer, for the performance of Statute Labour. And provided also, That nothing in this Clause, shall extend to Widows having no male children under their control, above the age of Sixteen years, or who employ no male servants above that age.

V. And be it enacted, That all persons liable to Statute Labour, although absent from the Island, and all persons neglecting or not attending to perform the said duty faithfully, and to the satisfaction of the respective Overseers, shall forfeit Fourpence for every hour's neglect; and any one of Her Majesty's Justices of the Peace, or the Commissioner of Small Debts, nearest to the residence of such Overseer, is hereby empowered and required on complaint made to him by the said Overseers of the Highways, or any of them, to Summon the persons so neglecting to appear before him, to hear and determine the case, and which Summons so to be issued, shall be under the hand and seal of the said Justice or Commissioner of Small Debts, in the form in the Schedule to this Act annexed, marked (B,) and upon proof being made of such person's non-appearance, refusal or neglect, the said Justice or Justices, Commissioner or Commissioners of Small Debts, shall cause the said forfeiture to be levied, together with the

expenses of levying, by Warrant of distress and Sale of the offender's goods and chattels; and if no goods and chattels can be found whereon to levy, then the offender shall suffer imprisonment for a period not exceeding Forty, nor less than Eight days, and the money so levied, shall immediately be put into the hands of such Overseer as shall have prosecuted for the same, to be by him applied, for and towards the repairs of the Highways within his Precinct, in such manner as the Commissioner thereof shall and may direct.

Appropriation of this fine.

VI. And be it enacted, That each Commissioner, so appointed as aforesaid, shall on or before the First day of May, in each year, nominate and appoint such number of Overseers within his District as to such Commissioner shall appear to be for the public good, and shall prescribe to each Overseer the Limits and Boundaries of his Precinct within which such Overseer shall have authority, and the Roads and parts of the Roads or the Bridges where the Statute Labour shall be wrought, and where the money received in commutation thereof shall be laid out and expended; and each Overseer shall, immediately after notification and acceptance of his appointment, give notice to the Inhabitants of his Precinct of his appointment, by causing a notice to be posted up in the most public place of such Precinct, to the end that such Inhabitants may know to whom to commute the payment of their Statute Labour in terms of this Act.

Commissioners to appoint Overseers on or before 1st of May, in each year, and prescribe their respective precincts, &c.

Overseers to give notice of their appointment.

VII. And be it enacted, That it shall and may be lawful for the Commissioner of each District, including in the Eighth District, the Town and Royalty of Charlottetown, whenever he may think it expedient and necessary to appoint some person or persons contiguous to the Bays or Rivers for the purpose of placing Bushes in the ice, on the best track generally used by travellers, as early in

Commissioners to appoint persons contiguous to Bays and Rivers to mark Winter Roads on the ice.

Such persons to be exempt from the performance of any other Statute Labour.

Penalty on persons cutting or breaking down bushes placed on such Roads on the ice.

Overseers to give 10 days' notice where and when Labour is to be performed.

Further duty of Overseers.

Overseers exempted from other labour.

General duties of Overseers.

Winter, as the ice may become passable ; and the Commissioner is hereby required, to notify the Overseers of the different Precincts, of the persons so appointed, and on such persons so appointed performing the requisite duty, they are hereby declared to be liable to no other Statute Labour during that year, any Law to the contrary notwithstanding. And any person who shall wilfully cut, break down or remove, any bushes placed as aforesaid, shall be liable to a fine, not exceeding Five Pounds; and not less than Ten Shillings.

VIII. And be it enacted, That the said Overseers of the Highways shall, and they are hereby required and empowered, in pursuance of the orders they shall or may receive from time to time from the Commissioner of the District, to Summon the Inhabitants residing within their respective Precincts, giving them at least Ten days notice, of the time and place, where and when they intend to employ them, and they shall direct and order the persons so Summoned, to labour in making or repairing the Highways, Streets or Bridges, in the most effectual and advantageous manner, for and during the number of days appointed by this Act for such service or Labour, they, the said Overseers being hereby exempted and excused from any other Labour and service on, or relative to the Highways, than the issuing the Summons, ordering and overseeing the performance of the Statute Labour within their respective Precincts, and making out and returning, within the time limited, by the orders they receive, from the Commissioner of the District as aforesaid, exact and true reports of their doings on the Highways, such reports always containing lists of absentees, and accounts of the fines levied in consequence of such absence, and of the money received in commutation of Labour, and how expended, but without being entitled to wages or

any other gratuity for their services, and if any person liable to Statute Labour as aforesaid shall refuse to accept of the office of Overseer, then he shall be liable to a fine of Two Pounds, and on any Overseer failing or neglecting to perform all or any of the duties herein pointed out to be done by him, he shall forfeit and pay a sum not exceeding Five Pounds.

Penalty on person refusing office of Overseer.

Penalty on Overseer failing or neglecting to perform all or any part of his duty.

IX. And be it enacted, That no Overseer shall have power or authority to compel any person to work his Statute Labour at a distance exceeding five miles from the place of such person's residence.

No person to be compelled to work more than 5 miles from his place of residence.

X. And be it enacted, That each Overseer of Highways is hereby required and directed, at the expiration of Two Months, from the time of performing Statute Labour within his Precinct, to account with the Commissioner of the District within which such Overseer shall reside, for his conduct in the execution of his trust as Overseer, and to report to him in writing, the work and Labour really done and performed, and the application accompanied with the proper vouchers of discharge, of the fines and forfeitures incurred, whether levied, or in arrear, why the same have not been levied, how applied in promoting the intentions of this Act; and also to account for all monies received in Commutation of Labour, and the application of the same, which monies shall be expended by the Overseers, with the exception of those residing in Charlottetown and Royalty, at public competition, under the direction of the Commissioner, within Ten days after the Labour has been performed, and within the Precinct or Precincts where such monies were collected.

Overseer, two months after performance of Statute Labour, to account with Commissioner.

And moneys in his hands to be expended by him under direction of Commissioner.

XI. And be it enacted, That from and after the passing of this Act, the whole of the Statute Labour shall be performed between the first, and last days of July annually, each Overseer to

Statute Labour to be performed in the month of July.

Overseer may choose any six days in said month for this purpose.

Notice to labour to be by advertisement in three of the most public places of precinct.

Persons liable to Statute Labour may commute labour for money.

Time of commutation and rates thereof.

advertise the Inhabitants to perform the Statute Labour, in any six days within the month of July, which in his discretion he may judge most convenient to the Inhabitants of the Precinct; the advertisements (being not less than three in number, and) to be posted in the most public places of the Precinct of such Overseer, at least Ten days before the period of performing such Labour, which is to be held a sufficient warning.

XII. And be it enacted, That all persons liable to Statute Labour as aforesaid, shall have the option, instead of such labour, to pay annually, on or before the first day of the commencement of the Statute Labour in the respective Districts, the sums of money following, (that is to say,) the possessor of two horses, or two oxen and a cart, or two horses without a cart, the sum of Ten Shillings. The possessor of one horse, or two oxen without a cart, the sum of Eight Shillings; and persons owning neither a horse, nor a pair of oxen, the sum of Five Shillings. And the owner or owners of more than two horses, whether such persons are otherwise liable to Statute Labour or not, shall pay for each and every working horse, over and above the number of two, as stated in this Act, if above the age of four years, the sum of Two Shillings each, or shall be liable to perform eight hours labour for each horse, in way and manner hereinbefore directed, in addition to, and over and above the respective sum or work, already prescribed in this Act.

Commissioner to expend money in his District as he sees fit, and within 4 months account therefor to Lt. Governor, &c. in Council.

XIII. And be it enacted, That each Commissioner shall expend the money paid to him, under the preceding Section of this Act, on the Highways within his District, in such way and manner as shall appear to him most conducive to the public interest, and shall within Four months after the period for the performance of the Statute Labour, deliver in to the Lieutenant Governor in Council,

an exact account of all moneys received by him, as Commissioner aforesaid, and of the application thereof, and he shall certify and attest to the same before one of Her Majesty's Justices of the Peace, previous to transmitting the same, in the form set forth in the Schedule to this Act annexed marked (C.) and in case any such Commissioner, shall neglect or refuse to certify and attest the account as herein directed, he shall forfeit and pay a sum not exceeding Five Pounds, and shall at the same time, make a full and distinct report of all his actings and doings, as such Commissioner, with an account of the state and condition of the Highways within his District, prior to the performance of Statute Labour, and subsequent thereto ; and until such account and report shall be given in, such Commissioner shall not be entitled to receive any salary or recompence whatever for such services.

Account to be on oath.

Form of Attestation.

Penalty on Commissioner neglecting or refusing so to account.

Commissioner, also, to make a full report of his proceedings, state of roads, &c.

And until such account and report be given, to receive no salary.

XIV. And be it enacted, That when any Commissioner or other person or persons, who may be appointed under the provisions of this Act, shall be directed by the Lieutenant Governor, to lay out and expend the public moneys appropriated for the making and repairing of Roads and Bridges, such Commissioner or other person or persons, shall and they are hereby required and directed, to cause Advertisements to be inserted in the public Newspapers of the Colony, and shall also cause similar Advertisements to be posted up in the vicinity of the place or places where such work is to be performed, giving fourteen days notice thereof, that on the day and hour named in such Advertisement, will be sold or let to the lowest bidder, on the spot, where such work is to be performed, or to the person or persons who shall make the lowest tender for the same, the Roads or Bridges named in such Advertisement; and the said Commissioner or other person or persons so appointed as aforesaid, are hereby directed to let all such Roads and Bridges, on the best and lowest terms, taking good and suffici-

Commissioner, &c., when directed to lay out moneys appropriated for making and repairing roads, &c., to advertise in public newspapers, &c.

Requisites of advertisement.

—and to let the same to lowest bidder.

Security to be taken for performance of contract.

Allowance to Commissioner &c. for expenditure of moneys.

Penalty on persons taking down or defacing, &c. Advertisements posted under this section.

Moneys to be paid to Contractor on certificate of Commissioner.

Overseers or Commissioners to order removal of nuisances.

Mode of proceeding against persons causing nuisance.

Such persons may be fined in a sum not exceeding £5.

Duty of Overseer or Commissioner in removing Nuisance, where person causing the same cannot be found.

Overseers to cause Thistles growing on Highways to be cut-down.

ent security or securities for the faithful performance of every Contract or Contracts, so entered into or made, and the Commissioner or other person or persons so authorized as aforesaid, shall be allowed and paid for such services the sum of Five Pounds *per centum*; upon the amount so laid out and expended as aforesaid. And any person or persons who shall take down, deface or destroy any Advertisements posted as aforesaid, shall be liable to a fine not exceeding Twenty Shillings, for every such offence.

XV. And be it enacted, That the money so directed to be expended as aforesaid, shall be paid by the direction of the Lieutenant Governor, to the person or persons entitled to receive the same, on the certificate of the Commissioner or other person appointed to expend such money, that the work has been performed or partly performed, as the case may be, according to the Contract so made and entered into.

XVI. And be it enacted, That it shall and may be in the power of each Overseer of the Precinct or Commissioner of a District, to order the removal of any obstruction or nuisance in the Highway within his Precinct or District, on a summary complaint to any one of Her Majesty's Justices of the Peace, or a Commissioner of Small Debts, to recover from the person or persons causing such obstruction or nuisance, the expense incurred in removing the same, provided the same shall not exceed Five Pounds; and if no owner of the article causing such obstruction or nuisance can be found, then the Overseer or Commissioner shall have power and he is hereby authorized to have such obstruction or nuisance removed, and the same to be sold, or so much thereof as will pay for the expense of such removal, and the Overseers of Precincts are hereby required, to cause all Thistles growing on the Highways, in their respective Precincts to be

destroyed or cut down, during the time of performance of Statute Labour.

XVII. And be it enacted, That it shall and may be lawful for the Lieutenant Governor, with the advice and consent of Her Majesty's Council, to cause to be paid out of the moneys in the Public Treasury, raised for the purpose of Highways and Bridges, to each Commissioner annually, for his services in the execution of this Act, a sum of money not exceeding Ten Pounds, over and above the Commission or per centage to which he may be otherwise entitled and directed to be paid, as aforesaid.

Annual allowance to each Commissioner under this Act.

XVIII. And be it enacted, That no person shall be compelled to serve the office of Overseer, more than once in every Three years, but if any person shall accept such office, more than once within such period, then he shall be liable to all the rules, regulations and duties of that office, as prescribed in this Act.

No person compelled to serve as Overseer more than once in three years.

XIX. And be it enacted, That the Overseers of Highways, as well in Charlottetown and Royalty, as elsewhere, shall have power and authority, and they are hereby required during the Winter season, to Summon so many of the inhabitants in their respective Precincts as they in their discretion shall think fit, to work at the times and places appointed on the Highways or public Winter Roads, by breaking Roads in the snow with their horses, oxen or teams, if possessed thereof, or with such Implements as the Overseer may deem requisite, whenever the depth of snow shall render the same necessary in each Winter, and at no greater distance than three miles from their own houses, and such inhabitants shall perform the same work over and above that which such inhabitants are liable to perform upon the Highways, Roads and Bridges in and by this Act; and each and every

Overseers, in Winter, may summon Inhabitants to work with Teams, &c. in breaking Roads in the snow, at no greater distance than three miles from home.

Not to exempt such persons from other Statute Labor.

Penalty on persons for neglecting or refusing to perform such work in Winter.

Overseers to appoint a person to notify inhabitants.

Exempts the person so appointed from one day's labour in breaking Winter roads.

Persons obstructing Bridges, or fastening any Vessel, &c. thereto, to forfeit £5 over and above any damage done thereby.

Commissioners may appoint persons to superintend Bridges, which persons may allow vessels to moor at such Bridges.

Rate payable by owners, &c. of such vessels for such permission.

Mode of recovery thereof.

person neglecting or refusing to turn out with his team or teams, or with such implements as may be directed by the Overseer of any Precinct, shall be liable to a fine not exceeding Ten Shillings, for every such neglect or refusal. And the Overseers of Precincts are authorized to appoint a person or persons to notify the persons in their Precincts, when they are required to turn out, for the purpose of breaking the Winter Roads as aforesaid, which person or persons so notifying the inhabitants of the Precinct, shall be exempted for one day from such Labour in breaking the Roads for each time they shall be engaged in so notifying as aforesaid.

XX. And be it enacted, That if any person or persons shall hereafter place any Timber, Wood, Stone or other weighty article or articles upon any Bridge or Bridges within this Island, or shall fasten any Vessel or Vessels thereto, or shall in any other way injure any such Bridge or Bridges, he or they shall pay a fine not exceeding Five Pounds, for every such offence, to be recovered as hereinafter directed, over and above any damage done to any such Bridge or Bridges when the same shall not exceed Five Pounds.

XXI. Provided always, and be it enacted, That any Commissioner of Roads is authorized to appoint such person or persons, as he may think fit within his District, whose duty it shall be, to allow Vessels to moor or make fast to any Bridge within his District, and who is authorized to take and receive from the master or owner of any such Vessel, the sum of Two Shillings per day, (Sundays excepted) during the time she may be moored or made fast to any such Bridge, and in case of refusal of the master or owner to pay such sum, as he may be liable to as aforesaid, then it shall be lawful for the person so superintending such Bridge, to sue for and recover the same, with costs (and in all cases to be accounted for on Oath to the

Commissioner of the District,) before any one of Her Majesty's Justices of the Peace or Commissioner of Small Debts, by Capias or otherwise, and the amount of such Judgment with costs, shall be realized by Warrant of Distress and sale of the materials of the Vessel, one half of such rate to be paid to the Superintendant as aforesaid, and the other half to the Commissioner of Roads, in whose District the Bridge may be, to be expended for the repairs of the said Bridge.

XXII. And be it enacted, That from after the passing of this Act, every Highway in this Island unless where legally established at a less width, shall be of the width of Sixty feet, and that no occupier of ground adjoining the Highways, or any other person shall encroach thereon, by fencing or otherwise, under a penalty not exceeding Twenty Shillings, for each and every day such encroachment shall be allowed to remain after due notice to remove the same.

Every Highway to be 60 feet in width.

Penalty on persons encroaching on Highways.

XXIII. And be it enacted, That it shall and may be lawful for the Commissioner of any District, to commute as much of the Statute Labour as he may deem expedient, for an equal quantity or value of Labour to be performed in the Winter season, in procuring and hauling Timber for the building or repairing of Bridges.

Commissioners may commute Summer labour for Winter labour, &c.

XXIV. And be it enacted, That in case of the sickness or death of any Overseer, or absence from his Precinct, after his appointment, under this Act, it shall and may be lawful for the Commissioner within such District, to appoint some other person or persons to perform the duties of such deceased or absent Overseer or Overseers, at any time before the time limited for the performance of such Statute Labour, as before directed.

In the event of sickness, death, &c. of Overseer, Commissioner may appoint another in his place.

Penalty on Commissioner, &c. for neglect, &c. of duty.

Mode of recovery of penalty.

Overseers to attest to their Returns.

Mode of attestation.

Form of Attestation.

Penalty on Overseer for neglecting or refusing to do.

Teachers of Schools, receiving Legislative aid, to be exempt from Statute Labour.

The seats of Members of the present House of Assembly, who were Commissioners of Roads before the passing of this Act, not to be vacated by re-appointment under this Act.

XXV. And be it enacted, That if any Commissioner or other person appointed to expend money under or by virtue of this Act, shall after signifying his acceptance of said office, neglect or refuse to carry the provisions of the same into effect, so far as they are imposed on him by virtue of his said office, he shall for every such neglect or refusal, on due conviction thereof, forfeit and pay the sum of Five Pounds, to be recovered before any one of Her Majesty's Justices of the Peace or Commissioner of Small Debt, on the Oath of one or more credible Witness or Witnesses.

XXVI. And be it enacted, That every Overseer of Statute Labour, shall and he is hereby required, previous to transmitting the Returns now prescribed by law, to certify and attest to the same, before one of Her Majesty's Justices of the Peace, in the form set forth in the Schedule to this Act annexed marked (C,) but which attestation, shall only extend to an exact account of all monies received by him as Overseer aforesaid, and of the application thereof, and in case any such Overseer shall neglect or refuse to certify and attest the account as herein directed, he shall forfeit and pay a sum not exceeding Five Pounds.

XXVII. And be it enacted, That all Teachers of Schools, who are entitled to receive Legislative aid as such, shall be exempt from the performance of Statute Labour, under the provisions of this Act.

XXVIII. And be it enacted, That the provisions of the Act passed in the Fifth year of the Reign of His late Majesty King William the Fourth, intituled "*An Act for vacating the seats of Members of the Assembly in certain cases therein mentioned*" shall not extend, or be construed to extend, to vacate the seat of any Member of the present House of Assembly, who may be

re-appointed a Commissioner of Roads under this Act.

XXIX. And be it enacted, That in the event of any Commissioner or Overseer, who may prosecute for any penalty or offence under the provisions of this Act, becoming non-suit, and it shall be certified by the Justice of the Peace or Commissioner of Small Debts before whom such case shall be heard and determined, or other Court who shall finally decide the same, that such Commissioner or Overseer had just and reasonable grounds of action, then and in such case, said Justice of the Peace, Commissioner of Small Debts, or other Court as aforesaid, shall make out a certified statement of the Costs of such action, which certified statement shall be delivered to the Clerk of Her Majesty's Council, and the amount so certified, after being approved of by the Administrator of the Government for the time being in Council, shall be paid to the Commissioner or Overseer, claiming the same, by the Treasurer of this Island.

If Commissioner or Overseer be non-suited in any prosecution instituted under this Act, on certificate from Justice, &c. of probable cause of action, the costs of non-suit to be paid to such Commissioner or Overseer by Treasurer, on order of Licut. Governor, &c. in Council.

XXX. And be it enacted, That all Fines and Forfeitures arising under and by virtue of this Act, shall be sued for and recovered with costs, before any one of Her Majesty's Justices of the Peace, or any Commissioner of Small Debts, for the County wherein such fine or forfeiture shall or may be incurred, on the Oath of one or more credible Witness or Witnesses, and (where not otherwise appropriated by this Act,) shall be expended by the Commissioner of the District, and in the Precinct where such forfeiture or forfeitures may have been incurred. And in the event of no goods and chattels being found, whereon to levy, then the said Justice or Commissioner shall and may commit the party or parties delinquent, for the respective periods hereinafter mentioned, that is to say, where the penalty shall not exceed the sum of Five Shillings,

Mode of recovery of fines imposed by this Act.

for a space not exceeding Ten days, and where the penalty shall be above Five Shillings, and shall not exceed the sum of Twenty Shillings, for a period not exceeding Fourteen days, and where the penalty shall be above Twenty Shillings and shall not exceed the sum of Forty Shillings, for a period not exceeding Twenty-one days; and when the penalty shall be above Forty Shillings, and shall not exceed Five Pounds, for a period not exceeding Sixty days.

Power of Commissioner where drains are necessary and owner, &c. of adjoining land shall refuse his assent to such drains passing through his lands.

Mode of proceeding to authorise such drains to be made.

XXXI. And be it enacted, That when, and as often as it may in the opinion of any Commissioner of any District within this Island, become necessary for the draining of any Highway, to cut or open any ditch or drain, from the side of any Highway through any land adjacent thereto, and the owner or occupier thereof shall refuse his consent for so doing, then any of Her Majesty's Justices of the Peace, shall upon application of such Commissioner, issue a Summons directed to such owner or occupier, to appear before him at a time and place therein mentioned, of which at least three clear days notice shall be given, to such owner or occupier, to show cause why the said drain should not be opened, and in default of appearance, or after hearing the said owner or occupier, and evidence, relating thereto, such Justice shall and may make an order for the opening of such drain, to run in such course and of such width, depth and extent, as to such Justice shall seem needful and necessary, and the costs of such suit shall be paid as by such Justice shall or may be adjudged, and be enforced by Execution in manner as the same shall or may be issued for the recovery of Small Debts. And the order of such Justice so to be made, shall be full authority and justification for the said Commissioner, and all persons employed therein, in opening such drain or in clearing or keeping open the same, and may be proved as often as may become necessary, under a plea of the general

issue. Provided always, that if at any future time it should be made to appear, to such or any other Justice, that such drain has become unnecessary, or is no longer useful, then he shall make order for the closing of the same. And Provided also, That every such owner or occupier, who may feel aggrieved by any such order, shall and may appeal therefrom to the Supreme Court of Judicature, in manner prescribed by law for Appeals in matters of Small Debts, and the Supreme Court, on hearing such Appeal may reverse, annul, vary or limit such order, and award costs thereupon, as to such Court shall seem just and necessary.

How drains no longer necessary or useful may be closed.

Gives owner, &c. of adjoining lands an appeal to the Supreme Court against any order of Justice of the Peace made in relation to drains.

Power of Supreme Court on appeal.

XXXII. And whereas, the Laws now in force relating to the performance of Statute Labour, within the Town and Royalty of Charlottetown, have not been found fully effective or convenient, in their operation therein: Be it therefore enacted, That there shall be paid, by every person resident within the said Town and Royalty, and who shall have resided within this Island Six Months, at the time of appointing the Overseers hereinafter mentioned, the Rates or Duties following, for or towards the expenses of the repairs of Roads and Bridges within such Town and Royalty; by the owner of two horses, or two oxen and a cart, the sum of Ten Shillings; the owner of one horse, or two oxen without a cart, the sum of Eight Shillings; and the owner of more than two horses, for each and every horse, over and above the number of two, if above the age of four years, the sum of Two Shillings each. And for every male person, between the ages of sixteen and sixty years, the sum of Five Shillings, over and above the said rates or duties, which said several sums shall be paid annually, to the several Overseers of the Precincts respectively, wherein the persons liable to pay the same shall respectively reside.

Rates payable by persons resident in Charlottetown and Royalty for Roads and Bridges.

XXXIII. And be it enacted, That the rate or duty of all male persons, between the ages of

Rate due from Minors to be paid by Parents if they

derive ordinary services from such Minors.

Rate of Apprentices, to be paid by Masters.

Mode of recovery of rate payable by Masters, &c.

Master or employers of Apprentices, &c. on request of Overseer, to make known the number and names of such Apprentices, &c.

Penalty on Masters or employers who shall refuse to so do, or give false information to Overseer.

Mode of recovery of penalty.

Lt. Governor, &c. to nominate not less than five Justices of the Peace, in the 8th Road District, 3 of whom to be a quorum.

sixteen and twenty-one years, shall be paid by the parents of such persons respectively, in all cases where such parents shall retain the ordinary control, and derive the ordinary services of persons' within such ages, and the rate or duty of all Apprentices shall be paid by their Masters, but every such Master, shall nevertheless be entitled to retain such amount out of any wages by him payable to such Apprentice, over and above any sum allowed for Board, Lodging and Clothing only.

XXXIV. And be it enacted, That the said rate or duty, shall and may be sued for in manner prescribed in the Fifth section of this Act, and the like process for the recovery of the same; used and taken as therein is mentioned.

XXXV. And be it enacted, That the Masters or actual employers of all Apprentices, Journeymen and workmen, shall be obliged, on request made by any Overseer for any Precinct, within the said Town or Royalty, to make known to such Overseer the number and names of all Apprentices, Journeymen or Workmen, liable to the aforesaid rate, and employed by any such Master under a penalty not exceeding Forty Shillings, to be imposed upon every such Master or Employer, who shall refuse or falsely give such information; the same to be recovered with costs of suit on the Oath of such Overseer before any Justice of the Peace resident in the said Town or Royalty.

XXXVI. And be it enacted; That from and immediately after the passing of this Act, it shall be lawful for His Excellency the Lieutenant Governor, to appoint any number of Her Majesty's Justices of the Peace, residing within the said Eighth District, not being less than five, three of whom shall be a *quorum*, and by new appointment to supply any vacancy in the number thereof, as

often as the same shall become necessary by death, resignation, non-residence, in the said District, or otherwise; and it shall be the duty of such Justices, to assemble together at some convenient place within Charlottetown, as often as to them shall seem requisite, not being less than twice in each year, for the purpose of making such orders, and appointments, and giving such directions as may be necessary, for carrying into effect the provisions of this Act, as far as they relate to the said Town and Royalty, and at their first meeting in each year, shall appoint from among themselves a Chairman.

Duty of such Justices.

Justices to appoint a Chairman.

XXXVII. And be it enacted, That the first meeting of the said Justices after the passing of this Act, shall be on the Third Wednesday in the Month of April, and thereafter, annually, on the First Wednesday in the month of April, and shall be convened by at least six days notice, published in the *Royal Gazette* or other Newspaper in place thereof, published by Her Majesty's Printer for this Island, which notice for the first meeting to be held after the passing of this Act, shall be given by the senior of such Justices, and for every other meeting by the Chairman to be by them appointed as aforesaid, or in his absence then by such senior Justice.

Times of meeting of such Justices.

Notice of meeting, how to be given.

XXXVIII. And be it then enacted, That in every year, at such first meeting of such Justices, they shall proceed to choose and appoint eight fit and proper persons to be Overseers of Roads for the several and respective Precincts within the said Town and Royalty, enumerated and described in the Schedule to this Act annexed marked (D), and shall prescribe to such Overseers, the Roads and Streets, or parts thereof, in their several Precincts to be repaired, and such other matters relating to the expenditure of the moneys to be laid out therein, as to such Justices shall appear most advantageous;

Further duty of such Justices.

and every Overseer so to be appointed, shall immediately after notification and acceptance of his appointment, notify the inhabitants of his Precinct of his appointment, by causing a notice to be posted in the most public place of such Precinct, to the end that such inhabitants may know to whom to pay the rates or duties imposed upon them by this Act.

Penalty on persons refusing to serve as Overseers in Charlotetown or Royalty, when appointed by Justices.

XXXIX. And be it enacted, That every person who shall refuse to accept the office of Overseer of any Precinct, in the said Town or Royalty, shall forfeit and pay a sum not exceeding Two Pounds.

Imposes a penalty on Overseers for said Town and Royalty for neglecting or refusing to do certain acts.

XL. And be it enacted, That every Overseer appointed by such Justices, who shall neglect to perform all or any of the duties by this Act prescribed to such Overseer, or by virtue thereof assigned to, or imposed upon him, or who after having gone out of or been removed from office, shall refuse to account for and pay over to the person appointed by such Justices to receive the same, any moneys paid into his hand by virtue of this Act, each and every Overseer so offending, shall forfeit and pay for each and every offence, any sum not exceeding Ten Pounds.

Amount of penalty.

Mode of recovery of fines imposed by two last preceding Sections, not exceeding 5l.

XLI. And be it enacted, That each of the fines imposed in the two immediately preceding sections of this Act, if not exceeding the sum of Five Pounds, shall and may be sued for, and recovered with costs of suit, before any two of Her Majesty's Justices of the Peace, or the Commissioners for recovery of Small Debts, resident in the said Town and Royalty, on the oath of one or more credible Witness or Witnesses, and shall be paid into the hands of the Chairman of the hereinbefore mentioned Justices, to be laid out in manner prescribed for the rate or duty payable within the said Town and Royalty, and if the said Fines should exceed

Appropriation of such fines.

the sum of Five Pounds, then the same shall be recovered, with costs, in the Supreme Court of Judicature for this Island, and shall be appropriated and paid in manner aforesaid.

Mode of recovery of fines exceeding £5.

XLII. And be it enacted, That every person who shall make default in payment of his rate or duty, at the expiration of ten days from the day on which notice shall be given by such Overseer, as mentioned in the preceding section, shall be liable to pay in addition to such rate or duty, and to be recovered along with the same, a sum equal to one fourth part thereof; and every such Overseer shall within twenty-one days from the day of his appointment, account with and pay over to the Chairman appointed by such Justices as aforesaid, or any other person by them appointed for that purpose, all moneys by him collected by virtue of this Act.

Imposes a penalty of one-fourth part of original penalty in addition thereto, on persons making default in payment of original penalty, within 10 days from day of notice given by Overseer, as mentioned in preceding Section.

Overseers to account with and pay over to Chairman of Justices all moneys received by them.

XLIII. And be it enacted, That a meeting shall be held by such Justices annually, on the first Monday in May in each year, at such time, and place in the said Town, as shall be notified by their Chairman, who shall cause at least ten days notice thereof to be posted in two or more public places in the said Town, and it shall be lawful for such Chairman, in like manner to convene a special meeting of such Justices, as often as the same shall become necessary, touching any matter relating to this Act, which several meetings shall be adjourned from day to day, until the business thereof is finished.

Time of annual meeting of Justices.

Notice of annual meeting, how to be given.

Mode of convening special meeting of Justices.

XLIV. And be it enacted, That it shall be the duty of the Commissioner of Roads, for the said Eighth District, without any further notice, than shall be given by such Chairman, in manner aforesaid, immediately thereafter, for every meeting to be held on the first Monday in May in each year, to prepare a full statement in writing of the repairs

Duty of Commissioner of 8th District.

Duty of Justices on receiving report or statement from said Commissioner of Sth District.

Further duty of Justices.

Money apportioned by Justices to be paid to Overseer of each Precinct for expenditure within the same.

Any money retained by Justices, to be expended in repairs of roads, &c. as they think fit.

necessary to be performed for the current year, in the several precincts within such District, as defined in the Schedule to this Act annexed marked (D), in which statement, shall be expressed and distinguished the particular Streets, Roads, Bridges and parts of each said Precinct, being most in need of repair, and an estimate shewing what proportion of the probable whole amount of money arising from such rates or duty, may be necessary to be expended, in each Precinct within his District; which statement shall be publicly read in presence of such Justices so assembled, and after full consideration thereof, and of such other matters as may be alleged relative thereto, by any person present, paying Road duty or rate as a resident within such District, it shall be lawful for such Justices, to apportion, for each respective Precinct, such amount of the rate or duty found, and to order and direct the expenditure thereof in the improvement and repairs of Roads and Bridges therein, and at such time or times of the year, as to them shall seem just and proper, reserving nevertheless such part of such fund not exceeding the fourth part thereof, for contingent repairs of Roads and Bridges, in such parts of the District, and at such particular time or times thereafter, during the current year, as they may deem necessary.

XLV. And be it enacted, That the several amounts of Money apportioned for each Precinct, in manner in the preceding section mentioned, shall be paid into the hands of such Overseers respectively, as soon after the meeting therein mentioned, and the whole at one time or in parts, at different times, as to such Justices shall seem needful and necessary, and by and with such Money as shall be retained in the hands of such Chairman, or other person authorized to hold the same, it shall be lawful for such Justices, or a majority of them, whether convened by notice or not, to make order for the repairs of any Street or Highway at any time

or season, and in any Precinct, and to any extent, as to such Justices shall appear necessary; and every Overseer shall be bound to conform to such order, so far as relates to his Precinct.

XLVI. And be it enacted, That every Overseer to be appointed by such Justices, shall furnish to their Chairman, on or before the Thirty-first day of December next after the date of the appointment of such Overseer, a particular account in writing, attested on oath, specifying the different Streets, Roads or places within his Precinct, where the repairs or works shall have been performed, and the amount of money expended in respect hereof; and every such Overseer besides being exempt from his own rate or duty, shall be entitled for his trouble, to the sum of two and a-half *per centum*, on all Moneys by him expended on the repairs of Roads and Bridges within his Precinct.

Overseers appointed by Justices on or before 31st December, in each year, are to account on oath.

Particulars required in such account.

Overseers appointed by such Justices to be exempt from Statute Labour, and to have 2½ per centum on all moneys expended by them.

XLVII. And be it enacted, That all Moneys to be expended by virtue of any Act of the General Assembly of this Island, in aid of the repairs, alterations or improvements, in or upon the several Streets, Roads and Bridges within the said Town and Royalty, shall be paid into the hands of the Chairman for the time being, of such Justices, or other person by them appointed to hold the same, to be appropriated by such Justices, in manner prescribed in the preceding Sections of this Act.

All moneys to be expended within Charlottetown & Royalty, under any Act of the General Assembly, to be paid to Chairman of Justices, &c.

XLVIII. And be it enacted, That the Chairman of such Justices shall cause to be made up and delivered in to the Lieutenant Governor in Council, on or before the First day of February in each year, an exact account of all Moneys, including Fines, and all other Amounts, received and paid within the said Town and Royalty, by virtue of this Act. And it shall be lawful for such Justices to appoint a Clerk, to attend the meetings of such Justices, and who shall be entitled to receive

Chairman of Justices, on or before 1st February in each year, to render an account to Lieut. Governor, in Council.

Requisites of such account.

Justices may appoint a Clerk.

Remuneration to Clerk so appointed.

out of the rate or duty collected as aforesaid, the sum of Seven Shillings and Six-pence per day, for each day's attendance and no more.

