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STATUTES  
OF THE  
PROVINCE OF CANADA

PASSED IN THE

NINETEENTH AND TWENTIETH YEARS OF THE REIGN OF HER MAJESTY

QUEEN VICTORIA

AND IN THE SECOND SESSION OF THE FIFTH PARLIAMENT  
OF CANADA

Begun and holden at Toronto on the Fifteenth of February, in the year of  
Our Lord One thousand Eight Hundred and Fifty-Six.



HIS EXCELLENCY

SIR EDMUND WALKER HEAD, BARONET,  
GOVERNOR GENERAL.

TORONTO:  
PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,  
Law Printer to the Queen's Most Excellent Majesty.

Anno Domini, 1856.





ANNO DECIMO-NONO  
VICTORIÆ REGINÆ.

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C A P . I .

An Act to provide for the holding of an additional Term of the Appeal Side of the Court of Queen's Bench for Lower Canada, in the present year.

[Assented to 21st April, 1856.]

**W**HEREAS it has been found inconsistent with the other Preamble. duties of the Judges of the Court of Queen's Bench for Lower Canada, that sittings of the Appeal Side of the said Court should be regularly held and the business before the Court proceeded with, in the March Term of the present year, and it is therefore expedient that another Term should be held for the despatch of such business: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. A Term of the Appeal Side of the said Court of Queen's Bench shall be held in the City of Montreal from the seventh to the twenty-fourth day, both inclusive, of the month of May in the present year one thousand eight hundred and fifty-six, to which Term all the provisions of the Act constituting the said Court and all other provisions of law shall apply as they do to the Terms mentioned in the said Act: Provided, always, that An additional Term to be held in 1856, and at what time. any thing which ought to have been done in the March Term of the Appeal Side of the said Court, but could not be done by reason of the non-sitting or the want of a quorum of the Court on any day in the said March Term, shall and may be done with the same legal effect on any day in the Term to be held under this Act which the said Court shall appoint for the purpose, so that no legal right of any party shall be lost or impaired by the non-sitting of the said Court in the March Term, or by the lapse of time between it and the Term to be held under this Act. Proviso: as to things which should have been done at the March Term.

## CAP. II.

An Act to authorize the commutation of claims on Ordinance Lands, upon the transfer of such lands to the Province.

[Assented to 21st April, 1856.]

Preamble.  
18 V. c. 91,  
cited.

WHEREAS by the Act passed in the now last Session of the Provincial Parliament, and intituled, *An Act relating to the Ordinance Lands and Naval and Military Reserves in this Province, and for other purposes*, the Governor in Council is empowered to accept the transfer of the lands and property mentioned in the said Act, on such terms and conditions as he may agree upon with Her Majesty's Imperial Government; And whereas the Military Pensioners have been located upon certain of the said lands at Toronto, London, Niagara, Penetanguishene, Amherstburg and Fort Erie, by the Military authorities, and have thereby acquired certain claims upon the said lands, and it has been agreed between Her Majesty's Imperial Government and the Governor in Council, that the said claims on the lands at Toronto, London and Niagara, shall be commuted upon the transfer of the said lands, for a pension of four pounds sterling per annum for life to each of the pensioners located thereon (in number amounting to five hundred) to be paid by this Province: And whereas it may be desirable to effect a like commutation of the claims of the pensioners located on the said lands at Penetanguishene, Amherstburg and Fort Erie, and also to make allowances for such improvements as may have been actually made thereon, according to the original written conditions of location: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Life annuities may be granted to pensioners on certain Lands in lieu of their claims thereon.

I. It shall be lawful for the Governor in Council to authorize the payment out of the Consolidated Revenue Fund, of a life annuity not exceeding four pounds sterling per annum, to each pensioner located as aforesaid upon the said Ordinance Lands at Toronto, London and Niagara, in consideration of the transfer of the said lands to the Province, and in lieu of all claims of the said pensioners thereon,—provided the number of such pensioners do not exceed five hundred.

The same as to certain other Lands.

Allowance for improvements.

II. It shall be lawful for the Governor in Council, in consideration of the transfer of the said lands at Penetanguishene, Amherstburg and Fort Erie, to authorize the payment of a like annuity out of the said Fund to each of the Pensioners located thereon, and of such further sum for his actual improvements, as he shall be entitled to according to the conditions of his location, such annuity and sum to be in lieu of all his claims upon such land; provided the number of such pensioners do not exceed two hundred, and that the sum paid to any such pensioner

pensioner for improvements do not exceed the amount regulated by such conditions. Total amount limited.

III. The said annuities and sums shall be a charge upon the said Consolidated Revenue Fund, and shall be paid and accounted for in like manner as other sums charged thereon. How paid and accounted for.

### C A P. I I I .

## An Act to amend the Act for establishing Freedom of Banking.

[Assented to 21st April, 1856.]

**W**HEREAS it is expedient to amend the Act for establishing Freedom of Banking, in the manner hereinafter mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: Preamble.

I. The thirteenth Section of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and chaptered twenty-one, is hereby repealed, and the following section shall be substituted in lieu thereof: Section 13 of 13 & 14 V. c. 21, repealed: and a new section substituted.

“No individual Banker shall make or issue Bank Notes, and no Joint Stock Association shall commence the business of Banking, until they shall have respectively deposited in the hands of the Receiver General, for the purposes of this Act, Debentures or other securities issued by, or the payment of the principal and interest whereof is guaranteed by the Government of this Province, under the authority of the Legislature thereof, or secured upon the Upper Canada or the Lower Canada Municipal Loan Fund, and bearing interest at the rate of six per centum per annum, (or if bearing a less rate of interest, then to proportionally greater amounts) to amounts not less than those hereinafter mentioned, that is to say: Provincial securities to be deposited before commencing business, and to what amounts.

Any Joint Stock Association, to the amount of not less than Twenty-Five Thousand Pounds;

Any individual Banker, to the amount of not less than Twenty-Five Thousand Pounds:

The value of the said Debentures or securities being reckoned at *par*, and the same being held by the Receiver General in pledge for the due redemption of the Bank Notes of the Bank by which they are deposited, and the interest thereon being paid over to such Bank, as the same shall accrue, except as hereinafter provided.” Value to be reckoned at *par*.

Which

Which said Section shall be construed as the thirteenth Section of the said Act.

Proviso to section 14 repealed.

II. The Proviso to the fourteenth Section of the said Act shall be and the same is hereby repealed, and the following Proviso shall be and is hereby substituted therefor, and shall be, and shall be deemed and taken to have been, the Proviso to the said fourteenth Section :

New Proviso substituted.

“ Provided always, that all such Bank Notes shall bear date at the City, Town or Village wherein such Bank is situate,— that they shall be made payable to bearer on demand,—that they shall be marked on the face thereof as being secured by deposit of Provincial securities,—and that they shall be held to be payable at the Office of the Bank, and not elsewhere.”

### C A P . I V .

An Act to change the tenure of the Indian Lands in the Township of Durham.

[Assented to 21st April, 1856.]

Preamble.

**W**HEREAS an extent of eight thousand four hundred and ninety acres of land, in the Township of Durham in Lower Canada, was granted, in the year one thousand eight hundred and five, to divers Indians, for them and their legal successors, under and by virtue of Letters Patent issued under the hand and seal of Sir Robert Shore Milnes, at that time Lieutenant Governor, on the condition that they should settle thereon and be incapable of selling, alienating or even leasing the said Lands ; And whereas the said Indians, or their legal successors or representatives, have in certain cases sold, leased or alienated all their rights in respect of such lands, for fixed sums of ground rents, and have all abandoned the said lands after having so conveyed them ; And whereas the parties to whom such lands were so conveyed, have cleared and improved the same, erected buildings thereon and made agricultural settlements thereof, of great value, and the doubts which have arisen respecting the legality of such transactions are a great obstacle to the further progress of the said settlements, and it is desirable, both in the interest of the Indians who do not reside any more on the said lands, and in that of the public of the said locality, that the said transactions should be rendered legal, in order to secure a just compensation to the former, and incontestable titles to the parties now in possession of the said lands ; And whereas the Act passed in the eighteenth year of Her Majesty's Reign, and chaptered one hundred and sixty-seven, is insufficient for the object intended : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. The Act intituled, *An Act to alter the Tenure of the Indian Lands in the Township of Durham*, is hereby repealed. 18 V. c. 167,  
repealed.

II. All conveyances, sales, promises of sale or emphyteotic leases in respect of the said lands by the said Indians, their successors or legal representatives, shall hereafter be considered as having been made by persons legally qualified to lease, alienate, sell, cede and convey their property, notwithstanding any thing to the contrary contained in the Letters Patent of such lands; Provided always, that an annual ground rent of not less than ten dollars for each lot of two hundred acres shall have been stipulated in favor of the Indian to whom any such lot of land was originally granted, or of his heirs or legal representatives; And provided also, that should any contestation arise with respect to the said lands between the said Indians and the parties who have purchased or leased or who shall hereafter purchase or lease the same, such contestation shall be referred to the Superintendent General of Indian Affairs, and his decision in the matter shall be final and conclusive.

Conveyances,  
leases, &c., by  
Indians de-  
clared valid.

Proviso.

Proviso.

III. Any purchaser of any lot or part of a lot of the Indian Lands in the Township of Durham, now in possession of the same, may, if he thinks fit, redeem the rent attached to such land or lot of land by any instrument within the provisions of the preceding section, and payable to the Indians or their legal representatives, by paying the capital thereof at the rate of six per cent., to the Superintendent General of Indian Affairs, who is hereby authorized to receive every such deposit and give a receipt therefor, according to Schedule A of this Act.

Purchasers in  
possession  
may redeem  
the rent at-  
tached to their  
lots.

To whom  
payable.

IV. Every such receipt, after the enregistration thereof in the Registry Office of the County of Drummond, shall be equivalent to a title under Letters Patent of the Government, and shall discharge every such lot or part of a lot designated in such receipt, from all rents or other charges which may have theretofore been payable on the same in favor of the Indian or Indians to whom such lands were granted by the Government.

Receipt for  
redemption  
money to be  
equivalent to a  
Patent.

V. The said Superintendent General of Indian Affairs shall keep an account of all sums deposited in his hands, and shall pay the interest thereon annually to the Indians, their legal representatives or assigns, according to the proportion to which they are entitled in respect of such property.

Superin-  
tendent of In-  
dian affairs to  
keep accounts  
of moneys  
paid.

VI. In any case in which one or more of the aforesaid Indians shall, prior to the first day of January, one thousand eight hundred and fifty-five, have sold the rent attached to such land, the party who shall have *bonâ fide* and for a valuable consideration purchased the same, shall be entitled to be reimbursed the sum which he may have paid to such Indian or Indians, as and for the purchase money of such rent, or the sum so paid shall be deducted

Provision in  
case any In-  
dian has sold  
the rent on a  
lot.

deducted from the capital which he shall have to pay for the redemption of the said rent.

Act not to  
affect other  
claims to the  
lands.

VII. Nothing in this Act contained shall have the effect of determining in any manner the merits of conflicting titles of parties having claims to the said Indian lands in Durham, or of rendering valid contracts made by any parties with any others than the Patentee or Patentees, or his or their heirs or representatives.

Public Act.

VIII. This Act shall be deemed a Public Act.

### SCHEDULE A.

I hereby certify that \_\_\_\_\_, now in possession of \_\_\_\_\_, in the \_\_\_\_\_ range of the Township of Durham (*here give a description of the lot or part of lot occupied by the person to whom the receipt shall have been given: If a whole lot, or the one half of a lot is in question, it shall be sufficient to describe it by the numbers of the lot and range, but if a smaller part than one half be referred to, the limits and bounds must be set forth*) has, this day, paid to me the sum of \_\_\_\_\_ being the capital of a ground rent attached to said lot (or part of lot) of land, and that the said sum has been paid to me for the purpose of redeeming the said land from all rent, as provided by the Act, intituled, *An Act to change the tenure of the Indian Lands in the Township of Durham*, and to avail him as in law may appertain.

Done in duplicate, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

A. B.,  
Superintendent General of Indian Affairs.

C A P. V.

An Act to repeal in part an Act to provide a remedy against the City of Quebec in case of injury to property by riot.

[Assented to 21st April, 1856.]

Preamble.

16 V. c. 233.

**W**HEREAS by the fourth clause or section of an Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to provide a remedy against the Corporation of the City of Quebec in case of injury to property by any mob, or during riots in the said City*, it is enacted, "that whenever any "lecture, representation, or performance, exhibition or other "public meeting, for admission or entrance to which money "shall be required or paid, shall take place, the said Corporation "shall

“ shall not be liable for any demolition or destruction of  
 “ property at the place where such lecture, representation, per-  
 “ formance, exhibition or other public meeting shall take place  
 “ unless the permission of the Mayor or of the said Council shall  
 “ have been first had and obtained :” And whereas protection  
 is due by the constituted authorities to the property and persons  
 of all British subjects lawfully convened at any meeting or as-  
 semblage for lawful purposes or such as are not expressly pro-  
 hibited by the laws of the land, whether money be or be not  
 required of or paid by the attendants thereat, and whether such  
 meeting or assemblage be within the walls of any place of  
 public worship, or of any public or private building, or be held  
 in the open air, and the said above recited clause or section is  
 manifestly to the prejudice of and in violation of the indubita-  
 ble and most sacred right of British subjects, to meet and dis-  
 cuss in a peaceable and lawful manner, when and where  
 they see fit, all lawful matters of public concernment in which  
 they take an interest, whether of a religious, political, civil, or  
 social character, and it is therefore necessary to repeal the said  
 clause or section : Therefore, Her Majesty, by and with the  
 advice and consent of the Legislative Council and Assembly of  
 Canada, enacts as follows :

I. The said fourth clause or section of the Act first men-  
 tioned in the preamble of this Act, shall be and the same is  
 hereby repealed. Section 4 of  
the said Act  
repealed.

## C A P . V I .

An Act to facilitate the disuniting of the Counties of  
 Lincoln and Welland, and for other purposes therein  
 mentioned.

[Assented to 21st April, 1856.]

**W**HEREAS the Municipal Council of the United Counties Preamble.  
 of Lincoln and Welland, have by their Petition prayed  
 that an Act may be passed to facilitate the disuniting of the  
 County of Welland from the County of Lincoln for judicial and  
 other purposes ; And whereas it appears by certificate of the  
 Warden and Clerk of the said Municipal Council that an agree-  
 ment has been entered into between the Provisional Municipal  
 Council of the said County of Welland and the said Municipal  
 Council of the said United Counties, for the adjustment and  
 settlement of all debts of the said United Counties, in the manner  
 provided by the fifteenth section of the Act of the Parliament of  
 this Province passed in the twelfth year of Her Majesty's Reign,  
 and intituled, *An Act for abolishing the Territorial Division* 12 V. c. 78.  
*of Upper Canada into Districts, and for providing for temporary*  
*Unions of Counties for Judicial and other purposes, and for the*  
*future dissolutions of such Unions, as the increase of wealth and*  
*population may require, and that the several other provisions*  
 of

of the said Section have been complied with by the said County of Welland; And whereas it is necessary and expedient to carry into effect the prayer of the said Petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

When proper buildings are constructed, the Governor may dissolve the union of the Counties by Proclamation.

I. At any time after the passing of this Act, it shall and may be lawful for the Governor of this Province, under an Order in Council, to be made so soon as he shall be satisfied that the County Buildings in the County of Welland are completed, to issue a Proclamation under the Great Seal of the Province, dissolving the Union between the said County of Welland and the said County of Lincoln, which dissolution shall take effect upon, from and after a day to be named for that purpose in such Proclamation.

Provisions of 12 V. c. 78, and 14 & 15 V. c. 5, to apply.

II. All the provisions of the said Act hereinbefore first in part recited, and of the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intitled, *An Act to make certain alterations in the Territorial Divisions of Upper Canada*, and of any other Act or Acts, in so far as such provisions are or were intended to be applicable to senior and junior Counties after the dissolution of the Union thereof, and in so far as they are not inconsistent with this Act, shall be and are hereby declared to be applicable to the said Counties of Lincoln and Welland respectively, as if such Proclamation had been issued under authority of the fifth Section of the Act last above in part recited

Special Sessions to be convened after the dissolution to appoint the Divisions in Welland.

III. The Judge of the County Court for the said County of Welland shall, within thirty days after the day named in such Proclamation for the dissolution of the said Union, convene a special Sessions of the Peace at the said Court House in the said County, by such form of public notice as to the Judge shall seem meet, at which Sessions, one or more Justice or Justices of the Peace for the said County being present, shall be declared and appointed the number, limits and extent of Divisions in the said County of Welland for the holding of Division Courts therein, and such Divisions shall be deemed and taken to be and to have been appointed and declared under authority of the "Upper Canada Division Courts Acts;" Provided firstly, that the Division Courts now appointed by the county Judge of the said United Counties to be held within the limits of the said County of Welland in the month of April, in the year of Our Lord, 1856, shall be held by the said Judge, and all suits, proceedings and judgments commenced, had and taken therein, shall be prosecuted to completion in the said Courts as if this Act had not been passed, unless transferred by the said Judge to some one or more of the Division Courts to be established in the said County of Welland, in which case all the provisions of the "Upper Canada Division Courts Extension Act of 1853" applicable to suits transferred from one

Proviso: as to pending cases.

Court to another, shall apply to such suits, proceedings and judgments so transferred; And provided secondly, that all suits and proceedings to be commenced in the Division Courts of the said County of Welland after the last day of service prior to the time so fixed for holding the said April Courts, shall be commenced, prosecuted, and had in the Division Courts to be established in the said County of Welland; And it is hereby declared that the Justices of the Peace so assembled may do and perform all such other things and transact such other business as may now by law be done, performed and transacted at any General Quarter Sessions of the Peace in any County in Upper Canada.

Proviso.

Other things may be done at such Sessions.

IV. Within twenty days after the day so named for the dissolution of the said Union, the Clerks of the several Municipalities within the limits of the said County of Welland shall prepare and deliver to the Clerk of the Peace for that County, a true copy of the Report of the selectors of Jurors for their respective Municipalities made up in the year one thousand eight hundred and fifty-five, and certify the same under their hands and under the seal of the corporations of which they are such clerks, which copies shall be deemed and taken to be Reports of selectors of Jurors, made in conformity with the provisions of the Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act for the consolidation and amendment of the laws relative to Jurors, Juries, and Inquests in that part of this Province called Upper Canada*, and of the "Upper Canada Jurors' Law Amendment Act of 1853"; and the said Clerk of the Peace, shall, immediately after the receipt of such copies, prepare a Juror's Book and Ballots in the manner required of Clerks of the Peace in the said last in part recited Acts.

Clerks of the Municipalities to deliver to Clerk of the Peace copies of Reports of Selectors of Jurors for 1855.

13 &amp; 14 V. c. 55.

Juror's Book and ballots to be prepared.

V. At the special Sessions of the Peace authorized to be held by the third Section of this Act, Jury Lists for the said County of Welland, for this present year, shall be ballotted in the manner required for balloting Jury Lists in the said last in part recited Acts, and all the provision of the said Acts shall apply to such Jury Lists so ballotted as well as to the Jurors named therein, to all the Courts of Superior or Inferior Jurisdiction thereafter to be held within the said County during the said year, and to all officers and persons whatsoever, except in so far as inconsistent with this Act; Provided firstly, that no person who shall be drawn and summoned as a Grand or Petit Juror at any of the Superior or Inferior Courts in virtue of such Lists, who may have already served as a Juror at any of the said Courts for the said United Counties during the present year, shall be required to serve again within the present year notwithstanding he may be so drawn and summoned; And provided secondly, that no person whose actual residence may, for the time being, be within the limits of the said County of Welland, shall, after the day on which such Sessions of the Peace

Jury Lists for Welland to be ballotted for at the said Special Sessions.

Proviso.

Proviso.

Peace

Proviso.

Peace shall be held, be summoned or required to serve as a Grand or Petit Juror at any Court within the County of Lincoln : Provided, thirdly, that the Jury Lists already ballotted for the said United Counties, for this said present year, shall be and remain the Jury Lists for the said County of Lincoln, except in so far as the names therein are those of parties residing in the County of Welland as aforesaid ; And provided fourthly, that the number of Petit Jurors to be returned on any general precept for the return of Petit Jurors for the said County of Welland, for the present year, shall not exceed forty-eight.

Proviso.

Taxes for the present year to belong to Welland.

VI. All assessments and taxes for the said present year for the uses and purposes of the said County of Welland, which Municipal Councils of Counties are authorized by law to impose, shall be imposed by the Municipal Council of the said County of Welland, and shall be payable to the Treasurer thereof ; any thing in the sixteenth section of the said Act herein first in part recited to the contrary notwithstanding.

Public Act.

VII. This Act shall be a Public Act.

## C A P . V I I .

An Act to explain and amend the Charter of the City Bank.

[Assented to 21st April, 1856.]

Preamble.

**W**HEREAS doubts exist whether under the several Acts incorporating the City Bank, it is requisite to the validity of the Notes issued by the said Bank, and intended for general circulation, that such notes shall bear the signature of more than one of the officers thereof, and it is proper to remove such doubts and to provide that the notes of the said Bank need be signed by one officer thereof only : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows :

Notes signed by one officer only to be valid.

I. The notes issued and to be issued by the said Bank bearing the signature of any one officer only of the said Bank who shall have been authorized by a resolution of the Directors to that effect, shall be as valid and binding as if signed and countersigned by two officers of the said Bank, and the signature of one such officer only, without any counter signature, shall suffice to make all notes whatsoever good and binding on the said Bank.

Period limited by sections 9 and 10 of 18 V. c. 43, extended.

II. The period of one year mentioned in the ninth and tenth sections of the Act passed in the now last session of the Provincial Parliament, and intituled, *An Act to amend the several Acts incorporating the City Bank, and to add to its Capital Stock*, shall be extended and prolonged and be deemed not to have expired

expired until six months from and after the passing of this Act; until and within which period of six months the said City Bank may lawfully exercise all the powers in the said two sections mentioned, on the conditions and on compliance with the formalities thereby prescribed, as fully as the said Bank could have done, before the day in the said Act limited and expressed.

III. This Act shall be deemed a Public Act.

Public Act.

### C A P . V I I I .

An Act to remedy a defect in the Act passed in the eighteenth year of Her Majesty's Reign, to amend and extend the Acts incorporating the Champlain and St. Lawrence Railroad Company.

[Assented to 21st April, 1856.]

**W**HEREAS it appears by the Journals of the Legislative Assembly, that the Bill which was sent up to and passed by the Legislative Council and was assented to by His Excellency the Governor General in Her Majesty's name, and became an Act of the Parliament of this Province under the title of "An Act to amend and extend the Acts incorporating the Champlain and St. Lawrence Railroad Company," and which is printed among the Acts of the now last Session and chaptered one hundred and seventy-seven, was at the third reading thereof in the Legislative Assembly, amended by striking out the several words and the proviso hereinafter mentioned, but that the said words and proviso were nevertheless by error allowed to remain in the said Bill, when it was sent up to the Legislative Council and did remain in it as passed by the Legislative Council and assented to by His Excellency the Governor General in Her Majesty's name as aforesaid, so that there was not a concurrent assent of the three branches of the Legislature in all the provisions of the said Act: For remedy thereof, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada; enacts as follows:

Preamble.

Error in 18 V. c. 177, recited.

I. The words "*with any sum which they may borrow under the ninth section of the said Act,*" between the words "sum or sum as" and the words "shall not in the whole" in the first section of the said Act,—and the words "*and after that to be granted for securing the thirty thousand pounds or any part thereof to be borrowed under the ninth section of this Act,*" between the words "any former Act" and the words "and provided also," in the first proviso to the said first sections,—and the words "*or the said ninth section*" between the words "this section" and the words "as shall be necessary," in the second proviso to the said first section, and the whole of the proviso to the ninth section,—shall hereafter be held to form no part

The said Act confirmed and certain words and a Proviso in it, to be held hereafter to form no part of it.

part

Proviso :  
Saving the  
rights of *bonâ  
fide* holders of  
bonds issued  
under the said  
Proviso.

part of the said Act, which is hereby declared valid and effectual to all intents and purposes and shall be construed and have effect as if the said words and proviso (which formed no part of the Bill as it was really passed by the Legislative Assembly) had not been left in the said Bill when it was passed by the Legislative Council and assented to by the Governor General in Her Majesty's name : Provided always, that nothing herein contained shall impair or affect the rights of the *bonâ fide* holders (if there be such) of any of the sterling bonds mentioned in the said proviso to the said ninth section, and which may have been issued for money borrowed under the said proviso since the passing of the said Act, and before the passing of this Act ; but so many of the said bonds as shall not have been so issued at the time of the passing of this Act, shall be forthwith cancelled, or if issued hereafter, shall be void and of no effect.

Public Act. II. This Act shall be a Public Act.

### C A P . I X .

## An Act to increase the Capital Stock of the Port Darlington Harbour Company.

[Assented to 21st April, 1856.]

Preamble.

**W**HEREAS the President and Directors of the Port Darlington Harbour Company have by Petition set forth, that in consequence of the immense increase of business at the Port Darlington Harbour, it is now necessary that large improvements should be made in enlarging the Harbour, and in making additions to the moles, piers, wharves, buildings and erections now pertaining thereto, and that for such purpose it is necessary that the Capital Stock of the said Company should be increased by Twenty Thousand Pounds : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Capital of the  
Company may  
be increased  
by £20,000.

I. The Capital Stock of the Port Darlington Harbour Company, incorporated by an Act of the Legislature of Upper Canada, passed in the seventh year of the Reign of King William the Fourth, shall be increased by the sum of Twenty Thousand Pounds, and the new stock may be issued as the Directors may find it necessary, and shall be paid in according to the provisions of the original Act of Incorporation of the said Company.

Public Act. II. This Act shall be deemed a Public Act.

## C A P. X.

## An Act to amend the Acts imposing Duties of Customs.

[Assented to 16th May, 1856.]

**W**HEREAS it is expedient to impose the several Duties of Preamble. Customs hereinafter mentioned, and with that view to repeal the Duties now imposed on the same articles : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. All Duties of Customs inwards now imposed on the goods, wares, merchandize and articles mentioned or included in the Schedule to this Act, shall be and are hereby repealed, and instead thereof, there shall be raised, levied, collected and paid unto Her Majesty, Her Heirs and Successors, upon the said goods, wares, merchandize and articles mentioned or included in the said Schedule, when imported into this Province or taken out of warehouse for consumption therein, the several Duties of Customs respectively inscribed, inserted and set forth in the said Schedule to this Act ; and the articles therein directed to be admitted Free, shall be exempt from all Duties of Customs inwards. Present duties on articles mentioned in the Schedule repealed.

II. This Act shall be construed as one Act with the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for repealing and consolidating the present Duties of Customs in this Province, and for other purposes therein mentioned*, and the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the law relative to Duties of Customs* ; and all words and expressions used in this Act shall have the meaning assigned to them in the said Acts, and all the provisions of the said Acts with regard to the Duties imposed by them, or the regulations to be made under them, shall apply to the Duties imposed by this Act and the regulations to be made under it, except in so far as may be inconsistent with this Act : and all provisions of the said Acts, or of any other Act or law, inconsistent with this Act, are hereby repealed. Interpretation clause. 10 & 11 V. c. 31. 12 v. c. 1.

III. The foregoing enactments shall take effect upon, from and after the fifth day of July, one thousand eight hundred and fifty-six, and not before. Commencement of Act.

## SCHEDULE.

## SCHEDULE.

## TABLE OF DUTIES OF CUSTOMS INWARDS.

<i>Articles.</i>	<i>Duty Currency.</i>		
	£	s.	d.
All Articles which immediately before the coming into force of this Act were subject to a Duty of 12½ per cent. and not hereinafter specifically excepted or charged with any other duty, for every £100 value.....	15	0	0
Leather Manufactures and India Rubber Manufactures, for every £100 value.....	20	0	0
Canada Plates, Wrought Cranks, Straps for Walking Beams, Plough Moulds, Galvanized Iron, Frames and Pedestals, Connection Rods, Chains other than Chain Cables, Wheels and Axles and Hoops and Tires for Locomotives, Machinery used in the manufacture of Doors, Window Sashes and Blinds, Printing Paper,—that is to say, Book Printing Paper and News Printing Paper, for every £100 value.....	5	0	0
Cigars, the lb.....	0	3	0
Snuff, the lb.....	0	0	6
Manufactured Tobacco, the lb.....	0	0	2½
Spirits and strong waters of all sorts, for every gallon of any strength not exceeding the strength of proof by Sykes' Hydrometer, and so in proportion for any greater strength than that of proof and for any greater or less quantity than a gallon, viz :			
Brandy, the gallon.....	0	4	0
Cordials, the gallon.....	0	5	0
Gin and other Spirits and Strong Waters not being Rum, Brandy or Whiskey, the gallon.....	0	3	6
Rum, the gallon.....	0	2	3
Whiskey, the gallon.....	0	0	7½
Wine, in wood, not exceeding in value £10 per pipe (of 126 gallons), the gallon.....	0	1	0
Over £10, and not exceeding £15 in value per pipe, the gallon.....	0	1	6
Over £15 in value per pipe, the gallon.....	0	2	0
In quart bottles, on Wine not exceeding 20s. in value per dozen, the dozen bottles.....	0	7	6
Over 20s., and not exceeding 40s. in value per dozen, the dozen bottles.....	0	10	0
Over 40s. in value per dozen, the dozen bottles....	0	12	6
Wine in pint bottles, in like proportion, the dozen bottles..... 3s. 9d., 5s. and	0	6	3
Molasses, the gallon.....	0	0	2½
Green Coffee, the lb.....	0	0	0¼
Dried Fruits, the lb.....	0	0	1¼
Maccaroni, the lb.....	0	0	1¼
Vermicelli,			

Vermicelli, the lb.....	0	0	1 $\frac{1}{4}$
Vinegar, the gallon.....	0	0	3 $\frac{1}{2}$
Tea, the lb.....	0	0	2 $\frac{1}{2}$
Brooms, the dozen.....	0	2	6
Mustard, Cloves, Cassia and Cinnamon, the lb...	0	0	3
Ginger, Pimento, Pepper and Starch, the lb.....	0	0	2
Mace and Nutmegs, the lb.....	0	0	9
Spices unenumerated, the lb.....	0	0	4
Refined Sugar, whether in loaves or lumps, candied, crushed, powdered or granulated, or in any other form, White Bastard Sugar, or other Sugar equal to Refined Sugar in quality, the cwt....	0	14	0
White Clayed Sugar, and Brown Clayed Sugar, and Yellow Bastard Sugar, or Sugar of any kind equal in quality to any of the said kinds of Sugar, but not equal in quality to Refined Sugar, the cwt.....	0	10	0
Raw Sugar and all Sugar of any kind not equal in quality to any of those above mentioned, the cwt.....	0	7	6
Rice.....	} To be admitted free.		
Wrought Burr Stones			
Hat Plush.....			

C A P . X I .

An Act for the punishment of the Officers and Servants of Railway Companies contravening the By-laws of such Companies, to the danger of person and property.

[Assented to 16th May, 1856.]

**W**HEREAS it is necessary to adopt means for preventing, Preamble.  
as far as possible, the great risk and damage to life and property which frequently arise from the non-observance by the officers and Servants of Railway Companies of the By-laws and Regulations made for their guidance : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. If any officer or servant of, or person employed by, any Railway Company, shall wilfully or negligently contravene any By-law or Regulation of such Company lawfully made and in force, and of which a copy shall have been delivered to him, or shall have been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, then if such contravention shall cause injury to any property or to any person, or shall expose any property or any person to the risk of injury, or render such risk greater than it would have been without such contravention, although no actual injury shall occur, such contravention shall be a misdemeanor, and the person convicted thereof shall be liable, in

Punishment of Officers or Servants, contravening By-laws, to the injury or danger of persons or property.

the discretion of the Court before whom the conviction shall be had, and according as such Court shall consider the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, to be punished by fine or imprisonment, or both, so as no such fine shall exceed one hundred pounds, nor any such imprisonment the term of five years : and such imprisonment, if for two years or upwards, shall be in the Provincial Penitentiary.

And if such contravention does not cause such injury or danger.

And if such contravention shall not cause injury to any property or person, nor expose any person or property to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant or other person guilty thereof, shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the Company, in the discretion of the Justice of the Peace before whom the conviction shall be had ; and such penalty shall be recoverable with costs before any one Justice of the Peace having jurisdiction where the offence shall have been committed, or where the offender shall be found, on the oath of one credible witness other than the informer ; and one moiety of such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the informer, unless he be an officer or servant of, or person in the employ of the Company, in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty for the uses aforesaid ; and the Company may in all cases under this Act pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay.

Company may impose penalties for contravention of By-laws.

II. It shall be lawful for any Railway Company by any By-law to be hereafter made, to impose upon any officer or servant, or person employed by the Company, a forfeiture to the Company of not less than thirty days' pay of such officer or servant, for any contravention of such By-law, and to retain any such forfeiture out of the salary or wages of the offender ; provided he shall, before such contravention, have had cognizance of such By-law, which may be proved by proving the delivery of a copy thereof to him, or that he signed a copy thereof, or that a copy thereof was posted in some place where his work or his duties, or some of them, were to be performed ; and such proof, with proof of the contravention, shall be a full answer and defence for the Company in any suit for the recovery from it of the amount so retained, and such forfeiture shall be over and above any penalty under the preceding section.

And deduct the same from offender's pay.

## C A P . X I I .

An Act to amend the Act to provide for the formation of incorporated Joint Stock Companies, for Manufacturing, Mining, Mechanical or Chemical purposes.

[Assented to 16th May, 1856.]

**W**HEREAS it is expedient to provide for increasing in Preamble. certain cases, the Capital Stock of the Joint Stock Companies formed under the provisions of an Act passed in the Session of the Provincial Parliament, held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled *An Act to provide for the formation of incorporated Joint Stock Companies for Manufacturing, Mining, Mechanical or Chemical purposes*, and also of another Act passed in the Session held in the sixteenth year of Her Majesty's Reign, intituled, *An Act to amend the Act for the formation of incorporated Joint Stock Companies for Manufacturing and other purposes*, and otherwise to amend the law relating to such Companies: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. Whenever the Trustees of any such Company which has been and shall continue to be, or which shall hereafter be incorporated under the provisions of the said above recited Acts, or either of them, shall by a resolution to be passed by the votes of a majority of them, declare that the Capital Stock of such Company is insufficient for the purposes thereof, it shall and may be lawful for them to call a General Meeting of the Stockholders of the said Company, giving at least thirty days' notice of such Meeting, by a written notice signed by the Secretary and addressed to each of the Shareholders or their representatives and transmitted through the Post Office, and by advertisement thereof in a public newspaper published nearest to the place where the said Company's affairs are transacted, and continued to be so published until the day of such Meeting; and it shall be lawful for the said Meeting, by the votes of a Majority of all the Stockholders holding a majority of the shares in the Company given thereat in person or by proxy, to pass a resolution authorizing the Trustees of the Company to increase the Capital Stock thereof to such amount as they shall deem necessary for the purposes of the Company, the amount whereof shall be expressed in such resolution, and thereupon it shall and may be lawful for the said Trustees to pass a By-law for the purpose of increasing the said Capital Stock, to the amount mentioned in the resolution of the said General Meeting of Stockholders, and for declaring the number of shares into which such Capital Stock shall be divided, and the time, amount and manner of payment of the several calls to be made for the payment of such new Stock.

Trustees may call a meeting for increasing the Capital Stock.

Notice.

By-law for effecting such increase if decided on.

Declaration to be signed by subscribers for new Stock.

How filed and proved.

Not until one half is subscribed.

New Stockholders to be entered on Company's books, &c.

Rights of holders of new stock.

Trustees of Company may make By-laws for certain purposes.

Trustees.

II. Upon the passing of the said By-law it shall and may be lawful for all persons who shall desire to become holders of any share or shares of such new Stock, to make and sign a declaration, in which shall be set forth the amount of such new Stock, the total amount of the Company's Capital Stock, including such addition, the number of shares of such new Stock, and the total number of old and new shares of such Stock, and which declaration shall also contain a column, wherein shall be set in figures opposite to the signature of each subscriber the number of Shares for which he shall subscribe; which declaration shall be so signed in duplicate, and acknowledged before the County Registrar or his Deputy, and shall be certified and filed in the office of the Provincial Secretary and the County Registry Office, in the manner mentioned in the second Section of the Act first herein recited, which said declaration shall be proved in evidence, in the manner mentioned in the third Section of the said first recited Act.

III. The said declaration shall not be so filed, or certified in manner aforesaid, until at least one half of such new Stock shall be subscribed.

IV. When the said declaration shall be so filed, the name of every Stockholder contained therein shall forthwith be entered in the books of the said Company as that of a Stockholder, with the date of subscription, and number of Shares subscribed for; and so long as any of the said Stock remains unsubscribed for, it shall be lawful for any person desirous of becoming a Stockholder to subscribe his name to the said declaration filed in the Registry Office, for one or more of such unsubscribed shares, and the name of such subscriber shall forthwith be entered in the books of the said Company in manner aforesaid.

V. Upon the performance of the several Acts mentioned in the fourth Section of this Act, every such Stockholder whose name shall be subscribed to the said declaration, shall immediately thereupon become a member of such Corporation, and from thenceforth shall have and enjoy the same rights and privileges, and shall be subject to the same conditions, restrictions and liabilities to which the original Stockholders shall thenceforth be entitled or liable; and such new shares of Stock shall from thenceforth be subject to all the provisions of the said above recited Acts, in the same manner as if they had formed a part of the Stock originally subscribed.

VI. The Trustees of any such Company, shall have power to make and enact By-laws for the following purposes, in addition to those mentioned in the Act first above cited, namely:

1. For appointing the number of Trustees of such Company, not to exceed nine nor to be less than three;

2. For the payment of Trustees, with the consent of a majority of the Stockholders at the annual meeting, or the appointment of one or more paid Trustees ; Paying Trustees.

3. For the amending, altering or repealing any such Company, made under the authority of this or any other Act of Parliament passed heretofore or to be passed hereafter. By-laws.

VII. All certificates of the payment of Stock in any such Company, to be made in pursuance of this Act, and the said Acts hereinbefore recited, or any of them, shall be signed by and verified by the affidavit or affirmation of the President or Vice-President, or in their absence one of the Trustees of such Company, and thereupon shall be registered by the County Registrar, without any further signature, or the affidavit of any other person. Certificates of payment of Stock, how to be attested.

VIII. It shall and may be lawful for any such Company to break up any road or street, for the purpose of laying down therein any pipe or pipes, which shall in the opinion of the Trustees be necessary or expedient to enable such Company to conduct their business to greater advantage : Provided always, that permission to do so be first had and obtained from the Council of the Municipality having the controul of such road or street, that no unnecessary damage be done in the execution of the works, and that care be taken as far as may be to preserve a free and uninterrupted passage through such road or street while they are in progress. Company may break up streets to lay pipes. Proviso : consent of Municipality required, &c.

IX. All such Companies shall have power to enforce the payment of calls on the Capital Stock subscribed, by action in any of the Courts of Law ; and in any such action it shall be competent for any of the Stockholders of any such Company to be examined as a witness on behalf of the plaintiff. Company may enforce payment of Stock.

### C A P. XIII.

An Act to make further provision for the Geological Survey of this Province.

[Assented to 16th May, 1856.]

**W**HEREAS by an Act of the eighth year of Her Majesty's Reign, chaptered sixteen, the sum of two thousand pounds annually, for five years, was appropriated for making a Geological Survey of this Province, and by an Act of the thirteenth and fourteenth years of Her Majesty's Reign, chaptered twelve, the said Act was revived and further extended for five years ; And whereas the said appropriation has been found insufficient to carry on the Survey in an effectual manner, and it is desirable to make such an increase to the establishment as will hasten the completion of the undertaking and enlarge its usefulness : Preamble. 8 V. c. 161

usefulness: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Appropriation for continuing and completing the Survey. I. Out of the unappropriated public moneys of the Province, a sum not exceeding five thousand pounds shall be annually applied, for a term not exceeding five years from the passing of this Act, to defray the expenses of the Geological Survey or any arrears of expenditure already incurred, which sum shall be paid at such times and in such manner as the Governor in Council may direct, subject to the provisions hereinafter made.

Governor may employ proper persons to complete the Survey. Geological Museum, &c., to be established. II. It shall be lawful for the Governor in Council to employ a suitable number of competent persons to complete the Geological Survey of this Province, and to direct the publication of such maps and drawings as may be deemed necessary to illustrate the same; to establish a Geological Museum at some convenient place, which shall be open at all seasonable hours to the public, and which shall be furnished with such books and instruments as may be necessary for the illustration of the science and the prosecution of the Survey, and to order from time to time the distribution of the publications relative to the Survey and of duplicate specimens, to scientific institutions in this Province and other countries.

Candidates for admission as Provincial Land Surveyors to be examined in the rudiments of Geology. 14 & 15 V. c. 4. III. And further to promote the collection of geological information, all persons who, after the first day of January, one thousand eight hundred and fifty-eight, may apply to be admitted as Provincial Land Surveyors, shall be examined in the rudiments of Geology; and the Director of the Geological Survey shall, with that object, be a member of the two Boards of Examiners constituted by the Act of the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to amend the Act concerning Land Surveyors*.

Fixed points of reference for latitude, longitude and level to be established. IV. For the purpose of attaining an accurate basis from which the geological and topographical features of the country may be ascertained, and for the purpose of connecting together local and partial surveys, it shall be the duty of the Director of the Geological Survey to cause permanent marks in some public buildings, or other marks of a durable description, to be made at several convenient stations in the Province, and to fix accurately the latitude and longitude and relative levels thereof, as points of reference.

Plans and sections of Railways, &c., to be furnished. V. All Railway and Canal Companies hereafter to be incorporated are hereby required to furnish to the Geological Survey, without charge, certified copies of all plans and sections of their Surveys; and all such Companies already incorporated, shall furnish such plans and sections of their Surveys upon the demand of the Director of the Geological Survey, and at the cost of the same.

VI. The Director of the Geological Survey shall make a Yearly Report report to the Governor of this Province, on or before the first to be made. day of March in each year, shewing, generally, the progress made in the Survey.

VII. The due application of the moneys hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, in the manner provided by the Interpretation Act, and an account thereof shall be laid before the Provincial Legislature at the next Session thereof. Accounting clause.

## C A P . X I V .

An Act to amend the Common School Laws, and further to promote Elementary Education in Lower Canada.

[Assented to 16th May, 1856.]

**W**HEREAS it is expedient further to amend the Common Preamble. School Laws of Lower Canada, and to make further provision for the promotion of Elementary Education therein : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. It shall be lawful for the School Commissioners or Trustees of Dissident Schools, to cause to be levied by assessment and rate, in the manner now by law provided, such additional sum as they may think proper beyond that which they may now cause to be levied under the tenth sub-section of the twenty-first Section of the Lower Canada School Act of 1846, provided such additional sum do not exceed that which they may now cause to be levied ; and they may also raise an additional sum, not exceeding thirty per cent. upon the total sum so raised as aforesaid, for the purpose of making good any deficiency which may arise in the collection of the assessment and any unforeseen or contingent expenditure ; any thing in the thirty-seventh section of the said Act limiting such additional sum to fifteen per cent. to the contrary notwithstanding: And further, it shall be lawful for the Corporations of the Cities of Quebec and Montreal to pay out of their funds an additional sum equal to that which they are authorized to pay under the forty-third section of the Lower Canada School Act of 1846, to the Boards of School Commissioners appointed by them, and also an additional sum of thirty per cent. to make good any unforeseen or contingent expenditure.

School Commissioners or Trustees may cause additional sums to be raised.

And a further sum for unforeseen expenses.

Corporations of Quebec and Montreal may pay additional sums for Common School purposes.

II. The School Commissioners and the Trustees of Dissident Schools, shall cause to be made by their Secretary-Treasurers, between the first day of September and the first day of October, of every year, a census of the children in each School Municipality, distinguishing those who are from five to sixteen years

School Commissioners take census of children yearly.

years of age, those from seven to fourteen years, and those actually attending school; and shall transmit such census to the Superintendent of Schools within ten days after its completion.

To state in their report the amount of monthly fees.

III. The School Commissioners and the said Trustees, in the semi-annual accounts and reports which they are bound to transmit to the Superintendent of Schools, shall state the amount of monthly fees fixed for each child, and the amount of such fees actually collected, either directly by them or by the teacher, under the twenty-first Section of the Lower Canada School Law Amendment Act of 1849; and if the School Commissioners or Trustees fail to fix the amount of monthly fees to be paid for each child, or to cause the same to be collected, it shall be lawful for the Superintendent of Schools with the approval of the Governor in Council, to refuse the School allowance for the year, to the School Municipality represented by such Commissioners or Trustees in default.

Penalty for refusing to fix or collect such fees.

Appropriation towards expense of Model Schools.

IV. From and after the first day of July 1856, it shall be lawful for the Superintendent of Schools, with the approval of the Governor in Council, out of the School moneys to which any Municipality may be entitled, to retain the sum of twenty pounds towards the support of a Model School in such Municipality, as intended to be established under the fourteenth section of the said Act of 1849.

Trustees of Dissident Schools to assess, &c., alone for such Schools.

V. After the first day of July 1856, the Trustees of Dissident Schools shall alone have the right of fixing and collecting the assessments to be levied on the inhabitants so dissentient; and thereafter such Trustees shall be exempt from attesting upon oath the statement required of them by the eighteenth section of the said Act of 1849.

Female Teachers not belonging to religious communities to be examined.

VI. After the first of July 1857, any female not being a Member of any religious community, who shall desire to become a Teacher in a Common School, shall undergo the required examination before the Board of Examiners; Provided always, that any female Teacher desiring to obtain a certificate or diploma of qualification before the first of July, 1857, may undergo the required examination before that time.

Appropriation out of Legislative grant.

Poor School Municipalities.

Journal of Instruction.

Worn out Teachers.

VII. Out of the Legislative School grant, permanent and additional, for Common School purposes in Lower Canada, the following sums may be set apart and expended yearly by the Superintendent of Schools with the approval of the Governor in Council, for the following purposes, that is to say: 1st.—A sum not exceeding one thousand pounds, for special aids to Common Schools in poor School Municipalities; 2nd.—A sum not exceeding four hundred and fifty pounds, to encourage the publication and circulation of a Journal of Public Instruction; and 3rdly, A sum not exceeding five hundred pounds, towards forming a fund for the support of superannuated or worn out Common School

School Teachers in Lower Canada, under such regulations as may be adopted from time to time by the Superintendent of Schools, or by the Council of Public Instruction of Lower Canada as soon as such Council shall be established therein, and approved by the Governor in Council: Provided always, that no such Teacher shall be entitled to share in the said Fund who shall not contribute to such Fund at the rate of one pound per annum at the least, for the period of his teaching School or receiving aid from such Fund, and who shall not furnish satisfactory proof of his inability from age or loss of health in teaching, to pursue that profession any longer: Provided also, that no such allowance to any Teacher shall exceed the rate of one pound ten shillings per annum for each year during which such Teacher shall have taught a Common School in Lower Canada.

Proviso : as to such Teachers.

Further Proviso as to the same.

VIII. The remuneration of Secretary-Treasurers may, in the discretion of the School Commissioners or Trustees, be increased to an amount not exceeding seven per cent. on the moneys received by them as such, instead of four per cent. as provided by the twenty-second section of the said Act of 1849; but such remuneration shall include every service which the Commissioners shall require from time to time from the Secretary-Treasurer and shall cover all contingent expenses whatever, except such as may be specially authorized by rules and regulations to be made by the Superintendent of Schools from time to time, and shall not exceed thirty pounds in one year in any case.

Remuneration of Secretary-Treasurers increased.

Limitation of such increase.

IX. In addition to the Boards of Examiners constituted under the said Act of 1846, and the Lower Canada School Law Amendment Act of 1853, there shall be others established for such Counties, and to hold their meetings at such places, as may be fixed and determined by the Superintendent of Schools with the approval of the Governor in Council, such Boards to consist of not less than five nor more than seven members, to be governed by the provisions of the said Act of 1846, to be established for such portions or sub-divisions of districts or territorial divisions where Boards are already authorized to be established under the said Act of 1846 and the said Act of 1853, and in mixed religious communities, one to be composed of Roman Catholics and another of Protestant members.

Additional Boards of Examiners to be established.

How to be composed, &c.

X. It shall be lawful for the Superintendent of Schools to cause special assessments to be levied in any School Municipality, for the payment of lawful debts admitted by such Municipality or adjudged by a Court of Justice to be due by such Municipality, and which debts such Municipality could not otherwise pay: and whenever such debts shall have been contracted by a Municipality subsequently divided into several Municipalities, or the limits of which may have been subsequently altered, the said Superintendent shall apportion the payment of such debt or debts equitably among the several Municipalities liable for the same.

Special assessments for paying debts of School Municipalities.

Deposit and payment of Legislative Appropriation for Common Schools.

XI. Notwithstanding any thing to the contrary in the forty-seventh Section of the said Act of 1846, the sums constituting the Lower Canada Common School Fund may be paid to the Superintendent of Schools in two semi-annual payments, under two accountable Warrants to the Receiver General to be issued by the Governor for that purpose; and the Superintendent shall deposit the said sums in such Bank as the Governor in Council shall direct and apportion the same according to law among the Municipalities, and pay to the School Commissioners and Trustees of Dissident Schools the respective shares belonging to the Municipalities they represent, by Checks drawn upon such Bank and made payable to their order, and shall account according to law for such moneys.

Superintendent may refuse to pay to School Municipalities not complying with the law in certain cases.

XII. The Superintendent, with the approval of the Governor in Council, may refuse to pay the whole or any part of the share in the said fund, of any School Municipality where his lawful instructions or those of the Council of Public Instruction shall have been disobeyed, or where unqualified teachers shall have been employed by the Commissioners or Trustees, or where a qualified teacher shall have been dismissed by the School Commissioners or Trustees, before the time of his engagement and for no valid or just cause, and may pay out of the said share of such Municipality such indemnity as shall appear to him justly due to any teacher so unjustly dismissed.

How he may deal with the share of Legislative grant belonging to School Municipalities paying too little to the Common Fund.

XIII. The Superintendent of Schools shall also have power, with the approval of the Governor in Council, to authorize the School Commissioners or Trustees in any Municipality, to apply the share coming for any one year to any School District the inhabitants of which shall have contributed nothing or too little during the same year to the common fund of such Municipality for school purposes, in such manner as the said Superintendent shall direct for the advancement of education in such Municipality, instead of depositing the said share in a Bank as now provided by law: and the amounts already placed in any Bank for any School District in like cases, shall be liable to be dealt with in like manner, and the shares coming to any such School District which may have been in like cases applied by the School Commissioners or Trustees in any Municipality, with the consent of the said Superintendent, are hereby declared to have been legally and properly dealt with; any law, usage or custom to the contrary notwithstanding.

Superintendent may allow School Municipalities which have arisen since 1850, their fair share of the grant.

XIV. And whereas in some Counties School Municipalities have sprung up which did not exist at the time of the taking of the now last census, and it would be unjust to withhold from them their fair share of the Legislative grant, therefore it shall be lawful for the Superintendent of Schools, with the approval of the Governor in Council, to allow to any such School Municipality its fair share of the amount of the said Legislative grant coming to the County, in proportion to the actual

actual population of such School Municipality at the time, according to the best evidence he shall be able to procure, whenever he shall be of opinion that the said census would not be a fair basis of apportionment.

XV. Whenever any School Commissioner, Trustee, or Secretary-Treasurer, after his dismissal, resignation or ceasing to hold office, shall detain any book, paper or thing belonging to the School Commissioners or Trustees of any Municipality, he shall thereby incur a penalty of not less than five dollars nor more than five pounds for each day during which he shall retain possession of any such book, paper or thing after having received a notice from the Superintendent of Schools requiring him to deposit the same in the hands of some person mentioned in such notice; and the said penalty shall be recoverable with costs before any Court of competent civil jurisdiction, in the name of the Superintendent of Schools, and the same when levied shall be paid into the hands of the said Superintendent, and shall form part of the unexpended balance of the Common School grant, and be dealt with accordingly.

Penalties on persons retaining books, &c., from School Commissioners.  
How recovered and applied.

XVI. And inasmuch as it will be conducive to the furtherance of Education in Lower Canada to establish therein a Council of Public Instruction,—the Governor shall have authority to appoint not more than fifteen and not less than eleven persons (of whom the Superintendent of Schools for Lower Canada shall be one) to be a Council of Public Instruction for Lower Canada, and such persons shall hold their office during pleasure, and shall be subject to all lawful orders and directions in the exercise of their duties, which shall from time to time be issued by the Governor in Council.

Council for Public Instruction for Lower Canada.

XVII. The Superintendent of Schools shall provide a place for the meetings of the Council of Public Instruction, shall call the first meeting thereof, and may call a special meeting at any time by giving due notice to the other Members; the expenses attending the proceedings of the said Council shall be defrayed and accounted for by the Superintendent of Schools as part of the contingent expenses of the Education Office; a Recording Clerk to the said Council shall be appointed by the Governor in Council, and such Clerk shall enter all its proceedings in a book to be kept for that purpose, and shall, as may be directed, procure the requisite maps, books and stationery, and shall keep all the accounts of the said Council.

Place of meeting and expenses.  
Recording Clerk: his duties.

XVIII. Five members of the said Council at any lawful meeting thereof, shall form a quorum for the transaction of business; and it shall be the duty of the said Council,—

Quorum.  
Duties of Council.

1. To appoint one of its members to be Chairman thereof, and with the approval of the Governor in Council to establish the time of its meetings and its mode of proceeding; the Chairman shall

Appointment of Chairman.

shall have a second or casting vote in case of an equality of votes on any question.

Making Rules and Regulations for Normal Schools.

2. To make from time to time, with the approval of the Governor in Council, such rules and regulations as at the time of the establishment of the Council the Superintendent of Schools shall have the power to cause to be made with the approval of the Governor in Council, for the management of the Normal School or Normal Schools which may be established, and for prescribing the terms and conditions on which students shall be received and instructed therein, the course of instruction to be gone through, and the mode and manner in which Registers and Books shall be kept, Certificates of Study shall be granted to Students, and the reports of the Principal of any such Normal School shall be made to the Superintendent of Schools.

And for Common Schools.

3. To make from time to time, with the approval of the Governor in Council, such regulations as the Council shall deem expedient for the organization, government and discipline of Common Schools, and the classification of Schools and Teachers.

Selecting or publishing books, maps, &c.

4. To select or cause to be published, with such approval as aforesaid, books, maps and globes, to be used to the exclusion of others, in the Academies, Model and Elementary Schools under the control of the Commissioners or Trustees, due regard being had in such selection to Schools wherein tuition is given in French and to those wherein tuition is given in English; but this power shall not extend to the selection of books having reference to religion or morals, which selection shall be made as provided by the fifth sub-section of the twenty-first section of the said Act of 1846, so much of which sub-section as may be inconsistent with the provision herein made, is hereby repealed.

Exception as regards religion, &c.

5. To make from time to time with such approval as aforesaid, rules and regulations for the guidance of the Boards of Examiners.

Rules for Examiners.

Keeping classified list of Teachers, holding certificates.

6. To cause to be inserted by the Recording Clerk, in a book to be kept for that purpose, in such manner and form as the Council may direct, the names and classes of all Teachers who have received or shall hereafter receive certificates or diplomas of qualification from the Boards of Examiners already established or to be hereafter established, also the names of all Teachers, who after having gone through the regular course of instruction in any Normal School to be hereafter established, shall have received certificates or diplomas of qualification from the Superintendent of Schools; And to ensure compliance with the immediate foregoing provision, it shall be the duty of the Superintendent of Schools—Firstly, To report to or cause to be laid before the Council, if it be in his power, the names and

Superintendent to report certain particulars to Council.

and classes of all Teachers admitted by the different Boards of Examiners since their establishment; Secondly, The names and classes of all Teachers hereafter to be admitted by the different Boards of Examiners; Thirdly, The names of all Teachers who may hereafter receive from him certificates or diplomas of qualification after going through the proper course of instruction in any Normal School.

XIX. It shall be lawful for the Council of Public Instruction to revoke any certificate or diploma of qualification granted or to be granted by any Board of Examiners, to any Teacher, or any certificate or diploma of qualification to be granted hereafter by the Superintendent of Schools to any student in any Normal School which may be established, for any want of good conduct as Teacher, of good morals, or of temperate habits, in the holder thereof; such revocation not to take place, however, unless a charge in writing be made by some complainant, or upon the report of any School Inspector, submitted by the Superintendent of Schools to the said Council, nor unless such charge be fully proved: such charge shall be addressed to the Recording Clerk, who shall lay it before the Council at its then next meeting; and if the Council be of opinion that the charge is of such a nature as not to require any investigation, it shall be dismissed *in limine*; but if it be of opinion that the charge is of so grave a nature and character as to require investigation, it shall be the duty of the Recording Clerk to cause the Teacher complained of to be served by any Bailiff of the Superior Court for Lower Canada, with a copy of the charge, accompanied by a notice on behalf of the Council, summoning him to be and appear, either in person or by proxy, before the Council on such day and hour as the Council shall determine, to answer the charge made against him. If the Teacher denies the charge, the Council shall forthwith, or on a subsequent day, proceed to receive the evidence, oral or in writing, which each party shall have to offer, and the Recording Clerk is hereby authorized to administer the oath to any witness who may be produced; and it shall be his duty to take and keep of record the notes of the evidence taken.

Council may revoke certificates of Teachers in certain cases.

How charges against Teachers shall be made and tried.

If the Teacher denies the charge.

It shall be lawful for the said Council to appoint one or two Commissioners to receive the evidence, when the parties shall reside at a great distance, or when the Council may see that by so doing a saving of unnecessary expense will be effected.

Commissioners may be appointed.

The instrument appointing such Commissioner or Commissioners shall be issued on behalf and in the name of "the Council of Public Instruction," and under the signature of the Recording Clerk.

In what manner.

Upon the receipt of such instrument, the Commissioner or Commissioners shall notify to the parties the time at which they will have to produce their witnesses; the Commissioner or Commissioners

Proceedings before Commissioners.

Commissioners shall swear the witnesses, and are hereby authorized to that effect, and the evidence shall be taken by such Commissioner or Commissioners and afterwards transmitted by him or them to the Recording Clerk, who shall lay it before the Council.

If the Teacher make default.

If the Teacher do not appear, and neglect to answer the charge, the Council shall proceed by default against him, and shall receive and take the evidence, or cause it to be received and taken, in the manner above provided.

Proceedings if the charge be proved, &c.

If the charge be not proved, the Council shall dismiss it, and if it be proved, the Council shall order as a penalty that the certificate or diploma of qualification of such Teacher be revoked, and that his name be struck from the book containing the names of the qualified Teachers.

Short Title of Act.

XX. This Act shall be called and known as "The Lower Canada School Law Amendment Act of 1856."

Interpretation clause.

XXI. In construing this Act, the words "Teacher" and "Student" shall apply to Female as well as Male Teachers and Students; and any power given to or any obligation imposed upon School Commissioners, shall apply to Trustees of the Dissentient Schools in reference to the schools and school districts under their control: the expression "Common School" shall apply to Dissentient School, and the words "Municipality" or "School Municipalities" shall apply to Dissentient Schools or School Districts under the control of Trustees as well as to Municipalities and Schools under the control of Commissioners;—the Act passed in the ninth year of Her Majesty's Reign, and chaptered twenty-seven, shall be understood to be intended by the expression, "the Lower Canada School Act of 1846," or "the said Act of 1846,"—the Act passed in the twelfth year of Her Majesty's Reign, and chaptered fifty, shall be understood to be intended by the expression, "the Lower Canada School Law Amendment Act of 1849," or "the said Act of 1849,"—and the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered two hundred and eight, shall be understood to be intended by the expression, "the Lower Canada School Law Amendment Act of 1853," or "the said Act of 1853."

Repeal of inconsistent provisions.

XXII. So much of the said Acts of 1846, of 1849, and of 1853, or of any of them, as may be inconsistent with this Act, is hereby repealed.

C A P . X V .

An Act to provide in a more certain manner for order in Enregistration, and to facilitate Enregistrations and Searches in the Registry Offices of Lower Canada.

[Assented to 16th May, 1856.]

WHEREAS it is necessary to make provision for better ascertaining the order of the deposit of documents in the Registry Offices of Lower Canada, and for facilitating Registrations and Searches in the said Offices: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The Minute or Day Book mentioned towards the end of the twentieth section of the Registry Ordinance of one thousand eight hundred and forty-one, shall, from and after the expiration of one year from the passing of this Act, be authenticated in the manner required by the nineteenth section of the said Ordinance with regard to the Registers used for registration, and the Registrars shall make the entries which they are bound to make in the said Minute or Day Book, in the numerical order of the documents which shall be delivered to them for registration, and shall state in each entry the number given to the document to which it relates; and they shall give to any person requiring the same on delivering any document for registration, and without demanding any fee therefor, an acknowledgment stating the number under which such delivery is entered in the said Minute or Day Book.

Minute or Day Book to be authenticated as provided by section 19 of 4 V. c. 30.

Entries to be made in numerical order.

Acknowledgment to be given.

II. Registration may be made by means of extracts from Notarial Instruments made in the manner prescribed by the tenth section of the Act for the organization of the Notarial Profession passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered thirty-nine; and such registration shall have the same effect with respect to the extract as the registration of a copy of such instrument at full length, as prescribed by the fifth section of the Act concerning Registration passed in the seventh year of Her Majesty's Reign, chaptered twenty-two; the fee of the Registrar for the certificate endorsed on such extract shall be that fixed by the first section of the Act relative to Registration passed in the eighth year of Her Majesty's Reign, chaptered twenty-seven, that is to say, one shilling and six pence currency.

Registration may be made by extracts certified under 13 & 14 V. c. 39, s. 10.

Fee.

III. Every Registrar shall, in the performance of his duties, comply with all the requirements of this Act, as well as with those of all other Acts relating to the Registration of Deeds, under a penalty not exceeding ten pounds currency for every contravention of such requirements, without prejudice to damages payable to any party, which may be recovered as well as the penalty

Penalty for non compliance with this Act.

penalty (with costs) before any Court having jurisdiction in civil matters to the amount, by the party aggrieved by such contravention.

Signature of memorial when the memorialist does not know how to write.

IV. The signature under which any memorial shall be executed, may be written by the hand of any other person when the person requiring the registration of such memorial does not know how to write, provided his name be accompanied by his ordinary mark which he shall make in the presence of the witnesses to the execution of the memorial; and this provision shall be held to have been the law from the time when the Registry Ordinance was brought into force.

## C A P . X V I .

An Act to amend the Provincial Act appropriating the moneys arising from the Clergy Reserves.

[Assented to 16th May, 1856.]

Preamble.

18 V. c. 2.

**W**HEREAS it is expedient to amend the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to make better provision for the appropriation of moneys arising from the lands heretofore known as the Clergy Reserves, by rendering them available for Municipal purposes*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

How the unappropriated balance of the U. C. Municipalities Fund shall be appropriated yearly.

I. The amount of "The Upper Canada Municipalities Fund," remaining unexpended and unappropriated under the provisions of the first, second, third and fourth sections of the said Act, on the thirty-first day of December, in the year one thousand eight hundred and fifty-five, and on the same day in each year after the passing of this Act shall, by the Receiver General, be apportioned equally among the several City, Town, Incorporated Village and Township Municipalities in Upper Canada, in proportion to the number of Rate-payers that shall appear on the Assessment Rolls of such Municipalities for the year next before the time of such apportionment.

Clerks of Municipalities in U. C. to make certain returns yearly to the Receiver General.

II. It shall be the duty of the Clerks of the several Cities, Towns, Incorporated Villages and Townships in Upper Canada, on or before the first day of July next after the passing of this Act, to transmit to the Receiver General a true Return of the number of Rate-payers appearing on the said several Assessment Rolls for the year one thousand eight hundred and fifty-five, and on or before the first day of December in each year thereafter to transmit to the Receiver General a similar Return for the year in which such Return shall be made, and to make an affidavit, to be written on each of the said Returns, and

and sworn before a Justice of the Peace, of the correctness of such Return.

III. Any Clerk of any of the said Municipalities who shall fail to make any Return required by the next preceding section of this Act, by the time therein limited, shall be liable for each failure to a penalty of twenty-five pounds to be paid to the Receiver General for the use of the Province, which penalty may be sued for and recovered by the Crown in any Court of competent jurisdiction.

Penalty on Clerks not making such return.

IV. In case it should at any time appear that by reason of an erroneous return too much money has been paid to a Municipality, the excess shall be a debt due and recoverable by the Crown from such Municipality.

Recovery of money overpaid under erroneous return.

V. So much of the fifth section of the before mentioned Act as is inconsistent with this Act, shall be and the same is hereby repealed.

Repeal of inconsistent provisions.

## C A P : X V I I .

An Act to incorporate the Town of Galt and to define the limits thereof.

[Assented to 16th May, 1856.]

**W**HEREAS the inhabitants of the Village of Galt, by petition, have prayed the Legislature to incorporate the same into a Town, the population, according to a census taken last year, approaching to the number required by law; And whereas it is expedient and necessary and would tend to promote the benefit and convenience of the inhabitants if the prayer of the said petition were granted: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The tract of land within the boundaries or limits herein after described shall, upon, from and after the first day of January, in the year one thousand eight hundred and fifty-seven, be incorporated into a Town, to be called and designated as the Town of Galt.

Incorporation of the Town of Galt on 1st January, 1857.

II. So much of the Upper Canada Municipal Corporations Acts as relates to incorporated towns, shall upon, from and after the day last aforesaid, apply to the said Town of Galt, which shall have and exercise all and singular the same rights, powers, privileges and jurisdiction as are given, granted or conferred upon, or as shall, by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns; and all the rules, regulations, provisions and enactments therein contained, or which shall in any wise relate or belong to the same, shall apply to the Town of

Upper Canada Municipal Corporations Acts to apply to it.

of Galt, as fully as if the said tract of land had become a Town under the ordinary operation of the said Upper Canada Municipal Corporations Acts, with the exception hereinafter made as regards the first election.

Boundaries of  
the Town of  
Galt.

III. The Town of Galt shall consist of that part of this Province situate within the County of Waterloo, in Upper Canada, and lying within the following limits, that is to say: "Commencing on the western limit of lot number seven, in the centre of the tenth concession of the Township of Dumfries, in the said County of Waterloo; thence on the said limit, to the allowance for highway between the tenth and eleventh concessions; thence along the said allowance to its junction with the macadamized road leading from Galt to Dundas; thence on the same course as the side lines of the concession to the Dundas and Waterloo Turnpike Road; thence along the said Turnpike Road, crossing the allowance for Highway between the eleventh and twelfth concessions, to the junction of the said Turnpike Road with the common road leading from Galt to Preston; thence parallel to the allowance for highway between the eleventh and twelfth concessions, crossing the Grand River, to the side line between lots numbers eleven and twelve in the eleventh concession, produced into the twelfth concession; thence along the said side line, crossing the allowance for highway between the eleventh and twelfth concessions, and between lots numbers eleven and twelve in the eleventh concession, crossing the allowance for highway between the tenth and eleventh concessions, and between lots numbers eleven and twelve in the tenth concession, to the centre of the said tenth concession; thence through the centre of the said tenth concession, crossing the Grand River to the place of beginning."

To be divided  
into five  
Wards.

IV. The said town of Galt shall be divided into five Wards, to be called respectively the First Ward, Second Ward, Third Ward, Fourth Ward, and Fifth Ward:

First Ward.

1. The said First Ward shall be bounded as follows, that is to say: commencing at the north-easterly angle of the Town, at the junction of the Dundas and Waterloo Turnpike Road with the common road leading from Galt to Preston; thence in a south-easterly direction along the west side of the Dundas and Waterloo Turnpike Road to Beverly street; thence along the centre of Beverly street to its junction with Church street; thence along Church street northerly to the centre of North street; thence west, along the centre of North street until it crosses North Water street; thence to the Grand River between the properties of James Kay and James Watson; thence northerly, along the east bank of the Grand River to the northern boundary of the Town; thence easterly, along the said boundary to the place of beginning.

2. The said Second Ward shall be bounded as follows, that is to say: commencing where Beverly street intersects the Dundas and Waterloo Turnpike Road; thence south-easterly along the west side of the said road to the place where the Town line leaves the said Turnpike Road; thence southward along the Town boundary until it intersects the said Turnpike Road leading from Galt to the Toll-gate; thence westerly along the centre of the said road to the centre of Mill Creek; thence south-westerly along the centre of Mill Creek to the Grand River; thence northerly along the Grand River to the line between the properties of James Kay and James Watson before mentioned; thence easterly along the said line to North Water street; thence crossing North Water street and proceeding along the centre of North street easterly until it intersects Church street; thence southerly along Church street until it intersects Beverly street; and thence north-easterly along the centre of Beverly street to the place of beginning. Second Ward.

3. The said Third Ward shall be bounded as follows, that is to say: commencing where the Town boundary crosses the Dundas and Waterloo Turnpike Road leading from Galt to the Toll-gate; thence westerly along the road between the tenth and eleventh concessions of the Township of North Dumfries, to where the Town boundary leaves the concession road; thence southerly along the said boundary to the south-east angle of the Town; thence westerly along the southerly boundary of the Town to the Grand River; thence northerly along the easterly bank of the Grand River to the centre of Mill Creek; thence along the centre of Mill Creek to the centre of Main street; and thence along the centre of the Dundas and Waterloo Turnpike Road to the place of beginning. Third Ward

4. The said Fourth Ward shall be bounded as follows, that is to say: commencing at the centre of the bridge crossing the Grand River at Main street; thence westerly in a produced line from the centre of Main street to its intersection with the western boundary line of the Town; thence northerly along the said boundary to the north-west angle of the Town; thence easterly along the northern boundary thereof to the Grand River; thence southerly along the western bank of the Grand River, to the place of beginning. Fourth Ward.

5. The said Fifth Ward shall be bounded as follows, that is to say: commencing at the centre of the bridge crossing the Grand River at Main street; thence southerly along the western bank of the said River to the southerly boundary of the Town; thence west along that boundary to the south-west angle of the Town; thence northerly along the western boundary of the Town to the south-west angle of Fourth Ward; thence easterly along the southerly boundary of Fourth Ward to the place of beginning. Fifth Ward.

Returning-  
Officer at  
first election.

V. The Clerk for the time being of the said Village of Galt shall be *ex officio* Returning Officer for the purpose of holding the first municipal election under this Act, and shall, on or before the Twenty-first day of December next after the passing of this Act, by his warrant, appoint a Deputy Returning Officer for each of the five wards into which the said Town of Galt is hereby divided, to hold the first election therein; and in the discharge of their duties, each Deputy Returning-Officer, shall severally be subject to all the provisions of the said Upper Canada Municipal Corporations Acts applicable to first elections in Towns incorporated under the said Acts.

Public Act.

VI. This Act shall be deemed a Public Act.

### C A P . X V I I I .

An Act to incorporate the Town of Owen Sound, in the County of Grey.

[Assented to 16th May, 1856.]

Preamble.

WHEREAS the inhabitants of the Village of Sydenham, in the County of Grey, have by their Petition represented, that by a census taken under the authority of the Municipal Council of the Township of Sydenham, in the month of December now last, the population of the Village amounted to one thousand and nine hundred and forty-five, and was then and is now rapidly increasing, so that by the end of the present year it will probably amount or very nearly approach to three thousand souls, the number required for its incorporation as a Town under the ordinary operation of the Upper Canada Municipal Corporations Acts, and further that they are desirous to avoid the delay which must otherwise take place, and to have the said Village incorporated as a Town by the name of Owen Sound by a special Act, and the boundaries thereof and its division into Wards established as hereinafter provided, and it is expedient to grant their prayer and to provide accordingly: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Town of Owen  
Sound incor-  
porated.

I. The tract of land lying within the boundaries hereinafter mentioned, shall, upon, from, and after the first day of January, in the year one thousand eight hundred and fifty-seven, be incorporated as, and shall be a Town, to be called and designated as the Town of Owen Sound.

Upper Canada  
Municipal  
Corporations  
Acts to apply  
to it.

II. So much of the Upper Canada Municipal Corporations Acts as relates to incorporated Towns, shall, from and after the day last aforesaid, apply to the said Town of Owen Sound, and the said Town shall have and exercise all and singular the rights, powers, privileges and jurisdiction which are thereby granted or conferred to or upon, or as shall by virtue of the said Acts, or of any other Act or Acts, now in force or hereafter to be

be in force in Upper Canada, belong to incorporated Towns : and all the rules, regulations and enactments in the said Acts or any of them contained, or which shall in any wise apply to incorporated Towns, shall apply to the said Town of Owen Sound, as fully as if it had become an incorporated Town under the ordinary operation of the said Upper Canada Municipal Corporations Acts, with the exception hereinafter made.

III. The said Town of Owen Sound shall consist of all that part of the County of Grey which is bounded as follows, that is to say : on the East by the tenth Concession of the Township of Sydenham, on the West by the third Concession of the Township of Derby, on the South by the lots number fourteen in the eleventh and twelfth Concessions of the Township of Sydenham and by lots number fourteen in the first and second Concessions of the Township of Derby, and on the North by Owen Sound and the Indian Lands as they are now limited and bounded.

*Boundaries of the said Town.*

IV. The said Town of Owen Sound shall be divided into three Wards, to be called respectively : Bay Ward, Centre Ward, and River Ward ; Bay Ward shall consist of all that part of the Town north of the centre line of Division Street prolonged each way to the East and West boundaries of the Town ; Centre Ward shall consist of all that part of the Town lying between Bay Ward as above defined and the centre line of Union Street prolonged each way to the East and West boundaries of the Town ; and River Ward shall consist of all that part of the said Town lying South of the centre line of Union Street prolonged as aforesaid.

*Town divided into three Wards. Wards described.*

V. The Municipal Council of the Township of Sydenham shall and may at any time after the passing of this Act, appoint a fit person to be the Returning Officer for holding the first Municipal Election under this Act, and the person so appointed shall on or before the twenty-first day of December next after the passing of this Act, by his Warrant, appoint a Deputy Returning Officer for each of the three Wards into which the Town of Owen Sound is hereby divided, to hold the first election therein : and in the discharge of their duties such Deputy Returning Officers shall be respectively subject to all the provisions of the Upper Canada Municipal Corporations Acts applicable to first Elections in Towns incorporated under the said Acts : Provided always, that at the first Election to be held in the said Town, the qualification of Electors and of Councillors shall be the same as in Townships ; And provided also, that inasmuch as the said Town of Owen Sound comprises two of the five Wards of the said Township of Sydenham, therefore the division of the said Township into Wards as now established shall cease upon the first Monday in January, one thousand eight hundred and fifty-seven, on which day the annual Election of Councillors in the Township of Sydenham shall be made at a general Township

*Appointment of Returning Officer at first Election.*

*Proviso : Qualification of Electors and Councillors.*

*Proviso : as to the Township of Sydenham.*

Township Meeting, to be held at the place where the meetings of the Municipal Council of the Township are held.

Public Act.

VI. This Act shall be deemed a Public Act.

## C A P . X I X .

An Act to separate the County of Bruce from the County of Huron.

[Assented to 16th May, 1856.]

Preamble.

**W**HEREAS the Reeves of the several Townships of the County of Bruce have by their Petition, prayed that the said County of Bruce, now united to the County of Huron, may be set apart as a separate County for judicial and other purposes, without unnecessary delay, and the sense of the said County being in favour of such separation, and the wealth and population thereof being sufficient to warrant the same, it is expedient to make provision to enable the said County to separate from the said County of Huron as soon as the necessary provisions for that purpose shall have been made: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Provisional Council of Bruce constituted.

14 &amp; 15 V. c. 5.

Powers of such Council.

12 V. c. 78.

Proclamations may issue.

I. Upon, from and after the first day of January, one thousand eight hundred and fifty-seven, the Town Reeves and Deputy Town Reeves of the several Townships in the said County of Bruce, as the same is described and limited in and by the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to make certain alterations in the Territorial Divisions of Upper Canada*, shall form a Provisional Municipal Council for the said County, and shall, with respect to the said County, have, possess and exercise all and singular the rights, powers, privileges and duties conferred, granted or imposed by the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for temporary Unions of Counties for judicial and other purposes, and for the future dissolution of such Unions as the increase of wealth and population may require*, upon Provisional Municipal Councils erected by Proclamation under the authority of the said Act, and also all the powers which may be conferred on Provisional Municipal Councils generally by any other Act or Law in force in Upper Canada; and such Proclamations as may be necessary for such purpose shall and may be issued by the Governor in Council, in the same manner as such Proclamations may be issued under the said last recited Act.

Public Act.

II. This Act shall be deemed to be a Public Act.

C A P . X X .

An Act to amend the Lower Canada Municipal and Road Act of 1855, and to authorize the organization of a Municipal Council in the Village of St. Jérôme.

[Assented to 16th May, 1856.]

**W**HEREAS the Village of St Jérôme has been erected into a Municipality, and the inhabitants of the place have expressed a desire to enjoy, immediately, the advantages of Municipal government, and it is expedient that the Legislature should come to their aid in the matter: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble.

I. The Proclamation erecting the said Village into a Municipality shall take effect from the first day of July next, and thenceforth the Municipal Council for the Village of St. Jérôme shall be organized in virtue of, and in the manner provided by the Lower Canada Municipal and Road Act of 1855, more particularly by sections twenty-seven, twenty-eight, twenty-nine, thirty, and thirty-one of the said Act.

Proclamation erecting the Village to take effect from 1st July, 1856.

II. This Act shall be a Public Act.

Public Act.

C A P . X X I .

An Act to incorporate the Buffalo and Lake Huron Railway Company with power to purchase from the Buffalo, Brantford and Goderich Railway Company their line of Railway, and for other purposes.

[Assented to 16th May, 1856.]

**W**HEREAS the Buffalo, Brantford and Goderich Railway Company have become embarrassed and unable to complete the remaining portion of their line of Railway between the Village of Paris and the Town of Goderich, and the completion of the said portion, and the more perfect finishing and equipment of the portion from Fort Erie to Paris, are highly desirable and will be of great advantage to that part of this Province through which the line of the said Railway is located, and to the Province generally ; And whereas the persons herein-after named together with others, have associated themselves together for the purpose of purchasing from the said Buffalo, Brantford and Goderich Railway Company, the whole of their Railway, whether already made, or heretofore authorized to be made, and the lands and hereditaments acquired by them for the making and completion thereof, and all the rights, privileges, rolling and other stock, buildings and appurtenances thereunto belonging, and all other the property of the same Company, whether

Preamble.

whether

whether situate in Canada or elsewhere, and for the purpose of completing and working the Railway, which Railway is, when completed, intended to extend from Fort Erie to Goderich; And whereas Robert Hilario Barlow, late of England, and now of Brantford, Esquire, on behalf of the said persons, has entered into an agreement, bearing date the eleventh day of February, in the year of our Lord, one thousand eight hundred and fifty-six, with the said Buffalo, Brantford and Goderich Railway Company, for the purposes aforesaid, by and with the approval of the Shareholders of the said Company, testified by a majority of votes at a special meeting of such Shareholders, held at Stratford, in the county of Perth, on the nineteenth day of December, one thousand eight hundred and fifty-five; And whereas the said persons hereinafter mentioned, or some of them, on behalf of themselves, and the others, have petitioned to be incorporated: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

I. Charles Mackirdy, Henry Robarts, Thomas Wilde Powell, Henry W. Andrews, Henry Beardshaw, William Baines, Joseph Goodwin Kershaw, H. Grisewood, W. O. Dodgin, John Proctor, Joseph Curling, Jacob Hulle, Jr., John Wilton, Robert Hilario Barlow, Adolphus Frederic Slade, and Edward Heseltine, together with such persons as have already become, or shall, under the provisions of this Act, become subscribers to, or proprietors of any share or shares in the said undertaking, and their several and respective executors, administrators, curators or assigns, being proprietors of any share or shares in the said undertaking, shall be, and are hereby united into a Company for purchasing, completing, maintaining, working and managing the said Railway, and shall, for that purpose, be a body corporate and politic, by the name and style of the "Buffalo and Lake Huron Railway Company;" and the said Company shall be, and are hereby authorized and empowered, from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make, complete, maintain, work and manage for their own use and benefit the said Buffalo, Brantford and Goderich Railway.

Corporate name and style.

Liability of Shareholders limited, and Capital Stock.

II. No shareholder shall be liable for the debts or liabilities of the Company, or for any other purpose beyond the amount, for the time being, not paid up in respect of the shares held by him or them in the Company. The capital stock of the said Company shall be Five hundred thousand Pounds, currency, to be divided into twenty thousand shares of twenty-five pounds currency, or twenty pounds ten shillings sterling, each; Provided always, that it shall be lawful for the said Company to increase the said capital stock to any sum not exceeding in the whole two million pounds currency, as hereinafter provided.

Proviso.

Transfer of Railway, and

III. From and after the delivery by the said Buffalo, Brantford and Goderich Railway Company to the said Buffalo and Lake

Lake

Lake Huron Railway Company, of the said line of Railway, and the acceptance thereof by them, or any part thereof in the name of the whole, in pursuance of the said agreement, the said Railway shall be known as and called the "Buffalo and Lake Huron Railway;" and the said Railway and all the property, whether the same be real or personal, and whether situate in Canada or elsewhere, of the said Buffalo, Brantford and Goderich Railway Company, shall become and be the property of the said Buffalo and Lake Huron Railway Company and their successors and assigns, subject to the payments mentioned in, and to be made in accordance with the above mentioned agreement; and it shall and may be lawful for the said Buffalo and Lake Huron Railway Company, if they think fit, to enforce all or any contracts or agreements made or entered into by any person or persons, or body corporate whatsoever, with the said Buffalo, Brantford and Goderich Railway Company, respecting any land or lands required by the said Company for the purposes of the said Railway; and they may sue in all Courts on any such contract, in their corporate name, as if such contract had been originally entered into by and with the said Buffalo and Lake Huron Railway Company; Provided always, that whenever the said Buffalo and Lake Huron Railway Company shall elect to enforce any such contract or agreement, they shall be liable thereon to the same extent that the said Buffalo, Brantford and Goderich Railway Company would be, were they enforcing the same.

conditions thereof.