Justices may dismiss any Overseer within Charlottetown or Royalty and appoint another in his place.

XLIX. And be it enacted, That such Justices shall have power at any Meeting by them held, to dismiss from office any Overseer of Roads for any Precinct, in the said Town and Royalty, for misconduct or culpable neglect of duty, upon the same being made to appear to the satisfaction of such Justices, at any place or time of which due notice shall be given, first to such Overseer, to be present, in case he shall think fit; and the vacancy occurring by such proceeding, or from any other cause whatsoever, to supply by appointment of a new Overseer, as often as occasion shall or may require.

Power and duty of Overseers of Charlottetown and Royalty when they deem drains necessary.

L. And be it enacted, That when and as often as it may in the opinion of any Overseer of any Precinct, within the said Town and Royalty, become necessary, for the Draining of any Highway, to cut or open any Ditch or drain from the side of any Highway through any Land adjacent thereto, and the owner thereof shall refuse his consent for so doing, then said Justices or their Chairman, shall upon application of such Overseer, issue a Summons directed to such Owner to appear before them, at a time and place therein-mentioned, of which at least Three clear days' notice shall be given, to such Owner to shew cause, why the said Drain should not be opened; and in default of appearance, or after hearing the said Owner and evidence relating thereto, such Justices shall and may make an order for the opening of such Drain, to run in such course and of such width, depth and extent, as to such Justices shall seem needful and necessary; and the Costs of such Suit shall be paid as by such Justices shall or may be adjudged; and if against the said Owner, may be enforced by Execution in manner as the same shall or may be

Mode of proceeding where Owners, &c. of land adjoining refuse consent to allow drains to be made through their lands.

Justices may order drains to be made.

Costs of proceeding, how payable.

issued for the recovery of Small Debts. And the order of such Justices so to be made, shall be full authority and justification for the said Overseer, and all persons employed therein, in opening such drain or in clearing or keeping open the same, and may be proved as often as may become necessary, under a plea of the general issue. Provided always, That if at any future time, it should be made to appear to such Justices, that such Drain has become unnecessary or is no longer useful, then they shall make order for the closing of the same. And provided also, That every such Owner who may feel aggrieved by any such order, shall and may Appeal therefrom to the Supreme Court of Judicature, in manner prescribed by law for Appeals in matters of Small Debts; and the Supreme Court on hearing such Appeal may reverse, annul, vary or limit such order, and award Costs thereupon as to such Court shall seem just and necessary.

Justices may order drains no longer necessary or useful to be closed.

Gives an appeal to owner, &c. of adjoining land to Supreme Court against any order of Justices made in relation to such drains.

LI. And be it enacted, That in all cases where any drain shall be made through any land in pursuance of the preceding, or the Thirty-first clause of this Act; the Owner or Owners of such land, shall be entitled to receive such amount of compensation for any injury done by cutting of such drain, as shall be ascertained and awarded by a Justice of the Peace and Commissioner of Small Debts, or two Justices of the Peace or Commissioners of Small Debts resident nearest the said land, the said Justices or Commissioners in case they cannot agree appointing a third party, in no wise interested in such land, and the amount which shall be agreed to by such two Justices or Commissioners, or such third party by them to be named, in the event aforesaid, when certified in writing, shall and may be paid to such Owner or Owners out of the Treasury of this Island, by Warrant under the hand and seal of the Administrator of the Government for the time being.

Compensation to owners, &c. of lands through which drains have been made under the authority of this Act.

Amount of compensation how to be ascertained.

Owner, &c. dissatisfied with amount awarded may appeal to Supreme Court.

Power of Supreme Court on such Appeal.

Justices may increase or lessen Number of Overseers in Charlottetown and Royalty, and also change or vary their precincts.

The words "Town and Royalty," in this Act, to be deemed to include the Common.

LII. Provided always and be it enacted, That in case any person or persons to whom compensation shall be so made, shall be dissatisfied with the amount thereof, he or they shall be at liberty to appeal from the decision of the person or persons awarding such amount unto the Supreme Court of Judicature, and such Court shall and may proceed thereunto in manner prescribed in and by the Fiftieth Section of this Act.

LIII. And be it enacted, That the Justices so to be appointed, may at any of their Meetings, increase or lessen the number of Overseers, and their Precincts for the said Town and Royalty, and may from time to time, as often as they shall see necessary, change or alter the Limits or Boundaries of the said Precincts, as defined by this Act.

LIV. And be it enacted, That the words Town and Royalty, whenever used in this Act, shall be deemed to include the Common thereof.

Schedules referred to in this Act.

SCHEDULE (A.)

DISTRICTS.

Commissioner's Districts.

Nos.

1. Townships Nos. 1, 2, 3, 4, 5, 6 and 11.
2. Nos. 7, 8, 9, 10 and 12.
3. Nos. 13, 14, 15, 16 and 17.
4. Nos. 18, 19, those parts of Nos. 20 and 21, situate to the northward of the South-west River New-London, and Princetown and Royalty, and that part of Princetown Road through Lot 25.
5. Nos. 25, 26, 27 and 28, and Wilmot Creek Bridge, Anderson's Road and other Roads south of said road on Lot 67.

6. Nos. 20 and 21, southward of the Southwest River New-London, Townships Nos. 22, 23, 24 and Lot 67, north of Anderson's Road.
7. Nos. 29, 30, 31 and 32, (west side of York River,) and No. 65.
8. Nos. 33 and 32, (east side of York River,) and Charlottetown and Royalty, including the several Bridges on the York River.
9. Nos. 34, 35, (north side of the Hillsborough) 36 and 37.
10. Nos. 48, 49, 50 and 35, (south side of the Hillsborough.)
11. Nos. 57, 58, 60 and 62.
12. Nos. 38, 39, 40 and 41.
13. Nos. 42, 43, 56, 55 (North of Grand River,) and including the division Line Road between Townships 43 and 44.
14. Nos. 44, 45, 46 and 47.
15. Nos. 55, (South of Grand River,) 66, 54, 53, 52, 51, and Georgetown and Royalty.
16. Nos. 59, 61, 63, 64 and Montague Bridge.

SCHEDULE (B.)

FORM OF OATH TO BE MADE BY THE COMMISSIONER, AND ATTACHED TO HIS RETURN.

I *A. B.* do swear that the Return now made by me is just and true, and contains a correct account of the receipt and expenditure of all Moneys received by me as commutation of Statute Labour, within the District for which I am Commissioner during the current year.

Form of Oath to be made by Commissioner and attached to his return.

So help me God,

A. B. Commissioner.

Sworn before me,

C. D.

J. P.,

SCHEDULE (C.)

FORM OF OATH TO BE MADE BY OVERSEERS OF
STATUTE LABOUR, AND ATTACHED TO
THEIR RETURNS.

Form of Oath to
be made by
Overseers and
attached to their
returns.

I *A. B.* do swear that the Return now made by me, contains a correct account of all persons liable to perform Statute Labour, and also a correct account of the receipt and expenditure of all Moneys received by me as commutation of Statute Labour, within the Precinct for which I have been appointed during the current year.

So help me God.

A. B. Overseer.

Sworn before me,

E. F.

J. P.

SCHEDULE (D.)

OVERSEERS' PRECINCTS FOR CHARLOTTETOWN
AND ROYALTY.

Precincts of
Overseer in
Charlottetown.

First Precinct.—All Inhabitants residing to the Westward of Queen's Street and the Streets therein, including Queen's Street.

Second Precinct.—All Inhabitants between Queen's and Prince's Streets, and the Streets therein, including Prince's Street.

Third Precinct.—All Inhabitants between Prince's and Weymouth Streets, and the Streets therein, including Weymouth Street.

Fourth Precinct.—All Inhabitants and Streets to the East of Weymouth Street.

ROYALTY.

First Precinct.—All Inhabitants residing and all Roads being to the westward of the Road leading from the rear of Government Farm past Dalrymple's Mills, including the said Road. Precincts of Overseers in Royalty and Common.

Second Precinct.—The Saint Peter's Road, as far as the Road leading past the Chief Justice's, together with the said Road called the Mount Edward Road; and all Inhabitants residing, and all Roads being between the same and Precinct No. 1, including as much of the Road along the rear of the Royalty as intervenes.

Third Precinct.—The Saint Peter's Road, (commencing at the Mount Edward Road,) and all the Inhabitants and Roads to the South-east thereof.

Fourth Precinct.—All the Inhabitants and Roads, Northward of the Saint Peter's Road and Eastward of the Mount Edward Road.

CAP. II.

An ACT to compel Persons appointed to the Office of CONSTABLE, to serve as such.

[Passed April 4th, 1843.]

WHEREAS much difficulty and inconvenience have frequently arisen from persons having refused to serve as Constables, who have been nominated as such by the Justices of the Supreme Court of Judicature for this Island, for remedy whereof:

I. Be it enacted by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall and may be lawful to and for any one of Her Majesty's Justices of the Peace, to fine any person or persons who may have been nominated by the Justices of the said Supreme Court to the office of Constable, and who

Justice of the Peace may fine a person refusing to serve as Constable.

after eight day's
notice of appoint-
ment,
in any sum not
exceeding £2,

and to fine him
in a similar sum
for each refusal.

Mode of recovery
of fine.

Appropriation of
fine.

For want of
Goods & Chattels
whereon to levy
fine, offender
may be commit-
ted to jail for a
period not ex-
ceeding 10 days,
or for 5 days if
sworn as Constable
and refusing
to Act.

Mode of appoint-
ment of Constable
in room of
person refusing
to serve.

have been duly notified thereof by the said Justice or other Justice of the Peace of the County, wherein such person or persons may reside, at least eight days previously, and refuse to be sworn in, a sum for such refusal, not exceeding Two Pounds, and upon the oath of one or more credible Witness or Witnesses being made, before such Justice of the Peace, it shall and may be lawful to and for such Justice to fine such person or persons, who may have been sworn in as aforesaid, and may refuse to act as such Constable or Constables, in a sum for each refusal not exceeding Two Pounds, the same to be recovered by Warrant of Distress, upon the offender or offenders Goods and Chattels, and when received to be paid into the Treasury of this Island, to and for the use of Her Majesty's Government, and if the said offender or offenders shall not have any Goods or Chattels, whereon such Warrant of Distress can be levied, then, and in such case, it shall and may be lawful to and for the said Justice of the Peace, to commit the said offender or offenders who have so refused to be sworn in as aforesaid, to the Jail of the County wherein such Justice may reside for a period not exceeding ten days, and also to commit such offender or offenders who being so sworn in as aforesaid refused to act as aforesaid, to the Jail aforesaid for a period not exceeding Five days.

II. And be it further enacted, That in cases where any Constable appointed under and by virtue of this Act, shall neglect or refuse to serve, it shall and may be lawful to and for the Chief Justice, or any of the Justices of the said Court, out of the list returned by the Grand Jury as now by law prescribed, to appoint other persons in the place of such person or persons as may so refuse or neglect to serve as aforesaid, and so often as similar cases may arise, and such persons so appointed shall be subject to the like penalties for refusal or neglect to serve as are provided in and by this Act.

III. Provided always, and be it further enacted, That no person or persons shall be compelled to serve as such Constables more than once in every Three Years.

No person to be compelled to serve as Constable more than once in 3 years.

C A P. III.

An ACT in addition to the several Acts relating to Licences for the Retailing of Spirituous and fermented Liquors.

[Passed April 4th, 1843.]

WHEREAS it is deemed expedient to alter and amend the several Acts relating to Licences for retailing strong and Spirituous Liquors: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That no Licence, for the sale of any Spirituous or fermented Liquors, shall hereafter be granted for a less period than Twelve Months, any thing in any Act of the Legislature of this Island to the contrary notwithstanding.

No Licence for sale of Spirituous Liquors to be granted for a less period than 12 months.

II. And be it enacted, That every Licensed Store or Tavernkeeper, shall keep a copy of his, her or their Licence certified by any one of Her Majesty's Justices of the Peace, posted up in some conspicuous place in his, her or their Store or Tavern, where it may be exposed to the inspection of the public, and if any Store or Tavernkeeper shall neglect thus to post up such certified Copy within his, her or their Store or Tavern, then they shall forfeit and pay for every such offence, the penalty of Forty Shillings, which fine shall be recovered with costs, before any one of Her Majesty's Justices of the Peace, one half of the said fine to be paid into the Treasury of this Island, to and for the use of Her Majesty's Government, and the other half shall be paid to the person prosecuting for the same.

Copy of Licence certified by a Justice of the Peace to be posted in every store or tavern.

Penalty on store or tavern keeper neglecting to post up such copy. Mode of recovery of fine.

Appropriation of fine.

CAP. IV.

An ACT to amend the Act relating to the
PUMPS and WELLS of Charlottetown.

[Passed April 4th, 1843.]

WHEREAS the present mode of Contracting yearly for the repairing and keeping in repair, the Public Pumps and Wells in Charlottetown, has not been found to answer the purposes intended, and it is deemed expedient to amend the hereinafter recited Act: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That on the second Tuesday in April next, after the passing of this Act, and on the same day in any subsequent year, when occasion may require, the Assessors elected, or to be elected under the provisions of the Act passed in the Third year of the Reign of His late Majesty King William the Fourth, intituled *An Act to make and keep in repair the Pumps and Wells of Charlottetown, and for other purposes, and to repeal a certain Act therein mentioned*, shall and they are hereby authorized and directed, by advertisement in the *Royal Gazette* newspaper, to call for Tenders for the repairing, and keeping in efficient repair, the Public Pumps and Wells of Charlottetown, by the year, for a period not exceeding Six years, nor less than Three years; the said Tenders to be delivered to the said Assessors, on the day before the Annual Meeting to be held under the authority of the hereinbefore recited Act, on the First Tuesday in May next following the publishing of such advertisement, and all such Tenders as shall be received by the said Assessors pursuant to the said Advertisement, shall be submitted by them to the said Public Meeting; and the Inhabitants and Landholders present at said meeting, or a majority of them, are hereby authorized to accept the Tender that may appear to them to be the most advantageous for the public interest; and the person or

On 2d Tuesday in April in each year, Assessors appointed under Act 3d Will. 4th cap. 37, authorized to let the keeping in repair the Pumps and Wells in Charlottetown, for a period not exceeding 6 years, nor less than 3 years.

Tenders for contract to be advertised for.

Period of delivery of tenders.

Tenders to be submitted to Public Meeting of inhabitants, &c. and majority to accept such as appear most advantageous to the public interest.

persons whose Tender shall be so accepted, shall be required by himself, and two sufficient sureties, to enter into a Bond for the due performance of such Contract, any thing in the before recited Act to the contrary notwithstanding.

Bond to be given for performance of Contract.

II. And be it enacted, That in case it shall appear necessary to the Assessors taking such Bond, they are hereby required to provide therein, that as often as it shall appear to the said Assessors or their successors, that any Pump or Well shall be allowed to be out of repair for the period of Two days, and contrary to the terms of the Contract, it shall be lawful to and for such Assessors to cause such Pump or Well to be repaired, at the cost and charge of such Contractor, who shall be liable therefor, and all damages in consequence thereof, in any action on the said Bond.

Authorises Assessors to have certain conditions inserted in Bond.

III. And be it enacted, That all actions for the breach of such Bond, shall and may be brought by the said Assessors being parties thereto, or by their successors in office.

Mode of enforcing such Bonds.

IV. And be it enacted, That in case it shall or may happen, that by reason of any neglect or omission, on the part of the Inhabitants of the said Town, to assess a sufficient sum to pay off and discharge any amount agreed to be paid, such Contractor as aforesaid, that then, and as often as it shall so happen, it shall be lawful for the said Assessors or their successors in office, to assess the Inhabitants and Landholders in any sum sufficient to pay and discharge the amount due such Contractor, and which amount so assessed shall and may be collected, and recovered, in manner prescribed by the said recited Act.

If inhabitants, &c. of Charlotte-town neglect or omit to assess a sufficient sum to pay Contractor, Assessors may assess the same on them.

Mode of recovery of such Assessment.

Continuance
of Act.

V. And be it enacted, That this Act shall continue and be in force for and during the continuance of the Act to which this is an amendment, and no longer.

C A P. V.

An ACT to continue and amend the Act for facilitating the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick, by means of Sailing Packets.

[Passed April 4th, 1843.]

WHEREAS it is deemed expedient to continue and amend the hereinafter recited Act: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That an Act passed in the Third year of the Reign of Her present Majesty, intituled *An Act to facilitate the intercourse between this Island and the Provinces of Nova Scotia and New Brunswick*, be, and the same is hereby continued for Three years from the passing hereof, and no longer.

Continues Act of
3 Vic. cap. 20
for 3 years.

£20 per annum to
be paid to person
to be licensed to
run a Packet be-
tween George-
town and Pictou.

II. And be it enacted, That there shall be paid (in addition to, and over and above the sum of Fifty Pounds, as mentioned in the said recited Act, and only during the continuance thereof,) a further sum of Twenty Pounds, to the person who shall be licenced to run the Packet between Georgetown and Pictou, which sum shall be paid in way and manner directed in the said Act.

Lieut. Governor
to appoint a per-
son resident in
Bedeque and
another in
Georgetown, to
inspect Packets,
&c. before Li-
cense granted.

III. And be it enacted, That before any Licence shall be granted, in any case under and by virtue of the Act which this Act continues and amends, or by virtue of this Act, it shall be lawful for the Administrator of the Government in Council, for the time being, to appoint one competent person resident in Bedeque, no way interested in the Vessel.

offered to be run as a Packet, between that Port and Shediac, in the Province of New Brunswick; and one competent person resident in Georgetown, no way interested in the Vessel offered to be run as a Packet between that Port and Pictou, aforesaid, whose duties shall be respectively, to inspect such Vessels, and ascertain the fitness of such Vessels for such purpose, and also to examine into, enquire and ascertain the capacity and character of the respective Masters of said Vessels for their offices, and who shall report thereon to the Administrator of the Government in Council, for the time being, and such Licences shall only be granted in the event of such Report being satisfactory on the said several points hereinbefore mentioned, any thing in the said Act which this Act continues and amends, or in this Act, to the contrary notwithstanding.

Duties of Inspectors.

IV. And whereas it is probable, that the Prince Edward Island Steam Navigation Company, may in a short time have a second Steam Boat, and in such case, the said Boat is to run between Georgetown and Pictou, as directed in an Act passed this Session: Be it therefore enacted, That the allowance or grant of money to the Georgetown Sailing Packet under this Act, or the Act of which this is an amendment, shall cease, on such Steam Boat running as hereinbefore mentioned.

Allowance to Georgetown Packet under this Act, to cease when a Steam Boat shall be placed on that station by Steam Boat Company.

CAP. VI.

An ACT to alter and amend the several Acts therein mentioned, relating to the Prince Edward Island Steam Navigation Company.

[Passed April 4th, 1843.]

WHEREAS it is expedient for the more regular conveyance of the Mails between

Repeals part of Act of 5 Vic. cap. 2, providing that Steam Boat shall touch at Georgetown.

the Provinces of New Brunswick, Nova Scotia and this Island, that an Act passed in the Fifth year of Her present Majesty's Reign, intituled *An Act for the Incorporation of the Prince Edward Island Steam Navigation Company*; and also, an Act passed in the Fifth year of Her present Majesty's Reign, intituled *An Act to authorize the appointment of Commissioners to manage certain Shares and Property in the Prince Edward Island Steam Navigation Company*, should be altered and amended: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That as much of the first recited Act as provides that the Steam Boat belonging to the said Company, shall touch at Georgetown, be, and the same is hereby repealed.

Commissioners, under Act of 5 Vic. cap. 3, to purchase 19 additional Shares for Government in Steam Boat Company, from Georgetown Shareholders, and also 29 other Shares in said Company.

II. And whereas it is necessary to authorize the Commissioners appointed under the said Act, of the Fifth year of Her present Majesty's Reign, intituled *An Act to authorize the appointment of Commissioners to manage certain Shares and Property in the Prince Edward Island Steam Navigation Company, on behalf of the Government of this Colony*, to purchase certain additional Shares in said Steam Navigation Company, and to provide for the management of the same: Be it therefore enacted, that it shall be lawful for the said Commissioners, to purchase Nineteen additional Shares from the Shareholders residing at Georgetown or its vicinity, together with Twenty-nine Shares remaining undisposed of by the said Company, and for the first Nineteen Shares, to pay therefor the original amount paid up by the respective Shareholders, on such Shares first mentioned, together with interest thereon, at the rate of Four Pounds *per centum* per annum, from the date of such payment as aforesaid; and it shall and may be lawful for the Lieutenant Governor in Council, and he is hereby empowered on application made therefor, by the said Commissioners, to draw Warrants

Amount to be paid for Georgetown Shares.

Lt. Governor to draw Warrants on Treasury for amount, on application of Commissioners.

on the Treasury, for any sum or sums of money that may be required towards payment of the said additional Shares.

III. And be it enacted, That the said additional Shares, when so purchased, shall be vested in the Government of this Island, and be subject, in all respects, to the same regulations as are prescribed in and by the last recited Act, for the management and control of the Shares now held by the Government in the said Steam Navigation Company.

Vests Shares when purchased in the Government, subject to same regulations as are prescribed in Act of 5 Vic. cap. 3.

IV. And whereas great advantages would accrue to this Colony, if a more frequent and extended intercourse was established with the neighbouring Provinces of Nova Scotia and New Brunswick, than can be kept up by means of one Steam Boat, and it is deemed requisite to provide the means for purchasing an additional Boat, of from Thirty to Fifty Horse-Power, to supply such accommodation as is required: Be it enacted, that in order to raise a sum for the purchase of such Steam Boat, as aforesaid, it shall be lawful for the said Directors to pay to the several Shareholders, at and after the rate of Five Pounds *per centum*, per annum, on the paid-up Stock held by them respectively, and no more, and the surplus due to such Shareholders, if any, together with the whole amount of the dividends, declared from time to time, on the Shares held by the Government in the said Company, shall be formed into an accumulating fund, and shall be expended under the direction of the said Company, in extending their communications between this and the neighbouring Colonies of Nova Scotia and New Brunswick, by means of an additional Steam Boat, of from Thirty to Fifty Horse-power—any thing contained in the hereinbefore recited Act to the contrary notwithstanding.

Authorises Directors of Steam Boat Company to pay 5 *per centum* per annum interest to Shareholders.

Surplus, together with dividend to be due to Government on Shares held by it, to be a fund to purchase a second Steam Boat to be employed in extending the communication between this Island and the neighbouring Colonies.

When second Steam Boat is purchased the last preceding Section to cease.

V. Provided always, and be it enacted, That when and so soon as such last mentioned Steam Boat shall have been procured and paid for by the said Company, in accordance with the provisions of this Act, that then the whole stipulations contained in, and powers conferred by the last preceding Section of this Act, shall cease and determine.

If profits are not sufficient to make a dividend of 5 per centum, per annum, on the whole of Shares, the same to be applied towards payment of dividend not exceeding 5 per centum per annum, to private Shareholders only.

VI. Provided always, and be it enacted, That when it shall happen that the profits of the said Company shall be found insufficient to make a dividend, equal in amount to Five Pounds *per centum*, per annum, on the whole of the shares of the said Company, that then it shall be lawful for the said Directors to apply the whole amount of such profits towards the payment of the dividend (not exceeding Five Pounds *per centum* per annum,) as aforesaid, to such private Shareholders only—any thing in the hereinbefore recited Act to the contrary notwithstanding.

Directors may insure Steam Boats,

VII. And be it enacted, That it shall be lawful for the Directors of the said Company, if they shall see fit, to insure any Steam Vessel owned by them out of the Stock held by the said Company, against the risks usually taken by Marine Insurance Companies, and to reserve therefor the amount of Four Hundred Pounds per annum, Halifax Currency, and to apply the said sum towards the purchase of such additional Steam Boat as aforesaid, until such Boat shall be procured and paid for, as aforesaid.

and may reserve £400 per annum and apply the same towards purchase of second Steam Boat.

Government Shares in second Steam Boat to be equivalent to amount contributed by it towards the purchase of Boat,

VIII. And be it enacted, That when and so soon as such last mentioned Steam Boat as aforesaid, shall be procured and put in operation, that then the Government of this Island shall be entitled to have and to hold such additional number of Shares in the said Company, as shall be equivalent to the amount contributed by the said Government towards the purchase of the said last mentioned Steam Boat, and which Shares shall be subject to

the same Rules and Regulations in all respects, as are now provided for the management and disposal of the Shares now held by the said Government in said Company.

—and to be held subject to same rules, &c., as other Government Shares in Steam Boat Company.

IX. And be it enacted, That the Commissioners appointed from time to time, under the provisions of the last recited Act, shall be entitled to Five additional Votes, over and above those allowed by the Eleventh Section of the hereinbefore first recited Act, so long as the Government of this Colony shall retain the Shares so to be purchased as aforesaid, and so in proportion for any less number than the whole number of such Shares.

Commissioners, for managing the Government Shares, to have five additional votes beyond those allowed by Act of the 5th Vic. cap. 2.

X. And be it enacted, That when and so soon as the said Steam Navigation Company shall purchase a Steam Boat, under the provisions of this Act, that then the said Boat shall be placed on the Georgetown station, and shall run once a fortnight (unless in particular cases of emergency) from Georgetown to Pictou; under such Regulations as may be ordered by the Directors of the Prince Edward Island Steam Navigation Company.

Second Steam Boat to be placed on Georgetown station.

C A P. VII.

An ACT for the increase of the REVENUE of this Island.

[Passed April 15th, 1843.]

WHEREAS it is deemed expedient, to continue with certain exceptions, as are hereinafter excepted and repealed, the Act passed in the Fifth year of Her present Majesty's Reign, intituled *An Act for the increase of the Revenue of this Island*: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the said hereinbefore recited Act, for the increase of the Revenue of this Island, be, and the

Continues Act of the 5th Victoria, cap. 4, with certain exceptions, for 1 year, from 4th May, 1843.

same is hereby continued for One year, and no longer, from and after the Fourth day of May next, except so much of the said recited Act as is hereinafter repealed.

Repeals 3d, 22d
and 26th Sec-
tions of Act of
5th Victoria;
cap. 4.

II. And whereas the Third, Twenty-second, and Twenty-sixth Sections of the said recited Act, appear by the Despatch of Lord Stanley, the Secretary of State for the Colonies, dated the Twenty-second day of December, One Thousand eight hundred and forty-two, to be at variance with the Act of the Imperial Parliament, passed in the present year of Her present Majesty's Reign, intituled *An Act to amend the Laws for the regulation of the Trade of the British Possessions abroad*: Be it therefore enacted, That the said Third, Twenty-second, and Twenty-sixth Sections of the said first hereinbefore recited Act, be, and the same are hereby repealed.

Exempts certain
enumerated arti-
cles from adva-
lorem duty im-
posed by said
Act.

III. And be it enacted, That no *ad valorem* Duty whatsoever, shall be levied or collected on the several Articles following, anything hereinafter contained to the contrary notwithstanding; (that is to say) Bibles, Testaments, and Religious Tracts, imported by any Public Society, being for the promotion of Christian Knowledge; Salt, Lime, Gypsum, Building Stone, or Lime-stone, Wines, Rum, Brandy, Gin, or other distilled Spirituous Liquors, Molasses, Porter, Ale, Tea, Tobacco, Fish, Fish-oil, Lumber, Staves, Pig-iron, Fire Engines, or the Baggage of Emigrants, nor upon any Wheat, or Grain, Garden and Grass Seeds, Live Stock or Implements of Husbandry, which may be imported by any Agricultural Society, for the purpose of being sold or used by such Society within this Island, nor upon any Breeding Live Stock, imported by any private individual, nor upon any Sails, Rigging, Blocks, Cables and Anchors, which may have been used in taking any new Vessel from this Island, to a Market for sale,

if such Sails, Rigging, Blocks, Cables and Anchors shall be returned forthwith, after the sale of the Vessel, direct to the Island, by the Exporters thereof, and shall have previously paid or been charged with the duty imposed thereon, by this or any former Act, on the first importation thereof, into this Island.

IV. And whereas by the Act of the Imperial Parliament hereinbefore recited, which will come into operation in the British North American Colonies, on the Fifth day of July next, very material alterations and reductions have been made in the rates of Customs' Duties, imposed by former Acts of the Imperial Parliament, on all Goods, Wares, and Merchandize of Foreign growth, production or manufacture: And whereas Her Majesty's Government, have left the Colonial Legislatures at liberty, to fix, subject to Her Majesty's approval, such additional rates and duties, on all such Foreign Goods, Wares and Merchandize, over and above the Customs' Duties imposed by the said Imperial Act, as they may deem necessary, for the further purposes of Revenue: Be it therefore enacted, That from and after the Fifth day of July next, and during the continuance of this Act, there shall be raised, levied, collected and paid, an Impost Duty over and above the Duties imposed by the said first hereinbefore recited Act, as altered and continued by this Act, and by the Acts passed previous thereto, and now in force in this Island, upon all Goods, Wares and Merchandize, except such Articles as are hereinafter exempted, not being the growth, production or manufacture of the United Kingdom, or of any of the British Possessions in America, or of the Mauritius, or of any of the British Possessions within the limits of the East India Company's Charter, or the produce of any of the British Fisheries, imported or brought into this Island, as the same are respectively set forth in the

Imposes a duty over and above duty chargeable on certain foreign Goods, Merchandize, &c. by said Act of 5th Victoria, cap. 4.

TABLE OF DUTIES.

Table of Duties.			£	s	d
	Wheat, per quarter	-	0	4	0
<i>Indian Corn</i>	Meal or Wheat Flour, the barrel of 196 lbs.	-	0	4	6
<i>1/4</i>	Meat, salted or cured, the cwt.	-	0	10	6
<i>1/8</i>	Lard, the cwt.	-	0	12	0
<i>1/4</i>	Butter, the cwt.	-	0	12	0
<i>1/8</i>	Cheese, the cwt.	-	0	8	0
<i>1/16</i>	Coffee, the cwt.	-	0	4	0
<i>3/16</i>	Bread, Biscuit and Crackers, the cwt.	-	0	5	0
<i>1/16</i>	Molasses, the cwt.	-	0	0	2
<i>1/8</i>	Sugar, unrefined, the cwt.	-	0	0	6
<i>1/8</i>	Refined Sugar, the cwt.	-	0	5	0
	Tea, unless imported direct from China, or unless imported from the United Kingdom or any of the British Pos- sessions--per pound.	-	0	0	3
<i>1/3</i>	Rum, per gallon	-	0	1	3
<i>1/6</i>	Other Spirits and Cordials, per gallon	-	0	0	6
<i>1/6</i>	Wine, whether bottled or not, per gallon	-	0	0	6
	Iron and Brass castings, 20 per cent. <i>ad valorem.</i>	-			
	Boots, Shoes, and Leather Manufactures, of all sorts, 20 per cent. <i>ad valorem.</i>	-			
<i>P</i>	Sole Leather, per pound	-	0	0	2 1
<i>2</i>	Harness Leather, per pound	-	0	0	4 2
<i>3</i>	Upper Leather, per pound	-	0	0	6 3
<i>5</i>	Manufactured Tobacco, except Cigars, per pound	-	0	0	1
<i>2</i>	Cigars, 20 per cent. <i>ad valorem.</i>	-			
	Clocks and Clock machinery, 25 per cent. <i>ad valorem.</i>	-			
	Articles manufactured of Wood, and such Articles as Wood forms the principle part of, 15 per cent. <i>ad valorem.</i>	-			
	Articles not enumerated, except such as are comprised or referred to in the fol- lowing Table of Exemptions, 7 1/2 per cent. <i>ad valorem.</i>	-			

TABLE OF EXEMPTIONS FROM ADDITIONAL IMPOST DUTY, ON FOREIGN GOODS.

Coin, Hay and Straw, Tallow, Raw Hides, Salt, Cotton Wool, Hemp and Flax, Neat Cattle, Burr Stones,

Stores of every description imported or supplied for the use of Her Majesty's Forces.

V. And be it enacted, That the several Rates and Duties imposed by this Act, upon Goods, Wares and Merchandize, not being the growth, production or manufacture of the United Kingdom, or of any of the British possessions in America, or of the Mauritius, or of any of the British possessions within the limits of the East India Company's Charter, or the produce of any of the British Fisheries, shall on importation into this Island, be secured in manner and form, and subject in every respect to the enactments and regulations mentioned, expressed and prescribed, in and by the said first hereinbefore recited Act.

Duties chargeable by Act to be secured as prescribed in Act of 5th Vic. cap. 4.

Sum

	7
	10
	11
Col:	1-9
For:	1-3
	3.0
For:	9
	3
	6.9

VI. And be it enacted, That on any Goods, Wares, or Merchandize whatsoever, being imported into this Island, and liable for duty, by any person or persons who shall not produce to the Collector of Excise, at whose office the said Goods shall be entered for duty, a Certificate from an authorized Officer of Customs, at the port from whence the said Goods shall have been imported, that the said Goods are of the production of the United Kingdom, or of any of the British Possessions in America, or of the Mauritius, or of any of the British possessions within the limits of the East India Company's Charter, or a certificate to the same effect, from such Custom House Officer, at the Port where any such Goods shall have been entered in this Island, or the Certificate of clearance of any such Goods, from the Port whence the said Goods shall have been imported, the same shall be deemed of Foreign Production, and be

All Goods, &c. imported into this Island, to be deemed foreign in terms of this Act, unless Importer produces a certificate from an officer of Customs, &c., at the port from whence the same are imported, that they are the production of the United Kingdom, British Possessions, &c.

	10
	11
Col:	1-9
	9
For:	1-3
	3-9

2/4

liable to the same duty, as if the said Goods were imported direct from any Foreign Country.

Master of Vessel having dutiable goods, &c., on board, and only landing a portion of them in this Island, to make affidavit, &c. at Excise Office.

VII. And be it enacted, That on any Ship, or Vessel arriving at any Port or Place in this Island, having on board any Goods liable to duty in this Colony, and where it is the intention of the Master of such Vessel to land ^{at any Port or Place in this Island} ~~in this Island~~, only a portion of such Goods, then and in every such case, after landing such portion of Goods as aforesaid, he the said Master shall, and is hereby required, to make and subscribe at the office of Excise, where first he shall have made report or entry of such Goods, the following Affidavit, that is to say.

Form of Affidavit of Master in such case.

“I do swear that the following Goods to wit:

mentioned in the manifest of the Cargo, of the _____ made at this Office, on the _____ day of _____ are now actually on board the said Vessel, and that no part of the same shall be landed on this Island, or the Territories thereof, unless the duties on any such Goods shall previously be paid or secured, to the best of my knowledge and belief.”

And if any such Master shall neglect or refuse to make and subscribe such Affidavit, he shall be liable to forfeit and pay on conviction, a fine not exceeding One hundred Pounds, the same to be recovered in the same way and manner, as is pointed out in the Thirty-Sixth Section of the first hereinbefore recited Act.

Where Owner or Consignee of goods, &c. does not pay or secure duties, Master of vessel to deliver such goods, &c. to Collector of Excise.

VIII. And be it enacted, That it shall and may be lawful for the Master of any Ship or Vessel, arriving in any Port or Place in this Island, having on board any Goods, Wares or Merchandize, and where the Owner or Consignee does not pay or secure the duties upon such Goods within a reasonable time, after his arrival in the said Port or Place, or where such Importer or Consignee is ab-

sent from such place, to deliver such Goods to the said Collector for the security of such Duties, which said Collector is hereby empowered and directed to receive and keep the same at the Owner's or Consignee's risk, until the duties due thereon, together with the charges, have been paid, and if the duties due and payable on such Goods, shall not be paid or secured by the Owner, Owners or Consignees thereof, within Three Months from the time of the landing of such Goods, then, and in such case, the said Collector is hereby empowered to sell and dispose of so much thereof, as shall be sufficient to pay the Duties due thereon, and also the Freight, Charge of Custody, Storage and expenses incurred by the sale thereof.

Duty of Collector of Excise in such case.

IX. And be it enacted, That on any person entering any Goods, Wares or Merchandize, for duty at any Excise Office within this Island, at a less value than may appear to the Collector of Excise, at any such Office, to be the real value thereof according to the true intent and meaning of the Act, of which this Act is an amendment, it shall and may be lawful for the said Collector, to detain such Goods, Wares or Merchandize, within Five days after the landing thereof, and the said Collector at the Port at which the same have been entered, shall pay to the Importer or Proprietor on demand, the value declared in such aforesaid Entry, together with the Costs and Charges of Importation, and an addition of Ten Pounds *per centum* thereon, and also any Customs' Duties which shall have been paid thereon, in this Colony, which shall be a full satisfaction for such Goods to the Importer or Owner thereof; and it shall be lawful for the said Collector, and he is hereby directed, to cause the said Goods to be publicly sold to the best advantage, and out of the proceeds thereof, the money so as aforesaid directed to be paid for such Goods, shall be reimbursed to such Collector, and after deducting from the overplus (if any), the

Collector of Excise may detain goods, &c., when it appears to him that the Importer has entered them lower than the real value, on paying to importer the value as stated by him, and the costs of importation, and ten pounds per centum on the whole.

Duty of Collector of Excise in case he detains such goods, &c.

Proceeds of such Goods, &c., how to be appropriated.

Expences incurred for the detaining, securing and sale of such Goods, one moiety of the Balance shall be paid into the Treasury of this Island, and the other moiety shall go to and for the use of such Collector.

Continuance
of Act.

X. And be it enacted, That this Act shall be and continue in force for one year, from and after the fourth day of May next, and no longer.

CAP. VIII.

An ACT to amend the Marriage Law.

[Passed *April 15th, 1843.*]

WHEREAS it has been found that improper Marriages have been celebrated, under Licences granted in pursuance of the Act now in force, authorising the celebration of Marriages, in consequence of misrepresentation or concealment of facts, by the parties obtaining such Licences. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, no Licence shall be granted for the celebration of Marriage, where the parties contracting such Marriage, or either of them, shall be under the age of Twenty-one years, unless the consent of the Parents or Guardians of such contracting party or parties, so under age, shall be first signified in writing, under the hand or hands of such Parent or Guardian, Parents or Guardians, and signed in the presence of one or more Witness or Witnesses.

In future no Licence to be granted for the celebration of Marriage, when the parties, or either of them shall be under 21 years of age, unless by consent of parents, &c., in writing.

Mode of authentication of consent of parents, &c.

No Licence to be granted for Marriage, unless a Bond be previously given, in form set forth in Schedule.

II. And be it enacted, That no Licence for Marriage shall be granted, without a Bond being previously given by the applicant, and one sufficient security (according to the form set forth in the Schedule to this Act annexed).

III. And be it enacted, That the Deputy Prothonotaries in Prince and King's Counties be empowered, to issue Marriage Licences, and to take the Bonds required in such cases, under such regulations as the Governor, or the Administrator of the Government, for the time being, may think proper to prescribe, and all such Bonds shall on or before the First day of January, in each and every year, be transmitted to the Office of the Colonial Secretary, of this Island, and there deposited; such Deputy Prothonotary receiving the Fees, due to the Lieutenant Governor and Private Secretary for such Licence, and be responsible therefor, together with the Fee of Five Shillings and sixpence to himself, for the issuing such Licence and taking such Bond.

Authorises Deputy Prothonotaries in Prince and King's Counties to issue Marriage Licences, under regulations of the Lt. Governor, &c.

Bonds to be taken by them to be transmitted to Colonial Secretary.

Deputy Prothonotary to receive Lt. Governor's and Colonial Secretary's Fees. Fees of Deputy Prothonotary.

IV. And be it enacted, That it shall and may be lawful to and for the Lieutenant Governor, or for any of his successors in Office, on application to him made by any person or persons aggrieved, to assign the said Bond to him or them, by endorsement thereon, and which said endorsement shall to all intents and purposes, operate as an assignment thereof, and the penalty in said Bond may be recovered together with costs by suit, in the name of the said Assignee, to Her Majesty's Supreme Court of Judicature, for this Island.

Lt. Governor, &c. may assign Bond to party aggrieved.

Mode of assignment.

Mode of recovery of penalty on Bond.

SCHEDULE.

FORM OF BOND.

Prince Edward Island.

KNOW all Men by these Presents, That we are held and firmly bound to His Excellency Lieutenant Governor and Commander in Chief in and over Her Majesty's Island Prince Edward, and its Dependencies, &c. &c. &c. and to his Successors in Office, in the sum of One hundred Pounds lawful money of Great Britain, to be paid to the said

Form of Bond.

or his certain Attorney, Executors, Administrators or Assigns, for the true payment wherof, we bind ourselves and each of us by himself, for the whole and every part thereof, and the Heirs, Executors and Administrators of us, and each of us firmly by these presents, sealed with our Seals, dated the day of in the year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith and so forth; and in the year of our Lord, One Thousand eight hundred and

The condition of this obligation is such, That if hereafter there shall appear any lawful let or impediment by reason of consanguinity, affinity or any other lawful means whatever why the said

may not lawfully solemnize Marriage together, and in the same afterwards to remain and continue for Man and Wife, according to the Law in that behalf provided [*if the Licence be directed to a Magistrate, insert, and if the same Marriage shall be openly solemnized, according to the form of the Book of Common Prayer now established*], and if the above bounden do save harmless the said and other his Officers whatsoever by reason of the premises, then this obligation to be void, or else to remain in full force and virtue.

Signed, Sealed and Delivered
in the presence of

C A P. IX.

An ACT to amend the Act regulating the Floating of Logs, Scantling, Deals and other kinds of Wood, down the Rivers and Lesser Streams in this Island, and for other purposes therein mentioned.

[Passed April 15th, 1843.]

WHEREAS the Act passed in the Third year of Her present Majesty's Reign, intituled *An Act to regulate the floating of Logs, Scantling, Deals and other kinds of Wood, down the Rivers and lesser Streams in this Island*, and continued by an Act passed in the Fifth year of Her Majesty's Reign, only entitles persons having Timber or other kinds of Wood to float down Rivers or lesser Streams in this Island, to pass the same through the Waste Gate of Mill Dams, but it frequently happens that Saw Logs, Timber and other obstructions are boomed in below such Mill, or placed in the course of such River or Stream, so as to prevent the Owners of such floating Wood from taking the same through such Booms and obstructions, and down the course of such River and Stream, whereby the benefit intended to be conferred by the said recited Act is lost, and in such cases, for remedy whereof: Be it enacted, by the Lieutenant Governor, Council and Assembly, That when and so often as any person or persons requiring to float Wood as aforesaid, and entitled to the benefit of the provisions of the hereinbefore recited Act, shall be hindered or obstructed in doing so by means of any Boom, Logs, Timber, Deals or other obstructions, so placed in the River or Stream of any Mill Dam, through which it may be necessary to float such Timber or Wood; then, and in every such case, the person or persons causing such hindrance or obstruction, and continuing the same after Forty-eight hours' notice

Imposes same penalty as Act of 3d Vic. cap. 12, on persons obstructing the course of any River or Stream, so as to prevent the floating of Timber, &c. down the same, and who shall continue such obstruction after 48 hours' notice to remove the same.

to remove such obstruction, shall be liable to the same penalty, and to be proceeded against as provided and directed in the Fifth Section of the said recited Act, of which this is an amendment.

Gives power to party aggrieved to remove such obstruction after said notice.

II. And be it enacted, That the person or persons so hindered or obstructed, after the expiration of notice given as aforesaid, shall have liberty to remove such Boom, Logs, Timber or other obstructions, so as to enable him or them to float his or their Timber, Logs or other kinds of Wood, down the Rivers and lesser Streams in this Island, and the expense of such removal shall be paid by the owner or owners of such Boom, Logs, Timber or other kinds of Wood, or the person or persons causing such obstructions as aforesaid, and may be recovered, with costs, in the same way and manner as Fines and Penalties are recoverable under the Act of which this is an amendment.

Expense of removal may be recovered against party causing the obstruction.

Mode of recovery.

Imposes a penalty on persons guilty of cutting adrift Timber, &c., or concealing the same when found adrift

III. And whereas much loss and damage has heretofore been sustained in consequence of Rafts of Timber, Deals, and other Lumber being cut adrift in the several Harbours, Rivers and Streams in this Island, and by defacing the marks and numbers on such Timber, Deals and other Lumber: Be it therefore enacted, that if any person or persons shall, wilfully and unlawfully, with the intention to set adrift or unmoor, by cutting adrift or otherwise, any Timber, Deals or other Lumber, or shall wilfully or unlawfully conceal any Timber, Deals or other Lumber found adrift in any of the Harbours, Rivers or Streams in this Island, or on the Shores thereof, or shall deface any marks or numbers of such Timber, Deals or other Lumber, such person or persons convicted thereof, shall, for each and every offence, forfeit and pay a sum not exceeding Five Pounds, to be recovered, with costs, on the oath of one or more credible Witness or Witnesses, or of the party aggrieved in the premises, before any one of Her Majesty's

—or defacing marks or numbers on such Timber, &c.

Amount of penalty, and how recoverable.

Justices of the Peace, or a Commissioner of Small Debts, for the County wherein such offence shall be committed; one half of the said fine to be paid to the person who shall sue for the same, and the other half to the person who may give such information as may lead to the conviction of the party so offending, and if such conviction shall take place on the sole evidence of the owner or owners of such Timber, Deals or other Lumber, then, and in such case, the penalty shall be paid into Her Majesty's Treasury, towards the support of the Government of this Island.

Appropriation
of penalty.

CAP. X.

An ACT to alter, amend and repeal certain parts of the Acts now in force, regulating the Inspection of Pickled Fish.

[Passed *April 15th, 1843.*]

WHEREAS the Act hereinafter next mentioned has not been found to answer the purposes for which it was passed: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that an Act passed in the Fifth year of the Reign of Her present Majesty, intituled *An Act to amend an Act for the appointment of Fish Inspectors, and to continue and extend the provisions of the Act now in force regulating the size and quality of Fish Barrels and Tierces, and the Weight of Fish made up therein*, be, and the same is hereby repealed.

Repeals Act of
5th Victoria,
cap. 11.

II. And whereas it is expedient to alter, amend and repeal certain parts of an Act made and passed in the Fourth year of the Reign of Her present Majesty, intituled *An Act for the appointment of Fish Inspectors, and to continue and extend the provisions of the Act now in force regulating the size and quality of Fish Barrels and Tierces*,

Inspector to brand Fish of 3d quality, but fit for consumption, with the number 3.

Barrels or Casks containing Fish to be marked, describing the kind of Fish contained in them, and also the weight.

Importer of Pickled Fish to notify Inspector of intention to land the same.

Importer not to land or sell Fish before inspection.

Inspector to inspect such Fish.

and the Weight of Fish made up therein: Be it therefore enacted, that it shall be lawful for every Inspector of Fish, when, and so often as he shall find any Pickled Fish by him inspected to be of a quality fit for consumption, but inferior to the second quality of Pickled Fish, as established by the last recited Act, it shall be the duty of every such Inspector to brand the Barrels or Casks containing the same with the number Three (3) in addition to the other marks required by the said last recited Act, and that on all Barrels or Casks of Fish which shall be branded, after the passing of this Act, there shall also be marked the kind or denomination of Fish, as also the Weight thereof contained in each Barrel or Cask, together with the date of such Inspection.

III. And be it enacted, That when and so often as any person or persons shall import and bring into this Island any Pickled Fish, in Barrels, Half-barrels, Tierces or Casks of any description whatsoever, he or they shall, on entry thereof being made by him or them at the Custom House for the port or place for which the said Fish shall arrive, and before the landing or exposing for sale thereof, or of any part thereof, duly notify an Inspector of Fish appointed, or to be appointed, for such port or place as aforesaid, of the intention of such person or persons, so importing as aforesaid, to land such Fish so entered as aforesaid, or such quantity thereof as such person or persons shall be desirous of landing, and such person or persons shall, in no case, land or sell, or permit or suffer to be landed or sold, any such Fish, before the same shall be duly inspected; and every Inspector, upon receiving such notice as aforesaid, is hereby authorized and required to cause the said Fish or such part thereof as shall be exposed for sale, to be duly inspected; and if any Pickled Fish shall hereafter be imported or brought into this Island either in Barrels, Half-barrels, Tierces or Casks, without

the owner or owners thereof, or the person or persons in charge thereof, first making such notification or report as aforesaid to the said Inspector or Inspectors, of his, her or their intention to land such Pickled Fish as aforesaid, at the port or place where the same shall or may be entered by them as aforesaid, then and in every such case, every Barrel, Half-barrel, Tierce or Cask of such Pickled Fish being so imported, landed or disposed of by him or them, or any other person as aforesaid, shall become forfeited to Her Majesty, and the said Inspector or Inspectors are hereby authorized and empowered to sell and dispose of the same, and out of the moneys arising from the sale of such Pickled Fish so forfeited as aforesaid, to defray all necessary expenses attending the forfeiture and sale thereof, and to pay the residue of the moneys arising from any such sales as aforesaid into the Treasury of this Island, to and for the uses of Her Majesty's Government.

Any Pickled Fish landed before notification to Inspector, to be forfeited.

Inspector to sell same.

Appropriation of proceeds of Fish so sold.

IV. And be it enacted, That every person who shall land or sell, or expose for sale, or shall permit or suffer to be landed or sold or exposed for sale, any Pickled Fish by him imported or brought into this Island, and before the same shall be duly inspected in manner required by this and the Act last hereinbefore recited, shall forfeit and pay, for every Barrel, Half-barrel, Tierce or Cask so landed, sold, or exposed for sale, the sum of Ten Shillings; and all such Fish so landed, sold, or exposed for sale, shall become forfeited to Her Majesty; and, after the same shall be sold, the proceeds thereof, deducting all necessary expenses, shall be paid into the Treasury of this Island, to and for the use of Her Majesty's Government.

Penalty on Importer, &c. selling or exposing for sale Pickled Fish before inspection, or landing same before inspection,

and Fish to be forfeited.

Appropriation of proceeds of such Fish.

V. And be it enacted, That if any Master of a Vessel, or other person, shall put or receive on board any Vessel or Vessels, any Pickled Fish, for the purpose of exporting the same from this

Penalty on Master, &c. of Vessel receiving or

putting on board any Pickled Fish not duly inspected.

Colony, either in Barrels, Half-barrels or Tierces or otherwise, which shall not have been duly inspected and branded, shall forfeit and pay, for each and every Barrel, Half-barrel, Tierce or other Cask so exposed, or offered for sale, or purchased as aforesaid, any sum not less than Five Shillings nor more than Ten Shillings.

Fish imported in bulk may be inspected at request of purchaser within two days after sale.

If unsound, such Fish to be destroyed and Vendor to refund purchase money.

Mode of recovery thereof.

VI. And be it enacted, That should any Herrings, Mackerel, Alewives, or other salted Fish be imported in bulk, or if any quantity thereof be sold, or offered for sale in bulk in this Colony, it shall be lawful for the purchaser of the said Fish to have the quantity thereof by him purchased inspected, within Two Days after the sale of such Fish; and should the same, on inspection, be found unsound, they shall be destroyed, and the Vendor or Vendors of such Fish shall be liable to the purchaser for the price thereof, and the charges thereon, to be recovered before any Commissioner or Commissioners for the recovery of Small Debts in such manner as Small Debts may be recovered, if not exceeding Five Pounds; and if above that sum, then in Her Majesty's Supreme Court of Judicature, and in all cases with costs of suit.

Inspector not to receive reward, perquisite, commission, &c., beyond his legal charge, nor appropriate to his own use Fish condemned as unsound.

Penalty on Inspector offending herein.

Mode of recovery of Penalty.

VII. And be it enacted, That no payment, reward, perquisite, or other valuable consideration, shall be charged or recoverable, directly or indirectly, by any Fish Inspector, for any commission, per centage, storage, factorage, for or relating to the sale, care or management of any Fish by him inspected; nor shall any such Inspector, in any manner, appropriate to his own use or advantage, any Fish by him condemned as unsound, and which shall thereby become forfeited; and every Inspector of Fish who shall offend against the provisions of this Section, besides being liable to be removed from office, shall forfeit and pay, for every such offence, any sum not less than One Pound nor more than Ten Pounds,

the same to be recovered, with costs of suit, in Her Majesty's Supreme Court of Judicature, upon the oath of any one or more credible witness or witnesses, and to be appropriated to and for the use of Her Majesty's Government.

Appropriation
of penalty.

VIII. And be it enacted, That in all suits which may be brought in any Court in this Island, by or against any Fish Inspector, for or in respect of any act or proceeding by him alleged to have been done in relation to his duty as Inspector, the *onus probandi* of the regular size and quality of any Barrels, Half-barrels or Tierces, and of the proper Weight, quality, branding, notice of importation and of landing, and of the due compliance of all other the requisitions of this Act, shall lie on the party asserting the same—any law, usage or custom to the contrary thereof, notwithstanding.

In suits brought
by or against
Inspector *onus
probandi* in cer-
tain cases to be
on party assert-
ing the facts.

IX. And be it enacted, That all fines and penalties incurred under the Fourth, Fifth and Sixth Clauses of this Act, shall and may be sued for and recovered, with costs of suit ; and if not exceeding Five Pounds, before any one or more Commissioners for the recovery of Small Debts, in like manner as Small Debts are now recovered ; and if above that sum, then in Her Majesty's Supreme Court of Judicature, by bill, plaint or information, and such Fines shall be paid into the Treasury of this Island, to and for the use of Her Majesty's Government.

Mode of recovery
of Fines imposed
by 4th, 5th and
6th Sections of
this Act.

X. And be it enacted, That the Sixth Section of the Act last hereinbefore recited, shall be and the same is hereby repealed.

Repeals 6th Sec-
tion of Act of 4th
Victoria, cap. 4.

XI. And be it enacted, That any Softwood Barrel containing Pickled Fish, and having only Three Hoops on each Chime, and Three on each Bilge be deemed good and sufficient, provided the

Regulates the
quality of Fish
Barrels.

same be lawful in every other respect—anything in the Act passed in the Fourth year of the Reign of His late Majesty King William the Fourth, intituled *An Act for establishing the size and quality of Fish Barrels and Tierces, and for regulating the Weight of Fish the same shall contain*—to the contrary, notwithstanding.

Continuance
of Act.

XII. And be it enacted, That this Act shall continue and be in force during the operation of the Act to which this is an amendment.

Fish Inspector
to give Bond
before entering
upon the duties
of his office.

Amount of Bond.

Duty of Inspec-
tor to render an
Account in writ-
ing to Lt. Go-
vernor in Coun-
cil.

XIII. And be it enacted, That no Fish Inspector shall be allowed to enter upon the duties of his office until he shall, with two sufficient Sureties, have made and duly executed a Bond to Her Majesty, conditioned in the penalty of Fifty Pounds, for the honest, faithful and skilful discharge of his duty; and it shall be part of said duty of every Fish Inspector, every Six Months, from and after the passing of this Act, to render to the Lieutenant Governor, in Council, an account in writing, containing the full quantity and kind of Fish by him inspected, and also the quantity condemned or seized, with the Names of the Owners or Importers, and the place or places whence such Fish shall have been imported, and also the amount of all moneys received by such Inspector, whether as Fees, Penalties or otherwise.

CAP. XI.

An ACT to continue and amend the Act relating to the Limits and Rules of Jails in the several Counties in this Island.

[Passed April 15th, 1843.]

Continues Act of
the 7th Will. 4th
cap. 9, for 5
years.

WHEREAS it is deemed expedient to continue and amend the hereinafter recited Act: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That an Act

passed in the Seventh year of the Reign of His late Majesty King William the Fourth, intituled *An Act for consolidating and amending the Act for the appointment of Limits and Rules for the Jail in Charlottetown, and the Act for regulating the Jails of King's and Prince Counties*, be, and the same is hereby continued, except as hereinafter provided, for Five Years, from the passing hereof and no longer.

II. And be it enacted, That so much of the said Act as extends the Limits of the said Jails, in King's and Queen's Counties, to the Water Lots, shall be, and the same is hereby repealed, and that the said Limits, in the said Counties, shall not hereafter in regard to the Water Lots and Streets, be held to extend beyond the edge of the Bank, and in the Lots and Streets wherein there is no Bank, then the Limits shall not extend beyond the line of ordinary high water mark, the liberty of the Wharves remaining as in the Act hereby continued; Provided always, That all Limit Bonds in King's and Queen's Counties, given before the passing hereof, shall with respect to all breaches of the conditions thereof, committed after the passing of this Act, have the same effect as if the Limits defined by this Act, were inserted therein.

Repeals so much of said Act as extends the Limits to Debtors to Water Lots, in King's and Queen's Counties.

Limits in future not to extend beyond edge of Bank of Water Lots, &c.

Limit Bonds given before the passing of this Act to remain in force.

CAP. XII.

An ACT to prevent the running at large of Hogs within the Common and Royalty of Charlottetown.

[Passed April 15th, 1843.]

WHEREAS the running at large of Hogs within the Common and Royalty of Charlottetown, is deemed a nuisance: Be it enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Lieu-

Lt. Governor, on 1st Monday in May, annually, to nominate 10 persons within

Common and
Royalty of Char-
lottetown to be
Hog Reeves for
Year.

Penalty on per-
sons refusing to
serve when so
appointed.

Mode of recove-
ry of penalty.

Lt. Governor to
appoint others in
room of these
refusing to serve.

tenant Governor, on the First Monday in May next, and on the same day annually, thereafter, during the continuance of this Act, to nominate and appoint Ten fit and proper persons residing within the said Common or Royalty of Charlottetown, to be Hog Reeves, for and during the space of one year, and the person or persons who may refuse to serve in the said office, shall forfeit and pay the sum of Five Pounds each, to be recovered before any Two of Her Majesty's Justices of the Peace for Queen's County, and be levied by Warrant of Distress and sale of the Goods and Chattels of such person or persons so refusing to serve in the said office, and the Lieutenant Governor is hereby authorised to nominate other persons to serve in their stead.

Extends the pro-
visions of 2d and
subsequent Sec-
tions of Act of
2d Victoria, cap.
3, to Common
and Royalty of
Charlottetown.

II. And be it enacted, That the provisions of the Second and subsequent Sections of the Act passed in the Second year of Her present Majesty's Reign, intituled *An Act to provide against the running at large of Hogs in the Streets and Squares of Charlottetown*, be, and the same are hereby extended to the Common and Royalty of the said Town.

CAP. XIII.

An ACT to further amend an Act intituled *An Act to prohibit the exportation of Oysters from this Island for a limited period.*

[Passed April 15th, 1843.]

WHEREAS it is found necessary to give to Justices of the Peace throughout this Island further powers to enable them more effectually to prevent the exportation of Oysters: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that from and after

Justice of the
Peace authorised
on information.

the passing of this Act, any Justice of the Peace who shall, on information, or upon his own view, ascertain and find that any Ship or Vessel has on board more than Ten Bushels of Oysters shipped in this Island, without a permit, in writing, to ship the same coastwise, as the Law requires, the same shall not only be taken as *prima facie* evidence of an intention to export such Oysters from the Island, but such Justice is hereby authorised and required to issue his Warrant to apprehend such Master or Commander, and, on conviction, to commit him to the Common Jail, for a period not exceeding Six Months, unless he shall pay the penalty of Twenty Pounds, as by law is now required, or give security, to the satisfaction of the seizing Officer, for the payment of the same, together with costs of recovery, within One Month—any thing in the Act of which this is an amendment, to the contrary, notwithstanding.

or on his own view, of vessel having on board more than 10 bushels of Oysters, without permit, to issue a Warrant against the Master

—and commit him to Jail for a period not exceeding six months, unless he pays the penalty of £20, imposed by Act of 3d Victoria, cap. 5, or give security for payment thereof and costs.

Time of payment on security given.

II. And be it enacted, That if any person shall, at any time or times, during the continuance of this Act, ship or sell any Oysters, taken within this Island, for exportation from the same, he shall for each offence, forfeit and pay a sum not exceeding Five Pounds, to be recovered, with costs, before any Justice of the Peace for the County where the said offence was committed, and applied, one half to the person who shall inform and sue for the same, and the other half to and for the use of Her Majesty's Government: Provided that the same be sued for within Three Months next after such forfeiture shall be incurred.

Imposes a penalty of £5 on persons shipping or selling for exportation Oysters taken within this Island.

Mode of recovery of penalty.

Appropriation of penalty.

Penalty to be sued for within 3 months after offence committed.

III. And be it enacted, That this Act shall continue and be in force for the same period as the Act to which it is an amendment, and no longer.

Continuance of Act

CAP. XIV.

An ACT relating to the Fisheries, and for the prevention of illicit Trade in Prince Edward Island, and the Coasts and Harbors thereof.

[Passed *April 15th, 1843.*]

WHEREAS by the Convention made between His late Majesty King George the Third, and the United States of America, signed at London, on the Twentieth day of October, in the Year of our Lord One thousand eight hundred and eighteen, and the Statute made and passed in the Parliament of Great Britain, in the Fifty-ninth year of the Reign of His late Majesty King George the Third, all foreign Ships, Vessels or Boats, or any Ship, Vessel or Boat, other than such as shall be navigated according to the Laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any Coasts, Bays, Creeks or Harbors whatever, in any part of His Majesty's Dominions in America, not included within the limits specified in the first article of the said Convention, are liable to seizure: And whereas the United States did by the said Convention, renounce for ever, any liberty enjoyed or claimed by the Inhabitants thereof, to take, dry or cure fish on, or within three marine miles of any of the Coasts, Bays, Creeks or Harbours of His Britannic Majesty's Dominions in America, not included within the above mentioned limits: Provided however, that the American Fishermen should be admitted to enter such Bays or Harbours for the purpose of shelter, and of repairing damages therein, of purchasing Wood, and of obtaining Water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying or curing Fish therein, or in any other manner whatever abusing the privileges thereby reserved to them: And whereas

no rules or regulations have been made for such purpose, and the interests of the Inhabitants of this Island, are materially impaired: And whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens, that persons found within the distances of the Coasts aforesaid, infringing the articles of the Convention aforesaid, and the enactments of the Statute aforesaid, on being taken possession of, profess to have come within said limits for the purpose of shelter, and repairing damages therein, or to purchase Wood and obtain Water, by which the Law is evaded, and the Vessels and Cargoes escape confiscation, although the Cargoes may be evidently intended to be smuggled into this Island, and the Fishery carried on, contrary to the said Convention and Statute: Be it therefore enacted, by the Lieutenant Governor Council and Assembly, That from and after the passing of this Act, it shall be lawful for the Officers of Her Majesty's Customs, the Officers of Impost and Excise, the Sheriffs and Magistrates throughout this Island, and any person holding a Commission for that purpose from His Excellency the Lieutenant Governor, for the time being, to go on board any Ship, Vessel or Boat within any Port, Bay, Creek or Harbour in this Island; and also to go on board any Ship, Vessel or Boat hovering within three marine miles of any of the Coasts, Bays, Creeks or Harbors thereof, and in either case, freely to stay on board such Ship, Vessel or Boat, as long as she shall remain within such Port or distance, and if any such Ship, Vessel or Boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the Master shall have been required to depart, it shall be lawful for any of the above enumerated Officers or persons to bring such Ship, Vessel or Boat into Port, and to search and examine her cargo, and to examine the Master upon oath, touching the cargo and voyage, and

Officers of Customs and Excise, Sheriffs and Magistrates, and any person holding a commission from Lt. Governor for that purpose, authorised to board vessels, &c. within 3 marine miles of coast of this Island.

Power of such Officers, &c.

Further power of such Officers, &c.

Prohibited Goods on board such vessel to be forfeited, and vessel, &c. if foreign, and found fishing, or preparing to fish, within such distance of 3 miles, to be forfeited.

Penalty on Master, &c. not truly answering questions.

Further powers of Officers of Customs, Excise, Magistrates, &c.

Penalty on persons molesting or obstructing Officers of Customs, Excise, Magistrates, &c.

Goods, Vessels, &c. seized under this Act to be delivered to nearest Collector of Customs.

if there be any goods on board prohibited to be imported into this Island, such Ship, Vessel or Boat, and the cargo laden on board thereof, shall be forfeited, and if the said Ship, Vessel or Boat, shall be foreign and not navigated according to the Law of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing within such distance of such Coasts, Bays, Creeks or Harbors of this Island, such Ship, Vessel, or Boat, and their respective cargoes shall be forfeited, and if the Master or person in command thereof, shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of One hundred Pounds.

II. And be it further enacted, That all Goods, Ships, Vessels and Boats, liable to forfeiture under this Act shall and may be seized and secured by any such Officer of Her Majesty's Customs, Officer of Impost and Excise, Sheriffs, Magistrates, or other person holding such Commission as aforesaid, and every person who shall in any way oppose, molest, or obstruct any Officer of the Customs, Officer of Impost and Excise, Sheriff, Magistrate, or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall, in any way oppose, molest, or obstruct any person acting in aid or assistance of such officer of Customs, officer of Impost and Excise, Sheriff, Magistrate, or other person so commissioned and employed as aforesaid, shall, for every such offence, forfeit the sum of Two hundred pounds.

III. And be it further enacted, That all Goods, Ships, Vessels and Boats which shall be seized, as being liable to forfeiture under this Act, shall be taken, forthwith, and delivered into the custody of the Collector of the Customs, at the Custom House next to the place where the same were seized, who shall secure and keep the same, in

such manner as other Vessels and Goods seized, are directed to be secured by the Commissioners of Her Majesty's Customs.

Collector of Customs to keep and secure same, &c.

IV. And be it further enacted, That all Goods, Ships, Vessels, Boats or other things, which shall have been condemned, as forfeited under this Act, shall, under the direction of the principal officer of the Customs or Excise, where such seizure shall have been secured, be sold by Public Auction, to the best bidder, and the produce of such sale be applied as follows, that is to say:—the amount chargeable for the custody of said Goods, Ship, Vessel, Boat or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties—one of which shall be paid to the Officer or other person or persons legally seizing the same, without deduction, and the other moiety to the Government, and paid into the Treasury of this Island—all costs incurred having been first deducted therefrom. Provided always, that it shall be lawful for the Lieutenant Governor, in Council, to direct that any of such things shall be destroyed, or reserved for the public service.

Goods, Vessels, &c. condemned under this Act to be sold under direction of Officer of Customs or Excise, at Public Auction.

Appropriation of proceeds of such Goods and Vessels, &c.

Lt. Governor may direct articles condemned to be destroyed or reserved for public service.

V. And be it further enacted, That all penalties and forfeitures, which may be hereafter incurred under this Act, shall and may be prosecuted, sued for and recovered, in the Court of Vice Admiralty, having jurisdiction in this Island.

Mode of recovery of penalties imposed by this Act.

VI. And be it further enacted, That if any Goods, or any Ship, Vessel or Boat shall be seized, as forfeited under this Act, it shall be lawful for the Judge or Judges of any Court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security, by Bond, with two sufficient Sureties, to be first approved by such seizing Officer or person, to answer double the value of the

Judge of Court having jurisdiction in case of Goods, Vessels, &c. seized, may, on consent of seizing party, release the same on security being given therefor.

Requisites of Bond to be taken for same.

Amount of Bond to be distributed by Collectors of Customs, if Goods, Vessels, &c. be condemned.

Regulates the mode of prosecuting suits for penalties under this Act.

Onus of proof of illegality of seizure to be on Claimant.

No claim to any thing seized under this Act to be admitted until certain requisites be complied with.

same in case of condemnation, and such Bond shall be taken to the use of Her Majesty, in the name of the Collector of the Customs in whose custody the Goods, or Ship, Vessel or Boat may be lodged, and such Bond shall be delivered and kept in the custody of such Collector; and in case the Goods, or Ship, Vessel, or Boat shall be condemned, the value thereof shall be paid into the hands of such Collector, who shall cancel such Bond, and distribute the money paid in such manner as is above directed.

VII. And be it further enacted, That no suit shall be commenced for the recovery of any penalty or forfeiture under this Act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's Advocate or Attorney General, or, in his absence, by the Solicitor General, for this Island; and if any question shall arise whether any person is an Officer of the Customs, Excise, Sheriff, Magistrate, or other person authorised to seize as aforesaid, *viva voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

VII. And be it further enacted, That if any Goods, Ship, Vessel or Boat shall be seized for any cause or forfeiture under this Act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof, shall be on the owner or claimant of such Goods, Ship, Vessel, or Boat, and not on the Officer or person who shall seize and stop the same.

IX. And be it further enacted, That no claim to any thing seized under this Act and returned into Her Majesty's Court of Vice Admiralty for adjudication, shall be admitted, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the

property in such thing be made by the owner, or by his Attorney or Agent, by whom such claim shall be entered, to the best of his knowledge and belief, and every person making a false oath there-to shall be deemed guilty of a misdemeanor, and shall be liable to the pains and penalties to which persons are liable for a misdemeanor.

X. And be it further enacted, That no person shall be admitted to enter a claim to any thing seized in pursuance of this Act, and prosecuted in this Island, until sufficient security shall have been given in the Court where such seizure is prosecuted in a penalty not exceeding Sixty Pounds to answer and pay the costs occasioned by such claim, and in default of giving such security, such things shall be adjudged to be forfeited and shall be condemned.