Proviso.

IV. The *bonâ fide* holders of bankers' receipts or provisional certificates for deposits made on shares already subscribed for in the said Buffalo and Lake Huron Railway Company, (heretofore also called the Lake Huron and Buffalo Railway Company,) shall on producing such receipts or certificates to the Secretary of the said Company, be entitled to be entered and registered in the books of the said Company as holders of the number of shares mentioned in such receipts or certificates; and shall thereupon have and enjoy all the rights and privileges, and shall be subject to all the liabilities of shareholders in the said Company.

Provisional certificates to be evidence of amount of Stock held.

V. It shall be lawful for the Directors of the said Company to dispose of, allot and assign, to such persons, at such times and in such manner as they shall think most for the advantage of the said Company, all such shares as shall not be subscribed for or taken at the time of the passing of this Act, and they shall deliver certificates under the common seal of the said Company, to the person or persons to whom they shall so dispose of, allot or assign such shares, of the number of shares so allotted to such person or persons respectively, and such person or persons shall then be the legal owner or owners of such shares, and invested with all the rights and subject to all the liabilities of shareholders in respect of such shares.

Shares not subscribed for how to be disposed of.

Capital Stock may be increased with the sanction of two-thirds of Shareholders.

How such increased Capital may be raised.

Proviso :

Priority of claims of present Bondholders secured.

VI. In case it shall be deemed expedient by the said Buffalo and Lake Huron Railway Company at any time or times hereafter to increase the capital of the said Company, such increase may at any time, or from time to time be effected to any extent not exceeding in the whole two million pounds, currency, by resolutions of the Directors of the said Company, sanctioned and approved by two-thirds at least of the votes of the shareholders present in person or by proxy at a general meeting of the shareholders, convened with special notice of such intended increase, or at any special meeting called for the purpose of sanctioning such increase; and the further capital so authorized may be raised by bond or mortgage upon the property of the said Company or any part thereof, or by the issue of new shares of such denominations and with such privileges as to priority of dividend or otherwise, and upon such terms and conditions, and at such times and to such persons, and in such manner as the shareholders so present, in person or by proxy, at any such meeting, shall by the like proportion of votes approve or direct; Provided that no bond, mortgage or issue of new shares, or any agreement made under this Act, or any thing contained in this Act, shall affect or impair the priority of the Provincial claim for any Provincial Loan or guarantee given to the said Buffalo, Brantford and Goderich Railway Company, or the security by mortgage bonds now held by any individual or body corporate upon the said Railroad, already given by the said Buffalo, Brantford and Goderich Railway Company, or which shall hereafter be given by the said Buffalo and Lake Huron Railway Company, without the consent in writing of such individual or body corporate; but such loan, guarantee or mortgage bonds shall become obligatory and of force according to the purport, conditions and tenor thereof, upon the said Buffalo and Lake Huron Railway Company, in the same manner and with the same force and effect as if the said loan, guarantee or mortgage bonds had been originally made and executed by and in the name of the said Company.

Directors, their number and manner of election.

Proviso : as to qualification.

Proviso, Quorum.

VII. The Directors of the said Company shall be nine in number, and shall be elected from among the shareholders of the said Company at a general meeting of such shareholders, to be holden on the first Wednesday in September in each year, at Brantford, in the County of Brant, and shall hold office from the time of their election until the first Wednesday in the month of September next following, and from thence until the election of their successors; Provided always, that no one shall be eligible to be elected as a Director of the said Company unless he be the holder of twenty-five shares of the capital stock of the said Company if resident in Canada or Buffalo, or within twenty miles of the boundary of Canada, and fifty shares of the said stock if resident elsewhere out of Canada; And provided also, that no person shall, by virtue of any office held by him in any municipality or otherwise, be

*ex officio* a Director of the said Company; And provided also, that five Directors, including such as may vote by proxy as hereinafter provided, shall be a quorum and shall exercise all or any of the powers vested in the said Directors, provided that not less than three Directors be personally present; And provided also, and it is hereby enacted, that the Directors of the said Company may vote by proxy, such proxies being themselves Directors and appointed in the following form or to the like effect:

Proviso: excluding *ex officio* Directors.

Directors may vote by proxy, such proxies being themselves Directors.

" I hereby appoint \_\_\_\_\_ of  
 " Esquire, one of the Directors of the Buffalo and Lake Huron  
 " Railway Company, to be my proxy as a Director of the  
 " said Company, and as such proxy to vote for me at all meet-  
 " ings of the Directors of the said Company, and generally to  
 " do all that I could myself do as such Director if personally  
 " present at any such meeting.

(Signature.) A. B."

VIII. Any person being otherwise duly qualified may be appointed a Director, notwithstanding he may be an alien.

Aliens may be Directors.

IX. It shall and may be lawful for the Directors of the said Company from time to time to call in and demand payment from the shareholders of the said Company, of all such sum or sums of money as shall be unpaid on the shares held by them respectively in the said Company, at such time and times and in such payments or instalments as the said Directors shall deem proper, by notice requiring such payment, to be published four successive weeks previous to the time fixed for such payment, once at least in each week in some newspaper published in the towns of Brantford, Stratford and Goderich, and also in the *London Times*, England, or in some other morning paper published in London, England; Provided always, that no more than five pounds sterling on each share shall be made payable at any one time, nor more than ten pounds ten shillings sterling in any one year, exclusive of, and in addition to the five pounds ten shillings deposit on shares already paid in or which shall be hereafter paid in or received on any of the twenty thousand shares, original capital of the said Company; And provided also, that the publications of such notice as aforesaid in the *London Times*, England, or in some of the morning papers published in London, England, shall be sufficient notice of such calls to shareholders residing in England, and the publication thereof in some newspaper published in the said towns of Brantford, Stratford and Goderich as aforesaid, shall be sufficient notice of such calls to shareholders residing in Canada or elsewhere out of England; And provided also, that the production of any such newspaper containing the said notice for four successive weeks as aforesaid shall be *prima facie* evidence, and shall be received as such in all Courts and other

Manner of calling in instalments on shares.

Proviso: as to amount of instalments.

Proviso: as to Notice.

Proviso: Evidence of calls.

other

other places of the due making of such calls and the due publication of such notice.

General meet- X. General meetings of the shareholders of the said Com-  
ings of the pany shall be held half-yearly at such place as the Directors  
Company. of the said Company shall from time to time appoint, on the  
first Wednesday in March and September in each year, and  
Notice thereof. notice of such meeting shall be given in the *Canada Gazette*,  
and in one newspaper of Upper Canada, published in some  
city, town or village through or near to which the said Rail-  
way shall pass, and also once in the *London Times*, England,  
or in some other morning paper published in London, England,  
at least one calendar month before the day appointed for such  
meeting, and continued not less than once a week in  
the Canadian papers up to and including the week next before  
that in which such meeting shall be held; and also notice of such  
meeting shall be mailed to the address of each shareholder of  
the said Company at least twenty-one days before such meeting;  
Provido. Provided always, that the omission to mail such notice shall not  
vitiate or render void such meeting, or any act, matter or thing  
done or transacted thereat.

Special meet- XI. Special meetings of the shareholders of the said Compa-  
ings when and ny shall or may be called for considering the affairs of the said  
how called. Company or doing any act, matter, or thing relating thereto,  
from time to time, as occasion shall or may seem to require, by  
notice showing the object and purpose of such special meeting,  
to be given by three Directors of the said Company, whatever  
number of shares they may hold, or by five or more sharehol-  
ders, holding altogether not less than one thousand shares in the  
said Company, to be mailed and published in the same manner  
as above provided in respect to notices of general meetings;  
Provido. Provided always, that the omission to mail such notice shall  
not vitiate or render void such meeting or any act, matter or  
thing done or transacted thereat.

Scale of votes XII. Any party or parties, or body corporate, holding stock  
at meetings of in the said Buffalo and Lake Huron Railway Company to the  
Shareholders. amount of one hundred shares, or any amount less than one  
hundred shares, shall at any general or special meeting of share-  
holders, have one vote for each share up to and including one  
hundred shares, and for any amount over one hundred shares  
and not over six hundred shares, one vote for each share up to  
and including one hundred shares, and one additional vote  
for every two shares over the first one hundred shares, and for  
any amount over six hundred and not over one thousand five  
hundred shares one vote for every share up to and including one  
hundred shares, and one additional vote for every two shares  
over the first one hundred shares and up to and including six  
hundred shares, and one additional vote for every three shares  
over six hundred shares, and for any amount exceeding one  
thousand five hundred shares one vote for every share up to and  
including

including one hundred shares, and one additional vote for every two shares over the first one hundred shares and up to and including six hundred shares, and one additional vote for every three shares over six hundred shares up to and including one thousand five hundred shares, and one additional vote for every four shares over one thousand five hundred shares.

XIII. Duplicates of all registers and debentures of the Company and of the Lists of the shareholders thereof or of the stock register which shall at any time be kept at the principal office of the Company in this Province, (such duplicates being authenticated by the signature of the Secretary or principal officer of the said Company in this Province), may be transmitted to and kept at any office of the said Company opened in the city of London, England.

Duplicates of Registers may be kept in England, &c.

XIV. Whenever any transfer shall be made in England or other part of Great Britain or Ireland of any share or stock of the Company, the delivery of such transfer, duly executed, to the Secretary or other officer of the said Company, for the time being authorized by the said Company to receive such transfer in London aforesaid, shall be sufficient to constitute the transferee or transferees, a shareholder or shareholders in the said Company, in respect of the share or stock so transferred, and such Secretary or other officer as aforesaid shall transmit an accurate list of all such transfers to the Secretary or other principal officer of the said Company in this Province, who shall thereupon make the requisite entries respecting such transfer in the register kept in this Province, and the Directors may from time to time make such regulations as they shall think fit for facilitating the transfer and registration of shares or stock, as well in this Province as elsewhere, and as to the closing of the register or transfer for the purpose of dividend, as they may find expedient, and all such regulations not being inconsistent with the provisions of the Railway Clauses Consolidation Act as altered or modified by this Act, shall be valid and binding.

Transfers of shares in Great Britain may be executed before Local Secretary.

XV. Any party entitled to any debenture of this Province issued to the Company, or to any bond or debenture of the Company, may transfer his right and interest in any such bond or debenture, and in the principal and interest monies secured thereby, to any other person by the delivery of such bond or debenture with the coupons or interest warrants attached thereto, without the necessity of a deed or instrument in writing for the purpose of effecting such transfer.

Bonds or Debentures transferable by delivery.

XVI. It shall be lawful for the said Company to exercise and enjoy the right of ferrying across the Niagara River at or near Fort Erie, and they may build, purchase, charter, hold, navigate, and work steamers and other vessels and craft, either as ferry boats for the conveyance of freight and passengers across the Niagara River, at or near Fort Erie Rapids, to and from

Company to have rights of ferry at certain places.

from the United States, or for the conveyance of freight and passengers to and from Goderich on Lake Huron, or to and from any other port or place, and may dispose of such steamers, vessels or craft as they shall deem expedient, and may acquire others in their stead, and may establish, demand and take tolls and fees for the conveyance of goods and passengers or other services performed by or with such steamers, vessels or craft either on the said Niagara River, or Lake Huron or elsewhere ; Provided always, that the said privileges of ferry on the Niagara River shall be exercised and enjoyed subject to the conditions and restrictions, and according to the terms mentioned and contained in the lease of the said ferry to the said Buffalo, Brantford and Goderich Railway Company ; Provided that the declarations, oaths, or other acts necessary to effect a registration of any such vessel by or in the name of the said Company, may be made or done by the Secretary or other officer of the Company.

Proviso.

Proviso.

Company may construct temporary buildings of wood, on certain conditions.

Proviso.

Proviso.

XVII. The said Company may construct any temporary buildings required for the purpose of more conveniently carrying on their works or any of them, of wood or other materials, notwithstanding any such buildings may be within the limits of any Municipality and the construction or building the same of such materials shall be contrary to and in violation of any By-law or By-laws of any such Municipality ; Provided always, that any such building when contrary to such By-law or By-laws shall not be intended as a permanent building or be allowed to remain after the completion of the works for carrying on which the same shall be erected ; And provided also, that any such building shall not, without the consent of such Municipality, be constructed at a less distance than one hundred yards from any neighbouring building, except such neighbouring building belongs to the Company.

A certain agreement for purchase of Railway authorized and confirmed.

Its effect, and how it shall be executed.

XVIII. The said agreement recited at full length in Schedule B to this Act annexed, of the eleventh day of February in the year of our Lord one thousand eight hundred and fifty-six, and the purchase of the said Railway intended thereby, and all other property and privileges of what kind or nature soever mentioned or referred to or intended to be included in the said agreement and in the schedules therein or thereunder written or thereto annexed, are hereby legalized and confirmed ; and the said agreement shall and may be read, construed, and taken in all Courts of law and equity and elsewhere, as if the same had been made in the name of and by and between the said Buffalo and Lake Huron Railway Company and the said Buffalo, Brantford and Goderich Railway Company after the incorporation of the said Buffalo and Lake Huron Railway Company, and as if both Companies had been legally authorized to enter into such agreement ; and the said Railway and all and singular the lands, right of way, and other property, of what kind or nature soever

soever, of the said Buffalo, Brantford and Goderich Railway Company in the said agreement or the schedules therein or thereunder written or thereto annexed mentioned, together with all and singular the appurtenances to the said Railway, lands and other property belonging, shall, upon, from and after the said Buffalo and Lake Huron Railway Company shall take possession under the said agreement of the said Railway and other property, or any part thereof, in the name of the whole, become and be vested in the said Buffalo and Lake Huron Railway Company, their successors and assigns for ever, subject to the payments, terms and conditions mentioned in the said agreement by the said Buffalo and Lake Huron Railway Company, to be made, observed and kept; and subject also to the rights and claims of the holders of mortgage bonds granted by the said Buffalo, Brantford and Goderich Railway Company, and referred to in the said agreement, and to all judgments recovered before the passing of this Act against the said Buffalo, Brantford and Goderich Railway Company, and so registered as to constitute by law a lien upon the lands of the said Buffalo, Brantford and Goderich Railway Company, and not discharged or otherwise satisfied before the said Buffalo and Lake Huron Railway Company shall take possession of the Railway, and to all claims of this Province against the said Buffalo, Brantford and Goderich Railway Company; Provided always, that nothing herein contained shall relieve the said Buffalo, Brantford and Goderich Railway Company from the performance of their covenant or agreement with the said Buffalo and Lake Huron Railway Company, to transfer and deliver the said Railway and every thing appertaining thereto to the said Buffalo and Lake Huron Railway Company, free from all incumbrances which the said Buffalo and Lake Huron Railway Company have not expressly agreed to adopt, discharge or satisfy, according to the terms of the said agreement.

Rights of holders of mortgage bonds saved.

Provido.

XIX. And whereas the said Buffalo, Brantford and Goderich Railway Company are indebted to certain bondholders in the sum of three hundred thousand pounds, or some part thereof, and the principal and interest due on such bonds are secured by a certain indenture of mortgage, dated the first day of June, one thousand eight hundred and fifty-four, made by the said Buffalo, Brantford and Goderich Railway Company to James Kerby, of the Town of Brantford, Esquire, David Christie, of the Township of South Dumfries, Esquire, and Myron P. Bush, of the City of Buffalo, in the State of New-York, Merchant; And whereas there are arrears of interest due on some of the said bonds from the first day of June, one thousand eight hundred and fifty-five, and on certain other of the said bonds from the first day of December, one thousand eight hundred and fifty-five, by reason whereof the powers reserved by the said indenture of mortgage of the first day of June, one thousand eight hundred and fifty-four, for enforcing the payment of the principal

Recital.

Certain persons on behalf of bondholders authorized to confirm the sale of said Railway.

principal and interest due on such bonds, by sale of the said Railway, are liable to be exercised, but the holders of such bonds have agreed to forbear exercising such powers in consequence of the arrangements entered into by the Buffalo and Lake Huron Railway Company and the said Buffalo, Brantford and Goderich Railway Company; Therefore, it shall be lawful for the said James Kerby, David Christie, and Myron P. Bush, or any two of them, at the request of bondholders holding bonds, in the aggregate for not less than thirty thousand pounds, the interest whereof is in arrears as aforesaid, by any deed or deeds, or instrument or instruments in writing, to ratify and confirm the said purchase by and sale to the said Buffalo and Lake Huron Railway Company, or other person or persons, of the said Railway and premises, or if it shall happen that the said purchase and sale shall not take effect, through the default of the said Buffalo, Brantford and Goderich Railway Company to carry out the said agreement and without any fault or failure on the part of the said Buffalo and Lake Huron Railway Company, and if the said Buffalo and Lake Huron Railway Company shall not take possession of the Railway and premises under the said agreement of the eleventh day of February, one thousand eight hundred and fifty-six, it shall be lawful for the said James Kerby, David Christie, and Myron P. Bush, or any two of them, by any deed or deeds, instrument or instruments in writing to enter into any agreements which may be agreed upon between the said James Kerby, David Christie, and Myron P. Bush, or any two of them, and the said Company, or any body corporate, person or persons, for satisfaction of, or compounding for, the principal and interest for the time being, due in respect of the said bonds, either in consideration of a principal sum or principal sums, or in consideration of any annuity or annuities, to be granted or secured by the said Company, body corporate, person or persons, or partly by one mode and partly by the other; And it shall be lawful for the said James Kerby, David Christie, and Myron P. Bush, or any two of them, to sell and convey to the said Company, body corporate, person or persons, and for the said Company, body corporate, or other person or persons, to purchase and take the said Railway and premises, and in case of any such confirmation or sale and purchase as aforesaid, as the case may be, the Company, body corporate, person or persons, as the case may be, shall, thereupon, have and hold the said Railway and premises in the same manner and under the same title thereto, and with the same rights and privileges as they would have held the same, if the Railway and premises had been legally sold, under the powers of the said indenture of mortgage, for a consideration of money, and the Company, body corporate, person or persons, had been legally authorized to purchase, and had purchased the same for a consideration in money from the said James Kerby, David Christie, and Myron P. Bush, or any two of them, in pursuance of the terms of the said indenture

of the first day of June, one thousand eight hundred and fifty-four; and any such purchaser or purchasers thereby acquiring the said Railway and premises shall and may exercise, have and enjoy all the rights, powers and privileges in, over, and in respect of such Railway and premises as the Buffalo, Brantford and Goderich Railway Company had they retained the said Railway and premises could or might have done; Provided always, that nothing done by the said James Kerby, David Christie, and Myron P. Bush, or by any or either of them, as such mortgagees or trustees, under the authority of any thing in this Act contained, or any thing done by them, or any or either of them, as such trustees or mortgagees, shall be construed to render them in any way personally responsible.

Proviso.

XX. And in the event of the said Buffalo, Brantford and Goderich Railway Company refusing or failing to carry out the said agreement of the eleventh day of February, one thousand eight hundred and fifty-six, and if the said Railway shall be sold at the instance of the holders of Bonds of the said Buffalo, Brantford and Goderich Railway Company, or other person or persons, or otherwise howsoever, it shall and may be lawful for the said Buffalo and Lake Huron Railway Company to purchase the said Railway and premises, and every thing appertaining thereto; and the said Buffalo and Lake Huron Railway Company, or other person or persons shall, in the event of their becoming purchasers of the said Railway, have all the powers, rights and privileges of the said Buffalo, Brantford and Goderich Railway Company, and conferred on the said Buffalo and Lake Huron Railway Company by this Act.

In the event of Buffalo, Brantford and Goderich Railway being sold, Company may become purchasers.

XXI. It shall and may be lawful for the Directors of the said Buffalo, Brantford and Goderich Railway Company and of the said Buffalo and Lake Huron Railway Company respectively, from time to time, to make any further agreement with respect to the claims of the said Companies respectively against each other, or in respect to the mode or terms of payment mentioned in the said hereinbefore recited agreement, or the immediate sale of, or compounding for a sum in gross in lieu of the sums or any of them payable annually by the said agreement.

Further agreements may be entered into touching claims of Companies respectively.

XXII. Any copy or extract from the said above mentioned agreement, or of, or from any agreement that shall at any time hereafter be made between the said Companies as aforesaid, or of, or from any deed for the purchase of the said Railway, or of, or from any proceedings of the Directors or Shareholders of either Company with reference to such agreement or purchase, certified to be a true copy or extract by the Secretary or principal officer of the said Buffalo and Lake Huron Railway Company for the time being, and bearing the corporate seal of the said

Extracts duly authenticated from said agreements to be *prima facie* evidence.

said Company, shall be *prima facie* evidence of such agreement, deed or proceedings, or of the part thereof set forth in such extract, in all Courts of Law and Equity and elsewhere.

Company empowered to impose tolls, &c.

XXIII. It shall and may be lawful for the said Buffalo and Lake Huron Railway Company to charge, impose, receive and take tolls upon the said Railway, for the conveyance of passengers and freight at the same rate per mile or other distance, as fixed and determined by the said Buffalo, Brantford and Goderich Railway Company, and to exercise, use, adopt and put in force all or any of the powers, privileges and By-laws of the said Buffalo, Brantford and Goderich Railway Company, until the said rate of tolls, powers, privileges and By-laws shall be altered or changed by any By-law or By-laws of the said Buffalo and Lake Huron Railway Company.

Power to Municipalities, &c., to transfer shares in former Company to this Company.

XXIV. It shall and may be lawful for any Municipality or body corporate holding bonds of the said Buffalo, Brantford and Goderich Railway Company, to sell or transfer such bonds to the said Buffalo and Lake Huron Railway Company, upon such terms and conditions as may be agreed upon between such Municipality or body and the said Buffalo and Lake Huron Railway Company.

Company may purchase and resell bonds or shares of former Company.

XXV. It shall and may be lawful for the said Buffalo and Lake Huron Railway Company, notwithstanding any Act or law to the contrary, to purchase, receive and hold any bonds of the said Buffalo, Brantford and Goderich Railway Company, held by any person or persons, Municipality or body corporate whatsoever, and to resell or transfer the same to any person or persons whomsoever, and while the said Buffalo and Lake Huron Railway Company shall be the holders of any such bonds, they shall have all the rights and privileges, and be subject to all the liabilities incident to the said bonds and the holders thereof.

Company may pay interest on shares out of the paid up Capital until completion of Railroad.

XXVI. It shall and may be lawful for the said Buffalo and Lake Huron Railway Company to pay interest at any rate not exceeding the rate of six per cent. per annum to the shareholders, on the amount paid up on their shares out of the paid up capital of the said Company, until the said Railway shall be completed; such interest to accrue and be paid at such times and places as the Directors of the said Company shall appoint for that purpose; Provided always, that no interest shall accrue to the proprietors of any share upon which any call shall be in arrears, in respect of such share or any other share held by the same shareholder during the period for which such call shall remain unpaid.

Proviso.

Time for completion of works extended.

XXVII. The time limited to the said Buffalo, Brantford and Goderich Railway Company, for the completion of the said Railway to Goderich is hereby extended to two years from the time

time at which the Buffalo and Lake Huron Railway Company shall be put in possession of the Railway and lands under the terms of the said agreement of the eleventh day of February, one thousand eight hundred and fifty-six; and the said Buffalo and Lake Huron Railway Company shall and may complete that portion of the said Railway which has not been completed by the said Buffalo, Brantford and Goderich Railway Company, notwithstanding the failure of the Buffalo, Brantford and Goderich Railway Company to comply with the requirements of the fifteenth Section of the Act passed in the sixteenth year of Her Majesty's Reign, and intituled, *An Act to authorize the Brantford and Buffalo Joint Stock Railway Company to construct a Railway from Fort Erie to Goderich*; and the said Buffalo and Lake Huron Railway Company shall have, exercise and enjoy all the rights, liberties, and privileges that the said Buffalo, Brantford and Goderich Railway Company might have enjoyed with respect to the constructing, completing or working of the said Railway, and every thing necessary or incident to the construction, completion, or working of the said Railway, had the requirements of the said last mentioned Act been complied with; any thing in the said last mentioned Act to the contrary thereof notwithstanding.

16 V. c. 45.

XXVIII. It shall and may be lawful for the said Buffalo and Lake Huron Railway Company, to acquire and hold for the purposes of the said Railway, one hundred acres of land at Goderich, one hundred at or near Fort Erie, forty acres at or near the junction with the Great Western Railway at Paris, forty acres at Stratford, and forty acres at any place or places where the said Railway shall at any time hereafter connect with or cross any other Railway now or hereafter to be made; and it shall and may be lawful for the said Buffalo and Lake Huron Railway Company, their agents, servants, and workmen, to enter into and upon any lands of Her Majesty, or of any person or persons, body politic, or corporate whatsoever, and to take and hold the same for the purpose of procuring and taking gravel, ballast and other material required for the construction, maintaining or repairing the said Railway and works thereto belonging, whether such lands be delineated or set out on the plans or in the book of reference filed in pursuance of the provisions of the Railway Clauses Consolidation Act or not; Provided always, that the said Buffalo and Lake Huron Railway Company shall make compensation to the owner or owners of any such lands so taken, in the manner pointed out in the provisions of the Railway Clauses Consolidation Act relating to lands and their valuation.

Company may take, acquire and hold certain real estate.

Proviso.

XXIX. For the purpose of estimating the capital of the said Company or the dividends to be paid by the said Company, the sum of twenty-five pounds currency shall be deemed and taken to be equal to twenty pounds, ten shillings sterling, and

Relative value of sums currency and sterling.

twenty pounds ten shillings sterling to be equal to twenty-five pounds currency, and any loss or profit that shall or may arise by means of such equalization of value shall and may be borne and taken by the said Company.

Company may hold Stock in a certain foreign Railroad.

XXX. It shall and may be lawful for the said Buffalo and Lake Huron Railway Company to subscribe for, purchase and hold shares in the stock of any Railroad from Black Rock Ferry, in the State of New York, to the City of Buffalo in the same State.

Municipalities not to have the right of naming *ex officio* Directors.

XXXI. Any Municipality becoming the holder of shares in the said Buffalo and Lake Huron Railway Company, either by subscription or purchase of shares, shall have and exercise through the Reeve or Mayor, or other chief officer of such Municipality, the same rights and privileges as other shareholders, and no other rights, and shall not be entitled to nominate or put on the Board of Directors any *ex officio* Director.

Paid Directors may be appointed.

XXXII. It shall and may be lawful for the Directors of the said Company to nominate and appoint a managing Director or Superintendent of the affairs of the said Company, with such powers and at such salary as shall be fixed or determined in or by any By-law, or resolution of the Directors of the said Company.

Certain clauses of the Railway Clauses Consolidation Act incorporated with this Act.

XXXIII. The several clauses of the Railway Clauses Consolidation Act with respect to "Interpretation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their election and duties," "Shares and their Transfer," "Municipalities," "Shareholders," "Actions for indemnity and fines and penalties and their prosecution," "Working of the Railway," and "General provisions," shall be incorporated with this Act, and shall apply to the said Buffalo and Lake Huron Railway Company, and to the said Railway, except only in so far as it may be otherwise expressly provided by this Act, or as they may be inconsistent with or qualified by the express enactments of this Act; and the expression "this Act," when used herein, shall be understood to include and shall include the said provisions of the Railway Clauses Consolidation Act incorporated with this Act as aforesaid; Provided always, that any act, matter or thing, done or prosecuted or commenced by the said Buffalo, Brantford and Goderich Railway Company, or by any person or persons for their benefit or in pursuance of their duty under any of the foregoing provisions of the Railway Clauses Consolidation Act, shall accrue to the benefit of the said Buffalo and Lake Huron Railway Company to the same extent and effect as if done, prosecuted or commenced by themselves or under their authority.

proviso: as to things done by the former Company.

XXXIV. The following persons shall be and constitute a Provisional Board of Directors for the said Company, Charles Hill, Henry Roberts, Charles Makins, James Mackirdy, Thomas Wilde Powell, Robert Hilario Barlow, George Brown, Fayette Rumsey, who shall hold office until the first meeting in September next after the passing of this Act and until a Board of Directors shall be elected under the provisions of this Act, and shall exercise, have and enjoy all the powers and privileges, and perform and discharge all the duties and be subject to all the liabilities of a Board of Directors elected under the provisions of this Act.

Provisional Board of Directors constituted.

XXXV. It shall not be lawful for the said Company to make or declare any dividend payable upon the paid up capital of the said Company, except at the ordinary half-yearly meetings of the shareholders of the said Company.

Dividends when to be declared.

XXXVI. It shall and may be lawful for the said Company, at any time before or after the expiration of the said two years within which they are to complete the line to Goderich as aforesaid, to make, construct and bring the said Railway to any point on the River Maitland, or to the waters of Lake Huron, at or near the Town of Goderich, with power to construct a Branch of the said Railway to some point at or near the Town of Bayfield, and for this purpose to make any continuation or deviation that may be necessary or in their judgment expedient, of or from the line of the said Railway as at present located, and to take such lands as the Company may deem necessary for such purpose.

Certain deviations from and extensions of the original line authorized.

XXXVII. It shall and may be lawful for the said Company to purchase, and for the Canada Company to sell to the said Company if they consent so to do, the harbour of Goderich, commonly called Goderich Harbour, and so much of the Islands in the River Maitland, and the shore adjoining the same River, as may from time to time be mutually agreed upon between the said Company and the Canada Company, and all or any part of the harbours, works, piers, jetties, buildings, lands, hereditaments, rights, easements and appurtenances to the said premises or any of them belonging or appertaining, in such manner and upon such terms and conditions and for such consideration in money, shares, bonds or otherwise, as may be mutually agreed upon, and from and after any such sale and purchase, all the right to take and levy tolls, rents, dues and all other rights, privileges, emoluments and advantages, which immediately before such sale and purchase were vested in or could be lawfully exercised or enjoyed by the Canada Company, shall thereupon be vested in and may thenceforth be lawfully exercised and enjoyed by the Company hereby incorporated; and after such purchase it shall be lawful for the said Company to straighten and improve the River Maitland, and deepen, cleanse and improve: and alter the navigation thereof, and to deepen, cleanse, improve and enlarge

Canada Company authorized to sell Goderich Harbour and lands.

Company may improve the River Maitland.

enlarge Goderich Harbour, and construct any basin or basins, dock or docks, piers, wharfs, sheds, warehouses, depots, stores, and other works thereon or adjacent thereto, which they may think proper, and also to take and appropriate the mud and shore of the River Maitland and the bed and soil thereof, and to do all such other acts as they may deem necessary or proper for improving Goderich Harbour and the navigation of the River and the bed and shores thereof, and the land adjacent thereto.

Guage of Rail- way. XXXVIII. The guage of the said Railway shall be five feet six inches, neither more nor less.

Form and nature of deeds and conveyances for lands. XXXIX. All deeds and conveyances for lands to be conveyed to the said Company for the purposes of this Act, shall and may, so far as the title to the lands therein mentioned or the circumstances of the party making such conveyance will admit, be made in the form given in the Schedule to this Act, marked A.

As to consent for Great Western Railway Company to cross line of road. 18 V. c. 176. XL. The consent required to be obtained by the Great Western Railway Company to cross the said Buffalo, Brantford and Goderich Railway, by the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to enable the Great Western Railway Company to construct a branch Railway to the Town of Brantford, and for other purposes therein mentioned*, shall be obtained from the said Buffalo and Lake Huron Railway Company, unless such consent shall be obtained before the passing of this Act.

Rights of certain bondholders and other parties not to be affected. XLI. Nothing in this Act contained nor in the said agreement therein mentioned, shall confer or be construed and interpreted to confer on any creditor or any holder of any bond or bonds or other security of the said Buffalo, Brantford and Goderich Railway Company, any right or preference or other ground of action or title, than such creditor or holder would have had, had not this Act been passed, nor shall any thing in this Act or the said agreement contained deprive any owner or occupant of lands of his claim for right of way or damages acquired by him against the said Buffalo, Brantford and Goderich Railway Company, but such claims shall also subsist and continue to subsist against the Buffalo and Lake Huron Railway Company.

Preliminary expenses, how paid. XLII. The cost, charges and expenses of and incident to the passing of this Act, and also the costs, charges and expenses of or incurred by the Provisional Committee or Directors preliminary to the passing of this Act, shall be paid by the said Buffalo and Lake Huron Railway Company.

Public Act. XLIII. This Act shall be deemed a Public Act.

SCHEDULE A.

FORM OF CONVEYANCE.

Know all men by these Presents that I  
of \_\_\_\_\_, (*insert the name of the wife also if she is to  
release her Dower, or for any other reason to join in the con-  
veyance,*) do hereby, in consideration of \_\_\_\_\_ paid  
me, (*or as the case may be,*) by the Buffalo and Lake Huron  
Railway Company, the receipt whereof is hereby acknow-  
ledged, grant, bargain, sell, convey and confirm unto the said  
Buffalo and Lake Huron Railway Company, their successors  
and assigns for ever, (*or state the duration of the grant accord-  
ing to the fact,*) all that certain tract or certain parcel of land  
situate (*here describe the land*), the same having been selected  
and laid out by the said Company, (*or the Buffalo, Brantford  
and Goderich Railway Company, as the case may be*) for the  
purposes of their Railway; to have and to hold the said land  
and premises with all and every the appurtenances thereto be-  
longing to the said Buffalo and Lake Huron Railway Com-  
pany, their successors and assigns for ever (*if there be dower to  
be released, add*) and I (*name of wife*) hereby release my dower  
on the premises.

As witness my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ in  
the year of our Lord, one thousand eight hundred and fifty

Signed, sealed and delivered }  
in the presence of } A. B. (L. S).

SCHEDULE B.

INDENTURE of Agreement referred to in the eighteenth Section  
of this Act, between the Buffalo, Brantford and Goderich  
Railway Company, and Robert Hilaro Barlow, on be-  
half of the Buffalo and Lake Huron Railway Company.

THIS INDENTURE made the eleventh day of February, in the  
year of Our Lord one thousand eight hundred and fifty-six, be-  
tween the Buffalo, Brantford and Goderich Railway Company,  
of the first part, and Robert Hilaro Barlow, late of England,  
now of the Town of Brantford, in the County of Brant, and  
Province of Canada, Esquire, for and on behalf of certain  
persons intending to become incorporated by the name and style  
of the Buffalo and Lake Huron Railway Company as herein-  
after mentioned, of the second part:

WHEREAS the said party of the second part on behalf of the  
said intended Company has proposed to the said parties of the  
first part to take, purchase or acquire from them upon the terms  
and in manner hereinafter mentioned, the whole of the line of  
Railway from Fort Erie to Goderich opened and in progress, or  
to

to be opened, right of way, lands, works, materials for construction, engines, rolling stock, and other the property, rights and privileges whatsoever of the said parties of the first part, whether held or claimed, possessed or enjoyed by them by reason of any Act or Acts of Parliament, deeds, conveyances, agreements or assurances, or otherwise howsoever :

And whereas the said parties of the first part have, in pursuance of certain resolutions of the Board of Directors of the said Buffalo, Brantford and Goderich Railway Company and of the Shareholders of the said Company, in general meeting assembled at Stratford on the nineteenth day of December last past, for the purpose of considering the said proposal, agreed to accept the said proposal :

Now this Indenture witnesseth, that the said parties of the first and second parts, mutually covenant, promise and agree to and with each other as follows :

First—That this Indenture or agreement contains the terms, stipulations and conditions by which each party is to be bound as the basis upon which they will apply for and endeavor to procure the passing of an Act at the next Session of Parliament to incorporate the said intended Company with liability of Shareholders limited to the amount of their shares, and authorize and bind the said parties of the first part and the said intended Company respectively, subject to the conditions hereinafter mentioned, to confirm and fulfil the terms of this agreement and to authorize and confirm the selling or leasing by the said parties of the first part to the said intended Company of their line of Railway, material, stock, right of way, lands, and all other the rights privileges and appurtenances of what kind soever, to the said Railway or to the said parties of the first part belonging or in any wise appertaining, together with all such other engagements and stipulations as are expressly contained or incidentally involved in these presents, or which shall be confirmed by such intended Act.

Second—That the said Act for the incorporating of the said intended Company shall be prayed for and be brought before Parliament, by the said party of the second part or the said intended Company, and shall be under his or their control, but the said parties of the first part shall aid and do all in their power to obtain and procure the passing thereof.

Third—That when and so soon as the said intended Act shall have passed, then these presents shall immediately become and form the actual grant and deed of agreement and conveyance between the said parties of the first part and the said intended Company, and shall be absolute unless modified or altered by mutual consent and agreement, and shall be executed by both Companies under their respective Common Corporate seals as  
soon

soon as may be, and shall be binding upon both Companies as if the covenants, stipulations, clauses, matters and things herein contained had been originally entered into by and between the said Companies both before and after the passing of the said intended Act. And thereupon the said party of the second part, shall be discharged from all individual liability in respect of his covenants herein contained; Provided always that if the said Act shall not be obtained, then this agreement and every matter, clause and thing herein contained shall cease to be binding and shall become null and void to all intents and purposes whatsoever.

Now this Indenture also further witnesseth that the said parties of the first part, in consideration of the sums of money or annual payments hereinafter mentioned and agreed to be paid, and of the other covenants, stipulations and agreements entered into on behalf of the said intended company by the said party of the second part, do hereby agree to grant and convey and do by these presents, when they shall become an absolute deed as aforesaid actually grant and convey, bargain, sell, assign, transfer and set over unto the said intended Buffalo and Lake Huron Railway Company, all the line of Railway, works, stations, lands, ferry, right of way, and other premises, property and effects described and mentioned in the Schedule hereunder written, and numbered "One," which said Schedule is to be taken as part of these presents.

To have and to hold unto the said intended Company their successors and assigns for ever, without the interruption, disturbance, or interference of or by the said parties of the first part, their successors or assigns or any person or persons or body corporate claiming, by, through or under or in trust for them, subject to the payment by the said intended Company, their successors and assigns, in manner required by these presents, of the sums or annual payments hereinafter set forth, That is to say:

Thirty thousand pounds sterling a year for the first seven years.

Thirty-two thousand five hundred pounds sterling for the eighth year.

Thirty-five thousand pounds sterling for the ninth year.

Thirty-seven thousand five hundred pounds sterling for the tenth year.

Forty thousand pounds sterling for the eleventh and each and every subsequent year until the redemption by the said intended Company of the mortgage bonds hereinafter mentioned, and from and after such redemption the sum of ten thousand pounds

pounds sterling a year, for ever; Provided always, that the payment of the sum of ten thousand pounds a year shall not, under any circumstances, commence before the said eleventh year. The time for the payment of the said annual sums to commence and be computed from the day on which the said intended Company shall take possession of the said Railway and premises.

And whereas the said parties of the first part, as hereinafter more particularly mentioned, issued their bonds secured by mortgages over their line of Railway and lands hereby by them agreed to be conveyed; the said parties of the first part do hereby covenant, promise, and agree, to and with the said party of the second part acting on behalf of the said intended Company—That the said parties of the first part shall and will reduce the amount of such bonds to five hundred thousand pounds sterling, and that if at the time of delivery of possession of the said line of Railway to the said intended Company, the parties of the first part shall not have reduced the said bonds to the said sum of five hundred thousand pounds sterling, they the said parties of the first part shall and will issue and deliver to the said intended Company their bonds secured on the above deferred rental over the sum of thirty thousand pounds as above agreed to be paid, sufficient to liquidate and indemnify the said intended Company against the amount of the said bonds in excess of the said sum of five hundred thousand pounds sterling. The bonds so to be issued and delivered to the said intended Company, to be taken by the said intended Company and delivered by the said parties of the first part at their then market value; Provided always, that bonds to the amount of thirty-five thousand pounds sterling now held by Messrs. Hesseltine & Powell, of London, England, as security for the completion of the said road, are not to be considered as outstanding, the said parties of the first part being entitled to a return of the same as soon as the said Railway is completed.

And the said parties of the first part hereby further covenant and agree to and with the said party of the second part, that they have already procured or will procure before the said intended Company shall require possession of the said Railway, a good and sufficient title, to at least five-sixths of the whole land forming the line of Railway from Fort Erie to Goderich, and that they will furnish, make and deliver to the said intended Company a good and sufficient title to the said five-sixths of the said lands for the said line of Railway, and to all other the premises hereby by the said parties of the first part agreed to be conveyed or granted to the said intended Company, free from all incumbrances whatsoever except such as are referred to in these presents.

And it is hereby agreed by and between the parties to these presents, that the said intended Company shall for the purpose of securing the bonds of the said parties of the first part sold or disposed of or to be sold or disposed of in accordance with the provisions in this agreement contained, and for no other purpose, be legally subject to and chargeable with the three several mortgages following, that is to say: A mortgage bearing date the twenty-fifth day of August in the year of our Lord One Thousand Eight Hundred and Fifty-Two, of the Line of Railway, from Fort Erie to Paris, to secure bonds not exceeding one hundred and twenty-five thousand pounds sterling. Secondly, a mortgage bearing date the first day of July in the year of Our Lord One Thousand Eight Hundred and Fifty-Three, of the Line of Railway from Paris to Goderich, to secure bonds not exceeding one hundred and eighty thousand pounds sterling. And thirdly, a mortgage bearing date the first day of June in the Year of Our Lord One Thousand Eight Hundred and Fifty-Four, of the whole Line of Railway, securing bonds not exceeding three hundred thousand pounds sterling; and that from and after taking possession by the said intended company of the said Line of Railway and other the premises hereby agreed to be granted, conveyed or assigned to the said intended Company, the said mortgages as security for the said bonds shall be adopted by and be deemed for all practicable purposes to be mortgages and bonds made and given by the said intended Company, who shall be bound to see to the payment of the interest of such bonds and to the discharge of the principal when due, and who shall adopt such bonds as their own proper debts, and shall pay the interest and the principal thereof, respectively, when due, and indemnify the said parties of the first part from all claims and damages in respect thereof: Provided always, that the parties of the first part shall reduce the amount of the said bonds to the sum of five hundred thousand pounds as aforesaid, and that the said bonds shall not bear or call for a greater rate of interest than six per cent per annum. And provided also that it shall and may be lawful for the said intended Company to apply the sum of thirty thousand pounds a year, out of the moneys hereinbefore agreed to be paid annually by the said intended Company, in payment of the interest on the said sum of five hundred thousand pounds, and it is also hereby further agreed that the annual payments shall decrease, in proportion as the said intended Company shall pay off and discharge the said bonds; the decrease to be six per cent on the amount by them from time to time paid off; And it is hereby declared that it shall and may be lawful for the said intended Company at their option and risk to pay off the said bonds, or renew the loans when due, to discharge the present mortgages or create one or more new mortgages in lieu of the old, or to re-borrow all or any of the sums secured thereby, whether at a higher or lower rate of interest, and that any profit or loss arising from such financial operations, or any of them, shall belong to and be borne by the said intended Company, and they shall not be deemed

deemed or taken to be trustees for the said parties of the first part or be in any manner accountable to them, for and in respect of any matter or thing arising out of such financial transactions.

And the said party of the second part on behalf of the said intended Company hereby covenants and agrees to and with the said parties of the first part, that the said intended Company shall and will duly, punctually and regularly pay to the said parties of the first part, their successors and assigns the balance of the said annual sums or payments due to them after payment or deduction in each year of the interest on the said bonds as aforesaid, such balance to be due and payable yearly, at the end of nine calendar months from the commencement of each current year computed from the day on which the said intended Company shall take possession as aforesaid, and that they will pay all lawful rates, taxes, and assessments upon the said Railway and premises, and also that the said intended Company shall and will construct the said line of Railway from Paris to Stratford so as to open the same for traffic within six months, and thence to Goderich within two years from the time the said intended Company shall take possession of the said Railway as aforesaid; Provided always, that the said six months shall not under any circumstances begin to run or be computed from an earlier period than the first day of May next.

And whereas the completion of the said Railway from Paris to Stratford and from thence to Goderich within the periods aforesaid forms one of the principal inducements for the parties of the first part to enter into this agreement, and it is hereby expressly agreed that the said intended Company shall and will pay to the said parties of the first part as liquidated and ascertained damages, the sum of one hundred pounds a day over and above all other payments hereby required to be made by the said intended Company, for every day the said Railway shall remain unopened for public traffic for the conveyance of passengers and goods to Stratford aforesaid, beyond and after the said period of six months above limited for the completion of the said Railway to Stratford, and the like sum of one hundred pounds a day for each and every day the said road shall remain unopened for public traffic as aforesaid to Goderich, beyond and after the time limited for the completion of the said road to Goderich as aforesaid.

And it is hereby further expressly agreed, that in the event of the said parties of the first part being unable to arrange with the Bond-holders and other Creditors of the said Buffalo, Brantford and Goderich Railway Company, within the space of three calendar months after the passing of the said contemplated Act, so as to enable the said parties of the first part to deliver over the said Railway and all other the property hereby agreed to be

be sold to the said intended Company, free from incumbrances, except the said Mortgage Bonds to the amount of five hundred thousand pounds sterling, it shall and may be lawful for the said party of the second part or the said intended Company, upon giving one month's notice in writing of their intention so to do to the said parties of the first part, to withdraw from this agreement and these presents, and every clause, matter, and thing herein contained shall thereupon wholly cease and be void.

And it is hereby further agreed by and between the parties hereto, that at the time of taking possession by the said intended Company of the said Railway, the said parties of the first part shall sell, and the said intended Company shall buy all the property and effects of the said parties of the First Part set forth in the Schedule hereunder written, numbered "Two," which said Schedule is a part of this agreement, at a fair valuation to be previously made by two referees, one to be chosen by the said parties of the first part, and one by the said intended Company, or by an umpire to be chosen by the said referees before they proceed to make such valuation, to decide for them in such items as they cannot agree upon; such property and effects to be delivered over to the said intended Company, free and clear from all chattel mortgages, bills of sale, judgments, executions, liens or incumbrances of any kind or description whatsoever.

And whereas the said several annual sums or payments to be paid by the said intended Company as aforesaid, were and are intended to have reference to the state of the works and construction in the month of July last, the said intended Company shall on taking possession of the line and works pay to the said parties of the first part so much money as shall be the fair value of any new and further useful and available works towards the construction of the road executed since the first day of July last, unless the same shall since have become damaged or injured so as to make the said Road no more valuable or further advanced than it was on the said first day of July last; such work and fair value thereof to be decided in case of disagreement or dispute by some engineer or other competent party, to be named by the said parties of the first part and the said intended Company, or if they cannot agree then by the said intended Company alone, but he shall not be one of their own officers, and in case of his being named by the said intended Company alone, he shall sign a declaration that he will act fairly, honorably and impartially between the two Companies.

And it is further agreed by and between the said parties hereto, that the said parties shall respectively use their utmost endeavours to do and allow to be done in their names on their behalf respectively, all acts, deeds, matters and things that shall

shall or may be necessary or proper, in order to procure the said intended Act, and that neither party shall or will openly or secretly take any measures to oppose or impede the same, or decline, refuse, or delay at any and all times to adopt or take any needful steps or proceedings towards procuring such Act.

And the said parties of the first part further covenant with the said party of the second part that they shall and will forthwith after the execution of these presents, proceed to make arrangements with their creditors, so as to enable them to carry out the stipulations and agreements herein contained, and shall and will in all matters use their utmost endeavours to observe, fulfil and keep each and every stipulation and agreement herein contained and on the part of the said parties of the first part to be observed, fulfilled and kept.

And the said parties of the first part hereby further covenant to and with the said party of the second part, that they shall and will upon and immediately after the passing of the said intended Act, execute, seal and deliver all such other and further deeds, acts, conveyances and assurances in the law as shall or may be necessary or requisite for the more perfectly and absolutely assuring to the said intended Company all and singular the real estate property and effects in the Schedules hereunder written, subject to the payment of the said above mentioned annual sums, and the terms of this agreement as by the said intended Company or their Counsel learned in the law, shall be reasonably advised, devised or required, nevertheless at the proper costs, charges and expenses of the said intended Company.

And whereas the right of way has not been obtained over the whole line from Fort Erie to Goderich, and the portions not yet procured have been estimated at one-sixth of the whole, it has been agreed by and between the said parties hereto, that the said intended Company shall procure, buy and pay for the said one-sixth; Provided always, that the said right of way yet to be procured, shall not exceed the average price of fifteen pounds per acre, and in the event of the right of way yet to be procured exceeding one-sixth of the whole line or if the average price per acre shall exceed fifteen pounds, then the said parties of the first part shall procure and pay for all the right of way yet to be procured in excess of the said one-sixth part of the whole, and shall and will pay the excess in price over the said sum of fifteen pounds per acre for such right of way so to be procured by the said intended Company.

SCHEDULE Number "One" above referred to, being the property which the said parties of the first part grant, bargain, sell, assign, transfer, set over and give possession of to the said intended Company in consideration of the annual sums above mentioned.

All the line of Railway and works either wholly or partly constructed and in course of construction from Fort Erie to Goderich.

All the docks, stations, piers, landing places, sidings, turntables, watering places, work shops and other buildings of what kind soever of the said parties of the first part.

All the right of way from Fort Erie to Goderich, and all the lands that have been purchased or taken possession of by the said parties of the first part, whether yet paid for or not, and whether the price thereof may have been yet agreed to or not, including all lands bought or taken possession of either for the present purposes of the line, stations, gravel pits or other conveniences, or with a view to further requirements.

All rails, chairs and other iron-work, sleepers, ties, sills and other materials for permanent way not only laid down but such also as are held in store by the said parties of the first part in connection with and for the purpose of a permanent way or otherwise: And specially and expressly, this schedule includes all the rails, chairs and other iron bought for laying the track of the said Railway from Paris to Stratford, and it is hereby agreed by the said parties of the first part, that they shall and will at their own expense furnish to the said intended Company enough rails, chairs and other iron for laying the permanent way of the whole distance from Paris to Stratford; Provided always, that if the rails held by the said parties of the first part, and delivered with possession of the said Railway to the said intended Company, shall be more than sufficient for the construction of the permanent way from Paris to Stratford, the said intended Company shall pay for all rails remaining and not required for the said permanent way to Stratford, at a valuation in manner above mentioned.

Also the lease of ferry, ferry privilege or right, or usage of ferry across the river from Buffalo to the Canadian shore as held and enjoyed by the said parties of the first part, and generally all the property of the said parties of the first part not expressly comprised in the said second schedule.

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SCHEDULE Number "Two" above referred to, being the property and effects intended to be sold by the said parties of the first part, to the said intended Company at a valuation.

All the Engines, Tenders, Passenger, Freight and other Cars, and Carriages usually classed under the name of Locomotive Stock or Rolling Stock, owned by the said parties of the first part,

part, at the time the said intended Company shall take possession of the said Railway and Premises, and all Stores which at that time may be held by the said parties of the first part, in connection with the Locomotive, or Carriage, or Freight departments, and all their Office furniture not being fixtures, it being clearly understood that all fixtures pass as included in the said first said Schedule.

All such Tools, Trucks, Contractors' Engines or other moveable plant, implements or apparatus being such as are used by Contractors in the process of constructing Railways, which the said parties of the first part shall own at the time the said intended Company shall take possession as aforesaid.

In witness whereof the said parties hereto have hereunto set their hands and seals, that is to say : The said parties of the first part, their corporate seal and the hand of John Galt, Esquire, their President, and the said party of the second part, his own proper hand and seal, the day and year first above written.

(Signed,) JOHN GALT, *President.*

(Signed,) W. JOHNSTONE, *Secretary.*

(Signed,) ROBERT HILARO BARLOW.

Signed, Sealed and  
Delivered in presence of,

(Signed,) M. C. CAMERON.

C A P . X X I I .

An Act to revive, continue and amend the Act incorporating the Hamilton and Port Dover Railway Company.

[Assented to 16th May, 1856.]

Preamble.

**W**HEREAS the Hamilton and Port Dover Railway Company have represented by their Petition, that they have entered into contracts for the completion of the Railway authorized by their Act of Incorporation, and have prayed that the time thereby allowed for commencing their said Railway may be extended, and that certain other amendments may be made to their said Act to facilitate the carrying out of the said undertaking, and it is expedient to grant the prayer of their Petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Time for com-  
mencing and  
completing

I. For and notwithstanding any thing in their special Act, the Railway Clauses Consolidation Act, or in any other Act contained, the said special Act shall, and is hereby declared to be and

and to have been in full force and effect, and the corporate powers of the said Hamilton and Port Dover Railway Company shall continue in force, provided they shall commence the construction of the works therein mentioned, and expend ten per cent. on the amount of their capital, within three years from the passing hereof. the works extended.

II. So much of the ninth clause of the special Act as requires, that each of the Directors of the said Company shall be a Shareholder to the extent of one thousand pounds, shall be and the same is hereby repealed, and the Directors of the Company shall be chosen from among the Shareholders holding Stock to the amount of five hundred pounds, which shall be the qualification of a Director. Qualification of Directors reduced.

III. Whereas the persons incorporated by the Act passed last Session, intituled, *An Act to incorporate the Hamilton and South-Western Railway Company*, have elected to abandon their said Charter, and are proceeding to construct a line of Railway under the provisions of the Act incorporating the Hamilton and Port Dover Railway Company: Be it enacted, That the said Act incorporating the Hamilton and South-Western Railway Company be and the same is hereby repealed. Recital. 18 V. c. 193, repealed.

IV. All bonds or debentures issued by the Company, and all interest, warrants, or *coupons* attached thereto, which shall be issued by the Company, payable to bearer or to order, shall be assignable at law by delivery or endorsement; and may be sued on and enforced by the respective bearers and owners thereof, for the time being, in their own names. Bonds, &c., of the Company, how assignable.

V. Any Municipality which may have lawfully subscribed for Stock in the said Hamilton and Port Dover Railway Company, or that may hereafter lawfully subscribe for Stock or may loan any sum of money to the said Company, may issue its debentures or bonds therefor, payable in sterling or otherwise, and at such place or places in this Province or elsewhere as such Municipality may see fit. Municipalities subscribing may issue debentures.

VI. This Act shall be deemed a Public Act.

Public Act.

### C A P . X X I I I .

An Act to extend the line of the Port Dalhousie and Thorold Railway Company.

[Assented to 16th May, 1856.]

**W**HEREAS the Port Dalhousie and Thorold Railway Company have prayed for power to extend their Railway to Port Colborne on Lake Erie, and it is expedient to grant such power on the conditions hereinafter mentioned: Preamble.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Company may extend their Road to Port Colborne.

I. The said Company shall have full power to lay out, construct, make and finish a double or single Iron Railway or Road, from Thorold to Port Colborne, and to such extension of their said Railway and to all things thereunto relating, all the provisions and enactments of the Act incorporating the said Company shall extend and apply as fully as to the Railway described in the Act incorporating the said Company.

Capital may be increased by £100,000.

Proviso: additional Capital must be raised &c., before extension is commenced.

Proviso: Period for commencing and completing, limited.

II. For the purpose of extending their Railway as aforesaid to Port Colborne, the Capital Stock of the said Company may be increased by a sum not exceeding One Hundred Thousand Pounds, Currency, to be divided into shares as provided by the fifth section of their said Act of incorporation; Provided always, that the Company shall not commence the said extension of their Railway or exercise any of the powers hereby given them in respect thereof (except the power of increasing their Capital with a view to making the said extension) until the whole of the said additional Capital of One Hundred Thousand Pounds shall have been *bonâ fide* subscribed for, and five per centum thereon shall have been actually paid up; And provided also, that the said extension to Port Colborne shall be actually commenced within two years from the passing of this Act, and completed within five years from the same time, otherwise the right of the Company to make the same shall cease and determine.

Judge of County Court may appoint Guardian to Infants to sell land to the Company, &c.

III. Whenever any lands which are required by the said Company for their Railway or the extension thereof, and which may be taken by them for that purpose under their said Act of Incorporation and the clauses of the Railway Clauses Consolidation Act incorporated therewith, or any estate or interest in such lands, shall belong to a minor or infant having no guardian or other person acting for him, upon whom the notice required in such case can be served or who can convey such lands, estate or interest to the Company, then upon application by the Company to the County Judge of the County or Union of Counties in which such lands lie, it shall be lawful for such Judge, after having first made such inquiry (if any) as he may think necessary, to appoint some person to be guardian to such minor or infant for the purpose of the said Acts and as regards such lands, estate or interest, and the person so appointed shall be such guardian accordingly, and may convey such lands, estate or interest to the Company or receive the notice aforesaid, and do all things necessary in the premises; and the word "minor," or "infant," in this section shall include minors or infants.

IV. The Town Council of the Town of Saint Catherines may acquire and hold the Stock of the said Company at present held by private Shareholders ; and whenever the said Council shall have acquired and shall hold the whole of the said shares now held by private Shareholders, then and thereafter each share of the Stock of the Company held by any Municipality, shall entitle such Municipality to one vote in the election of Directors, and the Head of each such Municipality shall represent such Municipality at all such elections, and shall exercise such right of voting under the instructions of the Council of his Municipality ; but the Head of any Municipality holding Stock in the Company shall not, after such purchase by the Town Council of Saint Catherines of all the Stock held by private Shareholders, be a Director *ex officio*.

Council of St. Catherines may purchase the Stock held by private Shareholders :

Consequence of such purchase, as regards elections of Directors, &c.

V. In addition to the persons already qualified to be Directors of the said Company, any person residing in any Municipality which lies on the line of the said Railway and which holds Stock in the Company who shall be possessed of freehold property in such Municipality of the value of seven hundred and fifty pounds over and above all incumbrances thereon, may be elected a Director of the said Company, without its being necessary that such person should possess any Stock in the said Company.

Freeholders to a certain amount in certain localities may be Directors, without further qualification.

VI. This Act shall be deemed a Public Act.

Public Act.

C A P . X X I V .

An Act to amend the Act of Incorporation of the L'Assomption River and Railway Company.

[Assented to 16th May, 1856.]

**W**HEREAS it is expedient to amend and extend the Act passed in the eighteenth year of Her Majesty's Reign, chaptered one hundred and ninety-one, intituled, *An Act to incorporate the L'Assomption River and Railway Company*, so as to enable the said Company to erect dams and locks on the said River, for the purpose of raising the water to a sufficient height for Steamboat navigation up to the first rapids on the Laquarreau River in the Parish of St. Paul : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble.

18 V. c. 191.

I. The said Company is hereby authorized and empowered to construct a dam at the mouth of the L'Assomption River, at or near the upper end of the Island known as Deschamp's Island, in the Parish of Repentigny, with a lock and canal for boats and lumber to pass through ; provided such dam shall not raise the waters more than eight feet six inches above low water, and that the said lock shall not be less than one hundred and

Company may on certain conditions make a dam or dams and locks on the Assomption River.

Proviso.

fifty feet long and thirty-three feet wide, and shall not have less than four feet and a half of water on the sills at low water, nor shall the said canal be less than thirty-three feet wide, nor have less depth of water than that in the lock; And further, provided always, that should the said Company not find it practicable to erect such dam more than four feet six inches high, at the above named place, they shall have the right and privilege of erecting another dam four feet high from low water, above the Village of L'Assomption, at some convenient place, with a lock and canal of the same dimensions as before stated.

Timber to pass free.

II. The said Company shall be bound at all times to leave a free outlet for the passage of wood and timber of every description which shall descend the said River, and for that purpose shall construct any slide which may be necessary to receive the said timber and enable it to pass without obstruction and free of toll.

Company liable for all damages done in carrying their powers into effect.

III. Provided always, that the said Company shall be liable for all damages which the construction of any such dam may cause to the lands, bridges, mills and properties of any individual whomsoever, and also for any other damage whatever resulting from such construction, which damages shall be ascertained and fixed by three arbitrators, one to be appointed by the Company, one by the party claiming compensation and the third by the two said Arbitrators so appointed by the said Company and party claiming compensation: Provided always that if either the Company or party so claiming compensation shall refuse or neglect to appoint an Arbitrator within one month after notice to that effect, then it shall be lawful for any Judge of the Superior or Circuit Court for Lower Canada to select an Arbitrator on behalf of the party so neglecting or refusing, and the two so then appointed shall select a third; and if the two Arbitrators appointed as aforesaid, either by the parties, or by one of them and by a Judge on behalf of the other, cannot agree as to the appointment of a third Arbitrator, it shall be lawful for any Judge of the Superior or Circuit Court for Lower Canada, on the Petition of either of the said Arbitrators and after due notice to the other, to appoint such third Arbitrator, and the decision of a majority of the three Arbitrators shall be final, subject, nevertheless, to the jurisdiction of the Courts of Law.

Proviso: as to appointment of Arbitrators in case of difference.

Public Act.

IV. This Act shall be deemed a Public Act.

### C A P . X X V .

An Act to incorporate certain persons under the name and style of the "Canada North-West Railway Company."

[Assented to 16th May, 1856.]

Preamble.

**W**HEREAS the Municipalities of the City of Toronto, Saugeen, Elderslie, Brant, Carrick, Bruce, Arthur, Peel and

and Minto, have petitioned that an Act might be passed authorizing the construction of a Railway from the waters of Lake Huron, at or near the Town of Southampton in the County of Bruce, to the waters of Lake Ontario at Toronto, or to intersect some other line of Railway so as to form a Railway connexion betwixt the two first mentioned places ; And whereas a Railway so constructed would manifestly tend to open an extensive tract of fertile country and promote its general prosperity : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. The Honorable Wm. Cayley, M.P.P., and Alexander McNabb, County of Bruce ; George Jackson, M.P.P., W. K. Fletcher, County of Grey ; Wm. Clarke, M.P.P., Charles Allan, County of Wellington ; Honorable J. H. Cameron, M.P.P., John George Bowes, M.P.P., John Beverly Robinson, George Duggan, James Beaty, John Duggan, John Hutchinson, Marcus Rossin, John Harrington, W. F. Meudell and John Ewart, Jun., of the City of Toronto, Esquires, together with such other person or persons, Corporations and Municipalities as shall under the provisions of this Act become Shareholders in the Company hereby incorporated, shall be and are hereby ordained, constituted and declared to be a body corporate and politic by and under the name of the "Canada North-West Railway Company."

Certain persons incorporated.

Corporate name.

II. The several clauses of the Railway Clauses Consolidation Act with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said last mentioned Act with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their election and Duties," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for indemnity, and fines and penalties and their prosecution," "Working of the Railway," and "General Provisions," shall be incorporated with this Act, and shall accordingly apply to the said Company and the said Railway, except only in so far as may be inconsistent with the express enactments hereof ; and the expression "this Act" when used herein shall be understood to include the provisions of the Railway Clauses Consolidation Act which are incorporated with this Act as aforesaid.

Certain clauses of 14 & 15 V. c. 51 incorporated with this Act.

III. The said Company and their servants and agents shall have full power under this Act to lay out, construct and complete a Railway connexion between Lake Huron, at or near the Town of Southampton in the County of Bruce, and Lake Ontario at Toronto, with full power to pass over any portion of the Counties of Wellington, Grey and Bruce, to intersect and unite with the Grand Trunk Railway at the Town of Guelph, as provided by the ninth section of the Railway Clauses Consolidation

Line of Railway defined.

Consolidation Act, and to construct a Fork or Branch to Owen Sound from any point north of Durham.

Form of deeds to the Company.

IV. Deeds and conveyances under this Act for the lands to be conveyed to the said Company for the purposes of this Act, shall and may as far as the title to the said lands or circumstances of the parties making such conveyance will admit, be made in the form given in the Schedule to this Act marked A, and all Registrars are hereby required to register in their Registry Books such deeds on the production thereof and proof of execution, without any memorial, and to minute every such entry on the Deed ; the said Company are to pay the Registrar for so doing the sum of two shillings and six pence, and no more.

Registration.

Provisional Directors appointed.

V. From and after the passing of this Act the said Honorable William Cayley, M.P.P., and Alexander McNabb, County of Bruce ; George Jackson, M.P.P, and W. K. Fletcher, County of Grey ; Wm. Clarke, M.P.P., and Charles Allan, County of Wellington ; Honorable J. H. Cameron, M.P.P., John George Bowes, M.P.P., John Beverly Robinson, George Duggan, James Beaty, John Duggan, John Hutchinson, Marcus Rossin, John Harrington, W. F. Mendell and John Ewart, Jun., of the City of Toronto, Esquires, shall be the Provisional Directors of the said Company for carrying into effect the object and purposes of this Act.

Vacancies among them, how filled.

VI. It shall and may be lawful for the Provisional Directors for the time being of the said Company, or a majority of them, to supply the place or places of any of their number from time to time dying or declining to act as such Provisional Director or Directors, out of the several subscribers for stock in their said Railway to the amount of at least two hundred and fifty pounds provincial currency each, during the period of their continuance in office, and such Provisional Directors, except as hereinafter is excepted, shall be and they are hereby invested with all the powers, rights, privileges and indemnities, and they shall be and they are hereby made subject unto the like restrictions, as the elected Directors of the said Company, upon their being elected by the Stockholders of the said Company as hereinafter provided, would under the provisions of the Railway Clauses Consolidation Act and of this Act, become invested with or subject unto respectively.

Their powers.

First general meeting.

VII. When and so soon as shares to an amount equivalent to four hundred thousand pounds provincial currency, in the capital stock of the said Company shall be taken, and ten pounds per centum thereon shall have been paid in, which amount shall have been paid into some Chartered Bank, and shall not be withdrawn or otherwise applied unless for the purposes of this Act, it shall and may be lawful for the Provisional Directors of the said Company for the time being, to call a meeting

And election of Directors.

meeting at the Town of Guelph of the subscribers for stock in the said Company, and who have paid ten per centum thereon as aforesaid, for the purpose of electing Directors of the said Company; Provided always, that if the said Provisional Directors shall neglect or omit to call such meeting, then the same may be called by any ten of the holders of shares in the said Company holding among them not less than an amount equivalent to five thousand pounds provincial currency; And provided always, that in either case public notice of the time and place of holding such meeting shall be given during one month in some one newspaper published in the Town of Guelph, and also in some one newspaper published in each of the counties through which the said Railway shall pass or be intended to pass, or in such of the said counties as shall have a newspaper published therein respectively; and at such General Meeting the Shareholders assembled, with such proxies as shall be present, shall choose eleven persons to be Directors of the said Company, being each a proprietor of shares in the said Company to an amount of not less than two hundred and fifty pounds provincial currency, and shall also proceed to pass such Rules, Regulations and By-laws, as shall seem to them fit, provided they be not inconsistent with this Act.

How called if Provisional Directors neglect to call it.

Notice in either case.

Number and qualification of Directors, &c.

VIII. The Directors so elected or those appointed in their stead in case of vacancy, shall remain in office until the first Wednesday in June, one thousand eight hundred and fifty-eight, and on the said first Wednesday in June and on the first Wednesday in June in each year thereafter, or such other day as shall be appointed by any By-law, an Annual General Meeting of the Shareholders shall be held at the office of the Company for the time being, to choose eleven Directors in the room of those whose period of office shall have expired, and generally to transact the business of the Company; but if at any time it should appear to any ten or more of such Shareholders holding together one thousand shares, at least, that a Special General Meeting of the Shareholders is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof in such newspapers as are hereinbefore provided, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place and the reason and intention of such Special Meeting respectively, and the Shareholders are hereby authorized to meet pursuant to such notice and proceed to the execution of the powers by this Act given to them, with respect to the matter so specified only; and all such acts of the Shareholders, or the majority of them at such Special Meetings assembled, (such majority not having either as principals or proxies less than one thousand shares,) shall be as valid to all intents and purposes as if the same were done at Annual Meetings.

Term of office.

Annual general meetings.

Special general meetings.

Notice.

Power of such meetings.

Capital  
£750,000.

Shares £5  
each.

Proviso : for  
increase of  
Capital.

IX. For the purpose of making, constructing and maintaining the Railway and other works necessary for the proper use and enjoyment of the Railway by this Act authorized to be constructed, it shall and may be lawful for the Directors of the said Company for the time being to raise in such manner by loan, subscription of stock, issuing of shares or otherwise as to the Directors of the said Company for the time being shall from time to time seem fit, the sum of seven hundred and fifty thousand pounds provincial currency, such shares to be issued in sums of five pounds provincial currency each; Provided always, that the said capital sum may from time to time if necessary be increased in the manner provided for by those clauses of the Railway Clauses Consolidation Act, which in and by the second section of this Act are expressed to be incorporated with this Act.

Directors to  
issue scrip,  
bonds, &c.

X. It shall and may be lawful for the Directors of the said Company for the time being, to make, execute and deliver all such scrip and share certificates, and all such bonds, debentures, mortgages or other securities, as to the said Directors for the time being shall from time to time seem most expedient for raising the necessary capital for the time being authorized to be raised by the said Company, or for raising any part thereof.

Votes : one  
for each share.

XI. Every proprietor of shares in the said Company shall be entitled on every occasion when the votes of the members of the said Canada North-West Railway Company are to be given, to one vote for every share of five pounds currency held by him.

Assignment  
of bonds, de-  
bentures, &c.

XII. All bonds, debentures and other securities to be executed by the said Canada North-West Railway Company may be payable to bearer, and all such bonds, debentures or other securities of the said Company, and all dividends and interest warrants thereon respectively, which shall purport to be payable to bearer, shall be assignable at law by delivery, and may be sued on and enforced by the respective bearers and owners thereof for the time being, in their own names.

Quorum of  
Directors.

XIII. Any meeting of the Directors of the said Company, at which not less than five of such Directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said Directors.

Calls.

Proviso :  
Amount of  
calls limited.

XIV. Calls may be made by the Directors of the said Company for the time being : Provided that no call to be made upon the subscribers for stock in the said Railway Company shall exceed the sum of ten pounds per centum upon the amount subscribed for by the respective Shareholders in the said Company, and that the amount of any such calls in any one year shall not exceed fifty pounds per centum upon the stock so subscribed : Provided also, that upon the occasion of any

Proviso : ten

any person or Corporation becoming a subscriber for stock in the said Company, it shall and may be lawful for the Provisional and other Directors of the said Company, for the time being, to demand and receive to and for the use of the said Company, the sum of ten pounds per centum upon the amount so, by such person or Corporation, respectively subscribed, and the amount of such calls as shall have already been made payable in respect of the stock then already subscribed, at the time of such person or Corporation respectively subscribing for stock.

per cent may be demanded on subscribing.

XV. And whereas it may be necessary for the said Company to possess gravel pits and lands containing deposits of gravel, as well as lands for stations and other purposes at convenient places along their line of Railway, for constructing and keeping in repair and for carrying on the business of the said Railway; And as such gravel pits or deposits cannot at all times be procured without buying the whole lot of land whereon such deposits may be found: It is therefor enacted, that it shall be lawful for the said Company, and they are hereby authorized, from time to time, to purchase, have, hold, take, receive, use and enjoy along the line of the said Railway or separated therefrom, and if separated therefrom then with the necessary right of way thereto, any lands, tenements and hereditaments which it shall please Her Majesty or any person or persons, or bodies politic, to give, grant, sell or convey unto, and to the use of or in trust for the said Company, their successors and assigns, and it shall and may be lawful for the said Company to establish stations or workshops on any of such lots or blocks of land, and from time to time, by deed of bargain and sale or otherwise, to grant, bargain, sell or convey any portions of such lands not necessary to be retained for gravel pits, sidings, branches, wood-yards, station grounds or work-shops or for effectually repairing, maintaining and using to the greatest advantage the said Railway and other works connected therewith.

Company enabled to hold land for gravel pits, stations, &c., beyond the extent limited by the general Act.

XVI. The said Railway shall be commenced within two years and completed within five years after the passing of this Act.

Period for commencing works, &c.

XVII. All provisions of Law inconsistent with this Act are and shall be repealed from the passing thereof.

Enactments repealed.

XVIII. The Interpretation Act shall apply to this Act, and this Act shall be deemed a Public Act.

Public Act.

#### SCHEDULE A.

Know all men by these presents that I,  
*(insert the name of the wife also, if she is to release her dower,  
 or for any other reason to join in the conveyance.)* do hereby  
 in consideration of \_\_\_\_\_ paid to me (or as the case  
 may



that the said Railway may be commenced at any time within two years, and completed at any time within seven years from the passing of this Act. completing the work.

II. This Act shall be deemed a Public Act.

Public Act.

## C A P . X X V I I .

An Act to amend the Acts relating to *La Banque du Peuple*.

[Assented to 16th May, 1856.]

**W**HEREAS by an Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to increase the Capital Stock of La Banque du Peuple and for other purposes*, the said Bank was authorized to add a certain sum to its present Capital Stock, and the Act incorporating the said Bank was continued on certain conditions to the first day of January one thousand eight hundred and seventy; And whereas doubts have arisen whether the members of the Corporation of the said Bank could legally accept the conditions attached to the extension of the duration of its Charter by the eighth section of the said Act, without having previously obtained the consent of the Stockholders *Commanditaires*; And whereas at the annual general meeting of the said Stockholders called by public notice, and held at their Banking House on Monday the third day of March, of the present year, the members of the said Corporation were specially authorized to accept and carry into effect the provisions of the above mentioned Act, and particularly those relating to the augmentation of the Capital and the extension of the duration of the Act incorporating the said Bank, and it is therefore expedient to allow further time for the Bank to avail itself of the provisions of the said Act: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It is and shall be lawful for the members of the Corporation of the said Bank to authorize one of the Directors or officers of the said Bank to sign alone, all notes issued or to be issued by the said Bank; and all notes so signed shall be as valid as if they had been signed and countersigned by two officers of the said Bank.

Bank notes may be signed by one Officer, and be valid.

II. The period of one year mentioned in the eighth and ninth sections of the Act passed in the now last session of the Provincial Parliament, and intituled, *An Act to increase the Capital Stock of La Banque du Peuple and for other purposes*, shall be extended and prolonged and be deemed not to have expired until six months from and after the passing of this Act; until and within which period of six months the members of the Corporation of *La Banque du Peuple* may and they are hereby authorized to exercise all the powers in the said two sections mentioned,

Period allowed by 18 V. c. 43, sections 8 & 9 extended.

mentioned, on the conditions and on compliance with the formalities thereby prescribed, as fully as the said *La Banque du Peuple* could have done before the day in the said Act limited and expressed.

Per centage for collection may be charged in addition to discount in certain cases.

III. In discounting promissory notes, bills or other negotiable securities or paper payable within the Province, at a place different from that at which they are discounted, the Bank may also in addition to the discount make a charge not exceeding one half per centum on the amount of every such note, bill or other negotiable security or paper, to defray the expenses of agency and exchange attending the collection of every such note, bill or security or paper.

Public Act.

IV. This Act shall be deemed a Public Act.

## C A P . X X V I I I .

An Act to explain and amend the Charter of the Brockville Gas Light Company.

[Assented to 16th May, 1856.]

Preamble.

16 V. c. 108.

**W**HEREAS it is expedient to explain and amend in the manner hereinafter mentioned, the Act passed in the sixteenth year of the Reign of Her Majesty, intituled, *An Act to incorporate the Brockville Gas Light Company*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Section 2 of the said Act explained.

I. The expression "to pledge and hypothecate the property and income of the said Company" used in the second section of the said Act, shall be sufficient to empower the said Company to mortgage or convey by way of mortgage, any property or estate, real or personal, of the said Company, to any person or persons or body corporate or politic whatever, as security for the payment of any money which shall be borrowed by or owing from the said Company; and it shall not be necessary for the said Company to increase their capital stock or to endeavour to procure subscribers for such increase before it shall be lawful for the said Company to borrow moneys, not exceeding three thousand pounds, for the purposes mentioned in the said second section; and any deed, mortgage or conveyance to be made by the said Company shall be considered duly made and executed if the same shall be signed by the President, Vice President and Secretary, and sealed with the corporate seal of the said Company, by order of the Directors of the said Company; and any power of sale or other powers, covenants or provisions which shall be contained in any such deed, mortgage or conveyance, shall be binding and capable of being executed and performed by the grantee or grantees, mortgagee

How moneys may be borrowed by the Company on the security of its property.

Power of sale binding.

or mortgagees, whether individuals or bodies corporate or politic, as fully and effectually as if such deed, mortgage or conveyance had been made and given by and from one person to another.

II. The Acts of the Legislature of this Province relating to the filing of Mortgages of personal property, or copies thereof, or statements or affidavits of the debts secured thereby, in the offices of the Clerks of the County Courts, shall not apply to any mortgage which shall be made by the said Company, in which both real and personal property shall be conveyed or mortgaged; Provided that in the memorial of such mortgage registered in the proper Registry Office, the personal property conveyed or mortgaged shall be stated and described as in the mortgage or to the same effect.

Acts relative to mortgages if personal not to apply in certain cases.

Proviso.

III. The Directors of the said Company, by and with the assent of the Shareholders declared at some regular annual or special meeting of the Shareholders, may dispose of and issue Scrip for Preferable Shares of the Stock of the said Company, which shares and the holders thereof shall be entitled to such first or additional dividends of the profits of the said Company, or moneys applicable to the payment of dividends, as shall be declared or agreed upon by the Shareholders at such meeting: Provided that notice shall be given in some one or more newspapers published in the Town of Brockville for four weeks before such meeting, to the effect that a proposition will be made at such meeting to sell or dispose of Preferable Shares.

Preferable shares may be issued.

Proviso.

IV. This Act shall be deemed a Public Act.

Public Act.

### C A P . X X I X .

An Act to amend the Act relating to Savings Banks.

[Assented to 16th May, 1856.]

**W**HEREAS under the provisions of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to encourage the establishment of and regulate Savings Banks in this Province*, now in force, it is doubtful whether such institutious can legally acquire and hold landed property; And whereas, also, it is unlawful for any Director or Directors, Trustee or Trustees, or other persons having direction in the management of any Savings Bank established under the said Act, directly or indirectly to have any salary, allowance, profit or benefit whatever from the deposits made therein, or the produce thereof, beyond their actual expenditure for the purposes of such Institution; And whereas it is expedient to amend the said Act in these respects as regards the City and District Savings Bank at Montreal: Therefore, Her Majesty, by and with the advice and consent of the

Preamble.

4 & 5 V. c. 32.

the

the Legislative Council and Assembly of Canada, enacts as follows:

City and District Savings Bank at Montreal may hold real property for its occupation, subject to certain conditions.

May sell the same and acquire other property: and how.

Proviso.

First Director may be paid for his services.

Public Act.

I. It shall and may be lawful for the City and District Savings Bank, now established in the said City of Montreal, under the provisions of the Act above mentioned, to acquire, hold, possess and enjoy any lands, tenements and hereditaments situate within the City of Montreal, provided the lands, tenements and hereditaments so to be acquired, be only such as shall be requisite for the transaction of its business; And all such real property so to be acquired as aforesaid, shall vest in the Directors or Trustees for the time being of the said Institution, in the same manner as is already provided in respect to personal property belonging to the same, and the provisions of the said Act applicable to such personal property shall extend to, govern and be applicable to all such real property to be acquired under the provisions of this Act, as aforesaid, and in case of its being deemed desirable for the interest of the institution to sell or convey the whole or a part of such immoveable property so to be acquired as aforesaid, it shall be lawful for the Directors or Trustees of the said Institution for the time being, or the major part of them (not being less than two thirds) and they are hereby empowered to sell and to convey or assign the same to the purchaser or purchasers, assignee or assignees of the same, subject to such rules and regulations as may from time to time be made by the members of the said Institution in regard to the same; which rules and regulations, before they shall have effect, shall be entered, transcribed and deposited in the manner prescribed for other rules and regulations of such Institutions, by the second section of the Act aforesaid: Provided always, that no sale of the real estate of the Institution shall be made or shall be valid until the resolution of the Directors to that effect shall have been submitted to and approved by the Governor in Council.

II. It shall be lawful for the Directors or Trustees of the said City and District Savings Bank to give and grant to the President or first Director or Trustee of that Institution, as a remuneration for his services, any sum or sums of money not exceeding four hundred pounds currency, per annum, out of the profits on the funds deposited in their hands as such Directors or Trustees; any thing in the said Act relative to Savings Banks to the contrary notwithstanding.

III. This Act shall be a Public Act.

## C A P . X X X .

An Act to enable the Hamilton Hotel Company to increase their Capital Stock, and for other purposes therein mentioned.

[Assented to 16th May, 1856.]

**W**HEREAS the Hamilton Hotel Company, incorporated Preamble.  
by an Act passed in the sixteenth year of Her Majesty's Reign, have since the passing of the said Act erected and completed the Hotel and Stores thereby authorized to be built, and the said Hotel is now in full operation; And whereas the subscribed capital of the said Company is found inadequate to the purposes thereof, and the said Company have petitioned the Legislature for authority to increase the same in the manner hereinafter specified and also to borrow and take up at interest a further sum of money beyond the sum mentioned in their said Act, and it is expedient to grant the prayer of the petition; And whereas in order to protect the interests of the present Shareholders it is desirable that the new shares should be issued and allotted in the first instance among the present Shareholders in proportion to the shares which at the time of such allotment shall be held by them, on such terms as the Directors shall think just: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall be lawful for the Directors for the time being, and they are hereby authorized to issue new shares to the amount of six thousand pounds with a guarantee as hereinafter provided, and to issue and dispose thereof, from time to time, and in such a manner, and on such terms as to time or mode of payment and otherwise, as to them shall seem most advisable, the same being in the first place offered and allotted to the present Shareholders in proportion to the stock held by them; and such new shares shall be issued with or under a guarantee, whereby the holders shall be guaranteed out of the general revenues of the Company, by way of preferred dividends and in priority of the dividends on any other shares, such rate of dividends not exceeding ten per cent. and payable at such time as the Directors shall determine on at the time of issuing the same, but such preferred dividends shall be subject to the payment of the mortgages now or hereafter to be given by the Company, and no payment thereof shall be made until the interest or principal in arrear at the time at which such dividends shall be payable shall have been paid and satisfied; Provided always, that the Directors may, in their discretion, issue a guarantee to such Stockholders as shall subscribe for new stock, guaranteeing a like dividend upon so much of the old stock held by them as shall amount to one moiety of the new stock by them subscribed; And provided also, that no such guaranteed stock shall be issued until the same shall have been

Directors may issue new guaranteed shares to the amount of £6,000.

Extent of guarantee, &c.

Proviso.

Proviso.

been approved of by the votes of a majority of the Shareholders present or represented at a special general meeting to be called for that purpose.

Company may borrow £10,000 more, on security of its property.

II. The said Company shall have power to borrow and take up at interest, in addition to the sums they have already borrowed under their said Act of Incorporation, any sum or sums of money not exceeding in the whole at any one time the sum of ten thousand pounds, at such rate of interest not exceeding ten per cent. per annum as may be agreed on, and to pledge the moveable and immoveable estate and effects of the Corporation for such loans and interest.

Public Act.

III. The Interpretation Act shall apply to this Act, which shall be held to be a Public Act.

## C A P . X X X I .

An Act to incorporate the "Ontario Hotel Company."

[Assented to 16th May, 1856.]

Preamble.

**W**HEREAS Messieurs William P. McLaren, J. W. Willson, H. B. Willson, Burton and Sadlier, J. Brown, Thomas C. Kerr, John Fisher, M. W. Browne, Richard P. Street, Adam Brown, Peter Grant, and R. N. Law, and others, have, by their Petition, represented that it is proposed to form a Joint Stock Company, for the purpose of erecting an Hotel in the Village of Ontario, in the Township of Saltfleet, in the County of Wentworth; and that upwards of Two Thousand Five Hundred Pounds have been subscribed for the purpose; and have prayed that to enable them to do so, they, with such other persons as may associate with them, may be incorporated; And whereas it is desirable to grant the prayer of the said Petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

Corporate name and powers.

I. The said persons, and all other persons, who now are, or hereafter shall become stockholders in the said Company, shall be, and are hereby ordained, constituted and appointed, and declared to be a body corporate and politic, in fact and in name, by the name and style of the "Ontario Hotel Company;" and by that name, shall be capable of suing and being sued, of contracting and being contracted with, and shall have perpetual succession, and a common seal, and they and their successors shall be capable in law of purchasing, having and holding to them and their successors, any real or personal property which may be necessary for the site and erection of the Hotel and other buildings and pleasure grounds to be attached to it, and for the furnishing and conducting thereof generally, but not for other purposes, and of mortgaging, selling, letting, conveying, or otherwise departing therewith,

for

for the benefit and behalf of the Company from time to time, as they shall deem expedient.

II. Each share in the stock of the Company shall be ten pounds, and the number of shares shall not exceed Two Thousand, and books of subscription shall be opened within six months after the passing of this Act, when, where, and under such regulations as a majority of the Petitioners shall direct. Amount and number of shares.

III. It shall and may be lawful for any person or persons to subscribe for any number of shares, the amount whereof shall be due and payable to the Company in manner hereinafter mentioned, that is to say, one per centum on each share so subscribed shall be payable at the time of such subscription, and the remainder shall be payable in such instalments as a majority of the Directors shall determine upon; Provided always, that no instalment shall exceed ten per cent. on the capital stock, nor be called for, nor become payable in less than thirty days after public notice shall have been given in one newspaper published in the City of Hamilton, and by a circular addressed to each stockholder at his or her last known place of residence; and if any stockholder or stockholders shall refuse or neglect to pay such calls, he, she, or they, shall, at the option of the Company, forfeit such share or shares so subscribed for, with the amount previously paid thereon; and such forfeited share or shares may be sold by public auction by the Directors, after such notice as they may direct, and the moneys arising therefrom applied for the purposes of this Act; Provided always, that if the moneys produced by any such sales shall be more than sufficient to pay all arrears and interest, together with the expenses of such sale, the surplus of such money shall be paid, on demand, to the owner—and no more shares shall be sold than shall be deemed necessary to pay such arrears, interest and expenses; Provided also, that such purchaser or purchasers shall pay to the said Company the amount of the instalment required over and above the purchase money of the share or shares to be purchased by him, her or them, as aforesaid, immediately after the sale, and before any certificate of the transfer of such sales shall be given. Instalments, their amount and how and when payable.  
Proviso.  
Proviso.  
Proviso.

IV. If payment of such arrears, interest and expenses be made before any shares so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, as if such call had been duly paid; and in all actions and suits for calls, which the Company are hereby authorized to bring and institute, it shall be sufficient to allege that the defendant, being the owner of such shares, is indebted to the Company in such sums as the arrears amount to, for such and so many shares, whereby an action hath accrued to the Company by virtue of this Act; and on the trial, it shall only be necessary to prove that the defendant was owner of some shares in the said Company, that Recovery of arrears of instalments, if not paid.

that such calls were in fact made, and that notice was given as directed by this Act, and it shall not be necessary to prove the appointment of the Directors who made such calls, or any other matter whatever.

First meeting  
for election of  
Directors.

V. So soon as four hundred shares of the said stock shall have been subscribed as aforesaid, it shall and may be lawful for the subscribers, or any of them, to call a meeting, giving ten days' notice thereof in some newspaper to be published in Hamilton, of the time and place of such meeting, for the purpose of proceeding to the election of Directors; and the persons then and there chosen, shall be the first Directors, and shall be capable of serving until the next election of Directors, and the Directors so chosen, shall and may, immediately after such appointment, commence the business and operations of the Company.

Certain powers  
vested in  
Corporation.

VI. The Corporation hereby created shall have power and authority to make and enter into all such mortgages, contracts, agreements, deeds and other instruments, as may be necessary for acquiring lands for the purpose of a site for an Hotel and conveniencies to be used therewith as aforesaid, and for the erection of such Hotel as they may deem desirable, and to furnish the same, for the purpose of borrowing money on the said site, Hotel and furniture, (for the intent of completing and furnishing the said Hotel, and securing the payment of debts contracted therefor,) and for the sale of any and such portion or portions of the said site so to be purchased as aforesaid on such terms and conditions as the said Corporation may see fit; Provided always, that the said sum or sums so to be borrowed on the said mortgages, shall not exceed ten thousand pounds; and that such loan or loans shall not be effected until sanctioned by a majority of the stockholders present at a meeting or meetings duly called for the purpose, by notice in writing, at least three days before such meetings; and, also, that the sum or sums so borrowed, shall not bear a greater interest than ten per centum per annum; and to enter into and execute all such leases and other agreements for leasing and letting the same, as they may deem most advantageous for the interests of the Company; and all mortgages, deeds, leases, agreements, contracts and other instruments, shall be subscribed by the President, or, in case of his absence, by any two of the Directors and the Secretary.

Proviso:  
Loans limited.

How loans  
must be au-  
thorized.

In case of  
failure to ef-  
fect loan.

VII. In case the said Corporation shall not be able to borrow the said sum of Ten Thousand Pounds in manner aforesaid, then the said Directors may issue to the original Stockholders, who shall make cash advances to the said Company, preference stock to the amount of such cash advances, upon such terms and conditions as the Directors may consider most beneficial for the interests of the Company.

Directors,  
their number

VIII. The stock, property, affairs and concerns of the said Company shall be under the management of five Directors, one  
of

of whom shall be elected President by and amongst themselves, and manner of election. which said Directors shall be Stockholders, and the first Directors shall be chosen in manner hereinbefore appointed, and thereafter shall be elected at a general meeting of the Stockholders to be holden on the first Monday in June in each year, at such place and in such manner as the majority of the Directors for the time being shall direct and appoint; and the election shall be held and be made by such of the Stockholders as shall attend either in person or by proxy; and such election shall be made by ballot, and if it shall happen at any such election, that two or more persons have an equal number of votes, so that a greater number than five appear to have been elected, then the Stockholders shall proceed to ballot a second time, and determine which of the persons so having an equal number of votes, shall be a Director or Directors, so as to complete the number of Directors; and if any Director shall die, resign, refuse or become incapable to act, or cease to be a Director from any other cause, the remaining Directors shall, if they think proper, elect in his place another Stockholder to be a Director until the next annual meeting.

Filling vacancies.

IX. In case, at any time, an election of Directors shall not be made on the day herein appointed, the said Company shall not on that account be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election of Directors in such manner as shall have been regulated by the by-laws, rules and regulations of the said Company.

Provision in case of failure to elect Directors on day appointed.

X. A majority of the Directors shall have full power and authority to make, prescribe and alter such by-laws, rules, regulations and ordinances as shall appear to them proper and needful, touching the management and disposition of the stock, property, estate and effects of the Corporation and the management of its affairs,—to declare and cause to be paid and distributed to the respective Shareholders any dividend or dividends of profits at such times as they may think proper, or add the same to the paid up portion of the capital stock,—and also to appoint such officers, clerks, servants and agents, and at such salaries as they may think proper.

Powers of Directors.

XI. Each Shareholder shall be entitled to one vote for each share held by him or her, in the stock of the Company, in his, her or their own name or names, for at least two months previous to the day of the election; and no transfer of any share shall be valid until entered in the books of the Company according to such form as the Directors may from time to time appoint; and until the full amount of the shares subscribed for shall have been paid up, it shall be necessary to obtain the consent of the Directors to such transfer being made; Provided always, that no Stockholder indebted to the Company shall be permitted to make a transfer or receive a dividend until such debt be paid, or secured to be paid, to the satisfaction of the Directors.

Scale of votes.

Transfer of shares regulated.

Proviso.

XII. This Act shall be held to be a Public Act.

Public Act.

## CAP. XXXII.

An Act to authorize Henry Wulf Trigge, Esquire, and others, to construct a Toll-bridge on the North-east branch of the River Nicolet, near the Church of the Parish of St. Monique, in the County of Nicolet, and to incorporate the said Henry Wulf Trigge, and others, under the name of the "St. Monique Bridge Company."

[Assented to 16th May, 1856.]

Preamble.

WHEREAS the construction of a Toll-bridge on the north-east branch of the River Nicolet, in the Parish of St. Monique, in the County of Nicolet, in the District of Three-Rivers, opposite to the Church of the said Parish, about an arpent and a half higher up than the Banal Mill of the said Parish of St. Monique, would greatly tend to promote the welfare and intercourse of the inhabitants of the said Parish, and of the neighbouring Parishes and Townships, and of the public generally; And whereas Henry Wulf Trigge, Samuel Waterford Woodward, Sévère René, Esquires, Célestin Zéphirin Rousseau, Priest, *Curé*, Etienne Beauchemin, Jean René and Felix Beauchemin, of the said Parish of St. Monique, have by a petition presented by them for that object, prayed to be incorporated by the name of the "St. Monique Bridge Company," and to be authorized to construct a Toll-bridge on the said North-east branch of the said River Nicolet, at the place above mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

Corporate name and general powers.

I. The above mentioned persons, and their heirs, executors, curators and assigns, together with all such other persons as are now or shall at any time hereafter become Shareholders in the said Bridge and its appurtenances, shall be and are hereby constituted and established a body corporate and politic in fact and in name, by the name of the "Saint Monique Bridge Company;" and the said persons are hereby authorized to erect and construct at their own cost and expense, a solid and sufficient Toll-bridge over the said North-east branch of the River Nicolet, in the said Parish of St. Monique, at the place aforesaid, and to erect and construct a Toll-house and Toll-gate, with other dependencies and approaches to or upon the said Bridge; and also to do and execute all such other matters and things as shall be necessary, useful or advantageous for erecting and constructing, keeping up and maintaining the said intended Bridge, Toll-house, Toll-gate and other dependencies, according to the true intent and meaning of this Act; and in all suits and other judicial proceedings, service of process upon the President of the said Company shall be held to be legal and sufficient.

II. The Capital of the said Company for the construction of the said Bridge and dependencies shall not exceed three hundred and fifty pounds currency, and shall be divided into one hundred and forty parts or shares of the value of two pounds ten shillings, currency, each; Provided always, that it shall be lawful for the President and Directors of the Company to increase the Capital of the said Company by the sum of two hundred and fifty pounds; and the said shares shall be deemed personal and moveable estate; and as such shall be transferable by sale or otherwise by the Shareholders in the said Company; and any party acquiring one or several of the said shares shall on the production of a copy of his deed of acquirement to the Directors of the said Company, to be deposited among the Records of the said Company, be considered as a Shareholder in the said Company, and shall enjoy all the privileges and advantages conferred upon and granted by this Act to the other Shareholders in the said Company; Provided always, that no person who shall acquire any shares in the said Company from a Director thereof, shall be entitled to be a Director in the said Company without having been elected as such; Provided also, that no party who shall have acquired any share shall be considered as a Shareholder until he shall have produced his deed of acquirement.

Amount of Capital and number of shares.

Proviso.

Shares, how transferable.

Proviso.

Proviso.

III. The first General Meeting of the Shareholders in the said Company after its incorporation, shall be held in a house or place in the Village of the said Parish of St. Monique, to be designated by the party calling the meeting, after the expiration of one month from the day of the passing of this Act of Incorporation, of which meeting notice shall be given at the door of the Church of the said Parish of Saint Monique by the said Company or by any of the Shareholders appointed for that purpose; and the said notice shall be read and posted up at the door of the Church of the said Parish, and given in writing to the Shareholders residing without the limits of the said Parish at least eight days before such meeting, and shall state the day and hour at which such meeting shall take place; at which meeting the Shareholders present and the absent Shareholders by their proxies, shall appoint a Chairman and a Secretary, for such meeting, and shall choose among the said Shareholders four Directors to manage the affairs of the said Company, who shall only remain in office as Directors until the second Monday in the month of December thence next ensuing, and at the said first meeting the Shareholders present and the absent Shareholders by their proxies, may make and establish such By-laws, Rules and Regulations not being inconsistent with the provisions of this Act, as they shall deem expedient for the management and government of the affairs of the said Company; and the said By-laws, Rules and Regulations shall be entered in a book to be kept for that purpose by the said Company, and shall bind all parties interested in the said Company as effectually as if they formed part of this Act, and shall be

First general meeting.

Directors to be appointed.

be

be and remain in force until altered, amended, extended or repealed.

Scale of votes. IV. In all cases in which the votes of the Shareholders of the said Company shall be taken, the said votes shall be in proportion to the number of shares held by each Shareholder in the stock of the said Company, reckoning one vote for each share, and any Shareholder, if he shall see fit, may vote by proxy; and all questions shall be decided by the majority of votes, and in case of an equal division, the President shall have a casting vote.

President and Secretary-Treasurer to be elected by Directors. V. The majority of the Directors elected as aforesaid, shall, after each election of Directors, elect one among themselves to be the President, who shall cease to be President at the next election, and also a Secretary who shall at the same time be the Treasurer, but shall not be one of the Directors; and the said Directors shall require good and sufficient security from the said Secretary-Treasurer, whom it shall be lawful for them to remove at their will and pleasure; and the said Directors so appointed, three of whom including the President shall form a *quorum*, shall exercise all the powers vested in them: Provided always, that no Director shall have more than one vote at the meetings of the said Directors, and in case of any equal division the President shall have the casting vote; And provided also, that the said Directors shall conform to the orders and directions given to them by the Shareholders, at the general meetings of the said Shareholders, in conformity with the rules and regulations of the said Company.

Proviso.

Proviso.

Annual general meetings, and proceedings at such meetings. VI. After the first meeting to be held as aforesaid, a general meeting of the Shareholders in the said Company shall take place on the second Monday of December in every year, in a house or place in the village of the said parish of St. Monique, to be designated by the party who shall call the meeting, to choose and elect other Directors in the place and stead of the Directors going out of office, and also to transact the business of the said Company, and to modify, amend, alter, repeal, or extend the by-laws, rules and regulations of the said Company, or to substitute others in lieu thereof, as may appear to them advantageous: which said meeting shall be called in the same manner as the first meeting, except that the said notices shall be given and signed by the Secretary-Treasurer of the said Company: and at all meetings of the said Directors, or of the Shareholders of the said Company, the President of the said Company, elected by the said Directors, and in his absence, a Chairman chosen by the majority of the persons present at such meeting, shall preside: and the Secretary-Treasurer shall act as Secretary at all meetings of the said Shareholders: Provided always, that the Directors going out of office may be re-elected, and after each election of Directors, the said Directors shall proceed as above mentioned, to elect a Chairman of the said Directors for the time during which they shall be Directors.

Who shall preside.

Proviso.

VII. Any failure to hold the first general meeting or any other meeting, or to elect such Directors or President, shall not dissolve the said Company, but such failure or omission shall and may be supplied by and at any special meeting to be called as the Directors, in conformity with the by-laws of the said Company, may see fit to appoint, and until such election of new Directors, those who may be in office for the time being, shall be and continue in office and exercise all the rights and powers thereof until such new election be made as hereinbefore provided: Provided always, that it shall be lawful at all times for any six of the Shareholders in the said Company, if they shall deem it necessary and expedient, to call a special meeting of all the Shareholders at some house or place in the village of the parish of Saint Monique, to be designated by the person who shall call the meeting, after having given notice thereof and read and posted the same at the door of the church of the said parish, at least a fortnight before such meeting, and also after having given notice in writing of such meeting to the Shareholders residing without the limits of the said parish: which said notice shall state the purpose of such meeting, and the said meeting shall proceed to transact the business for which it shall have been called, in the same manner as at the annual meeting.

Failure to hold general or other meeting, or to elect Directors, not to dissolve Company.

Proviso.

Special general meetings & how called.

VIII. At any general meeting, three Auditors may be appointed to examine all accounts of moneys received and disbursed by the Directors, and to report thereon to the Shareholders: and it shall be lawful for the majority of the Shareholders present, their heirs, executors, curators and assigns, at any special meeting, to remove any of the said Directors and elect others in their stead: and it shall also be lawful for them to elect others in the room of any of the said Directors who may die, resign or become incapable of acting through sickness or any other cause whatsoever: and to repeal, modify or amend any of the by-laws of the said Company, and to enact others in lieu thereof, as they may deem most advantageous for the said Company.

Auditors may be appointed at general meetings.

Directors may be removed & others appointed.

Powers.

IX. It shall be lawful for the said Directors to meet at all times, and at such Meetings to direct such instalments to be paid on the shares as they shall require, in order to meet the expenses of the said Company: Provided that no such instalment shall exceed twelve shillings and six pence currency, for each share, and provided also that no instalments shall be made payable within less than one month from each other; and no instalment shall be demanded unless eight days' notice thereof shall be given at the door of the church of the said parish of Saint Monique, on a Sunday or Holy-day, and unless eight days' notice in writing shall be given to the Shareholders residing without the limits of the said Parish; and all such instalments shall be paid into the hands of the Secretary-Treasurer, at such times and places as shall be ordered by the said Directors,

Instalments, the amount thereof, and how and when payable.

Directors, under the restrictions above mentioned, and if any of the said instalments shall not be paid at the time required for the payment thereof, it shall be lawful for the President of the said Company, in the name of the said Company, to sue such Shareholders as shall not have paid the amount of their instalments, before any court of competent jurisdiction, and to institute all such legal proceedings as shall be necessary to secure the payment of all sums due to the said Company ; and the shares of all such Shareholders as shall be sued and against whom judgment shall be recovered, shall be liable to seizure and sale for the satisfaction of the said judgments in the same manner as their other goods and chattels, and as in ordinary actions : Provided always, that in any action for the recovery of any instalment due, or of any balance due upon any instalment, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one or more shares in the said Company, (stating the number of shares), and that he is indebted to the Company in the sum of money to which the instalments in arrear shall amount, (stating the number and amount of such instalments), whereby an action hath accrued to the Company by virtue of this Act ; and it shall be sufficient to maintain the said action, to prove by one witness that the defendant at the time of making such call, was a holder to the number of shares mentioned in the declaration, and that a demand was made and notice thereof given, in conformity with the above mentioned requirements, or of any other By-laws which shall have been made for that purpose by the said Company ; and it shall not be necessary to prove the appointment of the said Directors, nor any other matter whatsoever, in order to obtain judgment in favor of the said Company.

Proviso :  
Recovery of  
instalments  
not paid.

Directors may  
appoint agents,  
servants, &c.

X. It shall be the duty of the said Directors to appoint as many agents, officers, keepers and servants as they shall deem expedient for the interests of the said Company, and to fix the salaries and remuneration of the said agents, officers, keepers and servants ; and to make all payments and contracts for the purposes of the said Company, and all other matters necessary for the transaction of its affairs ; to answer in the name of the said Company in all legal suits and actions, and plead to the same, and generally to do all things which they shall deem necessary and advantageous for the said Company ; Provided they shall not be in opposition to the By-laws of the said Company, nor to this Act.

Proviso.

Provision in  
case of any  
person ceasing  
to be Secretary-Treasurer.

XI. It shall be the duty of any person who shall cease to act as Secretary-Treasurer to the said Company, to deliver over to the President thereof, all books, papers, records, documents, and other objects which he may have in his possession, belonging to the said Company ; and on his refusal to deliver over the same on demand, to the said President, he shall be liable to the said Company in the sum of twenty-five pounds currency, and

and shall deliver up every article in his possession belonging to the said Company, with costs ; and it shall be lawful for the President in the name of the said Company, to sue for the recovery of the said amount, and the delivery of the said articles, before any Court of justice of competent jurisdiction.

XII. For the purpose of erecting, building, maintaining and supporting the said Bridge, the said Company shall from time to time have full power and authority to take and use the land on either side of the said river, and there to work up or cause to be worked up the materials and other things necessary for erecting, constructing, or repairing the said Bridge accordingly, doing as little damage as possible, and making just and reasonable compensation for the damage so caused, and the value of the land so taken or occupied as aforesaid.

Company may take land on both sides of the river.

XIII. The said Bridge and the said Toll-house, Toll-gate, and dependencies to be erected thereon, or near thereto, and also the ascents or approaches to the said Bridge, and all materials which shall be from time to time found or provided, for erecting, building, or maintaining and repairing the same, shall be vested in the said Company for ever ; Provided that

Bridge, &c., vested in Company.

after the expiration of fifty years from the passing of this Act, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession and property of the said Bridge, Toll-house, Toll-gate and dependencies, and the ascents and approaches thereto, upon paying to the said Company the full and entire value which the same shall at the time of such assumption, bear and be worth : Provided always, that nothing herein contained shall be construed to prevent any number of inhabitants interested in the said bridge from assuming at any time the possession and property of the said Bridge, Toll-house, Toll-gate and dependencies, and the ascents and approaches thereto, upon paying to the said Company the full and intrinsic value which the same shall at the time of such assumption bear and be worth, with an addition of twenty-five per cent upon such intrinsic value, and that, after such assumption of the said Bridge, it shall become a free Bridge.

Proviso :

Her Majesty may assume the Bridge.

Proviso : and so may the inhabitants interested.

XIV. When and so soon as the said Bridge shall be erected and built, and made fit and proper for the passage of travellers, cattle, horses and carriages, and the same shall have been published in each of the English and French languages, at the doors of the Church of the Parish of St. Monique, it shall be lawful for the said Company from time to time and at all times, to ask, demand, receive, take, sue for and recover to and for their own proper use, benefit and behoof, for pontage, as or in the name of a toll or duty, before any passage over the said Bridge shall be permitted, the several sums following, that is to say :

Bridge to be certified as fit for use before tolls are taken.

For

Tolls to be taken.

For every carriage or other four wheeled vehicle drawn by two horses, eight pence currency ;

For every four wheeled vehicle drawn by one horse, four pence currency ;

For every cart, calèche or other two wheeled vehicle, and for every winter vehicle drawn by one horse, four pence currency ;

For every extra additional beast of draught, two pence currency ;

For every horse, ass or mule, with its rider, three pence currency ;

For every horse, mare, stallion, ass or mule, ox, bull, cow, or other horned animal, one penny half-penny currency ;

For every sheep, calf, lamb, goat or pig, one penny currency ;

For every person on foot, one penny currency.

Proviso: Certain parties to be exempt from payment of tolls.

XV. Provided always, That no person, horse or carriage, employed in conveying a Mail or letters, under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers attending officers and soldiers of Her Majesty's Forces, or of the Militia whilst upon their march or on duty, nor the said officers or soldiers nor any of them, nor carriages or drivers or guards sent with prisoners of any description, as well going as coming, provided they are not otherwise loaded, shall be chargeable with any toll or rate whatsoever : Provided also, that it shall and may be lawful for the said Company to diminish the said tolls, or any of them, and afterwards if they see fit, again to augment the same or any of them, so as not to exceed in any case the rates by this Act authorized to be taken : Provided also, that the said Company shall affix or cause to be affixed in some conspicuous place at or near the said Toll-gate, or upon the said bridge, a Table of the rates payable for passing over the said Bridge, and so often as such rates may be diminished or augmented, they shall cause such alteration to be affixed in manner aforesaid.

Proviso.

Proviso.

Tolls vested in Company for ever.

Proviso : if Her Majesty assume the Bridge.

XVI. The said tolls shall be, and the same are hereby vested in the said Company for ever : Provided that if Her Majesty shall, in the manner hereinbefore mentioned, after the expiration of fifty years from the passing of this Act, assume the possession and property of the said Bridge, Toll-house, Toll-gate and dependencies, and the ascents and approaches thereto, then the said Tolls shall from the time of such assumption appertain and belong to Her Majesty, Her Heirs and Successors who shall from thenceforward be substituted in the place and stead

stead

stead of the said Company for all and every the purposes of this Act.

XVII. If any person shall forcibly pass through the said Toll-gate or over or upon the said Bridge, without paying the said Toll or any part thereof, or shall interrupt or disturb the said Company, or any person or persons employed by them for building or repairing the said Bridge, or making or repairing the way over the same or any road or avenue leading thereto, or shall at any time drive faster than a walk on the said Bridge, every person so offending in each of the cases aforesaid, shall for every such offence, forfeit a sum not exceeding forty shillings currency, or be imprisoned for a period not exceeding ten days in the common gaol of the District.

Fines for forcibly passing toll-gate, &c.

XVIII. As soon as the Bridge shall be passable and opened for the use of the Public, no person shall erect, or cause to be erected, any bridge or bridges, for the carriage of any person, cattle or carriage whatsoever, for hire or otherwise, across the said branch of the said river, within the distance of two miles above and two miles below the said Bridge, measuring along the banks of the said branch of the said river, and following its windings; and if any person or persons shall erect a Toll-bridge or Toll-bridges, or any free bridge or bridges over the said branch of the said River, within the said limits, he shall pay to the said Company treble the tolls hereby imposed for the persons, cattle, horses and carriages which shall pass over such Bridge or Bridges.

No means of passage to be erected within two miles of said Bridge.

XIX. If any person shall maliciously pull down, burn, destroy or injure the said Bridge or any part thereof, or the Toll-gate, Toll-house or other dependencies to be erected by virtue of this Act, every person so offending and thereof legally convicted, shall be deemed guilty of felony.

Malicious damage to Bridge.

XX. The said Company, to entitle themselves to the benefits and advantages to them by this Act granted, shall, and they are hereby required to erect and complete the said Bridge, Toll-house, Toll-gate and dependencies, within four years from the day of the passing of this Act, and if the same shall not be completed within the term last mentioned, so as to afford a convenient and safe passage over the said Bridge, the said Company shall cease to have any right, title or claim of, in or to the Tolls hereby imposed, which shall from thenceforward belong to Her Majesty; and the said Company shall not by the said Tolls, or in any other manner or way, be entitled to any re-imbusement of the expense they may have incurred in and about the building of the said Bridge; and in case the said Bridge after it shall have been erected and completed, shall at any time become impassable or unsafe for travellers, cattle or carriages, the said Company shall and they are hereby required, within two years from the time at which the said Bridge shall

Period for completion of works.

Provision if the Bridge become at any time unsafe.

by

by Her Majesty's Court of General Quarter Sessions of the Peace, in and for the said District of Three-Rivers, be ascertained to be impassable or unsafe, and notice thereof to them by the said Court be given, to cause the same to be made safe and commodious for the passage of travellers, cattle and carriages, and if within the time last mentioned, the said Bridge be not repaired or rebuilt as the case may require, then the said Bridge or such parts thereof as shall be remaining, shall be and be taken and considered to be the property of Her Majesty, and after such default to repair or rebuild the said Bridge, the said Company shall cease to have any right, title or claim of, in or to the said Bridge, or to the remaining parts thereof; and the Tolls hereby granted, and their and each and every of their rights in the premises shall be wholly and for ever determined.

Penalties how to be collected and applied.

XXI. The penalties hereby inflicted shall, upon proof of the offence, respectively, before any one or more of the Justices of the Peace for the said District of Three-Rivers, either by the confession of the offender or by the oath of one or more credible witness or witnesses (which oath such Justice is hereby empowered and required to administer), be levied by distress and sale of the goods and chattels of such offender, by warrant signed by such Justice or Justices of the Peace, and the overplus, after such penalties and the charges of such distress and sale are deducted, shall be returned on demand to the owner of such goods and chattels, and one half of such penalties, respectively, when paid and levied, shall belong to Her Majesty, and the other half to the person suing for the same.

Height of arches above stream.

XXII. Provided always, That the said Bridge hereby authorized to be constructed over the north-east branch of the River Nicolet, shall have under its arches an elevation of six feet above the ordinary high water mark, with a space not less than fifty feet between each abutment.

Liability of Shareholders limited.

XXIII. Nothing in this or any other Act contained shall be construed to make or render any Shareholder of the said Saint Monique Bridge Company individually liable or responsible for any debts, losses or engagements of the said Company, beyond the amount of his or her share or shares in the said Company.

Public Act.

XXIV. This Act shall be deemed a Public Act.

## CAP. XXXIII.

An Act to change the name of George Byron Lyon, and of his family, by adding the name of Fellowes.

[Assented to 16th May, 1856.]

**W**HEREAS George Byron Lyon, of the City of Ottawa Preamble.  
 (late the Town of Bytown) in Upper Canada, Esquire,  
 by his petition hath set forth, that in the year of our Lord one  
 thousand eight hundred and forty-four, he married Mary Matilda  
 Ottley Fellowes, and that by such marriage they have two  
 sons and two daughters, named respectively, George Rockliffe  
 Lyon, Charles Lyon, Catherine Lyon, and Charlotte Florence  
 Lyon, and that for the benefit of his said wife and children it  
 has become necessary for himself, his said wife and children, to  
 adopt the family name of his said wife, and hath prayed the  
 passing of an Act for such purpose, which prayer it is expedient  
 to grant : Therefore, Her Majesty, by and with the advice and  
 consent of the Legislative Council and Assembly of Canada,  
 enacts as follows :

I. The said George Byron Lyon shall hereafter be called Surname of  
 and known by the name of George Byron Lyon Fellowes ; the G. B. Lyon  
 said Mary Matilda Ottley Fellowes (*alias* Lyon,) his said wife, and of his  
 shall hereafter be called and known by the name of Mary family chang-  
 Matilda Ottley Lyon Fellowes ; the said George Rockliffe Lyon, ed.  
 Charles Lyon, Catherine Lyon, and Charlotte Florence Lyon,  
 their said children, shall hereafter be respectively called and  
 known by the respective names of George Rockliffe Lyon  
 Fellowes, Charles Lyon Fellowes, Catherine Lyon Fellowes,  
 and Charlotte Florence Lyon Fellowes.

II. The said George Byron Lyon, and Mary Matilda Ottley Change of  
 Fellowes, (*alias* Lyon) his said wife, George Rockliffe Lyon, name not to  
 Charles Lyon, Catherine Lyon, and Charlotte Florence Lyon, affect their  
 their said children, by their respective names of George Byron rights, or those  
 Lyon Fellowes, Mary Matilda Ottley Lyon Fellowes, George of other par-  
 Rockliffe Lyon Fellowes, Charles Lyon Fellowes, Catherine ties.  
 Lyon Fellowes, and Charlotte Florence Lyon Fellowes, shall  
 hereafter claim, obtain, exercise and enjoy all and every ad-  
 vantage, benefit, calling, profession, occupation, addition, title  
 and degree which they respectively have, exercise and enjoy,  
 or have been or might be entitled to by and under the surname  
 of Lyon ; and also shall respectively recover, have, hold and  
 possess and be capable of inheriting all real and personal pro-  
 perty and rights, interests, credits, moneys and securities of  
 any nature or kind whatsoever, which they respectively at  
 present have, hold or possess, or are respectively capable of  
 recovering, having, holding, possessing or inheriting, or might  
 hereafter respectively be capable of recovering, having, holding,  
 possessing or inheriting, by and under the surname of Lyon ;  
 And

And also shall not hereafter, by reason of the change of name hereby made, be deprived of or disqualified from exercising or enjoying any addition, title, degree, qualification, advantage, benefit, possession, calling, appointment, honor, position, or any interest or property of any nature or kind whatsoever, which they now respectively have, hold, possess or enjoy, or are, or might hereafter respectively be capable of recovering, having, holding, possessing, inheriting and enjoying, if the said change of name had not been made by the adoption and addition of the said name of Fellowes.

Pending proceedings not to abate.

III. If any suit, or legal or equitable proceeding has been commenced by or against any of the said parties whose names are changed by virtue of this Act, by their or his or her former name, such suit or proceeding shall not be abated, nor any relief or recovery sought thereby be prevented, by reason of any such change of name, but the same may be continued and carried on to judgment and execution, and until satisfaction and discharge had, as if this Act had not passed.

Public Act.

IV. This Act shall be deemed a Public Act.

#### C A P . X X X I V .

An Act to authorize the Court of Chancery, and the Courts of Queen's Bench and Common Pleas, in Upper Canada, to admit Henry Spencer Papps to practise as a Solicitor and Attorney.

[Assented to 16th May, 1856.]

Preamble.

Act of U. C.,  
2 G. 4, c. 5.

WHEREAS by an Act of the Legislature of Upper Canada, passed in the second year of the Reign of His Majesty, King George the Fourth, intituled, *An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's Reign, intituled, 'An Act for the better regulating the practice of the law,'* and to extend the provisions of the same, it is amongst other things enacted, that from and after the passing of the said Act, no person shall be admitted by the Court of King's Bench to practise as an Attorney, unless upon an actual service under articles for five years with some practising Attorney; And whereas it appears by the Petition of Henry Spencer Papps, of the City of Hamilton, in the County of Wentworth, and Province of Canada, gentleman, and by certificates and documents therein referred to and produced in support thereof, that the petitioner was duly articulated for five years to William Yeats Aiken, of Lincoln's Inn, in the City of London, England, in the United Kingdom, then a practising Attorney of Her Majesty's Courts of Exchequer, Queen's Bench and Common Pleas, as also a Solicitor in Her Majesty's High Court of Chancery, in that part of the United Kingdom of Great Britain, called England; And whereas it also appears that the

Petitioner

Petitioner has taken the usual oaths of allegiance for admission, and was duly admitted, and is now an Attorney of Her Majesty's Courts of Exchequer, Queen's Bench, Common Pleas, Bankruptcy, and also a Solicitor of the High Court of Chancery in England; And whereas it appears that the Petitioner came into this Province in the month of May, one thousand eight hundred and fifty, and settled in the City of Hamilton with the intention of practising his profession in Upper Canada; And whereas it appears that the Petitioner has been for upwards of one year preceding the presentation of the said petition, acquiring a knowledge of the practice of the Provincial Laws of Canada, under the direction of a practising Barrister and Solicitor of Upper Canada; And whereas the said Petitioner is desirous of practising in the Courts of Law and Equity in Upper Canada, and it is expedient to relieve him from the disability imposed by the said Act: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall and may be lawful for the Courts of Queen's Bench and Common Pleas in Upper Canada, in their discretion, to admit the said Henry Spencer Papps, without further servitude or oath of allegiance, to practise as an Attorney of the said Courts; And it shall also be lawful for the Court of Chancery, in Upper Canada aforesaid, in its discretion to admit the said Henry Spencer Papps to practise as a Solicitor in the said Court of Chancery, without further oath of allegiance or servitude as aforesaid; any law or usage to the contrary notwithstanding.

Courts of Law and Equity in U. C. may in their discretion admit H. S. Papps to practise as an Attorney, &c.

II. This Act shall be deemed a Public Act.

Public Act.

### C A P . X X X V .

An Act to vest a certain allowance for Road in the Township of Hamilton, County of Northumberland, in John Wade and Benjamin Seymour.

[Assented to 16th May, 1856.]

**W**HEREAS the Honorable Benjamin Seymour is the owner in fee of the rear seventy acres of lot number thirty-four, in the first concession of the Township of Hamilton, in the County of Northumberland, and John Wade is the owner in fee of the residue of the said lot; And whereas the original allowance for road between lots numbers thirty-four and thirty-five in the first concession of the said Township is impracticable, and in consequence thereof there has been opened across and through the said lot number thirty-four a travelled road which is now become established by user, and for which no compensation was ever made to the owners of the said lot; And whereas there is now no necessity for the opening of the said

Preamble.

said

said allowance for road between lots numbers thirty-four and thirty-five, save and except that part thereof between the old travelled road and the concession line in front of the said first concession; And whereas the said Honorable Benjamin Seymour and John Wade have prayed the Legislature to vest in them the said road allowance in lieu of and as compensation for the land taken for the said Road across lot number thirty-four as before mentioned; And whereas it is expedient to vest in them the said road allowance, so far as the same adjoins their respective estates, save and except that part thereof hereinbefore mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said allowance vested in the Hon. B. Seymour and J. Wade.

I. The said allowance for road so far as it adjoins that part of the said lot number thirty-four, in the first concession of the said Township of Hamilton, now owned by the said Honorable Benjamin Seymour, shall be vested in him, his heirs and assigns for ever; and that part of the said allowance for road which adjoins the property of the said John Wade, shall be vested in him, his heirs and assigns for ever; save and except that part of the said allowance south of the point where it intersects the old travelled road between Toronto and Kingston, and the present gravelled road.

Public Act.

II. This Act shall be held to be a Public Act.

## C A P . X X X V I .

An Act to vest in Samuel Doolittle and Robert Johnson, a certain allowance for Road in the Township of Haldimand.

*[Assented to 16th May, 1856.]*

Preamble.

**W**HEREAS Samuel Doolittle and Robert Johnson, both of the Township of Haldimand, in the County of Northumberland, farmers, and divers other freeholders of the said Township, have by their petition represented, that the said Samuel Doolittle is the owner in fee and occupier of the north halves of lots numbers fourteen and fifteen, in the Broken Front, Concession A, of the said Township, and that the said Robert Johnson is the owner in fee and occupier of the south halves of the same lots; that the allowance for road between the said lots has never been opened, but that instead thereof, and for the greater convenience of the public, in consequence of the extreme unfitness of the said road allowance for a road, a strip of land taken for the most part from off the east side of the said lot number fourteen, has been used by the public as a highway for nearly fifty years, and is now used as such from the regular highway between Cobourg and Kingston to the Lake Shore, for which no compensation has been made to the said Doolittle and Johnson, and the petitioners have prayed that the said present

present highway may be confirmed, and the original road allowance vested in the said Samuel Doolittle and Robert Johnson, each for his proper share, and it is right to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. Notwithstanding any thing to the contrary in any Act or Law, so much of the original allowance for road between lots numbers fourteen and fifteen in the said Broken Front, Concession A, of the said Township of Haldimand, as lies between the north halves of the said lots, is hereby vested in the said Samuel Doolittle, his heirs and assigns forever; and so much of the said allowance for road as lies between the south halves of the said lots is hereby vested in the said Robert Johnson, his heirs and assigns forever; and the strip of land mentioned in the Preamble as being now used as a highway instead of the said allowance for road, shall be a public highway from the main road between Kingston and Cobourg to the Lake Shore.

The said allowance vested in Doolittle and Johnson.

II. This Act shall be deemed a Public Act.

Public Act.

## C A P . X X X V I I .

An Act to vest in James Taunton, a certain Allowance for Road in the Township of Southwold.

[Assented to 16th May, 1856.]

**W**HEREAS the original allowance for road between Lot number Ten in the Second Range East of the River Road and Lot number Forty, South of Talbot Road East, presented great obstacles to its being rendered fit for travel, and in consequence thereof a new Road was established across and through the fronts of lots numbers forty, forty-one and forty-two, whereby a part of the said lot number forty, south of Talbot road east was severed and detached from the other part of the said lot; And whereas the proprietor of the said lot number forty never received any compensation for the land taken for the said new road, and whereas James Taunton, of the Township of Southwold, farmer, has purchased and now owns the said part or parcel of lot number forty so severed as aforesaid which adjoins other property of the said James Taunton; And whereas the said James Taunton hath petitioned the Legislature to vest in him so much of the said original allowance for Road as lies between the point where the said new road diverges from the said original allowance for road in front of the said lot number forty, and the boundary line between the said lot number forty and the lot number forty-one adjoining the same; And whereas it is reasonable and proper to grant the prayer of the said petition: Therefore, Her Majesty, by and with

with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

The said allowance vested in James Taunton.

I. That part of the said original allowance for road between the point where the said new road diverges from the said original allowance for road in front of the said lot number forty and the boundary line between the said lots numbers forty and forty-one, south of Talbot road east, shall be and the same is hereby vested in the said James Taunton, his heirs and assigns for ever, and the said new road is hereby declared a public highway in place of the said old allowance for road.

Public Act.

II. This Act shall be deemed a Public Act.

### C A P . X X X V I I I .

An Act to vest in John Farley the younger, a certain Allowance for Road, in the Township of Darlington.

[Assented to 16th May, 1856.]

Preamble.

**W**HEREAS the allowance for Road between the North halves of lots numbers eighteen and nineteen in the Fifth Concession of the Township of Darlington is not required as a road and would be impassable if opened ; And whereas John Farley the younger, of Darlington, Gentleman, has granted a road in lieu thereof, and the municipal Council of Darlington have consented that the said allowance for road should be vested in the said John Farley the younger, in lieu of the road granted by him as aforesaid : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

The said allowance vested in John Farley.

I. For and notwithstanding any thing in any Act of the Parliament of Upper Canada or of Canada contained, the road or concession allowance between the North halves of lots numbers eighteen and nineteen in the Fifth Concession of the said Township of Darlington shall be and is hereby vested in the said John Farley the younger, his heirs and assigns for ever, and the said road so granted by the said John Farley the younger, is hereby declared a public highway in lieu of the said road or concession allowance.

Public Act.

II. This Act shall be deemed a Public Act.

### C A P . X X X I X .

An Act to vest in Daniel Burritt a certain Allowance for Road in the Township of Marlborough.

[Assented to 16th May, 1856.]

Preamble.

**W**HEREAS in the year one thousand eight hundred and thirty-six, a road from the River Rideau through the Broken Front and first concession of the Township of Marlborough, (then in the District of Johnstown, but now in the County

County of Carleton,) was laid out by Stephen Burritt, the Road Surveyor for the place, then in office, on the west side of lot number twenty-five in the said Broken Front and concession, then and now the property in fee of Daniel Burritt, of the said Township, farmer, and has ever since been used and travelled by the public, and is much more practicable and convenient for the purpose than the allowance for road between lots numbers twenty-four and twenty-five in the said Broken Front and concession for which it was substituted; And whereas such substitution was made without the consent of the said Daniel Burritt, and without any compensation to him, and it is just and right that the said allowance for road should be granted to him as such compensation, as he hath by his petition prayed: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The allowance for road between lots numbers twenty-four and twenty-five in the said Broken Front and first concession of the said Township of Marlborough, shall be, and is hereby vested in the said Daniel Burritt, his heirs and assigns for ever; and the road so laid out as aforesaid by Stephen Burritt as Road Surveyor, shall be a legal highway instead of the said allowance for road.

The said allowance vested in Daniel Burritt.

II. This Act shall be held to be a Public Act.

Public Act.

## C A P . X L .

### An Act to naturalize Hervey Killam.

[Assented to 16th May, 1856.]

**W**HEREAS Hervey Killam, of the Township of Townsend, in the County of Norfolk, Machinist, has by his Petition in that behalf represented, that he has been a resident in this Province ever since sometime in the year of our Lord one thousand eight hundred and fifty-four, and that he has determined to become a permanent resident in this Province, and has prayed that he may be naturalized as a subject of Her Most Gracious Majesty; And whereas it seems expedient that his prayer should be granted: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The said Hervey Killam shall be deemed, adjudged and taken to be and to have been a natural born British Subject of Her Majesty and of Her Royal Predecessors, to all intents, constructions and purposes whatsoever, as if he had been born in this Province; Provided always, that in order to entitle himself to the benefit of this Act, the said Hervey Killam shall take and subscribe within three months from the date of the passing of this Act, before the Clerk of the Peace of the said County of Norfolk, (who is hereby authorized and directed to administer

H. Killam naturalized.

Proviso: he must take the Oath of Allegiance.

administer the same,) the oath of Allegiance to Her Majesty, Her Heirs and Successors, and that such oath so taken and subscribed shall be kept by the said Clerk of the Peace among the records of his office.

Public Act. II. This Act shall be taken to be a Public Act.

### C A P . X L I .

An Act to provide for the execution of the Office of Speaker of the Legislative Assembly, in certain cases.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS great public inconvenience might ensue from the unavoidable absence of the Speaker of the Legislative Assembly of this Province, from illness or other cause, at any time when any sitting of the said Legislative Assembly ought to be held; and His Excellency the Governor General being advised thereof, hath, in Her Majesty's name, consented that the Legislature should adopt such measures as to them might appear expedient to avoid such inconvenience: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Speaker finding it necessary to be absent on any day, may appoint a Member to act for him during such day.

I. Whenever the Speaker of the said Legislative Assembly shall, from illness or other cause, find it necessary to leave the Chair during any part of the sittings of the said Assembly on any day, it shall be lawful for him to call upon any member thereof to take the Chair and to act as Speaker during the remainder of such day, unless the Speaker shall himself resume the Chair before the close of the sittings for that day: and the Member so called upon shall take the Chair and act as Speaker accordingly; and every Act passed, and every Order made and thing done by the said Assembly, while such member is acting as Speaker as aforesaid, shall be as valid and effectual to all intents and purposes as if done while the Speaker himself was presiding in the Chair.

### C A P . X L I I .

An Act to impose an additional Excise Duty on Spirits.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS it is expedient to increase the duty payable on Spirits manufactured in this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Duty imposed on Spirits manufactured or taken out of bond, after 5th I. In addition to the duty imposed by the second section of the Act passed in the twelfth year of Her Majesty's Reign and intituled, *An Act to continue and amend the Act imposing duties on Spirits distilled in this Province, and to provide for the warehousing*

*warehousing of Spirits*, on Spirits lawfully manufactured within this Province, there shall be payable on all such Spirits manufactured upon or after the fifth day of July next, or which having been so manufactured before that day, and warehoused under the said Act, shall, upon or after the same be taken out of warehouse for consumption, a further duty of one half penny currency per gallon, wine measure, so that the total duty payable on such Spirits shall be one penny and one half penny currency per gallon.

July, 1856,  
in addition  
to that under  
12 V. c. 14.

II. This Act shall be construed as one Act with the Act last above cited, and with the Act thereby amended, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to impose a duty on Distillers and the Spirituous Liquors made by them, and to provide for the collection of such duties*; and all the provisions of the said Acts not inconsistent with this Act, shall apply to the duty hereby imposed, and all words and expressions herein used shall have the same meaning as in the said Acts; and the word "manufactured," in this Act, shall be equivalent to the words "distilled, manufactured or made," in the said Acts.

Interpretation  
clause.

9 V. c. 2.

### C A P . X L I I I .

An Act to amend, repeal and consolidate the provisions of certain Acts therein mentioned, and to simplify and expedite the proceedings in the Courts of Queen's Bench and Common Pleas in Upper Canada.\*

[Assented to 19th June, 1856.]

**W**HEREAS it is expedient to simplify and expedite the proceedings in the Courts of Queen's Bench and of Common Pleas for Upper Canada: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts, as follows:

Preamble.

I. The provisions of this Act shall come into operation on the twenty-first day of August one thousand eight hundred and fifty-six.

Commence-  
ment of this  
Act.

And with respect to the sealing and issuing of Writs and to the offices of the Courts of Queen's Bench and Common Pleas in the different Counties or Unions of Counties; Be it enacted as follows:

Sealing and  
issuing Writs.

II. There shall be an officer appointed by the Governor of this Province, who shall be called the Clerk of the Process.

Clerk of the  
Process to be  
appointed.

III.

\* NOTE.—The Notes in Brackets indicate the sources from which the provisions of the clauses opposite to which they stand, are derived. "1852," stands for the English Common Law Procedure Act of 1852, (15, 16 V. c. 76,) and "1854," for that of 1854, (17, 18 V. c. 125.) The Provincial Acts are referred to by Reign and chapter in the usual manner. Where there is no Bracketed Note, the provisions of the clause are original. The clauses from the English Acts are taken with as little change as was consistent with their adaptation to U. C. Law and Institutions.

To be an Officer of both Courts.

III. The Clerk of the Process shall be deemed an officer of both of the said Superior Courts of Common Law, and shall keep his Office in Osgoode Hall, and shall have a reasonable allowance for printing, procuring and transmitting blank forms of all Writs and Process, and for necessary books and stationery, and shall be subject to such rules for his guidance, as shall be, from time to time, made according to and under the powers for making rules hereinafter set forth.

To be subject to rules, to be made.

To seal the writs, &c., of both Courts.

IV. The Clerk of the Process shall have a seal for sealing Writs in each of the said Courts, to be approved by the Chief Justice of each Court respectively, and he shall seal therewith and sign all Writs and Process whatsoever which are to be issued from such Courts respectively; he shall keep each Deputy Clerk of the Crown and Pleas supplied with all Writs and Process so signed and sealed in blank to be by them filled up and issued; and he shall in like manner keep the Clerks of the Crown and Pleas supplied with all Writs and Process other than those which he is required to issue; and the Clerk of the Process shall issue to the parties or their Attorneys all Writs of Summons and *capias* and *alias* and *pluries* Writs of Summons and *Capias*, and Writs of *capias* in actions already commenced and concurrent Writs, and shall renew such Writs as hereinafter authorized, which shall be required to be issued from the principal office at Toronto; And it shall be his duty and the duty of each Deputy Clerk of the Crown, to issue Writs for the commencement of actions alternately one from each Court and not otherwise, provided that this shall not be understood in any way to affect the issue of concurrent Writs.

And supply Clerks and Deputy Clerks.

To issue writs, &c., to parties and their Attorneys.

Writs to issue alternately, from each Court.

To make quarterly returns to Inspector General.

V. The Clerk of the Process shall make quarterly returns, verified by his affidavits, to the Inspector General, of all Writs and Process issued by him in suits brought at Toronto or supplied by him in order to be issued, to the Clerks or Deputy Clerks of the Crown; and such Clerks or Deputy Clerks shall account for and pay over all fees receivable by them on such Writs and Process, as they are now bound by law to do in respect to other fees received by them; And the Clerk of the Process shall receive the fees on Writs and Process issued by him as aforesaid at Toronto, and shall in like manner, account for and pay over such fees to form part of the Consolidated Revenue Fund of the Province.

Clerks and Deputy Clerks to account as at present.

Clerk of Process to pay over fees received by him.

Proper Office for taking out writs in transitory actions.

VI. In cases in which the cause of action shall be transitory, the Plaintiff may sue out the Writ for the commencement of the action from the office of the Clerk of the Crown and Pleas of either of the said Courts, or from the office of any of the Deputy Clerks of the Crown and Pleas.

When the venue is local.

VII. When the venue is local, the Writ for the commencement of the action must be sued out from the office within the proper County.

VIII. The venue in any action may be changed according to the practice now in force, but notwithstanding a change of the venue, the proceedings shall continue to be carried on in the office from which the first process in the action was sued out.

Provision if the venue be changed.

IX. All proceedings to final judgment shall be carried on in the office from which the first process in the action was sued out, and the service of all papers and proceedings subsequent to the Writ, shall be made upon the Defendant or his Attorney, according to the practice now in force, unless special provision is otherwise made in this Act, and if the Attorney of either party do not reside or have not a duly authorized agent residing in the County wherein such action was commenced, then service may be made upon the Attorney wherever he resides, or upon his duly authorized agent in Toronto, or if such Attorney have no duly authorized agent there, then service may be made by leaving a copy of the papers for him in the office where the action was commenced, marked on the outside as copies left for such Attorney.

Proceedings to be carried on in office whence writ issues, &c., service of papers, &c.

X. Final judgment may be entered upon a *cognovit actionem* or Warrant of Attorney to confess judgment, which shall have been given or executed, in the first instance and before the suing out of any process, in any of the said offices or at the option of the Plaintiff, unless some particular office in which the judgment is to be entered be expressly stated in such *cognovit* or warrant.

As to Judgments on *cognovits*.

XI. All Writs of Execution may issue from the office wherein the judgment is entered, or after the transmission of the roll to the principal office, such Writs may, at the option of the party entitled thereto, be issued out of such principal office.

Writs of execution.

XII. Either party may as of right, upon giving two days' notice to the opposite party, have the taxation of costs made by any Deputy Clerk of the Crown and Pleas, revised by the principal Clerk of the Court wherein the proceedings were had; and it shall be lawful for such Court or a Judge, by rule or summons, to call upon the Deputy Clerk who taxed any Bill, to shew cause why he should not pay the costs of revising his taxation and of the application, if in the opinion of the Court or Judge, on the affidavits and hearing the parties, such Deputy Clerk has been guilty of gross negligence, or of wilfully taxing fees or charges for services or disbursements larger or other than those sanctioned by the Rules and Practice of the Court.

Revision of taxation of costs.

Costs of Revision may be charged to Deputy in certain cases.

XIII. Each Deputy Clerk of the Crown and Pleas shall, if proper accommodation be afforded him, keep his office in the Court House of his County, and until he can obtain such accommodation he shall keep his office in some convenient place

Deputy Clerks to keep their offices in the Court House

if possible :  
and if not, at  
some conven-  
ient place in  
the same  
town.

Hours of at-  
tendance, &c.

Rules to re-  
turn process,  
may be is-  
sued by De-  
puty Clerks.

Preserving  
evidence of  
Sheriff's sales.

Deputy  
Clerks to keep  
books for mi-  
nuting all  
Judgments,  
&c.

Judgments  
to be also  
docketed at  
Toronto.

If the original  
roll be lost,  
copies may be  
used, &c.

Deputy  
Clerks may  
give certifi-  
cates of Judg-  
ments entered  
by them,  
which certifi-  
cates may be  
registered in  
the proper  
County and  
bind lands.

place in the County Town ; and every Deputy Clerk's office shall (except between the first day of July and the twenty-first day of August) be kept open from ten o'clock in the morning until three o'clock in the afternoon, Sundays, Christmas Day, Good Friday, Easter Monday, the birthday of the Sovereign, and any day appointed by Royal proclamation for a general fast or thanksgiving, excepted ; and between the first day of July and the twenty-first day of August, such offices shall be kept open from nine in the morning until noon.

XIV. Every Deputy Clerk of the Crown and Pleas may sign and issue rules on any Sheriff or Coroner to return Writs and Process issued out of the office of such Deputy and directed to such Sheriff or Coroner ; and it shall be the duty of each Sheriff or Coroner to return such Writs to the office from which such rule issued, in case he shall be served with any such rule.

And whereas many titles to land depend upon Sheriff's sales upon executions, and it is therefore important to provide for the preservation of evidence of the judgments upon which such executions issued, and also for the more speedy registration of judgments ; Be it enacted as follows :

XV. Every Deputy Clerk of the Crown and Pleas shall keep a regular book, in which shall be minuted and docketed all Judgments entered by such Deputy Clerk ; and such minute shall contain the name of every Plaintiff and Defendant, the date of the commencement of the action, the date of the entry of such judgment, the form of action, the amount of debt or damages recovered, the amount of costs taxed, and whether such judgment was entered upon or by verdict, default, confession, *non pros*, non-suit, discontinuance, or how otherwise ; and within three months after the entry of each judgment, the Deputy Clerk shall transmit to the principal Clerk of the proper Court in Toronto, every such judgment-roll and all papers of or belonging thereto, and such judgment shall be also docketed in the principal office, and in case the original judgment-roll be lost or destroyed, so that no exemplification or examined copy thereof can be procured, a copy of the entry in either of such docket books, certified by the Clerk or Deputy Clerk having such book in his custody, shall be evidence of all matters therein set forth and expressed : and when any such Deputy shall enter up any Judgment in either of the said Courts, he may give to the party on whose behalf it is entered, or to his legal representative, a certificate signed by him, of such Judgment, containing the like particulars as are required in certificates of Judgments given by the Clerks of the Crown and Pleas, and such certificate may be registered in the Registry Office of any County in Upper Canada, and the same certificate and the registration thereof, shall have the like force and effect in binding or operating as a charge upon lands, tenements and hereditaments situated within such County, as

if the certificate had been granted at the principal office at Toronto.

And with respect to the Writs for the commencement of personal actions in the said Courts, against Defendants, whether in or out of the jurisdiction of the Courts; Be it enacted as follows :

*Writs for commencement of personal actions.*

XVI. All personal actions brought in the said Courts where the Defendant is residing or supposed to reside within the jurisdiction thereof, except in cases where it is intended to hold the Defendant to special bail, shall be commenced by Writ of Summons according to the form contained in the Schedule (A) to this Act annexed, marked No. 1, and in every such Writ and copy thereof, the place and county of the residence or supposed residence of the party Defendant, or wherein the Defendant shall be or shall be supposed to be, shall be mentioned.

*Mode of commencing personal actions where Defendant resides within the jurisdiction.*  
(1852, s. 2.)

XVII. It shall not be necessary to mention any form or cause of action in any Writ of Summons or in any notice of Writ of Summons issued under the authority of this Act.

*Form or cause of action need not be mentioned in writ.*  
(1852, s. 3.)

XVIII. Every Writ of Summons shall contain the names of all the Defendants, and shall not contain the name or names of any Defendant or Defendants in more actions than one.

*Names of Defendants, must be.*  
(1852, s. 4.)

XIX. Every Writ of Summons or Capias issued under the authority of this Act, shall bear date on the day on which the same shall be issued, and shall be tested in the name of the Chief Justice of the Court from which the same shall issue, or in case of a vacancy of such office, then in the name of the Senior Puisne Judge of the said Court.

*Date of Writ.*  
*Teste.*  
(1852, s. 5.)

XX. The Clerk or Deputy Clerk of the Crown and Pleas who shall issue any Writ, shall mark in the margin a memorandum stating from what office and in what County such Writ was issued, and shall subscribe his name to such memorandum.

*Office whence issued to be marked on writ.*

XXI. Every Writ of Summons or of Capias shall be indorsed with the name and place of abode of the Attorney actually suing out the same, and when the Attorney actually suing any Writ, shall sue out the same as agent for any other Attorney, the name and place of abode of such other Attorney shall also be indorsed upon the said Writ; and in case no Attorney shall be employed to issue the Writ, then it shall be indorsed with a memorandum expressing that the same has been sued out by the Plaintiff in person, mentioning the City, Town, incorporated or other Village or Township within which such Plaintiff resides.

*Name of Attorney or person suing out writ to appear on it.*

*Further particulars if Plaintiff sue in person.*  
(1852, s. 6.)

Commencement of actions where it is intended to hold Defendant to special bail.

(This and the two following sections amended and consolidate the repealed provisions of

2 G. 4, c. 1.  
5 W. 4, c. 3.  
8 V. c. 48,  
s. 44.)

Execution of process.

Indorsement thereof on writ.

Declaration when to be made, when Defendant is imprisoned for want of bail.

Proviso :

Some Defendants may be arrested, and others not.

Effect of service as to those not arrested.

Affidavit for suing out Capias. (See sect. xxii.)

Proviso :

Where the cause of action is other than a debt certain.

Proviso : Act not to subject to arrest per-

XXII. In all such actions wherein it shall be intended to arrest and hold any person to special bail, the process shall be by a Writ of Capias according to the form contained in schedule (A) to this Act annexed, and marked No. 2, and may be directed to the Sheriff of any County or Union of Counties in Upper Canada ; and so many copies of such process, together with every memorandum or notice subscribed thereto and all indorsements thereon, as there may be persons intended to be arrested thereon or served therewith, shall be delivered with the original Writ, to the Sheriff or other officer who may have the execution or return thereof, and who shall upon or immediately after the execution of such process, cause one such copy to be delivered to every person upon whom such process shall be executed by him, whether by service or arrest, and shall indorse on such Writ the true day of the execution thereof, whether by service or arrest, within three days at furthest after such service or arrest ; and if any Defendant be taken or charged in custody upon any such process, and imprisoned for want of sureties for his appearance thereto, the Plaintiff in such process may, before the end of the next term after the arrest of such Defendant, declare against such Defendant and proceed thereon, in the manner and according to the directions contained in the third and fourth rules of the Court of Queen's Bench, made in Easter Term, in the fifth year of Her Majesty's Reign : Provided always, that it shall be lawful for the Plaintiff or his Attorney, to order the Sheriff or other officer to whom such Writ shall be directed, to arrest one or more of the Defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such Sheriff or other officer, and such service shall be of the same force and effect as the service of the Writ of Summons hereinbefore mentioned, and no other.

XXIII. It shall not be lawful to issue or sue out any such writ of capias, unless an affidavit be first made by such Plaintiff, his servant or agent, of the Plaintiff's cause of action, and that the amount thereof (being in no case less than ten pounds) is justly and truly due to the Plaintiff, and also that such Plaintiff, his servant or agent hath good reason to believe and verily doth believe that the Defendant is immediately about to leave Upper Canada with intent and design to defraud the Plaintiff of the said debt : Provided always, that where the cause of action is other than a debt certain, a writ of capias may be issued and sued out to arrest and hold the Defendant to special bail, a Judge's order having been first obtained for that purpose, in such cases and in such manner as has heretofore been the practice ; Provided also, that nothing in this Act contained, shall subject any person to arrest who by reason of any privilege, usage or otherwise may now by law be exempt therefrom ; Provided also, that it shall not be necessary that any such affidavit shall be at the time of the making thereof, entitled of or in any Court, but that the style and title of the Court may be added

added at the time of suing out the process, and shall be that style and title when so added, shall be for all purposes and in all proceedings whether civil or criminal, taken and adjudged to have been part of the affidavit *ab initio*.

sons now emptied.

Proviso: as to entitling the affidavit.

XXIV. Special bail may be put in and perfected according to the practice now in force; and after special bail is so put in, the plaintiff may proceed by filing a declaration or otherwise to judgment, in like manner as if the action had been commenced by writ of summons and the Defendant had appeared thereto.

Special bail. (See sect. xxii.)

Declaration, and further proceedings.

XXV. Every Attorney whose name shall be endorsed on any writ issued for the commencement of any action shall, on demand in writing made by or on behalf of any Defendant, declare forthwith whether such writ has been issued by him or with his authority or privity, and if he shall answer in the affirmative, then he shall also, in case the Court or a Judge shall so order and direct, declare in writing, within a time to be limited by such Court or Judge, the profession or occupation and place of abode of the Plaintiff, on pain of being guilty of a contempt of the Court from which such writ shall appear to have been issued; and if such Attorney shall declare that such writ was not issued by him or with his authority or privity, all proceedings upon the same shall be stayed, and no further proceedings shall be taken thereon without leave of the Court or a Judge.

Attorney whose name is indorsed on the writ to declare whether he sued it out, and if so, Plaintiff's name, &c. if so ordered.

Proceedings stayed if he declares he did not sue it out. (1852, s. 7.)

XXVI. Upon the writ and copy of any writ served or executed for the payment of any debt, the amount of the debt shall be stated, and the amount of what the Plaintiff's Attorney claims for the costs of such writ, copy and service, and attendance to receive debt and costs; and it shall be further stated, that upon payment thereof within eight days, to the Plaintiff or his Attorney, further proceedings will be stayed, which indorsement shall be written or printed in the following form or to the like effect, "The Plaintiff claims £            for debt and £            for costs; and if the amount thereof be paid to the Plaintiff or his Attorney within eight days from the service hereof, further proceedings will be stayed"; But the Defendant shall be at liberty, notwithstanding such payment, to have the costs taxed, and if more than one sixth be disallowed, the Plaintiff's Attorney shall pay the costs of taxation.

Amount of debt and costs of writ to be stated on it, &c.

And a certain notice.

Defendant may have costs taxed. (1852, s. 8.)

XXVII. The Plaintiff in any action may, at any time during six months from the issuing of the original Writ of Summons or of *capias*, issue from the office whence the original Writ is sued, one or more concurrent Writ or Writs of the same kind, to be tested of the same day as the original Writ, and to be marked by the Clerk or Deputy Clerk issuing the same, with the word "*concurrent*" in the margin, with the memorandum required by the twentieth Section of this Act; Provided that such

Plaintiff may obtain concurrent writs.

Their date. &c.

Proviso. 1852, s. 9.)

such concurrent Writ or Writs shall only be in force for the period during which the original Writ in such action shall be in force.

Within what time Writs must be served, &c.

Renewing writs.

Effect of renewal as to Statute of limitations. (1852, s. 11.)

Renewing and returning writs issued before the commencement of this Act, &c.

As to writs issued in continuance of preceding writs under the Act.

12 V. c. 63. (1852, s. 12.)

XXVIII. No original Writ of Summons or *capias* shall be in force for more than six months from the day of the date thereof, including the day of such date; but if any Defendant therein named, may not have been served therewith, the original or concurrent Writ of Summons or *Capias* may be renewed at any time before the expiration, for six months from the date of such renewal, and so from time to time, during the currency of the renewed Writ, by being marked in the margin, with a memorandum to the effect following: "Renewed for six months from the day of \_\_\_\_\_," signed by the Clerk or Deputy Clerk who issued such Writ, or his successor in office, upon delivery to him by the Plaintiff or his Attorney, of a *præcipe*, in such form as has heretofore been required to be delivered upon the obtaining of an *alias* Writ; and a Writ of Summons or *Capias* so renewed, shall remain in force and be available to prevent the operation of any Statute whereby the time for the commencement of the action may be limited, and for all other purposes from the date of the issuing the original Writ.

XXIX. When any Writ of Summons or *Capias* in any such action shall have been issued before, and shall be in force at the commencement of this Act, such Writ may, at any time before the expiration thereof, be renewed under the provisions of, and in the manner directed by this Act; and where any Writ, issued in continuation of a preceding Writ, according to the provisions of the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to make further provision for the administration of Justice, by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes*, shall be in force and unexpired, or where one month next after the expiration thereof, shall not have elapsed at the commencement of this Act, such continuing Writ may, without being returned *non est inventus*, or entered of record according to the provisions of the said Act, be filed in the proper office of the Court, within one month next after the expiration of such Writ, or within twenty days after the commencement of this Act, and the original Writ of Summons or *capias* in such action may thereupon, but within the same period of one month next after the expiration of the continuing Writ, or within twenty days after the commencement of this Act, be renewed under the provisions of, and in the manner directed by this Act; and every such Writ shall, after such renewal, have the same duration and effect for all purposes, and shall be, if necessary, subsequently renewed in the same manner as if it had originally issued under the authority of this Act.

XXX. The production of a Writ of Summons or Capias with the memorandum signed as required in the foregoing Section, shewing such Writ to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed, and of the commencement of the action as of the first date of such renewed Writ, for all purposes.

Proof of such renewal of writs. (1852, s. 13.)

XXXI. The Writ of Summons in any action may be served in any County in Upper Canada.

Service in any County. (1852, s. 14.)

XXXII. The person serving the Writ of Summons shall, and he is hereby required within three days at furthest after such service, to indorse on such Writ, the day of the month and week of the service thereof, otherwise the Plaintiff shall not be at liberty in case of non-appearance to proceed under this Act; and every affidavit of service of such Writ shall mention the day on which such indorsement was made.

Indorsement of the day of service on the writ.

Penalty for default. (1852, s. 15.)

XXXIII. Every such Writ of Summons issued against a Corporation aggregate, may be served on the Mayor, Warden, Reeve, President, or other head Officer, or on the Township, Town, City or County Clerk, Clerk, Cashier, Manager, Treasurer or Secretary, or Agent of such Corporation, or of any branch or agency thereof in Upper Canada; and every person who shall, within Upper Canada, transact or carry on any of the business of, or any business for any Corporation whose chief place of business shall be without the limits of Upper Canada, shall, for the purpose of being served with a Writ of Summons issued against such Corporation, be deemed the agent thereof.

Writs against Corporations how served.

Who shall be deemed agents of Corporations in certain cases. (1852, s. 16.)

XXXIV. The service of the Writ of Summons wherever it may be practicable, shall, as heretofore, be personal; but it shall be lawful for the Plaintiff to apply from time to time, on affidavit, to the Court out of which, the Writ of Summons issued or to a Judge, and in case it shall appear to such Court or Judge that reasonable efforts have been made to effect personal service, and either that the Writ has come to the knowledge of the Defendant or that he wilfully evades service of the same, and has not appeared thereto, it shall be lawful for such Court or Judge to order that the Plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as to the Court or Judge may seem fit.

Service to be personal.

Exception:

Service may be dispensed with by the Court or a Judge, on affidavit of certain facts. (1852, s. 17.)

XXXV. In case any Defendant being a British subject, is residing out of the Jurisdiction of the said Superior Courts, it shall be lawful for the Plaintiff to issue a Writ of Summons in the form contained in the Schedule (A) to this Act annexed, marked No. 3, which Writ shall bear the indorsement contained in the said form, purporting that such Writ is for service out of the Jurisdiction of the said Superior Courts, and the time for appearance by the Defendant shall be regulated by the

Summons to a party being British Subject residing out of the jurisdiction of the said Courts.

Service there-  
of, &c.

If Service can-  
not be made.

Order in such  
case by the  
Court or a  
Judge, on  
Affidavit.

Proviso :  
Plaintiff must  
prove his case.  
(1852, s. 18.)

If the Defen-  
dant be not a  
British Sub-  
ject.  
(1852, s. 19.)

Amendment  
if the Plaintiff  
omits any  
thing in the  
indorsement  
on, or in the  
writ.  
(1852, s. 20.)

the distance from Upper Canada of the place where the Defendant is residing, having due regard to the means of, and necessary time for postal or other communication ; and it shall be lawful for the Court or Judge, upon being satisfied that there is a cause of action which arose within the Jurisdiction, or in respect of the breach of a contract made within the Jurisdiction, and that the Writ was personally served upon the Defendant, or that reasonable efforts were made to effect personal service thereof upon the Defendant, and that it came to his knowledge, and either that the Defendant wilfully neglects to appear to such Writ, or that he is living out of the Jurisdiction of the said Courts, in order to defeat or delay his creditors, to direct from time to time, that the Plaintiff shall be at liberty to proceed in the action in such manner and subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed to the Defendant to appear being reasonable, and to the other circumstances of the case ; Provided always, that the Plaintiff shall be and he is hereby required to prove the amount of the debt or damages claimed by him in such action, either before a Jury on an assessment in the usual mode, or by reference to compute in the manner hereinafter provided, according to the nature of the case, as such Court or Judge may direct, and the making such proof shall be a condition precedent to his obtaining Judgment.

XXXVI. In any action against a person residing out of the Jurisdiction of the said Courts and not being a British subject, the like proceedings may be taken as against a British subject resident out of the Jurisdiction, except that the Plaintiff shall, instead of the Summons mentioned in the next preceding Section, issue a Writ of Summons according to the form contained in the said Schedule (A) marked No. 4, and shall in manner aforesaid serve a notice of such last mentioned Writ upon the Defendant, which notice shall be in the form contained in the said Schedule also marked No. 4 ; and such service or reasonable efforts to effect the same, shall be of the same force and effect as the service or reasonable efforts to effect the service of a Writ of Summons in any action against a British subject resident abroad, and by leave of the Court or a Judge, upon their or his being satisfied by affidavit as aforesaid, the like proceedings may be had and taken thereupon.

XXXVII. If the Plaintiff or his Attorney shall omit to insert in or indorse on any Writ or copy thereof, any of the matters required by this Act to be inserted therein or indorsed thereon, such Writ or copy thereof shall not on that account be held void, but it may be set aside as irregular, or amended, upon application to be made to the Court out of which the same shall issue, or to a Judge, and such amendment may be made upon any application to set aside the Writ, upon such terms as to the Court or Judge may seem fit.

XXXVIII.

XXXVIII. If either of the forms of Writ of Summons contained in the Schedule (A) to this Act annexed, and marked respectively Nos. 1, 3, and 4, shall by mistake or inadvertence be substituted for any other of them, such mistake or inadvertence shall not be an objection to the Writ or any other proceeding in such action, but the Writ may, upon an *ex parte* application to a Judge, whether before or after any application to set aside such Writ or any proceeding thereon, and whether the same or notice thereof shall have been served or not, be amended by such Judge, without costs.

Amendment if one form of writ be substituted by error for another. (1852, s. 21.)

XXXIX. A Writ for service within the Jurisdiction may be issued and marked as a concurrent Writ with one for service out of the Jurisdiction, and a Writ for service out of the Jurisdiction may be issued and marked as a concurrent Writ with one for service within the Jurisdiction.

Certain writs may be made concurrent. (1852, s. 22.)

XL. Any affidavit for the purpose of enabling the Court or a Judge to direct proceedings to be taken against a Defendant residing out of the Jurisdiction of the said Courts, may be sworn before the Chief Justice or Judge of any Court of Superior Jurisdiction in the Country wherein such Defendant shall reside or be served, or before the Mayor or Chief Magistrate of any City, Town or place wherein the Defendant shall reside or be served, or before any Consul General, Consul, Vice-Consul, or Consular Agent for the time being, appointed by Her Majesty at any foreign port or place at or near which the Defendant shall reside or be served, and every affidavit so sworn by virtue of this Act, may be used and shall be admitted in evidence saving all just exceptions, providing it purport to be sworn before such Chief Justice, Judge, Mayor, or Chief Magistrate, Consul General, Consul, Vice Consul, or Consular Agent; Provided always, that if any person shall forge any signature to any such affidavit, or shall use or tender in evidence any such affidavit with any false, forged or counterfeit signature thereto, knowing the same to be false, forged or counterfeit, he shall be guilty of felony, and shall upon conviction, be liable, at the discretion of the Court, to be kept confined at hard labour in the public Penitentiary of this Province, for any term not less than four years nor more than ten years, and every person who shall be charged with committing any felony under this Act, may be dealt with, indicted, tried, and if convicted, sentenced, and his offence may be laid and charged to have been committed, in the county or place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence, may be dealt with, indicted, tried, and if convicted, sentenced, and his offence may be laid and charged to have been committed, in any county or place in which the principal offender may be tried; Provided also, that if any person shall wilfully and corruptly make a false affidavit before such Chief Justice, Judge, Mayor, Chief Magistrate, Consul General, Consul, Vice Consul or Consular Agent, every person

Affidavits for enabling proceedings to be taken against a party out of the jurisdiction, before whom to be made.

Proviso. Punishment for forging signatures, &c.

Accessories.

Proviso of trial, punishment, &c., for taking false affida-

vits. out of  
U. C.  
(1853, s. 23.)

so offending shall be deemed and taken to be guilty of perjury, in like manner as if such false affidavit had been made in Upper Canada before competent authority, and may be dealt with, indicted, tried, and if convicted, sentenced, and his offence may be laid and charged to have been committed in that county or place where he shall have been apprehended or be in custody.

In demands  
for liquidated  
sums, certain  
particulars  
may be indorsed  
on the  
writ.

XLII. In all cases where the Defendant resides within the Jurisdiction of the Court, and the claim is for a debt or liquidated demand in money, with or without interest, arising upon a contract express or implied, as for instance, on a Bill of Exchange, Promissory Note or Cheque, or other simple contract debt, or on a bond or contract under seal for payment of a liquidated amount of money, or on a statute where the sum sought to be recovered is a fixed sum of money, or in the nature of a debt or on a guarantee, whether under seal or not, where the claim against the principal is in respect of such debt or liquidated demand, bill, note or cheque, the Plaintiff shall be at liberty to make upon the Writ of Summons and copy thereof, a special indorsement of the particulars of his claim, in the form contained in Schedule (A) to this Act annexed, marked No. 5, or to the like effect; and when a Writ of Summons has been indorsed in the special form hereinbefore mentioned, the indorsement shall be considered as particulars of demand, and no further or other particulars need be delivered unless ordered by the Court or a Judge.

No further  
particulars  
need be given  
unless on  
order.  
(1852, s. 25.)

Plaintiff may  
obtain *capias*  
in certain  
cases, after  
commencing  
the suit by writ  
of summons,  
affidavit re-  
quired.

Form of writ.

To whom  
directed.

Copies.

16 V. c. 175,  
s. 3.

One copy to  
be delivered  
to each person  
on whom the  
writ shall be  
executed.

XLII. It shall be lawful for the Plaintiff, after the commencement of any action by Writ of Summons but before Judgment in such action, upon making and filing an affidavit conformably to the provisions of the twenty-third section of this Act or on obtaining a Judge's order for that purpose to sue out of the office whence such Summons was issued a Writ of *Capias*, and one or more concurrent Writs, and to renew such Writs in manner directed by this Act—which Writ of *Capias* in every such case shall be in the form contained in Schedule (A) to this Act annexed, and marked No. 6, and may be directed to the Sheriff of any county or union of counties in Upper Canada, and so many copies of such Writ with every memorandum or notice subscribed thereto, and all endorsements thereon as there may be persons intended to be arrested thereon shall be delivered with such writ to the Sheriff or other officer who may have the execution or return thereof, and who shall immediately, upon or after the execution thereof, cause one such copy to be delivered to every person upon whom such process shall be executed by him, and shall indorse upon such Writ the true day of the execution thereof within three days at farthest after such execution; and the proceedings in any such action may be carried on to Judgment without regard to the issuing of such *Capias* or to any proceedings in any way arising from or dependent thereon—and on entering Judgment the

the Plaintiff shall be entitled to tax the costs of such Writ or Writs of *Capias* and the proceedings thereon in like manner as if the suit had been originally commenced by *Capias*, together with the other costs incurred and taxable in the cause : **Provided** always, that notwithstanding any thing contained in the fourth section of this Act, such Writ shall be issued in the Court out of which the original Writ in the cause was sued out.

Costs.

Proviso :

Writ to issue from the same Court as the original writ.

And as regards proceedings against absconding debtors who shall have real or personal property, credits or effects in Upper Canada ; Be it enacted as follows :

*Absconding Debtors.*

XLIII. If any resident in Upper Canada indebted to any person, shall depart from Upper Canada with intent to defraud his creditors, and shall, at the time of his so departing, be possessed to his own use and benefit, of any real or personal property, credits or effects in Upper Canada, he shall be deemed an absconding debtor, and his property, credits and effects aforesaid, may be seized and taken for the satisfying of his debts by a Writ of Attachment, which shall also contain a Summons to the absconding debtor, and shall be in the form in the Schedule (A) to this Act annexed, marked No. 7, and such Writ shall be dated on the day on which it is sued out, and shall be in force for six months from its date, and may be renewed for the purpose of effecting service on the Defendant, in like manner as a Writ of Summons issued under the authority of this Act.

Form of Writ against absconding Debtors, &c. (*The provisions under this and the next 15 sections amend and consolidate the provisions of the repealed Acts—*  
2 W. 4, c. 5.  
5 W. 4, c. 5.)

Duration of writ.  
Renewal.

XLIV. Upon affidavit made by any Plaintiff, his servant or agent, that any such person so departing is indebted to such Plaintiff in a sum exceeding twenty-five pounds, and stating the causes of action, and that the Deponent hath good reason to believe and doth verily believe such person hath departed from Upper Canada and hath gone to (stating some place to which the absconding Debtor is believed to have fled or that the Deponent is unable to obtain any information to what place he hath fled,) with intent to defraud the Plaintiff of his just dues, or to avoid being arrested or served with process, which affidavit shall be accompanied by the affidavit of two other credible persons, that they are well acquainted with the Debtor mentioned in the first named affidavit, and have good reason to believe and do believe that such Debtor hath departed from Upper Canada with intent to defraud the said Plaintiff, or to avoid being arrested or served with process, it shall be lawful for either of the said Courts or a Judge, or for the Judge of any County Court, by rule or order, to direct that a Writ of Attachment shall issue (to be in the "Inferior Jurisdiction" if the case be within the Jurisdiction of the County Court, and to be marked and the costs to be allowed accordingly,) and to appoint in such rule or order the time for the Defendants putting in Special Bail, which time shall be regulated by the distance from Upper Canada of the place to which the absconding Debtor

Proceedings upon affidavit that the Defendant hath departed, &c. from Upper-Canada, for the purpose of avoiding payment or service of process.

Further Affidavit in confirmation of the former.

Writ of Attachment to issue.

Writ of Attachment to be in duplicate.

Debtor is supposed to have fled, having due regard to the means of and necessary time for postal or other communication; and such Writ of Attachment shall issue in duplicate, and shall be so marked by the officer issuing the same (the costs of suing out the same being allowed only as if a single Writ issued), and one Writ shall be delivered to the Sheriff to whom the same shall be directed, and the other shall be used for the purpose of effecting service on the Defendant.

Further proceedings after service or attempted service.

XLV. Upon its appearing on affidavit to the Court or a Judge, that a copy of the Writ was personally served on the Defendant, or that reasonable efforts were made to effect personal service thereof on him, and that such Writ came to his knowledge, or that the Defendant hath absconded in such a manner that after diligent inquiry no information can be obtained as to the place he hath fled to, it shall be lawful for such Court or Judge, if the Defendant has not put in Special Bail, either to require some further attempt to effect service or to appoint some act to be done which shall be deemed good service, and thereupon, or on the first application, if it shall so seem fit to the Court or a Judge, to direct that the Plaintiff may proceed in the action in such manner and subject to such conditions as the Court or Judge may direct or impose: Provided always, that the Plaintiff shall prove the amount of the debt or damages claimed by him in such action either before a Jury on an assessment or by reference to compute in the manner provided by this Act according to the nature of the case, and the making such proof shall be a condition precedent to his obtaining Judgment, and no execution shall issue until the Plaintiff, his Attorney or Agent shall make oath of the sum justly due by the absconding Debtor to the Plaintiff, after giving him credit for all payments and claims which might be set off or lawfully claimed by the Debtor at the time of making such last mentioned affidavit, and the execution shall be indorsed to levy the sum so sworn to with the taxed costs of suit or the amount of the Judgment, including the costs which ever shall be the smaller sum of the two.

Proviso: Plaintiff must prove his claim.

Further affidavit required before execution shall issue.

Plaintiff may obtain concurrent writs, to other Sheriffs.

XLVI. The Plaintiff may at any time within six months from the date of the original Writ of Attachment, without further order from the Court or a Judge, issue from the office whence the original Writ issued, one or more Concurrent Writ or Writs of Attachment, to bear teste on the same day as the original Writ, and to be marked by the Officer issuing the same with, the word "Concurrent" in the margin, which Concurrent Writ or Writs of Attachment may be directed to any Sheriff other than the Sheriff to whom the original Writ was issued, and need not be sued out in duplicate or be served on the Defendant, but shall operate merely for the attachment of his real or personal property, credits or effects in aid of the original Writ.