No claim to be admitted until security be given.

Amount of security and condition thereof.

XI. And be it further enacted, That no Writ shall be sued out against, nor a copy of any process served upon, any officer of the Customs, Excise, Sheriff, Magistrate, or other person authorised to seize as aforesaid, for any thing done in the exercise of his office, until One calendar Month after notice, in writing, shall have been delivered to him, or left at his usual place of abode, by the Attorney or Agent of the party who intends to sue out such Writ or process, in which notice shall be clearly and explicitly contained, the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the Attorney or Agent, and no evidence of the cause of such action shall be produced except of such as shall be contained in such notice, and no Verdict shall be given for the Plaintiff unless he shall prove on the trial that such notice was given, and, in default of such proof, the Defendant shall receive in such action a verdict and costs, or Judgment of nonsuit shall be awarded against the Plaintiff, as the Court shall direct.

Defines mode of proceeding against any officer of Customs, Excise, Magistrate, &c., for any thing done under this Act.

Limits time for bringing any action against any Officer of Customs, &c., for any thing done under this Act.

Regulates mode of proceeding in such actions.

If verdict be found for any claimant on certificate of Judge or Court, of probable cause of seizure, no costs to be allowed to claimant, nor seizing officers liable to any action, &c.

Seizing Officer, &c. may tender amends within 1 month after notice of action, and plead such tender, &c.

XII. And be it further enacted, That every such action shall be brought within Three calendar Months after the cause thereof, and shall be laid and tried in Her Majesty's Supreme Court of Judicature for this Island, and the Defendant may plead the general issue, and give the special matter in evidence ; and if the Plaintiff shall become nonsuited, or shall discontinue the action, or if upon a verdict or demurrer, Judgment shall be given against the Plaintiff, the Defendant shall receive treble costs, and have such remedy for the same as any Defendant can have in other cases where costs are given by law.

XIII. And be it further enacted, That in case any information or suit shall be brought to trial, on account of any seizure made under this Act, and a verdict shall be found for the Claimant thereof, and the Judge or Court before whom the cause shall have been tried, shall certify on the Record that there was probable cause of seizure, the Claimant shall not be intitled to any costs of suit, nor shall the person who made such seizure, be liable to any action, Indictment, or other suit or prosecution, on account of any such seizure ; and if any such action, Indictment or other suit or prosecution shall be brought to trial, against any person on account of such seizure, wherein a verdict shall be given against the Defendant, the Plaintiff besides the thing seized or the value thereof, shall be entitled to no more than Two-pence damages, nor to any costs of suit, nor shall the Defendant in such prosecution, be fined more than One Shilling.

XIV. And be it further enacted, That it shall be lawful for any such Officer of the Customs, Excise, or Sheriff, or Magistrate, or other person, authorised to seize as aforesaid, within One calendar Month after such notice, to tender amends to the party complaining, or his Agent, and to plead

such tender in bar to any action together with other pleas, and if the Jury shall find the amends sufficient, they shall give a verdict for the Defendant, and in such case, or in case the Plaintiff shall become nonsuit, or shall discontinue his action, or Judgment shall be given for the Defendant upon demurrer, then such Defendant shall be entitled to the like costs, as he would have been entitled to in case he had pleaded the general issue only ; Provided always, that it shall be lawful for such Defendant by leave of the Court, where such action shall be brought at any time before or after issue joined, to pay money into Court as in other actions.

If Jury find amends sufficient, verdict to be given for defendant.

And in such case, or in case of nonsuit, or judgment on demurrer in favor of Officer, &c., same costs to be given as if he had pleaded the general issue.

Officer, &c. may pay money into Court.

XV. And be it further enacted, That in any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the Record that the Defendant or Defendants in such action acted upon probable cause, then the Plaintiff in such action, shall not be entitled to more than Two-pence damages nor to any costs of suit.

If Judge or Court certifies probable cause of seizure, plaintiff only to be entitled to 2d. damages and to no costs.

XVI. And be it further enacted, That all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, may be commenced or prosecuted at any time within Three Years after the offence was committed by reason whereof such penalties or forfeitures shall be incurred, any law, usage or custom to the contrary notwithstanding.

All penalties or forfeitures under this Act may be recovered within 3 years after the offence committed or forfeiture incurred.

XVII. And be it further enacted, That no appeal shall be prosecuted from any Decree or Sentence of any of Her Majesty's Courts in this Island, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within Twelve months from the time when such decree or sentence was pronounced.

No appeal allowed from sentence of any Court under this Act unless applied for within 12 months after.

Suspending
Clause.

XVIII. And be it further enacted, That this Act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto, and an order made by Her Majesty in Council, that the clauses and provisions of this Act shall be the Rules, Regulations and restrictions respecting the Fisheries on the Coasts, Bays, Creeks or Harbours of the Island of Prince Edward.

CAP. XV.

An ACT to amend and explain an Act, passed in this present Session of the General Assembly, intituled *An Act to consolidate and amend the Laws relating to Statute Labour and the Expenditure of Public Moneys on the Highways.*

[Passed April 15th, 1843.]

WHEREAS in and by the Fifth Section of the said Act, intituled *An Act to consolidate and amend the Laws relating to Statute Labour and the Expenditure of Public Moneys on the Highways*, it is amongst other things enacted, that the Summons to be issued by the Justice of the Peace or the Commissioner of Small Debts, in the manner therein directed, shall be in the form in the Schedule to the said Act annexed, marked (B.) And Whereas by an omission in the said Act, the Schedule containing the said Form of Summons intended to be designated as Letter B, is omitted ; and Whereas in the Thirteenth Section of the said Act, reference is made for the form of Oath, to be made by the Commissioner, and attached to his Return, to the Schedule designated by the Letter C. which by mistake is in the said Schedule deisgnated by the Letter B. for remedy whereof : Be it therefore enacted, by the Lieutenant Governor, Council and Assembly,

That the Form of Summons to be issued by the Justice of the Peace or Commissioner of Small Debts, as in the said Fifth Section, or in any other Section of the said recited Act mentioned, shall be in the Form following, that is to say :

Summons to be issued by Justice of the Peace, &c. under Act of 6th Vic. cap. 1, to be in form herein prescribed.

County.

By _____ Esquire, one of Her Majesty's Justices of the Peace for the said County, (or Commissioner of Small Debts, as the case may be.) Form of said Summons.

You are hereby required personally to be and appear before me, at _____ on the _____ day of _____ next, at the hour of _____ o'clock, then and there to answer A. B., wherefore (*here insert the cause of action arising under said recited Act,*) according to the tenor of the Act of the General Assembly, in such case made and provided.

Given under my Hand and Seal the _____ day of _____ 18 _____

—any thing in the said Act to the contrary notwithstanding.

II. And be it enacted, That the Schedule designated in the said Thirteenth Section of the said recited Act, by the Letter (C) as prescribing the form of Oath to be made by the Commissioner, and attached to his Return, and which by mistake is designated by the Letter (B,) shall be deemed and taken to all intents and purposes whatsoever, as if the same had been both in the said Thirteenth Section, and in the said Schedule marked (B,) designated as Letter (C,) number One (I) any thing in the said Act to the contrary thereof in anywise notwithstanding.

Schedule (B.) to Act of 6th Vic. cap. 1, annexed, containing form of Commissioners' oath, to be deemed and taken to be Schedule (C), referred to in 13th Sec. of said Act.

CAP. XVI.

AN ACT to continue and amend an Act therein mentioned, for the relief of **INSOLVENT DEBTORS.**

[Passed *April 15th, 1843.*]

WHEREAS it is deemed expedient, to continue and amend an Act, passed in the Sixth year of the Reign of His late Majesty, King William the Fourth, for the relief of Insolvent Debtors: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That an Act passed in the Sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to suspend an Act made and passed in the Twenty-sixth year of the Reign of His late Majesty King George the Third, intituled 'An Act for the relief of Insolvent Debtors, and to make other provisions in lieu thereof,'* be, and the same is hereby continued for the space of Five years, and from thence to the end of the then next Session of the General Assembly.

Continues Act of the 6th Will. 4th cap. 9, relating to Insolvent debtors, for 5 years, and to the end of the then next Session of the General Assembly.

Justices of Supreme Court to appoint 3 persons in each of the Counties of King's and Prince Counties, for the purposes mentioned in said Act.

Such persons to reside within 12 miles of the respective Court Houses in said Counties. Powers of such persons.

II. And be it enacted, That within One Calendar Month from the passing of this Act, the Justices of Her Majesty's Supreme Court of Judicature, or any two of them, of whom the Chief Justice shall be one, shall, and they are hereby required, to commission and appoint three fit and proper persons, two of whom shall be a quorum, in each of the Counties of King's County and Prince County, for the purposes mentioned in the above recited Act, and who shall reside within Twelve Miles of the respective Court Houses in the said Counties; and the said Commissioners shall, by virtue of such appointment, have, and be invested with the same powers and authorities in every respect, within the Counties in which they shall reside, as are given and conferred by the Act of which this is an amendment—any thing in the said Act to the contrary, notwithstanding.

CAP. XVII.

An ACT for suspending for a limited period, certain parts of an Act passed in the Fourth Year of His late Majesty's Reign, intituled *An Act for ascertaining and establishing the Boundary Lines of Counties and Townships, and parts of Townships, and for regulating the duty of Surveyors, and to repeal a certain Act therein mentioned.*

[Passed April 15th, 1843.]

WHEREAS owing to the inaccuracy of the original Plan and description of the Island, and to the length of time during which many Townships remained in a wilderness state, great difficulties have lately arisen in fixing the points of commencement of the Boundary Lines of certain Townships in Prince County under the provisions of the hereinafter recited Act: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that the operation of so much of the said Act, intituled *An Act for ascertaining and establishing the Boundary Lines of Counties and Townships, and parts of Townships, and for regulating the duty of Surveyors, and to repeal a certain Act therein mentioned,* as relates in any way to the fixing and establishing of any Boundary Lines, under the provisions of the said recited Act, or of any Act or Acts in amendment thereof, be, and the same are hereby suspended, so far as regards Lots Ten (10), Nine (9), Eight (8), Seven (7), Six (6), Five (5), Four (4), Three (3), Two (2), and One (1), in Prince County, until the end of the next Session of the General Assembly.

Suspends operation of Boundary Act of 4th Will. 4th, cap. 15, so far as regards certain Townships in Prince County, until the end of next Session of the General Assembly.

Enumerated Lots.

II. And be it enacted, That in case any similar difficulty shall arise in regard to King's or Queen's Counties, or in regard to any part of Prince Coun-

Authorises Lt. Governor in Council to suspend said Act

as regards
King's or
Queen's Coun-
ties, in like case,
upon Certificate
of Commission-
ers.

ty not mentioned in the first Section of this Act, that then, on the same being certified to the Lieutenant Governor, by the Commissioners appointed under the said recited Acts, it shall and may be lawful for His Excellency, by and with the advice of the Executive Council, to suspend, for the like period, the operation of the said Act, so far as respects the Township or Townships in regard to which such difficulty may be experienced.

C A P. XVIII.

An ACT to prevent the going at large of SWINE and GEESE at all Seasons, and of HORSES at certain Seasons, in the Square and Streets of Georgetown.

[Passed April 15th, 1843.]

Commissioner of
Highways of
Georgetown
District to ap-
point 4 persons
to take up Hogs
and Geese going
at large in said
Town.

Such persons to
be appointed on
or before 1st
May next, and
on before 1st
April in each
year after,

Duty of persons
so appointed.

WHEREAS it is deemed necessary to prevent Horses, Swine and Geese from being at large within the Town of Georgetown: Be it enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Commissioner of Highways for the District in which Georgetown is situated, and the said Commissioner is hereby directed and required, to appoint Four fit and proper persons on or before the First Day of May next, and on or before the First Day of April in each succeeding year, and whose duty it shall be to seize and take up any Swine or Geese going at large, beyond the premises or enclosures of the owner or owners, within the said Town, and on receiving information of such Swine or Geese going at large as aforesaid, and on the same being shewn to any, or either of the said persons so appointed, it shall and may be lawful for any of the said persons to seize and take up, or cause to be taken up, all Swine and Geese found at large in Georgetown, and to sell and dispose of the same at

Public Auction, and all persons obstructing, in any manner whatsoever, any of the said persons in the execution of their duty, shall forfeit and pay a fine not exceeding One Pound, and not less than Five Shillings, to be recovered before any one or more of Her Majesty's Justices of the Peace, to be levied of the offender or offenders' goods and chattels; by Warrant of Distress; and in the event of the offender or offenders not having goods and chattels whereon to levy the said fine, then the Justice or Justices of the Peace for the said Town is or are hereby authorised and empowered, to commit the said offender or offenders to the Jail, for a space not exceeding Fourteen, nor less than Four Days.

Imposes a penalty, not exceeding £1, on any person obstructing them in the execution of their duty.

Mode of recovery of such fine.

II. And be it enacted, That if the Four said persons, or any of them so to be appointed within the said Town, shall neglect or refuse to perform the duties of the said office in manner hereinbefore prescribed, every Reeve so neglecting or refusing to perform such duty, shall forfeit and pay a sum not exceeding Twenty Shillings, nor less than Five Shillings, to be recovered in manner aforesaid, one half of the said fine to be paid to the Road Commissioner of the District, and applied towards opening and repairing the Streets in the said Town, and the other half to the person who may sue for the same; provided always, that no person appointed as aforesaid, shall be liable to serve as such more than once in every Two years.

Imposes a penalty on persons so appointed neglecting or refusing to perform duties declared in this Act.

Amount of such penalty.
Mode of recovery thereof.

Appropriation thereof.

No person so appointed liable to serve more than once in 2 years.

III. And be it enacted, That from and after the passing of this Act, if any Horse, Mare or Gelding, shall be found at large within the Streets or Square of Georgetown, between the First day of January, and the Fifteenth day of April, in each year, the Owner or Owners thereof shall be liable to pay a fine of Five Shillings, to be recovered, with costs, as herein-before directed.

Imposes a penalty on the owners of Horses, &c., if said Horses, &c. be found going at large in Georgetown, between 1st Jan. and 15th April, in each year.

Amount of penalty and how recoverable.

Appropriation of all penalties under this Act except penalty imposed by 2d sec.

IV. And be it enacted, That all Fines and Forfeitures recoverable under this Act, excepting the fine imposed by the second clause, after deducting all costs and expenses incurred, shall be disposed of in manner following—one half to the person who shall prosecute for the same, and the remaining moiety to the Commissioner of Roads, in whose District the said Town is situated, to be applied towards opening and keeping in repair the Streets in the said Town.

Continuance of Act.

V. And be it enacted, That this Act shall be and continue in force for Two years, and from thence to the end of the then next Session of the General Assembly, and no longer.

CAP. XIX.

An ACT to amend the Act relating to Distress for Rent, and to regulate the practice of the Supreme Court in cases of Replevin.

[Passed April 15th, 1843.]

WHEREAS under the peculiar circumstances of this Colony, it is deemed expedient to amend an Act passed in the Fifth year of the Reign of His late Majesty King William the Fourth, intituled *An Act relating to Distress for Rent, and to regulate the practice of the Supreme Court in cases of Replevin*: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that in all cases of Distress that may be hereafter made between the First day of December, in any year, and the First day of June in the next ensuing year, for Rent of Land in arrear, no Horse, Horses or Cattle, so distrained, shall be sold, towards satisfaction of the Rent in arrear, until after the First day of June ensuing the time of distraint, provided the same shall have been

No Horses, or Cattle distrained for rent between 1st December and 1st June, to be sold within that time.

distrained on between the herein-before mentioned periods of time—any law, usage or custom to the contrary notwithstanding. And provided also, that in the event of any Horse, Horses or Cattle being distrained for arrears, all Hay and Straw thrashed and unthrashed, shall be left on the premises, for the foddering of such Horse, Horses or Cattle, but persons giving the usual Warrant of Attorney, in cases of Replevin, shall be bound and obliged to produce such Horses or Cattle on the said First day of June, or at the time legally appointed for the sale thereof, and also, not to convert such Fodder to any other use than as herein directed.

All Hay and Straw on the premises to be left for fodder for horses, &c. distrained within that period.

Owners to give the Warrant of Attorney required by Act of 5th Will. 4th, cap. 6. Defiance of Warrant of Attorney.

II. And be it enacted, That no Bailiff, Receiver, or other person or persons empowered to take and seize as a distress for Rent, any Goods or Chattels, shall take or receive, directly or indirectly, any greater or other Fees than are hereinafter mentioned, the same to be paid in the current money of this Island, at the value such money shall, at the time, be received by, and issued from the Treasury of this Island, that is to say:—

No Bailiff, &c. to take any other fees than as established by this Act.

For every levy, on any amount, *Two Shillings* and *Six-pence*; for every Inventory and notice, *Two Shillings* and *Three-pence*; for every mile actually travelled, *Three-pence*; and no mileage to be allowed except mileage within the County wherein such distraint is made—Warrant of Attorney, *Five Shillings*; Appraisers (if required,) *Four Shillings* and *Sixpence* per day, and no mileage allowed; Poundage, in the event of sale, five *per centum* on all moneys received, but not to include any per centage on the Bailiff's own costs—any law, usage or custom to the contrary notwithstanding.

Bailiff, &c., fees.

CAP. XX.

An ACT relating to Landlord and Tenant.

[Passed April 15th, 1843.]

WHEREAS the present mode of proceeding by action of Ejectment, in order to dispossess Tenants wilfully holding over Tenements or Premises after the expiration of their lease, or other demises, is attended with great inconvenience, delay and expense, and it is considered expedient to give, in certain cases, a more summary and less expensive remedy: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that when any Tenant of any Messuage, Tenements or Premises situate within this Island, where any Lands held therewith shall not exceed one acre, under a lease for years, or less period, or any other demise, shall, after the expiration of such tenancy, and on due notice to quit having been given, refuse to deliver up such possession to the lessor, or person entitled thereunto, it shall be lawful for such lessor or person to apply to any two of Her Majesty's Justices of the Peace, for the County within which such Tenements or premises are situate, and having made oath before such Justices that such Tenant has held and occupied such Tenements or premises, [particularly designating in the Affidavit, whether a Tenement, Messuage or other premises, and where situate,] for a certain period, then last past, as Tenant to such person, under a demise which had then expired, and that due notice to quit has been given, such Justices shall and may thereupon, summon such Tenant, giving at least, Six Days' notice, to be served either personally on the Tenant, or, in case he cannot be found, by leaving the same with his Wife, Servant, or other adult member of the family on the premises, to shew cause at a place and time in such Summons to be specified, before such Justices, why such Tenant holds over such

If Tenant of any Messuage where the land held therewith does not exceed one acre, holds over.

Lessor may apply to 2 Justices of the Peace; to make oath before such Justices, & requisites of oath.

Duty of Justices thereupon.

Tenements or premises; and in case such Tenant shall neglect or refuse to attend such Summons, or attending, shall not shew sufficient cause to the satisfaction of such Justices for so holding over, they shall issue their warrant in the nature of a Writ of Possession and Execution, directed to the Sheriff of the County, within which such Tenements or Premises may be situate, requiring him forthwith to put such person claiming such premises in possession, and to levy the costs of such proceedings, under and by virtue of an Execution to be issued by such Justices, and to be levied upon the goods and chattels of the person so holding over as aforesaid, or in default of such Goods and Chattels, to arrest his Body, and imprison him for a period of time not exceeding three months, as such Justices may direct; and it shall be the duty of such Sheriff, to execute such Writ agreeably to the direction therein contained: Provided, that where such Tenant shall give to such Justices sufficient security for the payment of such Costs, within thirty days from the time of Judgment, then no Execution shall issue against the Body or Goods and Chattels of such person during the said period of thirty days.

Further duty of Justices when Tenant neglects to appear, or does not shew sufficient cause against lessor.

Duty of Sheriff upon execution to be issued by Justices.

Execution not to issue if Tenant gives security for payment of costs within 30 days.

II. And be it enacted, That if such Tenant or other person, having an interest in such Tenements or Premises, should consider himself aggrieved by the Judgment of such Justices, it shall be lawful for any one of the Justices of the Supreme Court of Judicature of this Island, on the application of such Tenant or other person, and upon sufficient cause shewn therefor by Affidavit, to award a *Certiorari* for the removal of such proceeding before such Court, and upon the return of such proceedings, such Court shall examine into the matter, and may admit Affidavits on either side, and may, in case that in the opinion of such Court may require it, direct an Issue for trial of facts, and shall order and determine in the matter, either by confirming

Any Justice of Supreme Court to award *Certiorari* in case of Tenant aggrieved by judgment of Justices of the Peace.

Duty of Supreme Court on return of *Certiorari*.

Court may direct an Issue, to find facts.

Power of Supreme Court in such cases.

No *Certiorari* to stay Execution of judgment of Justices of the Peace.

Who entitled to costs, amount, and how recoverable.

When proceedings of Justices are quashed, Supreme Court may award a writ of restitution.

Tenant may recover damages and costs against adverse party.

Construction of words of this Act.

or quashing the proceedings, as to justice shall appertain, and such Court may make such orders and rules as may be necessary, to carry their proceedings and determination into effect: Provided always, That no such *Certiorari* shall in the mean time stay or suspend the Execution of the Judgment of such Justices.

III. And be it enacted, That in all proceedings had under the provision of this Act, the party prevailing shall recover his costs, and have process therefor, that is to say, for proceedings had before such Justices, the like Costs to be by them taxed and allowed, as are recoverable for similar services by the Act to regulate proceedings before Commissioners of Small Debts, except the Sheriff's Fees on the execution of such Writ of Possession, which shall be the same as for executing a Writ of *Habere facias Possessionem* issuing out of the Supreme Court, and all proceedings upon *Certiorari* in the Supreme Court, Costs to be levied and recovered in the usual manner.

IV. And be it further enacted, That when such proceedings are quashed by the Supreme Court, the said Court may award a Writ of Restitution, and such Tenant or other person may recover against the adverse Party, in such proceedings, any damage which such person may have sustained by reason of such proceedings, with costs, in an action on the case.

V. And be it enacted, That in the construction of this Act, words importing the singular number, or masculine gender only, shall be understood to include several matters as well as one matter, and several persons as well as one person, and female as well as male, and bodies corporate as well as individuals.

VI. And be it enacted, That the Summons and Writ of Possession and Execution shall be in form given by the Schedule to this Act annexed, or in words to the like effect.

Summons, &c.
to be in form in
Schedule.

VII. And be it enacted, That this Act shall continue and be in force for Two years, from the passing hereof, and from thence to the end of the then next Session of the General Assembly, and no longer.

Continuance
of Act.

SCHEDULE.—FORM OF SUMMONS,

ss.

To *I. J.*

WHEREAS *G. H.* of hath
this day on oath, make it appear to us, that you have, as his Tenant,
occupied (here describe the premises,) for
last past, under a demise which has expired,
and that after being duly notified to quit, you hold
over and refuse to give up the possession of said
premises : We do therefore, agreeably to the
directions of the Act of Assembly, in such case
made and provided, summon you to appear before
us (here describe day, hour and place,) to show
cause, if any you have, why you should not deliver
up to said the possession of the
said tenements (or premises).

Form of Sum-
mons.

Given under our hands, this day of
18

A. B.

C. D.

FORM OF WRIT OF POSSESSION AND EXECUTION.

By *A. B.* and *C. D.*, two of Her Majesty's Jus-
tices of the Peace, in and for the County
of

Form of Writ
of possession.

To the Sheriff of

WHEREAS *G. H.* claiming as Lessor of certain
Premises, situate (here describe the tenement or
premises) now in the occupation of *I. J.*, hath

on oath made it appear to us, that the said *I. J.* holds over and refuses to give up possession of the said premises after his demise thereof has expired, and due notice to quit given, and the said *I. J.* having been duly summoned to appear before us, agreeably to the direction of the Act of Assembly in such case made and provided, to show cause why, &c. We have adjudged that the said *G. H.* shall be forthwith put in possession of the said premises, and shall also recover his costs of proceeding, being

besides your fees, on executing this Writ: And we do hereby command you, that without delay, you cause the said *G. H.* to have possession of said premises: We also command you, that you levy of the Goods and Chattels of the said *I. J.* the sum of

adjudged to him for his costs, besides your fees; and for want of Goods and Chattels whereon to levy, you are required to take the Body of the said *I. J.* and deliver him to the Keeper of the Jail of the said County, and the said Keeper shall take the said *I. J.* into his custody, and him safely keep for

days, unless the said and your own fees, be sooner paid; and how you shall have executed this Writ, return to us within

days from the date hereof.
Given under our hands, this

day of
A. D. 18

A. B.

C. D.

CAP. XXI.

An ACT to alter and amend the Act for the establishment of an ACADEMY in Charlottetown.

[Passed April 15th, 1843.]

WHEREAS it is deemed expedient to amend the Act passed in the Tenth year of the Reign of His late Majesty King George the Fourth, intituled *An Act for the establishment of an Aca-*

demy in Charlottetown, by increasing the number of the Trustees of the said Academy, and in other respects to alter the provisions of the said Act: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the Chief Justice, the President of the Legislative Council, and the Speaker of the House of Assembly only, shall, in future, be *ex officio* Trustees of the said Academy, and that the Administrator of the Government for the time being, shall have power to appoint Five additional Trustees, Two of whom shall be appointed from the Members of the House of Assembly; making, in the whole, the number of Thirteen, who shall have the same powers, in all respects, as the other Trustees appointed under the Act of which this is an amendment—any thing in the said Act to the contrary thereof notwithstanding.

Chief Justice, President of Legislative Council and Speaker of Assembly only, in future, to be *ex-officio* Trustees of Academy in Charlottetown.

Administrator of Government to appoint 5 additional Trustees, 2 of whom to be Members of Assembly.

13 to be whole number of Trustees of said Academy.

Power of such Trustees.

II. And be it enacted, That after one year from the date of the appointment of such new Trustees, Two of the said Thirteen Trustees not being *ex officio* Trustees, shall go out of office annually, commencing with the Two senior Trustees in office, and the Administrator of the Government, for the time being, shall have power, and he is hereby required, to re-appoint the said Two Trustees, or either of them, if he shall think fit so to do, or to appoint Two other Trustees in their stead, in manner pointed out and prescribed in this and the herebefore recited Act.

Two of said five Trustees to go out of office annually.

Administrator may re-appoint them or appoint 2 other persons to be Trustees in their stead.

III. And be it enacted, That after the passing of this Act, at all meetings of the said Trustees, Five shall be a *quorum*.

Five Trustees of Academy to be a quorum.

IV. And be it enacted, That in case of removal, death, resignation, absence from the Island, or otherwise, of any of the said Five additional Trustees so to be appointed under and by virtue of this Act, it shall and may be lawful, to and for the

In case of death, removal, &c. Lt. Governor, &c. to appoint other Trustees, &c.

Lieutenant Governor, or Commander in Chief for the time being, to nominate and appoint other Trustees in their stead.

Repeals 4th sec.
of Act of 10th
Geo. 4th, cap. 9.

V. And whereas it is found extremely inconvenient and detrimental to the interests of the said Academy, to have Two Masters therein with equal powers: Be it therefore enacted, That the Fourth Section of the said in part recited Act, be, and the same in hereby repealed.

Trustees to ap-
point 3 Masters
in said Academy,
one of whom to
be head Master.

Powers of head
Master.

Duty of head
Master.

Salary to head
Master.

Duty of second
Master.

Salary of second
Master.

Duty of third
Master.

Salary of third
Master.

Commencement
of Salaries to
Masters.

VI. And be it enacted, That it shall and may be lawful to and for the said Trustees, immediately after the passing of this Act, or at such time as they may see fit, to nominate and appoint Three competent persons to manage the Educational department of said Academy, one of whom shall act as Head Master, having the control of the said Academy, subject to such Bye Laws, Rules, Regulations and Ordinances as may hereafter be made by the said Trustees, for the due government of the said Academy, and who shall teach the higher Branches of the Classics and Mathematics, and whose duty it shall be to classify the Pupils, and to whom shall be paid a salary of One hundred and Fifty Pounds per annum, of the current money of this Island; and another of whom shall teach the lower Branches of the Classics and of Mathematics, together with general English Literature, and to whom shall be paid a salary of One hundred Pounds per annum, of the like money; and the third of whom shall teach Arithmetic, Writing, English Grammar, and the general Rudiments of an English Education, and to whom shall be paid a salary of Fifty Pounds per annum of the like money—the said Salaries respectively to be paid quarterly, to commence from the time of the appointment of the said Masters, or of either of them; the said sums to be drawn by Warrant under the hand and seal of the Lieutenant Governor or Commander

in Chief for the time being, in Council, upon the Treasurer of this Island, on the production to the said Lieutenant Governor or Commander in Chief for the time being, of a Certificate under the hands of the said Trustees, or a majority of them, of the said Master or Masters conducting himself or themselves to the satisfaction of the said Trustees.

Salaries to be paid by Warrant on Treasurer, upon certificate from Trustees, &c.

VII. And be it enacted, That the Tuition money received for the different Pupils, at the said Academy, shall be apportioned to, and amongst the said Masters, by the said Trustees, as to such Trustees shall seem just and reasonable.

Trustees to divide Tuition money amongst Masters as they deem just and reasonable.

VIII. And be it enacted, That the Lieutenant Governor or Commander in Chief for the time being, shall have power to call meetings of the said Trustees whenever he may think proper so to do, and have such other powers, control and authority, in and over the said Academy, as Governors of Colleges usually have and enjoy.

Lt. Governor, &c. to call meeting of Trustees when he shall see fit.

Power of Lieut. Governor, &c. over Academy.

IX. And be it enacted, That Four Pupils from each County in this Island, shall have the privilege of being taught *gratis* at the said Academy, for a period not exceeding Two years for each pupil, and who are to be chosen and selected, from time to time, by the said Trustees or a majority of them.

Four pupils from each County to be taught gratis at Academy, for a period not exceeding 2 years.

Mode of choosing such pupils.

X. And be it enacted, That the Fees of Tuition to be taken at the Central Academy, for the several Branches of Education, shall in no case, be fixed at a higher rate for each Branch, than as follows: that is to say, Reading, Writing, English Grammar, and Practical Arithmetic, for each Term or half year, Ten Shillings; the Mathematics, with or without the foregoing Branches, for each Term, Fifteen Shillings; the Classics, Geography and the use of the Globes, with or without all or either of the above Branches, for each Term, Forty Shillings; Boarders at the Academy, from any part of this Island, for all or any of the above Branches, for each Term, Ten Shillings.

Tuition fees to be taken at Academy.

CAP. XXII.

An ACT in further amendment of an Act, passed in the Tenth year of the Reign of King George the Fourth, intituled *An Act to regulate the laying out and altering of Highways, and to provide a mode of obtaining Compensation for those who may thereby be injured, and to cause those who are benefited thereby to contribute towards their formation.*

[Passed April 15th, 1843.]

Period for return of Writs, under Road Compensation Acts extended to 80 days from test.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That the time for the return of all Writs, to be in future issued under and by virtue of the said Act, and of the several Acts in amendment thereof, and for the return of the Verdicts taken thereunder, shall be extended to the period of Eighty Days from the test of such Writs respectively, any thing in the said Act, or of any of the Acts in amendment thereof to the contrary notwithstanding.

Not to extend to Writs to be issued *de novo* under Act of 6th Victoria, cap. 23.

II. Provided always, That nothing in this Act contained, shall extend, or be construed to extend, to effect the issue of certain Writs ordered and required to be issued *de novo*, under and by virtue of an Act passed this present Session of the General Assembly, intituled *An Act to authorise the issue de novo of certain Writs under the Road Compensation Act, in certain cases.*

On any Writ, Inquisition, &c. being quashed, Writ to be issued *de novo*.

III. And be it further enacted, That in the event of any Writ, Inquisition or Verdict being quashed, it shall and may be lawful to issue a Writ *de novo*.

Suspending clause.

IV. And be it enacted, That nothing in this Act contained shall have any force or effect until Her Majesty's pleasure thereon shall be known.

CAP. XXIII.

An ACT to authorise the issue *de novo* of certain Writs, under the Road Compensation Acts, in certain cases.

[Passed April 15th, 1843.]

WHEREAS by an Act passed in the Tenth year of the Reign of His late Majesty King George the Fourth, intituled *An Act to regulate the laying out and altering of Highways, and to provide a mode of obtaining compensation for those who may thereby be injured and to cause those who are benefited thereby to contribute to their formation*, and by two other Acts in amendment and explanation thereof, after reciting that lines of Roads through Wilderness Lands are often of great benefit to the Lands through which the same do pass, and tend to increase greatly the value of such Lands, and that it is but just and reasonable that the Proprietors thereof should contribute to the formation of such Roads, it is enacted, (amongst other things), that when and so often as the Lieutenant Governor, or other Commander in Chief for the time being, by and with the advice of His Majesty's Council, shall deem it necessary, to cause Roads to be opened through unsettled Lands, it shall and may be lawful for him to order a Writ to be issued, and a Jury to be summoned, in manner mentioned in the said first recited Act, who shall be sworn well and truly to ascertain and declare what advantage it may be to the Proprietor through whose Lands the said Roads is intended to be opened or pass, and what sum of money shall be paid by him for the same, which said Jury, having found such amount, shall then proceed to estimate the value of the Lands, per acre, adjoining such Roads, or through which such Roads shall pass, which estimate shall form part of the Verdict, and the whole shall be duly returned into the Supreme Court of Judicature, within the time limited

in one of the said recited Acts, being Forty Days next after the test of such Writ, and the sum or sums so assessed by the Jury as aforesaid shall be paid by the Proprietor or Proprietors into the Treasury of this Island, to be applied to the making and repairing the said Road; subject nevertheless to an appeal to the Supreme Court, as in and by the said Acts, or some of them, is declared and provided; and by the last of the said recited Acts it is enacted, that before any Proprietor shall be called upon to pay his proportion of the sum adjudged by the Jury to be paid by him, or to surrender the Land, as directed by the said recited Act first before mentioned, the Road which is intended to pass through and over such Proprietor's Lands, together with the necessary Bridges, shall have been made and completed.