They shall be used merely for attaching property.

XLVII The Court or a Judge may at any time before or after final Judgment, but before execution executed, in their discretion, and having regard to the time of the application and other circumstances, let in the Defendant to put in Special Bail, and to defend the action, upon an application supported upon satisfactory affidavits, accounting for Defendant's delay and default and disclosing a good defence on the merits.

Court may let in Defendant to put in Special Bail.  
Affidavit required.

XLVIII Upon the Defendant's putting in and perfecting Special Bail to the action in like manner as if he had been arrested on a Writ of Capias, for the amount sworn to on obtaining the attachment, either within the time limited by the Writ or within such time as shall be specified by the Court or a Judge on letting in the Defendant to defend as aforesaid, all his property, credits and effects which have been attached in that suit, excepting any which may have been disposed of as perishable, and then the net proceeds of the goods so disposed of, shall be restored and paid to him unless there be some other lawful ground for the Sheriff to withhold or detain them, and after Special Bail shall be so put in and perfected the Defendant shall be let in to plead, and the action shall proceed as in ordinary cases begun by Writ of Capias; Provided always, that after obtaining Judgment it shall not be necessary for the Plaintiff to make or file any other or further affidavit than that on which the Writ of Attachment was ordered, in order to sue out a Writ of *capias ad satisfaciendum*; And provided also, that if it shall appear at any time before execution issued, upon motion to be made in Court for that purpose and upon hearing the parties by affidavit, that the Defendant was not an absconding Debtor within the true meaning of this Act, at the time of the suing out of the Writ of Attachment against him, such Defendant shall recover his costs of defence, and the Plaintiff shall, by rule of Court, be disabled from taking out any Writ of Execution for the amount of the verdict rendered or ascertained upon reference to compute or otherwise recovered in such action, unless the same shall exceed, and then for such sum only as the same shall exceed the amount of the taxed costs of the Defendant, and in case the sum so recovered shall be less than the amount of the taxed costs of the Defendant, then the Defendant shall be entitled, after deducting the amount of the sum recovered as aforesaid from the amount of such Defendant's taxed costs, to take out execution for the balance in like manner as a Defendant may now by law have execution for costs in ordinary cases.

Property of Defendant to be restored on his putting in Special Bail;

Or proceeds if sold.

Proviso: as to *ca. sa.*

Proviso: if the Defendant prove that he was not an absconding Debtor when the original writ issued.

Costs, and remedy of Defendant for them.

XLIX. The Sheriff to whom any Writ of Attachment shall be directed shall forthwith take into his charge or keeping all the property, credits and effects, including all rights and shares in any Association or Corporation (which shall be attached in the same manner as they might be seized in execution under the provisions of an Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's

Sheriff to attach all the property and credits of Defendant.

12 Vic. c. 23. Majesty's Reign, intituled, *An Act to provide for the seizure and sale of shares in the Capital Stock of Incorporated Companies,*) of the absconding Debtor as set forth in such Writ, and shall be allowed all necessary disbursements for keeping the same ; and he shall immediately call to his assistance two substantial freeholders of his County, and with their aid he shall make a just and true inventory of all the personal property, credits and effects, evidences of title or debt, books of account, vouchers and papers that he shall attach, and shall return such inventory, after it shall have been signed by himself and the said freeholders, together with the Writ of Attachment.

Inventory to be made of property seized.

How perishable goods shall be dealt with.

Sale of all such goods if Plaintiff give security to restore appraised value, if he fail.

Sheriff to hold proceeds.

Such goods to be restored if Plaintiff fail to give sufficient security.

Liability of debtors, &c., of the defendant paying him after notice of the seizure, &c.

L. In case any horses, cattle, sheep, pigs or any perishable goods or chattels, or such as from their nature (as timber or staves) cannot be safely kept or conveniently taken care of, shall be taken under any Writ of Attachment, it shall be the duty of the Sheriff who has attached the same to have them appraised and valued, on oath, by two competent persons ; and in case the Plaintiff suing out the Attachment shall desire it and shall deposit with the Sheriff a Bond to the Defendant executed by two freeholders, whose sufficiency shall be approved by the Sheriff in double the amount of the appraised value of such articles, conditioned for the payment of such appraised value to the Defendant, his executors or administrators, together with all costs and damages that may have been incurred by the seizure and sale thereof, in case Judgment shall not be obtained by the Plaintiff against the Defendant, then the Sheriff shall proceed to sell all or any such enumerated articles at public auction, to the highest bidder, giving not less than six days' notice of such sale, unless any of the articles are of such a nature as not to allow of that delay, in which case the Sheriff may sell such articles last mentioned forthwith ; and the Sheriff shall hold the proceeds of such sale for the same purposes as he would hold any property seized under the attachment.

LI. If the Plaintiff in any Writ of Attachment, after notice to himself or his Attorney, of the seizure of any such articles as enumerated, shall neglect or refuse to deposit any such Bond, or shall only offer a Bond of sureties insufficient in the judgment of the Sheriff, then, after the lapse of four days next after such notice, the Sheriff shall be relieved from all liability to such Plaintiff in respect to the articles so seized, which the said Sheriff is thenceforth authorized and directed to restore to the person from whose possession he took the same.

LII. If any person who is indebted to or has the custody or possession of any property or effects of an absconding Debtor, shall, after notice in writing of the Writ of Attachment duly served upon him by the Sheriff or by or on behalf of the Plaintiff in such Writ, pay any debt or demand or deliver any such property or effects to such absconding Debtor, or to any person

person for the individual use and benefit of such absconding Debtor, the person paying such debt or demand or delivering such property or effects, shall be deemed to have done so fraudulently, and is hereby made liable for the amount of such debt or demand or for such property and effects or the value thereof, to the Plaintiff in such Writ of Attachment, provided such Plaintiff recover Judgment against the absconding Debtor, and if the property and effects actually seized by the Sheriff are insufficient to satisfy such Judgment; and if any person indebted to any absconding Debtor or having custody of his property as aforesaid, shall be sued for such debt, demand or property after notice as aforesaid of the Writ of Attachment, by the absconding Debtor or by any person to whom the absconding Debtor may have assigned such debt or property after the date of the Writ of Attachment, he may, on affidavit, apply to the Court or a Judge, to stay proceedings in the action against himself, until it shall be known whether the property and effects so seized by the Sheriff, shall be sufficient to discharge the sum or sums recovered against the absconding Debtor, and it shall be lawful for the Court or a Judge to make such rule or order in the matter as they may think fit, and if necessary to direct an issue to try any disputed question of fact.

Proviso :  
Defendant's  
debtor sued  
by him after  
the seizure,  
may obtain  
stay of pro-  
ceedings.

Court or  
Judge may  
make a rule,  
&c.

LIII. If the real and personal property, credits and effects of any absconding Debtor attached by any Writ of Attachment as aforesaid, shall prove insufficient to satisfy the executions obtained in the suit thereon against such absconding Debtor, the Sheriff having the execution thereof may by rule or order of the Court or a Judge to be granted on the application of the Plaintiff, in any such case, sue for and recover from any person indebted to such absconding Debtor, the debt, claim, property or right of action attachable under this Act and owing to or recoverable by such absconding Debtor, with costs of suit, in which suit the Defendant shall be allowed to set up any defence which would have availed him against the absconding Debtor at the date of the Writ of Attachment, and a recovery in such suit by the Sheriff shall operate as a discharge as against such absconding Debtor; and such Sheriff shall hold the moneys recovered by him as part of the assets of such absconding Debtor, and shall apply them accordingly; provided that the declaration in such action shall contain an introductory averment to the effect following:—"A. B., Sheriff of, (&c.) who sues under the provisions of the law respecting absconding Debtors, in order to recover from C. D., Debtor to E. F., an absconding Debtor, the debt due (or other claim according to the facts) by the said C. D., to the said E. F. complains, &c." Provided also, that no Sheriff shall be bound to sue any party as aforesaid until the attaching creditor shall give his bond with two sufficient sureties payable to such Sheriff by his name of office in double the amount or value of the debt or property sued for conditioned to indemnify him from all costs, losses and expenses to be incurred in the prosecution of such action or to

Debtor of De-  
fendant may  
be sued if  
defendant's  
property  
seized be not  
sufficient to  
satisfy  
Plaintiff.

Money reco-  
vered to be  
held as part  
of assets of ab-  
sconding  
debtor.

Proviso : aver-  
ment to be in-  
serted in  
Sheriff's decla-  
ration.

Proviso :  
Sheriff not  
bound to sue  
until creditor  
give bond to  
indemnify  
him.

which

Proviso :  
Sheriff's suc-  
cessor may  
continue the  
action.

which he may become liable in consequence thereof; Provided lastly, that in the event of the death, resignation or removal from office of any Sheriff after such action brought, the action shall not abate, but may be continued in the name of his successor to whom the benefit of the bond so given shall enure as if he had been named therein, and a suggestion of the necessary facts as to the change of the Sheriff as Plaintiff shall be entered of record.

Costs in such  
cases, and how  
paid.

LIV. The costs of the Sheriff for seizing and taking charge of property, credits and effects under a Writ of Attachment, including the sums paid to any persons for assisting in taking an inventory, and for appraising (which shall be paid for at the rate of *five shillings* for each day actually required for and occupied in making such inventory or appraisal) shall be paid in the first instance by the Plaintiff in the Writ of Attachment, and may after having been taxed be recovered by the Sheriff by action in any Court in Upper Canada, having jurisdiction for the amount, and such costs shall be taxed to the party who pays the same as part of the disbursements in the suit against the absconding Debtor and be so recovered from him; Provided always, that the Sheriff having made an inventory and appraisal on the first Writ of Attachment against any absconding Debtor, shall not be required to make any new inventory and appraisal on a subsequent Writ of Attachment coming into his hands, nor shall he be allowed any charge for any inventory or appraisal except upon the first Writ.

Proviso : New  
writ not to  
make new In-  
ventory requi-  
site.

Persons  
having previ-  
ously com-  
menced suits  
against the  
same Defen-  
dant may pro-  
ceed to judg-  
ment, &c.

LV. Any person who shall have commenced a suit in any Court of Record of Upper Canada, the process wherein shall have been served or executed before the suing out a Writ of Attachment against the same defendant as an absconding Debtor, shall, notwithstanding the suing out of the Writ of attachment, be entitled to proceed to Judgment and execution in his suit in the usual manner; and if he shall obtain execution before the Plaintiff in any such Writ of Attachment, he shall have the full advantage of his priority of execution in the same manner as if the property and effects of such absconding Debtor still remained in his own hands and possession, subject to the prior satisfaction of all costs of suing out and executing the Attachment if the Court or a Judge shall so order; Provided always, that nothing herein contained shall prevent the Court in which such action is brought or a Judge from setting aside any such judgment and execution, or staying proceedings therein on the application of the Plaintiff on any Writ of Attachment, if such judgment shall appear to be fraudulent, or such action has been brought in collusion with the absconding Debtor, or for the fraudulent purpose of defeating the just claims of other Creditors of such absconding Debtor.

Proviso :  
If such suit be  
fraudulent or  
collusive.

LVI. If any Sheriff to whom a Writ of Attachment is delivered for execution, shall find any property or effects, or the proceeds of any property or effects which have been sold as perishable, belonging to the absconding Debtor named in such Writ of Attachment, in the hands, custody and keeping of any Constable or of any Bailiff or Clerk of a Division Court by virtue of any warrant of attachment issued under the provisions of the Act of the Parliament of this Province, passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to consolidate and amend the several Acts now in force regulating the practice of Division Courts in Upper Canada, and to extend the Jurisdiction of the same*, it shall be the duty of such Sheriff to demand and to take from such Constable, Bailiff or Clerk, all such property or effects, or the proceeds of any part thereof as aforesaid, and it shall be the duty of such Constable, Bailiff or Clerk, on demand by such Sheriff and notice of the Writ of Attachment, forthwith to deliver all such property, effects and proceeds as aforesaid to the Sheriff, upon penalty of forfeiting double the value or the amount thereof, to be recovered by such Sheriff, with costs of suit (which sheriff shall, after deducting his own costs, hold and account for such penalty as part of the property and effects of the absconding Debtor); Provided always, that the Creditor who has sued out such Warrant of Attachment may proceed to judgment against the absconding Debtor in the Division Court, and on obtaining Judgment, and serving a memorandum of the amount thereof, and of his costs to be certified under the hand of the Clerk of the Division Court, he shall be entitled to satisfaction in like manner as and in rateable proportion with the other Creditors of the absconding Debtor who shall obtain Judgment as hereinafter mentioned.

If the Sheriff find property in the hands of a Bailiff, or Clerk of a Division Court under 13 & 14 V. c. 53.

Proviso : Creditor in Division Court may proceed to judgment, &c.

LVII. When several persons shall sue out Writs of Attachment against any absconding debtor, the proceeds of the property and effects attached and in the Sheriff's hands, shall be rateably distributed among such of the Plaintiffs in such Writs as shall obtain Judgments and issue execution, in proportion to the sums actually due upon such Judgments, and the Court or a Judge may, in their discretion, delay the distribution, in order to give reasonable time for the obtaining of Judgment against such absconding Debtor; and every Creditor who shall produce a certified memorandum from the Clerk of any Division Court, of his Judgment as aforesaid, shall be considered a Plaintiff in a Writ of Attachment who has obtained Judgment and issued execution, and shall be entitled to share accordingly; Provided always, that when the property and effects of the absconding Debtor shall be insufficient to satisfy the sums due to such Plaintiffs, none shall be allowed to share, unless their Writs of Attachment were issued and placed in the hands of the Sheriff for execution within six months from the date of the first Writ of Attachment, or in case of a Warrant of Attachment, unless the same was placed in the hands of the Constable

Proceedings if several persons take out writs against the same absconding Debtor.

Proviso : Who shall share if the property will not pay all.

Constable or Bailiff before or within six months after the date of the first Writ of Attachment.

When all the seizing Creditors are satisfied, the remaining property to be delivered up.

LVIII. If after the period of one month next following the return of any execution against the property and effects of any absconding Debtor, or after a period of one month from a distribution under the order of the Court or a Judge, whichever shall last happen, and after satisfying the several Plaintiffs entitled, there shall be no other Writ of Attachment or execution against the same property and effects in the hands of the Sheriff, then all the property and effects of the absconding Debtor, or unappropriated moneys the proceeds of any part of such property and effects, remaining in the hands of the Sheriff, together with all books of account, evidences of title or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding Debtor or to the person or persons in whose custody the same were found, or to any lawfully appointed Agent of the absconding Debtor, and thereupon the responsibility of the Sheriff in respect thereto shall determine.

And with respect to the appearance of the Defendant and the proceedings of the Plaintiff in default of appearance ; Be it enacted as follows :

Plaintiff need not enter appearance for Defendant.

LIX. From the time when this Act shall commence and take effect, no appearance need be entered by the Plaintiff for the Defendant.

(1852, s. 26.)  
Proceedings on non-appearance of Defendant on writ specially indorsed.

LX. In case of non-appearance by the Defendant where the Writ of Summons is indorsed in the special form hereinbefore provided, it shall be lawful for the Plaintiff on filing an affidavit of personal service of the Writ of Summons, or a rule of Court, or a Judge's order for leave to proceed under the provisions of this Act, and the Writ of Summons, at once to sign final Judgment in the form contained in the Schedule (A) to this Act annexed, marked No. 7, *bis*, (on which Judgment no proceeding in error or appeal shall lie) for any sum not exceeding the sum indorsed on the Writ, together with interest to the date of the Judgment and costs to be taxed in the ordinary way : and the Plaintiff may upon such Judgment, issue execution at the expiration of eight days from the last day for appearance, and not before ; Provided always, that it shall be lawful for the Court or a Judge, either before or after final Judgment, to let in the Defendant to defend, upon an application supported by satisfactory affidavits accounting for the non-appearance and disclosing a defence upon the merits.

Signing judgment.

Execution.

Proviso ; Defendant may be let in to defend. (1852, s. 27.)

LXI. In case of such non-appearance where the Writ of Summons is not indorsed in the special form hereinbefore provided, it shall be lawful for the Plaintiff, on filing an affidavit of personal service of the Writ of Summons or a Judge's Order for leave to proceed under the provisions of this Act,

And if the writ be not so specially indorsed.

Act,



At what time certain proceedings may be taken if Defendant do not appear.

Proviso : for Holidays.

Proviso : for Dog-days.

Proviso.

Dog-days.  
(1852, s. 32.)

LXV. All such proceedings as are mentioned in any Writ of Summons or Capias, or notice or warning thereto or thereon, issued, made or given by authority of this Act, may be had and taken (in default of a Defendant's appearance or putting in special bail) at the expiration of ten days from the service or execution thereof, on whatever day the last of such ten days may happen to fall, whether in term or vacation ; Provided always, that if the last of such ten days shall in any case happen to fall on a Sunday, Christmas Day or Good Friday, in either of such cases the following day, or the following Monday when Christmas Day falls on a Saturday, shall be considered as the last of such ten days ; Provided also, that if such Writ shall be served or be executed on any day between the first day of July and the twenty-first day of August in any year, special bail may be put in by the Defendant onailable process, or appearance entered by the Defendant on process notailable, at the expiration of such ten days ; Provided also, that no declaration or pleading after declaration shall be filed or served between the said first day of July and the said twenty-first day of August.

Proceedings if some of the Defendants appear and others do not the writ being specially indorsed.  
(1852, s. 33.)

LXVI. In any action brought against two or more Defendants when the Writ of Summons is indorsed in the special form hereinbefore provided, if one or more of such Defendants only shall appear and another or others of them shall not appear, it shall be lawful for the Plaintiff to sign Judgment against such Defendant or Defendants only as shall not have appeared, and before declaration against the other Defendant or Defendants, to issue execution thereupon, in which case he shall be taken to have abandoned his action against the Defendant or Defendants who shall have appeared ; or the Plaintiff may before such execution declare against such Defendant or Defendants as shall have appeared, stating by way of suggestion the Judgment obtained against the other Defendant or Defendants who shall not have appeared, in which case the Judgment so obtained against the Defendant or Defendants who shall not have appeared, shall operate and take effect in like manner as a Judgment by default obtained before the commencement of this Act against one or more of several Defendants in an action of debt.

And with respect to the joinder of parties to actions ; Be it enacted as follows :

Court may in certain cases order any party not joined as

LXVII. It shall be lawful for the Court or a Judge at any time before the trial of any cause, to order that any person or persons not joined as Plaintiff or Plaintiffs in such cause shall be so joined, or that any person or persons originally joined as Plaintiff or Plaintiffs shall be struck out from such cause, if it shall appear to such Court or Judge that injustice will not be done

done by such amendment, and that the person or persons to be added as aforesaid, consent either in person or by writing under his, her or their hands to be so joined, or that the person or persons to be struck out as aforesaid, were originally introduced without his, her or their consent, or that such person or persons consent in manner aforesaid to be struck out; and such amendment shall be made upon such terms as to the amendment of the pleadings, if any, postponement of the trial, and otherwise, as the Court or Judge by whom such amendment is made shall think proper; and when any such amendment shall have been made, the liability of any person or persons who shall have been added as co-Plaintiff or co-Plaintiffs shall, subject to any terms imposed as aforesaid, be the same as if such person or persons had been originally joined in such cause.

Plaintiff, to be so joined, or a party joined to be struck out before trial.

(1852, s. 34.)

LXVIII. In case it shall appear at the trial of any action that there has been a mis-joinder of Plaintiffs, or that some person or persons not joined as Plaintiff or Plaintiffs ought to have been so joined, and the Defendant shall not at or before the time of pleading have given notice in writing that he objects to such non-joinder, specifying therein the name or names of such person or persons, such mis-joinder or non-joinder may be amended as a variance at the trial by any Court of Record holding plea in civil actions, and by any Judge sitting at *nisi prius*, or other presiding officer, in like manner as to the mode of amendment and proceedings consequent thereon, or as near thereto as the circumstances of the case will admit, as in the case of amendment of variances under the Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of King William the Fourth, intitled, *An Act for the further amendment of the law and the better advancement of Justice*, if it shall appear to such Court or Judge or other presiding officer, that such mis-joinder or non-joinder was not for the purpose of obtaining an undue advantage, and that injustice will not be done by such amendment, and that the person or persons to be added as aforesaid, consent either in person or by writing under his, her or their hands to be so joined, or that the person or persons to be struck out as aforesaid were originally introduced without his, her or their consent, or that such person or persons consent in manner aforesaid to be so struck out, and such amendment shall be made upon such terms as the Court or Judge or other presiding officer by whom such amendment is made, shall think proper; and when any such amendment shall have been made, the liability of any person or persons, who shall have been added as co-Plaintiff or co-Plaintiffs shall, subject to any terms imposed as aforesaid, be the same as if such person or persons had been originally joined in such action.

Proceedings for amendment if the misjoinder of Plaintiffs; or an omission to join those who ought to be joined, appear at the trial, the Defendant not having given notice of objection.

Act of U. C. 7 W. 4, c. 3.

Liability of persons ordered to be joined as Plaintiffs. (1852, s. 35.)

LXIX. In case such notice be given, or any plea in abatement of non-joinder of a person or persons as co-Plaintiff or co-Plaintiffs

If such notice have been given by the Defendant, or

non-joinder be pleaded in abatement. (1852, s. 36.)

co-Plaintiffs (in cases where such plea in abatement may be pleaded) be pleaded by the Defendant, the Plaintiff shall be at liberty, without any order, to amend the writ and other proceedings before plea, by adding the name or names of the person or persons named in such notice or plea in abatement, and to proceed in the action without any further appearance, on payment of the costs of and occasioned by such amendment only, and in such case the Defendant shall be at liberty to plead *de novo*.

Mis-joinder of Defendants discovered before trial in action on contract.

LXX. It shall be lawful for the Court or a Judge in the case of the joinder of too many Defendants in any action on contract, at any time before the trial of such cause to order that the name or names of one or more of such Defendants be struck out, if it shall appear to such Court or Judge that injustice will not be done by such amendment, and the amendment shall be made upon such terms as the Court or Judge by whom such amendment is made shall think proper; and in case it shall appear at the trial of any action on contract, that there has been a mis-joinder of defendants, such mis-joinder may be amended as a variance at the trial in like manner as the mis-joinder of Plaintiffs has been hereinbefore directed to be amended, and upon such terms as the Court or Judge or other presiding officer by whom such amendment is made shall think proper.

And at trial. (1852, s. 37.)

If the non-joinder of Defendants be pleaded in abatement in such action.

LXXI. In any action on contract where the non-joinder of any person or persons as co-Defendant or co-Defendants has been pleaded in abatement, the Plaintiff shall be at liberty, without any order, to amend the Writ of Summons and the declaration by adding the name or names of the person or persons named in such plea in abatement as joint contractors, and to serve the amended Writ upon the person or persons so named in such plea in abatement, and to proceed against the original Defendant or Defendants and the person or persons so named in such plea in abatement; Provided that the date of such amendment shall, as between the person or persons so named in such plea of abatement and the Plaintiff, be considered for all purposes as the commencement of the action.

Proviso. (1852, s. 33.)

Costs of such plea in abatement, &c.

LXXII. In all cases after such plea in abatement and amendment, if it shall appear upon the trial of the action that the person or persons so named in such plea in abatement was or were jointly liable with the original Defendant or Defendants, the original Defendant or Defendants shall be entitled as against the Plaintiff to the costs of such plea in abatement and amendment; but if at such trial it shall appear that the original Defendant or any of the original Defendants is or are liable, but that one or more of the persons named in such plea in abatement is or are not liable as a contracting party or parties, the Plaintiff shall nevertheless be entitled to Judgment against the other Defendant or Defendants who shall appear to be liable,

Judgment as regards Defendants liable or not liable, respectively.

liable, and every Defendant who is not so liable shall have Judgment and shall be entitled to his costs as against the Plaintiff, who shall be allowed the same together with the costs on the plea in abatement and amendment, as costs in the cause against the original Defendant or Defendants who shall have so pleaded in abatement the non-joinder of such person ; Provided that any such Defendant who shall have so pleaded in abatement, shall be at liberty on the trial to adduce evidence of the liability of the Defendants named by him in such plea in abatement.

Proviso.  
(1852, s. 39.)

LXXIII. Provided always that in any action to be brought in Upper Canada against any joint obligor or contractor, the action shall not abate on account of any other joint obligor or contractor not being made a Defendant, unless the party pleading such non-joinder shall aver in his plea that such joint obligor or contractor is living within the limits of Upper Canada, and shall state the place of his residence, nor unless an affidavit of the truth of such plea be filed therewith.

Action not to abate by non-joinder of joint contractor, &c., unless it be averred and sworn that he lives in Upper Canada.  
59 G. 3, c. 25.

LXXIV. The joint obligation, contract or promise may be given in evidence against any one or more of the joint obligors or contractors, and shall have the same force and effect for the recovery of Judgment thereon as if it were only the obligation, contract or promise of the Defendant or Defendants actually sued.

Joint contract &c., may be given in evidence against any one contractor, &c.  
59 G. 3, c. 25.

LXXV. Causes of action of whatever kind, provided they be by and against the same parties and in the same rights, may be joined in the same suit, but this shall not extend to replevin or ejectment ; and where two or more of the causes of action so joined are local and arise in different Counties, the venue may be laid in either of such Counties, but the Court or a Judge shall have power to prevent the trial of different causes of action together, if such trial would be inexpedient, and in such case the Court or a Judge may order separate records to be made up and separate trials to be had ; Provided always, that nothing herein contained shall be construed to restrict or diminish the obligation or right of a Plaintiff to include in one action all or any of the drawers, makers, endorsers and acceptors of any Bill of Exchange or Promissory Note.

Several causes of action may be joined, subject to certain conditions.

Court may order separate trials.

Proviso: as to promissory notes, bills, &c.  
(1852, s. 41.)

LXXVI. In any action brought by a man and his wife on any cause of action accruing personally to the wife, in respect of which they are necessarily co-Plaintiffs, it shall be lawful for the husband to add thereto claims in his own right, and separate actions brought in respect of such claims may be consolidated, if the Court or a Judge shall think fit ; Provided, that in case of the death of either Plaintiff, such suit, so far only as relates to the causes of action, if any, which do not survive, shall abate.

Cases where a husband and wife are co-Plaintiffs.

Proviso.  
(1852, s. 40.)

And for the determination of questions raised by the consent of the parties without pleading; Be it enacted as follows:

Parties may agree upon an issue of fact, and try it.

LXXVII. Where the parties to an action are agreed as to the question or questions of fact to be decided between them, they may, after writ issued and before Judgment, by consent and order of a Judge, (which order any Judge shall have power to make upon being satisfied that the parties have a *bonâ fide* interest in the decision of such question or questions, and that the same is or are fit to be tried,) proceed to the trial of any question or questions of fact without formal pleadings, and such question or questions may be stated for trial in an issue in the form contained in the Schedule (A) to this Act annexed, marked No. 8, and such issue may be entered for trial and tried accordingly in the same manner as any issue joined in an ordinary action, and the proceedings in such action and issue shall be under and subject to the ordinary control and jurisdiction of the Court, as in other actions.

Form of stating questions, and trial of issue thereon. (1852, s. 42.)

And may enter into agreement to pay money or not, according to the result. (1852, s. 43.)

LXXVIII. The parties may, if they think fit, enter into an agreement in writing, which shall be embodied in the said or any subsequent order, that upon the finding of the Jury in the affirmative or negative of such issue or issues, a sum of money to be fixed by the parties, or to be ascertained by the Jury upon the issue or issues and evidence submitted to them, shall be paid by one of such parties to the other of them, either with or without the costs of the action.

Judgment may be entered and execution issued, &c., upon the finding. (1852, s. 44.)

LXXIX. Upon the finding of the Jury upon any such issue, Judgment may be entered for any such sum as shall be so agreed or ascertained as aforesaid, with or without costs, as the case may be, and execution may issue upon such Judgment forthwith, unless otherwise agreed, or unless the Court or a Judge shall otherwise order for the purpose of giving either party an opportunity for moving to set aside the verdict or for a new trial.

Proceedings may be recorded, &c. Effect of judgment. (1852, s. 45.)

LXXX. The proceedings upon any such issue may be recorded at the instance of either party; and the Judgment, whether actually recorded or not, shall have the same effect as any other Judgment in a contested action.

Parties may agree upon a special case without pleadings. (1852, s. 46.)

LXXXI. The parties may, after writ issued and before Judgment, by consent and by order of a Judge, state any question or questions of law in a special case for the opinion of the Court, without any pleadings.

And may agree to pay or not to pay money, according to the decision upon

LXXXII. The parties may, if they think fit, enter into an agreement in writing, which shall be embodied in the said or any subsequent order, that upon the Judgment of the Court being given in the affirmative or negative of the question or questions of law raised by such special case, a sum of money fixed

fixed by the parties, or to be ascertained by the Court or in such manner as the Court may direct, shall be paid by one of such parties to the other of them, either with or without costs of the action, and the Judgment of the Court may be entered for such sum as shall be so fixed or ascertained, with or without costs as the case may be, and execution may issue upon such Judgment forthwith, unless otherwise agreed or unless stayed by proceedings in error or appeal.

such case, &c.  
(1852, s. 47.)

LXXXIII. In case no agreement shall be entered into as to the costs of such action, the costs shall follow the event, and be recovered by the successful party.

Costs, when there is no agreement about them.  
(1852, s. 48.)

And for the more expeditious determination of mere matters of account; Be it enacted as follows :

LXXXIV. If it be made to appear, at any time after the issuing of the writ to the satisfaction of the Court or a Judge, upon the application of either party, that the matters in dispute consist wholly or in part of matters of mere account, which cannot conveniently be tried in the ordinary way, it shall be lawful for such Court or Judge, upon such application, if they or he think fit, to decide such matter in a summary manner, or to order that such matter, either wholly or in part, be referred to an arbitrator appointed by the parties, or to an officer of the Court, or in country causes to the Judge of any County Court, upon such terms as to costs and otherwise as such Court or Judge shall think reasonable; and the decision or order of such Court or Judge, or the award or certificate of such referee, shall be enforceable by the same process as the finding of a Jury upon the matter referred.

The Court or a Judge on the application of either party may refer the whole or any part to an arbitrator, officer or County Judge.

Enforcing such order or decision under it.  
(1854, s. 3.)

LXXXV. If it shall appear to the Court or a Judge that the allowance or disallowance of any particular item or items in such account depends upon a question of law fit to be decided by the Court, or upon a question of fact fit to be decided by a Jury, it shall be lawful for such Court or Judge to direct a case to be stated or an issue or issues to be tried; and the decision of the Court upon such case, and the finding of the Jury upon such issue or issues, shall be taken and acted upon by the arbitrator as conclusive.

Any incidental question of law may be decided by the Court, or one of fact by a Jury upon a special case or issue.  
(1854, s. 4.)

LXXXVI. It shall be lawful for the arbitrator upon any compulsory reference under this Act, or upon any reference by consent of parties where the submission is or may be made a rule or order of any of the Superior Courts of Law or Equity in Upper Canada, if he shall think fit and if it is not provided to the contrary, to state his award as to the whole or any part thereof, in the form of a special case for the opinion of the Court, and when an action is referred, judgment if so ordered may be entered according to the opinion of the Court.

Arbitrator may make award in the form of a special case.

Effect thereof.  
(1854, s. 5.)

Proceedings before arbitrator and his power to be as upon reference by consent. (1854, s. 7.)

LXXXVII. The proceedings upon any such arbitration as aforesaid shall, except otherwise directed hereby or by the submission or document authorizing the reference, be conducted in like manner and subject to the same rules and enactments as to the power of the arbitrator and of the Court, the attendance of witnesses, the production of documents, enforcing or setting aside the award, or otherwise, as upon a reference made by consent under a rule of Court or Judge's order.

Case may be remitted to the arbitrator for reconsideration, &c., whenever the reference is made a rule of Court. (1854, s. 8.)

LXXXVIII. In every case of reference to arbitration, whether under this Act or otherwise, where the submission shall be made a rule of any Court of Upper Canada, such Court or a Judge thereof shall have power at any time and from time to time to remit the matters referred or any or either of them to the reconsideration and redetermination of the arbitrator or arbitrators or umpire as the case may require, upon such terms as to costs and otherwise as to the said Court or Judge may seem proper.

Period within which application to set aside award must be made. (1854, s. 9.)

LXXXIX. All applications to set aside any award made on a compulsory reference under this Act, shall and may be made within the first six days of the term next following the publication of the award to the parties, whether made in vacation or term; and if no such application be made, or if no rule be granted thereon, or if any rule granted thereon be afterwards discharged, such award shall be final between the parties.

Award may, by order of a judge, be enforced tho' the said period has not elapsed. (1854, s. 10.)

XC. Any award made on a compulsory reference under this Act, may, by authority of a Judge on such terms as to him may seem reasonable, be enforced at any time after six days from the time of publication, notwithstanding that the time for moving to set it aside has not elapsed.

When parties to any instrument hereafter made have agreed that any difference between them shall be referred to arbitration, the Court or a Judge may stay proceedings in any action or suit, respecting such difference, on application of defendant and proof of certain matters.

XCI. Whenever the parties to any deed or instrument in writing to be hereafter made or executed, or any of them, shall agree that any then existing or future differences between them or any of them shall be referred to arbitration, and any one or more of the parties so agreeing or any person or persons claiming through or under him or them, shall nevertheless commence any action at Law or suit in Equity against the other party or parties or any of them, or against any person or persons claiming through or under him or them in respect of the matters so agreed to be referred or any of them, it shall be lawful for the Court in which such action or suit is brought or a Judge thereof, on application by the Defendant or Defendants or any of them after appearance and before plea or answer, upon being satisfied that no sufficient reason exists why such matters cannot be or ought not to be referred to arbitration according to such agreement as aforesaid, and that the Defendant was at the time of the bringing of such action or suit and still is ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration,

to make a rule or order staying all proceedings in such action or suit, on such terms as to costs and otherwise, as to such Court or Judge may seem fit ; Provided always, that any such rule or order may at any time afterwards be discharged or varied as justice may require. Proviso. (1854, s. 11.)

XCII. If in any case of arbitration, the document authorizing the reference provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator, or if any appointed arbitrator refuse to act, or become incapable of acting, or die, and the terms of such document do not shew that it was intended that such vacancy should not be supplied, and the parties do not concur in appointing a new one, or if, where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator, such parties or arbitrators do not appoint an umpire or third arbitrator, or if any appointed umpire or third arbitrator refuse to act, or become incapable of acting, or die, and the terms of the document authorizing the reference do not shew that it was intended that such vacancy should not be supplied, and the parties or arbitrators respectively do not appoint a new one, then and in every such instance, any party may serve the remaining parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator respectively; and if within seven clear days after such notice shall have been served, no arbitrator, umpire or third arbitrator be appointed, it shall be lawful for any Judge of any of the Superior Courts of Law or Equity in Upper Canada, upon summons to be taken out by the party having served such notice as aforesaid, to appoint an arbitrator, umpire or third arbitrator as the case may be, and such arbitrator, umpire or third arbitrator respectively, shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties. Provision for supplying the place of a single arbitrator or umpire, dying, refusing to act, &c., when the reference does not show an intention that his place should not be supplied. Notice. A Judge to appoint another in default of the proper party. (1854, s. 12.)

XCIII. When the reference is or is intended to be to two arbitrators, one appointed by each party, it shall be lawful for either party in case of the death, refusal to act or incapacity of any arbitrator appointed by them, to substitute a new arbitrator, unless the document authorizing the reference shew that it was intended that the vacancy should not be supplied, and if on such a reference one party fail to appoint an arbitrator either originally or by way of substitution as aforesaid, for seven clear days after the other party shall have appointed an arbitrator and shall have served the party so failing with notice in writing to make the appointment, the party who has appointed an arbitrator may appoint such arbitrator to act as sole referee in the reference, and an award made by him shall be binding on both parties as if the appointment had been by consent ; provided however that the Court or a Judge may revoke such appointment on such terms as shall seem just. When the reference is to two arbitrators and one party neglects to appoint, the other may, after certain notice, &c., appoint his arbitrator to act alone, unless the reference provides that the vacancy should not be supplied. Proviso (1854, s. 13.)

Two arbitrators may always appoint an umpire, unless the reference forbid it. (1854, s. 14.)

XCV. When the reference is to two arbitrators and the terms of the document authorizing it do not shew that it was intended that there should not be an umpire, or provide otherwise for the appointment of an umpire, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award, unless they be called upon by notice as aforesaid to make the appointment sooner.

Award to be made within a certain period.

XCV. The arbitrator acting under any such document or compulsory order of reference as aforesaid, or under any order referring the award back, shall make his award under his hand and (unless such document or order respectively shall contain a different limit of time) within three months after he shall have been appointed and shall have entered on the reference, or shall have been called upon to act by a notice in writing from any party, but the parties may by consent in writing enlarge the term for making the award; and it shall be lawful for the Superior Court of which such submission, document or order is or may be made a rule or order, or for any judge thereof, for good cause to be stated in the rule or order for enlargement from time to time, to enlarge the term for making the award, and if no period be stated for the enlargement in such consent or order for enlargement, it shall be deemed an enlargement for one month; and in any case where an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators if the latter shall have allowed their time to expire without making an award, or shall have delivered to any party or to the umpire a notice in writing stating that they cannot agree.

Period may be enlarged.

When the Umpire shall act. (1854, s. 15.)

XCVI. When any award made on any such submission, document or order of reference as aforesaid, directs that possession of any lands or tenements capable of being the subject of an action of ejectment shall be delivered to any party either forthwith or at any future time, or that any such party is entitled to the possession of any such lands or tenements, it shall be lawful for the Court of which the document authorizing the reference is or is to be made a rule or order, to order any party to the reference who is in possession of any such lands or tenements, or any person in possession of the same claiming under or put in possession by him since the making of the document authorizing the reference, to deliver possession of the same to the party entitled thereto pursuant to the award, and such rule or order to deliver possession shall have the effect of a Judgment in ejectment against every such party or person named in it, and execution may issue and possession shall be delivered by the sheriff as on a judgment in ejectment.

When the award directs possession of real property to be delivered, the Court may order such delivery, and enforce it as a judgment in ejectment. (1854, s. 16.)

XCVI. When any award made on any such submission, document or order of reference as aforesaid, directs that possession of any lands or tenements capable of being the subject of an action of ejectment shall be delivered to any party either forthwith or at any future time, or that any such party is entitled to the possession of any such lands or tenements, it shall be lawful for the Court of which the document authorizing the reference is or is to be made a rule or order, to order any party to the reference who is in possession of any such lands or tenements, or any person in possession of the same claiming under or put in possession by him since the making of the document authorizing the reference, to deliver possession of the same to the party entitled thereto pursuant to the award, and such rule or order to deliver possession shall have the effect of a Judgment in ejectment against every such party or person named in it, and execution may issue and possession shall be delivered by the sheriff as on a judgment in ejectment.

Every submission to arbitration may be made a rule of Court,

XCVII. Every agreement or submission to arbitration by consent, whether by deed or instrument in writing not under seal, may be made a rule of any one of the Superior Courts of law or equity in Upper Canada on the application of any party thereto,

thereto, unless such agreement or submission contain words purporting that the parties intend that it should not be made a rule of Court; and if in any such agreement or submission it is provided that the same shall or may be made a rule of one in particular of such Superior Courts, it may be made a rule of that Court only; and if when there is no such provision a case be stated for the opinion of one of the Superior Courts and such Court be specified in the award, and the document authorizing the reference have not before the publication of the award to the parties been made a rule of Court, such document may be made a rule only of the Court specified in the award; and when in any case the document authorizing the reference is or has been made a rule or order of any one of such Superior Courts, no other of such Courts shall have any jurisdiction to entertain any motion respecting the arbitration or award.

unless the instrument forbid it.

Of what Court it may be made a rule.

And if a case be stated in the award for the opinion of a Court.

Other Courts not to interfere. (1854, s. 17.)

And with respect to the language and form of pleadings in general; Be it enacted as follows:

XCVIII. All statements which need not be proved, such as the statement of time, quantity, quality and value where these are immaterial, the statement of losing and finding, and bailment in actions for goods and their value—the statements of acts of trespass having been committed with force and arms and against the peace of our Lady the Queen—the statement of promises which need not be proved, as promises in *indebitatus* counts and mutual promises to perform agreements, and all statements of a like kind, shall be omitted.

Statements which need not be proved need not be made. (1852, s. 49.)

XCIX. Either party may object by demurrer to the pleading of the opposite party on the ground that such pleading does not set forth sufficient ground of action, defence or reply, as the case may be; and where issue is joined on such demurrer, the Court shall proceed and give Judgment according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, defect in or lack of form, and no Judgment shall be arrested, stayed or reversed for any such imperfection, omission, defect in or lack of form.

Demurrers to be for substance only.

Court may give judgment on the substance without regarding form. (1852, s. 50.)

C. After this Act comes into operation, no pleading or amended pleading shall be deemed insufficient for any defect which could heretofore only be objected to by special demurrer.

No pleading invalid for cause now pleadable only by special demurrer.

(1852, s. 51.)

CI. If any pleading be so framed as to prejudice, embarrass, or delay the fair trial of the action, the opposite party may apply to the Court or a Judge to strike out or amend such pleading, and the Court or any Judge shall make such order respecting the same, and also respecting the costs of the application, as such Court or Judge shall see fit.

Unfair pleadings may be struck out, or amended.

(1852, s. 52.)

Notice instead of Rule, to declare, etc. (1852, s. 53.)

CII. No rule to declare, to declare peremptorily, to reply or plead any pleading whatever, shall be allowed, but a notice requiring the opposite party to declare, reply, rejoin, or otherwise, as the case may be, within eight days, otherwise Judgment, shall be sufficient; and such notice may be delivered separately or be indorsed on any pleading which the other party is required to answer.

Entering, dating, and recording pleadings. (1852, s. 54.)

CIII. Every declaration or other pleading shall be entitled of the proper Court, and of the day of the month and year when the same was filed, and shall bear no other time or date, and every declaration or other pleading shall also be entered on the record made up for trial, and on the Judgment Roll, under the date of the day of the month and year when the same respectively took place, and without reference to any other time or date, unless otherwise specially ordered by the Court or a Judge.

Profert, oyer, &c., unnecessary. (1852, s. 55.)

CIV. It shall not be necessary to make profert of any deed or other document mentioned or relied on in any pleading; and, if profert shall be made, it shall not entitle the opposite party to crave oyer of or set out upon oyer, such deed or other document.

Setting out in answer documents referred to in pleading. (1852, s. 56.)

CV. A party pleading in answer to any pleading in which any document is mentioned or referred to, shall be at liberty to set out the whole or any part thereof which may be material, and the matter so set out shall be deemed and taken to be part of the pleading in which it is set out.

As to averment of performance or non performance of a condition precedent. (1852, s. 57.)

CVI. It shall be lawful for the Plaintiff or Defendant in any action to aver performance of conditions precedent generally, and the opposite party shall not deny such performance generally, but shall specify in his pleading the condition or conditions precedent the performance of which he intends to contest.

And with regard to the time and manner of declaring; Be it enacted as follows:

Plaintiff must declare within a year. (1852, s. 58.)

CVII. A plaintiff shall be deemed out of Court unless he declare within one year after the Writ of Summons is returnable.

Commencement of declaration. Conclusion. (1852, s. 59.)

CVIII. Every declaration shall commence as follows, or to the like effect: "*(Venue.)* A. B. by E. F. his Attorney (*or in person, (as the case may be)* sues C. D., who has been summoned (*or arrested*) by virtue of a Writ issued on the "*day of* A. D., 18 , for (*here state cause of action*)": and shall conclude as follows or to the like effect, "and the Plaintiff claims £ , (*or if the action is brought to recover specific goods,*) the Plaintiff claims a return of the said goods "or their value, and £ for their detention."

CIX.

CIX. In all cases in which after a plea in abatement of the non-joinder of another person as Defendant, the Plaintiff shall, without having proceeded to trial on an issue thereon, commence another action against the Defendant or Defendants in the action in which such plea in abatement shall have been pleaded, and the person or persons named in such plea in abatement as joint contractors, or shall amend by adding the omitted Defendant or Defendants, the commencement of the declaration shall be in the following form, or to the like effect :

Commence-  
ment after  
abatement for  
non-joinder.  
(1852, s. 60.)

“(Venue.) A. B. by E. F., his Attorney, (or in his own proper person, sues C. D. (the defendant originally named in the Summons) who has been summoned (or arrested) by virtue of a Writ issued on the day of A. D. 18 , and G. H., which said C. D. has heretofore pleaded in abatement of the non-joinder of the said G. H. for,” &c.

Form.

CX. In actions of libel and slander, the Plaintiff shall be at liberty to aver that the words or matter complained of were used in a defamatory sense—specifying such defamatory sense without any prefatory averment to show how such words or matter were used in that sense, and such averment shall be put in issue by the denial of the alleged libel or slander; and where the words or matter set forth, with or without the alleged meaning, show a cause of action, the declaration shall be sufficient.

Averments in  
actions for  
slander or  
libel.  
(1852, s. 61.)

And as to pleas and subsequent pleadings; Be it enacted as follows :

CXI. No rule to plead or demand of plea shall be necessary, and a notice to plead served shall be sufficient.

Notice to  
plead suffi-  
cient.  
(1852, s. 62.)

CXII. In cases where the Defendant is within the jurisdiction, the time for pleading in bar, unless extended by the Court or a Judge, shall be eight days, and a notice requiring the Defendant to plead thereto in eight days, otherwise judgment, may be indorsed on the copy of the declaration served or delivered separately.

Time for  
pleading in  
bar, when De-  
fendant is  
within the  
jurisdiction.  
(1852, s. 63.)

CXIII. Express colour shall no longer be necessary in any pleading.

Express  
colour unne-  
cessary.  
(1852, s. 64.)

CXIV. Special traverses shall not be necessary in any pleading.

And special  
traverses.  
(1852, s. 65.)

CXV. In a plea or subsequent pleading it shall not be necessary to use any allegation of *actionem non* or *actionem ulterius non*, or to the like effect, or any prayer of Judgment; nor shall it be necessary in any replication or subsequent pleading to use any allegation of *precludi non*, or to the like effect, or any prayer of Judgment.

Certain alle-  
gations and  
prayers not  
required.  
(1852, s. 66.)

Commence-  
ment of plea,  
&c.

Second plea,  
&c.

Formal con-  
clusion unne-  
cessary.  
(1852, s. 67.)

Defence  
arising after  
action, how  
pleaded.  
(1852, s. 68.)

Or after the  
last pleading.

Affidavit re-  
quired.  
(1852, s. 69.)

Defendant  
may pay  
money into  
Court, except  
in certain  
cases.

13 & 14 V.  
c. 60.  
(1852, s. 70.)

Such payment  
how pleaded.  
(1852, s. 71.)

CXVI. No formal defence shall be required in a plea or avowry or cognizance, and it shall commence as follows, or to the like effect :—" The Defendant, by E. F., his Attorney, (or " in person, as the case may be) says that (*here state first defence*)" ; and it shall not be necessary to state in a second or other plea or avowry or cognizance, that it is pleaded by leave of the Court or a Judge or according to the form of the statute, or to that effect, but every such plea, avowry or cognizance, shall be written in a separate paragraph and numbered, and shall commence as follows, or to the like effect ; " And for a second (&c.,) plea to (*stating to what it is pleaded*) the Defendant says that &c.," and no formal conclusion shall be necessary to any plea, avowry, cognizance, or subsequent pleading.

CXVII. Any defence arising after the commencement of any action shall be pleaded according to the fact without any formal commencement or conclusion, and any plea which does not state whether the defence therein set up arose before or after action shall be deemed to be a plea of matter arising before action.

CXVIII. In cases in which a plea *puis darrein continuance* has heretofore been pleadable in Banc or at *Nisi Prius*, the same defence may be pleaded with an allegation that the matter arose after the last pleading ; but no such plea shall be allowed unless accompanied by an affidavit that the matter thereof arose within eight days next before the pleading of such plea, or unless the Court or a Judge shall otherwise order.

CXIX. It shall be lawful for the Defendant in all actions (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation or debauching of the Plaintiff's daughter or servant), and (by leave of the Court or a Judge upon such terms as they or he may think fit,) for one or more of several Defendants, to pay into Court a sum of money by way of compensation or amends ; provided that nothing herein contained shall be taken to affect the provisions of a certain Act of the Parliament of this Province, passed in the Session of Parliament holden in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to amend the law relating to slander and libel*.

CXX. When money is paid into Court, such payment shall be pleaded in all cases as near as may be in the following form, *mutatis mutandis* : " The Defendant, by E. F., his Attorney (or in person, &c.,) (*if pleaded to part, say, as to £* , " parcel of the money claimed), brings into Court the sum of " £ , and says the said sum is enough to satisfy the claim " of the Plaintiff in respect of the matter herein pleaded to."

CXXI. No rule or Judge's Order to pay money into Court shall be necessary except in the case of one or more of several Defendants, but the money shall be paid to the proper Officer of either Court who shall sign a receipt for the amount in the margin of the plea, and the said sum shall be paid out to the Plaintiff, or to his Attorney upon a written authority from the Plaintiff, on demand.

No rule or order required.  
Exception.  
(1852, s. 72.)

CXXII. The Plaintiff, after the filing and service of a plea of payment of money into Court, shall be at liberty to reply to the same, by accepting the sum so paid into Court in full satisfaction and discharge of the cause of action in respect of which it has been paid in, and he shall be at liberty in that case to tax his costs of suit, and in case of non-payment thereof within forty-eight hours, to sign Judgment for his costs of suit so taxed; or the Plaintiff may reply that the sum paid into Court is not enough to satisfy the claim of the Plaintiff in respect of the matter to which the plea is pleaded, and in the event of an issue thereon being found for the Defendant, the Defendant shall be entitled to Judgment and his costs of suit.

Reply of Plaintiff in such case.

Plaintiff satisfied.

Plaintiff not satisfied.  
(1852, s. 73.)

CXXIII. And because certain causes of action may be considered to partake of the character both of breaches of contract and of wrongs, and doubts may arise as to the form of pleas in such actions, and it is expedient to preclude such doubts; any plea which shall be good in substance shall not be objectionable on the ground of its treating the declaration either as framed for a breach of contract or for a wrong.

Plea good, though it treat an alleged breach of contract as a wrong, or vice versa.  
(1852, s. 74.)

CXXIV. Pleas of payment and set off, and all other pleadings capable of being construed distributively, shall be taken distributively, and if issue is taken thereon and so much thereof as shall be a sufficient answer to part of the causes of action proved, shall be found true by the Jury, a verdict shall pass for the Defendant in respect of so much of the causes of action as shall be answered, and for the Plaintiff in respect of so much of the causes of action as shall not be so answered; and if upon a plea of set off the Jury shall find a larger sum proved to be due from the Plaintiff to the Defendant than is proved to be due from the Defendant to the Plaintiff, a verdict shall pass for the Defendant for the balance remaining due to him, and the Defendant shall have Judgment to recover such balance and his costs of suit.

Distributive plea to be construed distributively, &c.

If on set off Defendant prove more due from Plaintiff than to him.  
(1852, s. 75.)

CXXV. A Defendant may either traverse generally such of the facts contained in the declaration as might have been denied by one plea, or may select and traverse separately any material allegation in the declaration although it might have been included in a general traverse.

Traversing facts alleged in declaration.  
(1852, s. 76.)

CXXVI. A Plaintiff shall be at liberty to traverse the whole of any plea or subsequent pleading of the Defendant by a general denial,

Traversing  
denial.  
(1852, s. 77.)

denial, or admitting some part or parts thereof to deny all the rest or deny any one or more allegations.

And replica-  
tions, &c.  
(1852, s. 78.)

CXXVII. A Defendant shall be at liberty in the like manner to deny the whole or part of a replication or subsequent pleading of the Plaintiff.

Joining issue.

CXXVIII. Either party may plead in answer to the plea or subsequent pleading of his adversary, that he joins issue thereon, which joinder of issue may be as follows, or to the like effect: "The Plaintiff joins issue on the Defendant's, first, (&c. *specifying which or what part*) plea." "The Defendant joins issue upon the Plaintiff's replication to the first (&c. *specifying which*) plea," and such form of joinder of issue shall be deemed to be a denial of the substance of the plea or other subsequent pleading, and an issue thereon; and in all cases where the Plaintiff's pleading is in denial of the pleading of the Defendant or some part of it, the Plaintiff may add a joinder of issue for the Defendant.

Joinder how  
construed, &c.  
(1852, s. 79.)

Pleading and  
demurring at  
the same time.

Affidavit may  
be required.  
(1852, s. 80.)

CXXIX. Either party may, by leave of the Court or a Judge, plead and demur to the same pleading at the same time, upon an affidavit by such party or his Attorney, if required by the Court or Judge, to the effect that he is advised and believes that he has just ground to traverse the several matters proposed to be traversed by him, and that the several matters sought to be pleaded as aforesaid by way of confession and avoidance are respectively true in substance and in fact, and that he is further advised and believes that the objections raised by such demurrer are good and valid objections in law, and it shall be in the discretion of the Court or a Judge to direct which issue shall be first disposed of.

Several mat-  
ters may be  
pleaded by  
leave of the  
Court or of a  
Judge.

On affidavit  
if required.

Proviso.

Costs.  
(1852, s. 81.)

CXXX. The Plaintiff in any action may, by leave of the Court or a Judge, plead in answer to the plea or subsequent pleading of the Defendant as many several matters as he shall think necessary to sustain his action, and the Defendant in any action may by leave of the Court or a Judge plead in answer to the declaration or other subsequent pleading of the Plaintiff, as many several matters as he shall think necessary for his defence, upon an affidavit of the party making such application or his Attorney, if required by the Court or a Judge, to the effect that he is advised and believes that he has just ground to traverse the several matters proposed to be traversed by him, and that the several matters sought to be pleaded as aforesaid by way of confession and avoidance, are respectively true in substance and in fact; Provided that the costs of any issue either of fact or of law, shall follow the finding or judgment on such issue, and be adjudged to the successful party, whatever may be the result of the other issue or issues.

CXXXI. No rule of Court for leave to plead several matters shall be necessary where a Judge's Order has been made for the same purpose. Rule not required. (1852, s. 82.)

CXXXII. All objections to the pleading of several pleas, replications or subsequent pleadings, or several avowries or cognizances, on the ground that they are founded on the same ground of answer or defence, shall be heard upon the summons to plead several matters. Objections when to be heard. (1852, s. 83.)

CXXXIII. The following pleas or any two or more of them may be pleaded together as of course, without leave of the Court or a Judge, that is to say: a plea denying any contract or debt alleged on the declaration, a plea of tender as to part, a plea of the statute of limitations, set off, discharge of the Defendant under the Bankruptcy or Insolvent law, *plene administravit*, *plene administravit prater*, infancy, coverture, payment, accord and satisfaction, release, not guilty, a denial that the property an injury to which is complained of is the Plaintiff's, leave and license's *son assault demesne*, and any other pleas which the Judges of the said Superior Courts, or any four of them of whom Chief Justices of the said Court shall be two, shall, by any rule or order to be from time to time by them made in term or vacation, order and direct. Certain pleas may be pleaded together without leave. (1852, s. 84.)

CXXXIV. The Signature of Counsel shall not be required to any pleading. Signature of Counsel not required. (1852, s. 85.)

CXXXV. Except in the cases herein specially provided for, if either party plead several pleas, replications, avowries, cognizances or other pleadings without leave of the Court or a Judge, the opposite party shall be at liberty to sign Judgment, provided that such Judgment may be set aside by the Court or a Judge upon an affidavit of merits, and such terms as to costs and otherwise as they or he may think fit. In other cases, several pleas, &c., shall not be filed without leave. Penalty. (1852, s. 86.)

CXXXVI. One new assignment only shall be pleaded to any number of pleas to the same cause of action, and such new assignment shall be consistent with and confined by the particulars delivered in the action, if any, and shall state that the Plaintiff proceeds for causes of action different from all those which the plea professes to justify, or for an excess over and above what all the defences set up in such pleas justify, or both. One new assignment only to several pleas to the same cause of action. (1852, s. 87.)

CXXXVII. No plea which has already been pleaded to the declaration shall be pleaded to such new assignment, except a plea in denial, unless by leave of a Court or Judge, and such leave shall only be grounded upon satisfactory proof that the repetition of such plea is essential to a trial on the merits. Pleas to new assignment. (1852, s. 88.)

CXXXVIII. The form of a demurrer shall be as follows, or to the like effect:

“ The

Form of demurrer.  
(1852, s. 89.)

“ The Defendant, by his Attorney, (or Plaintiff, as the case may be,) (or in person, &c.,) says that the declaration (or plea, &c.) is bad in substance,”

and on the margin thereof some substantial matter of law intended to be argued shall be stated ; and if any demurrer shall be delivered without such statement, or with a frivolous statement, it may be set aside by the Court or a Judge, and leave may be given to sign Judgment as for want of a plea ; and the form of a joinder on demurrer shall be as follows, or to the like effect :

Form of joinder on demurrer.

“ The Plaintiff (or Defendant) says that the declaration (or plea, &c.) is good in substance.”

Time for pleading to an amended pleading, &c.  
(1852, s. 90.)

CXXXIX. Where an amendment of any pleading is allowed, no new notice to plead thereto shall be necessary, but the opposite party shall be bound to plead to the amended pleading within the time specified in the original notice to plead, or within two days after amendment, whichever shall last expire, unless otherwise ordered by the Court or a Judge ; and in case the pleading amended had been pleaded to before such amendment, and is not pleaded to *de novo* within two days after amendment, or within such other time as the Court or a Judge shall allow, the pleading originally pleaded thereto shall stand and be considered as pleaded in answer to the amended pleading.

And whereas it is desirable that examples should be given of the statements of the causes of action and of forms of pleading ; Be it enacted as follows :

Forms of pleading in Schedule B, if observed in substance to be sufficient.  
(1852, s. 91.)

CXL. The forms contained in the Schedule (B) to this Act annexed shall be sufficient, and those and the like forms may be used with such modifications as may be necessary to meet the facts of the case, but nothing herein contained shall render it erroneous or irregular to depart from the letter of such forms, so long as the substance is expressed without prolixity.

Judgment by default, &c.

And with respect to Judgment by default, and the mode of ascertaining the amount to be recovered thereon ; Be it enacted as follows :

No rule or order to compute required. Saving of pending cases.  
(1852, s. 92.)

CXLI. No rule or order to compute shall be used ; but this shall not invalidate any proceedings already taken or to be taken by reason of any rule or order to compute, made or applied for before the commencement of this Act.

Judgment by default final in certain cases.  
(1852, s. 93.)

CXLII. In actions where the Plaintiff seeks to recover a debt or liquidated demand in money, the true cause and amount of which is stated in the special indorsement on the Writ of Summons or in the declaration, Judgment by default shall be final.

CXLIII.

CXLIII. In actions in which it shall appear to the Court or a Judge that the amount of damages which ought to be recovered by the Plaintiff is substantially a matter of calculation, it shall not be necessary to assess the damages by a Jury, but the Court or a Judge may direct that the amount for which final Judgment is to be signed, shall be ascertained—if the proceedings be carried on in the principal Office at Toronto, by the Clerk of the Crown and Pleas of the proper Court—or, if the proceedings be carried on in the Deputy Clerk's Office in any County, then by the Judge of the County Court of such County; and the attendance of witnesses and the production of documents before such Clerk of the Crown or Judge of the County Court may be compelled by subpoena, in the same manner as before a Jury upon a writ of inquiry; and it shall be lawful for such Clerk or Judge of the County Court, to appoint the day for hearing the case, and to adjourn the inquiry from time to time, as occasion may require; and such Clerk of the Crown, or Judge of the County Court, shall indorse upon the rule or order for referring the amount of damages to him, the amount found by him, and shall deliver the rule or order with such indorsement to the Plaintiff, and such and the like proceedings may hereupon be had, as to taxation of costs, signing Judgment, and otherwise, as upon the finding of a Jury upon an assessment of damages.

How the amount of damages shall be ascertained when the Court shall be of opinion that it is substantially a matter of calculation. (1852, s. 94.)

CXLIV. In all actions where the Plaintiff recovers a sum of money, the amount to which he is entitled may be awarded to him by the Judgment generally, without any distinction being therein made as to whether such sum is recovered by way of a debt, or damages.

Sum of money recovered to be awarded generally.

CXLV. Notwithstanding any thing in this Act contained, the provisions of a certain Act of the Parliament of Great Britain, passed in the Session held in the eighth and ninth years of the Reign of King William the Third, intituled, *An Act for the better preventing frivolous and vexatious suits*, as to the assignment or suggestion of breaches, or as to Judgment, shall continue in force in Upper Canada.

Provisions of a certain British Act of 8, 9 W. 3, c. 11, to remain in force. (1852, s. 96.)

And with respect to notice of trial or of assessment of damages, and countermand thereof; Be it enacted as follows:

Notice of trial or assessment, &c.

CXLVI. Eight days' notice of trial or of assessment shall be given, and shall be sufficient in all cases, whether at Bar or at Nisi Prius.

Notice of trial or assessment. (1852, s. 97.)

CXLVII. A countermand of notice of trial or assessment shall be given four days before the time mentioned in the notice of trial or assessment, unless short notice has been given, and then two days before the time mentioned in the notice, unless otherwise ordered by the Court or a Judge, or by consent.

Countermand of notice. (1852, s. 98.)

CXLVIII.

Rule for costs of the day, on affidavit.  
(1852, s. 99.)

CXLVIII. A rule for costs of the day for not proceeding to trial or assessment pursuant to notice, or not countermanding in sufficient time, may be drawn up on affidavit without motion made in Court.

Judgment for not proceeding to trial.

And with respect to Judgment for default in not proceeding to trial; Be it enacted as follows:

A certain British Act of 14 Geo. 2, c. 17, not to be in force in U. C.

Exception.  
(1852, s. 100.)

CXLIX. The Act of the Parliament of Great Britain, passed in the fourteenth year of the Reign of King George the Second, intituled, *An Act to prevent inconveniences from delays of causes after issue joined*, so far as the same relates to Judgment as in case of a nonsuit, shall no longer be in force in Upper Canada, except as to proceedings taken or commenced thereupon before the commencement of this Act.

Town causes and Country causes distinguished.

CL. Causes in which the venue is or shall be laid in the United Counties of York and Peel, or in the County of York alone, when no longer united with the said County of Peel, shall be called Town Causes, and all other causes shall be called Country Causes.

If Plaintiff neglects to go to trial within a certain time after issue joined, Defendant may give notice to Plaintiff to bring issue to trial, &c.  
(1852, s. 101.)

CLI. Where any issue is or shall be joined in any cause, and the Plaintiff has neglected or shall neglect to bring such issue on to be tried, that is to say, in Town Causes where issue has been or shall be joined in, or in the vacation before Hilary, Trinity or Michaelmas Term, and the Plaintiff has neglected or shall neglect to bring the issue on to be tried at or before the second Assizes following such term, or if issue has been or shall be joined in or in the vacation before Easter Term, then if the Plaintiff has neglected or shall neglect to bring the issue on to be tried at or before the first Assizes after Easter Term,—and in Country Causes where issue has been or shall be joined in, or in the vacation before Hilary or Trinity Term, and the Plaintiff has neglected or shall neglect to bring the issue on to be tried at or before the second Assizes following such Term, or if issue has or shall be joined in or in the vacation before Easter or Michaelmas Term,—then if the Plaintiff has neglected or shall neglect to bring the issue on to be tried at or before the first Assizes after such Term, whether the Plaintiff shall in the meantime have given notice of trial or not, the Defendant may give twenty days' notice to the Plaintiff to bring the issue on to be tried at the Assizes next after the expiration of the notice; and if the Plaintiff afterwards neglects to give notice of trial for such Assizes, or to proceed to trial as required by the said notice given by the Defendant, the Defendant may suggest on the record that the Plaintiff has failed to proceed to trial, although duly required so to do, (which suggestion shall not be traversable, but only be subject to be set aside if untrue,) and may sign Judgment for his costs; provided that the Court or a Judge, shall have power to extend the time for proceeding to trial with or without terms; and provided

provided also, that no rule for trial by proviso shall thereafter be necessary.

And with respect to the holding of Courts of Nisi Prius and to the Nisi Prius record and to the trial; Be it enacted as follows: *Courts of Nisi Prius, &c.*

CLII. Courts of Assize and Nisi Prius, of Oyer and Terminer and of General Gaol delivery, shall be held in every County or Union of Counties in Upper Canada (except in that within which the City of Toronto is situate) in each and every year, in the vacations between Hilary and Easter Terms and between Trinity and Michaelmas Terms, with or without Commissions as to the Governor of this Province shall seem best, and on such days as the Chief Justices and Judges of the Superior Courts of Common Law in Upper Canada shall respectively name; and if Commissions are issued then such Courts shall be presided over by the person or persons named in such Commissions; but if no such Commissions are issued, then the Courts of Assize and Nisi Prius shall be presided over by one of the Chief Justices or of the Judges of the said Superior Courts of Common Law, or in their absence, then by some one of Her Majesty's Counsel learned in the Law and of the Upper Canada Bar who may be requested by any one of the said Chief Justices or Judges to attend for that purpose, or by some one Judge of a County Court who may be so requested; and the Courts of Oyer and Terminer and General Gaol delivery shall be presided over by either of the said Chief Justices or Judges, or by any such of Her Majesty's Counsel or any such Judge of a County Court, each and every of whom shall be deemed to be of the *quorum*, together with any one or more of the persons who shall be named as Associate Justices of the said Courts of Oyer and Terminer and General Gaol delivery; and the said Chief Justices and Judges and such of Her Majesty's Counsel as aforesaid, and such Judge of a County Court, presiding at any Court of Assize and Nisi Prius, shall and may possess and exercise the like powers and authorities as have been usually expressed and granted in Commissions issued for the holding of such Courts; and the said Chief Justices and Judges and such of Her Majesty's Counsel as aforesaid, and such Judge of a County Court presiding at any Court of Oyer and Terminer and General Gaol delivery, and the person or persons named as Associate Justices, shall and may possess and exercise the like power and authorities as have been usually expressed and granted in and by Commissions issued for holding such last mentioned Courts, and wherein such Chief Justices and Judges and Queen's Counsel and Judges of County Courts would have been named of the *quorum*; and such Courts shall in like manner be held in the County or Union of Counties within which the City of Toronto is situate, three times in each year, to commence on the

*Courts of Assize and Nisi Prius &c. to be held in each County or Union (except that including Toronto), and at what periods.*

*Who shall preside.*

*If commissions are issued.*

*And if not.*  
18 V. c. 92.

*And in Courts of Oyer and Terminer and Gaol Delivery.*

*Powers of Judge, &c., presiding at Nisi Prius.*

*And in Courts of Gaol Delivery, &c.*

*Powers of associates.*

*Periods of holding such Courts in the County or the*

Union including Toronto.

Proviso for special commissions.

Governor to name Associate Justices; Provincial-Secretary to notify them, if no commission issues.  
18 V. c. 92.

Proviso: Number limited.

Clerk of Assize to be one *ex officio*.

How and when Records of Nisi Prius shall be entered in country causes.

Certain particulars to be indorsed on each.

Three lists to be made by Deputy Clerk of the Crown.

Order of calling causes.

Proviso: Judge may allow entry of a Record after time limited.  
(1852, s. 102.)

Entry of such Records in Town Causes.

Lists, &c.

the Thursday next after the holding the Municipal Elections in January, on the second Monday in April, and on the second Monday in October in each year; Provided that nothing herein contained shall restrict the Governor of this Province from issuing special Commissions for the trial of any offenders, when he shall deem it expedient to issue any such Commission.

CLIII. The Governor of this Province shall name the Associate Justices, and it shall be the duty of the Provincial Secretary, when no Commissions are issued, on or before the first day of the several terms next after which such Courts are to be holden, to transmit to the Chief Justices aforesaid, and to the Sheriff of each County or Union of Counties, lists of the names of the persons who are so named Associate Justices for each several Court of Oyer and Terminer and General Gaol delivery, and also to give due notice to every such person of his nomination and appointment; Provided always, that no greater number of persons than *five* shall be named as Associate Justices for any one Court of Oyer and Terminer and General Gaol delivery; and provided also that the Clerk of Assize shall be *ex officio* one of the Associate Justices.

CLIV. The record of Nisi Prius shall not be sealed or passed, but shall in Country Causes be entered with the Deputy Clerk of the Crown of the proper County or Union of Counties, before noon of the Commission or opening day of the Assizes for such County or Union; and the party entering any record shall indorse thereon whether it be an assessment, an undefended issue or a defended issue; and the Deputy Clerk of the Crown shall make three lists and enter each Record in one of the said lists, in the order in which the Records are received by him, and on the first list he shall enter all the assessments and undefended issues, and in the second list all defended issues not marked "Inferior Jurisdiction," and on the third list all defended issues marked "Inferior Jurisdiction," and it shall be in the discretion of the Judge at Nisi Prius to postpone the trial of causes in the third list until all the others are disposed of, and to call on the causes in the first list at such time and times as he shall find most convenient for disposing of the business; Provided always, that the Judge at Nisi Prius may permit a record in any suit to be entered after the time above limited, if upon facts disclosed on affidavit, or on the consent of both parties, he shall see fit to do so.

CLV. In Town Causes the Records shall be entered with the Clerk of Assize, who shall attend at the Court House on the Commission or opening day for the purpose of receiving and entering the same, from nine in the morning until noon, after which he shall not receive any without the order of the Presiding Judge, who shall have the same power in this respect as set forth in the preceding Section, and the Clerk of Assize shall make three lists as aforesaid, which shall be regulated and the business disposed of as in Country Causes.

CLVI.

CLVI. In all actions involving the investigation of long accounts on either side, the Judge at Nisi Prius may at and during the trial direct a reference of all issues in fact in the cause, or of such of the said issues and of the accounts and matters involved in all or any such issues as he shall think fit, taking the verdict of the Jury upon any issue or issues not so referred, and directing a verdict to be entered generally, on all or any of the issues, for either party, subject to such reference, or he may leave all or any issues in fact to be found by the Jury, referring only to the amount of damages to be ascertained; and if the parties agree upon the Arbitrators, (not more than three) the names of those agreed on shall be inserted in the Order of Nisi Prius, but if the parties cannot agree, the Judge shall name the Arbitrator or Arbitrators, and appoint all other terms and conditions of the reference to be inserted in such Order of Nisi Prius, and the award may be moved against, as in ordinary cases, within the first four days of the Term next after the making of the award.

In actions involving long accounts Judge may direct a reference as to part and a verdict as to other parts, &c., or leave the whole to the Jury.

Appointment of arbitrators in referred cases.

As to motion to set aside award. (1854, s. 6.)

CLVII. Upon the trial of any cause the addresses to the Jury shall be regulated as follows: the party who begins, or his Counsel, shall be allowed, in the event of his opponent not announcing at the close of the case of the party who begins, his intention to adduce evidence, to address the Jury a second time at the close of such case, for the purpose of summing up the evidence; and the party on the other side, or his Counsel, shall be allowed to open the case and also to sum up the evidence (if any), and the right to reply shall be the same as at present.

Right of addressing the Jury regulated. (1854, s. 18.)

CLVIII. It shall be lawful for the Court or Judge at the trial of any cause where they or he may deem it right for the purposes of justice, to order an adjournment for such time and subject to such terms and conditions, as to costs and otherwise, as they or he may think fit.

Power to adjourn the Trial. (1854, s. 19.)

CLIX. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may in case the witness shall, in the opinion of the Judge, prove adverse, contradict him by other evidence, or by leave of the Judge, prove that he has made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

How far a party may discredit his own witness. (1854, s. 22.)

CLX. If a witness upon cross examination as to a former statement made by him relative to the subject matter of the cause, and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can

Proof of contradictory statements by adverse witness. (1854, s. 23.)

be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

Cross-examination as to previous statements in writing.

CLXI. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shewn to him; but if it is intended to contradict such witness by the writing, his attention must before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; Provided always, that it shall be competent for the Judge at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

Proviso: Judge may require production of the writing, &c. (1854, s. 24.)

Proof of previous conviction of a witness may be given if he denies it on being asked, as he may be.

CLXII. A witness may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction, and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for such offence, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court where the offender was convicted, or by the Deputy of such Clerk or Officer, (for which certificate a fee of *five shillings* and no more shall be demanded or taken,) shall upon proof of the identity of the persons be sufficient evidence of the said conviction, without proof of the signature or official character of the person appearing to have signed the same.

What shall be sufficient proof. (1854, s. 25.)

Attesting witness need not be called where none was required by law. (1854, s. 26.)

CLXIII. It shall not be necessary to prove by the attesting witness, any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Comparison of disputed writing with genuine. (1854, s. 27.)

CLXIV. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same, may be submitted to the Court and Jury, as evidence of the genuineness or otherwise of the writing in dispute.

Admission of Documents.

And with respect to the admission of Documents; Be it enacted as follows:

Calling on parties to admit Documents.

CLXV. Either party may call upon the other party, by notice, to admit any Document, saving all just exceptions, and in case of refusal or neglect to admit, the costs of proving the Document shall be paid by the party so neglecting or refusing, whatever

whatever the result of the cause may be, unless at the trial the Judge shall certify that the refusal to admit was reasonable; and no costs of proving any Document shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the Taxing Officer, a saving of expense.

Costs.  
(1852, s. 117.)

CLXVI. An affidavit of the Attorney in the cause, or his Clerk, of the due signature of any admissions made in pursuance of such notice, and annexed to such affidavit, shall be in all cases sufficient evidence of such admissions.

Evidence of admissions.  
(1852, s. 118.)

CLXVII. An affidavit of the Attorney in the cause, or his Clerk, of the service of any notice to produce in respect to which notice to admit shall have been given, and of the time when it was served, with a copy of such notice to produce, annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice, and of the time when it was served.

Evidence of service of notice to produce.  
(1852, s. 119.)

And with respect to rules for new trials or to enter a verdict or non-suit; Be it enacted as follows :

Rules for new trials, &c.

CLXVIII. In every rule nisi for a new trial or to enter a verdict or non-suit, the grounds upon which such rule shall have been granted shall be shortly stated therein; provided that in case of any omission, the Court may permit the rule to be amended and served again on such terms as shall be deemed reasonable; and when a new trial is granted on the ground that the verdict is against evidence, the costs of the first trial shall abide the event, unless the Court shall otherwise order.

Ground to be stated in rule nisi for new trial.  
(1854, s. 33.)

Proviso: Court may allow amendment.  
Costs.  
(1854, s. 44.)

And with respect to procuring affidavits from unwilling persons and the production of documents generally, and also for the discovery of documents and other matters from the parties to a cause; Be it enacted as follows :

CLXIX. Upon motions founded upon affidavits, it shall be lawful for either party with leave of the Court or a Judge, to make affidavits in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to all such rules as shall hereafter be made respecting such affidavits.

Affidavits on new matter, in answer to affidavits.  
(1854, s. 45.)

CLXX. Upon the hearing of any motion or Summons, it shall be lawful for the Court or a Judge at their or his discretion, and upon such terms as they or he shall think reasonable, from time to time to order such documents as they or he may think fit to be produced, and such witnesses, as they or he may think necessary, to appear and be examined *vivâ voce* either before such Court or Judge, or before a Judge of any County Court,

Court or Judge may, on hearing any motion or Summons, order the production of documents or oral evidence.  
(1854, s. 46.)

Court, or before any Clerk or Deputy Clerk of the Crown, and upon hearing such evidence or reading the report of the Judge of the County Court, or Clerk or Deputy Clerk of the Crown, to make such rule or order as may be just.

Power to compel attendance of witnesses or production of documents in such cases.

CLXXI. The Court or Judge may by such rule or order, or by any subsequent rule or order, command the attendance of the witnesses named therein for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and may direct the attendance of any such witness to be at his own place of abode or elsewhere if necessary or convenient so to do; and the wilful disobedience of any such rule or order shall be a contempt of Court, and proceedings may be thereupon had by attachment (the Judge's order being made a rule of Court before or at the time of the application for an attachment) if in addition to the service of the rule or order, an appointment of the time and place of attendance in obedience thereto, signed by the person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such rule or order; Provided always, that every person whose attendance shall be so required, shall be entitled to the like payment for attendance and expences as if he had been subpoenaed to attend upon a trial; Provided also, that no person shall be compelled to produce under any such rule or order any writing or other document that he would not be compellable to produce at a trial of the cause; Provided lastly, that it shall be lawful for the Court or Judge, or person appointed to take the examination, to adjourn the same from time to time as occasion may require.

Proviso.

Proviso.

Proviso.  
(1854, s. 47.)

Inspection of real or personal property by jury, parties or witnesses.

CLXXII. Either party shall be at liberty to apply to the Court or a Judge for a rule or order for the inspection by the Jury or by himself or by his witnesses of any real or personal property, the inspection of which may be material to the proper determination of the question in dispute, and it shall be lawful for the Court or a Judge, if they or he think fit, to make such rule or order upon such terms as to costs and otherwise, as such Court or Judge may direct; Provided always, that nothing herein contained shall affect the provisions of any previous Acts as to obtaining a view by a Jury.

Proviso.  
(1854, s. 58.)

How prisoners may be brought up to give evidence.

CLXXIII. It shall be lawful for any Sheriff, Gaoler or other Officer having the custody of any prisoner, to take such prisoner for examination under the authority of this Act by virtue of a Writ of *habeas corpus* to be issued for that purpose, which Writ may be issued by the Court or Judge, under such circumstances and in such manner as such Court or Judge may now by law issue the Writ commonly called a *habeas corpus ad testificandum*.

Persons refusing to make

CLXXIV. Any party to any civil action or other civil proceeding in any of the Superior Courts requiring the affidavit

of

of a person who refuses to make an affidavit, may apply by Summons for an order to such person to appear and be examined upon oath before a Judge, or any other person to be named in such order to whom it may be most convenient to refer such examination as to the matters concerning which he has refused to make an affidavit, and a Judge may, if he think fit, make such order for the attendance of such person before the person therein appointed to take such examination for the purpose of being examined as aforesaid, and for the production of any writings or documents to be mentioned in such order, and may therein impose such terms as to such examination and the costs of the application and proceedings thereon as he shall think just, and such order shall be proceeded upon in like manner as the order mentioned in the section of this Act numbered one hundred and seventy-one.

affidavit, may be compelled to appear and be examined, or to produce papers, &c. (1854, s. 48.)

CLXXV. Upon the application of either party to any cause or civil proceeding in any of the Superior Courts, upon an affidavit by such party of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise, is in the possession or power of the opposite party, it shall be lawful for the Court or a Judge to order that the party against whom such application is made, or if such party is a body corporate that some Officer to be named of such body corporate, shall answer on affidavit stating what documents he or they has or have in his or their possession or power relating to the matters in dispute, or what he knows as to the custody they or any of them are in, and whether he or they objects or object (and if so, on what grounds) to the production of such as are in his or their possession or power, and upon such affidavit being made, the Court or Judge may make such further order thereon as shall be just.

Provision for the discovery of documents in the possession of the adverse party. (1854, s. 50.)

CLXXVI. In all causes in any of the Superior Courts, by order of the Court or a Judge, the Plaintiff may with the declaration, and the Defendant may with the plea, or either of them by leave of the Court or a Judge may at any other time, deliver to the opposite party or his attorney (provided such party if not a body corporate would be liable to be called and examined as a witness upon such matter,) interrogatories in writing upon any matter upon which discovery may be sought, and require such party, or in the case of a body corporate, any of the Officers of such body Corporate, within ten days to answer the questions in writing by affidavit to be sworn and filed in the ordinary way; and any party or Officer omitting without just cause, sufficiently to answer all questions as to which discovery may be sought, within the above time, or such extended time as the Court or a Judge shall allow, shall be deemed guilty of a contempt, and shall be liable to be proceeded against accordingly.

Interrogatories may be served on the opposite party, who shall be required to answer them. (1854, s. 51.)

Affidavit upon which the application for leave to serve such interrogatories must be founded.

Proviso :  
Where the party is prevented from joining in such affidavit. (1854, s. 52.)

In case of omission to answer, the party may be examined orally, or commanded to produce the documents : and before whom. (1854, s. 53.)

Examination to be filed in the office of the Court.

May be used in evidence. (1854, s. 55.)

Examiner may make a special report to the Court.

CLXXVII. The application for such order shall be made upon an affidavit of the party proposing to interrogate, and his attorney or agent, or in the case of a body corporate, of their attorney or agent, stating that the deponents or deponent believe or believes that the party proposing to interrogate, whether Plaintiff or Defendant, will derive material benefit in the cause from the discovery which he seeks, that there is a good cause of action or of defence upon the merits, and if the application be made on the part of the Defendant, that the discovery is not sought for the purpose of delay ; Provided that where it shall happen from unavoidable circumstances, that the Plaintiff or Defendant cannot join in such affidavit, the Court or a Judge may, if they or he think fit, upon affidavit of such circumstances by which the party is prevented from so joining therein, allow and order that the interrogatories may be delivered without such affidavit.

CLXXVIII. In case of omission, without just cause, to answer sufficiently such written interrogatories, it shall be lawful for the Court or a Judge, at their or his discretion, to direct an oral examination of the interrogated party as to such points as they or he may direct, before a Judge or any other person to be specially named ; and the Court or a Judge, may by such rule or order, or by any subsequent rule or order, command the attendance of such party or parties before the person appointed to take such examination for the purpose of being orally examined as aforesaid, or the production of any writings or other documents to be mentioned in such rule or order, and may impose therein such terms as to such examination and the costs of the application and of the proceedings thereon, and otherwise, as to such Court or Judge shall seem just, and such rule or order shall have the same force and effect and may be proceeded upon in like manner as an order made under the one hundred and seventy-first section of this Act.

CLXXIX. Whenever by virtue of this Act, an examination of any party or parties, witness or witnesses, has been taken before a Judge of either of the Superior Courts, or of any County Court, or before any Officer or other person appointed to take the same, the depositions taken down by such examiner shall be returned to and kept in the office of the Court (principal or Deputy Clerk's office, as the case may be,) in which the proceedings are being carried on, and office copies of such depositions may be given out, and the examinations and depositions certified under the hand of the Judge or other officer or person taking the same, shall and may without proof or the signature be received and read in evidence, saving all just exceptions.