And whereas, by virtue and in pursuance of the said recited Acts, or some of them, a Writ was issued out of the said Supreme Court, directed to the Sheriff of Prince County in this Island, and tested on the Ninth day of October, in the year of our Lord One thousand eight hundred and thirty-eight, and made returnable into the said Court within Forty Days after the said test thereof, whereby the said Sheriff was commanded, (amongst other things), to summon a Jury, to ascertain and appraise the benefit or damage the Proprietor or Proprietors would receive or sustain by a new Road being made to run over Lots or Townships Numbers Five (5), Four (4), Three (3), Two (2), and part of Lot or Township Number One (1), and to commence on the North side of Mill River, on Township Number Five, and to terminate at a Road leading to the Portage from Tignish to Neil Pond; And whereas another Writ issued, and was tested and returnable as aforesaid, whereby the said Sheriff was commanded (amongst other things), to summon a Jury to ascertain and appraise the benefit or damage which the Proprietor or Proprietors

would receive or sustain by a new Road being made to run over Townships Number Seven (7), Eight (8), and Six (6), commencing at the division Lines there lately established, between Townships Seven (7) and Eight (8), and terminating at the Main Western Road leading to Cascumpeque: And whereas the said Sheriff, did return the said Writs with Inquisitions and Verdicts thereto annexed, unto the said Supreme Court, thereby finding, that each of the said Roads would be of advantage to the respective Proprietors, over whose Lands they would run, and did assess the sum to be paid by such Proprietor under the first hereinbefore recited Writ at Eleven hundred and forty-three Pounds Five Shillings, and the sum of Five hundred and twenty-three Pounds Nine Shillings and Sixpence under the last recited Writ.

And whereas the Proprietors interested in the said Lands, did not appeal from the finding of the said Jury under the said respective Writs, and the sum of One Thousand Six hundred and Sixty-six Pounds Fourteen Shillings and Sixpence hath been since laid out and expended by the Government of this Island, in making the said Roads and Bridges thereon; and the said Proprietors have been duly called on to pay their respective proportions or shares, of the sums so assessed as aforesaid, but all of them, except one, have refused so to do, and having instituted proceedings to quash the said Writs, and all proceedings thereunder for irregularity, the same have been quashed and set aside by the said Supreme Court. And whereas it is not just or equitable that the said Proprietors should enjoy the benefit of the said Roads and Bridges, and the enhanced value of their Lands through and on which the same have been made and built, without contributing towards their formation and erection: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That Writs shall be issued *de*

Supreme Court
authorized to
issue certain

Writs de novo
under Road com-
pensation Acts.

Regulates pro-
ceedings under
such Writs.

Duty of Jury
under such
Writs.

Proprietors of
land to have
same privilege
of appeal, &c.
under writs so to
be issued, as they
had under for-
mer writs by
virtue of Road
Compensation
Acts.

This Act not to
extend to autho-
rise the Assess-
ment of any pro-
prietor who has
paid or consent-
ed to pay the
amount of As-
sessment on his
land under writs
first issued.

Suspending
clause.

novo out of the said Supreme Court, relating to the said Roads, under and by virtue of the said recited Acts, and all further proceedings there- under shall be had and take place, in the same manner in every respect, as if such first mentioned or former Writs had never been issued; and in case the Jurors shall find the said Roads, or either of them, to be a benefit or advantage to Proprietors, over whose Lands such Roads do run, then the said Jurors shall assess or appraise the value of Lands adjoining such Road or Roads, so found to be of advantage to the Proprietors as aforesaid, at the rate or value of Wilderness Land in the same place, before such Road or Roads and Bridges were made and erected, and all rights and privileges of appealing from the Inquisitions, Verdicts, Appraisements, Assessments or Returns, to be taken, had or made, under and by virtue of the said new Writs hereby directed to be issued, or other rights whatsoever, which the parties had or were entitled unto, under the said recited Acts, are by this present Act expressly reserved and continued to them, in full force and effect, and in the same manner to all intents and purposes whatsoever, as if the said former Writs had never been issued. Provided always, nevertheless, that nothing herein contained, shall extend; or be construed to extend, to authorise the Assessment of any Proprietor over or through whose Lands the said Roads, or either of them run, by virtue of the Writs to be issued under the authority of this Act, who has already paid or agreed to pay the sum or sums assessed on him, under and by virtue of the Writs heretofore issued in relation to the said Roads.

II. Provided always, and be it enacted, That nothing in this Act contained, shall have any force or effect, until Her Majesty's pleasure therein shall be known.

CAP. XXIV.

An **ACT** to provide for the Summary Trial of **SMALL DEBTS**, and to regulate proceedings in **Cases of SUMMARY CAPIAS**:

[Passed April 15th, 1843.]

WHEREAS it is expedient to consolidate and amend the several Acts now in force, relating to the Recovery of Small Debts, and also, the Act regulating the proceedings in cases of Summary Capias: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, the several Acts herein after mentioned, shall be suspended, for and during the continuance of this Act, that is to say: An Act passed in the second year of His late Majesty, King William the Fourth, intituled *An Act to consolidate and amend the several Acts of the General Assembly therein mentioned, relating to the recovery of Small Debts*:

Suspends Act of the 2d William 4th, cap. 1.

An Act passed in the same year of the same Reign, intituled *An Act to authorize Justices of the Peace and Commissioners under the Small Debt Act, to issue Writs of Summary Capias against persons about to leave this Island*:

Also, Act of 2d William 4th, cap. 5.

An Act passed in the Third year of the same Reign, intituled *An Act to amend an Act, made and passed in the Second year of his present Majesty's Reign, intituled 'An Act to consolidate and amend the several Acts of the General Assembly therein mentioned, relating to the recovery of Small Debts', and to repeal Two other Acts hereinafter mentioned*:

Also, Act of 3d William 4th, cap. 11.

An Act passed in the Sixth year of the same Reign, intituled *An Act in further amendment of an Act of the Second year of His present Majesty for consolidating and amending the Acts relating to Small Debts*:

Also, Act of the 6th William 4th, cap. 4.

Also, Act of the
7th William 4th,
cap. 11.

An Act passed in the Seventh year of the same
Reign, intituled *An Act to amend the several Acts
of this Island relating to Small Debts* :

And also, Act of
3d Victoria, cap.
18, during the
continuance of
this Act.

An Act passed in the Third year of the Reign
of her present Majesty, intituled *An Act to enable
Commissioners under the Small Debt Act, and
Justices of the Peace throughout this Island, to
appoint Clerks.*

Lt. Governor,
&c. with advice
of Council, may
appoint Commis-
sioners of Small
Debts.

II. And be it enacted, That it shall and may be
lawful, to and for the Lieutenant Governor for the
time being, by and with the advice and consent of
Her Majesty's Council, to nominate and appoint
so many persons as shall appear necessary and
expedient, to be Commissioners for the recovery of
Small Debts within this Island; each Commissioner
when appointed, to have power and authority to
act only within the County for which he shall be
appointed, except in the cases hereinafter men-
tioned.

Commissioners
only to have
power to act
within their
respective Coun-
ties—except in
certain cases.

Jurisdiction of
Commissioners
limited to sums
not exceeding
£8.

III. And be it enacted, That every person, who
now hath, or hereafter shall have any Debt or
Debts, owing unto him, her or them, not exceeding
Eight Pounds, shall or may cause the Debtor or
Debtors, to be proceeded against for the Recovery
of such Debt or Debts, before Three Commissioners
as hereinafter mentioned, in the County for which
such Commissioners shall be appointed, being also
the County in which such Debtor or Debtors
respectively shall reside, or may be found, and it
shall and may be lawful for the said Three Com-
missioners or Justices of the Peace, in adjudicating
under this Act, to add any Interest that may
have become due on Notes of Hand or Accounts,
or any other Sum within their Jurisdiction, and
legally bearing Interest to the original Debt, and
to make the same part of the Judgment, although
such addition of Interest, together with the original
Debt, may exceed the sum herein limited and pre-
scribed by this Act: Provided always, that the

And to be reco-
vered before 3
Commissioners.

Commissioners
may add interest
to original debt,
when same legal-
ly bears interest,
though debt and
interest should
exceed £8.

Summons or Capias shall state separately, the original Debt, as the immediate cause of action, and the amount of Interest added thereto, and that the ordinary process against such Debtor or Debtors, shall be by Summons, under the Hand and Seal of the Clerk to be appointed by such Commissioners or a majority of them, as hereinafter directed, to the said Debtor or Debtors, and which Summons shall be served by any Constable of the County, where such Debtor or Debtors shall reside or may be found, which Summons shall be in the form prescribed in the Schedule to this Act annexed, marked (A), and shall be served Eight Days at least before the time of trial, and such service shall be by delivering the same to the Debtor or Debtors in person, or in case such Debtor or Debtors cannot be found, or shall endeavour to evade service, then to the Wife, Child or other person, belonging to such Debtor or Debtors, at his, her or their known place of abode, provided such Child or other person be Sixteen years old or upwards; and at the time of delivery of the said Summons, the person so delivering the same, shall inform him, her or them, to whom the same shall be delivered, of the meaning or purport thereof, and if such Debtor or Debtors be an inmate or inmates, or in case such Debtor or Debtors cannot be found, or shall endeavour to evade service, the service of such Summons shall be valid, by delivering it to any person or persons of discretion as aforesaid, at the house or place where such Debtor or Debtors so lodge or reside, and at the same time telling him, her or them, the meaning or purport thereof.

Summons or Capias to state debt and interest claimed separately.

Form of proceeding.

By whom to be served.

Form of Summons.

Time of service thereof.

Made of service of Summons.

IV. And be it enacted, That the Commissioners, or a majority of them, are authorized and hereby required, to appoint a Clerk; to assist them in the management of the business of their respective Courts, for whose act or acts, in the discharge of his duty, such Commissioners making such appointments shall at all times be responsible; which Clerk when

Authorises Commissioners to appoint Clerks for their respective Courts.

Commissioners to be responsible for such Clerks.

Clerks to be sworn.
Powers and Duty of Clerks.

Fees payable to Clerks.

Further duty of Clerks.

Penalty on Clerks neglecting to keep Books or to return recognizances.

Mode of recovery thereof.

duly appointed, and sworn into office, shall have full power and authority under the directions of the said Commissioners, to receive or take from the Defendant or Defendants, a confession of the Debt or demand, for which such Defendant or Defendants shall or may be sued; which said confession, shall be entered in writing, and signed by the Clerk, and Execution shall and may issue thereon, in such time and in such manner, as if the same were a Judgment duly obtained, unless where the same shall be otherwise agreed upon by the Parties in the suit; and the said Clerk is also empowered and authorized to administer an Oath, issue Processes, and execute Papers of Appeal, Recognizances and Conviction, in all matters appertaining to the Court to which the said Clerk may have been appointed; and for his services, the said Clerk shall be allowed such Fees as are set forth in the Table of Fees to this Act annexed; and that each and every Clerk so appointed under and by virtue of this Act, shall, and he is hereby required, to keep a Book for the sole use and purpose, of entering and registering the names, of the parties Plaintiff and Defendant, upon issuing any Summons as hereinbefore directed, as also, the several Orders and Judgments that the said Commissioners shall or may make, on all Plaints that may come before them, in pursuance of this Act, and that each and every Clerk before whom Recognizances for prosecuting any Appeal, as hereinbefore directed, shall be entered into, shall return the same into the Clerk's office of Her Majesty's Supreme Court of Judicature, at least Two days before the sitting of the Supreme Court, so as that the same may be proceeded upon, at the sitting thereof next after the date of such Recognizance, and all such Clerks as aforesaid, neglecting to keep such Books, or to return such Recognizance in due time, shall upon each and every such neglect, forfeit the sum of Five Pounds, to the person or persons who shall be thereby aggrieved, the same to be recovered in Her Majesty's Supreme Court of Judicature.

V. And be it enacted, That if the said Commissioners, or a majority of them as aforesaid, shall see fit to revoke such appointment, they shall be authorized to do so; and the Book so to be kept by any such Clerk as aforesaid, shall be handed over on his going out of office, or being superseded, to the Commissioners who shall have appointed such Clerk; and if the said Clerk shall neglect or refuse to deliver up to the said Commissioners such Books, when demanded, he shall forfeit and pay for such offence a sum not exceeding Twenty Pounds, to be recovered with costs in the Supreme Court of Judicature of this Island, and applied to and for the use of Her Majesty's Government.

Commissioners, or a majority of them, may revoke appointment of Clerk.

Clerk to hand over Book to Commissioners on going out of office, &c.

Penalty on Clerk neglecting or refusing so to do.

Mode of recovery thereof.

Appropriation of penalty.

VI. And be it enacted, That in all matters of Debt as aforesaid, such Commissioners shall only sit and decide the First or Second Monday, First or Second Tuesday, First or Second Wednesday, or First or Second Thursday in each and every Month, and for as many days thereafter by adjournment, as may be necessary, except as in the cases hereinafter excepted, to judge and finally determine the Actions brought before them, and the said Commissioners in the several Districts of the same County, shall have different days for holding their Courts, to be agreed upon by mutual consent among themselves.

Days on which Commissioners are to hear and try causes.

Courts of Commissioners in different districts of same County to be held on different days.

VII. And be it enacted, That in case any person or persons residing in this Island, shall be duly served with a Subpœna, issued by the Clerk of the Commissioners, requiring him, her or them at a certain time and place therein mentioned, to give evidence on behalf of any Plaintiff or Defendant, and at the same time being informed that his, her or their expenses and loss of time shall be duly satisfied, agreeable to the order of the Commissioners, whose Clerk shall have issued such Subpœna, and such person or persons neglecting or refusing to appear as therein required, and

Mode of compelling attendance of Witnesses before Commissioners' Court.

Commissioners may give judgment against

Witness for damage sustained by party by reason of his non-attendance, for any sum not exceeding £8, and also for costs.

mode of recovery thereof.

Form of Subpœna for Witness.

Plaintiff not appearing on day of hearing, or being nonsuit, Defendant to be allowed costs and travelling charges.

due proof having been made of the service thereof, and of the truth of such information, and no cause of absence having been shown to the satisfaction of the said Court of Commissioners; and oath having been made before them, by the party or parties, at whose instance, or on whose behalf such Subpœna issued, that the person or persons served therewith, was, or were a material witness or witnesses, for the party or parties, and it being also proved to the satisfaction of the Court of Commissioners, that damage had been sustained from the non-attendance of such witness or witnesses, that then, it shall and may be lawful for such Court of Commissioners, to give Judgment against such party, for the amount of damages so sustained, not exceeding Eight Pounds, together with costs, to be levied by Distress and Sale as is hereinafter directed in cases of Execution, and to be imprisoned for want of sufficient Chattels, as in similar cases under Execution, ordering at the same time the overplus if any, to be paid to such party, (the charges of such Distress, and Sale being first deducted), the amount of which Judgment, when paid or levied, shall be paid over to the party or parties, at whose instance, or on whose behalf, such Subpœna issued, and which Subpœna shall be in the form in the Schedule to this Act annexed, marked (B).

VIII. And be it enacted, That if upon the day of the return of such Summons, the Plaintiff or Plaintiffs shall not appear, without some just cause to be allowed by such Court of Commissioners, or upon appearing, shall not make proof of his, her or their demand, to the satisfaction of such Court of Commissioners, before whom the hearing of such Summons shall be, but become nonsuit, it shall and may be lawful to and for such Court of Commissioners, to award to such Defendant or Defendants, and his or their Witnesses, costs and travelling expenses, as allowed by this Act, and

issue Execution against such Plaintiff or Plaintiffs, for the recovery of the same, in manner as hereinafter prescribed by this Act.—Provided nevertheless, That in all cases of adjourned hearings, where Judgment shall be ultimately given against the Plaintiff or Plaintiffs on the hearing, the Defendant or Defendants shall be entitled to receive costs for travelling, and for each attendance if more than once, which shall be the same as are by this Act allowed to Witnesses, and it shall and may be lawful for such Court of Commissioners, to order and direct that the costs or charges of Witnesses shall be paid by either party, or apportioned as they in their discretion shall deem just and equitable, any thing in this Act contained to the contrary notwithstanding.

Mode of recovery thereof.

Proviso as to adjourned hearings.

Commissioners may apportion costs of Witnesses between the parties as they think fit.

IX. And be it enacted, That if such Debtor or Debtors, who shall have been duly Summoned as aforesaid, do not appear before such Court of Commissioners, at the time and place required, in and by the said Summons, without some just cause to be allowed by such Court of Commissioners, and the Plaintiff or Plaintiffs in such Summons, shall duly appear, then it shall and may be lawful to and for the Court of Commissioners, after due proof made as aforesaid, of the service of the said Summons in manner aforesaid, to hear the cause on the part of the Plaintiff or Plaintiffs only, and to make such Order or Judgment, together with costs, as to it shall seem most agreeable to Law, Equity, and good conscience, and also to order and oblige the Defendant or Defendants, to pay the same by such ways and means as are hereinafter provided and directed.

Defendant not appearing, or making sufficient excuse, Commissioners may hear the cause on the part of Plaintiff and give judgment therein.

Commissioners may examine either of the parties upon oath.

X. And be it enacted, That for the better discovery of the truth, and for the more solemn determination of all matters and causes, which shall and may be depending before such Court of Commissioners, it shall and may be lawful for the

As also all witnesses produced.

said Court, and it is hereby empowered, upon the appearance of the parties before it, to administer or cause to be administered, an Oath, to either or both of the said parties, touching the matter then in question, as also to such Witness or Witnesses, as shall or may be produced by either party, and also to any other person or persons, whose evidence shall seem necessary on the hearing, to the just determination of such cause or causes, or to the making any Order or Judgment therein, or for any other purpose requisite to the execution of this Act, unless such Court of Commissioners shall for the better administration of Justice deem it proper to defer the hearing of any such cause, which it is hereby authorised to do, to such other day as may be appointed by the said Court of Commissioners.

And may continue a cause to such other day as may be appointed by them.

XI. And be it enacted, That on every Trial, the Defendant or Defendants shall be allowed to set-off any account or demand, not exceeding Eight Pounds, which he, she, or they, may have against the Debt or demand of the Plaintiff, and if upon any trial, it shall be found that the Plaintiff is indebted to the Defendant, Judgment shall be rendered in favour of the Defendant, for the sum found due, and Execution issue thereon with costs.

Defendant may make set-off, and if allowed, Commissioners to give judgment in favour of Defendant for sum due, with costs.

XII. And be it enacted, That when any Defendant is proceeded against under this Act, and shall refuse or neglect to bring forward his, or her set-off, (if any such there be), against the Plaintiff at the time of such trial, he, or she shall ever after be precluded from suing for the same, and if any such suit be brought, it shall be a sufficient defence on the trial thereof, that the demand sued for, could have been on a former trial set-off or recovered.— Provided always, That nothing herein contained, shall extend, or be construed to extend, to prevent any person or persons from bringing his, or their

Defendant refusing or neglecting to make set-off on trial, to be precluded from suing for the same.

Except where precluded from so doing by unavoidable circumstances.

action or actions, when it shall be made to appear to the satisfaction of the Court of Commissioners, that from some unavoidable circumstance, he or they was or were precluded from proving his, or their set-off, upon the former trial.

XIII. And be it enacted, That if such Debtor or Debtors, against whom any Order or Judgment, shall be made or given as aforesaid, shall appear to the said Court of Commissioners, who shall have made or given the same, to be deserving of indulgence, then, and in every such case, the said Court of Commissioners is hereby empowered to grant such time to the debtor or debtors, for the payment of the sum or sums, which shall or may be so ordered or adjudged against him or them respectively, as shall seem reasonable; provided the time so granted shall not exceed Two Months, in cases where the Judgment shall not exceed Five Pounds; and in cases where the Judgment shall be over Five Pounds, and not exceeding Eight Pounds, the time shall not be more than Three Months, to be computed from the time of hearing such complaint or complaints, as also that such Debtor or Debtors, so indulged as aforesaid, shall, within such reasonable time as the Court of Commissioners may allow, give sufficient security by Recognizance, to pay such adjudged sum or sums, at or within the time limited therefor; which Recognizance shall be in the form prescribed in the Schedule to this Act annexed, marked (C), and if the Judgment shall not be satisfied at the expiration of the time so allowed, then the party entitled to receive the same shall have Execution against the Principal and Sureties in such Recognizance, and their goods and chattels; as in other cases after Judgment.

Commissioners empowered to grant time to Debtors to satisfy judgment on giving security by recognizance.

Time to be so given.

Form of recognizance.

Mode of enforcing payment of recognizance.

XIV. And be it enacted, That if any person or persons shall find him, her or themselves aggrieved, by any Order or Judgment of the said Court of Commissioners in any of the cases hereinbefore

Gives an Appeal to Supreme Court against Judgment of Commissioners.

Appeal to be applied for and duly entered within 2 days after Judgment.

Not to be allowed unless security be given by recognizance before expiration of 2 days.

Form of recognizance.

Commissioners to repeat the condition of recognizance to the parties before taking the same.

Persons confined in Jail under this Act not entitled to the benefit of Insolvent Act of 6th William 4th, cap. 9, nor to benefit of Limit Act of the 1st William 4th, cap. 1, relating to Charlottetown, nor to benefit of Limit Act of the 4th William 4th, cap. 9, relating to King's and Prince Counties.

mentioned, the said person or persons shall have liberty to Appeal to the then next sitting of Her Majesty's Supreme Court of Judicature: Provided always, that such Appeal shall be applied for and duly entered within two clear days next after the day of giving the said order or judgment of such Court, and the said Court on application therefor, is hereby required, to enter such Appeal, so applied for; but such Court shall, nevertheless, at the expiration of such two days, disallow such Appeal, unless the party applying for the same shall, before the expiration of the said two days, enter into Recognizance, with sufficient surety, to abide the determination or Judgment of the Chief Justice or other Justices of the said Supreme Court which Recognizance shall be in the form prescribed in the Schedule to this Act annexed, marked (D).

XV. And be it enacted, That before the taking of such Recognizance, the Clerk of the said Court of Commissioners, before whom the same shall be taken, is hereby required to repeat distinctly to the parties thereto, the condition in the form prescribed in the Schedule to this Act annexed, marked (E).

XVI. And be it enacted, That no person or persons whomsoever, who may be confined in Jail under and by virtue of any Execution or other Process, issued under this Act, shall be entitled to the benefit of an Act made and passed in the Sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to suspend an Act made and passed in the Twenty-sixth year of the Reign of His late Majesty King George the Third, intituled 'An Act for the relief of Insolvent Debtors, and to make other provisions in lieu thereof,'* and also *An Act for consolidating and amending the Act for the appointment of Limits and Rules for the Jail in Charlottetown, and the Act for regulating the Jails of King's and Prince Counties,* except as hereinafter excepted.

XVII. And be it enacted, That all and every person or persons who shall or may consider himself, herself or themselves aggrieved, by any Judgment or Order given by any Court of Commissioners, in any matter or cause arising before it, and shall demand an Appeal from such Order or Judgment, such Appellant shall, and is hereby required to make and subscribe an Affidavit in manner and form prescribed in the Schedule to this Act annexed, marked (F.)

Persons appealing from judgment of Commissioners to make an affidavit.

Form of Affidavit.

XVIII. And be it enacted, That the said Affidavit shall be made and subscribed in the presence of and before the said Clerk, who is hereby required to file the said Affidavit, with the Recognizance and other Papers connected with the said appeal, and make it a part of the proceedings thereof, and forthwith to send the said Papers so executed, to the Office of the Prothonotary of the Court, within the County wherein such Cases have been heard.

Affidavit how made.

To be filed with recognizance and other appeal papers.

And sent to Office of Prothonotary of Supreme Court.

XIX. And be it enacted, That the Chief Justice, or other Justice for the time being, of Her Majesty's Supreme Court of Judicature, be and he is hereby empowered and required upon all Appeals made as aforesaid, to the said Court, to cause all defects of form, that may appear in any original Order or Judgment of the said Court of Commissioners, to be rectified and amended without costs or expense to the party concerned, and that after such amendment shall have been made, the said Court shall proceed to hear, examine and consider the truth and merits of all matters concerning such Appeals, and the original Orders and Judgments appealed from, and likewise to examine Witnesses upon Oath, and to hear all other proofs relating thereto, and to make such final determination thereupon as to the said Court shall appear just and reasonable; and if by the consideration of the said Court, the original Order or Judgment of the said Court of Commissioners, shall be affirmed, and the Appeal or Appeals therefrom dismissed, if against

Power and duty of Supreme Court in cases of appeal.

Costs, how to be awarded.

Execution to
issue out of Su-
preme Court.

If decision of
Supreme Court
be in favor of
Appellee, he may
have execution
against Appel-
lant or Sureties.

Provided de-
mand be first
made of Sureties
30 days before
issue of Execu-
tion against
them.

the original Defendant, that then the said Supreme Court, shall adjudge the sum or sums so recovered by the original Plaintiff or Plaintiffs, to be paid to him, her or them respectively, together with the costs, allowed by such Court of Commissioners, as also, the full costs of defending against the said Appeal or Appeals; and in case the said Supreme Court shall affirm the Order or Judgment of the Court of Commissioners, if against the original Plaintiff or Plaintiffs, and dismiss his, her or their Appeal or Appeals, then the sum or sums adjudged to the original Defendant or Defendants, by such Court of Commissioners, together with full costs for defending against such Appeal or Appeals, shall be adjudged to him, her or them respectively, in the said Supreme Court of Judicature, and if the said Chief Justice, or other Justice, upon a full hearing of such Appeal or Appeals, shall set aside the Order or Judgment of such Court of Commissioners, then upon each and every such determination, it shall and may be lawful for the said Chief Justice or other Justice, to adjudge and order costs to the Appellant or Appellants, and upon all final determinations or Judgments, Execution is hereby directed to issue, from the said Supreme Court, for the sum or sums so recovered, and in case such final determination or Judgment of the said Supreme Court shall happen to be in favour of the Appellee or Appellees, in any such appeal, then he, she or they, may have Execution against the Appellant or Appellants, or his, her or their Sureties, or any of them, or any of their goods and chattels, provided, that Execution shall not in any case issue against the persons or property of any such Sureties, until the amount of the Judgment and costs, shall have been demanded of them, by some person duly authorized, at least Thirty days before the issuing of such Execution against them, nor until affidavit of such demand having been duly made, shall be filed with the Prothonotary of the said Supreme Court, and in case Execution shall issue

against any such Sureties, or their Goods or chattels, the party at whose instance the same shall be issued, shall be entitled to levy thereunder the same Mileage to give the aforesaid notice, as Constables may by this Act receive, together with Two Shillings and Six-pence, for making and filing the said Affidavit of such notice having been duly given.

Mileage to be allowed for making demand, and to be levied under execution.

XX. And be it enacted, That in case there be no application for an Appeal as aforesaid, or that the party applying for such Appeal shall not enter into the said Recognizance, within the time aforesaid or make the said Affidavit, or that there be no indulgence granted as aforesaid, then it shall and may be lawful for the Court of Commissioners, who gave the Judgment, to award Execution (the same to be issued by the Clerk) against the Goods and chattels of the party, and in case there shall not be any Goods and chattels found, then against the body of the party against whom such Judgment shall have been given, which Execution shall be in the form prescribed in the Schedule to this Act annexed, and marked (G), and the Constable who shall execute the same, shall and he is hereby authorized and required, after having given at least Six days notice, to levy by Distress and Public Sale, of the Goods and chattels of such party, the sum of money mentioned in such writ of Execution, with Poundage and other costs allowed in such cases by this Act; and for want of sufficient Goods and chattels, whereon to levy the same, then, and in such case only, the said Constable is hereby authorized and empowered to take the body of such party, and to take him, her or them to the common Jail or Prison, in the County wherein such case shall have been heard and determined, there to remain if the original Debt together with the superaddition of costs, shall not exceed Forty shillings, for the space of one Month, and if for any sum above Forty shillings, and not exceeding Three

If no appeal is applied for or granted, or time allowed for payment, Commissioners may award Execution against goods and chattels of party, and if none can be found, then against the body.

Form of Execution.

Mode of levy thereof.

Term of Imprisonment for debtors under this Act.

Pounds, for the space of Three Months, and if for any sum above Three Pounds, and not exceeding Five Pounds, for the space of Five Months; and if for any sum above Five Pounds, and not exceeding Eight Pounds, for the space of Six Months; and after any of which said imprisonments, he, or they shall be freed and discharged therefrom, and also from the Debt for which such Imprisonment had taken place.

Executions may run in any other County, on being endorsed by a Commissioner thereof.

Form of Endorsement.

Constables' Fees for levying the same.

Constables suffering prisoners to escape or failing to pay over money on demand made, after 30 days from date of Execution, to be liable to pay full amount of levy.

Mode of recovery thereof.

XXI. And be it enacted, That it shall and may be lawful for the usual Writ of Execution, for the recovery of Small Debts, issued in one County to run into another County, where the Debtor may reside, or where his chattels may be found; provided that such Writ of Execution shall be endorsed by a Commissioner duly appointed to judge in matters of Small Debt, within the County where such Debtor resides, or where his chattels are to be found, and which endorsement the said Commissioner is hereby required to make, and which shall be in the form in the Schedule to this Act annexed, marked (H), and such endorsement shall be held and deemed a sufficient Warrant and authority, to the Constable to execute such Execution within such County, and such Constable shall be paid for such service his usual and accustomed fees.

XXII. And be it enacted, that if any Constable shall suffer any prisoner or prisoners in execution, for Debt, to escape either voluntarily or negligently, or shall refuse or neglect to pay over to the party or parties entitled to receive the same, any sum or sums of money levied or received under the authority of this Act, on demand made, after thirty days from the date of Execution, then the said Constable shall be liable in a penalty to the full amount of the sum for which such prisoner or prisoners, so escaping was or were so taken in execution, and for the sum or sums of money so received by him, to be recovered before the Court of Commissioners,

by whom the execution under which the said prisoner or prisoners were so taken, or the moneys so by him levied and received, was issued, in case the same do not exceed the sum of Eight Pounds; or in case the same do exceed the sum of Eight Pounds, then by action in Her Majesty's Supreme Court, together with costs of Court, to be recovered by Warrant of distress of the said Constables' Goods and chattels, and if no sufficient distress can be found, then the said Court of Commissioners, are hereby authorized to commit the said Constable to the common Jail, for a period not exceeding six months; the said penalty if recovered to be paid to the party aggrieved, or in case the same do exceed the said sum of Eight Pounds, by action in Her Majesty's Supreme Court, together with costs of suit, and if any Constable or Constables who shall or may be charged with the service of any Execution or other process, issued by any such Court of Commissioners, and made returnable within a certain and defined period of time prescribed by this Act, shall refuse or neglect to make due return of such Execution or other process, within the period prescribed as aforesaid, it shall and may be lawful for such Court to impose on such Constable or Constables a penalty not exceeding Twenty Shillings for the first offence, and a penalty not exceeding Forty Shillings for every second and subsequent offence, together with costs according to the scale directed by this Act, and in default of payment, such Court of Commissioners are hereby authorized to issue process of Distress for the recovery of the same, and in case there shall be found no Goods and chattels on which Distress may be made, it shall and may be lawful for the said Court, to imprison such Constable or Constables, in the County Jail, for a space of time not exceeding for the first offence, one Month, and for every subsequent offence for a period not exceeding two Months.

For want of goods and chattels to answer amount, Constable may be imprisoned for six months.

Penalty on Constable refusing or neglecting to make return of execution or process.

Mode of recovery thereof.

For want of goods, &c. whereon to levy penalty, Constable may be imprisoned 1 month or 2 months.

Judgment of one year's standing without Execution issued, how to be revived.

XXIII. And be it enacted, That if any Plaintiff or Plaintiffs in any Court, for the recovery of Small Debts within this Island, who may have obtained a Judgment or Judgments, against his or their Debtor or Debtors, shall suffer one year to elapse from the date of such Judgment or Judgments, without having sued out Execution, such Plaintiff or Plaintiffs shall before he, she or they, take out Execution be required to make an Affidavit, before the Clerk of the Court of Commissioners, before whom the cause was originally heard, stating if any, and what sum or sums have been paid on such Judgment or Judgments, after which the party or parties Plaintiff, shall be at liberty to take out Execution, for the amount then remaining due and unpaid upon the said Judgment.

Prohibits Commissioners adjudicating in certain cases.

XXIV. And be it enacted, That this Act shall not extend to actions brought for the recovery of any sum arising upon any contract, or case where the title to Real Estate or Boundary Lines must be adjudicated upon, nor to any sum won by means of any Wager or Gaming, nor to any penalty incurred by any Act of this Island unless so directed, by any such Act, nor to any Debt whereof there has not been a contract, undertaking or promise to pay within Six Years next before the issuing of the Summons, if in the last mentioned case the Defendant shall plead the same in his defence; Provided always, that the said Court of Commissioners shall have power to hear and determine on all cases of Trover, where the value demanded shall not exceed Eight Pounds, in the same manner as in matters of Debt, subject however in all cases to an appeal, in the usual manner, to the Supreme Court of Judicature.

Commissioners may determine in trover for amount not exceeding £8

No action upon any contract for any sum not amounting to 5l,

XXV. And be it enacted, That no action or suit for any sum due upon any contract, not amounting to the value of Five Pounds, and being

recoverable by virtue of this Act as aforesaid, shall be commenced in any Court of Record within this Island.

to be sued for in any Court of record.

XXVI. Provided always, and be it enacted, That when the Plaintiff or Plaintiffs, shall upon any such action or suit, brought in any Court of Record, obtain a verdict there for less than Five Pounds, then if the Chief Justice or other Justice, before whom the same cause may have been tried, shall certify a reasonable or probable cause of action, for more than Five Pounds, in every such case the Plaintiff shall not be liable to pay costs, but may recover his costs of suit as if this Act had not been made.

Where party obtains verdict for a sum less than £5, to be allowed his costs upon certificate of Judge of probable cause of action.

XXVII. And be it enacted, That in every case where any Wages, not exceeding the sum of Eight Pounds, shall be due to any domestic or other Servant under the age of Twenty-one years, neither of whose Parents reside within this Island, it shall be lawful for such Servant, to sue for and recover such Debt, before such Court of Commissioners as aforesaid, in the same manner as if he or she were of full age, and such Court is hereby fully authorized and required to take cognizance of and proceed concerning such Debt in the same manner, and shall have such and the same powers in regard thereto as if the Plaintiff were of full age.

Wages due to any Servant under age, neither of whose parents reside in this Island, and not exceeding £8, may be recovered before Commissioners.

XXVIII. And be it enacted, That if any action or suit shall be commenced, against any person or persons for any matter or thing, done in pursuance of this Act, such action or suit shall be brought or commenced within Six calendar Months next after the cause of action shall have arisen, and not afterwards, and the same shall be laid and brought in her Majesty's Supreme Court of Judicature, and not elsewhere, and the Defendant or Defendants in such action or suit, may plead the

Limitation of Actions against persons, acting under this Act.

Must be brought in Supreme Court.

Defendant may plead general issue, &c.

general issue thereto, and give this Act and the special matter in evidence at the trial thereof, and if the matter or thing for which such suit or action may be brought, shall appear to have been done in pursuance of this Act, or if such action or suit shall be brought in any other Court than is hereinbefore expressed, then the Jury shall find for the Defendant or Defendants therein, and upon such Verdict; or if the Plaintiff or Plaintiffs, shall become non suited or discontinue his, her or their action or suit, or upon Verdict or Demurrer, Judgment shall be given against the Plaintiff or Plaintiffs, then and in either of said cases, the Defendant or Defendants shall and may recover full costs, to be taxed as between Attorney and Client, and have such remedy for the same as any Defendant or Defendants hath or have in any other cases by Law.

In certain cases Defendant to be allowed full costs as between Attorney and Client

Any Clerk to Commissioners may issue Subpœnas to compel attendance of Witness before any other Court of Commissioners.

XXIX. And be it enacted, That Subpœnas may be issued by any Clerk of a Court of Commissioners, although the Witness therein named shall not be required to appear before the said Court, whose Clerk may have issued the same, and the same shall be as valid and effectual as if such Subpœna had been issued by the Clerk of the Court before whom the Witness named therein is required to appear.

Commissioners of Small Debt Acts suspended by this Act, empowered to adjudicate upon suits commenced, or to issue execution upon judgment given by them.

XXX. Provided always, and be it enacted, That nothing in this Act contained shall prevent the Commissioners of Small Debts who have issued any Summons or Summonses, from adjudicating thereon, or from issuing Execution for the Judgment or Judgments already given or that may be given, in any such cases where Summonses have already been issued, or from fulfilling all and singular the business commenced under and by virtue of the powers vested in such Commissioners aforesaid, by the Act or Acts which are suspended by this Act.

XXXI. And be it enacted, That if on the hearing of any matter of Debt, before any such Court of Commissioners aforesaid, it shall be found that the Defendant or Defendants had never before the issuing of the Summons, been furnished with an account of the Debt or Debts so sued for, and that such account had been by such Defendant or Defendants demanded of the Plaintiff at his place of residence, but that the action was vexatiously brought without such account having been furnished as aforesaid, then it shall and may be lawful for such Court in its discretion, to apportion the costs as it shall see fit, or to order and cause the Plaintiff to pay the said costs or any part thereof, and to recover which, Execution may issue as in cases of nonsuit, and to give Judgment only for such sum as is sufficiently proved to be due to him or them, by such Defendant or Defendants.

If Defendant had never been furnished with an account of the debt sued for, after demand made by him, Commissioners to apportion costs at their discretion

—or to order Plaintiff to pay the same.

How recoverable.

XXXII. And be it enacted, That nothing in this Act contained, shall prevent, or be construed to prevent, any person duly authorized other than an Attorney of the Supreme Court, from appearing before any Court of Commissioners as aforesaid, to represent any Corporate Body in any cause or matter before any such Court, in which any such corporate Body may be concerned either as Plaintiff or Defendant.

Corporate Body may be represented before Commissioners by any person not being an Attorney at Law.

XXXIII. And be it enacted, That on any party obtaining Judgment under and by virtue of this Act, and the Party obtaining such Judgment having reason to believe that the person against whom such Judgment has been given, is about to leave the Island before the expiration of Forty-eight hours thereafter, it shall and may be lawful for the Clerk of the Court of Commissioners to issue Execution on an Affidavit being made, in the form in the Schedule to this Act annexed, marked (K), any thing in this Act to the contrary notwithstanding.

On Affidavit by Plaintiff after judgment, of belief that Defendant is about to leave the Island, Commissioners may issue Execution immediately.

Form of Affidavit.

No privilege allowed to exempt any person from being sued under this Act.

No Attorney or Counsel allowed to be heard on behalf of any party.

When amount sought to be recovered exceeds £5, party not allowed to substantiate his demand, beyond that amount, by his own oath.

Clerk issuing Summons without receiving fees therefor, not entitled to recover the same by any process of Law.

When Witness is about to leave the Island his deposition in writing may be taken, and given in evidence in any cause.

Notice to be first given to adverse party.

Before given in evidence, oath to be made of due notice to adverse party of time and place of taking deposition.

XXXIV. And be it enacted, That no privilege or pretended privilege, shall be allowed to exempt any person whomsoever from being proceeded against by virtue of this Act, nor shall any Attorney or Counsel of the Supreme Court be allowed to speak in behalf of any Plaintiff or Defendant in any Court of Commissioners.

XXXV. And be it enacted, That in every instance where the amount of account advanced by either Plaintiff or Defendant, shall exceed Five Pounds, it shall not be competent for either Plaintiff or Defendant to prove by his own Oath, any greater part of such account than the amount of Five Pounds.

XXXVI. And be it enacted, That any Clerk to be appointed under and by virtue of this Act, issuing any Summons without the Fee thereon being first paid, shall not be entitled to recover the same by any process of Law.

XXXVII. And be it enacted, That when it shall so happen that any of the Witnesses who may be judged necessary to be produced on the trial of any cause under the provisions of this Act, are obliged to leave this Island, it shall and may be lawful for any of the Commissioners aforesaid, after due notice in writing hath been given to the adverse party or parties, to be present, if he, she, they or any of them see fit, to take the Deposition of such person or persons who is or are obliged to leave this Island as aforesaid, and such Deposition so taken and certified under the hand and seal of the Commissioner as aforesaid, and sealed up and directed to the Court of Commissioners where such suit or action may be depending, shall be received as legal evidence in such cause: Provided proof shall be first made on oath, that due written notice was given to the adverse party or parties, of the time and place of taking such Deposition, and each

and every such written notice shall be duly served, at least Three Days previous to the day appointed for taking such evidence, and provided nevertheless, that if such Witnesses shall, at the time of the trial of the cause, be on this Island or able to travel, they shall be required to give their testimony *viva voce* at such trial, in the same manner as if such Deposition had not been taken.

Period of Notice.

Deposition not to be used in evidence if Witness be in the Island at time of trial.

XXXVIII. And be it enacted, That from and after the passing of this Act, the powers and authority of all Commissioners of Small Debts heretofore appointed, or at present in office, shall cease and determine, save and except in so far as is hereinbefore provided, for perfecting and fulfilling all and singular the business commenced under and by virtue of the powers vested in such Commissioners by any former Act or Acts of this Island, but who may, nevertheless, be eligible to be re-appointed under the provisions of this Act.

After passing of this Act powers of Commissioners of Small Debt, under other Acts, to cease, except in cases hereinafore provided for.

Commissioners under other Acts eligible to be re-appointed under this Act.

XXXIX. And be it enacted, That the provisions of the Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intitled *An Act for vacating the Seats of Members of the Assembly, in certain cases therein mentioned*, shall not extend, or be construed to extend, to vacate the seat of any Member of the present House of Assembly, who may be re-appointed a Commissioner of Small Debts under this Act.

Act of the 5th William 4th, cap. 1, for vacating seats of Members of Assembly, not to extend to vacate the seat of any Member of present House of Assembly, re-appointed a Commissioner under this Act.

XL. Whereas it is necessary to give to the Commissioners to be appointed under and by virtue of this Act, the power of adjudicating when the Debtor has absconded: Be it enacted, that it shall and may be lawful for any Clerk of a Court of Commissioners, upon application made to him or them, on oath, in all cases where the debt shall not exceed Eight Pounds, to summon the Wife, Agent, or other person or persons having the custody of the absconding Debtor's goods and chattels,

Gives power to Commissioners to adjudicate to the extent of £8 where debtor is absent from the Island.

Mode of proceeding in such cases.

to appear before the said Court to answer the Plaintiff, and the said Court shall proceed to try the cause, give judgment and issue Execution against such goods and chattels, in the mode pointed out and prescribed by this Act.

Any person, against whom judgment is given in his absence, entitled to a rehearing within 12 months thereafter.

Plaintiff to give security for re-payment of all moneys levied under execution in case judgment be reversed on re-hearing.

XLI. Provided always, and be it enacted, That any absconding person against whom judgment shall or may be awarded, as aforesaid, shall be entitled to a re-hearing of such cause, at any time within Twelve Months next after such Judgment; and the Plaintiff, in such action, shall give sufficient security, to the satisfaction of the Court of Commissioners, for re-payment of all such moneys as shall be levied by said execution, in case the Judgment be reversed on such re-hearing, as aforesaid, —anything in this Act contained, to the contrary, notwithstanding.

On affidavit that a debtor is about to abscond, Justice of the Peace or Clerk of any Court of Commissioners may issue a *capias* in cases not exceeding £5 in amount.
Form of Affidavit.

Form of *Capias*.

Mode of proceeding in case of *Capias* by Justice or Court of Commissioners.

XLII. Whereas it is necessary to give to Justices of the Peace, and to the Commissioners of Small Debts to be appointed under and by virtue of this Act, a power of issuing compulsory process, in cases of Small Debts, where the Debtor is about to leave the Island: Be it therefore enacted, that it shall and may be lawful for any Justice of the Peace, or the Clerk of any Court of Commissioners of Small Debts, upon application made to him, in all cases where the debt shall not exceed Eight Pounds, and, on affidavit being made in writing before him—which Affidavit shall be in the form in the Schedule to this Act annexed, marked (L)—to issue a *Capias*—which *Capias* shall be in the form in the Schedule to this Act annexed, marked (M)—to arrest the body of the Debtor or Debtors in whatsoever County he may be found, and to bring him, her or them before him; and upon the appearance of the Defendant or Defendants, the Justice who may have issued such *Capias*, or the Court of Commissioners before whom such *Capias* may have been made returnable, shall proceed to try the

cause, give Judgment, and issue Execution, in the mode pointed out in and by this Act: Provided nevertheless, that when such Debt shall be over Five Pounds and not exceeding Eight Pounds, and when such Capias shall have been issued by any Justice of the Peace, and made returnable before such Justice who shall issue the same, together with any other Justice, then, and in every such case, it shall be the duty of the Plaintiff in the action, to notify such second Justice of the time and place of hearing such case:

When debt is over £5 and not exceeding £8, and Capias is issued by Justice of the Peace, plaintiff to notify a second Justice to attend and hear the cause.

XLIII. Provided always, and be it enacted, That it shall and may be lawful for such Justice of the Peace or Clerk of a Court of Commissioners, if the Defendant or Defendants shall pray for the same, and tender good and sufficient bail, that he or they shall appear and answer the suit, or if he or they shall deposit with the Justice, or the said Clerk, the amount of the sum sworn to, with a reasonable sum for costs, to grant such Defendant or Defendants a reasonable imparlance, not to exceed, in any case, the space of Three Months; and if the Defendant or Defendants do not appear and answer to the Plaintiff's suit, on the day appointed by the said Justice, or said Clerk, Judgment shall be given by default by the Justice or by the said Court of Commissioners, as well against the Defendant or Defendants as against the said Bail, if bail hath been put in, and Execution shall be awarded against the Goods and chattels of the Defendant or Defendants, and in default of such goods and chattels, Execution shall issue against the Bail, which execution shall be in the form in the Schedule to this Act annexed, and marked (N), for the amount of the sum sworn to, and the costs, and in case the amount sworn to shall have been deposited, the said Justice or said Clerk shall hand the same over to the Plaintiff, together with any costs that he shall have expended, or have been put to, in causing such arrest to be made.

Justice of the Peace or Clerk to Court of Commissioners, authorised to bail Defendant,

—or on his depositing the debt and a reasonable sum as costs, to grant an imparlance not exceeding 2 months.

Defendant not appearing judgment to be given against him by default, as also against his bail.

Execution to be awarded against Defendant's Goods, &c. If none be found, then against his bail.

Form of Execution.

If debt has been deposited, the same to be handed to Plaintiff, together with costs.

In cases of debt above £9 and not exceeding £10, where debtor is about to leave the Island, Justice of the Peace or a Commissioner may issue a Capias to arrest him, on affidavit made.

Form of Affidavit.

Form of Capias.

Constable to take Bond, with 2 Sureties, for appearance of Defendant at next Term of Supreme Court where arrest is made.
Form of Bond.

Fee for such Bond.
Bond may be assigned by Sheriff.

Plaintiff, in such case, 8 days before sitting of Supreme Court, to serve defendant with a Declaration, &c.

Form of Declaration.

XLIV. And whereas it is expedient to give to Justices of the Peace, and to Commissioners of Small Debts to be appointed under and by virtue of this Act, the power of issuing compulsory process in cases of debts above Eight Pounds and under Ten Pounds, where the debtor is about to leave this Island: Be it enacted, that it shall be lawful for any Justice of the Peace, or Commissioner of Small Debts, upon application made to him in all cases where the debt shall be over Eight Pounds, and not exceeding Ten Pounds, and on affidavit being made in writing before him—which affidavit shall be in the form in the Schedule to this Act annexed; marked (L.)—to issue a Capias which shall be in the form in the Schedule to this Act annexed, marked (M.) to arrest the body of the debtor or debtors, in whatsoever County he or they may be found, and to place such person in the Jail of the County in which he may be arrested, to answer the Plaintiff, at the next sitting of the Supreme Court for the said County: Provided always, and it shall be lawful for the Constable or person arresting such Debtor, to take a Bond, with two sufficient Sureties, for the appearance of such Debtor at the next term of the Supreme Court of the said County; which Bond shall be in the form in the Schedule to this Act annexed, marked (P.) and paid for such Bond, from the Debtor, the sum of Two Shillings and Sixpence, and shall be assignable by the Sheriff, in the same manner as other Bail Bonds are assignable.

XLV. And be it enacted, That when any person shall be so arrested as aforesaid, the person or persons at whose suit such Debtor may be arrested, shall, at least Eight days before the sitting of the said Court, serve such Debtor with a declaration where the cause or causes of action shall be set forth, in the same manner as are usually done in summary writs issued out of the said Supreme Court, and the cause shall then proceed in the same

manner as if the suit had been originally commenced by summary writ out of the said Supreme Court, and in case the Defendant shall make default in appearing and putting in Special Bail, it shall be lawful for the Plaintiff to take an assignment of the Bail Bond, and to proceed thereon in his own name, in the same manner as in other cases.

Mode of proceeding in such cause in Supreme Court.

XLVI. And be it enacted, That in case of the appearance of the Defendant or Defendants at the time appointed, the cause shall be tried in the manner hereinbefore directed, and either party may appeal from the Judgment of the said Justice or Justices, or Court of Commissioners, on entering into the security and complying with the conditions of this Act in cases of appeal.

On appearance of Defendant, cause to be tried, and either party may appeal from judgment of Justice or Commissioner.

Conditions on which appeal may be granted.

XLVII. Whereas it is necessary to make provision for the custody of such Defendant or Defendants after Judgment shall have been given, until the expiration of the time allowed by this Act for perfecting Appeals: Be it enacted, that in all cases where Judgment shall be given against any person who shall be in custody, by virtue of a Capias issued under the provisions of this Act, and the party Defendant shall have required so to do, enter into a Recognizance in the form in the Schedule to this Act annexed, marked (O.); with two sufficient Securities, for his appearance at any time previous to the period allowed by this Act for perfecting such Appeal, as aforesaid; and in case such Defendant shall refuse to give such security for his appearance as aforesaid, then it shall be lawful for the Justice of the Peace, or Court of Commissioners of Small Debt, to issue Execution for the amount of such Judgment and costs forthwith—any thing contained in this Act, to the contrary notwithstanding.

After judgment, when Defendant is in custody, and does not enter into recognizance for his appearance within 48 hours thereafter, to enter or perfect an appeal,

Justice or Commissioner may enter an appeal for amount of judgment and costs.

XLVIII. And be it enacted, That all Courts of Commissioners established by virtue of this Act;

Court of Commissioners em-

powered to punish contempts by fine and imprisonment.

Limits amount of such fines, and duration of such imprisonment.

Mode of recovery of all fines and penalties imposed by this Act.

Appropriation of fines, &c.

Commissioners not competent to exercise duties of office until sworn.

Before whom to be sworn.

Form of Commissioner's Oath.

No person acting under this Act to take any other fee than is herein prescribed.

shall have power to punish, by fine or imprisonment, or both, any person guilty of contempt of their Courts, or of riotous or disorderly conduct thereat. Provided always, that no fine to be imposed by virtue of this Clause shall exceed Forty Shillings, nor any imprisonment exceed the term of Thirty days.

XLIX. And be it enacted, That all Fines and Penalties imposed by this Act shall be recoverable with costs, on the oath of one or more credible witness or witnesses—unless where otherwise directed—before any Court of Commissioners of Small Debts or Justice of the Peace, where such fine or penalty shall not exceed the sum of Eight Pounds, and if exceeding that sum, then to be recovered in like manner, in Her Majesty's Supreme Court of Judicature, and (unless where otherwise appropriated) the said fines and penalties shall be paid into the Treasury of this Island, to and for the use of Her Majesty's Government.

L. And be it enacted, That it shall not be competent for any Commissioner of Small Debts to be hereafter appointed, to exercise any of the duties required of him by the provisions of this Act, until he shall have first taken the Oath following, before one of the Judges of the Supreme Court:

“I *A. B.* do swear, that I will faithfully discharge the duties of a Commissioner of Small Debts for the time I may be continued in office, according to Law and Equity, without fear, favor, or affection.

“So help me God.”

LI. And be it enacted, That no person or persons acting under and by virtue of this Act, shall take or receive, directly or indirectly, any greater or other Fee or Fees, for his or their respective services, than is or are hereinafter mentioned and allowed, that is to say:

COMMISSIONERS' FEES:

- For issuing every Summons or Capias, *Two Shillings* and *Sixpence*. Commissioners' Fees.
- For every Subpœna, *One Shilling*.
- For drawing and engrossing every Affidavit, and swearing, *Sixpence*.
- For every Recognizance, *One Shilling* and *Sixpence*.
- For taking Depositions of Witnesses about to leave the Island, *Eight-pence* for every one hundred words.
- For every notice to attend an examination of Witnesses, *One Shilling* and *Sixpence*.
- Trial and Judgment, *One Shilling*.

CLERKS' FEES:

- On every suit, *One Shilling* and *Sixpence*. Clerks' Fees.
- Every Execution, issued at the Plaintiff's request, *One Shilling*.

CONSTABLES' FEES:

- For service of every Summons, or other process, the sum of *One Shilling*. Constables' Fees.
- For levying Execution, *Two Shillings* and *Sixpence*.
- For every mile actually travelled, to serve a Summons, Subpœna, or other process, *Two-pence*.
- For making arrest, under Capias, *Two Shillings* and *Sixpence*.
- For levying and paying Moneys on Execution, at the rate of *One Shilling* in the Pound.
- For advertising Property taken in Execution, *One Shilling* and *Sixpence*.

WITNESSES' FEES:

- For each day's attendance, *Two Shillings*. Witnesses' Fees.
- For every mile travelled, *Three-pence*.
- In the event of Witnesses attending in more than one cause at the same time, then to be allowed only half the above Fees in each cause.

Fees payable to Commissioners of Court, how to be apportioned amongst them.

No other Commissioner than those usually sitting in the same Court to hear any case therein, unless requested by some of the Commissioners of said Court. No greater number than three Commissioners to hear any cause.

Continuance of Act.

LII. And be it enacted, That all Fees properly belonging to the Commissioners, arising out of any Summons or proceeding whatsoever, under this Act, shall be divided equally between the Commissioners present at each sitting of the Court, and no other—all such Fees to be entered and settled at every such sitting, together with the Costs of all proceedings had or taken since the last previous sitting of the Court: Provided always, that no Commissioners, other than those usually sitting in any Commissioners' Court, shall take upon themselves to hear or determine any cause pending therein, unless he shall be requested by some of the Commissioners usually sitting therein, so to do, and that no greater number than Three Commissioners shall hear or determine any cause triable under this Act—anything herein contained to the contrary thereof, in anywise, notwithstanding.

LIII. And be it enacted, That this Act shall be and continue in force for One Year, and from thence to the end of the then next Session of the General Assembly, and no longer.

SCHEDULES to which this Act refers.

SCHEDULE (A.)—FORM OF SUMMONS.

Schedule A.

County.

Form of Summons.

A. B. Plaintiff, } By (Here insert the names of
C. D. Defendant. } any three Commissioners
usually presiding in the Court) Esquires.

You are hereby required personally to be and appear before us at on the day of next, at the hour of of the same day to answer the Plaintiff in an action for the sum of (mention on what account due;) or in default of your appearance you will be proceeded against as to justice shall appertain.

Given under my hand and seal the day of 18 E. F. Clerk. (L. S.)
To the Defendant C. D.

SCHEDULE (B.)—FORM OF SUBPENA.

Schedule B.

County.

By *Esquires*, three of the Commissioners appointed for the recovery of Small Debts: Form of Subpenna.

You are hereby required personally to be and appear before us, at on the day of at the hour of of the same day, to testify the truth according to your knowledge, between *A. B. Plaintiff*, and *C. D. Defendant*, and hereof you are not to fail on the pain of being fined as the law directs.

Given under my hand and seal, this day of

To *E. F. Clerk. (L. S.)*

SCHEDULE (C.)

Schedule C.

RECOGNIZANCE FOR PAYMENT OF DEBT.

A. B. Plaintiff, }
C. D. Defendant. } We *E. F.* and *G. H.* do jointly and severally undertake, that if *C. D.* the Defendant shall not pay, or cause to be paid, to *A. B.* the Plaintiff, the amount adjudged against him the said *C. D.* in this action being for debt and costs, on or before the day of next ensuing, we, or one of us will do it for him. Form of Recognizance for payment of debt.

Taken and acknowledged before } *E. F.*
 me, this day of 18 } *G. H.*
I. K. Clerk.

SCHEDULE (D.)

FORM OF RECOGNIZANCE OF APPEAL.

Schedule D.

County } [Date.]

to wit.

A. B. in error, Plaintiff, }
C. D. in error, Defendant. } *A. B.* is delivered on Bail to prosecute his Appeal at the next sitting of Her Majesty's Supreme Court of Judicature, which will be on the day of next ensuing. Form of Recognizance of Appeal.

To *E. D.* of in County, }
G. H. of in County, } [Occupation.]

Taken and acknowledged before me,

I. K. Clerk.

SCHEDULE (E.)

Schedule E. FORM OF CONDITION TO BE REPEATED TO SURETIES BEFORE TAKING RECOGNIZANCE.

Form of condition to be repeated to Sureties on recognizance.

You [*the two Sureties*] do jointly and severally undertake that if the Appellant be condemned to pay the Appellee, what has been ordered or adjudged for damages and costs, that then you shall pay the same, together with costs and condemnation money, if adjudged by the Supreme Court of Judicature. This you severally acknowledge.

SCHEDULE (F.)

Schedule F. FORM OF AFFIDAVIT OF APPELLANT.

Prince Edward Island, }
County. }

Form of Affidavit to be made by Appellant.

A. B. Plaintiff, }
C. D. Defendant. } Before Clerk of the Court of Commissioners appointed for the recovery of Small Debts for the County aforesaid.—
C. D. maketh oath and saith that on the day of a judgment was given against this Deponent by [*here insert the names of the three Commissioners before whom the cause was heard,*] in an action wherein said *A. B.* was and this Deponent the for the sum of together with Costs of suit (or of non-suit, *as the case may be*) and that this Deponent considering himself aggrieved by the said Judgment, intends to remove the same by appeal into Her Majesty's Supreme Court to be held in on the day of and then and there to cause the said Judgment and all proceedings thereon to be examined in due course of Law. And this Deponent further saith, that he does not ask for the said appeal, for the purpose of delaying the payment of the said Debt and Costs, but for the purpose of having the case determined on its merits in the Supreme Court as aforesaid.

Sworn before me this day of
E. F. Clerk.

SCHEDULE (G.)—FORM OF EXECUTION.

County.

Schedule G.

A. B. Plaintiff, }
C. D. Defendant. } BY Esquires, three of Form of Execution.
 the Commissioners appointed for the recovery of
 Small Debts.

To the Constables of County, or to any
 one of them, and to the Keeper of the Jail at

Whereas Judgment hath been awarded against
C. D. of at the suit of *A. B.* for the sum of
 Debt, and costs of suit—These are to require
 and command you the said Constables, or any one
 of you, to levy from off the goods and chattels of
 the said *C. D.* the said sums making together
 by sale of the said goods and chattels; and for want
 thereof, you are hereby commanded to take the
 body of the said *C. D.* and him to commit to Her
 Majesty's said Jail; and you the said Jailer are
 hereby required to receive the body of the said *C.*
D. into your custody in the said Jail, and him to
 detain until he be thence discharged according
 to Law. And you the said Constables are hereby
 required to make due return of your proceedings
 under this Writ to me, within Thirty days from
 the date hereof.

Given under my hand and seal, the day of
E. F. Clerk. (*L. S.*)

SCHEDULE (H.)

FORM OF ENDORSEMENT ON WRIT OF EXECUTION TO RUN
 INTO ANOTHER COUNTY.

Schedule H.

YOU *[this blank to be filled with
 the Constable's name having the Writ]* are hereby
 authorised to execute the within Writ, within the
 County of Dated at
 this day of

Form of En-
 dorsement on
 Execution to run
 into another
 County.

E. F. Commissioner.

SCHEDULE (K.)

Schedule K.

FORM OF AFFIDAVIT OF PARTY TAKING OUT EXECUTION BEFORE EXPIRATION OF THE FORTY-EIGHT HOURS, IN CASE OF DEBTOR LEAVING THE ISLAND.

Form of Affidavit to be made on application for Execution before expiration of 48 hours after judgment.

I *A. B.* do swear, that I have been informed and believe that *C. D.* is about to depart from this Island, and that unless an Execution is granted to me, I shall lose the amount of the Judgment given against *C. D.*

Sworn before me at _____ on the
day of _____ A. D. 18 _____
E. F. Clerk.

SCHEDULE (L.)

Schedule L.

FORM OF AFFIDAVIT TO OBTAIN CAPIAS.
County.

Form of Affidavit to obtain Capias.

I *A. B.* do swear, that *C. D.* is justly and truly indebted to me in the sum of _____ of lawful money of Prince Edward Island, for and that I have been informed and believe that the said *C. D.* is about to depart from this Island, and that unless a Capias is granted to me, I shall lose the said debt of _____

A. B.
Sworn before me at _____ the _____ day of _____
A. D. 18 _____
E. F., J. P., Commissioner or Clerk.

SCHEDULE (M.)

Schedule M.

FORM OF CAPIAS.

Form of Capias.

To either of the Constables of _____
You are hereby commanded to take *A. B.* of _____ in whatsoever County he may be found, and bring him before me, to answer to *C. D.*
Hereof fail not.

Given under my hand and seal at
this _____ day of _____

SCHEDULE (N).—FORM OF EXECUTION AGAINST BAIL. Schedule N.

WHEREAS Judgment hath been awarded in favor of *C. D.* as well against *A. B.* for the sum of debt and costs of suit, as against *E. F.* and *G. H.* who failed to produce the body of the said *C. D.* as they had undertaken to do: These are therefore to command you, that you levy from the Goods and Chattels of the said *C. D. E. F.* and *G. H.*, the sum of _____ and for want thereof, to take the bodies of the said *C. D. E. F.* and *G. H.* and them commit to the Jail of there to remain until they pay the same, or be discharged by *C. D.* or otherwise by order of law.

Given under my hand and seal, this day of _____

J. P., or Clerk of Commissioner's Court.

SCHEDULE (O.)

FORM OF RECOGNIZANCE TO BE GIVEN IN CASES OF APPEAL Schedule O.
BEFORE THE EXPIRATION OF THE FORTY-EIGHT HOURS, IN CASES OF CAPIAS.

A. B. Plaintiff, }
C. D. Defendant. } WE *E. F.* and *G. H.* do jointly and severally undertake, that if the said *C. D.* shall not cause to be given a Recognizance for Appeal in this case, in manner and form, and within the time by law prescribed, or duly render himself to the custody of *I. K.* [*here insert the name of the Justice of the Peace, or Commissioner by whom the Capias shall have been issued*] in case such Recognizance shall not be duly given, we or one of us will pay the amount of Judgment and Costs awarded in this suit. Form of Recognizance in case of appeal, before expiration of 48 hours on Capias.

SCHEDULE (P).

KNOW all men by these presents, that we all of Prince Edward Island, are held and firmly bound to _____ in the sum of _____ of lawful current Money of the said Island, to be paid to the said _____ or his Schedule P.
Form of Bond on Capias.

certain Attorney, Executors, Administrators, or Assigns, for which payment, well and truly to be made, we bind ourselves, and each of us for himself, in the whole, and in gross, our and every of our Heirs, Executors, and Administrators, firmly by these presents: Sealed with our Seals, dated the day of in the year of the Reign of our Sovereign Lady Queen *Victoria*, by the Grace of God, of the United Kingdom of Great Britain and Ireland Defender of the Faith, and in the year of our Lord, One thousand eight hundred and forty

The condition of this obligation is such, that if the above bounden do appear before Her Majesty's Supreme Court of Judicature, to be held at on the day of to answer of a plea and also to a Bill of the said to be exhibited against the said for or promises, then this obligation to be void, otherwise to be and remain in full force and virtue.

Sealed and delivered at }
in the presence of }

C A P. XXV.

An ACT to enable Married Women to convey Freehold Property to which they may be entitled in their own right.

[Passed *April* 15th, 1843.]

Points out a mode by which *feme covert* entitled to freehold Estate in her own right, residing beyond the sea, &c., may, with consent of her husband, convey the same.

BE it enacted, by the Lieutenant Governor, Council and Assembly, That if any *feme covert* entitled to any Freehold Estate in her own right, shall live in parts beyond the sea, or out of the limits of this Island, such *feme covert*, by and with the consent of her husband, may, by any lawful Deed or Conveyance, convey such Estate, provided the acknowledgment of such Deed or Conveyance shall be made by such *feme covert*, as follows, that is to say—if such *feme covert* lives within the Kingdom of Great Britain or Ireland,

the acknowledgment of such Deed or Conveyance may be had and taken by and before any Judge of the Courts of Queen's Bench or Common Pleas, or Baron of the Exchequer, or any Master in Chancery, or any Judge or Lord of Counsel and Session in Scotland; and, if in any other part of the British Dominions, or in any Colony, by and before any Judge of the Supreme or Superior Court of Judicature in such Colony, or part of such British Dominions, wherein such *feme covert* shall reside, and certified on the said Deed or Conveyance, by and under the hand of such Judge or other person so taking the acknowledgment thereof as aforesaid; such Certificate being also authenticated—if in the British Plantations—under the hand and seal of the Governor, Lieutenant Governor or Commander in Chief of the Province where the same shall be made: and if in Great Britain or Ireland, a declaration in writing shall be made and certified under the seal of some Corporation there, that the Signature of the person taking such acknowledgment is the actual and proper handwriting of such person so taking such acknowledgment; and if such *feme covert* live in any Foreign State or Kingdom, the acknowledgment of such Deed or Conveyance may be had and taken by and before any Public Minister, Ambassador or Consul from the Court of Great Britain, residing in any such State or Kingdom, and certified on such Deed or Conveyance, by and under the hand and seal of such Minister, Ambassador, or Consul so taking the acknowledgment thereof, as aforesaid.

Conveyance, how to be acknowledged in Great Britain or Ireland,

And also in any other part of the Queen's Dominions,

If in British Plantations the acknowledgment to be authenticated under hand and seal of Lieut. Governor, &c.

If in Great Britain or Ireland a Declaration in writing to be made and certified.

How to be certified in such case.

If in Foreign State, &c., how acknowledgment is to be taken and how certified.

II. And be it further enacted, That it shall be lawful in like cases, for any married Woman, by any Deed or instrument in writing, under her hand and seal, and executed in the presence of one or more credible Witness or Witnessess, to constitute any person her Attorney to release and convey away, with the consent of her husband,

Feme Covert, in like cases, may constitute an Attorney to convey Real Estate.

Mode of constituting Attorney for this purpose. Land to be conveyed, to be described in power, and power to be acknowledged in the same way as conveyance, &c.

Power to be registered in this Island.

Deeds executed under such power to be valid, &c.

her Right in or to any such Lands or Tenements within this Island, provided that such Lands or Tenements be described with sufficient certainty in such Power of Attorney, and that an acknowledgment in the manner hereinbefore prescribed be duly certified on or within the said Power of Attorney; and that the Signature of the person granting such Certificate be duly authenticated, and the said Power of Attorney duly registered, in conformity with the Laws of the Island for registration of such instruments; and any Deed executed by such Attorney pursuant to such power, shall be as good and effectual, to all intents and purposes whatsoever, as if the same had been executed by such *feme covert*, and acknowledged in the manner pointed out in the First Section of this Act.

CAP. XXVI.

An ACT to repeal an Act made and passed in the Twenty-first year of the Reign of King George the Third, intituled *An Act relating to Wills, Legacies, and Executors, and for the settlement and distribution of the Estates of Intestates*, and to make other provisions in lieu thereof.

[Passed April 15th, 1843.]

Meaning of certain words in this Act.

“ Will.”

“ Real Estate.”

BE it enacted, by the Lieutenant Governor, Council and Assembly, That the words and expressions hereinafter mentioned, which, in their ordinary signification, have a more confined or different meaning, shall in this Act—except where the nature of the provision, in the context of this Act, shall exclude such construction—be interpreted as follows, (that is to say), the word “ Will,” shall extend to a Testament and to a Codicil, and to an appointment by Will, or by writing, in the nature of a Will, in exercise of a power; and the words “ Real Estate” shall extend to lands, rents

and hereditaments, whether freehold or any other tenure, and whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any Estate, right or interest, (other than a chattel interest) therein: and the words "Personal Estate," shall extend to Leasehold Estate, and other chattels real, and also to moneys, shares of Government and other funds, Securities for money, (not being real Estate), debts, choses in action, rights, credits, goods, and all other property whatsoever, which by Law devolves upon the Executor or Administrator, and to any share or interest therein; And every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the masculine gender only, shall extend, and be applied to a female as well as a male.

"Personal Estate."

"Number."

"Gender."

II. And be it further enacted, That an Act passed in the Twenty-first year of the Reign of King George the Third, intituled *An Act relating to Wills, Legacies, and Executors, and for the settlement and distribution of the Estates of Intestates*, shall be, and the same is hereby repealed.

Repeals Act of the 21st George 3d cap. 2.

III. And be it further enacted, That it shall be lawful for every person to devise, bequeath, or dispose of by his Will, executed in manner hereinafter required, all real Estate, and all personal Estate, which he shall be entitled to, either at Law or in Equity, at the time of his death, and which if not so devised, bequeathed or disposed of, would devolve upon the heir at law of him, or if he became entitled, by descent, of his ancestor, or upon his Executor or Administrator; and also to Estates per *autre vie*, whether there shall, or shall not be any special occupant thereof, and whether the same shall be freehold, or of any other tenure, and whether the same shall be a corporeal or incorporeal hereditament; and also to all contin-

All property may be disposed of by Will.