CLXXX. It shall be lawful for every Judge, Officer or other person named in any such rule or order as aforesaid, for taking examinations under this Act, and he is hereby required to make if  
need

need be, a special report to the Court in which such proceedings are pending, touching such examination and the conduct or absence of any witness or other person thereon or relating thereto; and the Court is hereby required to institute such proceedings and make such order or orders upon such report as justice may require, and as may be instituted and made in any case of contempt of the Court.

Orders there-  
upon.  
(1854, s. 56.)

CLXXXI. The costs of every application for any rule or order to be made for the examination of parties or witnesses by virtue of this Act, and of the rule or order and proceedings thereon, shall be in the discretion of the Court or Judge by whom such rule or order is made.

As to costs  
of rule and  
examination.  
(1854, s. 57.)

And with respect to Execution; Be it enacted as follows: *Execution.*

CLXXXII. In all actions brought in either of the said Courts, or in any County Court, the Judge before whom any issue joined in such action shall be to be tried, or damages to be assessed, in case the Plaintiff or Demandant therein shall become non-suit, or a verdict shall be given for the Plaintiff or Demandant, Defendant or Tenant, may certify under his hand on the back of the Record, at any time before the end of the Sittings or Assizes, that in his opinion, execution ought to issue in such action forthwith, or at some day to be named in such certificate, and subject or not to any condition or qualification, and in case of a verdict for the Plaintiff, then either for the whole or any part of the sum found by such verdict, in all which cases costs may be taxed in the usual manner and judgment entered forthwith, and execution may be issued forthwith or afterwards, according to the terms of such certificate, on any day in vacation or term, and the *postea* with such certificate as a part thereof, shall and may be entered of record as of the day on which the judgment shall be signed; Provided always, that the party entitled to such judgment may postpone the signing thereof.

After verdict  
or non-suit,  
Judge may  
certify that  
execution  
ought to issue  
forthwith.  
16 V. c. 175.

Taxing costs.  
Execution.  
Entering  
*Postea*.

Proviso.

CLXXXIII. Every Judgment to be signed by virtue of the next preceding Section may be entered and recorded as the Judgment of the Court wherein the action shall be pending, though the Court may not be sitting on the day of the signing thereof, and shall be as effectual as if the same had been signed and recorded according to the course of the common law.

Entry and  
record of  
judgment.  
16 V. c. 175.

CLXXXIV. Notwithstanding any Judgment signed or recorded or execution issued by virtue of the two next preceding Sections, the Court in which the action shall have been brought, may order such Judgment to be vacated and execution to be stayed or set aside, and may enter an arrest of Judgment or grant a new trial or a new assessment of damages, as justice may appear to require, and thereupon the party affected by such

Judgment may  
be set aside,  
&c.  
16 V. c. 175.

Consequence of its being so. such Writ of Execution shall be restored to all that he may have lost thereby, in like manner as upon the reversal of a Judgment by Writ of Error, or otherwise as the Court may think fit to direct; Provided that any application to vacate such Judgment must be made within the first four days of the Term next after the rendering of the verdict.

Proviso.

On what affidavit writ of *Ca. Sa.* may issue. 2 G. 4, c. 1. CLXXXV. In cases which the Defendant has been held to special bail, it shall not be necessary before suing out a *Capias ad Satisfaciendum*, to make or file any further or other affidavit than that upon which the Writ of *Capias* issued in the first instance, but where the Defendant has not been held to special bail, a writ of *Capias ad Satisfaciendum* may issue after Judgment upon an affidavit in the same form (*mutatis mutandis*) as is hereinbefore required to be made for the purpose of suing out a writ of *Capias* as aforesaid, or upon an affidavit by the Plaintiff, his servant or agent, that he hath reason to believe the Defendant hath parted with his property or made some secret or fraudulent conveyance thereof, in order to prevent its being taken in execution.

Writ to Sheriff of the County where the venue is laid, may be dispensed with. (1852, s. 121.) CLXXXVI. It shall not be necessary to issue any writ directed to the Sheriff of the County or United Counties in which the venue is laid, but writs of execution may issue at once into any County or United Counties and be directed to and executed by the Sheriff of any County or United Counties without reference to the Counties or United Counties in which the venue is laid, and without any suggestion of the issuing of a prior writ into such County or United Counties.

If the Sheriff go out of office during currency of a writ against land. Proviso. CLXXXVII. If the Sheriff shall go out of office during the currency of any writ of execution against lands, and before the sale, such writ shall be executed and the sale and conveyance of the lands made by his successor in office, and not by the old Sheriff; Provided, that it shall be lawful for any Sheriff, after he has gone out of office, to execute any deed or conveyance necessary to effectuate and complete a sale of lands made by him while in office.

Advertisement during currency of writ, sufficient commencement of execution, &c. CLXXXVIII. The advertisement in the *Official Gazette*, of any lands (giving some reasonable definite description of them,) for sale under a Writ of Execution, during the currency of the writ, shall be deemed and taken to be a sufficient commencement of such execution to enable the same to be completed after it shall be returnable, by a sale and conveyance of the lands.

Duration of writ of execution. CLXXXIX. Every writ of execution issued after the commencement of this Act, shall bear date and be tested on the day on which it is issued, and shall remain in force for one year from the teste, and no longer if unexecuted, unless renewed in the manner hereinafter provided, but such writ may, at any time

time before its expiration, be renewed by the party issuing it, Renew  
 for one year from the date of such renewal, by being marked in  
 the margin, with a memorandum to the effect following:  
 "Renewed for one year from                      day of                     ," Effect of re-  
 signed by the Clerk or Deputy Clerk who issued such writ or newal.  
 by his successor in office; and a writ of execution so renewed (1852, s. 124.)  
 shall have effect and be entitled to priority according to the  
 time of the original delivery thereof.

CXC. The production of a writ of execution marked as Evidence of  
 renewed in manner aforesaid, shall be sufficient evidence of renewal.  
 its having been so renewed. (1852, s. 125.)

CXCI. A written order under the hand of the Attorney in the As to order  
 cause by whom any writ of *Capias ad Satisfaciendum* shall have by the Plain-  
 been issued, shall justify the Sheriff, Gaoler or person in whose tiff or his  
 custody the party may be under such writ, in discharging such Attorney for  
 party, unless the party for whom such Attorney professes to discharge of  
 act, shall have given written notice to the contrary to such Defendant.  
 Sheriff, Gaoler or person in whose custody the opposite party (1852, s. 126.)  
 may be, but such discharge shall not be a satisfaction of the  
 debt unless made by the authority of the creditor, and nothing  
 herein contained shall justify any Attorney in giving such  
 order for discharge without the consent of his client.

CXCII. Writs of execution to fix bail may be tested and Teste of writs  
 returnable in vacation. to fix bail.  
(1851, s. 90.)

CXCIII. It shall be lawful for any creditor who has obtained Examination  
 a Judgment in any of the Superior Courts to apply to the of a judgment  
 Court or a Judge for a rule or order that the judgment debtor debtor, as to  
 should be orally examined as to any and what debts are owing what debts  
 to him, before the Judge of any County Court or before any are due to  
 Clerk or deputy Clerk of the Crown, or any other person to be him.  
 specially named; and the Court or Judge may make such rule (1854, s. 60.)  
 or order for the examination of such Judgment debtor, and for  
 the production of any books or documents, and the examination  
 shall be conducted in the same manner, as in the case of an oral  
 examination of an opposite party under this Act.

CXCIV. It shall be lawful for a Judge upon the *ex parte* Judge may on  
 application of such Judgment creditor, either before or after application  
 such oral examination, and upon his affidavit or that of his and affidavit,  
 Attorney, stating that Judgment has been recovered and that it order attach-  
 is still unsatisfied and to what amount, and that any other ment of such  
 person is indebted to the Judgment debtor and is within the debts;  
 jurisdiction, to order that all debts owing or accruing from such  
 third person (hereinafter called the garnishee) to the Judgment  
 debtor shall be attached to answer the Judgment; and by the  
 same or any subsequent order it may be ordered that the  
 garnishee shall appear before the Judge or some officer of the  
 Court to be specially named by such Judge, to shew cause why And may order  
 he the garnishee  
to appear, &c.

Proviso.

(1854, s. 61.)

he should not pay the Judgment creditor the debt due from him to the Judgment debtor, or so much thereof as may be sufficient to satisfy the Judgment debt: Provided always that this section shall not apply in actions commenced or carried on against a Defendant as an absconding debtor.

Order or notice thereof to bind the garnishee.

(1854, s. 62.)

CXCV. Service of an order that debts due or accruing to the Judgment debtor shall be attached, or notice thereof to the garnishee in such manner as the Judge shall direct, shall bind such debts in his hands.

Amount due by garnishee may be levied by execution, if not disputed.

(1854, s. 63)

CXCVI. If the garnishee does not forthwith pay into Court the amount due from him to the Judgment debtor, or an amount equal to the Judgment debt, and does not dispute the debt due or claimed to be due from him to the Judgment debtor, or if he does not appear upon summons, then the Judge may order execution to issue, and it may be sued forth accordingly, without any previous writ or process, to levy the amount due from such garnishee towards satisfaction of the Judgment debt.

Proceedings if the garnishee dispute the debt.

(1854, s. 64.)

CXCVII. If the garnishee disputes his liability, the Judge, instead of making an order that execution shall issue, may order that the Judgment creditor shall be at liberty to proceed against the garnishee, by writ calling upon him to shew cause why there should not be execution against him for the alleged debt, or for the amount due to the Judgment debtor if less than the Judgment debt, and for costs of suit, and the proceedings upon such suit shall be the same, or as nearly as may be, as upon a writ of revivor issued under this Act.

Payment by garnishee to be a valid discharge to him.

(1854, s. 65)

CXCVIII. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid, shall be a valid discharge to him as against the Judgment debtor to the amount paid or levied, although such proceeding may be set aside or the Judgment reversed.

Attachment book to be kept in the office of the Clerk of the Crown and his deputies.

(1854, s. 66.)

CXCIX. In each of the Superior Courts there shall be kept at the several offices of the Clerk of the Crown and his deputies, a debt attachment book, and in such book entries shall be made of the attachment and proceedings thereon, with names, dates and statements of the amount recovered and otherwise; and the mode of keeping such books shall be the same in all the offices, and copies of any entries made therein may be taken by any person upon application to the proper officer.

Costs of such application.

(1854, s. 67.)

CC. The costs of any application for an attachment of debt under this Act, and of any proceedings arising from or incidental to such application, shall be in the discretion of the Court or a Judge.

Specific delivery of a

CCI. The Court or a Judge shall have power if he or they see fit so to do, upon the application of the Plaintiff in any action

action for the detention of any chattel, to order that execution shall issue for the return of the chattel detained, without giving the Defendant the option of retaining such chattel upon paying the value assessed, and that unless the Court or a Judge should otherwise order, the Sheriff shall distrain the Defendant by all his lands and chattels in the said Sheriff's bailiwick, till the Defendant render such chattel, or at the option of the Plaintiff, that he cause to be made of the Defendant's goods the value of such chattel: Provided that the Plaintiff shall, either by the same or by a separate writ or writs of execution to be issued in the ordinary manner, be entitled to have made of the Defendant's goods or lands, the damages, costs and interest in such action.

chattel may be compelled, and how.

Option to the Plaintiff.

Proviso: as to damages, costs, &c. (1854, s. 78.)

And with respect to proceedings for the revival of Judgments and other proceedings, by and against persons not parties to the record; Be it enacted, as follows:

Revival of judgments, &c.

CCII. During the lives of the parties to a Judgment, or those of them during whose lives execution may at present issue within a year and a day without a *scire facias*, and within one year from the recovery of the Judgment, execution may issue without a revival thereof.

Execution without *scire facias* or revival. (1852, s. 128.)

CCIII. In case where it shall become necessary to revive a Judgment, either by reason of lapse of time or of a change by death or otherwise of the parties entitled, or liable to execution, the party alleging himself to be entitled to execution may either sue out a writ of revivor in the form hereinafter mentioned, or apply to the Court or a Judge for leave to enter a suggestion upon the roll, to the effect that it manifestly appears to the Court that such party is entitled to have execution of the Judgment, and to issue execution thereupon, such leave to be granted by the Court upon a rule to shew cause, or by a Judge upon a Summons to be served according to the present practice, or in such other manner as such Court or Judge may direct, and which rule or summons may be in the form contained in the Schedule (A) to this Act annexed marked No. 9, or to the like effect.

Application for revival of a Judgment and execution thereupon. (1852, s. 129.)

CCIV. Upon such application, in case it manifestly appears that the party making the same is entitled to execution, the Court or Judge shall allow such suggestion as aforesaid to be entered in the form contained in the Schedule (A) to this Act annexed marked No. 10, or to the like effect and execution to issue thereupon, and shall order whether or not the costs of such application shall be paid to the party making the same; and in case it does not manifestly so appear, the Court or Judge shall discharge the rule or dismiss the Summons with or without costs: Provided nevertheless, that in such last mentioned case, the party making such application shall be at liberty to proceed by writ of revivor or action upon the Judgment.

If the Court be satisfied

And if not.

Proviso. (1852, s. 130.)

CCV.

Writ of re-  
vivor and pro-  
ceedings  
thereon.

CCV. The writ of revivor shall be directed to the party called upon to shew cause why execution shall not be awarded, and shall bear teste on the day of its issuing, and after reciting the reason why such writ has become necessary, it shall call upon the party to whom it is directed to appear within ten days after service thereof in the Court out of which it issues, to shew cause why the party at whose instance such writ has been issued should not have execution against the party to whom such writ is directed, and it shall give notice that in default of appearance, the party issuing such writ may proceed to execution; and such writ may be in the form contained in the Schedule (A) to this Act annexed marked No. 11, or to the like effect, and may be sued out and served in any County or Union of Counties, and otherwise proceeded upon whether in term or vacation in the same manner as a writ of Summons; and the venue in a declaration upon such writ may be laid in the County or Union of Counties in which the writ has been sued out; and the pleadings and proceedings thereupon, and the rights of the parties respectively to costs, shall be the same as in an ordinary action, and notice in writing to the Plaintiff, his Attorney or agent, shall be sufficient appearance to a writ of revivor.

Declaration,  
&c.

Costs.  
(1852, s. 131.)

Certain writs  
of *scire facias*  
to be proceed-  
ed upon in  
like manner  
as writs of  
revivor.

CCVI. All writs of *scire facias* issued out of either the Court of Queen's Bench, or of Common Pleas, against bail on a recognizance, against members of a Joint Stock Company or other body, upon a Judgment recorded against a public officer or other person sued as representing such Company or body, or against such Company or body itself, by or against a husband to have execution of a Judgment for or against a wife, for restitution after a reversal on Error or Appeal, upon a suggestion of further breaches after Judgment, for any penal sum pursuant to the Statute passed in the Session holden the eighth and ninth years of the reign of King William the Third, intituled, *An Act for the better preventing frivolous and vexatious suits*,— shall be tested, directed and proceeded upon in like manner as writs of revivor.

Imperial Act,  
8 & 9 W. 4,  
c. 11.  
(1852, s. 132.)

Age of judg-  
ment as re-  
spects writs  
of revivor.  
(1852, s. 134.)

CCVII. A writ of revivor to revive a Judgment less than ten years old, shall be allowed without any rule or order; if more than ten years old, not without a rule of Court or Judge's Order; nor if more than fifteen years old without a rule to shew cause.

And with respect to the effect of death or marriage upon the proceedings in an action; Be it enacted as follows:

Death of  
Plaintiff or  
Defendant.  
(1832, s. 135.)

CCVIII. The death of a Plaintiff or Defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

If there be  
more than one

CCIX. If there be two or more Plaintiffs or Defendants and one or more of them shall die, if the cause of such action shall survive

survive to the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the action shall not be thereby abated, but such death being suggested on the record, the action shall proceed at the suit of the surviving Plaintiff or Plaintiffs against the surviving Defendant or Defendants.

Plaintiff or Defendant, and the cause of action survive to the others. (1832, s. 136.)

CCX. In case of the death of a sole Plaintiff or sole surviving Plaintiff, the legal representative of such Plaintiff may, by leave of the Court or a Judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed ; and if such suggestion be made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased Plaintiff, and such Judgment shall follow upon the verdict, in favor of or against the person making such suggestion, as if such person were originally the Plaintiff.

Death of sole Plaintiff. (1832, s. 137.)

CCXI. In case of the death of a sole Defendant or sole surviving Defendant where the action survives, the Plaintiff may make a suggestion either in any of the pleadings, if the cause has not arrived at issue, or by filing a suggestion with the other pleadings, if it has so arrived, of the death, and that a person named in such suggestion is the executor or administrator of the deceased, and may thereupon serve such executor or administrator with a copy of the writ and suggestion, and of the said other pleadings, and with a notice signed by the Plaintiff or his Attorney, requiring such executor or administrator to appear within ten days after service of the notice, inclusive of the day of such service, and that in default of his so doing the Plaintiff may sign Judgment against him as such executor or administrator; and the same proceedings may be had and taken in case of non-appearance after such notice as upon a writ against such executor or administrator in respect of the cause for which such action was brought; and in case no pleadings have taken place before the death, the suggestion shall form part of the declaration, and the declaration, with a notice to plead, and the suggestion, may be served together, and the new Defendant shall plead thereto at the same time, and within eight days after the service; and in case the Plaintiff shall have declared, but the Defendant shall not have pleaded before the death, the new Defendant shall plead at the same time to the declaration and suggestion within eight days after service of the suggestion; and in case the Defendant shall have pleaded before the death, the new Defendant shall be at liberty to plead to the suggestion only, and within eight days after the service thereof, by way of denial, or such plea as may be appropriate to and rendered necessary by his character of executor and administrator, unless by leave of the Court or a Judge he should be permitted to plead fresh matter in answer to the declaration; and in case the Defendant shall have pleaded before the death, but the pleadings shall not have arrived at issue, the new Defendant, besides pleading to the suggestion within eight days after the service

Death of sole or sole surviving Defendant.

If there have been pleadings.

If there have been no pleadings.

If Plaintiff have declared and Defendant has not pleaded.

If Defendant has pleaded.

service thereof, shall continue the pleadings to issue in the same manner as the deceased might have done, and the pleadings upon the declaration and the pleadings upon the suggestion shall be tried together; and in case the Plaintiff shall recover, he shall be entitled to the like Judgment in respect of the debt or sum sought to be recovered, and in respect of the costs prior to the suggestion, and in respect of the costs of the suggestion and subsequent thereto, as in an action originally commenced against the executor or administrator.

If Plaintiff recover.  
(1852 s. 138.)

Death between verdict and judgment  
(1852, s. 139.)

**CCXII.** The death of either party between the verdict and Judgment shall not hereafter be alleged for error, so as such Judgment be entered within two terms after such verdict.

Plaintiff dying between interlocutory and final judgment.  
And if Defendant so die.  
(1852, s. 140.)

**CCXIII.** If the Plaintiff in any action happen to die after an interlocutory Judgment and before a final Judgment obtained therein, the action shall not abate by reason thereof if such action might be originally prosecuted or maintained by the executor or administrator of such Plaintiff; and if the Defendant die after such interlocutory Judgment and before final Judgment therein obtained, the action shall not abate if such action might be originally prosecuted or maintained against the executor or administrator of such Defendant; and the Plaintiff, or, if he be dead after such interlocutory Judgment, his executor or administrator, shall and may have a writ of revivor in the form contained in the Schedule (A) to this Act annexed, marked No. 11, or to the like effect, against the Defendant, if living, after such interlocutory Judgment, or if he be dead then against his executors or administrators, to show cause why damages in such action should not be assessed and recovered by the Plaintiff, or by his executor or administrator; and if such Defendant, his executor or administrator, shall appear at the return of such writ, and not show or allege any matter sufficient to arrest the final Judgment, or shall make default, the damages shall be assessed, or the amount for which final Judgment is to be signed shall be referred to the proper officer as hereinbefore provided; and after the assessment had, or the delivery of the order with the amount endorsed thereon to the Plaintiff, his executor or administrator, final Judgment shall be given for the Plaintiff, his executor or administrator, prosecuting such writ of revivor against such Defendant, his executor or administrator respectively.

Marriage of a woman Plaintiff or Defendant.  
(1852, s. 141.)

**CCXIV.** The marriage of a woman Plaintiff or Defendant shall not cause the action to abate, but the action may notwithstanding be proceeded with to judgment, and such judgment may be executed against the wife alone, or by suggestion or writ of revivor pursuant to this Act, judgment may be obtained against the husband and wife and execution issue thereon; and in case of a Judgment for the wife, execution may be issued thereupon by the authority of the husband without any writ of revivor or suggestion; and if in any such action the wife shall sue

sue or defend by Attorney appointed by her when sole, such Attorney shall have authority to continue the action or defence, unless such authority be countermanded by the husband, and the Attorney changed according to the practice of the Court.

CCXV. Where an action would but for the provisions of this Act have abated by reason of the death of either party and in which the proceedings may be revived and continued hereby, the defendant or person against whom the action may be so continued may apply by summons to compel the plaintiff or person entitled to proceed with the action to proceed according to the provisions of this Act within such time as the Judge shall order; and in default of such proceeding the defendant or other person against whom the action may be so continued as aforesaid shall be entitled to enter a suggestion of such default and of the representative character of the person by or against whom the action may be proceeded with as the case may be, and to have judgment for the costs of the action against the plaintiff, or against the person entitled to proceed in his room as the case may be, and in the latter case, to be levied of the goods of the testator or intestate.

Right of Defendant in action which would have abated but for this Act.  
(1854, s. 92.)

CCXVI. Proceedings against Executors upon a Judgment of assets in *futuro* may be had and taken in the manner herein provided as to Writs of revivor.

Against Executors as to assets in *futuro*.  
(1854, s. 91.)

And with respect to the proceedings upon motions to arrest the Judgment and for Judgment *non obstante veredicto*; Be it enacted as follows:

CCXVII. Upon any motion made in arrest of Judgment or for Judgment *non obstante veredicto* by reason of the non averment of some material fact or facts, or material allegation or other cause, the party whose pleading is alleged or adjudged to be therein defective, may by leave of the Court, suggest the existence of the omitted fact or facts or other matter which if true would remedy the alleged defect: and such suggestion may be pleaded to by the opposite party within eight days after notice thereof, or such further time as the Court or a Judge may allow, and the proceedings for trial of any issues joined upon such pleadings shall be the same as in ordinary actions.

Proceedings on motions in arrest of judgment, or for judgment *non obstante*. Suggestion of facts by party whose pleading is objected to.  
(1852, s. 143.)

CCXVIII. If the fact or facts suggested be admitted or be found to be true, the party suggesting shall be entitled to such Judgment as he would have been entitled to, if such fact or facts or allegations had been originally stated in such pleading and proved or admitted on the trial, together with the costs of and occasioned by the suggestion and proceedings thereon; but if such fact or facts be found untrue, the opposite party shall be entitled to his costs of and occasioned by the suggestion and proceedings thereon, in addition to any other costs to which he may be entitled.

If suggestion be found true..

if untrue.  
(1852, s. 144.)

Costs on  
arrest of judg-  
ment, or judg-  
ment non  
obstante.  
(1852, s. 145)

CCXIX. Upon an arrest of Judgment or Judgment *non obstante veredicto*, the Court shall adjudge to the party against whom such Judgment is given, the costs occasioned by the trial of any issues in fact arising out of the pleading for defect of which such Judgment is given, upon which such party shall have succeeded, and such costs shall be set off against any money or costs adjudged to the opposite party, and execution may issue for the balance, if any.

Ejectment.

And with respect to the action of Ejectment; Be it enacted as follows :

Ejectment,  
how com-  
menced.  
Writ.  
(1852, s. 168.)

CCXX. The action of ejectment shall be commenced by Writ, directed to the persons in possession by name, and to all persons entitled to defend the possession of the property claimed, which property shall be described in the Writ with reasonable certainty.

Contents of  
writ.

CCXXI. The Writ shall state the names of all the persons in whom the title is alleged to be, and command the persons to whom it is directed to appear within sixteen days after service thereof, in the Court from which it is issued, to defend the possession of the property sued for, or such part thereof as they may think fit, and it shall contain a notice that in default of appearance they will be turned out of possession; and the Writ shall bear teste of the day on which it issued, and shall be issued out of the office in the County or Union of Counties wherein the lands mentioned in such Writ lie, and shall be in force for three months, and shall be in the form contained in the Schedule (A) to this Act annexed, marked No. 12, or to the like effect, and the name and abode of the Attorney issuing the same (or if no Attorney, the name and residence of the party) shall be indorsed thereon, in like manner as hereinbefore enacted with reference to the indorsements on a Writ of Summons in a personal action, and the same proceedings may be had to ascertain whether the Writ was issued by the authority of the Attorney whose name was indorsed thereon, and who and what the Claimants are, and their abode, and as to staying the proceedings upon Writs issued without authority, as in the case of Writs in personal actions.

Where to  
issue.

Duration.  
Form. &c.  
(1852, s. 169.)

Notice of na-  
ture of Claim-  
ant's title to  
be attached to  
the writ.  
New.

CCXXII. To the Writ and to every copy thereof served on any party, shall be attached a notice of the nature of the title intended to be set up by the Claimant, as for example by grant from the Crown, or by deed, lease or other conveyance derived from or under the grantee of the Crown, or by marriage, descent or devise, stating to or from whom, or by length of possession, or otherwise, as the case may be, according to the nature of the Claimant's title, stating it with reasonable certainty: And such notice shall not contain more than one mode in which title is set up, without leave of the Court or a Judge, and at the trial the Claimant shall be confined to proof of the title set up  
in

Not to contain  
more than one  
mode of setting  
up title, with-  
out leave.

in the notice: Provided that nothing in this section shall be construed to require any Claimant to set out in such notice the dates or particular contents of any Letters Patent, Deeds, Wills or other instruments or writings, which shew or support his title, or the date of any marriage or death, unless it be specially directed by order of the Court or a Judge.

Proviso:  
Certain particulars not required except by order.

CCXXIII. The Writ shall be served in the same manner as an ejectment was formerly served, or in such manner as the Court or a Judge shall order, and in case of vacant possession, by posting a copy thereof upon the door of the dwelling house or other conspicuous part of the property.

Service of writ.  
(1852, s. 170.)

CCXXIV. The persons named as Defendants in such Writ, or either of them, shall be allowed to appear within the time appointed; and every person so appearing shall, with his appearance, file a notice addressed to the Claimant, stating that the Defendant, besides denying the title of the Claimant, asserts title in himself, or in some other persons, (stating whom) under whom he claims, and setting forth the mode in which such title is claimed, in like manner and to the same extent and subject to the same conditions, rules and restrictions as are set forth in the two hundred and twenty-second section of this Act, in respect to the notice of a Claimant's title, and the giving proof thereof at the trial.

Defendants, or any of them, may appear within time limited.  
(1852, s. 171.)

New.  
Notice to be filed with appearance, stating nature of Defendants' title or claim &c.  
New.

CCXXV. Any other person not named in such Writ, shall, by leave of the Court or a Judge, be allowed to appear and defend, on filing an affidavit shewing that he is in possession of the land either by himself or his tenant.

Any other person may appear by leave.  
(1852, s. 172.)

CCXXVI. All appearances shall be entered in the Office from which the Writ issued, and all subsequent proceedings shall be conducted in the same Office.

Entry of appearance and proceedings.  
New.

CCXXVII. Any person appearing to defend as landlord in respect of property whereof he is in possession in person or by his tenant, shall state in his appearance that he appears as landlord, and such person shall be at liberty to set up any defence which a landlord appearing in an ejectment has heretofore been allowed to set up, and no other.

Person appearing to defend as landlord.  
(1852, s. 173.)

CCXXVIII. Any person appearing to such Writ shall be at liberty to limit his defence to a part only of the property mentioned in the Writ, describing that part with reasonable certainty in a notice entitled in the Court and cause, and signed by the party appearing or his Attorney, such notice to be served within four days after appearance, upon the Attorney whose name is endorsed on the Writ if any, and if none, then to be filed in the proper Office; and an appearance without such notice confining the defence to part, shall be deemed an appearance to defend for the whole.

Party appearing may limit his defence to part of the property.

Notice of such limitation, &c.  
(1852, s. 174.)

Want of reasonable certainty in description, how cured. (1852, s. 175)

CCXXIX. Want of "reasonable certainty" in the description of the property or part of it, in the Writ or notice of defence, or in the notice of the title given by either party, shall not nullify them, but shall only be ground for an application to a Judge for better particulars of the land claimed or defended, or of the title thereto, which a Judge shall have power to order in all cases.

Defence by persons not in possession. (1852, s. 176)

CCXXX. The Court or a Judge shall have power to strike out or confine appearances and defences set up by persons not in possession by themselves or their tenants.

Judgment if no appearance, or appearance as to part only.

CCXXXI. In case no appearance shall be entered within the time appointed, or if an appearance be entered, but the defence be limited to part only, the Plaintiff shall be at liberty to sign a Judgment that the person whose title is asserted in the Writ shall recover possession of the land, or of the part thereof to which the defence does not apply, which Judgment if for all may be in the form contained in the Schedule (A) to this Act annexed, marked No. 13, or to the like effect, and if for part may be in the form contained in the Schedule (A) to this Act annexed, marked No. 14, or to the like effect.

Forms. (1852, s. 177.)

Issue may be made up by Claimant if appearance be entered.

CCXXXII. In case an appearance shall be entered, an issue may be made up without any pleadings, by the Claimants or their Attorney, setting forth the Writ and stating the fact of the appearance with its date, and the notice limiting the defence, if any, of each of the persons answering, so that it may appear for what defence is made, and directing the Sheriff to summon a Jury; and such issue, in case defence is made for the whole, may be in the form contained in the Schedule (A) to this Act annexed, marked No. 15, or to the like effect, and in case defence is made for part, may be in the form contained in the Schedule (A) to this Act annexed, marked No. 14, or to the like effect.

Forms. (1852, s. 178.)

Special case, by leave. (1852, s. 179.)

CCXXXIII. By consent of the parties and by leave of a Judge, a special case may be stated as in other actions.

Questions to be tried if no special case be agreed upon.

CCXXXIV. The Claimants may, if no special case be agreed to, proceed to trial in the same manner as in other actions, and the particulars of the claim and defence and of the notices of Claimant and Defendant of their respective titles, if any, or copies thereof, shall be annexed to the record by the Claimants; and the question at the trial shall, except in the cases hereinafter mentioned, be whether the statement in the Writ of the title of the Claimants is true or false, and if true, then which of the Claimants is entitled, and whether to the whole or part, and if to part, then to which part of the property in question; and the entry of the verdict may be made in the form contained in the Schedule (A) to this Act annexed, marked No. 16, or to the like effect, with such modifications as may be necessary to meet the facts.

Form of entry of verdict. (1852, s. 180)

CCXXXV. In case the title of the Claimant shall appear to have existed as alleged in the Writ, and at the time of service thereof, but it shall also appear to have expired before the time of trial, the Claimant shall, notwithstanding, be entitled to a verdict according to the fact, that he was entitled at the time of the bringing the action and serving the Writ, and to Judgment for his costs of suit.

If Claimant was entitled at service of writ, but not afterwards. (1852, s. 181.)

CCXXXVI. The Court or a Judge may, on the application of either party, on grounds shewn by affidavit, order that the trial shall take place in any County other than that in which the venue is laid, and such order being suggested on the record, the trial may be had accordingly.

Court may alter place of trial on affidavit. (1852, s. 182.)

CCXXXVII. If the Defendant appears, and the Claimant does not appear at the trial, the Claimant shall be non-suited, and if the Claimant appear and the Defendant does not appear, the Claimant shall be entitled to recover without any proof of his title.

Defendant appearing and Claimant making default, and vice versa. (1852, s. 183.)

CCXXXVIII. The Jury may find a special verdict, or either party may tender a bill of exceptions.

Special verdict, &c. (1852, s. 184.)

CCXXXIX. Upon the finding for the Claimant, Judgment may be signed and execution issue for the recovery of possession of the property or of such part thereof as the Jury shall find the Claimant entitled to, and for costs, within such time not exceeding the fifth day in Term after the verdict, as the Court or Judge before whom the cause is tried, shall order, and if no such order be made, then on the fifth day in Term after the verdict.

Judgment if Claimant recover.

Execution and costs. (1852, s. 185.)

CCXL. Upon a finding for the Defendants or any of them, Judgment may be signed and execution issue for costs against the Claimants named in the Writ, within such time not exceeding the fifth day in Term after the verdict, as the Court or a Judge before whom the cause is tried shall order, and if no such order is made, then on the fifth day in Term after the verdict.

Costs to Defendant if Claimant fail. (1852, s. 186.)

CCXLI. Upon any Judgment in ejectment for recovery of possession and costs, there may be either one Writ or separate Writs of Execution for the recovery of possession, and for the costs, at the election of the Claimant.

One or more Writs of Execution may issue. (1852, s. 187.)

CCXLII. In case of such an action being brought by some or one of several persons entitled as joint tenants, tenants in common or coparcenary, any joint tenant, tenant in common or coparcener in possession, may, at the time of appearance or within four days after, give notice in the same form as the notice of a limited defence, that he or she defends as such and admits the right of the Claimant to an undivided share of the property

As to Defendants being joint tenants, tenants in common, &c., admitting right of Claimant to

an undivided share, &c., (1852, s. 188.) property (stating what share,) but denies any actual ouster of him, from the property, and may within the same time file an affidavit, stating with reasonable certainty, that he or she is joint tenant, tenant in common or coparcener, and the share of such property to which he or she is entitled, and that he or she has not ousted the Claimant, and such notice shall be entered in the issue in the same manner as the notice limiting the defence, and upon the trial of such an issue, the additional question of whether an actual ouster has taken place shall be tried.

Question to be tried, if such joint tenancy, &c., with Claimant, be found, &c., and the contrary. (1852, s. 189.) CCXLIII. Upon the trial of such issue as last aforesaid, if it shall be found that the Defendant is joint tenant, tenant in common, or coparcener with the Claimant, then the question whether an actual ouster has taken place shall be tried, and unless such actual ouster shall be proved the Defendant shall be entitled to Judgment and costs; but if it shall be found either that the Defendant is not such joint tenant, tenant in common, or coparcener, or that an actual ouster has taken place, then the Claimant shall be entitled to such Judgment for the recovery of possession and costs.

Death of either party not to abate the action. (1852 s. 190.) CCXLIV. The death of a Claimant or Defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

Right of one Claimant surviving to another (1852, s. 191.) CCXLV. In case the right of the deceased Claimant shall survive to another Claimant, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving Claimant; and if such a suggestion shall be made before the trial, then the surviving Claimant shall have a verdict and recover such Judgment as aforesaid, upon it being made to appear that he was entitled to bring the action either separately or jointly with the deceased Claimant.

If the right of the deceased Claimant does not survive to another, &c. (1852, s. 192.) CCXLVI. In case of the death before trial of one of several Claimants, whose right does not survive to another or others of the surviving Claimants, when the legal representative of the deceased Claimant shall not become a party to the suit in the manner hereinafter mentioned, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving Claimant for such share of the property as he is entitled to and costs.

One or more of several Claimants dying after verdict for them, but be- CCXLVII. In case of a verdict for two or more Claimants, if one of such Claimants die before execution executed, the other Claimant may, whether the legal right to the property shall survive or not, suggest the death in manner aforesaid, and proceed to Judgment and execution for the recovery of possession of the entirety of the property and the costs; but nothing herein contained

contained shall affect the right of the legal representative of the deceased Claimant, or the liability of the surviving Claimant to such legal representative, and the entry and possession of such surviving Claimant under such execution shall be considered an entry and possession on behalf of such legal representative in respect of the share of the property to which he shall be entitled as such representative, and the Court may direct possession to be delivered accordingly.

fore execution.  
(1852, s. 193.)

CCXLVIII. In case of the death of a sole Claimant, or before trial of one of several Claimants whose right does not survive to another or others of the Claimants, the legal representative of such Claimant may, by leave of the Court or a Judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed, and if such suggestion be made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased Claimant, and such Judgment shall follow upon the verdict in favor or against the person making such suggestion, as hereinbefore provided with reference to a Judgment for or against such Claimant; and in case such suggestion in the case of a sole Claimant be made after trial and before execution executed by delivery of possession thereupon, and such suggestion be denied by the Defendant within eight days after notice thereof, or such further time as the Court or a Judge may allow, then such suggestion shall be tried, and if upon the trial thereof, a verdict shall pass for the person making such suggestion, he shall be entitled to such Judgment as aforesaid, for the recovery of possession and for the costs of and occasioned by such suggestion, and in case of a verdict for the Defendant, such Defendant shall be entitled to such Judgment as aforesaid for costs.

Death of sole Claimant, or one whose right does not survive to another.

Costs.  
(1852, s. 194.)

CCXLIX. In case of the death before or after Judgment of one of several Defendants in ejectment who defend jointly, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside if untrue, and the action may proceed against the surviving Defendant to Judgment and execution.

Death of one of several joint Defendants.  
(1852, s. 195.)

CCL. In case of the death of a sole Defendant, or of all the Defendants in ejectment before trial, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside if untrue, and the Claimants shall be entitled to Judgment for recovery of possession of the property, unless some other person shall appear and defend within the time to be appointed for that purpose, by the order of the Court or a Judge, to be made upon the application of the Claimants; and it shall be lawful for the Court or a Judge upon such suggestion being made, and upon such application as aforesaid, to order that the Claimants shall be at liberty to sign Judgment within such time as the Court or a Judge may think fit, unless the person then in possession by himself or his tenant or the

Death of sole Defendant, or of all the Defendants, before trial.  
(1852, s. 196.)

legal representative of the deceased Defendant, shall within such time appear and defend the action ; and such order may be served in the same manner as the Writ, and in case such person shall appear and defend the same, proceedings may be taken against such new Defendant as if he had originally appeared and defended the action, and if no appearance be entered and defence made, then the Claimant shall be at liberty to sign Judgment pursuant to the order.

Death of sole Defendant or of all the Defendants, after verdict. (1852, s. 197.)

**CCLI.** In case of the death of a sole Defendant or of all the Defendants in ejectment, after verdict, the Claimants shall nevertheless be entitled to Judgment as if no such death had taken place, and to proceed by execution for recovery of possession without suggestion or revivor, and to proceed for the recovery of the costs in like manner as upon any other Judgment for money, against the legal representatives of the deceased Defendant.

Death before trial of a Defendant defending separately for part. (1852, s. 198.)

**CCLII.** In case of the death, before trial, of one of several Defendants in ejectment, who defends separately for a portion of the property for which the other Defendant or Defendants do not defend, the same proceedings may be taken as to such portion as in the case of a sole Defendant, or the Claimant may proceed against the surviving Defendants in respect of the portion of the property for which they defend.

Death before trial of a Defendant who defends separately, but for property for which others also defend. (1852, s. 199.)

**CCLIII.** In case of the death, before trial, of one of several Defendants in ejectment, who defends separately in respect to property for which surviving Defendants also defend, it shall be lawful for the Court or a Judge at any time before trial to allow the person in possession, at the time of the death, of the property, or the legal representative of the deceased Defendant, to appear and defend on such terms as may appear reasonable and just, upon the application of such person or representative, and if no such application be made or leave granted, the Claimant suggesting the death in manner aforesaid, may proceed against the surviving Defendants to Judgment and execution.

Claimant may discontinue as to one or more Defendants. (1852, s. 200.)

**CCLIV.** The Claimant in ejectment shall be at liberty at any time to discontinue the action as to one or more of the Defendants, by giving to the Defendant or his Attorney a notice, headed in the Court and cause, and signed by the Claimant or his Attorney, stating that he discontinues such action, and thereupon the Defendant to whom such notice is given shall be entitled to and may forthwith sign Judgment for costs in the form contained in the Schedule (A) to this Act annexed, marked No. 17, or to the like effect.

One of several claimants may discontinue. (1852, s. 201.)

**CCLV.** In case one of several Claimants shall be desirous to discontinue, he may apply to the Court or a Judge to have his name struck out of the proceedings, and an order may be made

made thereupon upon such terms as to the Court or Judge shall seem fit, and the action shall thereupon proceed at the suit of the other Claimants.

CCLVI. If after appearance entered, the Claimant without going to trial, allow the time fixed by the practice of the Court for going to trial in ordinary cases after issue joined to elapse, the Defendant in ejectment may give twenty days' notice to the Claimant to proceed to trial at the Assizes next after the expiration of the notice, and if the Claimant afterwards neglects to give notice of trial for such Assizes, or to proceed to trial in pursuance to the said notice given by the Defendant, and the time for going to trial shall not be extended by the Court or a Judge, the Defendant may sign Judgment in the form contained in the Schedule (A) to this Act annexed, marked No. 18, and recover the costs of the defence.

Claimant not proceeding to trial in due time after notice..

Right of Defendant in such case. (1852, s. 202.)

CCLVII. A sole Defendant or all the Defendants in ejectment, shall be at liberty to confess the action as to the whole or a part of the property, by giving to the Claimant a notice headed in the Court and cause, and signed by the Defendant or Defendants, such signature to be attested by his or their Attorney, and thereupon the Claimant shall be entitled to and may forthwith sign Judgment and issue execution for the recovery of possession and costs, in the form contained in the Schedule (A) to this Act annexed, marked No. 19, or to the like effect.

Sole Defendant or all the Defendants may confess the action as to the whole or part of the property. (1852, s. 203.)

CCLVIII. In case one of several Defendants in ejectment, who defends separately for a portion of the property for which the other Defendant or Defendants do not defend, shall be desirous of confessing the Claimant's title to such portion, he may give a like notice to the Claimant, and thereupon the Claimant shall be entitled to and may forthwith sign Judgment and issue execution for the recovery of possession of such portion of the property, and for the costs occasioned by the defence relating to the same, and the action may proceed as to the residue.

And so may one of several Defendants, defending for a part for which others do not defend. (1852, s. 204.)

CCLIX. In case one of several Defendants in ejectment, who defend severally in respect of property for which other Defendants also defend, shall be desirous of confessing the Claimant's title, he may give a like notice thereof, and thereupon the Claimant shall be entitled to and may sign Judgment against such Defendant for the costs occasioned by his defence, and may proceed in the action against the other Defendants to Judgment and execution.

And if others defend as to the same part. (1852, s. 205.)

CCLX. It shall not be necessary before issuing execution on any Judgment in ejectment under the authority of this Act, to enter the proceedings upon any roll, but an *incipitur* thereof may be made upon paper, shortly describing the nature of the Judgment

Proceedings need not be entered before execution.

Proviso.  
(1852, s. 206.) Judgment according to the practice heretofore used, and Judgment may thereupon be signed, and costs taxed and execution issued; Provided nevertheless, that the proceedings shall be entered on the roll whenever the same may become necessary for the purpose of evidence or of bringing error, or appealing, or the like.

Effect of judgment.  
13 & 14 V.  
c. 57.  
(1852, s. 207.) CCLXI. The effect of a Judgment in an action of ejectment under this Act shall be the same as that of a Judgment in ejectment obtained before the passing of the Act of this Province, in the Session of Parliament held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to alter and amend the practice and proceedings in actions of Ejectment in Upper Canada.*

Penalty on tenant receiving writ in ejectment and not notifying his landlord.  
(1852, s. 209.) CCLXII. Every tenant to whom any Writ in ejectment shall be delivered, or to whose knowledge it shall come, shall forthwith give notice thereof to his landlord, or his bailiff or receiver, under the penalty of forfeiting the value of three years improved or rack rent of the premises demised or holden in the possession of such tenant, to the person of whom he holds, to be recovered by action in any Court of Common Law having jurisdiction for the amount.

Landlord having power to re-enter for non-payment of rent, may recover possession by ejectment.  
And how such right shall be exercised.  
Consequences of the exercise of such right.  
CCLXIII In all cases between landlord and tenant, as often as it shall happen that one half year's rent shall be in arrear, and the landlord or lessor to whom the same is due, hath right by law to re-enter for the non-payment thereof, such landlord or lessor shall and may, without any formal demand or re-entry, serve a Writ in ejectment for the recovery of the demised premises, or in case the same cannot legally be served or no tenant be in actual possession of the premises, then such landlord or lessor may affix a copy thereof upon the door of any demised messuage, or in case such action in ejectment shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements or hereditaments comprised in such Writ in ejectment, and such affixing shall be deemed legal service thereof, which service or affixing of such Writ in ejectment shall stand instead and place of a demand and re-entry; and in case of Judgment against the Defendant for non-appearance, if it shall be made to appear to the Court wherein the said action is depending, by affidavit, or be proved upon the trial in case the Defendant appears, that half a year's rent was due before the said Writ was served, and that no sufficient distress was to be found on the demised premises countervailing the arrears then due, and that the lessor had power to re-enter, then and in every such case the lessor shall recover judgment and have execution in the same manner as if the rent in arrear had been legally demanded and a re-entry made; and in case the lessee or his assignee, or other person claiming or deriving under the said lease, shall permit and suffer Judgment to be had and recovered on such trial in ejectment and execution to be

be executed thereon, without paying the rent and arrears together with full costs, and without proceeding for relief in equity within six months after execution executed, then and in every such case the said lessee and his assignee and all other persons claiming and deriving under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, other than by bringing a Writ of appeal for reversal of such Judgment in case the same shall be erroneous, and the said landlord or lessor shall from thenceforth hold the demised premises discharged from such lease; and if on such ejectment, a verdict shall pass for the Defendant, or the Claimant shall be non-suited therein, then and in every such case, such Defendant shall have and recover his costs; Provided that nothing herein contained shall extend to bar the right of any mortgagee of such lease or any part thereof, who shall not be in possession, so as such mortgagee shall and do within six months after such Judgment obtained and execution executed, pay all rent in arrear and all costs and damages sustained by such lessor or person entitled to the remainder or reversion as aforesaid, and perform all covenants and agreements which on the part and behalf of the first lessee are or ought to be performed.

If verdict be for defendant, &c.

Proviso: as to mortgagees of lease. (1852, s. 210.)

CCLXIV. In case the said lessee, his assignee or other person claiming any right, title or interest in law or equity of, in or to the said lease shall, within the time aforesaid, proceed for relief in any Court of Equity, such person shall not have or continue any injunction against the proceedings at law on such ejectment, unless he does or shall, within forty days next after a full and perfect answer shall be made by the Claimant in such ejectment, bring into Court and lodge with the proper officer such sum of money as the lessor or landlord shall, in his answer, swear to be due and in arrear over and above all just allowances, and also the costs taxed in the said suit, there to remain until the hearing of the cause, or to be paid out to the lessor or landlord on good security, subject to the decree of the Court; and in case such proceedings for relief in equity shall be taken within the time aforesaid, and after execution is executed, the lessor or landlord shall be accountable only for so much and no more as he shall really and *bonâ fide* without fraud, deceit, or wilful neglect, make of the demised premises from the time of his entering into the actual possession thereof, and if what shall be so made by the lessor or landlord happen to be less than the rent reserved on the said lease, then the said lessee or his assignee, before he shall be restored to his possession, shall pay such lessor or landlord what the money so by him made fell short of the reserved rent for the time such lessor or landlord held the said lands.

Proceedings if the tenant ejected seek relief in Equity.

Rent must be paid into Court before injunction shall issue.

If such proceedings be after execution executed. (1852, s. 211.)

CCLXV. If the tenant or his assignee do and shall at any time before the trial in such ejectment, pay or tender to the lessor or landlord, his executors or administrators, or his or their Attorney in that cause, or pay into the Court wherein the same

Discontinuance if tenant pay arrears of rent and costs before trial, &c.

If he be relieved in Equity. (1852, s. 212.)

same cause is depending, all the rent and arrears together with the costs, then and in such case all further proceedings on the said ejectment shall cease and be discontinued; and if such lessee, his executors, administrators or assigns, shall, upon such proceeding as aforesaid, be relieved in equity, he and they shall have, hold and enjoy the demised lands according to the lease thereof made, without any new lease.

Proceedings when the term for which any tenants holds the lands leased, shall have expired, and the tenant shall refuse to deliver possession, after notice.

Notice to tenant to find security.

Rule to shew cause why tenant should not give security.

And if no cause be shewn, judgment for landlord.

CCLXVI. Where the term or interest of any tenant now or hereafter holding under a lease or agreement in writing, any lands, tenements or hereditaments for any term or number of years certain, or from year to year, shall have expired, or been determined either by the landlord or tenant by regular notice to quit, and such tenant or any one holding or claiming by or under him, shall refuse to deliver up possession accordingly, after lawful demand in writing made and signed by the landlord or his agent, and served personally upon or left at the dwelling house or usual place of abode of such tenant or person, and the landlord shall thereupon proceed by action of ejectment for recovery of possession, it shall be lawful for him at the foot of the Writ in ejectment, to address a notice to such tenant or person, requiring him to find such bail, if ordered by the Court or a Judge, and for such purposes as are hereinafter next specified, and upon the appearance of the party, or in case of non-appearance on making and filing an affidavit of service of the Writ and notice, it shall be lawful for the landlord producing the lease or agreement, or some counterpart or duplicate thereof and proving the execution of the same by affidavit, and upon affidavit that the premises have been actually enjoyed under such lease or agreement, and that the interest of the tenant has expired or been determined by regular notice to quit, as the case may be, and that possession has been lawfully demanded in manner aforesaid, to move the Court or to apply to a Judge at Chambers for a rule or summons for such tenant or person, to shew cause, within a time to be fixed by the Court or Judge on the consideration of the situation of the premises, why such tenant or person should not enter into a recognizance by himself and two sufficient sureties, in a reasonable sum, conditioned to pay the costs and damages which shall be recovered by the Claimant in the action, and it shall be lawful for the Court or Judge upon cause shewn or upon affidavit of the service of the rule or summons, in case no cause shall be shewn, to make the same absolute in whole or in part, and to order such tenant or person within a time to be fixed upon a consideration of all the circumstances, to find such bail, with such conditions and in such manner, as shall be specified in the said rule or summons, or such part of the same so made absolute, and in case the party shall neglect or refuse so to do, and shall lay no ground to induce the Court or Judge to enlarge the time for obeying the same, then the lessor or landlord filing an affidavit that such rule or order has been made or served and not complied with, shall be at liberty to sign Judgment

Judgment for recovery of possession and costs of suit, in the form contained in Schedule (A) to this Act annexed, marked No. 20, or to the like effect: Provided always, that nothing herein contained shall be held to prevent or restrict any landlord from proceeding against his tenant, who shall wrongfully hold over after his term has expired, according to the provisions contained in an Act of the Parliament of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to amend the law respecting real property, and to render the proceedings for recovering possession thereof in certain cases, less difficult and expensive.*

Proviso.

Landlord may proceed under Act of U. C., 4 W. 4, c. 1. (1852, s. 213.)

New.

CCLXVII. Whenever it shall appear on the trial of any ejectment at the suit of a landlord against a tenant, that such tenant or his Attorney hath been served with due notice of trial, the Judge before whom such cause shall come on to be tried, shall, whether the Defendant shall appear upon such trial or not, permit the claimant on the trial, after proof of his right to recover possession of the whole or of any part of the premises mentioned in the Writ in ejectment, to go into evidence of the mesne profits thereof which shall or might have accrued from the day of the expiration or determination of the tenant's interest in the same, down to the time of the verdict given in the cause, or to some preceding day to be specially mentioned therein, and the Jury on the trial finding for the Claimant shall in such case give their verdict upon the whole matter, both as to the recovery of the whole or any part of the premises, and also as to the amount of the damages to be paid for such mesne profits, and in such case the landlord shall have Judgment within the time hereibefore provided, not only for the recovery of possession and costs, but also for the mesne profits found by the Jury; Provided always, that nothing hereinbefore contained shall be construed to bar any such landlord from bringing any action for the mesne profits which shall accrue from the verdict, or from the day so specified therein, down to the day of the delivery of possession of the premises recovered in the ejectment.

Court may allow proof of mesne profits at trial, as soon as the landlord shall have established his right to recover possession, &c.

Proviso: as to mesne profits after verdict, &c. (1852, s. 214.)

CCLXVIII. In all cases in which such security shall have been given as aforesaid, if upon the trial a verdict shall pass for the Claimant, unless it shall appear to the Judge before whom the same shall have been had, that the finding of the Jury was contrary to the evidence or that the damages given were excessive, such Judge may in his discretion order that Judgment may be entered and execution issue in favour of the Claimant at the expiration of six days next after the giving of such verdict.

Court may order execution within six days, in cases where security is given, unless, &c. (1852, s. 215.)

CCLXIX. All recognizances and securities entered into in pursuance of the Section of this Act numbered two hundred and sixty-six, may and shall be taken respectively in such manner

As to recognizances under Section 266,

and proceed-  
ings on them.  
(1852, s. 216.)

manner and by and before such persons as are provided and authorized in respect of recognizances of bail upon actions and suits depending in the said Superior Courts, and subject to the like fees and charges; but no action or other proceeding shall be commenced upon any such recognizance or security after the expiration of six months from the time when possession of the premises or any part thereof shall actually have been delivered to the landlord.

Rights of  
landlords not  
prejudiced by  
this Act.  
(1852, s. 218.)

CCLXX. Nothing herein contained shall be construed to prejudice or affect any other right of action or remedy which landlords may possess in any case hereinbefore provided for, otherwise than hereinbefore expressly enacted.

Mortgagor  
sued in eject-  
ment by his  
mortgagee,  
may pay into  
Court the  
amount of the  
mortgage  
debt, interest  
and costs, and  
shall thereon  
be discharged,  
and mortgagee  
may be order-  
ed to reco-  
very.  
(1852, s. 219.)

CCLXXI. Where an action of ejectment shall be brought by any mortgagee, his heirs, executors, administrators or assignees for the recovery of the possession of any mortgaged lands, tenements or hereditaments, and no suit shall be then depending in the Court of Chancery for or touching the foreclosing or redeeming of such mortgaged lands, tenements or hereditaments, if the person having right to redeem such mortgaged lands, tenements or hereditaments, and who shall appear and become Defendant in such action, shall at any time pending such action, pay unto such mortgagee, or in case of his refusal shall bring into the Court where such action shall be depending, all the principal moneys and interest due on such mortgage, and also all such costs as have been expended in any suit at law or in equity upon such mortgage, (such money for principal, interest and costs, to be ascertained and computed by the Court where such action is or shall be pending, or by the proper officer by such Court to be appointed for that purpose), the moneys so paid to such mortgagee or brought into such Court shall be deemed and taken to be in full satisfaction and discharge of such mortgage, and the Court shall and may discharge every such mortgagor or Defendant of and from the same accordingly, and shall and may by rule of the same Court compel such mortgagee to assign, surrender or re-convey such mortgaged lands, tenements and hereditaments, and such estate and interest as such mortgagee has therein, and to deliver up all deeds, evidences and writings in his custody relating to the title of such mortgaged lands, tenements and hereditaments unto such mortgagor who shall have paid or brought such moneys into the Court, his heirs, executors or administrators, or to such other persons as he or they shall, for that purpose, nominate and appoint.

Next preced-  
ing Section  
not to extend  
to cases where  
the right to  
redeem, or the  
sum due is  
contested.

CCLXXII. Nothing herein contained shall extend to any case when the person against whom the redemption is or shall be prayed, shall (by writing under his hand or the hand of his Attorney, Agent or Solicitor to be delivered before the money shall be brought into such Court of law to the Attorney or Solicitor for the other side), insist either that the party praying a redemption

redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums than what appear on the face of the mortgage or shall be admitted on the other side, or to any case where the right of redemption to the mortgaged lands and premises in question in any cause or suit shall be contravened or questioned by or between different Defendants in the same cause or suit, or shall be any prejudice to any subsequent mortgage or subsequent incumbrance, any thing herein contained to the contrary thereof in any wise notwithstanding.

Or to prejudice any subsequent mortgage, &c. (1852, s. 220.)

CCLXXIII. If any persons shall bring an action of ejectment after a prior action of ejectment shall have been unsuccessfully brought by such person or by any person through or under whom he claims, against the same Defendant or against any person through or under whom he defends, the Court or a Judge, may, if they or he think fit, on the application of the Defendant at any time after such Defendant has appeared to the Writ, order that the Plaintiff shall give to the Defendant security for the payment of the Defendant's costs, and that all further proceedings in the cause shall be stayed until such security be given, whether the prior action shall have been disposed of by discontinuance or by non-suit, or by Judgment for the Defendant.

The same Claimant in subsequent action for the same property may be ordered to give security for costs. (1854, s. 93.)

CCLXXIV. The several Courts and the Judges thereof respectively, shall and may exercise over the proceedings in ejectment under this Act, the like jurisdiction as exercised in the old action of ejectment, so as to ensure a trial of the title and of actual ouster when necessary, and for all other purposes for which such jurisdiction might have been exercised.

Courts may exercise the same jurisdiction as formerly; over proceedings in ejectment. (1852, s. 221.)

And in order to give to Plaintiff a further remedy by Writ of *Mandamus*; Be it enacted as follows :

CCLXXV. The Plaintiff, in any action in either of the Superior Courts, except replevin or ejectment, may indorse upon the Writ and copy to be served, a notice that the Plaintiff intends to claim a Writ of *Mandamus*, and the Plaintiff may thereupon claim in the declaration, either together with any other demand which may now be enforced in such action, or separately, a Writ of *Mandamus* commanding the Defendant to fulfil any duty in the fulfilment of which the Plaintiff is personally interested.

Plaintiff giving notice thereof on the writ, may claim *Mandamus* for enforcing any duty of Defendant towards him. (1854, s. 68.)

CCLXXVI. The declaration in such action shall set forth sufficient ground upon which such claim is founded, and shall set forth that the Plaintiff is personally interested therein, and that he sustains or may sustain damage by the non-performance of such duty, and that performance thereof has been demanded by him and refused or neglected.

What shall be stated in the declaration in such case. (1854, s. 69.)

CCLXXVII. The pleadings and other proceedings in any action in which a Writ of *Mandamus* is claimed, shall be the same

Proceedings in such action. same

Costs. (1854, s. 70.) same in all respects as nearly as may be, and costs shall be recoverable by either party, as in an ordinary action for the recovery of damages; and in case Judgment shall be given for the Plaintiff that a *Mandamus* do issue, it shall be lawful for the Court in which such Judgment shall be given, if it shall see fit, besides issuing execution in the ordinary way for the costs and damages, also to issue a peremptory Writ of *Mandamus* to the Defendant, commanding him forthwith to perform the duty to be enforced.

Peremptory *Mandamus*. (1854, s. 71.)

Form of such peremptory writ. CCLXXVIII. Such Writ need not recite the declaration or other proceedings or the matter therein stated, but shall simply command the performance of the duty, and in other respects shall be in the form of an ordinary Writ of Execution, except that it shall be directed to the party and not to the Sheriff, and may be issued in term or vacation and returnable forthwith, and no return thereto, except that of compliance, shall be allowed, but time to return it may upon sufficient ground be allowed by the Court or a Judge, either with or without terms.

To whom addressed.

Return thereto. (1854, s. 72.)

Its effect and how enforced. (1854, s. 73.) CCLXXIX. The Writ of *Mandamus* so issued as aforesaid, shall have the same force and effect as a peremptory Writ of *Mandamus*, and in case of disobedience, may be enforced by attachment.

Court may order the thing to be done by the Plaintiff at the costs of the Defendant.

Execution for such costs. (1854, s. 74.) CCLXXX. The Court may upon application by the Plaintiff, besides or instead of proceeding against the disobedient party by attachment, direct that the act required to be done may be done by the Plaintiff or some other person appointed by the Court, at the expense of the Defendant, and upon the act being done, the amount of such expense may be ascertained by the Court either by Writ of enquiry or reference to the proper officer, as the Court or a Judge may order, and the Court may order payment of the amount of such expenses and costs, and enforce payment thereof by execution.

Present power to issue prerogative *Mandamus* not affected. (1854, s. 75.) CCLXXXI. Nothing herein contained shall take away the Jurisdiction of either of the Superior Courts to grant Writs of *Mandamus*; nor shall any Writ of *Mandamus* issued out of such Courts be invalid by reason of the right of the prosecutor to proceed by action for *Mandamus* under this Act.

Provisions concerning the issue of prerogative Writ of *Mandamus*. (1854, s. 76.) (1854, s. 77.) CCLXXXII. Upon application by motion for any Writ of *Mandamus*, the rule may in all cases be absolute in the first instance, if the Court shall think fit, and the Writ may bear teste on the day of its issuing and may be made returnable forthwith whether in term or in vacation, but time may be allowed to return it by the Court or a Judge either with or without terms; and the provisions of this Act, so far as they are applicable, shall apply to the pleadings and proceedings upon a prerogative Writ of *Mandamus* issued by either of the Superior Courts.

And in order to give to Plaintiff a further remedy by Writ of Injunction. injunction ; Be it enacted as follows :

CCLXXXIII. In all cases of breach of contract or other injury, where the party injured is entitled to maintain and has brought an action, he may in like case and manner as hereinbefore provided, with respect to Mandamus, claim a Writ of injunction against the repetition or continuance of such breach of contract or other injury, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right, and he may also in the same action include a claim for damages or other redress. In case of breach of contract or other injury, Plaintiff may claim injunction against repetition, &c., and also damages. (1854, s. 79.)

CCLXXXIV. The Writ of Summons in such action shall be in the same form as the Writ of Summons in any personal action, but on every such Writ and copy thereof, there shall be indorsed a notice, that in default of appearance the Plaintiff may, besides proceeding to Judgment and execution for damages and costs, apply for and obtain a Writ of injunction. Form of writ and notice to be indorsed on it. (1854, s. 80.)

CCLXXXV. The proceedings in such action shall be the same as nearly as may be, and subject to the like control as the proceedings in an action to obtain a Mandamus under the provisions hereinbefore contained, and in such action Judgment may be given that the Writ of injunction do or do not issue as justice may require ; and in case of disobedience, such Writ of injunction may be enforced by attachment by the Court of when such Court shall not be sitting by a Judge. Proceedings and judgment in such case. Enforcing injunction. (1854, s. 81.)

CCLXXXVI. It shall be lawful for the Plaintiff at any time after the commencement of the action, and whether before or after Judgment, to apply ex parte to the Court or a Judge for a Writ of injunction to restrain the Defendant in such action from the repetition or continuance of the wrongful act or breach of contract complained of, or the committal of any breach of contract or injury of a like kind, arising out of the same contract or relating to the same property or right ; and such Writ may be granted or denied by the Court or Judge upon such terms as to the duration of the Writ—keeping an account—giving security—or otherwise, as to such Court or Judge shall seem reasonable and just ; and in case of disobedience, such Writ may be enforced by attachment by the Court, or when such Court shall not be sitting, by a Judge ; Provided always, that any order for a Writ of injunction made by a Judge, or any Writ issued by virtue thereof may be discharged, or varied or set aside by the Court on application made thereto by any party dissatisfied with such order. Plaintiff may apply ex parte for injunction at any stage of the case. Court may impose terms. Enforcing injunction. Proviso : Order made by a Judge may be set aside by the Court. (1854, s. 82.)

And as to the action of replevin ; Be it enacted as follows : Replevin.

CCLXXXVII. It shall be lawful for the Plaintiff or Defendant in replevin, in any cause in either of the Superior Courts equitable defence may be pleaded. in

in which, if Judgment were obtained, he would be entitled to relief against such Judgment on equitable grounds, to plead the facts which entitle him to such relief by way of defence, and the said Courts are hereby empowered to receive such defence by way of plea; provided that such plea shall begin with the words "for defence on equitable grounds," or words to the like effect.

Commencement of plea. (1854, s. 83.)

Equitable defence by way of *auditâ querelâ*. (1854, s. 84.)

CCLXXXVIII. Any such matter which if it arose before or during the time for pleading would be an answer to the action by way of plea, may, if it arise after the lapse of the period during which it could be pleaded, be set up by way of *auditâ querelâ*.

Replication on equitable grounds. (1854, s. 85.)

CCLXXXIX. The Plaintiff may reply, in answer to any plea of the Defendant, facts which avoid such plea upon equitable grounds, provided that such replication shall begin with the words "for replication on equitable grounds," or words to the like effect.

Striking out any such plea &c., which cannot be dealt with by a Court of Law. (1854, s. 86.)

CCXC. Provided always, that in case it shall appear to the Court or any Judge thereof, that any such equitable plea or equitable replication cannot be dealt with by a Court of Law so as to do justice between the parties, it shall be lawful for such Court or Judge to order the same to be struck out, on such terms, as to costs and otherwise, as to such Court or Judge may seem reasonable.

And whereas the power of amendment now vested in the Courts, and the Judges thereof is insufficient to enable them to prevent the failure of Justice by reason of mistakes and objections of form; Be it enacted as follows:

The Courts may and must make all such amendments in any civil proceedings as may be necessary to do full justice. (1852, s. 222.)

CCXCI. It shall be lawful for the Superior Courts of Common Law, and every Judge thereof, and any Judge sitting at *Nisi Prius*, at all times to amend all defects and errors in any proceeding in civil causes, whether there is any thing in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not, and all such amendments may be made with or without costs, and upon such terms as to the Court or Judge may seem fit, and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties, shall be so made.

Negotiable Instruments.

And with regard to actions on Bills of Exchange or other negotiable instruments; Be it enacted as follows:

Court may order loss, &c., not to be made a defence, on

CCXCII. In case of any action founded on a bill of exchange or other negotiable instrument, it shall be lawful for the Court or a Judge to order that the loss of such instrument shall not be set up, provided an indemnity be given to the satisfaction of the

the Court or Judge or any officer of the Court, to whom the same may be referred by such Court or Judge, against the claims of any other person upon such negotiable instrument. indemnity being given. (1854, s. 87.)

And with respect to proceedings in error and appeal ; Be it enacted as follows :

CCXCIII. No Judgment, decree or other proceeding, either at law or in equity, shall be reversed or avoided for any error or defect therein, unless the Writ of appeal be sued out and prosecuted with effect within four years after such Judgment, decree or proceeding shall have been entered of record, made, pronounced, had or completed. Appeal must be brought within four years. (1852, s. 146.)

CCXCIV. If any person who is or shall be entitled to bring error or appeal as aforesaid, shall be at the time such title accrued, within the age of twenty-one years, *feme covert*, *non compos mentis*, or without the limits of this Province, then such person shall be at liberty to sue out his Writ of appeal so as such person commences or brings and prosecutes the same with effect within six years after coming to or being of full age, *discovert*, of sound memory, or return to the Province ; and if the opposite party shall, at the time the title to bring error and appeal accrued, be without the limits of this Province, then the Writ of appeal may be sued out, provided the proceeding be commenced and prosecuted with effect within six years after the return of such party to this Province. Further time allowed in cases of disability to bring appeal at the time before limited. (1852, s. 147.)

And with respect to the payments of weekly allowance to insolvent debtors, and as to Gaol limits, and to the discharge of such debtors ; Be it enacted as follows :

CCXCV. If any debtor in close custody upon any mesne process, or in execution, or upon an attachment, or other process issued by any Court in Upper Canada, for non-payment of costs, or for non-payment of any sum of money awarded, or for the non-payment of any claim in the nature of a debt or demand due, being a sum certain or capable of being ascertained by computation, and not in the nature of a penalty to enforce the doing of some act, other than the payment of a sum of money, (in which several cases, the debtor shall be deemed to be a prisoner in execution,) shall make oath that he is a prisoner in close custody, setting forth on which of the causes of detention above specified, and that he is unable to find security for the limits, and is not worth the sum of five pounds, and in case he is in custody on mesne process that he is unable to procure bail to the action, and that he does not believe the demand of the Plaintiff to be just, and for that cause and no other he resists payment of the same and refuses to confess Judgment for the sum sworn to, it shall be lawful for the Court from which the process against such debtor issued, or any Judge having authority to dispose of matters arising in suits in such Court, to make a rule or order on the Plaintiff *The provisions under this head amend and consolidate the repealed provisions of—*  
45 G. 3, c. 7—  
2 G. 4, c. 8—  
8 G. 4, c. 8—  
4 W. 4, c. 3—  
5 W. 4, c. 3—  
10 & 11 V. c. 15—  
(*Insolvent Debtors*)—and  
11 G. 4, c. 3—  
4 W. 4, c. 10—  
16 V. c. 173—  
(*Gaol limits*.)  
In what cases a debtor in close custody shall be entitled to weekly allowance.  
45 G. 3, c. 7.  
4 W. 4, c. 3.  
8 G. 4, c. 8.

The allowance; and how payable.

Discharge if not paid.

Proviso.

Plaintiff at whose suit such debtor is detained, to pay to such debtor on the third Monday after the service of such rule or order, and upon each Monday thereafter, so long as such debtor shall be detained in prison at the suit of such Plaintiff for such cause, the sum of ten shillings, such payment to be made to the debtor or to the Gaoler in whose custody he is, for the use of such debtor, and in default of such payment such debtor shall after service of a rule *nisi* or Judges' Summons, to be obtained on oath of the default, be discharged from custody by rule or order, unless sufficient cause to the contrary be shewn: Provided always that such discharge shall not, when the debtor was confined on mesne process, prevent the Plaintiff from proceeding to Judgment and execution against the body, lands or goods according to the practice of the Court, and that such discharge shall not, when the debtor was a prisoner in execution, be construed as a release or satisfaction of the Judgment or other debt or demand for the non-payment whereof such debtor was in custody, or to deprive the Plaintiff of any remedy against the lands or goods of such debtor.

Debtor not entitled to allowance or to his discharge in default of payment thereof, until he shall have answered interrogatories touching his property.  
2 G. 4, c. 8.  
4 W. 4, c. 3.

CCXCVI. Whenever any such debtor shall apply for the weekly allowance, or to be discharged from custody for the non-payment thereof, it shall be lawful for the Plaintiff at whose suit he is confined, to file interrogatories for the purpose of discovering any property or effects which such debtor may be possessed of or entitled to, or which may be in the possession or under the control of some other person for the use or benefit of such debtor, or which such debtor, having been in possession of may have fraudulently disposed of to injure his creditor, and to serve a copy of such interrogatories on such debtor, and thereupon and until such debtor shall have fully answered such interrogatories upon oath to the satisfaction of the Court or Judge, and filed his answers and given sufficient notice of such filing to the Plaintiff or his Attorney, no rule or order for the payment of such weekly allowance shall be made, or if previously made no order for his discharge for non-payment thereof shall be made.

Filing interrogatories to debtor, &c.  
2 G. 4, c. 8.

CCXCVII. Where any such debtor shall have obtained the order for payment of the weekly allowance, the Plaintiff at whose suit he is confined may at any time file and serve such interrogatories as aforesaid, and it shall be lawful for the Court from which the process issued or a Judge as aforesaid, on application of the Plaintiff, to stay further payment until the debtor shall have sworn to and filed his answers, and have given to the Plaintiff or his Attorney four clear days' notice thereof.

Defendant in custody on several writs only entitled

CCXCVIII. Whenever such debtor is a prisoner in close custody in several suits or matters, he must make all the Plaintiffs in such suits or matters parties to his application for the weekly allowance, and he shall only be entitled to one weekly

weekly sum of ten shillings, although he is in custody in several suits and matters ; and in any such case if the weekly allowance be unpaid, the debtor shall have the same right as when he is in custody in one suit only, to be discharged from custody in all the suits or matters named in the order for payment, and the Plaintiffs named in such order must all be made parties on any application for the debtor's discharge on account of non-payment, and all such Plaintiffs must join in administering interrogatories to the Defendant, as if they were Plaintiffs in one suit, and such Plaintiffs shall regulate among themselves the apportionment of the weekly allowance and the arrangement for payment thereof.

to one allowance, &c.

Interrogatories in such case.

CCXCIX. The Plaintiff in any suit shall be entitled to recover from his debtor all sums paid to him for weekly allowance while a prisoner on *mesne* process, and upon proof of the amount of such payment before the proper taxing Officer, such sums shall be allowed as disbursements in the suit and be taxed as part of the costs thereof.

Allowance may be recovered from debtor as costs.  
4 W. 4, c. 3.

CCC. Any debtor according to the intent and meaning of this Act, who shall have been confined in close custody in execution for three successive calendar months, may, (on giving to the party at whose suit he is a prisoner or to his Attorney, fifteen days' notice of his intention to apply to be discharged from custody) upon proof of such notice, and upon making oath that he is not worth five pounds exclusive of his necessary wearing apparel and that of his family, and their beds and bedding and their ordinary household utensils, not exceeding in the whole the value of ten pounds, and that he hath answered all interrogatories which have been filed by the Plaintiff, and hath given due notice of such answers (or if no interrogatories have been served, that he hath not been served with any interrogatories), apply to the Court from which the process on which he is confined issued, or to a Judge as aforesaid, for a rule or summons to shew cause why he should not be discharged from custody, and upon the return of such rule or summons, and where there are interrogatories if the answers thereto are deemed sufficient by such Court or Judge, such debtor shall be by rule or order discharged from custody, and such discharge shall have the same and no other effect as a discharge for non-payment of the weekly allowance : Provided that the Court or Judge may on the return of the rule or summons, if the Plaintiff has already filed interrogatories (which he is hereby authorized to do in like manner as on an application for the weekly allowance), and if further inquiry appears requisite for the ends of Justice, allow to the Plaintiff a reasonable time to file further interrogatories, and for the debtor to answer them before the rule or summons be finally disposed of : Provided also, that the Court or Judge may make it a condition of the debtor's discharge, that he shall first assign and convey to the party at whose suit he is in custody any right or interest which he may have or be presumed

Debtor in prison over three months may obtain his discharge on certain conditions.  
5 W. 4, c. 3

Proviso : for the interrogatories.

Proviso : Assignment by debtor may be required.

Proviso: if debt arose from fraud, breach of trust, &c.

presumed to have in and to any property, credits and effects other than the wearing apparel, beds, bedding and household utensils before mentioned, such assignment or conveyance to be approved by the Court or Judge; Provided lastly, that if it shall appear that the debt for which such debtor is confined was contracted by any manner of fraud or breach of trust, or that he is confined by reason of any Judgment in an action for breach of promise of marriage, seduction, criminal conversation, libel or slander, the Court or Judge may order the Applicant to be recommitted to close custody for any period not exceeding twelve calendar months and to be then discharged.

Limits of Counties to be limits of gaols thereof.  
10 & 11 V. c. 15.

CCCI. The limits of each County and Union of Counties in Upper Canada for judicial purposes, shall be and are hereby declared to be the limits of the Gaols of such Counties or Unions of Counties respectively.

See also—  
18 V. c. 69.

Sheriff may take security from any debtor that he will keep the limits, obey all lawful orders of the Court, &c.  
11 G. 4, c. 3.  
10 & 11 V. c. 15.  
16 V. c. 176.

CCCII. The Sheriff of any such County or Union of Counties may take from any debtor confined in the Gaol thereof in execution or upon mesne process, a bond with not less than two or more than four sufficient sureties, to be jointly and severally bound in a penalty double the amount for which such debtor is so confined, conditioned that such debtor shall remain and abide within the limits of such Gaol and shall not depart therefrom, unless discharged from custody in the suit or matter upon which he was so confined by due course of law, and also that such debtor shall and will during all the time that he shall be upon the limits subject to such custody, observe and obey all notices, orders or rules of Court touching or concerning such debtor, or his answering interrogatories, or his returning and being remanded into close custody, and that they will produce such debtor to the Sheriff when they or either of them shall be required, upon reasonable notice; and the Sheriff may also require each surety when there are only two, to make oath in writing, to be annexed to the bond, that he is a freeholder or householder in some part of Upper Canada, stating where, and is worth the sum for which the debtor is in custody, (naming it) and fifty pounds more over and above what will pay all his debts, or where there are more than two sureties, then that each surety shall make oath as aforesaid, that he is a freeholder or householder as aforesaid, and is worth one half the sum for which the debtor is in custody, (naming it) and fifty pounds more, over and above what will pay all his debts.

Justification of the sureties.

On receipt of such security Sheriff may allow the debtor the limits, without being liable for an escape.  
11 G. 4, c. 3.

CCCIII. Upon receipt of such bond, accompanied by an affidavit of a subscribing witness of the due execution thereof, and by the sureties' affidavits of solvency, if required by the Sheriff, it shall be lawful for the Sheriff to permit and allow the debtor to go out of close custody in Gaol, into and upon the Gaol limits, and so long as such debtor shall remain within the said limits without departing therefrom, and shall in all other respects observe, fulfil and keep on his part the condition

of the said bond, such Sheriff shall not be liable to the party at whose suit such debtor was confined, in any action, for the escape of such debtor from Gaol.

CCCIV. In case the Sheriff shall have good reason to apprehend that such sureties or either of them, have, after entering into such bond, become insufficient to pay the amount severally sworn to by them, it shall be lawful for him again to arrest the debtor, and to detain him in close custody, and the sureties of such debtor may plead such arrest and detention in bar of any action to be brought against them upon the bond so entered into by them, and such plea if sustained in proof shall wholly discharge them from such action; Provided always, that such debtor may again obtain the benefit of the Gaol limits, on giving a new bond with sureties as aforesaid, to the Sheriff.

If the sureties become insolvent, &c., Sheriff may re-take the debtor, &c.  
16 V. c. 175.

Proviso.  
4 W. 4, c. 10.

CCCV. Upon any breach of the condition of such bond, the party at whose suit the debtor is confined, may require the Sheriff to assign the same to him, which assignment shall be made in writing, under the seal of the Sheriff, and attested by at least one witness, and the assignee of the Sheriff or the executors or administrators of such assignee, may maintain an action in his or their own names upon such bond, which action the Sheriff shall have no power to release; but upon executing such assignment at such request, the Sheriff shall be thenceforth discharged from all liability on account of the debtor or his safe custody.

In case of breach, Sheriff may be required to assign the Bond, and on doing so shall be discharged from liability.  
11 G. 4, c. 3.  
16 V. c. 175.

CCCVI. The sureties of any such debtor may surrender him into the custody of the Sheriff at the gaol, and it shall be the duty of the Sheriff, his Deputy or Gaoler, there to receive such debtor into custody, and the sureties may plead such surrender or an offer to surrender, and the refusal of the Sheriff, his Deputy or Gaoler to receive such debtor into custody at the gaol, in bar of any action brought on the bond for a breach of the condition happening after such surrender or tender and refusal, and such plea, if sustained in proof, shall discharge them from any such action: Provided always, that such debtor may again obtain the benefit of the limits on giving a new bond with sureties as aforesaid, to the Sheriff.

Sureties may make or tender a surrender of the debtor.

Proviso.  
11 G. 4, c. 3.

CCCVII. The party at whose suit any debtor is confined, may at any time while the debtor enjoys the benefit of the limits, file and serve such interrogatories, to be answered by such debtor in manner aforesaid; and in case such debtor shall neglect or omit for the space of fifteen days next after service thereof, to answer such interrogatories and to file the answers, and to give immediate notice of such filing to the party at whose suit he is in custody, or to the Attorney of that party, the Court or a Judge as aforesaid, may make a rule or order for such debtor's being committed to close custody, and it shall be the duty of the Sheriff on due notice of such rule or order, forthwith

Debtor on limits bound to answer interrogatories.

Penalty for refusal.  
11 G. 4, c. 3.  
4 W. 4, c. 10.  
16 V. c. 175.

to take such debtor and re-commit him to close custody until he shall obtain a rule of Court or Judge's order for again admitting him to the limits, on giving the necessary bond as aforesaid, (which rule or order may be granted on the debtor's shewing that he has filed his answers to such interrogatories, and has given to the Plaintiff or his Attorney ten days' notice thereof, and of his intention to apply), or until he shall be otherwise discharged by due course of law.

Plaintiff may have execution against property of debtor on the limits.

CCCVIII. The party at whose suit any debtor is confined in execution, may, whenever such debtor shall take the benefit of the limits, sue out any execution against his lands or goods, notwithstanding such debtor was charged in execution, and such execution shall not be stayed, but shall be proceeded with until executed, although such debtor has been re-committed to close custody; Provided always, that the wearing apparel of such debtor and that of his family, and their beds and bedding, and household utensils, not exceeding together the value of ten pounds, and the tools and implements of the trade of such debtor, not exceeding in value ten pounds, shall be protected from such subsequent execution.

Proviso.

Exemptions from execution.  
11 G. 4, c. 3.

Foregoing provisions not to extend to persons in custody, &c., on any criminal charge.  
11 G. 4, c. 3.

CCCIX. None of the foregoing provisions relative to the weekly allowance, discharge from custody on account of insolvency or Gaol limits, shall extend or be applicable to debtors who shall, at the same time be in custody upon any criminal charge.

See also—  
11 G. 4, c. 4.  
False swearing under preceding Sections to be perjury.  
11 G. 4, c. 3.

CCCX. Every person who shall upon any examination upon oath or affirmation or in any affidavit made or taken in any proceedings under this Act, wilfully and corruptly give false evidence or wilfully and corruptly swear or affirm any thing which shall be false and shall be thereof convicted, shall be liable to the penalties of wilful and corrupt perjury.

And with respect to costs; Be it enacted as follows:

Costs on writs under this Act to be as heretofore until otherwise ordered.  
Proviso as to mileage.  
New temporary.

CCCXI. Until otherwise ordered by rule of Court, the costs of Writs issued under the authority of this Act and of all other proceedings under the same, shall be and remain as nearly as the nature thereof will allow, the same as heretofore, but in no case greater than those already established; Provided always, that hereafter no mileage shall be taxed or allowed for the service of any Writ, paper or proceeding, without an affidavit being made and produced to the proper taxing officer, stating the sum actually disbursed and paid for such mileage, and the name of the party to whom such payment was made.

Plaintiff in trespass or trespass on the case, to re-

CCCXII. If the Plaintiff in any action of trespass or trespass on the case brought or to be brought in either of the said Courts or in any county Court in Upper Canada, shall recover by the verdict of a Jury less damages than forty shillings, such Plaintiff shall

shall not be entitled to recover in respect of such verdict any costs whatever, whether the verdict be given on any issue tried or Judgment have passed by default, unless the Judge or Presiding officer before whom such verdict shall be obtained shall immediately afterwards certify on the back of the record or of the writ of trial or inquiry that the action was really brought to try a right besides the right to recover damages for the trespass or grievance in respect of which the action was brought, or that the trespass or grievance in respect of which the action was brought, was wilful and malicious: Provided always, that nothing herein contained shall extend or be construed to extend to deprive the Plaintiff of costs in any action brought for a trespass or trespasses over any lands, wastes, closes, woods, plantations or inclosures, or for entering into any dwelling, out building or premises in respect to which notice not to trespass shall have been previously served by or on behalf of the owner or occupier of the land trespassed over, upon or left at the last reputed or known place of abode of the Defendant in such action; Provided also, that nothing in this section shall be construed to entitle any Plaintiff to recover costs as of an action brought in a Superior Court in any case where by law his action might properly have been brought in an inferior Court.

cover no costs if the verdict be for less than forty shillings, unless the Judge certify certain facts.

Proviso : This shall not extend to certain trespasses

Proviso : as to actions which might have been brought in an Inferior Court.  
16 V. c. 175, s. 26.

And in order to enable the Courts and Judges to carry this Act thoroughly into effect, and to enable them from time to time to make rules and regulations, and to frame Writs and proceedings for that purpose; Be it enacted, as follows :

CCCXIII. It shall be lawful for the Judges of the said Courts or any four or more of them of whom the Chief Justices shall be two, from time to time to make all such general rules and orders for the effectual execution of this Act, and of the intention and object hereof, and for fixing the costs to be allowed for and in respect of the matters herein contained and the performance thereof, and for apportioning the costs of issues, and for the purpose of enforcing uniformity of practice in the allowance of costs in the said Courts, as in their judgment shall be necessary or proper, and for that purpose to meet from time to time as occasion may require; and it shall also be lawful for the said Judges, or any four or more of them of whom the Chief Justices shall be two, by any rule or order to be from time to time by them made in Term or Vacation at any time within five years after this Act shall come into force, to make such further alterations in the time and mode of pleading in the said Courts and in the mode of entering and transcribing pleadings, judgments and other proceedings in actions at law, and in the time and manner of objecting to errors in pleadings and other proceedings, and in the mode of verifying pleas and obtaining final judgment without trial in certain cases, as to them may seem expedient, any thing in this Act to the contrary notwithstanding; and all such Rules, Orders or Regulations shall be laid before both Houses of the Parliament of this Province, if Parliament

Power to make rules for giving effect to this Act. (1852, s. 223.)

To make further alterations in mode of pleading, &c.

Rules, &c., to be laid before

Parliament, and not to have effect for a certain time thereafter.

Parliament be then sitting, immediately upon making the same, or if Parliament be not sitting, then within twenty days after the next meeting thereof; and no such Rule, Order or Regulation, shall have effect until three months after the same shall have been so laid before both Houses of Parliament, and any Rule, Order or Regulation so made shall, from and after such time as aforesaid, be binding and obligatory on the said Courts and on all Courts of error and appeal in this Province, into which the Judgments of the said Courts or either of them shall be removed, and be of like force and effect as if the provisions contained therein had been expressly enacted by the Parliament of this Province: Provided always, that it shall be lawful for the Governor of this Province, by proclamation, or for either of the Houses of Parliament, by any resolution, at any time within three months next after such Rules, Orders and Regulations shall have been laid before Parliament, to suspend the whole or any part of such Rules, Orders or Regulations, and in such case the whole or such part thereof as shall be so suspended, shall not be binding or obligatory on the said Courts or on any Court of error and appeal; Provided also, that nothing herein contained shall be construed to restrain the authority or limit the jurisdiction of the said Courts or the Judges thereof, to make rules or orders, or otherwise to regulate and dispose of the business therein.

Proviso: such rules may be disallowed in whole or in part.

New.

Proviso: existing power to make rules not affected (1852, s. 223.)

As to issue, &c., of new or altered writs.

CCCXIV. Such new or altered writs and forms of proceedings may be issued, entered and taken, as may by the Judges of the said Court, or any four or more of them of whom the Chief Justices shall be two, be deemed necessary or expedient for giving effect to the provisions hereinbefore contained, and in such forms as the Judges as aforesaid shall from time to time think fit to order; and such writs and proceedings shall be acted on and enforced in such and the same manner as writs and proceedings of the said Courts are now acted upon and enforced, or as near thereto as the circumstances of the case will admit; and any existing writ or proceeding, the form of which shall be in any manner altered in pursuance of this Act, shall, nevertheless, be of the same force and virtue as if no alteration had been made therein, except so far as the effect thereof may be varied by this Act.

As to existing writs of which the form is altered by this Act. (1852, s. 224)

This Act not to affect powers given to any Judge by 13 & 14 V. c. 51. (1852, s. 224.)

CCCXV. Nothing in this Act contained shall in any way restrict or limit the powers now vested by law in any one of the Judges of the Superior Courts of law, sitting apart from the others of them, in Term time, or sitting in Chambers, but all the powers conferred by an Act of the Parliament of this Province, passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to confirm and give effect to certain rules and regulations made by the Judges of Her Majesty's Court of Error and Appeal for Upper Canada, and for other purposes, relating to the powers of the Judges of the Courts of Law and Equity in that part of the*

the Province, and the practice and decisions of certain of those Courts, shall continue to be exercised by such Judges, and shall extend to all matters and questions to arise and be decided under this Act, and wherever any power is given by this Act to the Court or a Judge, the words "a Judge" shall be held to authorize any Judge of either of the said Superior Courts, to exercise such power, altho' the particular proceeding may not be in a cause pending in the Court whereof he is a Judge.

CCCXVI. It shall be lawful for the Judges of the Superior Courts during each term to appoint one or more days within three weeks next ensuing the last day of such term, on which they will give Judgment; and such Superior Courts on the days appointed may sit in Banc for the purpose only of giving Judgment and of making Rules and Orders in matters which have been moved and argued in such Courts respectively; and all Judgments, Rules and Orders which shall be pronounced and made on such days in pursuance of the authority hereby given, shall have the same effect to all intents and purposes, as if they had been pronounced or made in Term time.

Judges may sit after term for the sole purpose of giving judgment.

CCCXVII. In citing this Act in any instrument, document or proceeding, it shall be sufficient to use the expression "The Common Law Procedure Act 1856."

Short Title of this Act. (1852, s. 225.)

CCCXVIII. And be it enacted, That from the time when this Act shall commence and take effect, the fourth, fifth, sixth, seventh, eighth, ninth, fourteenth and thirty-fifth Sections of an Act of the Parliament of Upper Canada, passed in the second year of the Reign of the late King George the Fourth, intituled, *An Act to repeal part of and amend the laws now in force respecting the practice of His Majesty's Court of King's Bench in this Province*; the whole of an Act passed in the fifty-ninth year of the Reign of the late King George the Third, intituled, *An Act to prevent the abatement of any action against a joint obligor or contractor or partner, on account of the other joint parties not being made defendants*; the whole of an Act passed in the Session of Parliament held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to facilitate the despatch of business in the Court of Queen's Bench in Upper Canada*; the forty-fourth Section of an Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, intituled, *An Act for the relief of insolvent debtors in Upper Canada, and for other purposes therein mentioned*; the whole of an Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, intituled, *An Act to allow the issuing of testatum Writs of Capias ad respondendum in the several districts of Upper Canada, and for other purposes therein mentioned*; the twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, thirtieth, thirty-first, thirty-third, thirty-fourth and thirty-sixth Sections

Acts and parts of Acts repealed.

Part of Act of U. C., 2 G. 4, c. 1.

Act of U. C., 59 G. 3, c. 25.

Act of Canada, 4 & 5 V. c. 5.

Part of Act of Canada, 8 V. c. 48.

Act of Canada, 8 V. c. 36.

- Part of Act of Canada, 12 V. c. 63. Sections of an Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to make further provision for the Administration of Justice by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal, in Upper Canada, and for other purposes*; the first Section of an Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend and extend the provisions of the Act of this Province, intituled, 'An Act to allow the issuing of testatum writs of capias ad respondendum in the several districts of Upper Canada, and for other purposes therein mentioned*;' the whole of an Act of the Parliament of this Province, passed in the Session holden in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to alter and settle the mode of proceeding in the action of Ejectment*; the whole of an Act of the Parliament of this Province, passed in the Session holden in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to alter the period for holding certain Courts in the County of York*; the whole of an Act of the Parliament of this Province, passed in the Session holden in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to provide a remedy against absent Defendants*; the whole of an Act of the Parliament of this Province, passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to explain an Act intituled, 'An Act to provide a remedy against absent Defendants*;' the first twelve Sections inclusive, the fifteenth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth Sections of an Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to provide for the more equal distribution of business in and to improve the practice of the Superior Courts of Common Law in Upper Canada, and for other purposes therein mentioned*; the forty-third, forty-fourth and forty-fifth Sections of an Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to amend the Criminal Law of this Province*; the whole of the Act of the Parliament of Upper Canada, passed in the second year of the Reign of the late King William the Fourth, intituled, *An Act to afford means for attaching the property of Absconding Debtors*; the whole of an Act of the Parliament of Upper Canada, passed in the fifth year of the Reign of the late King William the Fourth, intituled, *An Act to continue and amend the law for attaching the property of Absconding Debtors*; the whole of an Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to reduce the expense of proceedings in Upper Canada against the property of Absconding or Concealed Debtors*; the whole of an Act of the Parliament of Upper Canada, passed in the forty-fifth year of the Reign of the late King George the Third, intituled, *An Act for the relief of Insolvent Debtors*; the whole of an Act of the Parliament of Upper Canada, passed in the second year of the Reign of the late King George the Fourth, intituled,
- Act of Canada, 14, 15 V. c. 114.
- Act of Canada, 14, 15 V. c. 15.
- Act of Canada, 14, 15 V. c. 10.
- Act of Canada, 16 V. c. 88.
- Part of Act of Canada, 16 V. c. 175.
- Part of Act of Canada, 18 V. c. 92.
- Act of U. C., 2 W. 4, c. 5.
- Act of U. C., 5 W. 4, c. 3.
- Act of Canada, 12 V. c. 67.
- Act of U. C., 45 G. 3, c. 7.

intituled, *An Act to make further regulations respecting the weekly maintenance of insolvent debtors*; the whole of an Act of the Parliament of Upper Canada, passed in the eighth year of the Reign of the late King George the Fourth, intituled, *An Act for the further relief of Insolvent Debtors*; the whole of an Act of the Parliament of Upper Canada, passed in the fourth year of the Reign of the late King William the Fourth, intituled, *An Act to afford relief to persons confined on mesne process*; the whole of an Act of the Parliament of Upper Canada, passed in the eleventh year of the Reign of the late King George the Fourth, intituled, *An Act to repeal and amend the laws now in force respecting the limits of the respective Gaols in this Province*; the whole of an Act of the Parliament of Upper Canada, passed in the fourth year of the Reign of the late King William the Fourth, intituled, *An Act to extend the limits assigned to the respective Gaols in this Province, and to afford to Plaintiffs the means in some cases of more effectually compelling the payment of debts due to them by Defendants in execution*; the whole of an Act of the Parliament of Upper Canada, passed in the fifth year of the Reign of the late King William the Fourth, intituled, *An Act to mitigate the law in respect to imprisonment for debt*; the whole of an Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of the Reign of Her Majesty, intituled, *An Act to amend the law of imprisonment for debt in Upper Canada*, together with all other Acts or parts of Acts of the Parliament of Upper Canada or of this Province, at variance or inconsistent with the provisions of this Act, shall be and the same are hereby repealed, except so far as the said Acts or any of them, or any thing therein contained, repeal any former Act or Acts or any part thereof, all which last mentioned Act or Acts shall remain and continue so repealed, and excepting also so far as the said Acts or parts of Acts hereby repealed, and the provisions thereof or of any of them, shall and may be necessary for supporting, continuing and upholding any writs that shall have been issued or proceedings that shall have been had or taken before the commencement of this Act, and any further proceedings taken or to be taken thereon.

Act of U. C.,  
2 G. 4, c. 8.  
Act of U. C.,  
3 G. 4, c. 8.  
Act of U. C.,  
4 W. 4, c. 1.  
Act of U. C.,  
11 G. 4, c. 3.  
Act of U. C.,  
4 W. 4, c. 10.  
Act of U. C.,  
5 W. 4, c. 3.  
Act of Canada,  
10, 11 V. c. 15.  
Other inconsistent enactments.  
Exception.

SCHEDULE A.

No. 1.—(Vide Section 16.)

WRIT OF SUMMONS WHEN THE DEFENDANT RESIDES WITHIN THE JURISDICTION.

Upper Canada, ) VICTORIA, by the Grace of God, &c.  
County of        ) To C. D. of            in the County of

(SEAL.)

We command you that within ten days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance

1852.  
Schedule A  
No. 1.

appearance to be entered for you in our Court of  
in an action at the suit of A. B. ; and take notice that in default  
of your so doing the said A. B. may proceed therein to Judgment and Execution.

Witness, &c.

*In the margin.*

Issued from the Office of the Clerk (or Deputy Clerk) of the  
Crown and Pleas, in the County of

(Signed,) J. H., Clerk (or Deputy Clerk.)

*Memorandum to be subscribed on the Writ.*

N. B.—This Writ is to be served within six calendar months  
from the date thereof, or if renewed, from the date of such  
renewal, including the day of such date, and not afterwards.

*Indorsements to be made on the Writ before the service thereof.*

This Writ was issued by E. F., of \_\_\_\_\_, Attorney  
for the said Plaintiff, or this Writ was issued in person by A.  
B., who resides at (mention the City, Town, incorporated or  
other Village, or Township within which such Plaintiff resides).

*Also the indorsement required by the twenty-sixth Section of  
the Act.*

*Indorsement to be made on the Writ after service thereof.*

This Writ was served by X. Y. on C. D., (the Defendant or  
one of the Defendants) on \_\_\_\_\_ the \_\_\_\_\_  
day of \_\_\_\_\_  
one thousand eight hundred and \_\_\_\_\_

No. 2.—(Vide Section 22.)

WRIT OF CAPIAS.

Upper Canada, } VICTORIA, &c.,  
County of \_\_\_\_\_ } To the Sheriff of, &c.

(SEAL.)

We command you that you take C. D., if he shall be found  
in your (County or United Counties), and him safely keep until  
he shall have given you bail in an action (on promise or of  
debt, &c.) at the suit of A. B., or until the said C. D. shall by  
other lawful means be discharged from your custody : And we  
do

do further command you, that on execution hereof you do deliver a copy hereof to the said C. D. ; and We hereby require the said C. D. to take notice that within ten days after execution hereof on him, inclusive of the day of such execution, he cause special bail to be put in for him in our Court of according to the warning hereunder written (or indorsed hereon), and that in default of his so doing, such proceedings may be had and taken as are mentioned in the said warning : And We do further command you the said Sheriff, that immediately after the execution hereof, you do return this Writ to the said Court, together with the manner in which you shall have executed the same, and the day of the Execution thereof, or if the same shall remain unexecuted and shall not be renewed according to law, then that you do return the same at the expiration of six calendar months from the date hereof, or of the last renewal hereof, or sooner if you shall be required thereto by order of the Court or of a Judge.

Witness, &c.

*In the margin.*

Issued from the Office of the Clerk (or Deputy Clerk) of the Crown and Pleas, in the County of

(Signed,) J. H. Clerk (or Deputy Clerk.)

*Memorandum to be subscribed on the Writ.*

N. B.—This Writ is to be executed within six calendar months from the date hereof, or if renewed, then from the date of such renewal, including the day of such date, and not afterwards.

*Warning to the Defendant.*

1. If a Defendant being in custody shall be detained on this Writ, or if a Defendant being arrested thereon shall go to prison for want of bail, the Plaintiff may declare against any such Defendant before the end of the Term next after such arrest, and proceed thereon to Judgment and execution.
2. If a Defendant having given bail to the Sheriff on the arrest, shall omit to put in special bail conditioned for his surrender to the Sheriff of the County from which the Writ of Capias issued, and to file the bail piece in the Office of the Clerk or Deputy Clerk of the Crown and Pleas for the same County, the Plaintiff may proceed against the Sheriff or on the bail bond.
3. If a Defendant having been served with this Writ and not arrested thereon, shall not enter an appearance within ten days after

after such service, in the Office of the Clerk or Deputy Clerk of the Crown from which the Writ issued, the Plaintiff may proceed to Judgment and execution.

*Indorsement to be made on the Writ before the Service thereof.*

This Writ was issued by E. F. of  
&c., as in form No. 1.

Attorney,

Bail for £  
case may be.

by affidavit, or by Judge's order, as the

*Also the Indorsement required by the twenty-sixth Section of the Act.*

*Indorsement to be made on the Writ after execution thereof.*

This Writ was executed by X. Y., by arresting C. D., or as the case may be, as to service on any Defendant, on the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

No. 3.—(Vide Section 35.)

WRIT WHERE THE DEFENDANT BEING A BRITISH SUBJECT  
RESIDES OUT OF UPPER CANADA.

Upper Canada, } VICTORIA, &c.  
County of } To C. D., of

(SEAL.)

1852.  
Schedule A  
No. 2.

We command you that within (*here insert a sufficient number of days according to the directions in the Act,*) \_\_\_\_\_ days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Court of \_\_\_\_\_, in an action at the suit of A. B.; and take notice that in default of your so doing, the said A. B. may, by leave of the Court or a Judge, proceed therein to Judgment and execution.

Witness, &c.

*In the margin.*

Issued from the Office of, &c., (*as in foregoing cases.*)

*Memorandum to be subscribed on the Writ.*

N. B.—This Writ is to be served within six calendar months from the date thereof, or if renewed, then from the date of such renewal, including day of such date, and not afterwards.

*Indorsements*

*Indorsements to be made on the Writ before the Service thereof.*

This Writ is for service out of Upper Canada, and was issued by E. F. of \_\_\_\_\_, Attorney for the Plaintiff, or this Writ was issued in person by A. B. who resides at \_\_\_\_\_ (mentioning Plaintiff's residence, as directed in form No. 1.)

*(Also the indorsement required by the twenty-sixth Section of the Act, allowing the Defendant two days less than the time limited for appearance, to pay the debt and costs.*

—  
No. 4.—(Vide Section 36.)

WRIT WHERE THE DEFENDANT NOT BEING A BRITISH SUBJECT  
RESIDES OUT OF UPPER CANADA.

Upper Canada, } VICTORIA, &c.  
County of } To C. D., late of \_\_\_\_\_ in the  
County of \_\_\_\_\_

(SEAL.)

We command you that within \_\_\_\_\_ days (*insert a sufficient number according to the directions of the Act*) after notice of this Writ is served on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Court of \_\_\_\_\_ in an action at the suit of A. B.; and take notice that in default of your so doing, the said A. B. may, by leave of the Court or a Judge, proceed thereon to Judgment and execution.

1852.  
Schedule A  
No. 3.

*Memorandum to be subscribed on the Writ.*

*The same as on form No. 3.*

*Indorsement also as on form No. 3.*

*And in the margin.*

Issued from the Office of, &c., (*as in foregoing cases.*)

*Notice of the foregoing Writ.*

To C. D., late of (the City of Hamilton, in Upper Canada,) or (now residing at Buffalo, in the State of New York.)

Take notice that A. B., of \_\_\_\_\_, in the County of \_\_\_\_\_, Upper Canada, has commenced an action at law against you, C. D., in Her Majesty's Court of \_\_\_\_\_, by a Writ of \_\_\_\_\_ that Court, dated the \_\_\_\_\_ day of \_\_\_\_\_, A.

A. D. one thousand eight hundred and \_\_\_\_\_, and you are required within \_\_\_\_\_ days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the Office of the (Clerk or Deputy Clerk) for the County of \_\_\_\_\_, to the said action, and in default of your so doing, the said A. B. may, by leave of the Court or a Judge, proceed thereon to Judgment and execution.

(Signed,) A. B., the Plaintiff in person.  
 or  
 E. F., Plaintiff's Attorney.

No. 5.—(Vide Section 41.)

SPECIAL INDORSEMENT.

(After the Indorsement required by the twenty-sixth Section of the Act, this special Indorsement may be inserted.)

The following are the particulars of the Plaintiff's claim :

1852.  
 Schedule A  
 No. 4.

1851.		
January 10.—	Five barrels of Flour, at 20s.....	£ 5 0
July 2.—	Money lent to the Defendant.....	30 0
October 1.—	A Horse sold to Defendant.....	25 0
		£60 0
	Paid.....	7 10
		£52 10
	Or,	
To Bread, (or Butcher's Meat,) supplied between the	1st January, 1851, and the 1st January, 1852....	£40 0
	Paid.....	12 10
		£27 10

(If any account has been delivered, it may be referred to with its date, or the Plaintiff may give such a description of his claim as on a particular of demand, so as to prevent the necessity of an application for further particulars.)

Or,  
 £100, principal and interest, due on a bond, dated the day of \_\_\_\_\_, conditioned for the payment of £200 and interest.

Or,  
 £100, principal and interest, due on a covenant contained in a deed dated the \_\_\_\_\_ day of \_\_\_\_\_, to pay £500 and interest.

Or,

*Or,*

£100, on a Bill of Exchange for that amount, dated the 2nd February, 1851, accepted (*or drawn or indorsed*) by the Defendant, with interest and Notarial charges.

*Or,*

£100, on a Promissory Note for that amount, dated the 2nd February, 1851, made (*or indorsed*) by the Defendant, with interest and Notarial charges.

*Or,*

£100, on a Guarantee, dated the 2nd February, 1851, whereby the Defendant guaranteed the due payment by E. F., of goods supplied (*or to be supplied*) to him.

(*In all cases where interest is lawfully recoverable, and is not above expressed, add "the Plaintiff claims interest on £*  
*from the*                      *day of*                                      *until Judgment."*)

N. B.—Take notice, that if a Defendant served with this Writ within Upper Canada, do not appear according to the exigency thereof, the Plaintiff will be at liberty to sign final Judgment for any sum not exceeding the sum above claimed (with interest) and the sum of                      for costs, and issue execution at the expiration of eight days from the last day for appearance.

No. 6.—(*Vide* Section 42.)

WRIT OF CAPIAS IN AN ACTION ALREADY COMMENCED.

Upper Canada, } VICTORIA, &c.  
 County of        } To the Sheriff of, &c.

(SEAL.)

We command you, that you take C. D., if he shall be found in your (*County or United Counties*), and him safely keep, until he shall have given you bail in the action (on promises *or* of debt, &c.), which A. B. has commenced against him, and which action is now pending, or until the said C. D. shall, by other lawful means, be discharged from your custody. And we do further command you, that on execution hereof, you do deliver a copy to the said C. D., and that immediately after execution hereof, you do return this writ to our Court of                      together with the manner in which you shall have executed the same and the day of the execution hereof; and if the same shall remain unexecuted and shall not be renewed according to law, then that you do so return the same at the expiration of six calendar months from the date hereof, or of the last renewal hereof, or sooner if you shall be required thereto by order of the said Court or a Judge. And We do hereby require the said C. D., that within ten days after execution hereof

hereof on him, inclusive of the day of such execution, he cause special bail to be put in for him in our said Court, according to the warning hereunder written or indorsed hereon, and that in default of his so doing, proceedings may be had and taken as are mentioned in the warning in that behalf.

Witness, &c.

*In the margin.*

Issued from the office of the (Clerk or Deputy Clerk), of the Crown and Pleas, in the County of

(Signed,)

J. H., (Clerk or Deputy Clerk).

*Memorandum to be subscribed on the Writ.*

N. B.—This writ is to be executed within six calendar months from the date hereof, or if renewed, then from the date of such renewal, including the day of such date, and not afterwards.

*Warning to the Defendant.*

1. This suit which was commenced by the service of a Writ of Summons, will be continued and carried on in like manner as if the Defendant had not been arrested on this Writ of Capias.

2. If the Defendant having given bail to the Sheriff on the arrest on this writ, shall omit to put in special bail for his surrender to the Sheriff of the County from which the Writ of Capias issued, and to file the bail piece in the office of the Clerk or Deputy Clerk of the Crown and Pleas for the County of \_\_\_\_\_, the Plaintiff may proceed against the Sheriff or on the bail bond.

*Indorsements to be made on the Writ before the execution thereof.*

1. This writ was issued by E. F. of, &c., (As in form No. 1).
2. Bail for £ \_\_\_\_\_ by affidavit or by Judge's order, (as the case may be).

*Also the indorsement required by the twenty-sixth section of the Act.*

*Indorsement to be made on the Writ after the execution thereof.*

This Writ was executed by arresting C. D., (according to the facts,) on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.

## No. 7.—(Vide Section 43.)

## WRIT OF ATTACHMENT.

Upper Canada, } VICTORIA, &c.  
 County of } To the Sheriff of, &c.

(SEAL.)

We command you, that you attach, seize and safely keep all the real and personal property, credits and effects, together with all evidences of title or debts, books of account, vouchers and papers belonging thereto, of C. D., to secure and satisfy A. B., a certain debt (or demand) of £ *(the sum sworn to)* with his costs of suit, and to satisfy the debt and demand of such other creditors of the said C. D. as shall duly place their Writs of Attachment in your hands or otherwise lawfully notify you of their claim, and duly prosecute the same. And we also command the said C. D., that within *(the time named in the Judge's order or rule of Court,)* days after the service of this Writ on him, inclusive of the day of such service, he do cause special bail to be entered for him in our Court of *(the sum sworn to)*, in an action to recover £ *(the sum sworn to)* at the suit of the said A. B. : And we require the said C. D. to take notice, that his real and personal property, credits and effects in Upper Canada have been attached at the suit of the said A. B., and that in default of his putting in special bail as aforesaid, the said A. B. may, by leave of the Court or a Judge, proceed therein to Judgment and execution, and may sell the property so attached : And we command you, the said Sheriff, that as soon as you have executed this Writ you return the same with the inventory and appraisalment of what you have attached thereunder.

Witness, &amp;c.

*In the margin.*Issued from the Office of, &c., *(as in foregoing cases).**Memorandum to be subscribed on the Writ.*

N. B.—This Writ is to be served within six calendar months from the date thereof, or if renewed, then from the date of such renewal, including the day of such date, and not afterwards.

*Indorsement to be made on the Writ before service thereof.*

This Writ may be served out of Upper Canada, and was issued by E. F., of *(the name of the Attorney)*, Attorney, &c. *(as on a Writ of Summons.)*

No. 7. (bis.)—(Vide Section 60.)

In the (Q. B. or C. P.)

On the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18 .

(Day of signing Judgment.)

1852,  
Schedule A  
No. 5.

Upper Canada, } A. B., in his own person (or by his  
to wit : } Attorney) sued out a Writ of Summons against  
C. D., indorsed according to The Common Law Procedure  
Act, 1856, as follows :

(Here copy special Indorsement.)

And the said C. D. has not appeared, therefore it is considered that the said A. B. recover against the said C. D., £ \_\_\_\_\_ together with £ \_\_\_\_\_ for costs of suit.

No. 8—(Vide Section 77.)

In the (Q. B. or C. P.)

1852.  
Schedule A  
No. 6.

The \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, 18 .  
County of \_\_\_\_\_ } Whereas A. B. has sued C. D. and  
to wit : } affirms and \_\_\_\_\_ denies,

(Here state the question or questions of fact to be tried.)

And it has been ordered by the Honorable Mr. Justice according to The Common Law Procedure Act, 1856, that the said question shall be tried by a Jury, therefore let the same be tried accordingly.

No. 9.—(Vide Section 203.)

FORM OF A RULE OR SUMMONS WHERE A JUDGMENT CREDITOR APPLIES FOR EXECUTION AGAINST A JUDGMENT DEBTOR.

(Formal parts as at present.)

1852.  
Schedule A  
No. 7.

C. D., to show cause why A. B., (or as the case may be,) should not be at liberty to enter a suggestion on the roll in an action wherein the said A. B. was Plaintiff, and the said C. D., Defendant, and wherein the said A. B. obtained Judgment for £ \_\_\_\_\_, against the said C. D., on the day of \_\_\_\_\_, that it manifestly appears to the Court that the said A. B. is entitled to have execution of the said Judgment,

Judgment, and to issue execution thereupon, and why the said C. D. should not pay to the said A. B. the costs of this application to be taxed.

NOTE.—*The above may be modified so as to meet the case of an application by or against the representative of a party to the Judgment.*

—  
No. 10.—(Vide Section 204.)

FORM OF SUGGESTION THAT THE JUDGMENT CREDITOR IS ENTITLED TO EXECUTION AGAINST THE JUDGMENT DEBTOR.

And now, on the \_\_\_\_\_ day of \_\_\_\_\_ it is suggested and manifestly appears to the Court, that the said A. B. (or E. F., as executor of the last Will and Testament of the said A. B., deceased, or as the case may be,) is entitled to have execution of the Judgment aforesaid, against the said C. D., (or against G. H., as executor of the last Will and Testament of the said C. D., or as the case may be,) therefore it is considered by the Court, that the said A. B., (or E. F., as executor as aforesaid, or as the case may be,) ought to have execution of the said Judgment against the said C. D., (or against G. H., as such executor as aforesaid, or as the case may be.)

1852.  
Schedule A  
No. 8.

—  
No. 11.—(Vide Section 205.)

FORM OF WRIT OF REVIVOR.

VICTORIA, &c.,

To C. D., of \_\_\_\_\_

GREETING :

We command you, that within ten days after the service of this Writ upon you, inclusive of the day of such service, you appear in our Court of \_\_\_\_\_, to shew cause why A. B., (or E. F., as executor of the last Will and Testament of the said A. B., deceased, or as the case may be,) should not have execution against you, (if against a representative, here insert, as executor of the last Will and Testament of \_\_\_\_\_, deceased, or as the case may be,) of a Judgment whereby the said A. B., or as the case may be, recovered against you, (or as the case may be,) £ \_\_\_\_\_ and take notice that in default of your doing so, the said A. B., (or as the case may be,) may proceed to execution.

1852.  
Schedule A  
No. 9.

Witness, &c.,

## No. 12.—(Vide Section 221.)

## EJECTMENT.

1852.

Schedule A  
No. 13.

VICTORIA, &c.,  
To X., Y. and Z., and all persons entitled to defend the possession of (*describe the property with reasonable certainty*), in the Township of \_\_\_\_\_, in the County of \_\_\_\_\_, to the possession whereof A. B., and C, some or one of them claim to be (or to have been on and since the \_\_\_\_\_ day of \_\_\_\_\_, A. D., \_\_\_\_\_) entitled, and to eject all other persons therefrom. These are to will and command you or such of you as deny the alleged title, within sixteen days of the service hereof, to appear in our Court of \_\_\_\_\_, to defend the said property or such part thereof as you may be advised, in default whereof Judgment may be signed, and you turned out of possession.

Witness, &amp;c.,

## No. 13.—(Vide Section 231.)

## JUDGMENT IN EJECTMENT IN CASE OF NON-APPEARANCE.

In the Q. B., (or C. P.)

The \_\_\_\_\_ day of \_\_\_\_\_, 18 \* (*date of the Writ.*)1852.  
Schedule A  
No. 14.

County of \_\_\_\_\_ } On the day and year above written, a Writ of  
to wit: } our Lady the Queen issued out of this Court in  
these words, that is to say :

VICTORIA, &c., (*copy the Writ,*) and as no appearance has been entered or defence made to the said Writ, therefore it is considered that the said (*insert the names of the persons in whom title is alleged in the Writ,*) do recover possession of the land in the said Writ mentioned, with the appurtenances.

## No. 14.—(Vide Sections 231, 232.)

In the Q. B., (or C. P.)

On the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, (*date of the Writ.*)1852.  
Schedule A  
No. 15

County of \_\_\_\_\_ } On the day and year above written, a Writ of  
to wit: } our Lady the Queen issued out of this Court, in  
these words, that is to say :

VICTORIA, &c., (*copy the Writ,*) and C. D. has on the  
day of \_\_\_\_\_, appeared by \_\_\_\_\_, his Attorney (or  
in \_\_\_\_\_)



person,) to the said Writ, and A. B. has discontinued the action; therefore, it is considered that the said C. D. be acquitted, and that he recover against the said A. B., £            for his costs of defence.

---

No. 18.—(*Vide* Section 256.)

In the Q. B., (*or* C. P.)

On the            day of            , 18    , (*date of Writ.*)

1842.  
Schedule A  
No. 19.

County of            } On the day and year above written, a Writ of  
to wit :            } our Lady the Queen issued out of this Court, in  
these words, that is to say :

VICTORIA, &c., (*copy of the Writ,*) and C. D. has on the day of            , appeared by            , his Attorney, (*or in person,*) to the said Writ, and A. B., has failed to proceed to trial, although duly required so to do; therefore, it is considered that the said C. D. be acquitted, and that he do recover against the said A. B. £            for his costs of defence.

---

No. 19.—(*Vide* Section 257.)

In the Q. B., (*or* C. P.)

The            day of            , 18    , (*date of the Writ.*)

1852.  
Schedule A  
No. 20.

County of            } On the day and year above written, a Writ of  
to wit :            } our Lady the Queen issued out of this Court in  
these words, that is to say :

VICTORIA, &c., (*copy the Writ,*) and C. D. has on the day of            , appeared by            , his Attorney, (*or in person,*) to the said Writ, and the said C. D. has confessed the said action (*or has confessed the said action as to part of the said land, that is to say: (state the part);* therefore, it is considered that the said A. B. do recover possession of the land in the said Writ mentioned, (*or of the said part of the said land,*) with the appurtenances, and £            , for costs.

## No. 20.—(Vide Section 266.)

In the Q. B., (or C. P.)

The                    day of                    , 18                    , (date of Writ.)

County of                    } On the day and year above written, a Writ  
 to wit :                    } of our Lady the Queen issued out of this Court,  
 with a notice thereunder written, the tenor of which Writ and  
 notice follows in these words, that is to say :

1852.  
Schedule A  
No. 21.*(Copy the Writ and notice, which latter may be as follows :)*

“ Take notice that you will be required, if ordered by the  
 “ Court or a Judge, to give bail by yourself and two sufficient  
 “ sureties, conditioned to pay the costs and damages which  
 “ shall be recovered in the action.”

And C. D. has appeared by                    , his Attorney, (or in  
 person,) to the said Writ, and has been ordered to give bail  
 pursuant to the Statute, and has failed so to do ; therefore, it is  
 considered that the said (*landlord's name*), do recover possession  
 of the land in the said Writ mentioned, with the appurtenances,  
 together with £                    , for costs of suit.

## SCHEDULE B.

## FORMS OF PLEADINGS (Vide Section 140.)

## ON CONTRACTS.

1. Money payable by the Defendant to the Plaintiff for (*these  
 words “ money payable,” &c., should precede money counts like  
 1 to 11, but need only be inserted in the first*) goods bargained  
 and sold by the Plaintiff to the Defendant.

1852.  
Schedule B  
No. 1.

2. Work done and materials provided by the Plaintiff for the No. 2.  
 Defendant at his request.

3. Money lent by the Plaintiff to the Defendant. No. 3.

4. Money paid by the Plaintiff for the Defendant at his re- No. 4.  
 quest.

5. Money received by the Defendant for the use of the No. 5.  
 Plaintiff.

6. Money found to be due from the Defendant to the Plaintiff No. 6.  
 on accounts stated between them.

7. A message and lands sold and conveyed by the Plaintiff No. 7.  
 to the Defendant.

8.

- No. 9. 8. The Defendant's use by the Plaintiff's permission of mes-  
suage and lands of the Plaintiff.
- No. 12. 9. The hire of (*as the case may be*) by the Plaintiff let to hire  
to the Defendant.
- No. 13. 10. Freight for the conveyance of the Plaintiff for the Defen-  
dant at his request of goods in (ships, &c.)
- No. 14. 11. The demurrage of a (ship) of the Plaintiff kept on de-  
murrage by the Defendant.
- No. 15. 12. That the Defendant on the \_\_\_\_\_ day of \_\_\_\_\_ A. D.  
by his Promissory Note now overdue, promised to  
pay to the Plaintiff £ \_\_\_\_\_ (two) months after date, but did  
not pay the same.
- No. 16. 13. That one A, on, &c., (*date*) by his Promissory Note now  
overdue, promised to pay to the Defendant or order £ \_\_\_\_\_ (two)  
months after date, and the Defendant indorsed the same to the  
Plaintiff, and the said Note was duly presented for payment  
and was dishonored, whereof the Defendant had due notice,  
but did not pay the same.
- No. 17. 14. That the Plaintiff on, &c., (*date*) by his Bill of Exchange  
now overdue, directed to the Defendant, required the Defen-  
dant to pay to the Plaintiff £ \_\_\_\_\_ (two) months after date, and  
the Defendant accepted the said Bill, but did not pay the same.
- No. 18. 15. That the Defendant on, &c., (*date*), by his Bill of Ex-  
change to A, required A to pay to the Plaintiff £ \_\_\_\_\_ (two) months  
after date, and the said Bill was duly presented for acceptance  
and was dishonored, of which the Defendant had due notice,  
but did not pay the same.
- No. 19. 16. That the Plaintiff and Defendant agreed to marry one  
another, and a reasonable time for such marriage has elapsed,  
and the Plaintiff has always been ready and willing to marry  
the Defendant, yet the Defendant has neglected and refused to  
marry the Plaintiff.
- No. 20. 17. That the Defendant by warranting a horse to be then  
sound and quiet to ride, sold the said horse to the Plaintiff, yet  
the said horse was not then sound and quiet to ride.
- No. 22. 18. That the Plaintiff and Defendant agreed by charter party,  
that the Plaintiff's schooner called the *Toronto*, should with all  
convenient speed sail to *Hamilton*, and that the Defendant  
should there load her with a full cargo of flour and other lawful  
merchandise, which she should carry to *Kingston* and there  
deliver, on payment of freight \_\_\_\_\_ per barrel, and that the De-  
fendant should be allowed four days for loading and four days  
for

for discharging, and four days for demurrage, if required, at £ per day; and that the Plaintiff did all things necessary on his part to entitle him to have the agreed cargo loaded on board the said schooner at *Hamilton*, and that the time for so loading has elapsed, yet the Defendant made default in loading the agreed cargo.

19. That the Plaintiff let the Defendant a house, being (*de- No. 23. signate it*) for years to hold from the day of A. D. at £ a year, payable quarterly, of which rent quarters are due and unpaid.

20. That the Plaintiff by deed let to the Defendant a house, No. 24. (*designate it*) to hold for seven years from the day of A. D. and the Defendant by the said deed covenanted with the Plaintiff, well and substantially to repair the said house during the said terms (*according to the covenant,*) yet the said house was during the said term out of good and substantial repair.

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FOR WRONGS INDEPENDENT OF CONTRACT.

21. That the Defendant broke and entered certain land of No. 25. the Plaintiff called lot No. &c., and depastured the same with cattle.

22. That the Defendant assaulted and beat the Plaintiff, gave No. 26. him into custody to a Constable, and caused him to be imprisoned in the Common Gaol.

23. That the Defendant debauched and carnally knew the No. 27. Plaintiff's wife.

24. That the Defendant converted to his own use (*or wrongly No. 28. deprived the Plaintiff of the use and possession of*) the Plaintiff's goods, that is to say—(*mentioning what articles, as for instance, household furniture.*)

25. That the Defendant detained from the Plaintiff his title No. 29. deeds of land called lot No. &c. in &c. that is to say, (*describe the deeds.*)

26. That the Plaintiff was possessed of a mill, and by reason No. 30. thereof was entitled to the flow of a stream for working the same, and the Defendant, by cutting the bank of the said stream, diverted the water thereof away from the said mill.

27. That the Defendant having no reasonable or probable cause for believing that the Plaintiff was immediately about to leave Upper Canada with intent and design to defraud the Defendant, maliciously caused the Plaintiff to be arrested and held to bail for £

- No. 32. 28. That the Defendant falsely and maliciously spoke and published of the Plaintiff the words following, that is to say, "He is a thief" (if there be any special damage, here state it, with such reasonable particularity as to give notice to the Defendant of the peculiar injury complained of, as for instance, whereby the Plaintiff lost his situation as shopman in the employ of N.)
- No. 33. 29. That the Defendant falsely and maliciously published of the Plaintiff in a newspaper called \_\_\_\_\_ the words following, that is to say: "He is a regular prover under bankruptcies," the Defendant meaning thereby that the Plaintiff had proved, and was in the habit of proving, fictitious debts against the estates of bankrupts, with the knowledge that such debts were fictitious.
- COMMENCEMENT OF PLEA.
- No. 34. 30. The Defendant by \_\_\_\_\_ his Attorney (or in person) says (here state the substance of the Plea.)
- No. 35. 31. And for a second Plea the Defendant says (here state the second Plea.)
- Plea in Actions on Contracts.*
- No. 36. 32. That he never was indebted as alleged. (N. B.—This plea is applicable to other declarations like those numbered 1 to 11.)
- No. 37. 33. That he did not promise as alleged. (This plea is applicable to other declarations on simple contracts not on bills or notes, such as those numbered 16 to 19. It would be objectionable to use "did not warrant," "did not agree," or any other appropriate denial.)
- No. 38. 34. That the alleged deed is not his deed.
- No. 39. 35. That the alleged cause of action did not accrue within \_\_\_\_\_ years (state the period of limitation applicable to the case) before the suit.
- No. 40. 36. That before action he satisfied and discharged the Plaintiff's claim by payment.
- No. 41. 37. That the Plaintiff, at the commencement of this suit, was, and still is, indebted to the Defendant in an amount equal to (or greater than) the Plaintiff's claim for (state the cause of set off as in a declaration, see form ante,) which amount the Defendant is willing to set off against the Plaintiff's claim, (or, and the Defendant claims to recover a balance from the Plaintiff.)

38. That after the claim accrued, and before this suit, the No. 42.  
Plaintiff, by deed, released the Defendant therefrom.

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PLEAS IN ACTIONS FOR WRONGS INDEPENDENT OF CONTRACT.

39. That he is not guilty. No. 43.

40. That he did what is complained of by the Plaintiff's No. 44.  
leave.

41. That the Plaintiff first assaulted the Defendant, who No. 45.  
thereupon necessarily committed the alleged assault in his  
own defence.

42. That the Defendant, at the time of the alleged trespass, No. 46.  
was possessed of land, the occupiers whereof, for twenty years  
before this suit, enjoyed, as of right and without interruption,  
a way on foot and with cattle from a public highway over the  
said land of the Plaintiff to the said land of the Defendant, and  
from the said land of the Defendant over the said land of the  
Plaintiff, to the said public highway, at all times of the year, for  
the more convenient occupation of the said land of the Defend-  
ant, and that the alleged trespass was the use by the Defendant  
of the said way.

REPLICATIONS.

43. The Plaintiff takes issue upon the Defendant's first, No. 48.  
second, &c., pleas.

44. The Plaintiff as to the second Plea, says : (*here state* No. 49.  
*the answer to the plea, or in the following forms.*)

45. That the alleged release is not the Plaintiff's deed. No. 50.

46. That the alleged release was procured by the fraud of No. 51.  
the Defendant.

47. That the alleged set off did not accrue within six years No. 52.  
before this suit.

48. That the Plaintiff was possessed of land whereon the No. 53.  
Defendant was trespassing and doing damage, whereupon the  
Plaintiff requested the Defendant to leave the said land, which  
the Defendant refused to do, and thereupon the Plaintiff gently  
laid his hands upon the Defendant in order to secure him,  
doing no more than was necessary for that purpose, which is  
the alleged first assault by the Plaintiff.

49. That the occupiers of the said land did not for twenty No. 54.  
years before this suit, enjoy, as of right and without interrup-  
tion, the alleged way.

## NEW ASSIGNMENT.

No. 55.

50. The Plaintiff as to the \_\_\_\_\_ and \_\_\_\_\_ pleas, says, that he sues not for the trespasses therein admitted, but for trespasses committed by the Defendant in excess of the alleged rights, and also in other parts of the said land, and on other occasions and for other purposes than those referred to in the said pleas.

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*If the Plaintiff replies and new assigns, the new assignment may be as follows :*

No. 56.

51. And the Plaintiff as to the \_\_\_\_\_ and \_\_\_\_\_ pleas, further says that he sues, not only for the trespasses in those pleas admitted, but also for, &c.

No. 57.

*If the Plaintiff replies and new assigns to some of the pleas, and new assigns only to the other, the form may be as follows :*

52. And the Plaintiff as to the \_\_\_\_\_ and \_\_\_\_\_ pleas, further says that he sues, not for the trespasses in the \_\_\_\_\_ pleas (*the pleas not replied to*) admitted, but for the trespasses in the \_\_\_\_\_ pleas, (*the pleas replied to*) admitted, and also for, &c.

## CAP. XLIV.

## An Act to amend the Militia Law.

[Assented to 19th June, 1856.]

Preamble.

18 V. c. 77.

**W**HEREAS it is expedient to amend the Act passed in the eighteenth year of Her Majesty's Reign, and intituled, *An Act to regulate the Militia of this Province, and to repeal the Acts now in force for that purpose* : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Number of  
Military Dis-  
tricts may be  
increased in  
either part of  
the Province.

I. Notwithstanding any thing in the Act cited in the Preamble to this Act, the Commander in Chief may from time to time, by any Militia General Order, alter the division of the Province into Military Districts, and may, if he shall see fit, increase the number of such Districts beyond the number of nine in either portion of the Province ; and to the Military Districts to be so constituted all the provisions of the said Act shall apply, and a Colonel and proper Staff Officers may be appointed in each of them.

II.

II. Notwithstanding any limitation in the said Act of the number of Volunteer Companies or Corps, or of the number of men therein, the Commander in Chief may accept the services of any greater number of Volunteers and may form them into Companies or Corps, provided that no greater number of Volunteer Companies, Corps or men than that limited by the said Act, shall receive pay or allowances, except on actual service, in time of war or insurrection : And the Volunteer Companies and Corps receiving pay shall be known as Class A, and those receiving no pay as Class B ; and whenever the number of Companies or Corps or men in Class A shall fall short of that limited by the said Act, the deficiency may be supplied by removing the proper number from Class B into Class A ; Provided always, that in all respects, except as to pay and allowances, the provisions of the said Act shall apply in like manner to the Volunteer Companies, Corps and men in both Classes.

Unpaid Volunteer Corps may be formed.

Unpaid Volunteers may become paid Corps, as vacancies occur.

Proviso : other provisions of 18 V. c. 77, to apply to them.

III. The Commander in Chief may, by any Militia General Order, dispense with the Annual General Muster of the Sedentary Militia in either Section of the Province, either in any particular year or until further order, and may in like manner again direct such muster to be held, if he shall see fit, and any such order shall have the force of law according to the terms thereof.

Governor may dispense with annual muster, and again require it.

IV. The Commander in Chief may appoint to all Militia Regiments, Companies or Corps, the proper number of Surgeons, Assistant Surgeons and Veterinary Surgeons.

Surgeons, &c., may be appointed to Militia.

V. In amendment of the sixth section of the said Act, Be it enacted and declared, That in case the Muster Day for the Sedentary Militia, as fixed by Law, shall happen to fall on a Sunday, the day following such Sunday shall be deemed to be the day of Muster in Lower as well as in Upper Canada.

Provision if the muster day falls on a Sunday.

VI. And in explanation of the forty-fifth Section of the said Act, it is declared and enacted, that it is not and shall not be necessary that any person should take the oath of allegiance in order to qualify him to be an Officer in the Militia, unless he be by birth an Alien.

Oath of Allegiance not required of British born Subjects.

VII. And to avoid doubts under the forty-sixth Section of the said Act, It is declared and enacted, That the said Section applies to and includes the Battalions embodied in the years one thousand eight hundred and thirty-seven, one thousand eight hundred and thirty-eight, one thousand eight hundred and forty-six and one thousand eight hundred and forty-seven, in the Cities of Quebec and Montreal, and that the said battalions are still lawfully embodied, and Commissions in them are valid under the said forty-sixth Section : and the said Battalions are subject to all the provisions of the said Act as Sedentary Militia, and may be called out as such by the Commander in Chief under the said Act.

Section 46 of the said Act declared to apply to Battalions embodied in 1837, 1838, 1846 and 1847.

## C A P . X L V .

An Act for transferring to one of Her Majesty's Principal Secretaries of State the powers and estates and property therein described, now vested in the Principal Officers of Her Majesty's Ordnance, and for vesting other part of the Ordnance Estates and Property therein described in Her Majesty the Queen, for the benefit, use and purposes of this Province.

[Assented to 19th June, 1856.]

Preamble.

7 V. c. 11.

Revocation of appointment of Principal Officers.

Her Majesty's intention as to Ordnance Lands.

WHEREAS by an Act passed in the seventh year of Her present Majesty's Reign, intituled, *An Act for vesting in the Principal Officers of Her Majesty's Ordnance, the estates and property therein described, for granting certain powers to the said Officers, and for other purposes therein mentioned*, various powers and authorities were given to or vested in and made exercisable by the Principal Officers of Her Majesty's Ordnance, and certain lands and other real property mentioned and described in the Schedule to the Act now in recital annexed, and divers lands and other real property by the said Act and by or under divers conveyances, surrenders, assignments and leases, or by some other means purchased, taken, used and occupied for the Military Defence of this Province before the time of the passing of this Act, were vested in the said Principal Officers; And whereas Her Majesty has thought fit to revoke the Letters Patent of some of the said Principal Officers, and by other Letters Patent to transfer to one of Her Majesty's Principal Secretaries of State, the administration of the Department the duties of which were previously executed by the said Principal Officers of Her Majesty's Ordnance; And whereas the Ordnance Lands within this Province consist at the time of the passing of this Act, of the several lands, estates and property comprised in the two Schedules to this Act annexed; And whereas Her Majesty has been graciously pleased to signify Her Majesty's gracious intention that the several powers and authorities and such of the several lands and other real property comprised in the said in part recited Act, as are comprised in the first Schedule to this Act annexed, and all title, estate and interest therein respectively, should be transferred from the said Principal Officers, and vested in one of Her Majesty's Principal Secretaries of State, and that all such of the lands and other real property comprised in the said in part recited Act, as are comprised in the second Schedule to this Act annexed, and all title, estate and interest therein respectively, should be transferred from the said Principal Officers and become re-invested in the Crown, for the public uses of this Province, subject to the provisions hereinafter made: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. All the powers, authorities, rights and privileges whatsoever, which by virtue of the said in part recited Act, or of any other Act or Acts, or of any other law, custom or usage whatsoever, have been or were at any time vested in or exercised or exercisable by the Principal Officers of Her Majesty's Ordnance, or any of them, shall from henceforth continue in full force, and shall be and the same are hereby declared to be transferred to and vested in and exercisable by Her Majesty's Principal Secretary of State, for the time being, to whom Her Majesty shall think fit to intrust the Seals of the War Department, and such last mentioned Principal Secretary of State shall be entitled to the same exemption from personal responsibility as the said Principal Officers were entitled to.

Powers, &c.,  
under 7 V. c.  
11, transferred  
to Her M's. Sec-  
retary of  
State for the  
War Depart-  
ment.

II. All lands and other real property comprised in the first Schedule to this Act annexed, and all other lands and other real property, except the lands and property in the second Schedule to this Act annexed, which by virtue of the said in part recited Act, or of any other Act or Acts, or of any conveyance, surrender, lease or other assurance, or of any law, custom or usage whatsoever, have been at any time before the passing of this Act, vested in the Principal Officers of the Ordnance on behalf of Her Majesty, or purchased, vested or taken by or in the name of or by any person or persons in trust for Her Majesty, for the use of the said Department, or for the defence and security of this Province, and which have not been sold or otherwise disposed of, shall from henceforth be and the same are hereby declared to be transferred to and vested in the last mentioned Principal Secretary of State for the time being, on behalf of Her said Majesty, subject nevertheless to all or any of the lease or leases, agreement or agreements for leases already entered into with or by the Principal Officers of Ordnance, or any person or persons authorized and empowered by the said Principal Officers to exercise the powers and authorities of the said in part recited Act of or in respect of any such lands or other real property; And when and so often as the said last mentioned Principal Secretary of State, and any succeeding Principal Secretary of State to whom Her Majesty shall have intrusted the Seals of the War Department, shall cease to hold such office, the said several lands and other real property, and all lands and other real property which hereafter shall be purchased or otherwise acquired by any such last mentioned Principal Secretary of State for the time being, on behalf of Her said Majesty, shall, by virtue of this Act, be absolutely divested out of such Secretary of State so ceasing to hold such office as aforesaid, and shall, by virtue of this Act, be transferred to and vested in his Successor in the said Office, immediately upon his receiving the Seals of the said Department, absolutely; and the said lands and other real property hereby vested and hereafter to be vested in the said last mentioned Principal Secretary of State and his Successors, shall, as to such of them as were or shall have been purchased

Lands and  
property in  
Schedule 1,  
transferred to  
the said Secre-  
tary of State.

Subject to  
leases, &c.

To vest in the  
Successors in  
office of such  
Secretary.

To be held by  
him or any  
Successor in  
office as a  
Corporation

sole, and for the same estate as the Principal Officer had in them.

or are or shall be held for an estate of inheritance in fee simple, be so vested in such last mentioned Principal Secretary of State and his Successors, in the same manner as if the fee simple thereof had been originally conveyed to such Principal Secretary of State, as a Corporation sole, and his Successors, and as to all lands and other real property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments and property had been originally conveyed, surrendered, demised or otherwise assured to such Principal Secretary of State, as a Corporation sole, and his Successors, for all the existing estates or interests therein respectively, and so from time to time.

Contracts, &c., to continue with the said Secretary in place of the Principal Officers.

III. All contracts, covenants and agreements heretofore made or entered into by any person or persons whomsoever with the said Principal Officers of the Ordnance, or any person or persons on their behalf, as to or concerning any lands or other real property vested in or agreed to be purchased by the said Principal Officers, or in any wise relating to the Public Service of the Ordnance, shall be deemed and taken to have been made or entered into with such Principal Secretary of State as last aforesaid, and shall be executed and enforced by him in like manner as if he had originally been party thereto instead of the said Principal Officers of Ordnance; and all proceedings whatsoever which have been or might or may have been commenced, taken or done in the names of the said Principal Officers, on behalf of Her Majesty, shall and may hereafter be commenced, continued, taken and done in the name of such Principal Secretary of State as aforesaid, in like manner (in the case of proceedings already commenced, taken or done) as if he had originally been party thereto instead of the said Principal Officers of the Ordnance.

And so of any proceedings commenced.

Powers to Corporations, &c., under s. 10 of 7 V. c. 11, to be exercised in favor of the said Secretary of State.

IV. All powers by the tenth section of the said in part recited Act given to Bodies Politic or Corporate, Ecclesiastical or Civil, Feoffees or Trustees for charitable or other public purposes, Tenants for Life, and Tenants in Tail or in Substitution, Husbands, Guardians, Trustees, Committees, Curators, Tutors or Attorneys, respectively therein mentioned, to contract and agree for the absolute sale or exchange of any such or other real property, or for the sale, grant or release of any estate, right, title or interest therein, or for the reversion thereof after any estate for life or years or other contingent interest, or for any term of years therein, and to convey, surrender, demise or grant the same accordingly, shall continue in full force, and hereafter may or shall be exercised or exercisable and be acted under or take effect in favor or at the instance of the said Principal Secretary of State for the time being, on behalf of Her said Majesty and for the Public Service, in the same manner and as effectually as the said powers are in and by such in part recited Act given or created or made exercisable in favor or at the instance of the said Principal Officers for the time being, on behalf

behalf of Her said Majesty or for the Public Service ; and all enactments, directions and provisions in the said in part recited Act of the seventh year of the Reign of Her Majesty contained, shall, with respect to all lands and other real property, which by this Act or at any time after the passing of this Act shall be vested in such said Principal Secretary of State, continue in full force, and may or shall at all times hereafter be by the said Principal Secretary of State for the time being acted on and take effect, and shall enure or take effect in favor of and may be enforced by such said Principal Secretary of State and his Successors, on behalf of Her Majesty and for the Public Service.

Other provisions of the said Act to enure in favor of the said Secretary.

V. In every Contract, Conveyance, Surrender, Lease or other Assurance of any lands or other real property, with, unto or by the said Principal Secretary of State for the time being, and in every other Deed or Instrument relating to any lands, hereditaments, estates or property, or in any wise to the Public Service, to which the said Principal Secretary of State for the time being shall be or shall be intended to be a party, it shall be sufficient to call or describe him by the style or title of "Her Majesty's Principal Secretary of State for the War Department," without naming him ; and every such Contract, Conveyance, Surrender, Lease, Assurance, Deed or Instrument may be executed by such Principal Secretary of State, or by any other of Her Majesty's Principal Secretaries of State, for the time being, by signing his name thereto, and if the Instrument so executed be in the form of a Deed by setting or affixing a Seal thereto and delivering the same as his Deed ; and whenever any Contract, Conveyance, Surrender, Lease, Assurance, Deed or Instrument shall be executed by any other Principal Secretary of State, the Principal Secretary of State so executing the same, shall, for that time and on that occasion and for the purposes thereof, be deemed to be Principal Secretary of State for the War Department.

How the said Secretary may be described in deeds relating to such property and rights, &c.

How such deeds, &c., may be executed.

VI. Immediately on and from the passing of this Act, all and every the lands and other real property in this Province comprised in the second Schedule to this Act annexed, being a portion of the messuages, lands, tenements, estates and hereditaments comprised within the provisions and meaning of the said in part recited Act of the seventh year of the Reign of Her present Majesty, which, prior to the passing of this Act, were by the said recited Act or otherwise, vested in the said Principal Officers of Her Majesty's Ordnance, and their Successors in the said Office, and which have been used or occupied for the service of the Ordnance Department, or for Military defence, by whatever mode of Conveyance the same shall have been so purchased or taken either in fee or for any life or lives, or for any term or terms of years, or any other or lesser interest, and all erections and buildings which now are or which shall or may hereafter be erected and built thereon, together

Lands, &c., in Schedule 2, vested in Her Majesty for the public uses the Province.

with the rights, members, easements and appurtenances to the same respectively belonging, shall, by virtue of this Act, be and become and remain and continue absolutely vested in Her Majesty the Queen, for the benefit, use and purposes of this Province, according to the respective nature and quality of the said lands and other real property, and shall be subject to the provisions of the Act passed by the Legislature of this Province, in the sixteenth year of the Reign of Her present Majesty, intituled, *An Act to amend the Law for the Sale and Settlement of the Public Lands*, and any further provisions which the Legislature of this Province may from time to time enact in respect thereof, and shall be held, used, conveyed and dealt with accordingly; but subject nevertheless to all Sales, Agreements, Lease or Leases, Agreement or Agreements for Lease, already entered into, with or by the Principal Officers of Ordnance, or any person or persons authorized or empowered by the said Principal Officers to exercise the powers and authorities of the said in part recited Act of the seventh year of the Reign of Her present Majesty, of or in respect of any such lands and other real property.

To be subject to the provisions of 16 V. c. 159.

And to those of any lease, &c., by Principal Officers.

Act 7 V. c. 11, not to apply to lands, &c., transferred to the Province.

VII. Provided always, and be it further enacted, That nothing herein contained shall be taken to affect the rights of any parties claiming any of the lands, buildings or other property referred to in the next preceding section and in the said second schedule; and that all actions now pending against the said Principal Officers in relation thereto may be proceeded with to final judgment in the name of the said Principal Officers, and as if the appointment of the said Principal Officers had not been revoked by Her Majesty: and it shall be lawful for Her Majesty's Attorney General to appear in any such case on behalf of the Crown, and the Crown and all other persons whatsoever shall be bound by the final judgment of the Court in which such suit may have been commenced.

Recital.

VIII. And whereas in the last Session of the Provincial Parliament an Act was passed, intituled, *An Act relating to the Ordnance Lands and Naval and Military Reserves in this Province, and for other purposes*, wherein it is among other things provided, that the Lands and Reserves therein mentioned and referred to, shall, if transferred to the Provincial Government, be divided into three classes denominated A, B and C, respectively: Be it therefore enacted, That for and notwithstanding any thing in the said Act contained, all the lands, buildings and other property included in the first schedule to this Act annexed shall be deemed to be included in class A of the said Act; and that class B of the said Act shall be deemed to consist of such buildings or portions of the lands or other property in second schedule to this Act, as may from time to time be placed in class B by authority of the Governor in Council; and the remainder of the lands, buildings and other property enumerated in the second schedule to this Act shall form class C under the said recited Act; and the two classes B and C shall be dealt

Classes A, B & C. what to consist of.

dealt with as is provided with regard to them respectively, in the said recited Act.

IX. With respect to all lands and other real property comprised in the second Schedule to this Act annexed, which by this Act shall be vested in Her Majesty the Queen, for the benefit, use and purposes of this Province, the said recited Act of the seventh year of the Reign of Her present Majesty, and every clause, matter and thing therein contained, shall, from and immediately after the passing of this Act, be repealed, and the same is and are hereby repealed accordingly.

Recited Act  
repealed.

### THE FIRST SCHEDULE

REFERRED to in this Act, being the Schedule of Military Lands in Canada, to be vested in one of Her Majesty's Principal Secretary of State.

QUEBEC..... } The Citadel of Quebec, Fortifications, Glaciers, Barracks, Lands with the appurtenances thereunto in any manner belonging, and the Barracks called the Jesuit Barracks, and the several Public Offices occupied for the various Military purposes, and all other Military properties at that station.

MONTREAL..... } The Barracks, Public Offices Lands heretofore held or purchased by the Ordnance for the erection of Barracks or for the defence of the Province, together with the Island of Saint Helens in the River Saint Lawrence, as heretofore held by the Principal Officers of the Ordnance, for various Military purposes, with the exception of a parcel of land at Longueuil which has been purchased for the purpose of a *tête de pont*, which is to be retained until an adequate quantity of land is substituted by the Province in lieu thereof, in the vicinity of the projected Bridge across the Saint Lawrence; and also with the exception of the Old Barracks at Montreal, which are to be retained until Barracks shall have been constructed for the accommodation of one thousand men, on a site to be approved by the Military Authorities.

KINGSTON..... } All the Military Works on the east and west of the Harbour and the lands connected with them not named in the Second Schedule.

NIAGARA..... } Fort Mississagua with its Glaciers and other appurtenances.

SOREL..... } The Barracks, Government Cottage and land required for defence.

## THE SECOND SCHEDULE

REFERRED to in this Act, being the Schedule of Military Properties in Canada proposed to be transferred to the Provincial Government.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Temiscouata.....	11	2	10	Stockaded Barrack.
Three-Rivers.....	3	2	9	Barrack and Fuel Yard.
Sorel.....	45,220	..	..	Seigneurie, Domain and other appurtenances.
Montreal.....				Old Barracks.—Parcel of Land for <i>tête de pont</i> at Longueuil.—So soon as the conditions set forth in the first Schedule shall have been complied with.
La Prairie.....	42	1	8	Barracks for Cavalry, Artillery and Infantry.
St. Johns.....	176	..	..	Infantry Barracks and Old Fort.
Isle-aux-Noix and Sorel River...	295	..	..	Fort Lennox and Reserve.
Chambly.....	157	1	22	Old Fort, Barracks for Cavalry, Artillery and Infantry, with Barrack Master's house, &c.
Chateauguay.....	5	..	1	Blockhouse.
Cascades.....	9	..	12	Wood Yard, Common and Canal.
Cedars.....	..	2	23	Storehouse and Wharf.
Côteau-du-Lac.....	15	3	39	Fort.
Cornwall.....	1	..	..	Fuel Yard.
Prescott.....	74	..	..	Fort Wellington.
Grant's Island, Brockville.....	..	2	32	Blockhouse.
	180	3	4	Lot 23 or Herchmer Farm.
	11	2	10	Gote between lots 23 and 24.
	11	1	31	} Parts of lot 24.
	15	..	..	
	6	2	8	
	..	2	..	Lots 19, 21 and 22, Place d'Armes.
Kingston.....	..	2	16	Lots 23, 24 and 25 do. do.
	4	0	8	Late Commandant's Quarter, and lots 286, 382 and 413.
	3	1	5	Old Tannery.
	44	3	17	Ferguson property.
	110	..	..	Horse Shoe Island.
	1	..	..	Snake Island.
Cape Vesey, P. Edward County...	100	..	..	Kingston Mills Reserve, &c.
Green Point, Bay of Quinte.....	1260	..	..	Reserve.
	100	..	..	Do.
Toronto.....	502	2	1	{ Old Fort, New Barracks. Hospital Bathurst St. Barracks. Commissariat Quarters, Stores. Guard house and Victoria Square.
Hamilton.....	178	..	..	Reserve Burlington Heights.
Short Hills Farm.....	200	..	..	Lots 5 and 6 Con. Pelham.
Niagara.....	444	2	4	Reserve, Barracks and Hospital.—All, except Fort Mississagua.
Queenston.....	130	..	..	Reserve.—All, except that sold to the Purchasers of the Hamilton Estate.
Lyons Creek.....	3	1	..	Reserve.
Chippewa.....	19	3	27	Barrack and Store.

## SECOND SCHEDULE—Continued.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Navy Island .....				Reserve.
Fort Erie.....	1000	..	..	Do.—Except that located by enrolled Pensioners.
Port Maitland .....	426	..	..	Reserve.
Turkey Point.....	592	..	..	Do.
London.....	74	..	..	Artillery and Infantry Barracks.
Chatham.....	11	3	8	Infantry Barrack.
Rond Eau.....	500	..	..	Reserve.
Amherstburg.....	523	..	..	Fort, Block and Picket Houses.— Except as located by enrolled Pensioners.
Boisblanc Island.....				
Fighting Island.....	1,200	..	..	Reserve.
Windsor.....	4	..	..	Infantry Barrack.
Port Edward Sarnia.....				Reserve.—Except land sold to Contractors for the Grand Trunk Railway.
Owen Sound.....	51	..	..	Reserve.
Nottawasaga Bay.....	66	..	..	Do.
Penetanguishene.....	5396	2	15	Reserve and Barracks.—Except that located by enrolled Pensioners and under license of occupation to Major Ingall.
St. Joseph.....	450	..	..	Reserve.
St. Mary's Island.....	170	..	..	Do.
Rideau and Ottawa Canals.....				City of Ottawa, Barracks, Block-houses and Adjuncts of the Canals.

## CAP. XLVI.

## An Act to amend the Act for the qualification of Justices of the Peace.

[Assented to 19th June, 1856.]

**W**HEREAS Her Majesty's Justices of the Peace in this Province, who are now required to possess a property qualification, suffer inconvenience in consequence of being obliged to renew the oath of qualification on the occasion of the issuing of a new Commission of the Peace for the Territorial Divisions of this Province for which such Justices may have qualified themselves to act: For remedy thereof, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. For and notwithstanding any thing contained in the Act sixth Victoria, chapter three, and intituled, *An Act for the qualification of Justices of the Peace*, it shall not be necessary in the case of any Commission of the Peace to be issued after the passing.

Notwithstanding 6 V. c. 3, New Oath of qualification not to be re-

quired on new Commission if J. P. holds the same property.

passing of this Act, for any such Justice named therein who may have theretofore qualified himself as provided by the third section of the said Act, to take any oath of qualification before acting under such new Commission, unless such Justice shall, since he took such oath of qualification, have parted with the estate in right of which he may have qualified and deposited a certificate thereof in the office of the Clerk of the Peace.

Act to apply to past cases, except in case of judgment, suit, &c.

II. Except in cases where a suit may have been commenced or judgment shall have been recovered, the provisions of this Act shall be taken to apply to the case of any Justice of the Peace named in any Commission heretofore issued, who may have once qualified himself under the said recited Act, and shall have continued to possess the same estate upon which he may have so qualified.

## C A P. X L V I I .

An Act to amend the Act to provide for the better organization of Agricultural Societies in Lower Canada, and for other purposes connected with Agriculture in Upper and Lower Canada.

[Assented to 19th June, 1856.]

Preamble.

16 V. c. 18.

**W**HEREAS it was provided by the Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to provide for the better organization of Agricultural Societies in Lower Canada*, that from and after a day therein mentioned, a County Agricultural Society should be organized in each of the then existing Counties of Lower Canada, upon the conditions and in the manner therein prescribed; And whereas by the Parliamentary Representation Act of 1853, and the Parliamentary Representation Amendment Act of 1855, Lower Canada has been divided into new and additional Counties or territorial divisions, and it is therefore necessary to extend the provisions of the first mentioned Act to such new Counties or territorial divisions: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said Act extended to new Counties under the Representation Acts in L. C.

I. All and every the provisions of the said first mentioned Act are hereby extended to each of the new Counties mentioned and referred to in the said Parliamentary Representation Acts, in like manner and to the same effect as if they had existed as separate and distinct Counties at the time of the passing of the said first mentioned Act.

Each County to have one Society.

II. It shall be lawful for each of the present electoral Counties to organize one Agricultural Society only, which shall bear the name of the County in which it may be established, excepting however the Counties of Gaspé, Bcna enture,

Bonaventure, Vaudreuil, Nicolet and Drummond, which may establish or continue to have two Agricultural Societies within their respective limits. Exceptions.

III. The Societies at present existing in the Counties of Vaudreuil, Bonaventure, Gaspé and Nicolet, shall retain their present limits, and shall be continued under their present organization; the County of Drummond shall be divided so as to form two Societies, the operations of the second to extend over the Townships of Kingsey, Simpson, Durham, and the first five lots of the four first ranges, and the two first lots of all the other ranges of the Township of Wickham. Societies in certain Counties in L. C.  
In County of Drummond.

IV. And whereas it is necessary to make some provision for the encouragement of Horticulture in Lower Canada; therefore, it shall be lawful for the Board of Agriculture in Lower Canada, out of the amount to which the said Counties and other electoral divisions claiming the same may be respectively entitled from the public funds, to place at the disposal of any Horticultural Society which may be formed in any County, or in any City or Town within the body or ordinary limits of such County, though not within its electoral limits, a sum equal to that which may be subscribed for that purpose by the inhabitants of such County, City or Town, and not exceeding thirty-seven pounds ten shillings, to be applied towards defraying the expenses incurred by such Horticultural Societies in promoting the main object of their institution. A limited sum may be applied for encouraging Horticultural Societies in L. C.

V. And in order to equalize as nearly as may be, the amount to be paid out of the public funds to the Agricultural Societies of Upper and Lower Canada respectively, the sum to be paid to each County in Lower Canada, for the several Societies established or to be established therein, shall not exceed two hundred pounds; and until some Legislative enactment shall have been passed adapting the existing Agricultural Acts of Upper Canada, to the number of electoral divisions therein, a sum equivalent to any excess which may be paid to Lower Canada over Upper Canada, under this Act, shall be reserved for the several Agricultural Societies of Upper Canada, the said amount to be placed at the disposal of the Board of Agriculture for Upper Canada, and paid into the hands of the Treasurer of the said Board of Agriculture. Allowance to any County in L. C not to exceed £200.  
Equivalent allowance for Upper Canada.

VI. In any County in which two Societies shall at present exist, or may hereafter be established, such Societies shall be equally entitled to receive the annual grant, not exceeding one hundred pounds, in the same manner as County Societies; in case only one Society shall be in operation in any of the said Counties during any year, such Society shall not be deprived of the right of subscribing the sum requisite to entitle them to the whole grant allotted to the County in which such Society shall be established; in case any one of the Societies in any Provision where there are two Societies in any County.

of the said Counties shall not have subscribed the amount sufficient to entitle it to receive the whole of its share of the grant, the other Society upon subscribing the necessary amount, shall be entitled to obtain the balance of the said grant.

Societies organized before this Act, to cease on 1st January 1857, except those in section 3. Proviso.

VII. Societies organized before the passing of this Act, excepting those specially referred to in the third Section of this Act, shall cease to exist, and shall provide for the final settlement of their affairs, between the day of the passing of this Act and the first day of January, one thousand eight hundred and fifty-seven; Provided always, that nothing herein contained shall have the effect of preventing the new Societies to be established in virtue of this Act, from being so far organized during the interval, as to enable them to go into full operation upon the first day of January, eighteen hundred and fifty-seven.

Provision as regards the present year 1856.

New Societies.

VIII. Every new Agricultural Society which shall be organized in virtue of this Act, previously to the first day of August next and which shall have subscribed the necessary amount, shall be entitled to the grant provided for by this Act, and any new County which contains the majority of the subscribers to any Agricultural Society, shall also be entitled to receive a similar grant, without proceeding to any new election of officers for the current year, and the officers previously elected, and residing in the said new County, shall continue to manage the affairs of the Society until the first day of January next; Provided always, that all debts now due by any former Agricultural Society, shall be paid by that Society within the limits of which the exhibitor who may have obtained the prize may reside.

Proviso: as to debts of former Societies.

Existing subscriptions,—to what Societies they shall apply.

Proviso.

IX. All sums of money subscribed or paid by any subscriber towards the funds of any Agricultural Society now formed, shall be held to have been subscribed and paid for the benefit of any Society to be formed under this Act, comprehending within its limits the residence or landed estate of such subscriber, and shall be applicable and paid by the Treasurer of the old Society to the Treasurer of the new Society; Provided always, that such new Society shall be formed and go into operation on or before the first day of August next.

Act 16 V. c. 18, to apply to Horticultural Societies,—except, &c.

X. The several provisions, conditions and restrictions of the said first mentioned Act respecting the formation of Agricultural Societies, are hereby made applicable to the formation of Horticultural Societies, except in so far as relates to the authority to form more than one Agricultural Society in each County, and except also in so far as the same may be altered by this Act.

As to parishes, &c., annexed

XI. In every case in which a Parish or Township or part or parts thereof heretofore comprised within the limits of a County entitled

entitled to form one or more Agricultural Societies, has or have been attached for representation purposes to any Town in Lower Canada, and together with it forms an Electoral Division, such Electoral Division shall be deemed a County within the intent and meaning of this Act, and all the provisions thereof and of former Acts in force relating to agriculture in Lower Canada, shall apply to such Electoral Division; provided that it shall not be entitled to more than one half of the amount of the public grant for a County.

to Towns for Representation.

Proviso.

C A P . X L V I I I .

An Act for enabling all the Chartered Banks in this Province to enjoy a certain privilege therein mentioned.

[Assented to 19th June, 1856.]

**W**HEREAS it is desirable that all Chartered Banks in this Province should enjoy the privilege hereinafter mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. It shall be lawful for any Bank or Banking Institution carrying on business as such in this Province, either under a Royal Charter, or in virtue of an Act of Incorporation passed by the Legislature of this Province, or of either of the late Provinces of Lower or Upper Canada, in discounting any note, bill, or other negotiable security or paper, *bonâ fide* payable at a place within this Province, different from that at which it is discounted, to receive and retain, in addition to the discount, an amount not exceeding one half per centum on the amount of such note, bill or other negotiable security or paper, to defray the expenses of agency and exchange attending the collection of such bill, note or other security or paper.

Bank may retain percentage in addition to discount in certain cases, to defray cost of agency and exchange.

C A P . X L I X .

An Act for the suppression of Lotteries.

[Assented to 19th June, 1856.]

**W**HEREAS it is desirable that the practice of selling lands, goods and chattels by lot or chance be prohibited by law, and any such sales declared void: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. If any person shall after the passing of this Act, make, print, advertise or publish, or cause or procure to be made, printed, advertised or published, any proposal, scheme, or plan, for

Penalty for making, or publishing Lottery for

schemes of  
any kind.

for advancing, lending, giving, selling, or in any way disposing of any property, either real or personal, by lots, cards, tickets, or any mode of chance whatever, or shall sell, barter, exchange, or otherwise dispose of, or cause or procure, or aid or assist, the sale, barter, exchange, or other disposal of, or offer for sale, barter or exchange, any lot, card, ticket, or other means or device, for advancing, lending, giving, selling, or otherwise disposing of any property, real or personal, by lots, tickets, or any mode of chance whatever, such person shall, upon conviction thereof, before any Mayor, Alderman, or other Justice of the Peace, upon the oath of any one or more credible witnesses, or upon confession thereof, forfeit and lose the sum of Five Pounds for each and every such offence, together with costs, to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of any such Mayor, Alderman, or other Justice of the Peace, of the city, town, county or place where such offence shall be committed, which said forfeiture shall be applied half to the informer, and the other half shall be paid to the Treasurer or Chamberlain of the Municipality in which such offence shall be committed, and shall form part of the funds thereof.

How enforced  
and applied.

Penalty for  
buying or re-  
ceiving Lot-  
tery tickets,  
&c.

II. Any person buying, bartering, exchanging, taking or receiving any such lot, card, ticket, or other device as in the first section of this Act mentioned, shall, upon conviction thereof, in like manner as therein mentioned, forfeit and lose the sum of Five Pounds, for each offence, to be recovered and applied as aforesaid.

Sales, gifts,  
&c., founded  
on Lotteries  
to be void.

III. Any sale, loan, gift, barter or exchange of any real or personal property, by any lottery, ticket, card, or other mode of chance whatever, depending upon, or to be determined by chance or lot, shall be void to all intents and purposes whatsoever, and all such real or personal property so sold, lent, given, bartered or exchanged, shall be forfeited to such person as shall sue for the same by action, bill or information in any Court of Record in this Province; Provided always, that no such forfeiture shall affect any right or title to such real or personal property acquired by any *bona fide* purchaser for valuable consideration without notice.

Proviso : as to  
purchasers  
without no-  
tice.

Committal for  
non-payment  
of penalties.

IV. If any person so convicted by any Mayor, Alderman, or other Justice as aforesaid, shall not have sufficient goods and chattels whereon to levy the penalties authorized by this Act, or shall not immediately pay the said penalties, or give security for the same, such Mayor, Alderman, or other Justice, convicting such person, shall commit such person to the common Gaol of the County or District in which such offence was committed, for a period not exceeding three calendar months, or until such fine and costs are paid.

V. The provisions of this Act shall extend to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and to the sale, or offer for sale, of any ticket, chance, or share, in any such lottery, or to the advertisement for sale of such ticket, chance, or share.

Act to extend to publication of foreign Lottery schemes.

VI. The term "personal property" in this Act shall include every description of money, chattel and valuable security, and every kind of personal property whatever; and the term "real property" shall include every description of land, and all estates and interests therein.

Interpretation clause.

VII. Any person convicted under this Act, shall have the same right of appeal from the judgment of the convicting Justice, as in other cases of summary convictions, where an appeal is allowed by law.

Appeal from conviction under this Act.

VIII. Nothing in this Act contained shall prevent joint tenants, or tenants in common, or persons having joint interests, *droits indivis*, in any real or personal property, from dividing such property by lot or chance in the same manner as if this Act had not been passed.

Act not to extend to *bonâ fide* division of property held in common.

IX. This Act shall commence and take effect on the first day of January next.

Act to commence 1st January, 1857.

## C A P . L .

### An Act to encourage Shipbuilding within this Province.

[Assented to 19th. June, 1856.]

**W**HEREAS doubts have arisen as to the security of parties advancing money on Ships in the progress of construction within this Province; And whereas the removal of the same would encourage the trade: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. So soon as the keel of a vessel shall be laid within this Province, the owner thereof may mortgage, hypothecate and grant a privilege or lien on the said vessel to any person or persons contracting to advance money or goods for the completion thereof, and such mortgage, hypothecation and privilege shall apply and attach not only on and to that portion constructed at the time of the granting of the same, but also to and on the said vessel during her construction and afterwards, until the same shall be removed by payment or by the contracting parties; Provided always, that it shall not be lawful for such owner to grant more than one such mortgage, hypothecation and privilege, and all subsequent grants without the express consent of the first advancer or advancers shall be void.

Vessel may be hypothecated as soon as the keel is laid.

Proviso: only one such hypothec to be valid.

II.

Or the property of the vessel may be assigned.

Effect of assignment.

Proviso : Owner's action of account saved.

First advancer may grant hypothec, &c.

Proviso.

Proviso.

Register to be granted to party producing the proper contract, &c.

Proviso : if no contract be registered.

Contracts under this Act must be registered, and where.

Form of Memorial for Registration, and proof thereof.

II. It shall also be lawful for the said contracting parties to agree that such vessel whose keel shall be so laid as aforesaid, shall be the property of such party or parties advancing thereon as aforesaid, so that such advancer may obtain the register of the vessel and sell the same and grant a good and clear title therefor; and such agreement shall *ipso facto* transfer and vest, for the purposes aforesaid, and for the security of the said advances, not only the property of such portion of the vessel as shall be then constructed, but of the said vessel up to and after completion, and the said advancer shall give and grant the builder's certificate for the said vessel; Provided always, that nothing herein contained shall take away the right of the owner to his action of account, or such other remedy as the law affords him against the advancer.

III. It shall be lawful for the first advancer in like manner to mortgage, hypothecate and grant a privilege or lien, and to grant delivery as aforesaid, to any subsequent advancer, and so by one advancer to another; Provided always, that in such case the formalities required by this Act shall be followed, and not otherwise; And provided also, that the owner shall have his legal recourse against the first and subsequent advancer or advancers for an account jointly and severally.

IV. It shall be the duty of the proper officer to grant the register of such vessel to the advancer or his duly authorized agent producing an authentic copy of such contract, or the original when not passed before a Notary, with the certificate of registration endorsed thereon of the Registrar of the County or place where such vessel shall have been built; and in the event of more than one advancer, then to the advancer last in date duly registered as aforesaid; and such first or subsequent advancer, as the case may be, is hereby authorized and empowered to make and grant the builder's certificate; Provided always, that if the owner produce a certificate that no such contract has been registered, he shall receive the register and grant the builder's certificate.

V. Every contract to be made under this Act, must be passed in due form before a Notary Public or in duplicate before two witnesses, and the said contract or a memorial thereof must be registered in the Registry Office of the County or place where the said vessel shall be so built; and such contract and the rights thereon shall only avail and accrue from the date of such registration; and unless such contract be so made and registered as aforesaid, this Act shall in no way enure to the benefit of the contracting parties, or any of them.