Estates per *autre vie*.

Contingent interests.

Rights of entry
and property
acquired after
execution of the
Will.

gent, executory, or other future interests in any real or personal Estate, whether the Testator may or may not be ascertained, as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by Deed or Will; and also to all rights of entry for conditions broken, and other rights of entry; and also to such of the same Estates, interests and rights respectively, and other real and personal Estate, as the Testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his Will.

Estates per
autre vie.

IV. And be it further enacted, That if no disposition by Will shall be made of any Estate per *autre vie*, of a freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of special occupancy, as assets by descent, as in the case of freehold Land in fee simple; and in case there shall be no special occupant of any Estate per *autre vie*, whether freehold or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the Executor or Administrator of the party that had the Estate thereof by virtue of the grant; and if the same shall come to the Executor or Administrator, either by reason of a special occupancy, or by virtue of this Act, it shall be assets in his hands, and shall go and be applied and distributed in the same manner, as the personal Estate of the Testator or Intestate.

No Will of a
person under age
valid.

V. And be it further enacted, that no Will made by any person under the age of Twenty-one years, shall be valid.

Nor a *feme covert*, except such
as might now be
made.

VI. Provided also, and be it further enacted, That no Will made by any married Woman shall

be valid, except such a Will as might have been made by a married Woman before the passing of this Act.

VII. And be it further enacted, That no Will shall be valid, unless it shall be in writing, and executed in manner hereinafter mentioned; (that is to say), it shall be signed at the foot or end thereof, by the Testator, or by some other person in his presence, and by his direction, and such signature shall be made or acknowledged by the Testator, in the presence of Two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the Will in the presence of the Testator, but no form of attestation shall be necessary.

Every Will to be in writing and signed by the Testator in the presence of two witnesses at one time.

VIII. And be it further enacted, That no appointment made by Will, in exercise of any power, shall be valid, unless the same shall be executed in manner hereinbefore required, and every Will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by Will, notwithstanding it shall have been expressly required that a Will made in exercise of such power, should be executed with some additional or other form of execution or solemnity.

Appointment by Will to be executed like other Wills and to be valid, although other required solemnities are not observed.

IX. Provided always, and be it further enacted, That any Soldier, being in actual military service, or any Mariner or Seaman being at Sea, may dispose of his personal Estate, as he might have done before the passing of this Act.

Soldiers and Mariners' Wills excepted.

X. And be it further enacted, That every Will executed in manner hereinbefore required shall be valid without any other publication thereof.

Publication not requisite.

XI. And be it further enacted, That if any person who shall attest the execution of a Will, shall

Will not to be void on account

of incompetency
of attesting Wit-
ness.

at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such Will shall not on that account be invalid.

Gifts to an attest-
ing Witness to
be void.

XII. And be it further enacted, That if any person shall attest the execution of any Will, to whom, or to whose Wife or Husband, any benificent Devise, Legacy, Estate, Interest, Gift, or appointment, of, or affecting any Real or Personal Estate, (other than, except charges and directions for the payment of any debt or debts,) shall be thereby given or made, such Devise, Legacy, Estate, Interest, Gift, or appointment shall, so far only as concerns such person attesting the execution of such Will, or the Wife or Husband of such person or any person claiming under such person or Wife or Husband, be utterly null and void, and such person so attesting, shall be admitted as a witness to prove the Execution of such Will, or to prove the validity or invalidity thereof, notwithstanding such Devise, Legacy, Estate, Interest, Gift, or appointment mentioned in such Will.

Creditor attest-
ing to be admit-
ted a Witness.

XIII. And be it further enacted, That in case by any Will, any real or personal Estate shall be charged with any debt or debts, and any Creditor, or the Wife or Husband of any Creditor, whose debt is so charged, shall attest the execution of such Will, such Creditor notwithstanding such charge, shall be admitted a witness to prove the execution of such Will, or to prove the validity or invalidity thereof.

Executor to be
admitted a Wit-
ness.

XIV. And be it further enacted, that no person shall on account of his being an Executor of a Will, be incompetent to be admitted a witness to prove the execution of such Will, or a witness to prove the validity or invalidity thereof.

XV. And be it further enacted, That every Will made by a Man or Woman shall be revoked by his or her marriage, (except a Will made in exercise of a power of appointment, when the real or personal Estate thereby appointed, would not in default of such appointment, pass to his or her Heir, Executor or Administrator, or the person entitled as his or her next of kin, under this Act.)

Will to be re-
voked by marriage.

XVI. And be it further enacted, That no Will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

No Will to be
revoked by pre-
sumption.

XVII. And be it further enacted, That no Will or Codicil, or any part thereof, shall be revoked, otherwise than as aforesaid, or by another Will or Codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a Will is herein before required to be executed, or by the burning, tearing or otherwise destroying the same, by the Testator or by some person in his presence and by his direction, with the intention of revoking the same.

No Will to be
revoked but by
another Will or
Codicil, or by a
Writing exe-
cuted like a Will,
or by destruction
thereof.

XVIII. And be it further enacted, That no obliteration, interlineation, or other alteration made in any Will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the Will before such alteration shall not be apparent, unless such alteration shall be executed in like manner, as hereinbefore is required for the execution of the Will; but the Will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the Testator, and the subscription of the Witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of, or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

No alteration in
a Will shall have
any effect unless
executed as a
Will.

No Wills revoked to be revived otherwise than by a re-execution or a codicil to revive it.

XIX. And be it further enacted, That no Will or Codicil, or any part thereof, which shall be in any manner revoked, shall be revived, otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and shewing an intention to revive the same, and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shewn.

A devise not to be rendered inoperative by any subsequent Conveyance or act.

XX. And be it further enacted, That no conveyance or other Act made or done subsequently to the execution of a Will, of or relating to any real or personal Estate therein comprised, except an Act by which such Will shall be revoked as aforesaid, shall prevent the operation of the Will with respect to such Estate, or Interest in such real or personal Estate, as the Testator shall have power to dispose of by Will at the time of his death.

A Will shall be construed to speak and take effect from the death of the Testator.

XXI. And be it further enacted, That every Will shall be construed with reference to the real and personal Estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the Testator, unless a contrary intention shall appear by the Will.

A residuary devise shall include Estates comprised in lapsed and void devises.

XXII. And be it further enacted, That unless a contrary intention shall appear by the Will, such real Estate or Interest therein as shall be comprised or intended to be comprised, in any devise in such Will contained, which shall fail or be void by reason of the death of the devisee in the life-time of the Testator, or by reason of such devise being contrary to Law, or otherwise incapable of taking effect, shall be included in the residuary Devise (if any,) contained in such Will.

XXIII. And be it further enacted, That a devise of the Land of the Testator, or of the Land of the Testator in any place, or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, and any other general devise which would describe a Leasehold Estate, if the Testator had no freehold Estate which could be described by it, shall be construed to include the Leasehold Estates of the Testator, to which such description shall extend, as the case may be, as well as freehold Estates, unless a contrary intention shall appear by the Will.

A general devise of the Testator's lands shall include Leasehold as well as Freehold Estates.

XXIV. And be it further enacted, That a general devise of the real Estate of the Testator, or of the real Estate of the Testator in any place, or in the occupation of any person, mentioned in his Will, or otherwise described in a general manner, shall be construed to include any real Estate, or any real Estate to which such description shall extend, (as the case may be,) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will; and in like manner a bequest of the personal Estate of the Testator, or any bequest of personal property described in a general manner, shall be construed to include any personal Estate, or any personal Estate to which such description shall extend, (as the case may be,) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

A general Gift shall include Estates over which Testator has a general power of appointment.

XXV. And be it further enacted, That where any real Estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the Fee Simple, or other the whole Estate or Interest which the Testator had

A devise, without any words of limitation, shall be construed to pass the fee.

power to dispose of by Will in such real Estate, unless a contrary intention shall appear by the Will.

The words "die without issue," or "die without leaving issue," or "have no issue," shall be construed to mean die without issue living at the death.

XXVI. And be it further enacted, That in any devise or bequest of real or personal Estate, the words "die without issue," or "die without leaving issue," or "have no-issue," or any other words which may import either a want or failure of issue of any person in his life-time, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the life-time, or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the Will, by reason of such person having a prior Estate Tail, or of a preceding gift, being without any implication arising from such words, a limitation of an Estate Tail to such person or issue, or otherwise; Provided that this Act shall not extend to cases where such words as aforesaid, import if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age, or otherwise answer the description required for obtaining a vested Estate, by a preceding gift to such issue.

No devise to Trustees or Executors, except for a term, shall pass a chattel interest.

XXVII. And be it further enacted, That where any real Estate shall be devised to any Trustee or Executor, such devise shall be construed to pass the fee simple, or other the whole Estate or Interest which the Testator had power to dispose of by Will, in such real Estate, unless a definite term of years, absolute or determinable, or an Estate of freehold, shall thereby be given to him expressly or by implication.

Trustees, under an unlimited devise, where the

XXVIII. And be it further enacted, That where any real Estate shall be devised to a Trustee, without any express limitation of the Estate to be taken

by such Trustee, and the beneficial interest in such real Estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such Trustee the fee simple, or other, the whole legal Estate which the Testator had power to dispose of by Will in such real Estate, and not an Estate determinable when the purposes of the trust shall be satisfied.

Trust may endure beyond the life of a person, beneficially entitled for life to take the fee.

XXIX. And be it further enacted, That where any person to whom any real Estate shall be devised for an Estate Tail, or an Estate in *quasi* entail, shall die in the life-time of the Testator, leaving issue, who would be inheritable under such entail, and any such issue shall be living at the time of the death of the Testator, such devise shall not lapse, but shall take effect, as if the death of such person had happened immediately after the death of the Testator, unless a contrary intention shall appear by the Will.

Devises of Estates tail shall not lapse.

XXX. And be it further enacted, That where any person being a child, or other issue of the Testator to whom any real or personal Estate shall be devised or bequeathed for any Estate or interest not determinable at or before the death of such person, shall die in the life-time of the Testator, leaving issue, and any such issue of such person shall be living at the time of the death of the Testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the Testator, unless a contrary intention shall appear by the Will.

Gifts to Children or other issue, who leave issue living at the Testator's death, shall not lapse.

XXXI. And be it further enacted, That if any Executor or Executors resident within this

Executor resident in this Colony, knowing

of his being appointed within 30 days, and Executor not resident therein, within six months, to prove Will, on penalty of £5 for every month's delay.

Mode of recovery.

Application of penalty.

Surrogate may order administration in such case to Widow, &c.

On objection made by any Legatee, &c., to granting Letters Testamentary, to any Executor,

Island, of the Will of any person deceased, knowing of their being so named and appointed, shall not within thirty days, or if resident out of this Island, within Six Months next after the death of the Testator, on his appointment being made known to him, cause such Will to be proved and recorded in the Office of the Register of Wills and Probates of this Island, or present the Will and give in a written declaration of his refusal of the Executorship, every Executor so neglecting his duty in that behalf (without just excuse for such delay, made to and accepted by the Surrogate and Judge of Probates before any suit or action commenced for the penalty next hereinafter mentioned), shall forfeit the sum of Five Pounds every month from and after the expiration of the said Thirty Days, or Six Months, as the case may be, until he shall have caused Probate of such Will to be made, or have presented the same in the manner above appointed: each and every such forfeiture to be had and recovered by action of debt in the Supreme Court of Judicature of this Island, at the suit of any Heir, Legatee, or Creditor, who shall or may prove to the satisfaction of the said Court, that any injury has accrued to him by the said delay, and to and for the proper use of the person who shall inform and sue for the same: and upon any such refusal of the said Executor, the Surrogate shall order and commit administration of the Estate of the deceased, with the Will annexed, unto the Widow or next of kin to the deceased; and in case of their refusal, to one or more of the principal Creditors, as he shall or may think fit.

XXXII. And be it further enacted, That if objection should be made by any Creditor of a Testator, or any Legatee, Relative, or other person interested in his Estate, against granting Letters testamentary, to one or more of the persons named in the Will as Executors, the Surrogate

shall enquire into such objection, and if it appear that the circumstances of any person named as such Executor are such, that, in the opinion of the Surrogate, they would not afford adequate security to the Creditor, Legatee or Relative of the Testator, for the due administration of his Estate, he may refuse Letters testamentary to any such person until he shall give the like Bond, as is hereinafter required of Administrators; in case of intestacy.

Surrogate may enquire into such objection, and may refuse such Letters until he gives Bond, as in case of intestacy.

XXXIII. And be it further enacted, That if any person or persons shall be found guilty of suppressing any Will or Testament, such person or persons shall be subject and liable to the same penalty as is directed in and by this Act, for persons neglecting to prove any last Will and Testament.

Penalty on person suppressing a Will.

XXXIV. And be it further enacted, That where any certain Legacy is or shall be bequeathed and given by any person in his last Will and Testament, as also where any residuary or uncertain Legacy, is, or shall by the account of any Executor, be reduced to a certainty; in those cases, every such Legacy and Legacies may be sued for, and recovered at Common Law, any Law, Custom, or usage to the contrary notwithstanding.

Legacies ascertained recoverable at Common Law.

XXXV. And be it further enacted, That when and so often as it shall happen, that any person dies intestate, upon the application of the Widow or next of kin, within Thirty Days after the death of such intestate, the said Surrogate shall grant Letters of Administration to such Widow, or next of kin; and in case they neglect applying within the said Thirty Days, upon first citing such Widow, or next of kin; and their refusing to accept the same, such Surrogate shall grant administration to such person or persons, as he shall or may judge fit, Creditors being always considered

Administration in cases of Intestacy.

Who entitled to administration in such cases.

as having a preferable right to persons in nowise interested in the affairs of the deceased and to whomsoever the said Surrogate shall grant administration according to the regulations and directions contained in this Act, he shall oblige him to give a Bond to him the said Surrogate, with two or more sufficient Sureties, to be approved of by the Surrogate; and such Bond shall be according to the form and with the condition prescribed in the Schedule to this Act annexed, or in words to the like effect, and shall be filed in the Registry of the Surrogate Court before the Letters of Administration are issued, and shall and may proceed to call such Administrators to account for and touching the Goods of the Intestates; and upon due hearing and consideration thereof (all just debts and funeral expenses being first allowed) the said Surrogate shall, and he is hereby fully empowered to order and make a just distribution of the surplusage or remaining Goods and Estate as well as real as personal, in manner following, that is to say, one third part of the personal Estate, to belong to and vest in the Wife of the Intestate for ever, besides her Dower in the Houses and Lands, during life, where such Wife shall not be otherwise endowed before marriage; and the said Surrogate having appointed Guardians in manner as is now or hereafter shall and may be by Law directed, shall then out of all the residue of such real and personal Estate, distribute two shares, or a double portion to the eldest son then surviving (when there is no issue of the first born or of any other eldest son): and the remainder of such residue equally to and amongst his other children, and such as shall or may legally represent them. Provided, that children advanced by settlement or portions, not equal to the other shares, shall have so much of the surplusage as may make the Estate of all to be equal, except the eldest son then surviving (where there is no issue of the first born or of any elder son), who shall have two shares, or a double portion of the whole.

Bond to be given with 2 Sureties by Administrator.

Form of Bond.

Surrogate may call Administrator to account

—and make distribution of Estates of Intestates.

Mode of distribution.

Appointment of Guardians.

Children previously advanced by settlement.

XXXVI. And be it further enacted, That each Estate, wherewith such Child shall have been advanced in the life-time of the Intestate, shall be accounted for upon the oath of such Child before such Surrogate, or by other evidence to the satisfaction of such Surrogate; and in case of refusal to account upon oath, such Child so refusing, shall be debarred of any share in the Estate of the Intestate.

Children advanced in life-time of Intestate, to account therefor upon oath.

XXXVII. And be it further enacted, That the division of the Real Estate of such Intestates, shall be made by Five capable persons upon oath, or by any three of them, to be for that purpose appointed and sworn by the Surrogate: Provided always, that if all the parties interested in such Lands or Tenements, being of lawful age, shall by Deed agree to a division, such agreement, the same being acknowledged by the parties thereto, or by their Attorney for that purpose lawfully constituted, before the Surrogate, and being entered on Record in the Registry Office of the Surrogate Court, shall be deemed a legal and valid partition and Settlement of such Estate, as effectually, to all intents and purposes whatsoever, as if the same had been divided and settled by writ of partition, and shall be received and allowed in evidence on any Trial respecting such Lands and Tenements: Provided nevertheless, that where any Estate, in Houses and Lands, cannot be divided among all the Children, without great prejudice to the whole, the said Surrogate may, on sufficient evidence of the same, order the whole to the oldest Son, or upon his refusal, to any other of the Sons successively, he paying unto the other Children of the deceased, their equal and proportionable parts or Shares of the real value of such Houses and Lands, upon a just appraisement thereof, to be made by Three sufficient unexceptionable persons upon oath, to be appointed and sworn as aforesaid, on giving good security to pay the same in such convenient time as

Division of Real Estates of Intestates, how to be made.

Parties may agree to a division.

Agreement, how perfected and acknowledged.

Of Estates of Intestates in Houses and Lands, which cannot be divided without prejudice to the whole.

Intestates Children dying under age or before marriage.

Distribution of Intestates' Estates, where no Children or legal representatives of them.

No representatives among collaterals, after Brothers' and Sisters' Children.

Persons to whom shares are allotted, to give bond, &c.

Condition of Bond.

Widow's dower, how to be divided after her death.

Appeal to Governor and Council against sentence or decrees of Surrogate.

the Surrogate shall or may limit, making reasonable allowance in the mean time, at the rate of Six Pounds on the hundred in the year, and if any of the Children should happen to die under age, or before marriage, then the portion of such deceased Child, shall be equally divided among the survivors; and in case there be no Children, nor any legal representatives of them, then one moiety of the personal Estate shall be allotted to the Wife of the Intestate for ever, as also one third of the Real Estate for her term of life, and the residue, both of the real and personal Estate, shall be allotted equally to every of the next of kin of the Intestate, in equal degree, and those who shall or may legally represent them: no representatives to be admitted among Collaterals, after Brothers' and Sisters' Children, and if there be no Wife; then the whole shall be distributed among the Children; and in case of no Child, then to the next of kin to the Intestate in equal degree, and their legal Representatives as aforesaid, and in no other manner whatsoever; and every one to whom any share shall be allotted, shall give Bond, with sufficient Sureties, to the satisfaction of the said Surrogate, if debts afterwards be made to appear, conditioned to refund and pay back to the Administrator, his rateable part thereof, and of the Administrator's Charges:

XXXVIII. And it is hereby enacted, That the lands and tenements wherewith any Widow shall be endowed as aforesaid, shall, after the decease of such Widow, be divided in like manner as by this Act is directed, saving to any person aggrieved at any order, sentence, or decree made for the settlement and distribution of the Estate of any Intestate, their right of appeal to the Governor and Council; every person so appealing giving Security to prosecute such appeal with effect; Provided that such appeal be made within forty days after sentence of the said Surrogate.

XXXIX. And be it further enacted, That all such Estates, whether real or personal, which shall or may not be comprised in any last Will and Testament, or which shall or may not be devised or given by the same, shall be distributed in the same manner as the Estates of Intestates are directed to be distributed by this Act.

Estates, real or personal, not comprised in any last Will, to be distributed as Intestate Estates.

XL. And be it further enacted, That every Executor or Administrator taking upon himself that charge by proving the Will of his Testator, or receiving Letters of administration of the Estate of any Intestate, shall within Three Months from the time of granting Probate or Letters of administration thereof, (unless a further time be given by the Surrogate) file with the Register of Probates, an Inventory, which shall contain a true and perfect description and estimate of all the real Estate, Goods, Chattels, and Credits of the deceased person, as well in possession as in action, and shall also specify the names of all the Debtors of the deceased known to the Executor or Administrator, together with the nature of the debt, and the security therefor, whether by Judgment, Bond, Mortgage, Promissory Note, Book debt, or otherwise; and the date of each security, the sum originally payable, and the payments, if any, which have been made thereon; and shall distinguish those debts, which, in the opinion of such Executor or Administrator, are doubtful or desperate; and shall also contain an account of all Monies, whether in specie, or bank Bills, belonging to the deceased, which shall have come to the hands or knowledge of the Executor or Administrator, and if no such monies shall have come to his hands or knowledge, the facts shall be so stated in such Inventory, and such Inventory shall be verified by the Oath of the Executor or Administrator before the Surrogate.

Time of filing Inventory, by Executor or Administrator.

Where to be filed. Requisites of Inventory.

Inventory to be verified on Oath.

Mode of compelling Executor or Administrator to file Inventory.

XXI. And be it further enacted, That in case of an Executor or Administrator failing to return an Inventory within the time limited, for that purpose, he may be required so to do by a citation from the Surrogate, such citation to be issued on the application of some person having an interest in the Estate of the deceased, as Creditor, Legatee, or next of kin, or of some person on behalf of a minor having such interest, or of any Surety upon an administration-bond.

In the event of property not mentioned in Inventory, coming to the hands of Executor or Administrator, a second Inventory to be filed.

Second Inventory may be required as in case of First Inventory.

XLII. And be it further enacted, That whenever property of any kind not mentioned in any inventory that shall have been filed as aforesaid, shall come to the possession or knowledge of an Executor or Administrator, he shall make and file an inventory thereof, within Three Months after the discovery thereof, verified in the same manner as such first inventory, and the making of such further inventory may be required in the same manner, as in the case of the first inventory.

Executor a residuary Legatee, may bring action of account against his co-Executor.

XLIII. And be it enacted, That every Executor being a residuary Legatee, may bring his action of account against his Co-executor, of the Estate of the Testator in his hands, and may also sue for and recover his equal and rateable part thereof, and any other residuary Legatee may have the like remedy against the Executor.

Debts to be paid according to legal priority.

No preference to be given in debts of the same class.

XLIV. And be it enacted, That every Executor or Administrator shall proceed with diligence to pay the debts of the deceased, according to their legal priority in the order of classes; and all debts of the same class shall be paid in equal proportion, and no preference shall be given in the payment of any debt over debts of the same class, nor shall a debt due and payable be entitled to a preference over debts not due; nor shall the commencement of a suit for the recovery of any debt, or the obtaining of a Judgment therein, entitle such

debt to any preference over others of the same class, nor shall any debt of an Executor or Administrator be entitled to any preference over others of the same class: Provided always, that all allowances made by the Surrogate to any Executor or Administrator for expences and services, shall have priority in payment to any debts of what class soever.

Nor to debt of Executor or Administrator over others of same class.

Allowance made by Surrogate to Executor or Administrator for expences, to have priority over all debts.

XLV. And be it further enacted, That in case the personal Estate of any deceased person shall not be sufficient to pay his debts, and it be found necessary to apply the real Estate of such person in payment of such debts, the Surrogate Court shall have Cognizance of the matter, and shall be authorized and empowered to grant a Licence to the Executors or Administrators for the application of the Real Estate for that purpose as hereinafter mentioned.

Surrogate authorized to grant Licence for sale of Real Estate to pay debts.

XLVI. And be it enacted, That in order to obtain such Licence, the Executor or Administrator shall at any time within Three Years after the granting of the Letters testamentary, or of administration, apply to the Surrogate Court by Petition, setting forth in such Petition, the amount of personal property which has come to the hands of such Executor or Administrator, the debts so far as they can then be ascertained against the Estate of the deceased person, a description of the real Estate of the deceased, with the value of the respective Lots or parts thereof, and whether occupied or not; and if occupied, the names of such occupants, so far as they may have come to his knowledge, and the names and ages of the heirs and devisees (if any), of the deceased; which petition shall be verified by the oath of the Petitioner, taken and certified thereon by the Surrogate, and there shall also be annexed to such petition, a certified copy of the inventory on file, and in case he died testate a copy of the Will.

Executor or Administrator to apply for such Licence within 3 years.

Requisites of Petition to be presented for Licence.

Petition to be verified on oath.

Surrogate, after notice, &c., to hear and examine allegations of Petition.

XLVII. And be it enacted, That the said Surrogate Court shall thereupon have Cognizance of the matter of such Petition, and after notice to the parties interested, either personally, or by advertisement in any public newspaper of this Island, as such Court may order and direct, shall proceed to hear and examine the allegations and proofs of the Petitioner, or any person interested in such real Estate, who may think proper to oppose such application; and also the validity or legality of any debt or demand which may be represented as existing against the Testator or Intestate.

If satisfied of the insufficiency of personal Estate of Intestate to pay debts, Surrogate may grant Licence to sell Real Estate.

XLVIII. And be it enacted, That when in any case after due examination, the said Surrogate Court shall be satisfied that the personal Estate of the Testator or Intestate is insufficient for the payment of debts, it shall be lawful for such Court to grant a Licence in general terms for the sale of such real Estate, or such part thereof as may be sufficient to pay the said debts, or to specify in such Licence the particular parts or portions of the real Estate so to be sold, and in cases where licence is given to sell only a specified part of the real Estate, such Court may, from time to time, proceed to grant further Licence to sell a further part, or all such real Estate, if necessary for the payment of such debts.

Terms in which Licence may be granted.

Surrogate may, from time to time, grant further Licence to sell.

On application of a Creditor after one year and before expiration of three years, Surrogate may grant Licence for sale of Real Estate.

XLIX. And be it enacted, That the said Surrogate Court upon the application of any Creditor, made after the expiration of One year, and before the expiration of Three years, from the time of granting letters Testamentary or of Administration, and shewing probable cause for believing that there will not be sufficient personal assets to pay the Debts of the Testator or Intestate, may proceed to examine into the matter, as in the case of such application on the part of an Executor or Administrator, due notice thereof being given to the parties interested as prescribed in the

Forty-seventh Section of this Act; and if after due examination such Court shall be satisfied, that the personal Estate of such Testator or Intestate, is insufficient for payment of the Debts, it shall be lawful for such Court to grant Licence to sell all or part of the real Estate, in the same manner as if the application had been made therefor by such Executor or Administrator.

L. And be it enacted; That if it shall appear to the said Surrogate Court that it will be for the advantage of the Heirs or Devisees of any Testator or Intestate, and will not be injurious to Creditors, to Lease the real Estate or any part thereof, for any time not exceeding Twenty-one years, (in possession and not by way of future Interest,) in lieu of selling the same for the purpose of raising money to pay Debts, the said Court may so direct in such Licence, and any Lease executed by such Executor or Administrator in pursuance thereof; shall have the like force and effect as if executed by the Testator or Intestate immediately before his death.

Surrogate (if it shall be for the advantage of the heirs and not injurious to Creditors), may direct seal Estate to be leased for 21 years.

LI. Provided always and be it enacted, That in case any person interested shall, contest the granting of such Licence to sell or Lease the real Estate of any Testator or Intestate, and shall not be satisfied with the Decree of said Surrogate in regard thereto, such person may appeal therefrom to the Governor and Council; provided that the appeal be filed in the Registry of such Surrogate Court, within Thirty days after the making of the Decree, and that the party appealing do at the same time with the appeal, file in the Registry of such Surrogate Court, a Bond to the said Surrogate, with Two sufficient Sureties, in the penal sum of Thirty Pounds conditioned for the payment of such costs as shall be awarded against him by the Governor and Council, upon such appeal, and such appeal when so perfected by the filing of such

Any person interested may contest the granting of such Licence to sell or lease, and if dissatisfied with decree of Surrogate, may appeal to Governor and Council.

Provided appeal be filed within 30 days after decree, and a bond be given to Surrogate.

Amount of bond, and condition thereof.

Appeal to suspend all proceedings before Surrogate.

Bond therewith, shall suspend all proceedings upon the decision appealed from, until the appeal be determined.

Surrogate to transmit copy of Appeal and all papers, &c., to Governor and Council, with his decision and reasons therefor.

LII. And be it enacted, That upon such appeal being perfected, and upon the legal Fees being paid, the Surrogate shall immediately transmit to the Governor and Council a Copy of such appeal, and of all papers, documents, and testimony produced before him in relation to the subject of such appeal duly certified under the Seal of the Surrogate Court, with a statement of the decision made by him, and the reasons of such decision, and in case the decision of the said Surrogate shall be reversed or altered, the said Governor and Council shall make such Order, touching the subject of such appeal, as under the circumstances of the case shall seem fit, but in case the decision of the said Surrogate Court shall be affirmed, the proceedings shall be remitted back thereto, and the said Surrogate Court shall proceed thereon pursuant to the first Decree.

Power of Governor and Council on reversal of decree of Surrogate.

If decree of Surrogate be affirmed, the proceedings to be remitted back to him. Form of Licence to sell real Estate—and to be registered by Register of Surrogate Court.

LIII. And be it enacted, that every Licence to sell real Estate as aforesaid, shall be made in such form as the Surrogate (or in case of the decision of the said Surrogate Court being altered by the Governor and Council) may prescribe, and shall be Registered by the Register of the Court granting the same, in a Book to be kept for that purpose, and a Copy of such record certified under the hand of any such Register, shall be evidence of such Licence in all Courts without further proof.

On Licence granted to sell or lease real Estate, Executor or Administrator entitled to rents, &c.

LIV. And be it further enacted, That upon a Licence to sell or Lease any real Estate as aforesaid, being granted the Executor or Administrator, shall be deemed entitled to all the Rents and profits of the real Estate of the Testator, or Intestate accruing from the time of his death, and shall and may have and maintain all actions and other lawful

means for recovering the same; and all the proceeds of such real Estate shall be legal assets in the hands of such Executor or Administrator for the payment of such Debts: Provided always, that any Rent becoming due after the death of the Testator or Intestate, and paid in good faith by any Tenant to any Heir or Devisee, before notice of such License, shall not be recoverable from such Tenant by an Executor or Administrator.

from time of death of Testator or Intestate. Proceeds to be assets in their hands for payment of debts. Rent due after decease of Testator, &c. paid in good faith by Tenant to Devisee, not to be recoverable against such Tenant.

LV. And be it enacted, That before any sale or Lease be made of any real Estate by virtue of such Licence, the Executor or Administrator shall give Thirty days public notice of such sale or letting by posting up notifications in three at least of the most public places in the County where the Land lies, and by publishing such notification once in each week, for four successive weeks, in a Newspaper printed in the Island, in which notification the several parcels of the Lands and Tenements to be sold or leased shall be particularly and appropriately designated, and whoever will give the most, shall have the preference in such sale or letting, and such sale or letting shall be by public auction.

30 days' notice of sale or lease of real Estate to be given.

Mode of giving such notice.

Requisites of such notice.

LVI. And be it enacted, That before any Executor or Administrator do proceed to sell or lease any such real Estate, they shall first give Bond to the Surrogate, with two sufficient sureties, to be approved of by such Surrogate, in such penalty, not exceeding double the amount to be raised by such sale or letting, as the said Surrogate may think fit to direct, which Bond shall be agreeable to the form and with the condition prescribed in the Schedule to this Act annexed, or in words to the like effect, and shall be filed with the Registrar of the said Surrogate Court before such sale or letting.

Before selling or leasing real Estate, Executor or Administrator to give Bond, &c.

Penalty of Bond

Form of Bond.

Where to be filed.

Executor or Administrator may execute Deed or Lease of real Estate sold or let.

Requisites of Deed or Lease.

Effect of such Deed or Lease.

LVII. And be it enacted, That on sale or letting of any such real Estate under such license, the Executor or Administrator shall and may execute a Deed or Lease of the premises so sold or leased, in which the substance of such License shall be recited; which Deed or Lease shall have the like force and effect (except as to rents or profits up to the date thereof,) as if made and executed by such Testator or Intestate immediately before his death.

Deed or Lease of real Estate sold or let by Executor or Administrator duly proved, &c. May be registered and given in evidence in any Court.

LVIII. And be it further enacted, That every Deed or Lease made by any Executor or Administrator under the provisions of this Act having been first duly acknowledged or proved according to the Laws relating to the Registry of Deeds, and an Affidavit having been made by such Executor or Administrator before any Officer or Court duly authorized to take acknowledgments in proof of the execution of Conveyances, and endorsed on the said Deed or Lease, that the said premises mentioned in such Deed or Lease, have been duly advertised and sold, according to Law, may be Registered in the Office of the Registrar of Deeds for this Island, and such Deed or Lease so registered, or a copy thereof, (in case the original be lost), may be given in evidence in any Court of Law or Equity in this Island, in like manner with and under the same rules and restrictions as any other registered Deed, and when so given in evidence, together with proof, as hereinbefore mentioned of such License, shall be deemed and taken to be evidence that all proceedings, on which such conveyance is founded were rightly had and done.

No Bond given under this Act to be sued for without order of Surrogate.

Mode of obtaining such order.

LIX. And be it further enacted, That no Bond given under the provisions of this Act, shall be put in suit without an order of the Surrogate Court for that purpose to be made, on the application of some person interested in such Estate, either as Creditor, Legatee, Heir, or next of kin, which Order

may be proved by a copy thereof, certified under the hand of the Register of such Court, and shall have the effect, of an Assignment of such Bond, *pro hac vice*, to the party so interested and suing, and entitle him to proceed thereon, in his own name as Assignee thereof, in any Court of competent jurisdiction in this Island, and the party so suing shall be entitled to recover, and also be liable to pay costs, to be taxed in such suit as in ordinary cases, and such Surrogate Court may make such Order, for the delivery of any such Bond, for the purpose of being read in evidence in any such Court, and being again returned to the Office where it is filed as the ends of justice may require: and whenever any such Bond shall be so put in suit, recovery may be had thereon, to the full extent of any injury sustained by the Estate of the deceased person, by the acts or omissions of such Executor or Administrator, within the purview of such Bond, and to the full value of all property of the deceased person, within the purview of such Bond received, and not duly administered by such Executor or Administrator, and the amount recovered on such Bond (after deducting all legal and other necessary expenses attending the recovery, to be allowed by the said Surrogate Court,) shall be deemed assets, and shall be applied and distributed, under the Order and direction of the said Surrogate Court for that purpose to be made; and the said Surrogate Court may, from time to time, order such Bond, to be put in suit as occasion may require: provided always, that the whole amount to be recovered in any such suit or suits, shall never exceed the penalty of the Bond.

Order how to be proved.

Effect of order.

Surrogate may order delivery of Bond for the purpose of its being read in evidence in any Court.

To what extent recovery may be had on such Bond.

Amount recovered to be deemed assets and to be distributed by Surrogate.

No greater sum to be recovered than penalty in Bond.

LX. And be it further enacted, That where Letters Testamentary, or of Administration of the Estate, of any Testator or Intestate have been already granted, it shall and may be lawful for the Surrogate to grant License, to sell the real Estate

Where Letters Testamentary or of Administration have already been granted Surrogate may grant license to sell real Estate.

of such Testator or Intestate, on application to him made therefor, in the manner hereinbefore pointed out; provided such application if made by an Executor or Administrator, be made to him within three years next after the passing of this Act, or if by a Creditor after the expiration of one year and before the expiration of three years from the passing of this Act.

Provided application be made by Executor, &c. within 3 years, and by Creditor within one year after passing of this Act.

Act not to extend to Wills made before 1st January 1844.

Nor to Estates *per autre vie* of persons who die before 1st Jan. 1844.

Confirms all proceedings under Act repealed, &c.

LXI. And be it further enacted, That this Act, so far as the same extends to the making and construction of Wills, shall not extend to any Will made before the first day of January one thousand eight hundred and forty-four; and that every Will re-executed, re-published, or revived by any Codicil, shall, for the purposes of this Act, be deemed to have been made at the time at which the same shall be so re-executed, re-published or revived, and that this Act shall not extend to any Estate *per autre vie* of any person who shall die before the first day of January one thousand eight hundred and forty-four; but with respect to all matters and things and provisions in this Act contained, the same shall take effect from the passing thereof, save and except that all proceedings heretofore had under and by virtue of the Act hereby repealed, and all licenses granted to any Executor or Administrator for the sale of lands made before the passing of this Act, and all proceedings to be had thereunder, and all suits brought for any penalty, or any other matter or thing under and by virtue of the Act hereby repealed, shall not be discontinued, but shall be and remain valid and effectual, to all intents and purposes, in the same manner and to the same extent as if this Act had not been made and passed.

Form of Bond.

LXII. And be it further enacted, That the form of Bonds shall be according to the form in the Schedule to this Act annexed, or in words to the like effect.

LXIII. And whereas it frequently becomes necessary to give in evidence, Wills and Codicils in proof of Real Estate situate within this Island, but which have been proved and remain deposited in the Courts of other Countries, whereby great expense and inconvenience have ensued to individuals: For remedy whereof, be it enacted, That the Probate of every Will concerning Real Estate duly proved in any Court of competent jurisdiction out of this Island, shall and may be given and received as evidence *prima facie* of any devise or matter affecting Real Estate therein mentioned, in all cases where such Probate might heretofore have been used as evidence of or relating to any matter concerning Personal Estate therein mentioned.

Probate of Will concerning real Estate proved out of this Colony, made *prima facie* evidence of devise, &c.

LXIV. Provided always nevertheless, That nothing herein contained, shall have any force or effect, until Her Majesty's pleasure therein shall be known.

Suspending Clause.

SCHEDULE.
No. 1.

Schedule No 1.

ADMINISTRATION BOND.

KNOW all men by these presents, that we are held and firmly bound unto the Surrogate Judge of Probates, in and for the Island of Prince Edward, in the sum of Pounds, of lawful money of the said Island, to be paid to the said Surrogate Judge of Probates for the time being; for which payment to be well and truly made, we bind ourselves, and each of us by himself, for and in the whole, our and each of our Heirs, Executors, and Administrators, firmly by these presents. Sealed with our Seals, dated this day of in the year of our Lord One thousand eight hundred and

Form of Administration Bond.

The condition of this obligation is such, that if the above bounden Administrator of all and singular the Goods and Chattels, and Credits of the deceased, do make or cause to be made, a true and perfect inventory of all and singular, the Real Estate, Goods, Chattels, and

Credits, of the said deceased, which have, or shall come to the hands, or possession, or knowledge of the said or into the hands or possession of any other person or persons, for and the same so made, do exhibit or cause to be exhibited into the Registry of the Surrogate Court for the said Island, on or before the day of next ensuing; and the same Goods Chattels and Credits, and all other, the Goods, Chattels, and Credits, of the said deceased, at time of his death, which at any time after shall come to the hands or possession of the said

or into the hands or possession of any other person or persons, for do well and truly Administer, according to law; and further do make, or cause to be made, a true and just account of the said Administration, at or before the day of and all the rest and residue of the Goods, Chattels, and Credits, which shall be found remaining, upon the said Administrator's account, the same being first examined and allowed of by the said Surrogate Court, or other Court of competent authority in that behalf, do deliver and pay over, to such person or persons respectively, as the said Surrogate Court, or other Court of competent authority in that behalf, by Decree or Sentence pursuant to the true intent and meaning of this Act, shall limit and appoint: [And if it shall hereafter appear, that any last Will and Testament, was made by the said deceased, and the Executor or Executors therein named, do exhibit the same into the said Surrogate Court, making request to have it allowed, and approved accordingly, if the said

above bounden being thereto required, do render and deliver the Letters of Administration, (Probate of such Testament being first had and made,) under the said Surrogate Court] Then this obligation to be void, and of no effect, or to remain in full force and virtue.

Scaled and delivered in the presence of

[The Bond when given by any Executor to be in like form, substituting Executor, &c., for Administrator, &c., and omitting the words between the brackets.]

No 2.

BOND ON APPEAL.

Schedule No. 2.

[The Bond to be taken for (£30) Thirty Pounds, payable to the Surrogate in the same manner as Administration Bond, and conditioned as follows :]

Whereas the above bounden hath Form of Bond on appeal from decree of Surrogate. appealed from the decision of the said Surrogate Judge of Probates, made in a certain matter pending before him.

Now the condition of this obligation is such, That if the said shall well and truly pay such costs arising from such appeal, and to such person as the Governor and Council may order and direct; then this obligation shall be void, otherwise to remain in full force.

Sealed and delivered in the presence of

No. 3.

BOND ON SALE OF REAL ESTATE.

Schedule No. 3.

Know all men by these presents, That we [as in Administration Bond.] Whereas Form of Bond to be given by Executor or Administrator on order for sale of real Estate. License has been granted by the Governor and Council, or Surrogate Court, [as the case may be] to the above bounden Executor of the last will and Testament, [or Administrator of all and singular the Goods, and Chattels, and Credits, as the case may be], of deceased, to sell or lease, [as the case may be], Real Estate of the said deceased, for payment of debts.

Now the condition of this obligation is such, That if the said Executor or Administrator as aforesaid, do, and shall, well and faithfully apply all monies arising from the sale (or lease) of any of the Real Estate of the said deceased, or otherwise from the Rents and Profits thereof in

payment of the debts of the said deceased, agreeably to Law, and shall well and truly account for the same in Administration account before the Surrogate Court, or other Court of competent authority in that behalf, and shall pay any surplus of such monies which shall be found remaining in his hands upon such accounting unto such person or persons, as the said Surrogate Court, or other Court of competent authority in that behalf, shall by decree or sentence pursuant to the true intent and meaning of this Act, in such case made and provided, limit and appoint, then this obligation to be void and of no effect, otherwise to remain in full force and virtue.

Sealed and delivered in the presence of

CAP. XXVII.

An ACT to prevent trespassing on the Common of Georgetown.

Passed 15th April, 1843.

WHEREAS several encroachments have been made on the rights of Commonage to the certain piece or parcel of Ground known and designated as the Common of Georgetown, in this Island, by the building thereon of Dwelling Houses and the enclosing of portions thereof with Fences for private use, to the prejudice of the inhabitants of the said Town: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, that no person or persons shall henceforth encroach on or devote or appropriate any part or parcel of the Common of Georgetown to any private purpose, benefit or use whatsoever, saving and excepting such parts thereof as are already appropriated for Grave-yards.

No person to encroach on the Common of Georgetown.

Administrator of Government, in the month of July in each year, to appoint three Conservators of Common.

II. And be it enacted, That it shall and may be lawful for the Administrator of the Government for the time being, in the Month of July, in each year, to nominate and appoint Three

Householders, resident in Georgetown to act as Conservators of the Common of the said Town for one year, and no longer.

III. And be it enacted, That any person or persons appointed as aforesaid, to act or serve as Conservator or Conservators of said Common, and refusing or neglecting to act or serve as such, in manner hereinafter defined, shall, on the information of one or more credible witness or witnesses, given to any one of Her Majesty's Justices of the Peace residing in Georgetown, be summoned by said Magistrate to appear before him to answer for his or their refusal so to act or serve, and on satisfactory proof by the evidence of one or more credible witness or witnesses of the refusal or neglect of such Conservator or Conservators to serve in that capacity, as hereinafter stated, he or they shall be, by such Magistrate or Justice of the Peace, fined in a sum not exceeding Two Pounds, such fine to be levied on his or their Goods and Chattels, unless paid within Twenty-four hours after conviction, to the Justice of the Peace who shall adjudicate in the case, and half the fine shall be paid by such Justice to the Road Commissioner of the District in which Georgetown is situated, to be appropriated by him to the improvement of the Streets of Georgetown, and the other half to the informant.

Penalty on persons refusing to serve as Conservators of Common.

Mode of recovery thereof.

Amount of penalty for such refusal.

Appropriation of penalty.

IV. And be it enacted, That it shall be the duty of such Conservators to inspect said Common within one week after notice of their appointment, and if on such inspection, or at any other time, they or any of them, shall find any obstruction to the freest access to any and every part of the Common aforesaid, by Dwelling House or Houses, or other House or Houses, or enclosure or enclosures, or any other obstruction or obstructions whatsoever, placed thereon by any person in any manner or way, then, and in such case, the person

Duty of Conservators of Common.

Persons causing obstructions on Common, after notification, to remove same, and refusing or neglecting so to do, liable to a penalty not exceeding £2 and costs.

Penalty how levied.

causing or making such obstruction, shall be notified by the Conservators, or any one of them, to remove the same within Forty-eight hours after serving such notification, and in the event of the refusal of such offender or offenders to remove such obstruction or obstructions, the Conservators, or any of them, shall make complaint against the person or persons so refusing to remove such obstruction or obstruction, to any one of Her Majesty's Justices of the Peace resident in Georgetown, which Justice shall, at the suit of such Conservators, or any of them, proceed against such trespasser for every such trespass, obstruction, or encroachment, and on proof thereof, by one or more credible witness or witnesses, to be liable to a fine not exceeding Two Pounds, together with the cost of such suit, and in default of payment, the fine, with costs, shall be levied on the Goods and Chattels of the offender, and if no such Goods and Chattels shall be found, then the offender shall be committed to Jail for a space of time not exceeding Thirty days.

Duty of Conservator when persons causing obstructions cannot be found.

Obstruction to be sold.

Appropriation of proceeds thereof.

V. Provided always, and be it enacted, That in case such Conservators or any of them, cannot ascertain by whom such trespass, obstruction, or encroachment was committed, then, and in such case, the Conservators, or any of them, may and shall apply to any one of Her Majesty's Justices of the Peace, resident in the Town aforesaid, for a Warrant to sell such obstruction, subject to its removal, within Forty-eight hours, from off said Common, and the proceeds of such sale, deducting costs, shall be paid to the Road Commissioner of the District in which Georgetown is situated, the same to be appropriated to the improvement of the Streets in said Town, and in the event of such obstruction consisting of decayed Houses or Fences, or any other material or matter, that in the opinion of the said Conservators, would not sell to pay for the cost of remo-

val, then, and in such case, the Conservators, or any of them, by authority of such Justice, shall cause the same to be destroyed by fire, or otherwise removed as may be found most expedient.

*Obstruction not
calculable, to be
destroyed.*

VI. And be it enacted, That if any person or persons shall obstruct such Conservators, or any of them, or any person appointed by them, in the discharge of their or his duty, as hereinbefore prescribed, then, and in such case, such Conservators, or any of them, shall make complaint to any Justice of the Peace, resident as aforesaid, whereupon such Justice of the Peace shall grant a Warrant to any of the Constables of King's County for the apprehension of such offender, and if it shall be proved on the oath of one or more credible witness or witnesses, to the satisfaction of the said Justice, that the party is guilty of the alledged offence, then, and in such case, the said Justice shall commit the offender or offenders to the Jail of King's County, there to be confined for a space not exceeding Two Months.

*Mode of proceed-
ing against per-
sons obstructing
Conservators in
discharge of their
duty.*

*Offender, on con-
viction, to be im-
prisoned.*

VIII. Provided always, and be it enacted, That any person residing on said Common at the time of the passing of this Act shall have the unmolested use of any Dwelling House and other Buildings and of any enclosures he now occupies thereon, until the termination of Six Months next after the passing of this Act and no longer; but no person so residing shall have any other exclusive privilege for said or any other time; and if, at the termination of the specified Six Months, he or such person shall not have removed such House or Houses, Building or Fences around any enclosure on said Common he may have so made then he or such shall be proceeded against as other offenders hereinbefore mentioned, any thing to the contrary notwithstanding.

*Any occupant of
a House, &c.
now on said
Common to have
the use of same,
&c. for 6 months
from the passing
of this Act.*

*Mode of proceed-
ing against such
occupant at the
expiration of six
months.*

Fees to be taken
under this Act.

VIII. And be it enacted, That the following Fees shall be exacted for the services enjoined by this Act.

Justices' Fees.

JUSTICES' FEES :

Drawing and engrossing Affidavit, *One Shilling and Six-pence.*

Subpœna, *One Shilling.*

Each Warrant, *One Shilling.*

Every Judgment, *Three Shillings.*

Every Summons, *One Shilling and Six-pence,*

Constables' Fees

CONSTABLES' FEES :

For executing each Warrant or Process, *One Shilling.*

Mileage, per mile, *Three-pence.*

Witnesses' Fees.

WITNESSES' FEES :

Each day's attendance, *Two Shillings,*

Mileage, per mile, *Three Pence.*

C A P. XXVIII.

An Act for appropriating certain Moneys therein mentioned, for the service of the year of Our ^{Lord} ~~King~~, One thousand eight hundred and forty-three.

[Passed April 15th, 1843.]

May it please Your Excellency,

WE Her Majesty's dutiful and loyal Subjects, the House of Assembly of Prince Edward Island, towards appropriating the several supplies, raised for the exigencies of Her Majesty's Government, do humbly beseech that it may be enacted, And be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That by or out of such Moneys as from time to time shall be and remain in the Public Treasury of this Island, there shall be allowed and paid, for the services herein mentioned, the several sums following, that is to say:

A sum not exceeding **Three Thousand three hundred Pounds**, for the general service of **Roads, Bridges and Wharves**, to be expended agreeably to the Report of the Committee of the House of Assembly—appointed for the consideration of all matters relating to **Roads, Bridges and Wharves**, and that such sum be equally divided between each of the **Three Counties**.

£3,300 for Roads and Bridges, &c. for the three Counties.

And a further sum of **Three hundred Pounds**, to be placed at the disposal of His Excellency the Lieutenant Governor, to be expended in opening new **Roads**, under the **Road Compensation Act**.

£300 for new Roads under Road Compensation Act.

And a further sum of **Five hundred Pounds**, to defray the Salary of the Treasurer of this Island, for the present year.

£500 to Treasurer, for his salary.

And a further sum of **Four hundred Pounds**, to defray the Salary of the Colonial Secretary and Clerk of the Executive Council, for the present year.

£400 to Colonial Secretary for his salary.

And a further sum of **Two hundred and sixty Pounds** to defray the Salary of the Collector of Impost at Charlottetown for the present year.

£260 to Collector of Excise for salary.

And a further sum of **One hundred Pounds**, to defray the Travelling charges of the Chief Justice, for the present year.

£100 to Chief Justice for travelling charges.

And a further sum of **One hundred and sixty Pounds**, to defray the Salaries of four Sub-Collectors of Customs, for the present year.

£160 for salaries of Sub-Collectors of Customs.

And a further sum of **Twenty Pounds**, to defray the Salary of one Sub-Collector of Customs, for the Port of Cascumpeque, for the present year.

£20 for salary of Sub-Collector of Customs at Cascumpeque.

And a further sum of **Sixty Pounds**, to defray the Salaries of three Sheriffs, for King's, Queen's and Prince Counties, for the present year.

£60 to Sheriffs of the 3 Counties.

And a further sum of **Seventy-five Pounds**, to defray the Salary of the Adjutant General of Militia, for the present year.

£75 to Adjutant General of Militia.

And a further sum of **Forty Pounds**, to defray the Salary of the Messenger of the Executive Council, and Tipstaff in Chancery, and Crier of the Supreme Court, for the present year.

£40 for salary of Messenger of Executive Council, Tipstaff in Chancery, &c.

£30 for salary of Wharfinger in Charlottetown.

And a further sum of Thirty Pounds, to defray the Salary of the Wharfinger of the Public Wharf at Charlottetown, for the present year.

£10 to Librarian of Legislative Library.

And a further sum of Ten Pounds, to defray the Salary of the Librarian to the Legislature, for the past year.

£10 to Assayer of Weights and Measures for Charlottetown.

And a further sum of Ten Pounds, to defray the Salary of the Assayer of Weights and Measures in Charlottetown, for the present year.

£40 for salary of Market Clerk.

And a further sum of Forty Pounds, to defray the Salary of the Market Clerk for the present year.

£30 to Commissioners for the issue of Treasury Notes.

And a further sum of Thirty Pounds, to the Commissioners for issuing Treasury Notes, for the present year, should the same be required.

£160 for salaries of Road Commissioners.

And a further sum of One hundred and Sixty Pounds, to defray the Salaries of Sixteen Road Commissioners, at Ten Pounds each, for the present year.

£40 to Road Correspondent.

And a further sum of Forty Pounds, to defray the Salary of the Road Correspondent, for the present year.

£200 for salaries of Masters of Central Academy.

And a further sum of Three hundred Pounds, to defray the Salaries of the Masters of the Central Academy, for the present year.

£25 for salary of Master of National School.

And a further sum of Twenty-five Pounds, to defray the Salary of the Master of the National School, for the present year.

£30 to Postmaster for conducting Inland Mails.

And a further sum of Thirty Pounds, to defray the Salary of the Post Master, for conducting the business of the Inland Mails, for the present year.

£150 to defray expense of Winter Mails.

And a further sum of One hundred and Fifty Pounds, to defray the expense of conveying the Winter Mails, for the present year.

£4 each for King's and Prince County Jails, to defray expense of medical attendance.

And a further sum of Four Pounds, to be placed in the hands of his Excellency the Lieutenant Governor, for each of the Jails of King's and Prince Counties, to provide Medical attendance, should the same be required.

£300 for Fuel and Bread for Jails of 3 Counties.

And a further sum of Three hundred Pounds, or as much thereof as may be necessary, to provide Fuel and Bread for the Jails of King's, Queen's

and Prince Counties, and to defray other contingent expenses for the present year.

And a further sum of Forty Pounds, to defray the Salary of the Jailer of Charlottetown Jail, for the present year. £40 for salary of Jailer of Charlottetown.

And a further sum of Thirty Pounds, to defray the Salaries of each of the Jailors of King's and Prince Counties, for the present year. £30 each to Jailors of King's and Prince Counties.

And a further sum of Ten Pounds, to the Medical attendant of the Charlottetown Jail, for his services and for Medicines, for the present year. £10 to Medical Attendant of Charlottetown Jail.

And a further sum of Ten Pounds, to the Matron of the Charlottetown Jail, for the present year. £10 to Matron of said Jail.

And a further sum of Thirty Pounds, to defray the expense of Painting and other repairs of the Jail at St. Eleanor's, for the present year. £30 for painting, &c. for Jail in Prince County

And a further sum not exceeding Four hundred Pounds, to defray the cost of Crown Prosecutions including the Fees of Crown Officers, for the present year, or as much thereof as may be required. £400 for Crown Prosecutions and Fees of Crown Officers.

And a further sum of Fifty Pounds, or as much thereof as may be required, for Crown Officer's Fees, for other services for the present year. £50 for Fees of Crown Officers for other services.

And a further sum of Two hundred and two Pounds, Seventeen Shillings and one penny, be granted to defray the excess of Expenditure in and about Government House and Premises, during the past and previous years. £202 17s. 1d. for defraying expense of repairs, &c. on Government House for past year.

And a further sum, not exceeding One hundred and Fifty Pounds, to the Joint Committee of the Council and Assembly, to defray the expense of certain repairs, in and about Government House, for the present year. £150 for repairs of Government House for present year.

And a further sum of Six hundred Pounds, to defray the Interest on Treasury Warrants for the present year. £600 for interest on Treasury Warrants.

And a further sum of Two hundred and Fifty Pounds, to defray the expenses of Public Printing and Stationary, for the present year, should the same be required. £250 for public Printing, &c.

£20 for Plans and estimates for public works.

And a further sum of Twenty Pounds, to defray the expense of Plans and Estimates of Public Works for the present year, should the same be required.

£20 for premiums for destruction of Bears and Loupcerviers.

And a further sum of Twenty Pounds, to defray the amount of premiums for the destruction of Bears and Loupcerviers, for the present year, should the same be required.

£42 to pay balance due on Fire Engine for Charlottetown.

And a further sum of Forty-two Pounds, to the Pump and Well Assessors of Charlottetown, to enable them to discharge the balance due on a Fire Engine, purchased for the protection of Public and private property.

£250 for contingent expenses of Government.

And a further sum of Two hundred and Fifty Pounds, to defray the contingent expenses of Government, for the present year.

A sum sufficient to defray the contingent expenses of the Legislative Council and Assembly.

And a further sum, sufficient to defray the contingent expenses of the Legislative Council, and House of Assembly, for the present year.

£60 to Speaker and £30 each to Members of Assembly, and travelling charges.

And a further sum of Sixty Pounds, to the Speaker, and the sum of Thirty pounds, to each of the Members of the House of Assembly, together with the usual travelling expenses, to reimburse them in attending the present Session.

£1000 for Education.

And a further sum of One Thousand Pounds, for the encouragement of General Education, as established by Law.

£10 to James Proudfoot, for costs incurred by him as an Overseer of Roads.

And a further sum of Ten Pounds, (or as much thereof, as may be required to pay the taxed costs, of his Attorney's Bill), to James Proudfoot, as compensation for Law Expenses, incurred by him in his capacity as Overseer of Roads.

£10 for assessment on Government Pews in St. Paul's Church.

And a further sum of Ten Pounds, to defray the Assessment on Government Pews, in St. Paul's Church, for the present year.

£6 for Pew in St. James's Church for Legislature.

And a further sum of Six Pounds, to the Trustees of St. James's Church, for the use of a Pew for the Legislature, for the present year.

£6 for a Pew in Wesleyan Chapel, for Legislature, &c.

And a further sum of Six Pounds, to the Trustees of the Wesleyan Methodist Chapel, for the use of a Pew for the Legislature, for the present year.

And a further sum of Forty Pounds, to the Committee appointed to superintend the building of the Roman Catholic Church in Charlottetown, to procure a Pew therein, for the use of the Legislature, and also to provide accommodation for such of Her Majesty's Troops as may attend there.

£40 for a Pew in Roman Catholic Church for Legislature, &c.

And a further sum of Forty Pounds, towards erecting a Wharf on Orwell Ferry Point, to be paid, when the Commissioner has certified that the Subscriptions in aid thereof to the amount of Twenty-two Pounds, have been paid in.

£40 for Wharf at Orwell Ferry.

And a further sum of Forty-five Pounds, for the repairs of the Public Wharf at Georgetown, should the same be required.

£45 for repairs of Wharf at Georgetown.

And a further sum of Twenty-five Pounds, towards extending the Wharf at Peters's Shore, Lot Fifty-nine.

£25 for extending Wharf at Peters's Shore, Lot 59.

And a further sum of Two hundred and Forty Pounds, to be placed in the hands of His Excellency the Lieutenant Governor, to complete the Wharf at Green's Shore, Bedeque.

£240 to complete Wharf at Green's Shore.

And a further sum of Twenty Pounds, to John Bertram, for repairs of the Bridge over Crooked River, Rustico.

£20 to John Bertram for repairing Bridge at Rustico.

And a further sum of One hundred and Fifty Pounds, to defray the contingent expenses on Roads and Bridges, for the present year, should the same be required, to be equally divided between the Three Counties.

£150 for contingent expenses of Roads and Bridges.

And a further sum of Ten Pounds, to complete a Floating Bridge, on the Road between Malpeque and New London.

£10 for a Floating Bridge between Malpeque and New London.

And a further sum of One hundred Pounds, in aid of re-building Darnley Bridge, in addition to a sum already appropriated, to be paid when the Commissioner has certified that the Subscriptions in aid thereof, have been paid in.

£100 in aid of Darnley Bridge.

And a further sum of One Thousand Pounds, to be placed at the disposal of His Excellency the Lieutenant Governor, for the erection of Barracks for the use of the Military, provided Her Majesty's

£1000 for Barracks for the use of Troops.

Government will allow an additional number of Troops to be stationed in this Colony, and provided Her Majesty's Government will also allow the said sum to be refunded, out of Moneys arising from the Sales of Crown Lands in this Island.

£600 in aid of building Wharf at the end of Pownal Street.

And a further sum of Six hundred Pounds, to be placed in the hands of His Excellency the Lieutenant Governor, in aid of a Public Wharf, to be erected at the end of Pownal Street, Charlottetown—the said sum to be expended, when the amount of Private Subscriptions are paid into the hands of such person or persons as His Excellency may appoint to receive the same.

£600 for Prince Edward Island Steam Boat Company for conveying Mails.

And a further sum of Six hundred Pounds, at the disposal of His Excellency the Lieutenant Governor, to defray the Grant to the Prince Edward Island Steam Boat Company, for the conveyance of the Mails between this Island, Pictou and Miramichi, for the present year.

A sum sufficient to defray expense of two Blocks, &c. to Wharf at Minchin's Point.

And a further sum sufficient to defray the expense of two extra Blocks and Bridges added to the Wharf at Minchin's Point, by Angus M'Isaac the Contractor—the said expense to be ascertained, as recommended in the Report of the Special Committee appointed to examine and report on the Petition of the said Contractor.

£35 to purchase one of the Murray Harbour Islands for the Aborigines.

And a further sum of Thirty-five Pounds, to purchase one of the Murray Harbour Islands, called Indian Island, for the use and occupation of the Aborigines of this Colony.

£15 for Education of Martin Francis an Indian youth.

And a further sum of Fifteen Pounds, to be placed in the hands of His Excellency the Lieutenant Governor, for the Education of Martin Francis, an Indian youth, under the direction of the Indian Commissioners.

£20 for a Lanthorn to be erected at the Block House, and for a Beacon at West Point.

And a further sum of Twenty Pounds, to the disposal of His Excellency the Lieutenant Governor, to provide a Lanthorn for the accommodation of the Shipping, to be erected at the Block House, and also to erect a Beacon on the Sand Hill of the West Point of this Island, for the benefit of the Shipping.

And a further sum of Thirty Pounds, for the encouragement of a Packet between Bedeque and Shediac; and a further sum of Seventy Pounds, for the encouragement of a Packet between Georgetown and Pictou.

£30 for a Packet between Bedeque and Shediac.

£70 for a Packet between Georgetown and Pictou.

And a further sum sufficient for the purchase of Forty-eight Shares in the Prince Edward Island Steam Navigation Company, in accordance with the Act of the present Session, authorising the same.

A sum to purchase 48 Shares for Government in P. E. Island Steam Boat Company.

And a further sum to defray the Judgment and costs of the prosecution in the lower Courts, at the instance of William Morrison, Fish Inspector, and also a sum sufficient to defray the costs of one appeal, provided the whole do not exceed the sum of Twenty Pounds.

£20 to defray costs of William Morrison a Fish Inspector.

And a further sum of Five Pounds, to the Road Commissioner for the First District of Prince County, to complete the Public Well at the North Cape of this Island.

£5 to complete Well at North Cape.

And a further sum of Fifteen Pounds, to defray the expense of exploring the interior of Lots or Townships Thirty, Sixty-five, Sixty-seven, and part of Township Thirty-two, in order to ascertain the most eligible line for a new Road, from the West end of Poplar Island Bridge, towards Tryon and Bedeque, under the Road Compensation Act.

£15 for exploration of a new line of Road.

And a further sum of Twelve Pounds, at the disposal of His Excellency the Lieutenant Governor, to defray the expense of Painting the Market House in Charlottetown.

£12 for painting Market House in Charlottetown.

And a further sum of Forty Pounds, to the Ladies' Benevolent Society, to be applied towards the relief of such persons as to them appear objects of charity, to be drawn in Quarterly instalments.

£40 to Ladies' Benevolent Society.

And a further sum of Ten Pounds, to the Office Bearers of the Mechanics' Institute, towards the support of the funds of that Institution.

£10 to Mechanics' Institute.

And a further sum of Fifteen Pounds, to Angus Campbell, and Ten Pounds to Patrick Deagon, and Five Pounds to Thomas Allen, who were severely frozen on crossing the Gulph with the Mails in February last.

£15 to Angus Campbell, £10 to Patrick Deagon and £5 to Thomas Allen.

£4 4s. to W. H. Nelis for repairs, &c. of National School.

And a further sum of Four Pounds Four Shillings, to William H. Nelis for repairs and articles furnished by him for the National School.

£7 for repairs of National School and Fence.

And a further sum of Seven Pounds, to be placed at the disposal of His Excellency the Lieutenant Governor, to be expended in repairing the National School, and Fence around the ground of the same.

£3 to Daniel Bethune.

And a further sum of Three Pounds, to Daniel Bethune, for extra work in painting the Court House in Georgetown.

£5 to George Thresher.

And a further sum of Five Pounds, to George Thresher, Deputy Registrar, for services in preparing Public Documents for the House of Assembly.

£2 10 for relief of Robert Winter

And a further sum of Two Pounds Ten Shillings, to James Arthur, of New Glasgow, for the relief of Robert Winter.

£2 for relief of a sick man at house of Mr. Sillick.

And a further sum of Two Pounds, to Mr. Thomas Haslem, of Princetown Road, for the relief of a sick man, at the House of Mr. Sillick, Lot Sixty-seven.

£4 to defray funeral expenses of J. A. Betture.

And a further sum of Four Pounds, to Alexander Pickering, for board and funeral expenses of Joseph A. Betture, a pauper lately deceased, at New London.

£15 for relief of 3 blind persons.

And a further sum of Fifteen Pounds, to Mr. James Simpson, for the relief of Three Blind persons named M'Kay.

£5 for relief of several persons.

And a further sum of Five Pounds, to John Sims, Esquire, for the relief of the following persons: To Hercules Frieze, Two Pounds Ten Shillings, and to Henry Windsor, Two Pounds Ten Shillings.

£3 for relief of Pierre Doucette.

And a further sum of Three Pounds, to Mr. James M'Callum, for the relief of Pierre Doucette of Rustico.

£4 10s. for relief of several persons.

And a further sum of Four Pounds Ten Shillings to Alexander M'Lean, Esquire, for the relief of the following persons: To Alexander M'Leod Two Pounds Ten Shillings; and to Widow Nicholson, Two Pounds.

And a further sum of Six Pounds Ten Shillings to the Rev. Sylvanus Perry, for the relief of the following persons: To Mary Gallant, Three Pounds Ten Shillings; and to Thomas Condon, Three Pounds.

£6 10s. for relief of several persons.

And a further sum of Twenty-two Pounds, to Edward Thornton, Esquire, for the relief of the following persons: To John Griffin and Sisters, Five Pounds; to Henry Prouse, Four Pounds; to John Welsh, Three Pounds; Henry East, Four Pounds; John Rowan, Three Pounds; and to Mrs. Walsh, Three Pounds.

£22 for relief of several persons.

And a further sum of Ten Pounds, to Samuel Green, Esquire, for the relief of Ellen Moran, to be paid her in quarterly instalments, provided she be not suffered to wander about the country as heretofore.

£10 for relief of Ellen Moran.

And a further sum of Fourteen Pounds, to John M'Intosh, Esquire, for the relief of the following persons: To Thomas Devereaux, Four Pounds; to Elizabeth Brow, Two Pounds Ten Shillings; to Victore Decost, Two Pounds Ten Shillings; to John M'Millan, Two Pounds; and to Richard Phelan a blind person, Three Pounds.

£14 for relief of several persons.

And a further sum of Eight Pounds, to James Yeo, Esquire, for the relief of the following persons, to George Murray, Four Pounds; and to Jane Cotton, Four Pounds.

£8 for relief of several persons.

And a further sum of Thirty-one Pounds, to the Honorable Joseph Pope, for the relief of the following persons: To Mary M'Innis, Five Pounds; to Elizabeth M'Donald, Three Pounds; to William M'Neill, Three Pounds; to Widow M'Kenna, Three Pounds; to Flora Nicholson, Four Pounds; to Matthew Flinn, Ten Pounds; and to Mrs. Murphy Three Pounds.

£31 for relief of several persons.

And a further sum of Nine Pounds Ten Shillings to the Honorable P. S. M'Nutt, for the relief of the following persons: To Benjamin Parry, Three Pounds, to Maurice Curvan, Three Pounds, and to James and Catherine Gillis, Three Pounds Ten Shillings.

£9 10s. for relief of several persons.

£10 for relief of several persons.

And a further sum of Ten Pounds, to the Rev. Robert Douglas, for the relief of the following persons; To Widow Patience, Two Pounds; to Catherine Partridge, Two Pounds; to John Smith, Four Pounds; and to Mrs. Quinn, Two Pounds.

£38 for relief of several persons.

And a further sum of Thirty-eight Pounds, to the Rev. John M'Lennan for the relief of the following persons: To James Maddox, Six Pounds; Widow M'Anlay for her son, Eight Pounds; Widow Finlayson, Five Pounds; Donald Munn, Three Pounds Ten Shillings; Flora Macleod, Four Pounds; Christie Currie, Three Pounds; Christie Barret, Three Pounds; and Ann Macdonald, Two Pounds Ten Shillings; and John Macleod Three Pounds.

£36 10s. to Benevolent Irish Society for the relief of several persons.

And a further sum of Thirty-six Pounds Ten Shillings, to the Benevolent Irish Society, for the relief of the following persons: To William Purcell, Ten Pounds; John Macnamara, Seven Pounds Ten Shillings; Joanna Redmond, Three Pounds, Widow Rielly, Two Pounds Ten Shillings; John Hynes, Three Pounds; Jeremiah Kehoe, Two Pounds Ten Shillings; and Margaret M'Carthy, the sum of Eight Pounds.

£30 for the relief of several persons.

And a further sum of Thirty Pounds, to the Honorable J. S. Macdonald for the relief of the following persons; To John Ready, Three Pounds; John Macdonald Lot Thirty-seven, Three Pounds; Flora Macphee, Two Pounds; James Conway, Four Pounds; Patrick M'Carron, Four Pounds; Mary Lannan, Three Pounds; Elizabeth Carson, Three Pounds; Widow Macleod Fort Augustus, Three Pounds; Catherine Macdonald, Two Pounds Ten Shillings; and Adelaide Murphy, Lot Thirty-six, Two Pounds Ten Shillings.

E. C. H.
37/29/10