VI. Every memorial to be registered as aforesaid shall be in writing under the hand of the advancer and attested by two witnesses, and shall contain a description of the vessel, with the designation of the ship-yard or place where she has been or is being built, the amount in money or goods to be advanced, with  
the

the names and additions and residences of the contracting parties and of the witnesses, and the date of the contract, and where the same had been passed before a Notary, the name of the said Notary, and shall be presented and delivered to the Registrar or his Deputy at the office where the same is to be registered, and the same shall be acknowledged by the advancer or advancers by whom the same shall have been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said Registrar or his deputy, who is hereby empowered to administer the said oath; and together with every such memorial there shall be produced to the said Registrar or his Deputy the contract in writing of which such memorial is to be registered, or a Notarial copy thereof if the original be executed in Notarial Form and within the custody of a Notary, or such office copy as may have validity; and the said Registrar or his Deputy shall endorse and sign the usual certificate of the registration thereof, and such certificate shall be taken as evidence of such Registry in all Courts of Law; Provided always, that any memorial to be registered as aforesaid which may be made at any place within this Province not within the County wherein the keel of the said vessel may lie, shall be entered and registered on the production and delivery to the Registrar of such County, or his Deputy, of an affidavit sworn before any one of the Judges of the Court of King's Bench or Queen's Bench, or of the Superior Court, or of the Common Pleas, by which the execution of such memorial shall be proved by one of the witnesses of the same or by the said advancer or advancers, or one of them; and any memorial to be registered which may be made or executed in Great Britain or Ireland, or in any of the Colonies or possessions belonging to the Crown of the United Kingdom, shall be entered and registered upon the production and delivery to the Registrar or his Deputy of an affidavit sworn before the Mayor or Chief Magistrate of any City, Borough or Town corporate in Great Britain or Ireland, or the Chief Justice or Judge of any Supreme Court of any such Colony or possession, by which the execution of such memorial shall be proved by the advancer or by any one of the witnesses to the same; and Registrars shall charge the same fees for such registration and certificates of search or other documents as in other cases; and shall keep a separate book therefor.

Effect of certificate of registration.

Proviso: as to Memorials not made within the County where the keel is laid.

Fees for registration, &c.

VII. This Act shall not deprive any party of any legal right, action, lien, privilege or hypothec, which by law he had at the time of making any such contract, nor up to the time of registration as aforesaid, nor deprive any person of his right to have an account where by law he is entitled thereto.

Act not to deprive any party of any lien, &c., the may have at law.

## C A P . L I .

## An Act to amend the Act for incorporating Library Associations and Mechanics' Institutes.

[Assented to 19th June, 1856.]

Preamble.

14 & 15 V.  
c. 86.

WHEREAS it is expedient to amend the second section of the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act for the incorporation and better management of Library Associations and Mechanics' Institutes*, so as to enable such institutions in certain towns and villages to hold property to a larger amount than the sum therein limited: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Amount of real property in towns, &c., of more than 3,000 inhabitants.

And in those having a smaller population.

I. From and after the passing of this Act, it shall be lawful for any Library Association or Mechanics' Institute incorporated under the said Act, and situate in any village or town having three thousand inhabitants or more, to hold real property not exceeding in annual value the sum of five hundred pounds; and for any Library Association or Mechanics' Institute incorporated under the said Act, and situate in any town or city not having more than three thousand inhabitants, to hold real property not exceeding in annual value the sum of two hundred and fifty pounds; any thing in the said section to the contrary notwithstanding.

## C A P . L I I .

## An Act to extend the provisions of the Act to facilitate actions against persons associated for commercial purposes, and against unincorporated Companies.

[Assented to 19th June, 1856.]

Preamble.

12 V. c. 45.

WHEREAS it is expedient to extend to certain Associations and Companies hereinafter described the provisions of the Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to facilitate actions against persons associated for commercial purposes, and against unincorporated Companies*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Act extended to partnerships formed for certain purposes.

I. All and every the provisions of the Act referred to in the preamble of this Act, shall extend and be held and construed to extend to all persons associated in partnership for manufacturing purposes, or for mechanical purposes, or for purposes of construction of roads, dams, bridges or other buildings, or for purposes of colonization, or settlement or of land traffic.

II.

II. The word "Partnership" in the said Act, and in this Act, shall include any unincorporated Society, Company or Association for any one or more of the above purposes; and the word "action" in the said Act, shall include any proceeding at Law to which any such Partnership shall be a party.

Interpretation clause.  
To apply only to L. C.

III. This Act shall apply to Lower Canada only.

### C A P . L I I I .

#### The Seigniorial Amendment Act of 1856.

[Assented to 19th June, 1856.]

**W**HEREAS it is expedient to amend the Seigniorial Act of 1854, and the Seigniorial Amendment Act of 1855, in order to facilitate the operation of the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. Whenever the rule prescribed by the second sub-section of the sixth section of the Seigniorial Act of 1854, for determining the yearly value of any casual rights cannot be applied in any Seigniority, the Commissioner shall himself adopt some other equitable mode of estimating such yearly value.

The ten year average rule to be dispensed with in cases to which it is not applicable.

II. The seventh sub-section of the sixth section of the said Seigniorial Act of 1854, is hereby repealed.

Sub-section 7 of section 6 repealed.

III. In estimating the casual rights of the Crown in the several Seigniories in Lower Canada, the Commissioners shall establish the average yearly revenue of the Crown arising from these rights throughout Lower Canada, and such average yearly revenue shall be taken as representing the interest at six per cent. of a capital sum to be apportioned among all the Seigniories liable to the payment of *Quint*, in proportion to their value; the amount apportioned to each Seigniority shall represent the rights of the Crown therein, and shall be deducted from the amount to be paid by the *Censitaires* for the redemption of the casual rights of the Seignior.

Casual rights of the Crown, how to be estimated.

IV. From and after the passing of this Act, all the provisions relative to the appointment of *Experts*, contained in the tenth Section of the Seigniorial Act of 1854, or in any other Section of the said Act, shall be repealed; and in all Seigniories in which there shall have been requisitions for or appointments of *Experts*, the Commissioners shall act in every respect as though there had been no such requisition for or appointment of *Experts*.

All provisions for the appointment of *Experts* repealed.

V. All the words after the words "following the said notice," in the first paragraph of the eleventh section of the said Seigniorial

Section 11 of Seigniorial

Seigniorial

Act of 1854.  
amended.

Where the  
Schedule shall  
be left for  
examination.

Commissioner  
to decide on  
objections.

Seigniorial Act of 1854, (including both the sub-sections,) are repealed, and in lieu thereof the following are substituted, "in some convenient place in the Seignior, in charge of some fit and proper person, and the name of such person and the place of deposit shall be indicated in such notice; and any person interested in the Schedule may point out in writing, addressed to the Commissioner and left with the person in charge of the Schedule, any error or omission therein, and require that the same be corrected or supplied; and at the expiration of the said thirty days it shall be the duty of the Commissioner to be present at the place indicated in such Notice, and to examine into and decide upon the objections made in writing as aforesaid."

Sub-section 4  
of section 12  
to apply only  
to Commis-  
sioner com-  
pleting the  
Schedule.

VI. The fourth sub-section of the twelfth section of the said Seigniorial Act of 1854, shall apply only to the Commissioner who shall have finally completed the Schedule in question, and not to the Commissioner or Commissioners who shall have taken any of the proceedings preliminary to the completion of the Schedule.

Sub-sections 5  
& 6 of section  
12 repealed.

VII. The fifth and sixth sub-sections of the twelfth section of the said Seigniorial Act of 1854, are hereby repealed.

Period for de-  
mand of revi-  
sion of Sched-  
ule limited.

VIII. No revision of any Schedule shall be allowed, unless application be made for the same within fifteen days after the Commissioner shall have given his decision, as provided for by the eleventh section of the Seigniorial Act of 1854, as amended by this Act; and every such application shall be made by a petition presented on behalf of the party interested, to the Revising Commissioners or any one of them, specifying the objections made to such Schedule.

Proceedings  
where revision  
is demanded.

Upon the receipt of any such petition, it shall be the duty of the Revising Commissioners, after having given eight days' notice to the parties interested, in the manner prescribed by the seventh section of the said Seigniorial Act of 1854, to proceed to revise the Schedule therein mentioned, and for that purpose, to hear, try and determine the matters alleged in the said petition. The proceedings upon such revision shall be kept of record, and if the Commissioners find any error, they shall correct the same.

Where the Re-  
vising Com-  
missioners  
shall sit.

IX. The Commissioners selected to form a Court for the revision of the Schedules, shall sit at Montreal for the Seigniories in the Districts of Montreal and Ottawa; at Three-Rivers for those in the District of Three-Rivers; at Quebec for those in the District of Quebec; at Kamouraska for those in the District of Kamouraska; and at New Carlisle for those in the District of Gaspé; but any petition for the revision of a Schedule may be presented to the Revising Commissioners, or any one of them, in any District.

X. And inasmuch as the following Fiefs and Seigniories, namely : Perthuis, Hubert, Mille Vaches, Mingan and the Island of Anticosti, are not settled, the tenure under which the said Seigniories are now held by the present proprietors of the same respectively, shall be and is hereby changed into the tenure of *franc aleu roturier* : The difference in value between each of the said Seigniories as heretofore held and the same Seigniorie when held in *franc aleu roturier*, and also the value of the casual and other rights of the Crown in the said Seigniories, shall be ascertained and entered in the Schedule of the Seigniorie, and the amount of the whole shall, upon the filing of the said Schedule, become due and payable by the Seignior to the Crown, and shall form part of the fund appropriated in aid of the *Censitaires* ; And whenever the Governor in Council shall have been satisfied that any other Fief or Seigniorie is wholly unconceded, it shall be lawful for the Governor to issue a Proclamation declaring that such Fief or Seigniorie shall thenceforth be subject to the operation of this Section of the present Act : and from and after the date of the publication of any such Proclamation in the *Canada Gazette*, the tenure under which the Fief or Seigniorie or Fiefs and Seigniories therein mentioned are now held, shall be changed into the tenure of *franc aleu roturier* ; and in making the Schedules thereof, the Commissioners shall deal with such Fiefs or Seigniories in every respect as if they had been specially mentioned in this Section.

Special provision as to certain unsettled Seigniories.

Governor in Council may extend this section to Seigniories proved to be unsettled.

XI. And whereas the third section of the Seigniorial Amendment Act of 1855 does not apply to Seigniories held by the Crown in Lower Canada, whether such Seigniories form part of the Domain of the Crown, or are so held under any title or from any other cause, and it is expedient to grant to the *Censitaires* in the said Seigniories advantages similar to those granted to the *Censitaires* in other Seigniories by the said Section ; Therefore, it is enacted, That—

Special provisions as to Crown Seigniories.

1. No *Lods et Ventés* shall be demanded from purchasers in the said Seigniories held by the Crown, upon purchases made since the thirtieth day of May, one thousand eight hundred and fifty-five ;

No *lods et ventes* on sales after 30th May, 1855.

2. The Crown Agents for the said Seigniories shall, in the collection of the revenue of the Crown therefrom, and in regard of all other rights of the Crown as Seignior of such Seigniories, take notice of and be guided by the answers and decisions of the Special Court under the Seigniorial Act of 1854, upon the questions of Her Majesty's Attorney General for Lower Canada, except in so far as such rights may have been reduced or modified by any order or orders of the Governor in Council ;

Crown Agents to be guided by decisions of Seigniorial Court.

3. All unconceded lands and waters in the said Seigniories shall be held by the Crown in absolute property, and may be sold

Unconceded lands and sold

waters to be absolute property of the Crown.

Section 3 of Act of 1835, amended: approximate value of mutation fines to be paid in the mean time to the Seigneur, instead of interest on his approximate share of the fund.

sold or otherwise disposed of accordingly, and when granted, shall be granted in *franc aleu roturier*.

XII. And in amendment of the third section of the said Seigniorial Amendment Act of 1855, it is enacted, That the Commissioners or any one or more of them, shall forthwith make a separate statement for each Seigniori, shewing, as nearly as can then be ascertained, and subject to correction thereafter:

1. The average yearly revenue from *lods et ventes*,—
2. The average yearly revenue from *quint*,—
3. The average yearly revenue from *relief*,—and
4. The average yearly revenue from other casual rights (if any) which, under the said section, ceased to be payable after the passing of the said Act;

5. Such statement shall be made separately for each Seigniori, and so soon as the Commissioners are able to make it, and shall be sent to the Receiver General; and instead of the interest mentioned in the said amended third section, (which shall accumulate as part of the Provincial aid to the *Censitaires*,) the amount of such yearly revenue in each Seigniori as shewn by such statement, from the thirtieth day of May, one thousand eight hundred and fifty-five, (the day of the passing of the said Act,) up to the first day of January or July last past at the time the statement shall come to the Receiver General, shall be then paid by the Receiver General to the Seigneur or Seigneur *dominant* of such Seigniori; and thereafter one half of the average yearly revenue mentioned in each such statement respectively, shall be paid to the Seigneur or Seigneur *dominant* entitled to it, on the first day of January and the first day of July, until the Schedules are finally deposited; and the amount so paid to each Seigneur shall be debited to him, as so much received by him on account of the portion of the Provincial appropriation for the relief of *Censitaires* payable to him and of the interest on such portion; but in computing the amount to be deducted on account of the said Provincial aid, from the total value of the Seigniorial rights in any Seigniori as shewn by the Schedule thereof, in order to ascertain the amount remaining chargeable upon the *Censitaires*, the correct value of such casual rights (as finally ascertained by the Schedule) from the said thirtieth of May, one thousand eight hundred and fifty-five, to the publication of the notice of deposit of the Schedule (and not the approximate value first above mentioned) shall (as representing the average sum saved by the *Censitaires* during the same period, by the non-payment of the said casual rights or any compensation therefor,) be deducted from the total amount of principal and interest

How the Provincial aid to be deducted from the value of Seigniorial charges, shall be computed.

interest payable to the Seignior from the said Provincial Aid, and the remainder shall be the sum to be deducted from the total value of the Seigniorial Rights as shewn by the Schedule, in order to ascertain the amount payable by the *Censitaires*: Provided always, first, that the whole sum to be paid by the Receiver General to any Seignior *dominant*, shall be also deducted from that which would be otherwise payable by the *Censitaires* of the Seignior *servant*; and secondly, that if the approximate sum paid to any Seignior *dominant* under this section by the Receiver General, shall be more or less than the true value of his rights for the time, the difference shall be deducted or added (as the case may require) from or to the sum to be paid by the Receiver General to such Seignior *dominant*, under the sixth sub-section of section six of the said Seigniorial Act of 1854.

Proviso.

Proviso.

XIII. In the event of any Seignior or Seignior *dominant* being indebted to the Crown in any sum of money for any right arising from any Seignior held by such Seignior or Seignior *dominant*, the Receiver General shall retain the amount so due to the Crown from the amount payable to such Seignior or Seignior *dominant* under the provisions of this Act or of the Acts hereby amended; and the amount (if any) due to the Crown by each Seignior, shall be ascertained by the Commissioner making the Schedule of each Seignior and certified by him to the Receiver General.

Money owing to the Crown by a Seignior may be retained out of his share.

XIV. In any case in which, by reason of an equal division, no judgment has been rendered by the Judges of the Court of Queen's Bench and Superior Court for Lower Canada, on any of the questions to them submitted by the Attorney General for Lower Canada under the provisions of the sixteenth section of the said Seigniorial Act of 1854, the Commissioner making the Schedule shall, in any case to which such question refers, decide it in such manner as he shall think most equitable under the circumstances, saving the right of the Court for the revision of Schedules, to be appointed under the twelfth section of the said Seigniorial Act of 1854, to pronounce a final decision on such question or questions, and to amend such Schedule according to such decision, if need shall be.

Provision where the Judges have been equally divided in opinion.

XV. The Commissioner making the Schedule of any Seignior shall have full power either by himself or by any person authorized by him, to inspect the Repertory of any Notary, whenever he shall think such inspection desirable for obtaining information to ensure the greater correctness of the Schedule, such inspection being demanded and made at reasonable hours and on juridical days; and any Notary refusing to allow such inspection shall thereby incur a penalty of one hundred pounds; and for each such inspection the Notary shall be entitled to five shillings for each hour it shall continue; Provided that whenever any such inspection shall be demanded by any Seignior, it shall be made at his expense.

Commissioners may inspect Repertories of Notaries.

Seigniorial possession to be sufficient for the purpose of the Schedule.

XVI. For the purpose of making the Schedule of any Seigniori, the boundaries thereof shall be deemed to be those actually possessed by the Seignior, although all or any part thereof may be in dispute.

Seigniors allowed to alienate unconceded lands.

XVII. And whereas the provision in the Seigniorial Act of 1854, prohibiting any Seignior from conceding or alienating the unconceded lands in his Seigniori until after the deposit of the Schedule thereof, retards settlement, it is therefore enacted, that from and after the passing of this Act, all unconceded lands in any Seigniori the tenure of which has not been theretofore commuted, shall be held by the Seignior *en franc aleu roturier*, and may be dealt with by him in like manner as lands held by other persons under the same tenure may be dealt with; except that if the Seigniori be entailed (*substituée*) or held by any party otherwise than as absolute owner thereof, then the price of such lands shall form the capital of a *rente constituée*, which capital shall not be paid except to some party holding the Seigniori as absolute owner thereof; but any party whose title would, before the passing of the Seigniorial Act of 1854, have authorized him to concede such unconceded lands, may after the passing of this Act, sell the same for such *rente constituée* as aforesaid, and not otherwise.

Proviso: when the Seigniori is substituted, &c.

Lands in Socage or *franc aleu* not to be charged with irredeemable rents, or mutation fines, &c.

XVIII. No lands held in Free and Common Socage or *en franc aleu roturier*, shall be charged with any perpetual irredeemable rent; and whenever any such rent shall be so stipulated, the capital thereof may be at any time redeemed at the option of the holder of the land charged therewith, on payment of the capital of such rent calculated at the legal rate of interest; and any stipulation in any deed of conveyance (*translatif de propriété*) of any such land, tending to charge the same with any mutation fine or any payment in labor, or tending to entail upon the holder of any such land, the duty of carrying his grain to any particular mill, or any other feudal duty, servitude or burthen whatsoever, shall be null and void.

Correction of an error in ss. 26 & 27 of the Act of 1854, as to notice of deposit of Schedule.

XIX. And whereas the notice of the deposit of the Schedule of any Seigniori, which the provisions of thirteenth Section of the Seigniorial Act of 1854, should be given by the Commissioner who shall have made such Schedule, is erroneously referred to in the twenty-second and twenty-sixth Sections of the same Act, as a notice to be given by the Receiver General,—it is hereby declared and enacted, that the said twenty-second Section should, and the same shall henceforth be read and interpreted as if the words “by the Receiver General” in the second and third lines of the said twenty-second Section had never been inserted therein,—and that the said twenty-sixth Section should, and the same shall henceforth be read and interpreted as if the words “of the Receiver General” in the third line of the said twenty-sixth Section, and as if the words,

“in

“ in his hands ” in the fourth line of the same Section, had never been inserted therein.

XX. This Act shall be called and known as “ The Sei- Short title.  
gniorial Amendment Act of 1856.”

## C A P . L I V .

An Act to make better provision for promotion of superior Education and the establishment and support of Normal Schools in Lower Canada and for other purposes.

[Assented to 19th June, 1856.]

**W**HEREAS it is expedient to establish a permanent Fund Preamble.  
for the promotion of superior Education and the support of Normal Schools in Lower Canada, and to make other provision for the same purpose : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. The Estates and Property of the late Order of Jesuits, whether in possession or reversion, including all sums funded or invested, or to be funded or invested, as forming part thereof, and the principal of all moneys which have arisen or shall arise from the sale or commutation of any part of the said Estates or Property, are hereby appropriated to the purposes of this Act, and shall form a Fund to be called the “ Lower Canada Superior Education Investment Fund,” and shall be under the control and management of the Governor in Council, for the purposes of this Act ; and the said Fund shall be understood to be intended by the words “ the said Investment Fund,” whenever they occur in this Act. Jesuits' estates appropriated as an investment Fund for Superior Education in Lower Canada.

II. The revenues and interest arising from the said Investment Fund, that is to say :—The revenues and interest hereafter to arise from the real property forming part of the Jesuits' Estates, or from moneys funded or invested as belonging to the said Estates, or from any property, real or personal, reversible to the said Estates as part of them,—the revenue and interest of investments made or to be made, and of debentures held or to be held, on account of the said Estates,—the income and interest to arise from investments to be made out of the moneys received or to be received from commutations effected or to be effected in the Seigniories forming part of the said Estates, or out of the moneys to be received from the collection of any arrears of revenues, interest, and of debts now due, being part of the said Estates, and out of all moneys which, in lieu of any Seigniorial right to be abolished or commuted, will, as part of the said Estates, become due and payable under the Seigniorial Act of 1854, and the Seigniorial Amendment Act of 1855, or under any other Provincial Act enacted or to be enacted, in relation Revenues and interest to form an Income Fund for the said purposes.

Unexpended balance of Common School Fund for L. C. to form part of Income Fund.

to the abolition or commutation of feudal rights and duties in Lower Canada,—the revenue and interest to arise from investments to be made out of the moneys to be received from the sale of any portion of the said Estates, or from the sale or redemption of any *rente foncière* or *rente constituée*, being part of the said Estates,—shall, with the unexpended and unclaimed yearly balances of the Common School Fund for Lower Canada, and the sum hereinafter directed to be paid yearly out of the Consolidated Revenue Fund of this Province, and with any sum to be taken for the purpose in any year out of the Common School Fund of Lower Canada, form a Fund, to be called the “Lower Canada Superior Education Income Fund;” and the said Fund shall be understood to be intended by the words “the said Income Fund,” whenever they occur in this Act.

Property belonging to Jesuits' estates may be sold when the sale will increase the said Income Fund.

III. Whenever it shall appear to the Governor in Council that the said Income Fund may be increased by the sale and by the investment of the proceeds of the sale of any portion of the said Estates, or of any *rente foncière* or *rente constituée* then forming part of them, it shall be lawful for the Governor in Council to order such sale to be made, and to direct that the moneys realized by it be invested in provincial debentures or other securities, the annual interest or income whereof shall form part of the said Income Fund.

Yearly appropriation towards Income Fund.

Income Fund to be made up to £22,000 per annum.

IV. There shall be annually placed to the credit of the said Income Fund, the sum of five thousand pounds currency, out of the Consolidated Revenue Fund of this Province, which sum shall form part of the said Income Fund, and be appropriated accordingly; and if in any year the said Income Fund shall fall short of the sum of twenty-two thousand pounds, then such sum as may be necessary to make it equal to twenty-two thousand pounds, shall be taken from the Common School Fund of Lower Canada, and added to the said Income Fund for that year, as part thereof.

Apportionment of Income Fund among Superior Educational Institutions, by the Superintendent of Schools.

V. The said Income Fund, or such part thereof as the Governor in Council shall from time to time direct, shall be annually apportioned by the Superintendent of Schools for Lower Canada, in such manner, and to and amongst such Universities, Colleges, Seminaries, Academies, High or Superior Schools, Model Schools and Educational Institutions, other than the ordinary Elementary Schools, and in such sums or proportions to each of them, as the Governor in Council shall approve; and the grants or amounts so apportioned shall be paid by the Receiver General, on the warrant of the Governor, to the said Superintendent, who shall pay the same to the respective Educational Institutions entitled to them.

Balance of Income (if any), how to be applied.

VI. If in any one year the whole of said Income Fund be not apportioned, the balance not distributed shall remain for further distribution as is before provided, or shall, if the Governor shall

so direct, be invested, and the income or the interest of the investment shall be added to the said Income Fund, and the principal shall form part of the said Investment Fund.

VII. Grants to be made under this Act out of the said Income Fund shall be for the year only, and not permanent; and the Governor in Council may attach to such grants any conditions which may be deemed advantageous for the furtherance of Superior Education. Grants from Income Fund to be yearly, and may be conditional.

VIII. No grant shall be made to any Educational Institution not actually in operation, nor to any Institution owning real estate, whose liabilities shall exceed two thirds of the value of such real estate. Certain Institutions to have no claim.

IX. Any Educational Institution desirous of obtaining a grant under this Act, shall make application to that effect to the said Superintendent of Schools, before or during the month of July in every year: and the Superintendent shall not recommend any grant to any Educational Institution whose application shall not be accompanied by a Report, shewing, with reference to such Institution: Application for aid out of Income Fund how made. Report to accompany application; what it must contain.

1. The composition of the governing body;
2. The number and names of the Professors, Teachers or Lecturers;
3. The number of persons taught, distinguishing those under sixteen years and those above sixteen;
4. The general course of instruction, and the books used;
5. The annual cost of maintaining the Institution, and the sources from which the means are derived;
6. The value of the real estate of the Institution, if it holds any;
7. A statement of its liabilities;
8. The number of persons taught gratuitously, or taught and boarded gratuitously;
9. The number of books, globes and maps possessed by the Institution, and the value of any museum and philosophical apparatus belonging to it.

X. It shall be lawful for the Governor in Council, to direct that out of the said Income Fund, a sum not exceeding five hundred pounds currency, be yearly or during any number of years set apart and appropriated as an aid towards the formation of Parish and Township Libraries, in localities in Lower Canada where adequate contributions may have been made by the School Municipalities or otherwise for the same purpose; such aid to be given in money or in books as the Governor in Council shall direct and upon such conditions as he shall think proper; and such Libraries shall be under such management, inspection and regulations as the Superintendent of Schools shall from time to time determine with the approval of the Governor in Council. Yearly aid out of Income Fund to parish and township Libraries. Management of Libraries.

XI.

Recital.

Governor in Council to establish one or more Normal Schools in L. C.

Superintendent of Schools to have the control and to make regulations, with approval of Governor in Council.

And appoint Teachers, &c.

Reports to be made to him.

Students in Normal Schools may obtain certificates as Teachers.

Yearly allowance for expenses of Normal Schools.

And in aid of Teachers in training.

XI. And inasmuch as it is necessary to make further provision for the establishment and maintenance of one or more Normal Schools in Lower Canada : Be it enacted, That it shall be lawful for the Governor in Council to adopt all needful measures for the establishment in Lower Canada of one or more Normal Schools, containing one or more Model Schools, for the instruction and training of Teachers of Common Schools in the science of Education and art of Teaching,—to select the location of such School or Schools, and to erect or procure and furnish the buildings requisite for the same; and the said Normal Schools shall be under the control of the Superintendent of Schools for Lower Canada, who, for their establishment and maintenance, shall from time to time make such arrangements as the Governor in Council shall direct; and shall, subject to the approval of the Governor in Council, cause to be made from time to time such rules and regulations as may be required for the management of such Normal Schools, and for prescribing the terms and conditions on which Students shall be received and instructed therein, the course of instruction to be gone through and the manner and form in which the Registers and books shall be kept, and certificates of attendance granted to Students; and shall likewise, subject to such approval, determine who shall be the Teachers and the persons to be employed therein, and the number and remuneration of such Teachers and persons to be so employed; and Reports shall be made from time to time by the Principals of such Normal Schools to the Superintendent of Schools, containing such particulars as he shall direct, whenever need shall be or he shall require such Reports.

XII. On the presentation by any Student to the Superintendent of Schools, of a certificate under the hand and seal of the Principal of any such Normal School, that such Student has gone through a regular course of study therein, the said Superintendent may grant to such Student a certificate or diploma of qualification which shall be valid until revoked for some breach of good conduct or of good morals by such Student, and by virtue whereof, while it remain valid, such Student shall be eligible to be employed as Teacher in any Academy, Model School or Elementary School under the control of School Commissioners or Trustees of dissentient Schools.

XIII. A sum not exceeding one thousand five hundred pounds shall be allowed yearly out of the Common School Fund for Lower Canada to defray the Salaries of officers and other contingent expenses of such Normal School or Normal Schools; and a sum not exceeding one thousand pounds shall be allowed yearly out of the said Income Fund, as an aid to facilitate the attendance of teachers in training at the Normal School or Normal Schools.

XIV. In case the two sums mentioned in the preceding section be found insufficient, it shall be lawful for the Governor in Council to order that out of the said Income Fund a certain sum be yearly set apart and appropriated for the support and maintenance of the said Normal School or Normal Schools, which sum so set apart and appropriated yearly, shall not exceed in any one year the sum of two thousand five hundred pounds.

Further allowance if the last mentioned is insufficient.

XV. And inasmuch as it is necessary to provide for the purchase of such site or sites, and for erecting or procuring and furnishing of such buildings, as may be requisite for the said Normal School or Normal Schools, it shall be lawful for the Governor in Council to order that out of the said Income Fund the sum of two thousand pounds be for such purposes yearly set apart and appropriated to form a fund to be called "The Lower Canada Normal School Building Fund," and any sum so yearly set apart and appropriated shall be invested or placed at interest as the Governor in Council shall direct; and the income and interest shall, like the principal, form part of the said Fund: the moneys and interest which may be realized by the sale of any site and the buildings thereon already acquired for Normal School purposes in Lower Canada, and not deemed convenient for such purposes, shall form part of the last mentioned Fund, and shall be invested or placed at interest in the like manner as any other sum forming part thereof.

Recital.

Normal School Building Fund constituted.

Proceeds of Sale of present buildings to form part of such Fund.

XVI. Any excess or amount of the Lower Canada Normal School Building Fund which shall not be actually required for the purposes for which the fund is constituted, shall, in the discretion of the Governor in Council and as he may direct, either revert to and form part of the said Lower Canada Superior Education Income Fund, or be invested as part of the said Lower Canada Superior Education Investment Fund, in which last case the income and interest arising from such investment shall form part of the said Income Fund.

Application of any excess of such Fund.

XVII. The foregoing sections shall apply only to Lower Canada; and so much of the Act 14 & 15 Victoria, chaptered 97, intituled, *An Act to provide for the establishment of a Normal School, and further to promote Education in Lower Canada*, as provides for the establishment of a Normal School in Lower Canada, and as may be inconsistent with any of the provisions contained in the foregoing sections, is hereby repealed; Provided nevertheless, that the said Income Fund shall be and remain chargeable with the payment of the Salaries of the Inspectors of Common Schools, under said last mentioned Act.

Preceding sections to apply only to L. C.

Proviso: Income Fund chargeable with Inspectors' salaries.

XVIII. And inasmuch as it is necessary to grant Provincial aid to certain Educational Institutions in Upper Canada, to the like amount to which it is hereby granted to similar Institutions in Lower

Recital.

Lower

£5,000 appropriated yearly for Superior Education in U. C. To be distributed by Parliament.

Lower Canada out of the general Funds of the Province: Be it enacted, That the sum of five thousand pounds currency, shall be yearly appropriated out of the Consolidated Revenue Fund of this Province, for the encouragement of superior Education in Upper Canada, and be distributed among the several collegiate Educational Institutions in Upper Canada, or such of them as the Legislature shall designate by an annual vote of the Provincial Parliament.

Report of things done under this Act.

XIX. The Superintendent of Schools for Lower Canada, shall in his yearly Report to the Legislature, state what he may have done under this Act during the period to which such Report may relate.

Accounting clause.

XX. The due application of all moneys expended under the authority of this Act shall be accounted to Her Majesty in the manner and form provided by the Interpretation Act, and an account thereof shall be laid before each of the Houses of the Provincial Legislature, within the first fifteen days after the opening of the then next Session thereof.

Interpretation.

XXI The words "Teacher" and "Student," in the foregoing provisions, shall include persons of either sex.

## C A P . L V .

### The Lower Canada Judicature Amendment Act of 1856.

[Assented to 19th June, 1856.]

Preamble.

12 V. c. 38.

WHEREAS it is expedient further to amend the Act of the Legislature of the Province of Canada passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, and the several Acts amending the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Judgments may be read by the Clerk in case of illness, &c., of the Judge.

Their effect.

I. Whenever a Judge of the Superior or Circuit Court of Lower Canada is unable, from sickness or other cause, personally to render any Judgment taken by him *en délibéré* in the said Circuit Court, he shall transmit such Judgment to the Clerk of the Circuit Court of the Circuit in which the case is pending, and the said Clerk shall, on receipt thereof, record the said Judgment, and shall on the next day of term read the same in open Court; and every such Judgment shall have the same force as if pronounced in open Court by the Judge himself on the day on which it shall have been read.

Certain powers under 16

II. All the authority given by the fifteenth section of the Act of the Legislature of Canada, passed in the sixteenth year of Her

Her Majesty's Reign, intituled, *An Act to amend the Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, to the Judge of the Superior Court resident in any District in Lower Canada, except the Districts of Quebec and Montreal, to hear and give Judgment in any case out of Term, is hereby extended to every Judge of the Circuit Court while exercising, in the District of Kamouraska or Ottawa, the powers of a Judge of the Superior Court under the fourteenth section of the same Act.

V. c. 194, s. 15. extended to Judges of the Circuit Court sitting in Ottawa or Kamouraska.

III. Whenever the Judge residing in any District other than the Districts of Quebec and Montreal, is absent from the place where the Superior Court is held, or unable from illness to perform his duties, the President of the General or Quarter Sessions of the Peace, or if there be no such officer in the District, the Prothonotary of the Superior Court, shall perform all the duties which the Resident Judge can by law perform out of Term.

How duties of Resident Judge may be performed in his absence, &c.

IV. Notwithstanding any thing contained in the seventeenth section of the said *Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, or in any Act amending the same, it shall be lawful for the Governor, by and with the advice of the Executive Council, by any proclamation or proclamations to be issued under the authority of the said section, to alter the number of Terms of the Circuit Court at any place, the times when such Terms are held, and the number of days included in the Terms.

Governor may alter number of Terms, &c. of Circuit Court at any place.

V. So soon as it shall have been shown to the satisfaction of the Governor in Council, that suitable accommodation has been provided for the holding of the Circuit Court within any of the limits hereinafter mentioned, it shall be lawful for the Governor, by Proclamation, to declare that any such limits shall on, from and after a day to be mentioned therein, constitute a Circuit, and by such Proclamation to fix the times and days at and on which the terms of the Circuit Court in such Circuit shall be held, and the number of days to be included in such terms.

Governor may direct Circuit Court to be held at certain places when Court House, &c., is provided.

VI. The said Circuits so soon as they shall be respectively established, as hereinbefore provided, shall be holden at the places hereinafter appointed, and the local extent and limits of the said Circuits shall be as follows, that is to say :

The said places to be as follows :

1. At Portage du Fort, in the County of Pontiac; the Circuit to be called the "Pontiac Circuit," which shall comprise the whole of the County of Pontiac ;
2. At Thurso, in the Township of Lochaber, in the County of Ottawa; the Circuit to be called the "Lochaber Circuit," which shall comprise all that part of the said County of Ottawa, which

Portage du Fort.

Thurso.

which lies to the east of the Lelievre River, together with the Townships of Bigelow and Bowman, and all those parts of the Townships of Portland and Buckingham which lie on the west side of the said Lelievre River;

Lashute.

3. At Lachûte, in the County of Argenteuil; the Circuit to be called the "Argenteuil Circuit," which shall comprise the whole of the County of Argenteuil;

Côteau Land-  
ing.

4. At the Village of Coteau-Landing, in the County of Soulanges; the Circuit to be called the "Soulanges Circuit," which shall comprise the whole of the said County of Soulanges;

Huntingdon.

5. At the Village of Huntingdon, in the County of Huntingdon; the Circuit to be called the "Huntingdon Circuit," which shall comprise the County of Huntingdon, and Russelltown in the County of Chateauguay;

County of  
Montcalm.

6. At the *chef-lieu* or County Town of the County of Montcalm; the Circuit to be called the "Montcalm Circuit," which shall comprise the whole of the said County of Montcalm;

Industry  
Village.

7. At the Village of Industry, in the County of Joliette; the Circuit to be called the "Joliette Circuit," which shall comprise the whole of the said County of Joliette, and all that part of the parish of St. Felix de Valois which is situated in the Township of Brandon, in the County of Berthier;

Drummond-  
ville.

8. At the Village of Drummondville, in the County of Drummond; the Circuit to be called the "Drummond Circuit," which shall comprise the Townships of Wickham, Grantham, Simpson, Wendover, and the first seven Ranges of the Township of Upton, in the said County of Drummond.

Changes made  
by Act or  
Proclamation  
not to affect  
pending suits.

VII. No change made by this Act or by any Proclamation issued under the authority thereof, in the limits of any Circuit established by any of the Acts hereinbefore mentioned, shall affect any action, suit or proceeding commenced in any such Circuit before the day mentioned in such Proclamation, on, from and after which any new Circuit shall be established; but the same and all proceedings and matters incident thereto, whether before or after execution, shall be continued and dealt with as if the limits of the Circuit in which such action, suit or proceeding was commenced, had not been changed or affected by this Act or by such Proclamation issued under the authority thereof.

Governor to  
appoint Clerks  
of Courts.

VIII. It shall be lawful for the Governor to name a Clerk for each of the said Circuits so soon as the Proclamation establishing the same shall have issued, and to appoint as such Clerk the person holding the office of Circuit Clerk of any adjoining Circuit;

Circuit; and any such Circuit Clerk so appointed for two Circuits may appoint a Deputy for each of the said Circuits.

IX. Notwithstanding any thing contained in the said *Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, the total number of Circuit Judges may be ten, instead of nine, as in and by the said Act provided; and it shall be lawful for the Governor at any time after the passing of this Act, to appoint an additional Judge of the Circuit Court, who shall have and exercise all the powers in and by the said Act, and those amending the same, conferred upon the Judges of the said Circuit Court.

Additional Circuit Judge may be appointed in L. C., notwithstanding 12 V. c. 38.

X. Notwithstanding any thing contained in the Act of the Legislature of this Province passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to amend the Judicature Acts of Lower Canada*, any Judge of the Circuit Court in any Circuit where there is no Resident Judge, may, either in Term or in Vacation, upon the application of the Plaintiff, Incidental Plaintiff, Opposant or Intervening Party in any appealable case, order that the evidence in such case be taken in accordance with the laws in force immediately before the passing of the said Act, which said laws are for such purposes hereby revived in so far as they may have been repealed or amended by the said Act.

How evidence in appealable cases where there is no Resident Circuit Judge may be taken. 18 V. c. 104.

XI. The eleventh Section of the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to increase the number of sittings of the Courts of Justice within the District of St. Francis, and to make a more convenient arrangement thereof*, is hereby repealed.

Section 11 of 18 V. c. 166, repealed.

XII. This Act shall be called and known as "The Lower Canada Judicature Amendment Act of 1856."

Short title of Act.

## C A P . L V I .

An Act to facilitate the Examination of Candidates for admission to the Notarial Profession in Lower Canada.

[Assented to 19th June, 1856.]

**W**HEREAS great inconvenience and useless expense are occasioned to candidates for admission to practise as Notaries in Lower Canada, from the fact of their Articles of Clerkship frequently expiring a few days only after the meeting of the Board of Notaries of their District, thereby obliging them to wait for a period of three or four months after the expiration of their term of service in order to present themselves for examination, and also from the fact that many students have neglected to enregister the transfers of their Articles within the period required by Law: Therefore, Her Majesty, by and with

Preamble.

with

with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Students may be examined at the meeting nearest the expiration of their articles.

Proviso: Whether before or after such expiration.

I. Notwithstanding any thing contained in the Act of the tenth and eleventh years of Her Majesty's Reign, chaptered twenty-one, any candidate may present himself for examination and admission to the Notarial Profession, in conformity with the law, at the regular and ordinary meeting of the Board of Notaries which shall be held within the shortest period from the expiration of his Articles of Clerkship, whether such meeting takes place before or after the expiration of the said Articles of Clerkship : Provided always, that no candidate shall, if the Board of Notaries agree thereto, be excluded from permission to present himself for examination in order to admission to the Notarial Profession, at any extraordinary or special meeting of the Board, which in the opinion of the said Board will be the nearest in date to the expiration of the Articles of Clerkship, whether the said extraordinary or special meeting takes place previous to or after such expiration.

Transfers of articles may be registered within six months after the passing of this Act.

II. Any deposit and registration made by any Notarial Student within the six months next after the passing of this Act, of an authentic copy of the transfer or transfers of his Articles which may have been executed before this Act shall come into force, shall be as valid and effectual to all intents and purposes as though such deposit had been made within the period prescribed by the Act passed in the twelfth year of Her Majesty's reign, and chaptered forty-seven.

## C A P . L V I I .

An Act to amend the Act authorizing disinterments in certain cases in Lower Canada.

[Assented to 19th June, 1856.]

Preamble.

16 V. c. 174.

**W**HEREAS it is expedient to amend the Act passed in the sixteenth year of Her Majesty's Reign, intituled; *An Act to permit of disinterments in certain cases, and for other purposes therein mentioned*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

General permission to remove all bodies from old to new ground.

I. Whenever it shall have been determined by competent authority of the Roman Catholic Church in Lower Canada to remove any old burial ground, or to open a new burial ground, within any parish or mission of that Church in Lower Canada, it shall be lawful for any Judge of the Superior or of the Circuit Court for Lower Canada, on a petition being presented by the Parish Priest or Missionary, and by the majority of the Church Wardens of the Roman Catholic Church or Congregation to which such old burial ground belongs, or to whose use it is applied,

applied, to grant them a permission to cause or to allow all or any of the bodies buried in such old burial ground to be removed to such new burial ground.

II. It shall be the duty of such Parish Priest, Missionary or Church Wardens, as the case may be, to cause a register to be kept of all bodies which shall be removed from such old burial ground, shewing, as far as may be possible, the names and surnames of the deceased whose bodies are so removed, and also the names and surnames of those requiring such removal, or that they were removed by order of such Priest or Missionary, and of the Church Wardens of such Church or Congregation.

Register to be kept of such removals.

III. Such register shall be certified by such Priest or Missionary ministering to the Church or Congregation to which such old burial ground shall belong.

Register to be certified.

IV. No application made to any such Priest or Missionary, or to any such Church Wardens, for the removal of any particular body, shall be granted unless accompanied by an affidavit as required by the first section of the Act hereby amended.

Special applications must be supported by affidavit.

V. Such affidavit may be sworn to before a Judge or Commissioner for receiving affidavits, or before the Priest or Missionary, or before any of the said Church Wardens, all of whom are hereby empowered to administer the requisite oath.

How such affidavit shall be sworn.

VI. The expression "burial ground" shall apply to any portion of a burial ground which shall be removed as aforesaid, and the words "Church Wardens" shall include any officers of a Roman Catholic Church or Congregation having the management of its burial ground, by whatever name they may be known.

Interpretation.

VII. Before proceeding to any disinterment in any burial ground under this Act, permission to that effect shall be obtained from the Superior Ecclesiastical authority of the Roman Catholic Diocese in which the same is situate.

Permission for disinterment to be obtained from Superior Ecclesiastical Authorities.

C A P . L V I I I .

An Act to amend the Act establishing Mutual Fire Insurance Companies in Lower Canada.

[Assented to 19th June, 1856.]

WHEREAS it is expedient to amend the Act of the Legislature of Lower Canada, passed in the fourth year of the Reign of His late Majesty, King William the Fourth, intituled, *An Act to authorize the establishment of Mutual Fire Insurance Companies*, so far as relates to double insurance, and to the competency of witnesses and judges in suits where Insurance Companies

Preamble.

Act of L. C., 4 W. 4, c. 33.

Companies

Companies are interested ; and further to amend the said Act and other Acts relating to insurance, so far as relates to notices required to be given in certain cases : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Section 23 declared to refer to personal as well as real property.

I. The provisions and enactments contained in the twenty-third section of the above cited Act shall be held to include and have reference to all property, as well personal as real, which Fire Insurance Companies, organized under said cited Act or other Acts amending the same, are allowed to insure, and to this effect shall be construed and interpreted by all Courts and Judges before whom the same shall be brought in question.

Members of Company to be competent witnesses for or against it.

II. The interest any person may have in the issue of any suit or action to which any Insurance Company formed under the said cited Act or any Act or Acts amending the same, by reason of his being a member of such Insurance Company, shall not render him an incompetent witness in such suit or action on behalf or against such Company, nor shall such interest be sufficient cause for the recusation of a Judge before whom any cause to which an Insurance Company may be a party shall be heard.

Policy need not be in duplicate, or signed by party assured.

III. It shall not be necessary to the validity of any Policy of Insurance which shall hereafter be issued by any Company formed under the above cited Act, or under any Act or Acts amending the same, that such Policy shall be executed in duplicate, or that such Policy shall be signed by the party assured ; and whenever it shall be deemed expedient by the Directors of such Company not to execute any Policy in duplicate, the words "in duplicate" in the form (Schedule A), appended to the first cited Act, may be omitted.

Premium notes may be signed by affixing usual mark.

IV. In cases when any party applying for insurance cannot write, the application, premium note, or any other document necessary to be signed by him, may be signed with his mark in the presence of two witnesses who shall attest the same after such application, note, or other document shall have been read to the party so making his mark as aforesaid.

Mode of publishing certain notices to be determined by By-law.

V. It shall not be necessary that the Directors of any Company shall publish by posting notices at the Church doors of the Churches of the parishes or townships in which any members of such Company may reside, the total amount of any dividend to be paid in, which shall have been declared during the year, but the mode by which such notice shall be published may be determined by the By-laws of such Company ; Provided such notice shall be published in at least one newspaper within the District where the party assured resides, if there be such newspaper within the District, and if not, the same shall be published in a newspaper published nearest the residence of the party assured ; and the notice so published pursuant to the

Proviso.

By-laws

By-laws of such Company shall have the same effect with respect to all parties indebted for such dividend as if the same had been posted at the Church doors as aforesaid.

VI. It shall not be necessary that notices of any meeting other than the first meeting of the Company, shall be published by posting the same at the Church doors of the parishes or townships within which any insurances by such Company are effected, but notice of such meetings inserted two consecutive weeks in one newspaper in the English Language and one in the French Language, published at or nearest the place of business of such Company, prior to the date of such meeting under the signature of the Secretary, specifying the date and place of such meeting, shall be sufficient.

Notices of meetings of the Company how to be published.

VII. Nothing in this Act shall be held to affect in any manner suits pending or determined at the time this Act shall come into force, or any rights acquired, but the same shall be determined in all respects as if this Act had not been passed.

Act not to affect acquired rights, &c.

C A P . L I X .

An Act to provide more effectual means for securing the payment of constituted rents and life rents.

[Assented to 19th June, 1856.]

WHEREAS it is expedient to provide more effectual means for securing the payment of constituted rents (*rentes constituées*) and life rents (*rentes viagères*) in Lower Canada: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. It shall henceforward be lawful in Lower Canada for the holders of constituted rents (*rentes constituées*) and life rents (*rentes viagères*) secured by privilege and hypothec of *baillieur de fonds*, to proceed by opposition *afin de charge* for the preservation of their rights in respect of such rents.

Oppositions *afin de charge*, may be made for such rents.

C A P . L X .

An Act to enable the Municipal Council of the Town of Cornwall to appropriate the surplus of certain moneys raised for making a Macadamized Road.

[Assented to 19th June, 1856.]

WHEREAS the Town Council of the Town of Cornwall, deeming it greatly for the advantage of the Town that a Macadamized Road should be constructed therefrom to the rear of the Township of Roxborough, and believing that the Townships of Cornwall and Roxborough would take equal shares with the said Town in the undertaking, proposed a

Preamble.

By-law for raising for the said Town on the credit of the Consolidated Municipal Loan Fund, a sum not exceeding three thousand pounds currency, to be applied to the purpose of assisting in the construction of the said Road or any portion thereof, not less than four miles in length, reckoning from the said Town, which By-law after being submitted to a special meeting of the inhabitants of the said Town, in the manner by law provided, was almost unanimously approved by them and was finally passed on the thirtieth day of November, one thousand eight hundred and fifty-three, and the sum of three thousand pounds was raised under the authority thereof; And whereas an incorporated Company was formed under the Act in that behalf provided for the purpose of making the said Road, and the said Town Council subscribed for and hold stock therein on behalf of the said Town, and the said Road has been constructed and made as far as Eamer's Corners, a distance of upwards of four miles from the said Town, and is now in such a state of forwardness as that it must be completed so far by the first day of May, one thousand eight hundred and fifty-six; And whereas the Township Councils of the said Townships of Cornwall and Roxborough have refused to assist in constructing the said Road beyond Eamer's Corners, and it is not for the advantage of the said Town to assist in making it beyond that point without the co-operation of the said Townships, and there will remain in the Bank of Upper Canada in which the sum raised under the said By-law is deposited, a balance of the said sum after paying for the stock of the said Company subscribed for by the said Town, and all other expenses lawfully incurred by it under the said By-law, and the said Council of the said Town have prayed to be empowered to apply such balance for the purpose of making certain improvements in the said Town, which prayer it is expedient to grant: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Balance of the moneys raised for making the said road may be expended in improving certain streets in the Town.

Council need not improve the road beyond Eamer's Corners.

Public Act.

I. Any balance which may remain of the said sum of three thousand pounds, after paying up the stock of the Road Company aforesaid, subscribed for by the said Town Council of Cornwall, and any other expenses incurred by the said Town Council in respect of the said Road, shall be applied by the said Council towards the improvement of Water Street from the Bridge over the Canal eastward to Pitt Street, and of Pitt Street from Water Street to the rear of the said Town, with stone or other imperishable materials; and the said balance shall be paid over by the Bank of Upper Canada to the Treasurer of the said Town, and shall remain in his hands subject to the orders of the said Council, for the purpose of defraying the cost of such improvements as last aforesaid, and the said Town Council shall not be bound to construct or assist in the construction of the Road first aforesaid, beyond Eamer's Corners; any thing in any Act or By-law to the contrary notwithstanding.

II. This Act shall be deemed a Public Act.

## C A P . L X I .

An Act to authorize the Municipal Council of the Town of Chatham to dispose of the Land now set apart for a Cemetery in the said Town.

[Assented to 19th June, 1856.]

**W**HEREAS the Municipal Council of the Town of Chatham have represented that the ground set apart in the said Town by the Crown, for the purposes of a public Cemetery, has been found to be altogether unfit for such Cemetery, by reason of the wetness of the soil and the great difficulties which would have to be overcome in draining the same, and have petitioned to be authorized to sell and dispose of the Land now set apart for the purposes aforesaid, and with the proceeds of such sale to purchase and acquire other land better adapted for use as a public Cemetery: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The said Municipal Council of the Town of Chatham shall have full power and authority to sell, grant and convey to any person willing to purchase the same, the fee simple of the piece or parcel of land now set apart in the said Town for the purposes of a public Cemetery, for such sum or consideration, and on such conditions as they shall deem it advisable to accept; Provided always, that the proceeds of the sale shall be by the said Municipal Council expended in the purchase of other land more suitable for the purposes aforesaid, and which the said Municipality shall hold for that purpose; And provided further, that the receipt to be granted by the said Council for the purchase money mentioned in any such conveyance, shall be an absolute discharge to the purchaser or purchasers for the same, and they shall be in no way bound to see to the application, mis-application or non-application of the same, or any part thereof.

Town Council of Chatham may sell their Cemetery;

And purchase other ground for the purpose.

Receipt of Council to discharge the purchasers.

II. This Act shall be deemed to be a Public Act.

Public Act.

## C A P . L X I I .

An Act to vest a certain Road Allowance in the Township of Stamford, in the Township Council.

[Assented to 19th June, 1856.]

**W**HEREAS the original Allowance for Road leading from the Niagara River in the Township of Stamford between certain lots hereinafter mentioned and running across the said Township, was found in the settlement of the country to present great obstacles to being rendered fit for travel, and in consequence thereof the road known as "Lundy's Lane" running

running parallel with and adjoining the said original Road Allowance was given by the owners of the lots through which the said road runs, and has since been used as a public highway, good at all seasons of the year for travel and sufficient for the public convenience; And whereas the owners of the land on the original Allowance for Road have by petition represented that until the same shall be finally closed, they, as well as the people of the Township, will always be subject to annoyance through persons having no real interest therein agitating the opening thereof, to the great damage of the Petitioners, who in case of an order of the Municipal Council to open the same being issued, might be compelled to comply therewith, thereby having two parallel roads in the immediate vicinity of each other, and they have therefore prayed that the said Allowance may be closed; And whereas it is expedient to comply with the prayer of the Petitioners and to vest the said original Allowance for Road in the Municipal Council of the said Township of Stamford: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

A certain original allowance for road vested in the Township Council.

I. The original allowance for Road in the Township of Stamford in the County of Welland, leading from the Niagara River and lying between lots numbers one hundred twenty-eight, one hundred twenty-seven, one hundred twenty-six, one hundred twenty-five, one hundred twenty-four, one hundred twenty-three, one hundred twenty-two, one hundred twenty-one, and one hundred and twenty, on the north side of the said Allowance for Road, and lots numbers one hundred twenty-nine, one hundred thirty, one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, one hundred thirty-six, and the broken front of one hundred twenty-nine, on the south side thereof, shall be and is hereby vested in the Municipal Council of the Township of Stamford, with full power from time to time to sell and convey, or to lease or otherwise deal with the whole or any part of the said Allowance for Road as they may deem expedient.

With power to sell, &c.

Public Act.

II. This Act shall be deemed a Public Act.

### C A P . L X I I I .

#### An Act to incorporate the Town of Clifton.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS from the rapidly increasing population of the Village of Elgin in the County of Welland, one of the United Counties of Lincoln and Welland, and from the peculiar position thereof as the Eastern Terminus of the Great Western Railway, it is necessary to confer upon the said Village the power of Municipal Government; And whereas it is also desirable to change

change the name of the said Village and incorporate it as a Town, under the name of the Town of Clifton: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. From and after the passing of this Act the inhabitants of the said Town of Clifton shall be a body corporate apart from the Township of Stamford, in which such Town is situate, and as such shall have perpetual succession and a common seal, with such powers as are now by law conferred upon Incorporated Towns in Upper Canada, and the powers of such Corporation shall be exercised by, through, and in the name of the Municipality of the Town of Clifton.

Town of Clifton incorporated.

General powers.

II. The said Town of Clifton shall be comprised within the following limits or boundaries, that is to say: commencing at the centre of the Niagara River, at a point where the north side-line of Lot number seventy-five of the Township of Stamford would strike, if produced;—Thence west, along the said north side-line of Lot number seventy-five to the north-east angle of Lot number seventy-six;—Thence south, along the east side of Lot number seventy-six to the south-east corner thereof;—Thence west, along the south side of the said Lot to the north-east angle of Lot number ninety;—Thence south, along the east side of Lots numbers ninety, ninety-five, one hundred and eight and one hundred and thirteen to the south-east angle of the said Lot number one hundred and thirteen;—Thence east, between Lots numbers one hundred and twenty-seven and one hundred and twelve to a point where the west line of a property subdivided by the late Ogden Creighton, Esquire, would strike, if produced;—Thence south, along the said property line through Lot number one hundred and twenty-seven and part of Lot number one hundred and twenty-nine to the northerly side of Magdalene Street;—Thence south, forty-five degrees east, along the northerly side of Magdalene Street and crossing Clifton Street to the land of the Erie and Ontario Railroad;—Thence southerly, along the westerly side of the said Railroad Company's land along Clifton Street and through the lands of the "City of the Falls" Company" to the division line between blocks numbers nine and ten of the said Company's land;—Thence east, crossing the Railroad land and between the said blocks numbers nine and ten to the centre of the Niagara River;—Thence down the centre of the said river northerly, the several courses thereof, to the place of beginning.

Boundaries of the Town.

III. Immediately after the passing of this Act it shall be lawful for the Governor of this Province to appoint a Returning Officer for the said Town of Clifton, which Returning Officer shall appoint the time and place for holding the first election of five Councillors for the said Town, of which appointment he shall give notice by posting the same at least ten days before the election in three or more public places in the said Town.

Governor to appoint first Returning Officer.

IV.

General duties of Returning Officer.

IV. The duties of the Returning Officer and the qualifications of the voters and of the persons elected as Councillors at such first election shall be as prescribed by law, with respect to annual elections in Townships in Upper Canada.

Collector to furnish copy of his roll so far as relates to the limits of the Town.

V. The Collector of the Township of Stamford aforesaid, or other person having the legal custody of the Collector's Roll, for the year in which this Act is passed, shall furnish to the said Returning Officer a true copy of the said Roll so far as the same relates to voters resident within the limits of the said Town; and so far as such Roll contains the names of all male freeholders and householders rated upon such Roll in respect of real property lying within such limits, with the amount of the assessed value of such real property, for which they shall be respectively rated on such Roll, which copy shall be verified upon oath or in such manner as is now required by law.

Oath of Returning Officer.

VI. The said Returning Officer before holding the said election shall take the same oath or affirmation as is now required by law for Returning Officers in any Town in Upper Canada.

Elections in future years.

VII. Elections for Councillors of the said Town of Clifton after the year one thousand eight hundred and fifty-six, shall be held in conformity with the statutory provisions in respect of the several incorporated Towns of Upper Canada.

Oaths of persons elected.

VIII. The several persons who shall be elected or appointed under this Act shall take the same oaths of office and of qualification as are now required by law.

Organization and powers of Town Council

IX. The said Councillors to be elected under this Act for the said Town, shall be organized in the same manner and in the same way as in any other incorporated Town in Upper Canada, and have, use and exercise the same powers and privileges as any other incorporated Town in Upper Canada.

Town to cease to be part of Township.

X. From and after the passing of this Act the said Town shall cease to form a part of the said Township of Stamford, and shall, to all intents and purposes whatsoever, form a separate and independent Municipality, with all the privileges and rights of an incorporated Town in Upper Canada; but nothing herein contained shall affect or be construed to affect any taxes imposed or to be imposed by law within the limits of the said Town or the collection thereof for the current year.

Taxes for 1856 not affected.

XI. Whenever it may appear desirable to the Governor in Council, it shall and may be lawful for the Governor of this Province, by an Order in Council, to issue a Proclamation, under the Great Seal of this Province, dividing the said Town into Wards, setting forth the boundaries of the same, and to make a division of the said Town into Wards in such way or manner as may be deemed advisable; any law to the contrary thereof in any wise notwithstanding.

Governor may divide the town into Wards.

XII.

XII. All Acts and parts of Acts, and provisions of law or of the Parliament of this Province, and all Acts, By-laws, rules and regulations of any Township meeting, County Council, Counties Council or Township Council in Upper Canada, in force in Upper Canada, immediately before the time when this Act shall come into force, in so far as the same may be inconsistent with or contradictory to the provisions of this Act, shall be and they are hereby repealed, and shall cease to be in force from and after the day when this Act shall come into force.

Inconsistent Acts, By-laws, &c., repealed.

XIII. Whenever the Village of Drummondville shall become an incorporated Village or Town, the boundaries of the said Town of Clifton and Village or Town of Drummondville shall be adjusted by a Commissioner to be appointed for that purpose by the Governor in Council.

Case of incorporation of Drummondville provided for.

XIV. This Act shall be deemed a Public Act.

Public Act.

## C A P . L X I V .

An Act for the construction of Water Works in the City of Hamilton.

[Assented to 19th June, 1856.]

**W**HEREAS the construction of Water Works and a supply of water would conduce to the health and comfort of the inhabitants of the City of Hamilton: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The persons hereafter to be elected in the manner provided for in this Act, and their successors, shall constitute a Board, to be called and known as the Water Commissioners for the City of Hamilton.

Board of Commissioners constituted.

II. It shall be the duty of the said Commissioners to examine, consider and decide upon all matters relative to supplying the said City of Hamilton with a sufficient quantity of pure and wholesome water for the use of its inhabitants, and the amount of money necessary to effect that object.

Duty of Commissioners:

III. The said Commissioners shall have power to employ engineers, surveyors and such other persons as in their opinion may be necessary to enable them to fulfil their duties under this Act.

Commissioners may employ Engineers, &c.

IV. It shall and may be lawful for the said Commissioners, their agents, servants and workmen, from time to time, and at such times hereafter as they shall see fit, and they are hereby authorized and empowered to enter into and upon the lands of any person or persons, bodies politic or corporate, in the City of Hamilton, or within twenty miles of the said city, and

Commissioners may enter upon and take lands, water courses, &c.

to

to survey, set out and ascertain such parts thereof as they may require for the purposes of the said Water Works, and also to divert and appropriate any spring or stream of water thereon, as they shall judge suitable and proper, and to contract with the owners or occupiers of the said lands and those having an interest or right in the said water for the purchase thereof, or of any part thereof, or of any privilege that may be required for the purposes of the said Commissioners; and in case of any disagreement between the said Commissioners and the owners or occupiers of such lands, or any persons having an interest in the said water or the natural flow thereof, or any such privilege as aforesaid, respecting the amount of purchase or value thereof, or as to the damages such appropriation shall cause to them or otherwise; or in case any such owner or occupier shall be an infant, married woman, or insane, or absent from this Province, or in case such lands or water privilege may be mortgaged or pledged to any person or persons, it shall and may be lawful for the Judge of the County Court of the County of Wentworth, on application being made to him, to nominate and appoint three indifferent persons as arbitrators, to award, determine, adjudge and order the respective sums of money which the said Commissioners shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final; and the said arbitrators shall be and they are hereby required to attend at some convenient place, at or in the vicinity of the said city, to be appointed by the said Commissioners after eight days' notice given for that purpose, by the said Commissioners, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested; and each arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace, in and for the said County of Wentworth, or the said city, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the value or damages between the parties, to the best of his judgment: Provided always, that any award under this Act shall be subject to be set aside on application to the Court of Queen's Bench, in the same manner and on the same grounds as in ordinary cases of arbitration, in which case a reference may be again made to arbitration as hereinbefore provided; and that any sum so awarded shall be paid within three months from the date of award, or determination of any motion to annul the same, and in default of such payment the proprietor may resume the possession of his property, and all his rights shall thereupon revive; and the award of a majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid.

Arbitration in case of disagreement as to value of property taken.

If the Owner be an infant, married woman, &c.

Meeting and proceedings of arbitrators.

Arbitrators to be sworn.

Proviso: Award may be set aside for cause.

Sum awarded must be paid within a certain time.

Lands, &c., taken for purposes of Water Works to be

V. The lands and water which shall be ascertained, set out, or appropriated by the said Commissioners for the purposes thereof as aforesaid, shall thereupon and for ever thereafter be vested in the Mayor; Aldermen and Commonalty of the City  
of

of Hamilton, and their successors, and it shall and may be lawful for the said Commissioners, and their successors, to construct, erect and maintain upon the said lands all such reservoirs, water works and machinery requisite for the said undertaking, and to convey the waters thereto and therefrom, in, upon, or through any of the grounds and lands lying intermediate between the said reservoirs and water works, and the springs, streams, rivers or lakes, from which the same are procured, and the said City of Hamilton, by one or more lines of pipes, as may from time to time be found necessary; and for the better effecting the purposes aforesaid, the said Commissioners, their successors and servants, are hereby empowered to enter and pass upon and over the said grounds and lands intermediate as aforesaid, and the same to cut and dig up if necessary, and to lay down the said pipes through the same, and upon, over, under, and through the highways, railroads and roads of and in the townships of the County of Wentworth, and through the public ways, streets, lanes or other passages of the said City of Hamilton, and in, upon, through, or under the lands, grounds and premises of any person or persons, bodies corporate, politic or collegiate whatsoever, and to set out, ascertain, use and occupy such part or parts thereof as they the said Commissioners or their successors shall think necessary and proper, for the making and maintaining of the said works, or for taking up, removing, altering or repairing the same, and for distributing water to the inhabitants of the City of Hamilton, or for the uses of the Corporation of the said City, or of the proprietors or occupiers of the lands through or near which the same may pass, and for this purpose to sink and lay down pipes, trunks, reservoirs, and other conveniences, and from time to time to alter all or any of the said works as well in the position as in the construction thereof, as to the said Commissioners or their successors shall seem meet, doing as little damage as may be in the execution of the powers hereby granted to them, and making reasonable and adequate satisfaction to the proprietors, to be ascertained in case of disagreement by arbitration as aforesaid: Provided always, that nothing herein contained shall be construed to authorize the said Commissioners or any person acting under their authority to take for the purposes of the said works, any house, garden, or orchard, without the consent of the owner.

vested in the Mayor, &c., of Hamilton.

Commissioners may lay down water pipes, &c., in the County of Wentworth or City of Hamilton.

Satisfaction to be made for damages.

Proviso: House or garden not to be taken without consent.

VI. If any person shall wilfully or maliciously hinder or interrupt or cause or procure to be hindered or interrupted, the said Commissioners or their managers, contractors, servants, agents or workmen, or any of them, in the exercise of any of the powers and authorities in this Act authorized and contained, or if any person shall wilfully or maliciously let off or discharge any water so that the same shall run waste or useless out of the said works, or if any person shall throw or deposit any thing or noisome or offensive matter into the said water or water works, or in any way foul the same or commit any wilful damage or injury

Penalties in certain cases of hindrance or injury to the Commissioners or their works.

Offence to be a misdemeanor.

Penalties. how recovered or enforced.

Materials belonging to Commissioners to be free from execution.

Books to be kept.

Report to be made yearly to Mayor of Hamilton.

Board to regulate distribution and price of water.

Proviso : Corporation to direct certain works.

Owners of houses liable for payment of water-rate.

injury to the works, pipes, or water, or encourage the same to be done, every person offending in any of the cases aforesaid shall, besides being subject to an action at law for the damages done thereby, be held guilty of a misdemeanor, and upon conviction thereof before any of the Courts of Criminal Jurisdiction in the County of Wentworth, or a Magistrate of the said County or City, shall be punished by the said Court, by fine and imprisonment or either, at the discretion of the Court as in other misdemeanors at Common Law or by summary conviction.

VII. All materials procured or partially procured under contract with the Commissioners, shall be exempt from execution, but it shall be the duty of the Commissioners to pay the moneys due to such contractor for such materials to the judgment creditor of the contractor under whose execution such materials ought otherwise to have been sold, upon his producing to them due proof that his execution would have so attached, and such payment shall be held as valid payment on the contract.

VIII. The Commissioners shall keep regular books of account and books for recording the whole of their official proceedings, and the said Commissioners and the Clerks employed in their service shall be sworn to the faithful performance of their duties, and all such books shall be open to the examination of any person or persons appointed for that purpose by the Mayor, Aldermen and Commonalty of the City of Hamilton: The Commissioners shall also, on the thirtieth day of June and the thirty-first day of December in each and every year, make a report to the said Mayor, Aldermen and Commonalty of the City of Hamilton, of the condition of the works under their charge, accompanied by a statement of their receipts and expenditures on account of the same.

IX. The Board of Commissioners for the time being, shall regulate the distribution and use of the water in all places and for all purposes where the same may be required, and from time to time shall fix the prices for the use thereof, and the times of payment, and they may erect such number of public hydrants and in such places as they shall see fit, and direct in what manner and for what purposes the same shall be used, all which they may change at their discretion: Provided always, that all hydrants, conduits, or other appliances required and furnished for the purpose of extinguishment of fires shall be placed as the Mayor, Aldermen and Commonalty of the City of Hamilton shall direct, and shall be under their exclusive control and direction.

X. The owner and occupier of any house, tenement or lot, shall each be liable for the payment of the price or rent fixed by the Commissioners for the use of the water by such occupier, and such price or rent so fixed shall be a lien upon the said house, tenement or lot in the same way and manner as other

taxes assessed on real estate in the said City of Hamilton are liens, and shall be collected in like manner, if not previously paid to the Commissioners.

XI. A majority of the said Commissioners shall constitute a quorum for the transaction of any business allowed or required by the powers or duties of their commission, and all contracts and engagements, acts and doings of the said Commissioners within the scope of their duty or authority, shall be obligatory upon and be in law considered as done by the Mayor, Aldermen and Commonalty of the City of Hamilton.

Quorum of Commissioners.

XII. The said Commissioners may prosecute or defend any actions or process at Law or in Equity by the name of the "Water Commissioners of the City of Hamilton," against any person or persons for money due for the use of the water, for the breach of any contract express or implied touching the execution or management of the works or the distribution of the water, or of any promise or contract made to or with them, and also for any injury or trespass or nuisance done or suffered to the water courses, pipes, machinery, or any apparatus belonging to or connected with any part of the works, or for any improper use or waste of the water; and any vacancy or the filling any vacancy in the Board of Commissioners, either before or after any cause of action arises or suit is commenced, shall not change the right of the said Commissioners as a body to commence or maintain such action or process at law or in Equity, but in all such cases they shall be considered from the time of the organisation of the Board as a Corporation.

Commissioners may prosecute, defend actions under their name of office.

Vacancies in the Board, how filled.

XIII. The Commissioners and their officers shall have the like protection in the exercise of their respective offices and in the execution of their duties, as Justices of the Peace now have under the Laws of this Province.

Commissioners to have same protection as Justices of the Peace.

XIV. For the purpose of constructing the said Water Works and paying the expenses attended thereon, it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the City of Hamilton, and they are hereby required from time to time as the amounts may be required by the said Commissioners, to raise by loan upon the credit of the Debentures hereinafter mentioned, from any person or persons, body or bodies corporate, either in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding the sum of three hundred thousand pounds of lawful money of Canada, and for the Mayor of the said City of Hamilton for the time being, to cause to be issued Debentures or Bonds of the said City under the Corporation Seal, signed by the Mayor and countersigned by the Chamberlain of the said City for the time being, in such sums not exceeding in the whole the said sum of three hundred thousand pounds, authorized to be borrowed under this Act, as the Commissioners shall

Corporation of Hamilton may borrow £300,000.

Debentures to be issued.

Principal to be paid within 20 years.  
Interest.

shall direct and appoint, and the principal sum secured by the said Debentures shall be payable within twenty years from the issuing thereof, and the interest accruing thereon shall be made payable semi-annually, either in sterling or in currency in this Province, in Great Britain or elsewhere, as the said Council shall deem expedient or necessary.

Water Works to be mortgaged for repayment of sums borrowed by Corporation.

XV. The said Water Works to be erected and constructed under this Act, and also the Land to be acquired for the purposes thereof, and every matter and thing therewith connected, shall be and they are hereby specially charged, pledged, mortgaged and hypothecated for the re-payment of any sum or sums which may be borrowed by the said Corporation for the purposes of this Act, as well as for the due and punctual payment of the interest thereupon, and all, each and every of the holders of the Debentures in the last previous section mentioned, shall have a concurrent pledge, mortgage, hypothec or privilege on the said Water Works and property appertaining thereto, for securing the payment of the said Debentures and the interest thereon.

Funds borrowed to be placed in Bank.

XVI. The funds derived from the negotiation of the Debentures to be issued under this Act, shall, when received, be deposited by the said Commissioners for the time being, in some one or more of the chartered Banks of this Province, on such conditions as the said Commissioners shall from time to time agree upon, and only be withdrawn therefrom as they may from time to time be required for the payment and discharge of the liabilities that may be incurred in carrying out the improvements contemplated by this Act, and every check for the withdrawal of any moneys shall be signed by the Chairman of the said Commissioners and also by the Mayor of the said City for the time being.

Checks for money to be signed by Chairman and Mayor.

Act not to be in force until Corporation of City pass By-law.

XVII. This Act shall not have any force or effect until the Mayor, Aldermen and Commonalty of the City of Hamilton shall pass a By-law authorizing the construction of the said Water Works, and on the said By-law being passed, it shall be lawful for the Mayor of the said City and he is hereby authorized and required to issue his warrant to the Returning Officer for each Ward in the said City for the then next preceding election for Aldermen and Councillors, requiring the said Returning Officer to proceed to the election of one Water Commissioner for each Ward in the said City, in the same manner in all respects, and giving the same notices as are now required in case of Municipal Elections in the said City, and all persons authorized to vote at such Election for Aldermen and Councillors, shall be entitled to vote for the said Water Commissioner for his Ward, and not otherwise.

First election of Water Commissioners.

Term of office of Commissioners.

XVIII. The said Water Commissioners shall, at their first Meeting after their Election, determine by lot or otherwise the terms

terms during which they shall respectively hold their offices, and these shall be as follows: one of them shall remain in office one year, one two years, one three years, one four years, and one five years, all to be computed from the first Monday in the month of January next preceding.

XIX. At the Municipal Election to be held in the said City in each year after the special Elections hereinbefore authorized to be held for the Election of the said Water Commissioners, there shall be elected in the same manner as the Aldermen and Councillors are elected, and by the persons now authorized to vote at such Election, one Commissioner for the Ward in which a vacancy has occurred by the retirement of the Commissioner whose term of office has expired, who shall hold his office for five years next ensuing such election; and any vacancies that shall occur in the said Commission by death, resignation or otherwise, shall be filled by a person to be named by the Mayor, Aldermen and Commonalty of the City of Hamilton, but the person or persons so appointed to fill such vacancy shall hold his or their offices only for the residue of the term for which he or they may be appointed.

Commissioners to be elected at each general municipal election.  
Vacancies, how filled.

XX. The Chairman of the said Commissioners and the said Commissioners shall be paid for their services as the Mayor, Aldermen and Commonalty of the City of Hamilton shall annually fix, and shall also be paid all reasonable travelling expenses incurred while employed upon or about the works.

Salaries to be determined by Mayor, &c., of Hamilton.

XXI. This Act shall be deemed and taken as a Public Act. Public Act.

## C A P . L X V :

An Act to enable the Church-Wardens of St. George's Church, in the Town of St. Catharines, to sell and convey four acres of land originally purchased "as a site for a Parsonage," and for other purposes.

[Assented to 19th June, 1856.]

**W**HEREAS the Church-Wardens and other Members of St. George's Church in the Town of St. Catharines have by their petition to the Legislature represented, That by an Indenture bearing date the thirteenth day of April, one thousand eight hundred and fifty, four acres of land, being part of lot number fourteen in the sixth Concession of the Township of Grantham in the County of Lincoln, were purchased from one William E. Parnell and by him conveyed to the Church-Wardens of St. George's Church and their successors in office "for the purpose of being a site for a parsonage house for the Parish of St. Catharines." That in the year one thousand eight hundred and fifty-four the members and congregation of St.

Preamble.

St. George's Church, with the consent and approbation of the Incumbent, the Reverend A. F. Atkinson finding the above ground not only too distant, inconvenient for building, but also low and unhealthy in situation, purchased and fitted up a house with a large lot of ground attached in a convenient position in the Town of St. Catharines for a Parsonage for the Incumbent of the said parish, and which he is now occupying, on which there is still due a balance of about three hundred pounds. The Church-Wardens of said St. George's Church further represent that they are desirous to sell and dispose of the above mentioned property, namely, the four acres part of lot number fourteen in the sixth concession of Grantham mentioned and more particularly described in the said Indenture of the thirteenth day of April, one thousand eight hundred and fifty, and to appropriate the proceeds of the sale to pay the balance now due on the said parsonage house: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :-

Church-Wardens may sell all or part of the said four acres.

Application of proceeds.

I. It shall and may be lawful for the Church-Wardens of St. George's Church in the Town of St. Catharines and their successors in office to sell, alienate and convey by a good and sufficient title under their signature, all or any portion of the said four acres part of lot number fourteen in the sixth concession of Grantham purchased of William E. Parnell; and it shall be the duty of said Church-Wardens to apply the proceeds of such sale towards the payment of the debt due upon the present parsonage of St. George's Church in St. Catharines.

Public Act.

II. This Act shall be deemed a Public Act.

## C A P . L X V I .

An Act to provide for the separation of the County of Peel from the County of York.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS a very large number of inhabitants of the County of Peel, the junior County of the United Counties of York and Peel, have by their Petitions prayed that the said County of Peel may be set apart as a separate County for judicial and other purposes without unnecessary delay, and the wealth and population thereof being sufficient to warrant the same, it is expedient to make provision to enable the said County to separate from the said County of York as soon as the necessary provisions for that purpose shall have been made: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Provisional Council con-

I. The Town Reeves and Deputy Town Reeves of the several Townships, Villages and Towns in the County of Peel, as

as the same is described and limited in and by the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to make certain alterations in the Territorial Divisions of Upper Canada*, shall form a Provisional Municipal Council for the said County, and shall with respect to the said County, have, possess and exercise all and singular the rights, powers, privileges and duties conferred, granted or imposed by the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act for abolishing the Territorial Divisions of Upper Canada into Districts, and for providing for temporary Unions of Counties for judicial and other purposes, and for the future dissolutions of such Unions, as the increase of wealth and population may require*, upon Provisional Municipal Councils erected by Proclamation under the authority of the said Act, and also all the powers which may be conferred on Provisional Municipal Councils generally by any other Act or Law in force in Upper Canada; subject to the provisions in the following sections contained.

stituted for Peel.

14 & 15 V. c. 5.

Its general powers.

12 V. c. 78.

Subject to provisions herein-after made.

II. It shall be the duty of the Warden of the United Counties of York and Peel, to call a meeting of the Reeves and Deputy Reeves of the County of Peel, at such place and hour as he shall appoint, on some day in the month of October, one thousand eight hundred and fifty-six: A notice of such meeting shall be inserted in at least one of the Newspapers published within the said County of Peel, and a copy of such notice sent by mail or otherwise to each member of such Council, at least eight days before the day appointed for such meeting, by the Warden of the said United Counties of York and Peel: And the said Provisional Council at the first meeting thereof to be held under this Act, shall first proceed to elect a Provisional Warden, after which, at the same meeting, or some adjournment thereof, they shall proceed to pass a By-law for the purpose of taking a vote of the qualified Municipal Electors of the said County, on the question of separation, by a vote to be specially taken for that purpose, each qualified Elector having one vote and voting "Yea" or "Nay" after at least ten days' notice shall have been given in the manner to be provided by such By-law, of the time and place where the votes will be taken in the Wards of the several Municipalities forming the said County.

Warden of York and Peel to call a meeting of Reeves, &c., of Peel, and in what manner.

Provisional Warden to be elected.

To pass By-law for a special vote for or against separation.

III. The Provisional Council shall meet, on the requisition of the Provisional Warden, on some day after the day or days appointed for taking such vote, and proceed in open Council to ascertain the number of votes recorded "Yea" and "Nay;" and if the result shall show that a majority of the votes recorded are "Nay," then after making a record of the same in the minutes of the said Provisional Council, the said Council shall be dissolved.

If the majority of votes be against it, Provisional Council dissolved.

IV. If a majority of the votes recorded as aforesaid be "Yea," then the said Provisional Council shall, at some meeting to be held

If the majority of votes be for

held

it, powers of  
the Provisional  
Council.

held after the first day of February next, proceed to select a place for the County Town of the said County, and the place so selected shall be the County Town of Peel; and the said Provisional Council shall have and exercise the powers conferred on Provisional Municipal Councils by law, and shall and may purchase the necessary property at the place selected by the said Council assembled as aforesaid, and proceed to erect the necessary public buildings on such property; and all the provisions of the Act last above cited shall apply to the said Provisional Municipal Council, and to the said County of Peel.

Appointment  
of Officers.

V. The said Provisional Council shall have power and authority to appoint, by By-law or otherwise, such and so many officers and persons as may be necessary to carry out the provisions of this Act; and the Provisional Warden or any Member of the Council shall administer to each person so appointed, the oath of office prescribed by law to be taken by any officer appointed under this Act, before he or they shall commence the discharge of the duties imposed on him or them; and each person so appointed and sworn shall be subject to all the responsibilities imposed on Municipal Officers by law.

Oath of office.

Penalty for  
interrupting  
proceedings  
under this  
Act.

VI. Any person or persons who shall wilfully interrupt or interfere with any of the proceedings authorized by this Act, shall be dealt with and punished as provided by the Upper Canada Municipal Corporations Acts, with respect to persons interfering with the proceedings under the said last mentioned Acts.

Proclamation  
to issue dis-  
solving the  
union when  
the Court  
House and  
Gaol are com-  
pleted.

VII. So soon as the Court House and Gaol of the said County shall be erected and completed at such County Town, according to the provisions of the fifteenth section of the said lastly in part recited Act, and the other provisions of the said fifteenth section shall have been complied with by the said County, it shall and may be lawful for the Governor of this Province to appoint the necessary officers as provided by the seventeenth section of the said in part recited Act, and by order in Council to issue a Proclamation dissolving the Union between the said County of Peel and the said County of York, from the date to be mentioned in such Proclamation; and all the provisions of the said lastly in part recited Act, or of any other Act or Law of Upper Canada applicable to Counties on and after their being separated from other Counties, shall apply to the said Counties of York and Peel respectively.

Appointment  
of a person to  
preside until a  
Provisional  
Warden is  
elected.

VIII. The said Warden of the United Counties of York and Peel shall by a warrant under his hand and seal, appoint some one of the Town Reeves or Deputy Town Reeves of the said County of Peel, to preside at the first meeting of the Provisional Municipal Council thereof, until a Provisional Warden shall be elected by such Provisional Municipal Council.

Public Act.

IX. This Act shall be deemed and taken to be a Public Act.

C A P .

C A P . L X V I I .

An Act to authorize a Survey of the Broken Front Concession of the Township of Darlington, and for other purposes.

[Assented to 19th June, 1856.]

WHEREAS certain inhabitants, Resident Freeholders, Owners of the Lots in the Broken Front Concession of the Township of Darlington, have petitioned the Legislature to pass an Act authorizing a Provincial Land Surveyor to be appointed under it, to make a Survey of the Broken Front Concession of the Township of Darlington, giving to all Lots an equal width, and fixing stone monuments at the front and rear of each Lot, making such survey final and conclusive, and authorizing the Municipal Council of the Township of Darlington to assess the expenses of such survey rateably upon the owners of such land, and repealing all or any Acts of Parliament which may interfere with the operation of the said Act, so far as they relate to the Broken Front of Darlington; And whereas it is expedient to grant the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The Municipal Council of the Township of Darlington, shall have power at any time after the passing of this Act, to pass a By-law authorizing such competent licensed Surveyor as they may appoint by such By-law to make a survey of the Broken Front Concession of the Township of Darlington, giving to all lots an equal width and fixing stone monuments at the front and rear of each lot; and the limits of each lot so ascertained and marked shall be taken to be and are hereby declared to be the true limits thereof; any law, usage, statute of limitations or otherwise to the contrary notwithstanding.

Township Council may cause broken front to be surveyed, and monuments placed.

II. If any Action of Ejectment shall be brought against any person or persons who after the said lines shall be established by virtue of this Act shall be found to have improved on land of which such survey would deprive him, it shall and may be lawful for the Judge of Assize before whom such Action is tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he or she or they may sustain in consequence of any improvement made before the passing of this Act, and also, to assess the value of the land to be recovered; and if a verdict shall be found for the plaintiff or plaintiffs, no writ of possession shall issue until such plaintiff or plaintiffs have tendered or paid the amount of such damages as aforesaid, or shall have offered to release the said land to the defendant, provided the said defendant shall pay or tender to the plaintiff the value of the land so assessed before the fourth day of the ensuing term, and the defendant shall have failed so to pay or tender the same.

Proceedings in case of action of ejectment brought against any person who by such survey shall be found to have improved on land not belonging to him.

Copy of survey  
to be furnished  
to Commis-  
sioner of  
Crown Lands.

III. Upon such survey being made, it shall be the duty of the said Municipal Council to furnish to the Commissioner of Crown Lands a certified copy of the same and the field notes and report thereof.

Public Act.

IV. This Act shall be deemed a Public Act.

## C A P . L X V I I I .

An Act to incorporate the Town of Sarnia, in the County of Lambton.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS the inhabitants of Port Sarnia, in the County of Lambton, have, by their Petition to the Legislature, represented that it is now the County Town of the said County of Lambton, and contains upwards of one thousand inhabitants, and that it is the wish of the Municipality of the Township of Sarnia, in which it lies, and of that of the County of Lambton, that it should be incorporated, and have prayed that it may be incorporated by the name of the Town of Sarnia; And whereas from the importance and rapidly increasing population of the said place, it is expedient to incorporate the same as prayed for, with the privileges and rights of an incorporated Town: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Town of Sar-  
nia incorpor-  
ated.

I. The Town plot or tract of land now known as the Town of Port Sarnia, and lying within the boundaries mentioned in the Schedule A to this Act, shall, upon, from and after the first day of January, in the year one thousand eight hundred and fifty-seven, be called and known as the Town of Sarnia, and shall be incorporated with the rights, powers and privileges of an incorporated Town.

Provisions U:  
C. Municipal  
Incorporations  
Acts to apply  
to it.

II. So much of the Upper Canada Municipal Corporations Acts as relates to incorporated Towns, shall, from and after the day last aforesaid, apply to the said Town of Sarnia; and the said Town shall, as an incorporated Town, have and exercise all and singular the rights, powers, privileges and jurisdiction which are thereby granted or conferred to or upon; or as shall by virtue of the said Acts, or of any other Act or Acts now in force or hereafter to be in force in Upper Canada, belong to incorporated Towns; and all the rules, regulations and enactments in the said Acts or any of them contained, or which shall in any wise apply to incorporated Towns, shall apply to the said Town of Sarnia, as fully as if it had become an incorporated Town under the ordinary operation of the said Upper Canada Municipal Corporations Acts, with the exception hereinafter made.

III.

III. The said Town of Sarnia shall be divided into three Wards, in the manner described in the Schedule B to this Act. Division into Wards.

IV. The Municipal Council of the Township of Sarnia, shall and may, at any time after the passing of this Act, appoint a fit person to be a Returning Officer for holding the first Municipal Election under this Act, and the person so appointed shall, on or before the twenty-first day of December next after the passing of this Act, by his Warrant, appoint a Deputy Returning Officer for each of the three Wards into which the said Town is hereby divided, to hold the first Election therein; and in the discharge of their duties such Returning Officer and his Deputies shall be respectively subject to all the provisions of the Upper Canada Municipal Corporations Acts, applicable to first elections in Towns incorporated under the said Acts: Provided always, that at the first election to be held in the said Town, the qualification of Electors and of Councillors shall be the same as in Townships; And provided also, that on the first Monday in January, one thousand eight hundred and fifty-seven, the annual election of Councillors in the Township of Sarnia, shall be made at a general Township meeting, to be held at the place where the meetings of the Municipal Council of the Township are now held, or such other place as may be selected therefor, by the Municipal Council of the said Township. Appointment of Returning Officer for first election.  
To appoint a Deputy for each Ward.  
Duties.  
Proviso: for qualification.  
Proviso: for next election in township of Sarnia.

V. This Act shall be deemed a Public Act.

Public Act.

## SCHEDULE A.

### BOUNDARIES OF THE TOWN OF SARNIA.

The said Town shall be bounded on the North by the southern limit of the Seventh Concession of the Township of Sarnia, prolonged westward to the Province boundary line in the River St. Clair,—on the East by the rear boundary line of the Front or Ninth Concession of the said Township, continued southward through Park Lots numbered twenty, to the northern limit of the Indian Reserve,—on the South by the said northern limit of the said Indian Reserve, continued westward to the Province boundary line in the River St. Clair,—and on the West by the Province boundary line in the said River.

## SCHEDULE B.

### BOUNDARIES OF THE WARDS OF THE TOWN OF SARNIA.

*North Ward* shall comprise all that part of the said Town North of the centre line of George Street, from the eastern, to the western boundary of the said Town.

*Middle Ward* shall comprise all that part of the said Town, South of North Ward, and North of the centre line of Cromwell Street, from the eastern to the western boundary of the said Town.

*South Ward* shall comprise all that part of the said Town, South of Middle Ward.

## C A P . L X I X .

An Act to render the Mayor of Quebec elective by the Electors of Quebec.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS it is expedient to render the Mayor of Quebec elective by the Electors of the said City: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

So much of s. 28 of 18 V. c. 159, as provides for election of Mayor by Councillors repealed.

I. So much of the twenty-eighth section of the Act passed in the eighteenth year of Her Majesty's Reign, and intituled, *An Act to amend and consolidate the provisions contained in the Ordinances to incorporate the City and Town of Quebec, and to vest more ample powers in the Corporation of the said City and Town*, as enacts that at the first Quarterly or Special Meeting of the City Council after the election of the members thereof, in each year, the Councillors shall elect out of the members thereof a fit and proper person to be Mayor of the said City, shall be and the same is hereby repealed.

Mayor to be elected by qualified electors of the City.

II. After the term of office of the present Mayor of Quebec shall expire, the Electors of the said City duly qualified to elect members to the Council shall elect the Mayor each year, to be selected from persons qualified to be elected Councillors for the said City; and the said person so elected Mayor shall have and enjoy all the rights and powers now vested by law in the Mayor of Quebec, and such Election shall not prevent three Councillors as now representing each Ward of said City.

Certificates to be given to voters for Mayor; and box for receiving votes to be prepared.

III. A certificate in the same form as that prescribed by law to be given to each voter for a City Councillor, qualified to receive the same, shall also be given to such voter, save that for the words "for Councillor in the Ward," there shall be substituted the words, "For Mayor," and a proper box shall be prepared to receive the said votes, and all the regulations prescribed for votes for Councillors, and the ascertaining of those elected, and the manner, time and form of receiving such votes, as far as the same shall be applicable, shall apply to the said election of Mayor, and the person having the majority of such votes, to be ascertained as in the case of Councillors, shall be Mayor of Quebec, and shall be so declared at the same time and place as the City Councillors shall be declared in each year.

IV.

IV. And whereas it is necessary to make provisions whereby a poll or contest may be avoided, in certain cases where no division of opinion exists among the electors, in respect of the person intended to be elected Mayor of the said City, or in respect of those intended to be elected Councillors in any or all of the Wards thereof; and it is also necessary to provide that the candidates for any of the said offices shall be publicly known, and that none others but those named shall be or may be elected: It is therefore enacted, that hereafter the first Monday in December in each year, or if that be a holiday, then the day next following not being a holiday, shall be and the same is hereby fixed as the nomination day for all candidates for the offices of Mayor of the said City and of Councillors for the several Wards thereof; and such City Councillor as shall, at the last previous Meeting of the City Council, have been named and appointed for that purpose, shall preside at each of the nominations of candidates for the offices of Mayor and of Councillors respectively, which shall be held in the open air, that for the office of Mayor at the City Hall, and those for Councillors at such places in the several Wards to be so fixed by the said Council as that all the Electors may have free access thereto; and at ten o'clock in the forenoon of the said day, the Councillor appointed to preside at each such nomination shall proceed to the place where the same is to be held as aforesaid, and shall then and there require the Electors there present to name the person or persons whom they wish to choose as Mayor, or as Councillor or Councillors, as the case may be, and any two duly qualified Electors of the said City may openly and publicly address to the Councillor presiding at the nomination for the office of Mayor, a demand or requisition that the person by them named be elected Mayor of the said City for the next ensuing term of the said office of Mayor, and in the event of there being only one such demand or requisition made as aforesaid, or that all the demands or requisitions so made shall be for one and the same person, then the Councillor presiding shall proclaim the said person duly elected Mayor of the said City for the next ensuing term of the said office; and any two qualified Electors in any Ward of the said City may, on the day aforesaid, openly and publicly address to the Councillor presiding at the nomination for the office of Councillor in such Ward, a demand or requisition that the person or persons named by them be elected Councillor or Councillors for the said Ward in which the said requisitionists are Electors as aforesaid, and if there be only one demand or requisition made for the election of a Councillor or Councillors in any Ward of the said City, or if all the requisitions made in any such Ward be for the election of the same person or persons as Councillor or Councillors for the said Ward, then the said Councillor presiding shall proclaim the said party or parties named in the said requisition or requisitions, as the case may be, duly elected Councillor or Councillors for the said Ward for the next ensuing term of the said office or offices; and each and every such Election made as aforesaid, without dissent

Recital.

Nomination day for Candidates as Councillors or Mayor.

Nomination how made.

Proposal of Candidates for office of Mayor.

If only one, he shall be declared Mayor.

Proposal of Candidates for office of Councillor.

If only one for any ward he, shall be Councillor.

Publication of elections without dissent.

Polls to be held if there be two or more Candidates, and proceedings to be as now.

Proviso: no Candidate allowed except those duly nominated.

dissent or division therein, shall be forthwith published in at least one English and one French newspaper in the said City, and the said presiding Councillors respectively shall, in due course, report the said Elections to the Council of the said City: In the event of demands or requisitions being made by two or more duly qualified Electors as aforesaid, for the election of two or more persons as Mayor of the said City, or as Councillor or Councillors in any Ward thereof, a poll shall be granted for each and every such Election by the said presiding Councillors respectively, and the said Election shall be proceeded with in the manner heretofore and now done, in all cases of contested Elections for the offices of Mayor of the said City, or of Councillor or Councillors in any of the Wards thereof: Provided, however, that no person may or shall be voted for at any such Election or may or can be elected thereat, for whose election a demand or requisition shall not have been made as aforesaid on the first Monday in December aforesaid.

### C A P . L X X .

An Act to authorize the Mayor, Aldermen and Citizens of the City of Montreal to borrow a sum of fifty thousand pounds for the purpose of completing the new Water Works in the City of Montreal.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS the Mayor, Aldermen and Citizens of the City of Montreal have, by their Petition, represented that, in order to complete the new Water Works, now in course of construction in the City of Montreal, a larger sum of money will be required than they have it in their power to borrow, and they have prayed to be authorized to borrow a further sum not exceeding fifty thousand pounds to be applied solely to the construction of said Works: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Corporation may borrow £50,000 sterling on the security of the Water Works.

Form of Debentures, &c.

I. It shall and may be lawful for the said Corporation, for the purpose of completing the Water Works now in course of construction in the City of Montreal, to borrow a sum not exceeding fifty thousand pounds sterling money of Great Britain in addition to any sum they are now authorized to borrow for the same purpose, and to issue, under the hand of the Mayor and the Seal of the said Corporation, Debentures or Corporation Bonds, to the amount of the said sum of fifty thousand pounds sterling, payable on or before the first day of November, one thousand eight hundred and eighty-one, and bearing interest, payable semi-annually, on the first days of November and May in each and every year, and at a rate not exceeding six per centum per annum; and all such Debentures may be in any form not inconsistent with this Act, and may have Coupons thereunto annexed,

annexed, for the half-yearly interest thereon, which Coupons being signed by the Mayor or Treasurer of the Corporation, shall be respectively payable to the bearer thereof, when the half-yearly interest therein mentioned becomes due, and shall, on payment thereof, be delivered up to the Corporation; and the possession of any such Coupons by the Corporation shall be *prima facie* evidence that the half year's interest therein mentioned has been paid according to the tenor of such Debenture; and all such Debentures, as well the interest as the principal thereof, shall be secured on the General Funds of the said Corporation, as well as by special privilege on the said Water Works mentioned in the fifteenth section of the Act passed in the seventh year of Her Majesty's Reign, intituled, *An Act to authorize the Mayor, Aldermen and Citizens of Montreal to purchase, acquire and hold the property now known as the Montreal Water Works*, which said privilege shall nevertheless only rank in order next after the privilege secured to the holders of Bonds issued under the provisions of the said Act, or of any Act or provision of law in amendment thereof, or subsequent thereto, and prior to the passing of this Act.

To be secured by special privilege on the Water Works under 7 V. c. 41, as well as on the general funds of the City, but after existing bonds.

II. Any sum which the said Corporation is empowered to borrow under this Act may be borrowed in this Province or elsewhere, and the principal sum and interest thereon as aforesaid may be made payable either in this Province or elsewhere, and either in the currency of Canada or in that of the place where the same shall be payable, and generally all the provisions of the Acts now in force as to the Debentures issued by the said Corporation shall apply to those to be issued under this Act, except in so far as they may be inconsistent with this Act.

Debentures may be payable in Canada or elsewhere, and in currency or sterling.

III. The said Water Works now in construction in the said City of Montreal, and also the land acquired for the purpose of the said Water Works, and every matter and thing therewith connected, shall be and they are hereby specially charged, pledged, mortgaged and hypothecated for the repayment of any sum or sums which may be borrowed by the said Corporation under this Act, as well as for the due and punctual payment of the interest thereupon.

Water Works, &c., pledged for re-payment of moneys borrowed under this Act.

IV. It shall be lawful for the said Corporation to borrow the said sums of money under the provisions of the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to extend and amend the Act to establish a Consolidated Municipal Loan Fund for Upper Canada, by applying the same to Lower Canada, and for other purposes*.

The money may be borrowed under 13 V. c. 13.

## C A P . L X X I .

An Act to set off part of the County of Chicoutimi as a separate Municipality, and to render valid certain Elections in the Townships therein mentioned.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS the Townships of Kenogomi, Mésy, Labarre, Signai, Caron and Metabetchouan are situate at a great distance from the other settlements of the County of Chicoutimi, between which and them the roads of communication are scarcely opened, and they have no local interest in common with the other Townships of the said County : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Part of the County of Chicoutimi set off as a separate municipality under 18 V. c. 100.

I. From and after the first day of January, one thousand eight hundred and fifty-seven, the said Townships of Kenogomi, Mésy, Labarre, Signai, Caron and Metabetchouan, with the Townships and tract of country lying north of the Portage des Roches, shall, for the purposes of the Lower Canada Municipal and Road Act of 1855, be detached from the said County of Chicoutimi, and shall be united into and shall form a separate Municipality by the name of the Municipality of Lake St. John; and the other Townships and the remaining tract of land in the said County shall form the County Municipality of Chicoutimi.

Municipal Council, how constituted.

II. The Council of the said Municipality shall consist of seven members elected in the manner prescribed by the said Act with respect to the members of Local Councils, by the inhabitants of the Municipality entitled to vote at such elections, and shall be subject to the provisions of the said Act with respect to Local Councils, except where it is herein otherwise provided ; and the said Council and Municipality shall be presided over by an officer elected as the Mayor of Local Municipalities is under the said Act, but who shall have the title of Warden and such of the powers of a Warden as may be consistent with this Act : And the said Municipality and Council shall have all the powers of a local Municipality and Council under the said Act, and also the powers of a County Municipality and Council under the same, except those which relate to the construction of a Court House and Gaol, or of a Registry Office, or such as may be inconsistent with its original jurisdiction as a local Council ; and the elections of Councillors, and the sittings of the said Council shall be held at the village of Hébertville, which shall be the chief town, (*chef-lieu*) of the Municipality.

Chief Officer to be called Warden.

Powers of the Municipality and Council.

*Chef-lieu* and place of election.

Certain offices in the Municipality.

III. Notwithstanding any thing in the said Act, the Secretary Treasurer of the said Municipality may be at the same time the Superintendent

Superintendent thereof; and Commissioners for the summary trial of small causes may be elected Councillors.

pality may be held by the same persons.

IV. The said Municipality shall be organized and may exercise all its powers and functions, although there may not be three hundred souls within its limits; and any proprietor of real property in the Municipality, whatever be the value thereof, may be elected a Councillor.

Population of 300 souls not required.

V. The annexation of the Township of Westbury in the County of Compton to the Township of Ascot in the said County, by the Registrar holding the elections for the said County under the said Act, for Municipal purposes,—and the annexation of the Township of Auckland to the Township of Newport in the said County,—and the annexation of the Township of South Ham to the Township of Ham in the County of Wolfe,—and of the Township of Stoke to the Township of Windsor in the County of Richmond,—by the same officer, for the same purposes, shall be considered and held to be and to have been legal and valid, and the elections of Councillors under such unions, and all the acts, proceedings and by-laws of the Councils of the unions of townships, shall be held to be as legal and valid in all respects as if the said townships had been legally annexed at the time they were so united; and the said townships shall remain united for municipal purposes until separation shall be sought and obtained by the inhabitants of the less populous townships, after such townships shall have acquired a population of three hundred souls.

The annexation of certain townships to others in the Counties of Compton, Wolfe and Richmond by the Registrar confirmed.

## C A P . L X X I I .

An Act to legalize a certain School Assessment in the Parish of St. Christophe d'Arthabaska.

[Assented to 19th June, 1856.]

**W**HEREAS the School Commissioners of the Parish of St. Christophe d'Arthabaska, have entered into engagements in order to carry the School Law into effect in that Parish; And whereas the School Assessment for the scholastic year one thousand eight hundred and fifty-five and fifty-six, was inadvertently made after the time prescribed by law, and it is expedient to legalize the said School Assessment in order to enable the School Commissioners to meet the engagements entered into by them for the purposes of education: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The Assessment made and the rate fixed for educational purposes by the School Commissioners of the Parish of St. Christophe d'Arthabaska for the scholastic year one thousand eight hundred and fifty-five and fifty-six, shall be and the same are hereby declared to be legal and valid.

School assessment and rate for 1855, 1856, confirmed.

II.

May be collected as if regularly imposed.

II. It shall be lawful for the School Commissioners of the said Parish to collect the assessment and taxes aforesaid, in the same manner as if they had been regularly imposed.

Public Act.

III. This Act shall be a Public Act.

## C A P . L X X I I I .

An Act to amend the Charter of the Ontario, Simcoe and Huron Railroad Union Company.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS the Ontario, Simcoe and Huron Railroad Union Company, acting under the belief that they had lawful right to purchase, build, own and work steam vessels on Lake Simcoe, to ply in connection with their railway, purchased one steam vessel, and contracted for and built another, on that lake, and in order to induce traffic over their road, between Lakes Ontario, Huron, Michigan and Superior, made arrangements with steamboat proprietors to run their boats in connection with the said railroad; And whereas doubts have arisen whether they have sufficient authority in Law in that behalf, and whether they have power to enforce such contracts, or are liable on the same; And whereas it is desirable that such rights should be fully confirmed to the said Company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Company to have and to be held to have had power to own and work vessels on Lake Simcoe, and to make agreements for or charter vessels on Ontario, Huron, Michigan or Superior and, fix tolls, &c.

I. The said Company shall be held to have had and shall have power and authority to purchase, build, complete, fit out and charter, sell and dispose of, work and control, and keep in repair the said steam vessels on Lake Simcoe, and one or more other vessels, from time to time, to ply on the said Lake in connection with their railway; and also, to make arrangements and agreements with steamboat proprietors on the other Lakes, by chartering or otherwise, to run vessels in connection with their said line of railway; and, in addition to the powers already vested in the Directors of the said Company, it shall be lawful for them, by By-law approved by the Governor in Council, to fix, establish and regulate from time to time, all tolls, charges and payments to be paid or payable to or for the uses of the said Company, for conveying goods and passengers on the said railway, and vessels running in connection therewith, or in the said vessels alone: Provided always, that nothing in this Act contained, shall be held to affect the legal rights of John Gartshore, of the Town of Dundas, Iron-Founder, for or in respect of any alleged claim or claims against any person or persons now or heretofore connected with the said Railway Company as Shareholders, Directors or otherwise, in their individual capacity.

Proviso: as to claim of John Gartshore.

Public Act.

II. This Act shall be deemed a Public Act.

## C A P . L X X I V .

## An Act to amend the Act of Incorporation of the Woodstock and Lake Erie Railway and Harbor Company.

[Assented to 19th June, 1856.]

**W**HEREAS in and by the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to amend the Charter of the Woodstock and Lake Erie Railway and Harbor Company*, certain provisions (amongst others) were made for enabling the said Company to amalgamate or unite with any other Railway Company in this Province, or to lease or sell their Line of Road, or any portion thereof, and appurtenances, or the Stock thereof, to any such other Railway Company, or to purchase, buy out, or lease any other such Railway Company, or the Stock thereof, upon such terms and conditions as should be agreed upon; And whereas the Municipalities of Woodstock, South Norwich, North Norwich, Simcoe, Windham and Woodhouse, are interested in the said Company as the holders of Bonds of the said Company, and contemplate converting their said Bonds into Stock of the said Company, and it is desirable that the said Municipalities and the other Municipalities hereinafter referred to, should be authorized to aid and assist the said Company in the manner hereinafter mentioned; and that the following amendments should be made in the several Acts affecting the said Company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall be lawful for the said Municipalities and for any and every other Municipality through any part of which, or near to which the Railway or works of the said Company, or the Railway or works of any Company which shall amalgamate or unite with the said Company, or the Railway or works of the amalgamated Companies, if such amalgamation or union shall take place, shall pass or be situate, to aid and assist the said Company or amalgamated Companies by loaning or advancing money or other means to such Company or Companies, or issuing Municipal bonds to or in aid of such Company or Companies, or guaranteeing loans or advances to such Company or Companies, and otherwise in such manner and to such extent as such Municipalities or any of them shall think expedient: Provided always, that no such aid, loan or guarantee shall be given except after the passing of By-laws for the purpose, and the adoption of such By-laws by the Rate-payers, as provided in the ninth section of this Act.

II. It shall be lawful for any Municipality or Municipalities who shall at any time be Shareholders in the said Company or amalgamated Companies, (including the before mentioned Municipalities in case they shall have converted their said bonds into

Preamble.  
18 V. c. 179.

Certain Municipalities may aid the Company by loans, &c.

Proviso.

Municipalities being Stockholders, may give up their Stock to the

Company in exchange for bonds, &c.

into stock,) with the consent of such Company or Companies, or the Board of Directors for the time being, to surrender and yield up their stock to such Company or Companies, and to receive from such Company or Companies in lieu or satisfaction thereof the bonds of such Company or Companies, or such other payment, remuneration, or security therefor, in such manner and form, and for such amount and at such price, as they shall think proper, or as hath been already agreed upon or shall hereafter be agreed upon in that behalf.

Company and Municipalities may agree as to priority or postponement of bonds, one to another.

III. It shall be lawful for the said Company or amalgamated Companies, or their Board of Directors for the time being, and any Municipality or Municipalities desirous of aiding or assisting, or who have aided or assisted such Company or Companies, to agree that the bonds of such Company which such Municipality shall take or receive, whether taken in payment or in lieu of Municipal bonds issued or to be issued to aid or assist such Company, or in lieu or satisfaction of Stock surrendered or yielded up, or to be surrendered or yielded up by such Municipality or otherwise howsoever, shall be postponed, deferred, or subject to the payment of other bonds issued or to be issued by such Company, to such amount as shall be agreed upon in that behalf, and generally to make such agreements and arrangements touching the priority, precedence, or preference of any bonds before or over other bonds of such Company, and the postponing, deferring, and making subject any bonds to and after other bonds of such Company, and for arranging the order as to preference or priority in payment or otherwise of any and all bonds issued or to be issued by such Company, as they shall think proper; and such agreement shall be held to be legal and binding on all parties, and the bonds issued by such Company shall have and obtain such order and preference upon and over the assets and property of such Company as shall be so agreed upon in that behalf: Provided always, that all bonds to be issued by such Company or Companies which shall be subject, deferred, or postponed to or after other bonds issued or to be issued by such Company or Companies, shall recite or show not only the aggregate amount of such deferred or postponed bonds, but also the aggregate amount of the bonds having or to have preference or priority to or over such deferred or postponed bonds.

Proviso: postponed bonds to be marked as such on the face.

Corporate name of any union of Companies of which the Company shall be one.

IV. If the said Company shall amalgamate or unite with any other Company or Companies as provided in the third section of the Act first above referred to, it shall not be necessary to retain the name of either of such Companies, but the Companies so amalgamating or uniting may decide and agree upon such name for the amalgamated Companies as they shall please, and shall specify or designate such name in the deed of amalgamation or the agreement to amalgamate or unite, and after such amalgamation or union, such name shall be the corporate name of the amalgamated Companies, and under  
such

such corporate name they shall be invested with and may exercise and enjoy all the rights, powers, privileges, property, benefits and advantages which otherwise would appertain to the amalgamating Companies, and to all and every of them, if such amalgamation had not taken place.

V. And whereas the said Municipalities mentioned in the preamble to this Act, being largely interested in the said Company as the holders of certain bonds of the said Company, deemed it necessary to make certain arrangements for insuring the more speedy completion of the said Railway, and did by delegates acting on their behalf, accept certain proposals and enter into certain arrangements for that purpose in writing bearing date the tenth day of March, in the year of our Lord one thousand eight hundred and fifty-six, with Miles O'Reilly, of the City of Hamilton, Esquire, which arrangements were afterwards ratified and confirmed by the Councils of such Municipalities respectively, and are in the words contained in Schedule A to this Act annexed; Therefore, it is enacted and declared, that the By-laws or Resolutions of the Councils in acceptance of such agreement, shall, after the approval of the rate-payers as provided in the ninth section of this Act, authorize the said Councils to carry the same into full effect according to the true intent and meaning thereof.

Recital.

Agreement between the Company and certain Municipalities confirmed.

VI. And whereas doubts have arisen as to the regularity or legality of the proceedings of the Directors of the said Company, in their dealings with the said Municipalities and obtaining loans therefrom, and it was in and by the said arrangements amongst other things agreed, that the said Directors should be indemnified, and their action and proceedings in the premises legalized by Act of Parliament; Therefore, it is enacted and declared that the acceptance and adoption by the Rate-payers as hereinbefore provided, of the said agreement of the tenth of March, one thousand eight hundred and fifty-six, shall thereupon operate and take effect as a full discharge and indemnity to the said Directors, from all claims, actions and proceedings at Law or in Equity on the part of the said Municipalities, or any other party or parties whatsoever, for or by reason of the said action and proceedings in the premises.

Recital.

Certain Acts of the Directors as to Municipal bonds confirmed.

VII. It shall be lawful for any shareholder or person holding stock in the said Company, at any time within six calendar months after the passing of this Act, by writing under his hand, delivered to, and deposited with, the Secretary of the said Company, to surrender or yield up such stock or any part thereof, and thenceforth as to such stock or shares so surrendered or yielded up, such party shall cease to hold or be entitled to the same, and cease to be liable in any manner however in respect thereof, and the proper entries shall be made in the stock book of the said Company, shewing that such stock has been surrendered or yielded up.

Shareholders may surrender their Stock.

VIII.

Company or amalgamated Companies may pledge their road, &c., and give premium upon loans raised by them.

VIII. It shall be lawful for the said Company or amalgamated Companies to borrow money from time to time for making, completing and working this Railway, and to pledge the lands, tolls, revenue and other property of the Company for the due payment thereof; and to issue and dispose of their bonds from time to time, at such rate of premium or discount or otherwise as may be agreed upon in that behalf; and also to make their bonds to be issued by them for securing the repayment of any sums so borrowed, convertible into stock of the Company, on the terms and conditions to be mentioned or expressed in such bonds or in the By-laws of the Company; and all bonds to be issued by the Company for the payment of money only, whether they be convertible into stock as aforesaid or otherwise, shall be transferable by delivery or indorsed in like manner as promissory notes.

By-laws for aiding the Railway, changing the priority of bonds, &c., must be first submitted to rate-payers as under 16 V. c. 22.

IX. That any By-law for aiding the said Railway or for changing the position of any bonds or stock, with reference to priority or otherwise, before the same shall be of any force or effect, shall be first submitted to a vote of the Rate-payers of the Municipality interested, for their approval, and assented to by them or a majority of those voting thereat, which vote shall take place at such place as may be fixed by the Municipal Council interested, and of which, one month's previous notice shall be given in the manner prescribed by the fourth sub-section of the second section of the Act sixteenth Victoria, chapter twenty-two.

First moneys raised to be used to pay for certain surveys, &c.

X. That the first moneys raised under this Act shall be applied in the first place towards the payment and discharge of all fees, expenses and disbursements for procuring the passing of this Act, and for making the Surveys, Plans and Estimates of the said Railway and connected therewith, including those made within the last four years.

Public Act.

XI. This Act shall be deemed a Public Act.

#### SCHEDULE A.

Proposal by Mr. O'Reilly to the Delegates of the Municipalities of Woodstock, North Norwich, South Norwich, Windham, Simcoe and Woodhouse :

1. That the said Municipalities should take the bonds of the Woodstock and Lake Erie Railway and Harbor Company, for any aid already given and to be given to the said Company, which shall be postponed or subject to first mortgage bonds to be issued by the Company to the amount of one million pounds;

2. Private stock shall be taken to the amount of from seven hundred and fifty thousand pounds to one million pounds, in this and the road westward of St. Thomas;

3. That the Municipalities contribute towards the enterprise three years interest at six per cent. on the amount of their aid, as a gratuity, that is to say: the Company will pay the interest in the mean time, (beginning with and including the year's interest now past due) and take the bonds of the Municipalities for the amount, payable at the end of twenty years, with interest half yearly;

4. That in the mean time such a Board of Directors shall be put in as shall be nominated through Mr. O'Reilly, who of course are to have the unfettered direction, control and management of the whole undertaking;

5. That whether the mode of carrying out this arrangement shall be by the Municipalities first converting their bonds into stock, and afterwards giving up their stock and taking the Company's bonds for the amount, (which would be payable at the end of twenty years, or sooner if the Company please to pay them sooner) in either case the Municipalities and all others concur in getting any amendment in the law, necessary or desirable for this purpose, as well as also for legalising what has been already done by the Directors of the said Company, in so far as the taking and dealing with the bonds of the Municipalities, and other necessary matters;

6. That it shall be optional with Mr. O'Reilly and those acting with him, to decide whether the Municipalities shall become and remain shareholders in the Company, or be bondholders, as first above described; But if shareholders, of course they would stand on the same footing as other ordinary shareholders, the payment of the interest being made by the Company during construction: also in such case they would not make the contribution of the three years interest above referred to; but this agreement to be binding in all other respects;

7. If it be determined that the Municipalities are to be bondholders, the Company to pay two per cent. per annum (for sinking fund) on the principal of their (the Company's) bonds; and the Company's bonds in favor of the Municipalities to be so drawn that the Company have the option of paying them off at any time before the expiration of the twenty years, that is to say, at any time before due; and if the Municipalities are to remain shareholders, the Company to have the right to take their stock at *par* at any time in ten years from this date;

8. It is understood that the Road from Woodstock to Port Dover shall be put in running order within a reasonable time, say two years from this date.

The above written proposition is accepted and agreed to on the part of the said Municipalities.

Dated

Dated at Paris this tenth March, one thousand eight hundred and fifty-six.

M. O'REILLY,  
 JAMES KINTREA,  
 Delegate Councillor for Woodstock.  
 PAUL BEDFORD,  
 Delegate Councillor for North Norwich.  
 ASA DURKEE,  
 Reeve of South Norwich.  
 LAWRENCE H. HUNT,  
 Windham Delegate.  
 WM. M. WILSON,  
 Delegate for Simcoe.  
 WALKER POWELL,  
 Delegate, Woodhouse.

C A P . L X X V .

An Act to incorporate the London and Grand Trunk  
 Junction Railway Company.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS the persons hereinafter named, and divers others, have petitioned that an Act may be passed authorizing the construction of a Railway from any point in the City of London, to intersect the Grand Trunk Railway at the Village of St. Mary's or such other place Northerly of the said City of London, as may be most convenient for that purpose, so as to form a Railway connexion betwixt the City of London and the Grand Trunk Railway; And whereas a Railway so constructed would manifestly tend to open an extensive tract of fertile country and promote its general prosperity: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Incorporation  
 of Company.

I. William Barker, Marcus Holmes, James C. Macklin, Elijah Leonard, John Carling, George G. Magee, Lionel Ridout, Hiram Chisholm, David Glass, Peter Schram, John Wilson, John Crawford, Lewis Moffat, George Perkins, Henry C. R. Becher, James Shanley and William W. Street, together with such other person or persons, Corporations and Municipalities as shall, under the provisions of this Act, become Shareholders in the Company hereby incorporated, shall be and are hereby ordained, constituted and declared to be a body corporate and politic by and under the name of the "London and Grand Trunk Junction Railway Company."

Corporate  
 name.

Certain clauses  
 of 14 & 15  
 V. c. 51, in-

II. The several clauses of the Railway Clauses Consolidation Act with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said last mentioned

A c

Act with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their election and duties," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for indemnity and fines and penalties, and their prosecution," "Working of the Railway," and "General Provisions," shall be incorporated with this Act, and shall accordingly apply to the said Company and the said Railway, except only in so far as it may be inconsistent with the express enactments hereof; and the expression "this Act," when used herein shall be understood to include the provisions of the Railway Clauses Consolidation Act which are incorporated with this Act as aforesaid.

III. The said Company and their servants and agents shall have full power under this Act to lay out, construct and complete a Railway between the City of London and the Grand Trunk Railway, with full power to pass over any portion of the Counties of Middlesex, Huron and Perth, to intersect and unite with the Grand Trunk Railway at St. Mary's or at any other convenient point Northerly of the City of London, under the provisions of the ninth section of the Railway Clauses Consolidation Act.

IV. Deeds and conveyances under this Act for the lands to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said lands or circumstances of the parties making such conveyance will admit, be made in the form given in the Schedule to this Act, marked A, and all Registrars are hereby required to register in their Registry Books such deeds on the production thereof and proof of execution, without any memorial, and to minute every such entry on the Deed; the said Company are to pay the Registrar for so doing the sum of two shillings and six pence, and no more.

V. From and after the passing of this Act the said William Barker, Marcus Holmes, Lionel Ridout, John Wilson, John Crawford, Lewis Moffat, George Perkins, Henry C. R. Becher, James Shanley and W. W. Street shall be Provisional Directors of the said Company for carrying into effect the object and purposes of this Act.

VI. It shall and may be lawful for the Provisional Directors for the time being of the said Company or a majority of them, to supply the place or places of any of their number, from time to time dying or declining to act as such Provisional Director or Directors, out of the several owners of Stock in their said Railway to the amount of at least two hundred and fifty pounds, Provincial currency, each, during the period of their continuance in office; and such Provisional Directors, except as hereinafter is excepted, shall be and they are hereby invested with all the powers

powers, rights, privileges and indemnities, and they shall be and they are hereby made subject unto the like restrictions, as the elected Directors of the said Company upon their being elected by the Stockholders of the said Company, as hereinafter provided, would, under the provisions of the Railway Clauses Consolidation Act and of this Act, become invested with or subject unto respectively.

First general meeting and election of Directors

VII. When and so soon as Shares to an amount equivalent to one hundred thousand pounds Provincial currency, in the Capital Stock of the said Company be taken, and ten pounds per centum thereon shall have been paid in to some one of the Chartered Banks of this Province, it shall and may be lawful for the Provisional Directors of the said Company, for the time being, to call a meeting at the City of London, of the subscribers for Stock in the said Company, and who have paid ten per centum thereon as aforesaid, for the purpose of electing Directors of the said Company; Provided always, that if the said Provisional Directors shall neglect or omit to call such meeting, then the same may be called by any ten of the holders of Shares in the said Company holding among them not less than an amount equivalent to five thousand pounds Provincial currency; And provided always, that in either case public notice of the time and place of holding such meeting shall be given during one month in some one newspaper published in the City of London, and also in some one newspaper published in each of the Counties through which the said Railway shall pass or be intended to pass, or in such of the said Counties as shall have a newspaper published therein respectively; and at such general Meeting the Shareholders assembled, with such proxies as shall be present, shall choose eleven persons to be Directors of the said Company, being each a proprietor of shares in the said Company to an amount of not less than two hundred and fifty pounds Provincial currency, and shall also proceed to pass such Rules, Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act; Provided also, that such ten per centum shall not be withdrawn from such Bank or otherwise applied except for the purposes of such Railway, or upon the dissolution of the Company from any cause whatever.

Proviso.

Proviso for notice of meeting.

Election of 11 Directors.

Proviso: ten per cent. to be paid on subscribing.

Term of office of first Directors.

Annual general meeting.

Special general meetings.

VIII. The Directors so elected or those appointed in their stead in case of vacancy, shall remain in office until the first Wednesday in June, one thousand eight hundred and fifty-eight, and on the said first Wednesday in June and on the first Wednesday in June in each year thereafter, or such other day as shall be appointed by any By-law, an Annual General Meeting of the Shareholders shall be held at the office of the Company for the time being, to choose eleven Directors in the room of those whose period of office shall have expired, and generally to transact the business of the Company; but if at any time it should appear to any ten or more of such Shareholders holding together

together two hundred shares at least, that a Special General Meeting of the Shareholders is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof in such newspapers as are hereinbefore provided, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place and the reason and intention of such Special Meeting, respectively, and the Shareholders are hereby authorized to meet pursuant to such notice and proceed to the execution of the powers by this Act given to them, with respect to the matter so specified only; and all such acts of the Shareholders or the majority of them at such Special Meeting assembled, (such majority not having either as principals or proxies less than two hundred shares,) shall be as valid to all intents and purposes as if the same were done at Annual Meetings.

and powers thereof.

Majority must hold at least 1,000 shares, in order to bind the Company.

IX. For the purpose of making, constructing and maintaining the Railway and other works necessary for the proper use and enjoyment of the Railway by this Act authorized to be constructed, it shall and may be lawful for the Directors of the said Company for the time being, to raise in such manner by loan, subscription of stock, issuing of shares or otherwise as to the Directors of the said Company for the time being shall from time to time seem fit, the sum of Five Hundred Thousand Pounds Provincial Currency, such shares to be issued for sums of twenty-five pounds Provincial currency each; Provided always, that the said capital sum may from time to time, if necessary, be increased in the manner provided for by those clauses of the Railway Clauses Consolidation Act, which in and by the second section of this Act are incorporated with this Act.

Capital £500,000, and how to be raised.

Shares £25 each.

Proviso for increase of capital under 14 & 15 V. c. 51.

X. It shall and may be lawful for the Directors of the said Company for the time being, to make, execute and deliver all such scrip and share certificates, and all such bonds, debentures, mortgages or other securities, as to the said Directors for the time being shall from time to time seem most expedient for raising the necessary capital for the time being authorized to be raised by the said Company, or for raising any part thereof.

Directors to issue shares, scrip, &c.

XI. Every proprietor of shares in the said Company shall be entitled on every occasion when the votes of the members of the London and Grand Trunk Junction Railway Company are to be given, to one vote for every share of twenty-five pounds currency held by him.

Proportion of votes to shares.

XII. All bonds, debentures and other securities to be executed by the London and Grand Trunk Junction Railway Company may be made payable to bearer; and all such bonds, debentures or other securities of the said Company, and all dividends and interest warrants thereon respectively, which shall purport to be payable to bearer, shall be assignable at law

Debentures, &c., may be made payable to bearer.

law by delivery, and may be sued on and enforced by the respective bearers and owners thereof for the time being, in their own names.

Quorum of Directors.

XIII. Any meeting of the Directors of the said Company, regularly summoned, at which not less than five of such Directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said Directors.

Calls ; Amount of, limited.

XIV. Calls may be made by the Directors of the said Company for the time being ; Provided that no call to be made upon the subscribers for stock in the said Railway Company, shall exceed the sum of ten pounds per centum upon the amount subscribed for by the respective Shareholders in the said Company, and that the amount of any such calls in any one year shall not exceed fifty pounds per centum upon the stock so subscribed ; Provided also, that upon the occasion of any person or Corporation becoming a subscriber for stock in the said Company, it shall and may be lawful for the Provisional and other Directors of the said Company, for the time being, to demand and receive to and for the use of the said Company the sum of ten pounds per centum upon the amount so by such person or Corporation respectively subscribed, and the amount of such calls as shall have already been made payable in respect of the stock then already subscribed at the time of such person or Corporation respectively subscribing for stock.

Proviso : ten per cent. and calls then made to be paid on subscribing.

Recital.

XV. And whereas it may be necessary for the said Company to possess gravel pits and lands containing deposits of gravel, as well as lands for stations and other purposes at convenient places along their line of Railway for constructing and keeping in repair and for carrying on the business of the said Railway ; and as such gravel pits or deposits cannot at all times be procured without buying the whole lot of land whereon such deposits may be found ; It is therefore enacted, that it shall be lawful for the said Company, and they are hereby authorized, from time to time to purchase, have, hold, take, receive, use and enjoy, along the line of the said Railway or separated therefrom, and if separated therefrom, then with the necessary right of way thereto, any lands, tenements and hereditaments which it shall please Her Majesty or any person or persons or bodies politic, to give, grant, sell or convey unto, and to the use of or in trust for, the said Company, their successors and assigns, and it shall and may be lawful for the said Company to establish stations or workshops on any such lots or blocks of land, and from time to time, by deed of bargain and sale or otherwise, to grant, bargain, sell or convey any portions of such lands not necessary to be retained for gravel pits, sidings, branches, wood-yards, station-grounds or workshops, or for effectually repairing, maintaining and using to the greatest advantage, the said Railway and other works connected therewith.

Company may purchase land for gravel pits, stations, &c.

And dispose thereof when not wanted.

XVI. The said Railway shall be commenced within two years and completed within seven years after the passing of this Act. Commencement, &c., of Railway.

XVII. And whereas it may be the interest of the said Company hereafter to unite with the Grand Trunk Railway Company or with some other Railway Company: Be it enacted, that it shall be lawful for the said London and Grand Trunk Junction Railway Company, at any time hereafter to unite with and become merged in the Grand Trunk Railway Company, under the provisions of the several Acts of this Province relating to the said Grand Trunk Railway Company, or with any other Railway Company whose Railway intersects that of the said Company or touches any place which their Railway also touches, upon such terms and conditions as may be agreed upon between the Companies; and to any such Union and the proceedings preliminary thereto and the effects thereof, all the provisions of the Acts passed in the sixteenth year of Her Majesty's Reign, and chaptered respectively thirty-nine and seventy-six (providing for the Union of Railway Companies) shall extend and apply. Company may unite with another Railway Company.  
  
Acts 16 V. cc. 39 and 76, to apply to such union.

XVIII. The Interpretation Act shall apply to this Act, and this Act shall be deemed a Public Act. Public Act, &c.

### SCHEDULE A.

Know all men by these presents, that I, *(insert the name of the wife, also if she is to release her dower, or for any other reason to join in the conveyance,)* do hereby in consideration of \_\_\_\_\_ paid to me *(or as the case may be,)* by the London and Grand Trunk Junction Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said London and Grand Trunk Junction Railway Company, their successors and assigns for ever, all that certain parcel or tract of land situate *(describe the land)*—the same having been selected and laid out by the said Company for the purposes of their Railway, to have and to hold the said land and premises together with every thing appertaining thereto to the said London and Grand Trunk Junction Railway Company, their successors and assigns for ever: *(if there be dower to be released, add)* and I *(name the wife)* hereby release my dower in the premises.

Witness my [*or our*] hand [*or hands*] and seal [*or seals*] this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

A. B. [L. S.]  
C. B. [L. S.]

Signed, sealed and delivered }  
in the presence of }

O. K.

C A P .

## CAP. LXXVI.

An Act to amend and consolidate the several Acts incorporating and relating to the Bank of Montreal.

[Assented to 19th June, 1856.]

Preamble.

WHEREAS the Bank of Montreal have prayed that the Act by which they are incorporated, and the several Acts amending the same, may be amended and consolidated, and it is expedient to grant their prayer: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Corporation of the Bank continued.

4 & 5 V. c. 98, cited.

Real estate.

No new Corporation created.

Capital £1,500,000.

Provision for enforcing payment of calls on stock subscribed for, under 18 V. c. 38.

Forfeiture for non-payment of calls.

I. The Shareholders of the Bank of Montreal, incorporated by the Act of the Provincial Parliament, passed in the Session thereof held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to renew the Charter of the Bank of Montreal, and to increase its Capital Stock*, and the respective heirs, executors and assigns of such Shareholders, shall be and continue to be, during the continuance of this Act, a body politic and corporate, by and under the name of the Bank of Montreal; and as such may acquire and hold such real estate, not exceeding the annual value of ten thousand pounds, currency, as may be necessary for the convenient management of their business; and may, from time to time, sell, alienate and convey all or any part of the same, and acquire and hold other real estate in lieu thereof, for the said purpose; but nothing herein contained shall be construed to make the said Bank a new corporation, or in any way whatever to affect any right or liability of the said Bank, or any action, suit or proceeding pending at the time of the passing of this Act.

II. The capital stock of the Bank shall be the aggregate amount authorized by the Act of incorporation in the preceding section mentioned, and the several Acts authorizing an increase of the same, namely, one million five hundred thousand pounds, currency; which capital stock shall be divided into thirty thousand shares of fifty pounds each: And with regard to so many of the said shares as have been subscribed for under and in virtue of the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to amend the Charter and increase the Capital Stock of the Bank of Montreal*, but have not yet been wholly paid up, if any holder of such shares refuse or neglect to pay any instalment thereon at the time appointed or to be appointed by the Directors, such Shareholder shall incur a forfeiture, to the use of the Bank, of a sum of money equal to ten pounds per centum on the amount of such shares; and moreover, the Directors may, without any previous formality other than thirty days' public notice of their intention, sell at public auction the said shares, or so many of them as shall, after deducting all reasonable expenses, yield a sum of money sufficient to pay the unpaid

unpaid instalments due on the remainder of the said shares, and the forfeitures incurred upon the whole; and the President or Cashier of the Bank shall execute the transfer to the purchaser of the shares so sold, and such transfer shall be as valid and effectual in law as if the same had been executed by the original holder of the shares: Provided always, that nothing in this section contained shall be held to debar the Directors, or the Shareholders at a general meeting, from remitting, in whole or in part and conditionally or unconditionally, any forfeiture incurred by the non payment of the instalments as aforesaid.

Proviso: forfeiture may be remitted.

III. The chief seat or place of business of the Bank shall be in the City of Montreal; but the Directors may, from time to time, open and establish Branches or Agencies of the Bank at other places in this Province; and, for the management of the business of the same, may appoint either local Directors, or Managers, or Agents, or all or any one or more of them, and make such rules and regulations for their guidance as shall not be repugnant to any law of this Province, to this Act, or to the By-laws of the Bank; Provided always, that no person shall be appointed a local Director, unless he also shall be, and during three months immediately preceding his appointment shall have been, a holder and absolute owner, in his own name and right (and not in trust for any purpose or person, or in trust simply), of not fewer than ten shares wholly paid up, of the capital stock of the Bank, and be also a natural born or a naturalized subject of Her Majesty.

Chief seat of business; branches may be established.

Proviso as to local Directors and their qualification.

IV. The affairs of the Bank shall be managed by nine Directors, who shall be annually elected by the Shareholders, at a general meeting to be held on the first Monday in June, at which the Shareholders shall vote according to the scale hereinafter established; and the Directors elected by a majority of the votes shall be capable of serving as Directors during the ensuing twelve months, and until they shall be replaced by their duly elected successors;—At their first meeting after their election, the Directors shall choose from among themselves a President and a Vice-President, who, respectively, shall hold their offices during the same period;—In case of a vacancy occurring in the number of the Directors, the remaining Directors shall fill the same by election from among the other Shareholders; and if the vacancy also cause the vacancy of the office of President, or of Vice-President, the Directors, at the meeting at which they shall have completed their number, or at their first meeting thereafter, shall choose from among themselves a President, or a Vice-President, to continue in office during the remainder of the same period; Provided always, that each of the Directors shall be, and during the three months immediately preceding his election shall have been, the holder and absolute owner, in his own name and right (and not in trust for any purpose or person, or in trust simply,) of not less than twenty shares, wholly paid up, of the capital

Annual election of nine Directors,

Period of service.

President and Vice-President.

Vacancies, how filled.

Proviso: qualification of Directors.

Proviso: By-law may be passed requiring five to be re-elected.

Present Directors continued.

capital stock of the Bank, and shall be a natural born or a naturalized subject of Her Majesty, and be actually domiciled in, or within nine miles of the City of Montreal: And provided also, that it shall be lawful for the Stockholders at any Annual General Meeting, to pass a By-law directing that five of the Directors in office at the periods of each annual election, shall be re-elected for the ensuing twelve months: And provided also, that the present Directors shall remain in office until they shall be replaced by their successors, duly elected at the annual meeting of the Shareholders to be held next after the passing of this Act.

Failure of election, how remedied.

V. The failure of an election of Directors on the day fixed by this Act shall not affect the corporate existence or powers of the Bank; but such election may be made at any subsequent time, at a general meeting of the Shareholders duly called for that purpose.

Directors, but not Shareholders, to inspect books.

VI. The books, correspondence and funds of the Bank shall at all times be subject to the inspection of the Directors; but no Shareholder, not being a Director, shall inspect or be allowed to inspect the account of any person dealing with the Bank.

Quorum of Directors.

Who shall preside at their meetings.

VII. At all meetings of the Directors, not fewer than three of them shall constitute a Board or quorum for the transaction of business; and at every such meeting, the President, or in his absence, the Vice-President, or in their absence one of the Directors present to be chosen *pro tempore*, shall preside; and the President, Vice-President, or President *pro tempore* so presiding, shall vote as a Director; and if there be an equal division on any question, shall also have a casting vote.

Directors to make By-laws subject to confirmation by the Stockholders.

Proviso; present By-laws continued when not inconsistent with this Act.

VIII. For the management of the affairs of the Bank, the Directors may, from time to time, make and enact By-laws, not repugnant to this Act or to any law of this Province, and may alter and repeal the same; but no such By-law shall have force or effect until it shall have been confirmed by the Shareholders: and of the intention of the Directors to submit any By-law to the Shareholders for confirmation, six weeks' public notice shall previously be given, in which notice, however, it shall not be necessary to embody the proposed By-law; Provided always, that the present By-laws of the Bank, in so far as they are not repugnant to this Act or to law, shall continue in force until altered or repealed.

Remuneration of President and Directors.

Not to be concerned for other Banks.

IX. The Shareholders may, by a By-law, appropriate a sum of money from the general funds of the Bank, to the remuneration of the services of the President and Directors, as such; and the President and Directors may annually apportion the same among themselves, in such manner or according to such rule, as they, in each year, shall see fit. No Director shall, during

during his service as such, act as a private Banker, or as a Director, Manager, or Officer of any other Bank or Banking Company, either public or private.

X. The Directors shall appoint all such Cashiers, Managers, Agents, Clerks and other Officers, and Servants, as shall be necessary for conducting the business of the Bank, and allow them reasonable compensation for their services: Provided always, that no person so appointed shall be permitted to enter upon the duties of his office, until he shall have given bond or other sufficient security, to the satisfaction of the Directors, with condition for good and faithful behaviour, that is to say: the Chief Cashier in a sum not less than five thousand pounds currency, and every other Cashier, and every Manager, Agent, Clerk or other Officer and Servant, in such sum as the Directors shall deem commensurate with the trust to be reposed.

Directors to appoint Officers.

Proviso: security to be taken in every case.

XI The Directors shall make half-yearly dividends of so much of the profits of the Bank as to them shall appear advisable; and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously; Provided always, that no dividend shall in any manner lessen or impair the capital stock of the Bank.

Payment of dividends.

Proviso: not to impair capital.

XII. A general meeting of the Shareholders of the Bank shall be held at the Bank in the City of Montreal, on the first Monday in the month of June in every year, for the purpose of electing Directors, and for all other the general purposes and affairs of the Bank; and at every such annual general meeting the Directors shall submit a full and clear statement of the affairs of the Bank.

Annual general meeting.

Statement of affairs.

XIII. A special general meeting of the Shareholders, at their usual place of meeting in the City of Montreal, may at any time be called by not fewer than five of the Directors; or the same may at any time be called by any number, not less than fifty, of the Shareholders, who, in their own names and rights, are proprietors of not fewer than one thousand shares, wholly paid up, of the capital stock of the Bank;—six weeks' public notice, specifying the particular object or objects of the meeting, shall previously be given of every such meeting; and if the object be to consider the proposed removal of the President, the Vice-President, or a Director, for mal-administration, or other specified and apparently just cause, the person whom it is proposed to remove shall be suspended from the duties of his office, from the day on which the notice shall first be published, if the proposed removal be that of the President, or of the Vice-President, his office shall be filled by the remaining Directors, in the manner provided for in the case of an ordinary vacancy of either of those offices, until the suspension shall be decided or cease.

Special general meetings, how called.

Provision if the object be the removal of a Director, &c.

Scale of votes.

XIV. At every meeting of the Shareholders, they shall, respectively, be entitled to vote according to the following scale, that is to say: for one share and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty, and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and no Shareholder shall be entitled to give a greater number of votes than twenty: absent shareholders may give their votes by proxy, such proxy being also a Shareholder, and being also provided with a written authority from his constituent or constituents, in the form established by a By-law, and which authority shall be lodged in the Bank; Provided always that no share held for less than three calendar months immediately prior to a meeting of the Shareholders, shall entitle the holder thereof to vote at such meeting, either in person or by proxy; and where two or more persons are joint holders of a share, one only of them, empowered by Letter of Attorney from the other or others, or a majority of the others of them, shall be entitled to represent such share, and vote accordingly; And provided also, that no Shareholder not a natural born or naturalized subject of Her Majesty, shall, either in person or by proxy, vote at or assist in calling any meeting of the Shareholders; any thing in this Act, or in any law or usage to the contrary notwithstanding.

Voting by proxy.

Shares must have been held a certain time.

Joint holders of shares.

None but British subjects to vote, &amp;c.

Bank Officers not to vote.

XV. No Cashier, Manager, Agent, Clerk or other Officer or Servant of the Bank, shall vote either in person or by proxy, at any meeting for the election of Directors, nor hold a proxy for the purpose.

Shares to be personalty, and how transferable.

XVI. Every share of the capital stock shall be held to be personal estate, and be transmissible accordingly, and also, shall be transferable, at the Bank, according to the form of Schedule A, annexed to this Act; but no transfer shall be valid and effectual unless it be made and registered in a book to be kept at the Bank for that purpose, and be therein accepted by the party to whom the transfer shall be made, or his lawful Attorney; nor shall any transfer be made or allowed until the transferring party shall have previously discharged all his debts and liabilities to the Bank exceeding in amount the value of his remaining shares, if any, unless with the consent of the Directors; and no fractional part or parts of a share shall be transferable: Provided always, that the Directors may, from time to time, make any given number of the shares of the capital stock transferable, and the dividends arising thereon payable, in the United Kingdom, in like manner as such shares and dividends are now, respectively, transferable and payable at the Bank in the City of Montreal; and to that

Debts to the Bank must be first paid, &amp;c.

Proviso: any number of shares may be made transferable and dividends payable in the United Kingdom.

that end, the Directors may, from time to time, make and prescribe such rules, regulations and forms, and appoint such Agent or Agents, as they may deem necessary.

XVII. The transmission of the interest in any share of the capital stock, in consequence of the death, bankruptcy or insolvency of a Shareholder, or of the marriage of a female Shareholder, or by any other lawful means than an ordinary transfer under the preceding section, shall be authenticated by a declaration in writing, made and signed by the party claiming the transmission, or his lawful Attorney, or in such other manner as the Directors shall require; every such declaration shall distinctly state the manner in which, and the party to whom the transmission has been made; and shall be, by the party making and signing the same, acknowledged before a Judge of a Court of Record, or before the Mayor, Provost or Chief Magistrate of a city, town, borough or other place, or before a Public Notary, or before a Cashier, Manager or local Agent of the Bank, at the place where the same shall be made and signed; and when so signed and acknowledged shall be left with the Cashier, Transfer Clerk or other officer of, and at the Bank in the City of Montreal, together with such original or officially authenticated documents or extracts, as shall be necessary to substantiate the essential averments in the declaration; and thereupon, the party claiming and proving the transmission shall be entitled to have his name duly recorded in the register of Shareholders, in lieu of the name of the original Shareholder from whom the share was transmitted; and until the transmission shall have been authenticated as aforesaid, no person claiming the transmission shall be entitled to receive any share of the profits of the Bank, or to vote in respect of the share in question; and any person wilfully making a false declaration, shall, on conviction, be deemed guilty of a misdemeanor, and be punished accordingly; Provided always, that every such declaration as shall be made and signed elsewhere than in the British dominions, shall be further authenticated by, or shall be directly acknowledged before the British Consul, Vice-Consul, or other accredited representative of the British Government in the country where the declaration shall be made: And provided also, that nothing herein contained shall be held to debar the Bank, or the Directors, Cashier, Transfer Clerk, or other officer or agent of the Bank, from requiring further corroborative and authentic evidence of any essential fact or facts alleged in any such declaration, or touching the transmission claimed by, or the identity of the party claiming the same.

Transmission shares by death, marriage, &c., or otherwise than by regular transfer.

Declaration to be made, attested and proved.

Proviso: as to declarations made out of Her Majesty's Dominions.

Proviso: Bank may require further proof.

XVIII. If the transmission of a share of the capital stock of the Bank be by virtue of the marriage of a female Shareholder, the declaration of transmission shall be made and signed by such female Shareholder and her husband; and it shall be competent to them to include therein a declaration to the effect that

Special provision in case of transmission by marriage.

Share may be held under separate control of the wife, &c.

Bank not bound to see to trusts to which shares are subject; or to application of moneys.

What only shall constitute the legitimate business of the Bank.

Proviso: Bank may take additional security in certain cases, and purchase outstanding charges on property of its debtors.

that the share transmitted is the sole property, and under the sole control of the wife, that she may receive and grant receipts for the dividends and profits accruing in respect thereof, and dispose of and transfer the share itself, without requiring the consent or authority of her husband; and such declaration shall be binding upon the Bank and the parties making the same, until the said parties shall see fit to revoke it by a written notice to that effect to the Bank; and further, the omission of a statement in any such declaration, that the wife making the same is duly authorized by her husband to make the same, shall not cause the declaration to be deemed either illegal or informal; any law or usage to the contrary notwithstanding.

XIX. The Bank shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any share of the Bank may be subject, and the receipt of the party in whose name any such share shall stand in the books of the Bank, or if it stand in the names of more parties than one, the receipt of one of the parties, shall, from time to time, be a sufficient discharge to the Bank for any dividend, bonus, or other sum of money, payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had notice of such trust; and the Bank shall not be bound to see to the application of the money paid upon such receipt; any law or usage to the contrary notwithstanding.

XX. The Bank shall not, either directly or indirectly, acquire or hold any real estate, other than such as by the first section of this Act they are authorized to acquire and hold; nor any ship or other vessel; nor any share of their own capital stock, or of the capital stock of any other incorporated or unincorporated Company; nor shall the Bank, either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation of any real estate, or of any share of their own capital stock, or of any goods, wares or merchandize; nor shall the Bank, either directly or indirectly, raise loans of money, or deal in the buying, selling or bartering of goods, wares or merchandize, or engage or be engaged in any trade whatever, except as dealers in gold and silver bullion, bills of exchange, discounting of promissory notes, and negotiable securities for money, and in such trade, generally, as legitimately appertains to the business of banking; Provided always, that the Bank may take and hold mortgages and hypothecs on real estate in this Province, and on ships and other vessels, and security on personal property, by way of additional security for debts contracted to the Bank in the course of their dealings; and also, for such purpose, may purchase and take any outstanding mortgages, judgments or other charges, upon the real or personal property of any Debtor of the said Bank.

XXI. The aggregate amount of discounts and advances made by the Bank upon commercial paper or securities bearing the name of any Director, or the partnership name of any Director of the Bank, shall never, at any one time, exceed one twentieth of the total amount of the discounts and advances made by the Bank at the same time.

Amount of discounts to Directors limited.

XXII. The Bank may allow and pay interest, not exceeding the legal rate in this Province, upon moneys deposited in the Bank; and, in discounting promissory notes, bills, or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same; and when notes, bills, or other negotiable securities or paper, are *bonâ fide* payable at a place within the Province, different from that at which they are discounted, the Bank may also in addition to the discount, receive or retain an amount not exceeding one half per centum on the amount of every such note, bill or other negotiable security or paper, to defray the expenses of agency and exchange attending the collection of every such note, bill, or other negotiable security or paper; and the Bank may charge any note or bill held by and payable at the Bank, against the deposit account of the maker of such note or acceptor of such bill, at the maturity thereof; any law, statute or usage to the contrary notwithstanding.

Bank may allow and pay interest and retain discount &c.

And charge a limited premium in certain cases.

May charge bills or notes to deposit accounts in certain cases.

XXIII. The bonds, obligations and bills, obligatory and of credit, of the Bank, under the common seal, and signed by the President or Vice-President, and countersigned by the Cashier, or other officer appointed by the Bank, which shall be made payable to any person or persons, shall be assignable by endorsement under the hand or hands of such person or persons, and of his or their assign or assigns, and so as absolutely to transfer and vest the property thereof in the several assigns, successively, and to enable such assign or assigns to bring and maintain an action or actions thereon, in his or their own name or names; and signification of any such assignment by endorsement shall not be necessary, any law or usage to the contrary notwithstanding; and bills or notes of the Bank, signed by the President or Vice-President, or by a Cashier or other officer appointed by the Bank in that behalf, promising the payment of money to any person or persons, or to his or their order, or to the bearer, though not under the common seal, shall be binding and obligatory upon the Bank, and shall be assignable and negotiable in like manner as if they were made and issued by a private person in his natural capacity.

Bonds, &c., of the Bank how assignable.

And its bills and notes not under seal.

XXIV. The notes and bills of the Bank made payable to order, or to bearer, and intended for general circulation, whether the same shall issue from the chief place or seat of business of the Bank in the city of Montreal, or from any of the Branches or Agencies, shall be payable on demand, in specie, at the place where they bear date; and a suspension of payment on demand,

Bank-notes to be payable at the place of date.

Suspension for 60 days to

operate for-  
feiture of  
charter.

demand, in specie, at any such place, of any such notes or bills of the Bank, shall, if the time of suspension extend to sixty days, consecutively or at intervals within any twelve consecutive months, operate as, and be a forfeiture of the Incorporation, and of all the privileges of the Incorporation of the Bank.

Total amount  
of Bank-notes,  
limited.

And of those  
under £1 each.

None to be un-  
der 5 shillings.

XXV. The total amount of the bank-notes and bills of the Bank, of all values, in circulation at any one time, shall never exceed the aggregate amount of the paid up capital stock of the Bank, and the gold and silver coin and bullion, and debentures or other securities, reckoned at par, issued or guaranteed by the Government under the authority of the Legislature of this Province, on hand; and of those bank-notes and bills in circulation at any one time, not more than one fifth of the said aggregate amount shall be in bank-notes or bills under the nominal value of one pound currency each; but no bank-note or bill of the Bank, under the nominal value of five shillings, shall be issued or put in circulation.

Total liabilities  
of the  
Bank limited.

Penalty on  
Directors in  
case of excess.

Proviso: Di-  
rectors giving  
a certain no-  
tice within a  
certain time  
may free them-  
selves from  
such penalty;  
but not from  
liabilities as  
Shareholders.

XXVI. The total amount of the debts of the Bank shall, at no time, exceed three times the aggregate amount of the paid up capital stock, and the deposits in specie and Government securities for money; and in case of excess, the Bank shall forfeit their Incorporation, and all the privileges thereof; and the Directors under whose administration the excess shall happen, shall be liable, jointly and severally, for the same, in their private capacities, as well to the Shareholders, as to the creditors of the Bank; and an action or actions in this behalf may be brought against the Directors, or any one or more of them, and the heirs, executors and administrators of the Directors, or any one or more of them, and be prosecuted to judgment and execution according to law; but such action or actions shall not exempt the Bank, or the lands and tenements, goods and chattels of the Bank, from being also liable for the excess: Provided always, that if any Director, present at the time of contracting any such excess of debt, do forthwith, or if any Director absent at the time of contracting any such excess of debt, do within two days after he shall have obtained a knowledge thereof, enter on the minutes or register of proceedings of the Directors, his protest against the same, and do, within eight days thereafter, publish such protest in at least two newspapers published in the city of Montreal, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors and administrators, from the liability aforesaid, any thing herein contained, or any law or usage to the contrary notwithstanding; but such publication shall not exonerate any Director from his liability as a Shareholder.

Liabilities of  
Shareholders,  
limited.

XXVII. In the event of the property and assets of the Bank becoming insufficient to satisfy the liabilities thereof, the Shareholders, in their private or natural capacities, shall be liable for the deficiency, but to no greater extent than double the amount

amount of the paid up capital, that is to say : the liability of each Shareholder shall be limited to the amount of his share or shares of the capital stock, and a further sum of money equal in amount thereto : Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the Bank, in this Act mentioned and declared. Proviso.

XXVIII. The Bank are hereby declared liable for all the debts and liabilities of the several corporations and association mentioned in the thirtieth section of the Act of Incorporation in the first section of this Act mentioned ; and are also hereby empowered, in their own corporate name, to recover and hold, as their own, all the property, real and personal, of the said corporations and association, and all the debts remaining due thereto respectively ; the said corporations and association being hereby declared to have been and to be, respectively, merged in the corporation by the said Act of Incorporation and this Act constituted. Bank to have the rights and liabilities accrued before 1 & 5 V. c. 98.

XXIX. Within the first three weeks of every month, the Directors shall make up and publish in the *Canada Gazette*, and shall, if required, also transmit to the Governor, a statement of the assets and liabilities of the Bank on the last day of the preceding month, in the form of the Schedule B hereunto annexed, and if at any time required by the Governor, shall verify any such statement by the production of the balance-sheets from which the same shall have been compiled ; and furthermore, shall, when required, furnish the Governor with such further information respecting the state and proceedings of the Bank, and of the several Branches and Agencies thereof, as the Governor may reasonably see fit to call for : Provided always, that the balance-sheets, and the further information so furnished shall be held by the Governor to have been, and to be so furnished, in strict confidence that the same shall not be divulged or made public, and that nothing herein contained shall authorize the Directors to make known to the Governor, the private account of any person having dealings with the Bank. Monthly statements to be made and published.

XXX. The Bank shall not, at any time whatever, directly or indirectly, advance or lend to, or for the use of, any foreign Prince, Power or State, any sum or sums of money, or any securities for money ; and if any such unlawful advance or loan be made, then, and from the time of making the same, the Bank, as a Corporation, shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted, shall cease and determine ; any thing in the aforesaid Act of Incorporation or in this Act to the contrary notwithstanding. Governor may require further information.

XXXI. It shall be the duty of the Directors of the Bank to invest, and keep invested at all times, in Debentures of this Province, Proviso.

Bank not to lend money, &c., to any foreign state.

One tenth of the paid up capital to be

invested in  
Provincial  
debentures.

Province, payable within the same, or secured on the Consolidated Municipal Loan Fund, one tenth part of the whole paid up Capital of the Bank, and to make a return of the numbers and amount of such Debentures, verified by the oaths and signatures of the President and Chief Cashier or Manager of the Bank, to the Inspector General, in the month of January of each year, under the penalty of the forfeiture of the Charter of the Bank, in default of such investment and return.

Penalty for  
default.

What shall be  
Public Notice.

XXXII. The several public notices by this Act required to be given, shall be given by advertisement in two or more of the newspapers published in the City of Montreal, and in the official newspaper called *The Canada Gazette*.

Search may  
be made for  
counterfeit  
notes or ma-  
terial for coun-  
terfeiting.

XXXIII. On complaint made upon the oath of one credible person, to the effect that there is just cause to suspect that any person is or has been concerned in making or counterfeiting any bank-notes or bills of the Bank, any Magistrate may, by warrant under his hand, cause the dwelling-house, room, workshop, out-house or other building, yard, garden or other place, where such person shall be suspected of carrying on such making or counterfeiting; to be searched; and all such counterfeit bank-notes and bills, and all such plates, dies, rolling-presses, tools, instruments and materials used in, or apparently adapted to, the making or counterfeiting of bank-notes or bills, as shall be found therein or thereon, shall forthwith be carried before the same, or any other Magistrate, who shall cause them to be secured and produced upon any prosecution in relation thereto in a Court of Justice, and the same, after being so produced in evidence, shall be defaced or destroyed, or otherwise disposed of, at the discretion of the Court.

Recital.

XXXIV. And whereas it may be deemed expedient, that the name or names of the person or persons intrusted and authorized by the Bank to sign bank-notes and bills on behalf of the Bank, should be impressed by machinery, in such form as may from time to time be adopted by the Bank, instead of being subscribed in the hand-writing of such person or persons respectively; And whereas doubts might arise respecting the validity of such notes and bills: Be it therefore further declared and enacted, that all bank-notes and bills of the Bank of Montreal, whereon the name or names of any person or persons intrusted or authorized to sign such notes or bills on behalf of the Bank, shall or may become impressed by machinery provided for that purpose by or with the authority of the Bank, shall be and be taken to be good and valid, to all intents and purposes as if such notes and bills had been subscribed in the proper hand-writing of the person or persons intrusted and authorized by the Bank to sign the same respectively, and shall be deemed and taken to be bank-notes or bills within the meaning of all laws and statutes whatever; and shall and may be described as bank-notes or bills, in all indictments and all civil or criminal proceedings whatsoever; any law, statute or usage to the contrary notwithstanding.

Names of per-  
sons authorized  
to sign Bank-  
notes may be  
impressed by  
machinery,  
and the notes  
valid, &c.

XXXV. This Act shall be a Public Act, and shall be called and known as *The Charter of the Bank of Montreal*; and the Interpretation Act shall be applicable thereto.

Public Act.  
Short Title,  
&c.

XXXVI. The Act of Incorporation mentioned in the first section of this Act, and the several Acts subsequently passed in amendment of, or in addition to the same, in so far as they are repugnant to, or inconsistent with this Act, are hereby repealed.

Repeal of in-  
consistent  
enactments.

XXXVII. This Act shall be and remain in force until the first day of June, in the year one thousand eight hundred and seventy; and from that time until the end of the then next Session of the Parliament of this Province, and no longer.

Duration of  
this Act.

### SCHEDULE A

*Referred to in the foregoing Act.*

For value received from I, (or we) of do hereby assign and transfer unto shares (on each of which has been paid pounds shillings, currency, amounting to the sum of pounds shillings) in the Capital Stock of the Bank of Montreal, subject to the rules and regulations of the Bank.

Witness my (or our) (hand or hands) at the said Bank, this day of in the year one thousand eight hundred and

(Signature.)

I (or we) do hereby accept the shares above transferred.

Witness my (or our) (hand or hands) at the Bank, this day of one thousand eight hundred and

(Signature.)

### SCHEDULE B

*Referred to in the foregoing Act.*

Return of the average amount of Liabilities and Assets of the Bank of Montreal on the 18

#### LIABILITIES.

Promissory Notes in circulation not bearing interest.....	£
Bills of Exchange in circulation not bearing interest.....	£
Bills and Notes in circulation bearing interest.....	£
Balances due to other Banks.....	£
Cash deposits, not bearing interest.....	£
Cash deposits, bearing interest.....	£

Total Liabilities.....£

ASSETS.

## ASSETS.

Coin and Bullion.....	£
Landed or other Property of the Bank.....	£
Government Securities.....	£
Promissory Notes or Bills of other Banks.....	£
Balances due from other Banks.....	£
Notes and Bills discounted.....	£
Other Debts due to the Bank, not included under the foregoing heads.....	£
Total Assets.....	£

## C A P . L X X V I I .

An Act to amend the Act to incorporate the Quebec and St. Francis Mining and Exploring Company.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS the Quebec and St. Francis Mining and Exploring Company have prayed for certain amendments to their Charter, and for a reduction of their Capital Stock, to facilitate their operations, and it is expedient to grant the prayer of their Petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Capital of Company incorporated by 18 V. c. 47, increased.

Proviso.

I. The Capital Stock which the said Company are authorized to hold in and by the Act of the now last Session, intituled, *An Act to incorporate the Quebec and St. Francis Mining and Exploring Company*, is hereby reduced to twenty-seven thousand pounds currency, divided into thirty-six thousand shares of fifteen shillings each: Provided always, that the said Capital Stock may be increased to fifty-four thousand pounds in the manner provided in the eighth section of the said Act as amended by this Act.

Section 8 of the said Act, amended.

II. The said eighth Section is hereby amended by substituting the words "twenty-seven" for the words "thirty-six," and the words "fifty-four" for the words "seventy-two," wherever they occur in the said section.

Section 12 of the said Act, amended.

III. The twelfth Section of the said Act is hereby amended by striking out the words, "not less than three nor more than five," where they occur in the said Section, and by substituting therefor the words "a qualified person, or two, three, four or five," and by inserting after the words "next following Section" in the said Section, the words, "and to fill any such vacancies as there may then be, from any other cause, in the number of Directors, so that the number of the Directors of the said Company shall be not less than three nor more than five."

IV.

IV. All the provisions of the above cited Act, which are inconsistent with this Act, are hereby repealed. inconsistent enactments repealed.

V. This Act shall be deemed a Public Act. Public Act.

C A P . L X X V I I I .

An Act to incorporate the Canada and Liverpool Mining and Exploring Company.

[Assented to 19th June, 1856.]

**W**HEREAS it has been represented by petition that the several persons hereinafter named have associated themselves together with others for the purpose of exploring for and working metals, mines of copper and other ores, and of smelting the same in this Province, and that they possess a large extent of land on Lake Superior, and have raised by subscription the capital necessary effectually to begin their operations, but that they experience great difficulties in carrying out the objects for which they are associated, without an Act incorporating them with the powers hereinafter mentioned, and have prayed that such an Act may be passed: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: Preamble.

I. Philip Cady VanBrocklin, John Smith, Isaac Vanetten, Thomas Daly, L. M. Oliver, A. A. Parker, Charles D. Kimball and R. R. Nelson, and their successors, and such or so many other persons or parties as have become or shall become shareholders in the Capital Stock hereinafter mentioned, shall be and they are hereby constituted a body politic and corporate, in fact and by name, by the name of the "Canada and Liverpool Mining Company," and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law or Equity whatsoever, and shall have uninterrupted succession with a common seal which may be changed or varied at their pleasure. Certain persons incorporated.  
  
Corporate name and powers.

II. No Shareholder in the said Corporation shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his, her or their unpaid subscribed share or shares in the Capital Stock of the said Corporation. Shareholders not liable for Corporation.

III. The Capital Stock of the said Company shall be and the same is hereby declared to be Twelve Thousand Five Hundred Pounds, divided into two thousand five hundred shares of five pounds each; Provided always, that the said capital may be increased to fifty thousand pounds, as hereinafter provided. Capital Stock of Company.  
  
Proviso.

Calls how to be made.

Proviso : present liabilities for subscription, &c., not discharged.

IV. The calls to be hereafter made on the holders of the said Stock, shall be paid by instalments, when and in such manner as shall be prescribed by the Directors hereinafter named ; Provided always, that nothing herein contained shall exonerate, diminish or relieve any party from existing liability to the said Company, whether the said liability relates to contributions due or to fall due upon the stock already issued or otherwise ; but on the contrary, all such liability and contributions shall and may be enforced in the same way, and the said Corporation shall have the same remedy to enforce the payments of calls already made, and all other calls and sums now due or called for, as is hereinafter prescribed with respect to future calls and liabilities.

Estate of Association vested in Corporation hereby established.

V. All and every the estate and property, real or personal, belonging to the Association at the time of the passing of this Act, or which may subsequently be acquired by them, and all debts or claims due to or possessed by the said Association, shall be and are hereby transferred to and vested in the Corporation hereby established, which shall in like manner be liable to and for all debts due by or claims upon the said Association ; and the Trustees of the said Association, at the time of the passing of this Act, shall be Directors of the said Corporation, as if elected under this Act, until their successors shall be elected, as hereinafter provided.

Corporation may hold lands, &c.

VI. It shall be lawful for the said Corporation to have and hold such lands and immoveable or real property as may be necessary for carrying on the business of the said Corporation, provided the sum invested in real property, do not at any one time exceed twenty-five thousand pounds ; and it shall be lawful for the said Corporation to sell, lease, or otherwise dispose of the said property and estate as they may see fit.

May carry on mining, &c.

VII. It shall be lawful for the said Corporation to engage in and follow on such lands and property as they now hold or may hereafter acquire as their property, or on which they shall obtain permission from any proprietor so to do, the occupation and business of carrying on exploration for and of finding and getting copper and other ores, metals and minerals, and of manufacturing and disposing of the same for the benefit of the said Corporation, and to do all things necessary for the purpose aforesaid, not inconsistent with the rights of any other parties, or with the conditions of any grant or other title under which the said Corporation may hold the lands in which such things are to be done : Provided always, that nothing in this Act shall be construed to give the said Company the right to enter upon, or to take or use in any way the lands of any person, except with the consent of such person.

Proviso.

If Capital be found insuffi-

VIII. If the said sum of twelve thousand five hundred pounds be found insufficient for the purposes of this Act, then and in such

such case it shall be lawful for the members of the said Corporation, by a vote of not less than two thirds in number of the shareholders, representing not less than one half of the shares, at any General Meeting to be expressly called for that purpose, to increase the Capital Stock of the said Corporation, either by the admission of new members as subscribers to the said undertaking, or otherwise, to a sum not exceeding in all the sum of fifty thousand pounds currency, including the said sum of twelve thousand five hundred pounds currency, hereinbefore authorized to be raised, in such manner and upon such terms and conditions, and under such regulations as shall be approved of and agreed on; and the Capital so to be raised by the creation of new shares, or otherwise, shall be in all respects part of the Capital Stock of the said Corporation, and every shareholder of such new stock shall be a member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who are now shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon, and shall also be liable and subject to the same obligations and stand interested in all the profits and losses of the said undertaking, in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever, as if such other or further sum had been originally raised as a part of the said first sum of twelve thousand five hundred pounds; any thing herein contained to the contrary notwithstanding.

cient, it may be increased.

Rights of new Stockholders.

IX. It shall be lawful for the said Corporation, from time to time to borrow either in this Province, or elsewhere, all such sum or sums of money, not exceeding in all, at any one time, twelve thousand five hundred pounds currency, as they may find expedient, and to make the bonds, debentures, or other securities they shall grant for the sums so borrowed, payable either in currency or in sterling with interest, and at such place or places within or without this Province as they may deem advisable; and such bonds, debentures or other securities may be made payable to bearer, or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit; and the said Directors may hypothecate, mortgage or pledge the lands, revenues and other property of the said Corporation, for the due payment of the said sums and the interest thereon: Provided always, that such Corporation shall not be allowed to borrow any part of the said sum of twelve thousand five hundred pounds, until at least one half of the said capital stock of the said Corporation hereinbefore authorized be paid up and available for the use of the Corporation; And provided also, that no such bonds or debentures shall be issued by such Corporation for any amount less than one hundred pounds currency.

Corporation may borrow money.

And pledgethe Company's lands, &c.

Proviso.

Proviso.

Stock to be deemed personal estate, &c.

Votes in proportion to shares.

Proviso.

X. The stock of the said Corporation shall be deemed personal or moveable estate, notwithstanding the conversion of any portion of the funds constituting the same into lands; and at all the meetings of the shareholders held in pursuance of this Act, whether the same be general or special, every shareholder shall be entitled to one vote for every share which he shall possess in the said stock, and such vote or votes may be given in person or by proxy; and all questions proposed or submitted for the consideration of the said meetings, shall be finally determined by the majority of the votes; And provided also, that no person shall be entitled to vote as proxy at any meeting unless he shall be a shareholder in the said Corporation, and produce a written authority as such proxy in the form prescribed by the Schedule A.

Shares assignable by delivery of certificates.

Conditions previous to transfer.

Evidence of transfer.

XI. The shares in the stock of the said Corporation shall be assignable by delivery of the certificates to be issued to the holders' of such shares respectively, and by assignment in the form of the Schedule B., or in any other convenient form to be prescribed by any By-law of the said Corporation; and by such assignment the party accepting such transfer shall thenceforth become in all respects a member of the said Corporation in respect of such share or shares in the place of the party so transferring the same; but no such transfer shall be valid or effectual until all calls or instalments due on the shares purporting to be transferred shall have been fully paid up and discharged, or the said shares shall have been declared forfeited for non-payment of calls, nor without the written consent of a majority of the Directors; and a certified copy of such transfer extracted from the proper Book of Entry, and signed by the Clerk, or other officer of the said Company duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer in all Courts in this Province.

Directors may open offices in New York, &c., and in London, England.

May appoint Agents, Commissioners, &c.

XII. The Company may establish Agencies in Great Britain or the United States, provided the majority of its Directors are British subjects, and may open Books of Subscription in all or any of the Cities of New York, Detroit, Chicago, Buffalo and St. Paul's, in the United States, and in London, Liverpool and Truro, in England, for the Stock of the said Corporation, and receive there subscriptions for the said Stock, transferable there respectively, and make all instalments called for thereon, and dividends declared thereupon, payable there respectively; and the said Directors shall also have power to name one or more Agent or Agents or Commissioners in all or any of the aforesaid Cities, for all or any of the purposes aforesaid, and to allow to such Agent or Agents or Commissioners, a reasonable remuneration for his or their services, and all other necessary expenses of the said office and offices; and it shall also be competent for the said Directors to make all such rules and regulations, and to prescribe all such forms as to them may seem meet for the better and more satisfactorily managing and conducting

conducting the affairs and business of the said Corporation in all or any of the Cities aforesaid, and for facilitating and rendering effectual the subscription for, and transfer of, and payment upon the said Stock respectively, and for all other purposes connected therewith and incidental thereto; Provided always, that the said Directors may make By-laws prescribing the mode in which any Shares of the Stock in all or any or either of the said Cities may be made shares in Canada, or whereby any shares of the Stock in Canada, may be made shares in the United States or England aforesaid. Proviso.

XIII. For managing the affairs of the said Corporation, there shall be from time to time elected out of the members of the said Corporation not less than three and not more than five persons, being each a Proprietor of not less than three hundred Shares of the said Capital Stock, to be Directors of the said Corporation, for ordering, managing and directing the affairs of the said Corporation; and any three Directors shall form a *quorum* of the Board, and may exercise all the powers of the Directors: Provided always, that unless at a Meeting of the majority of the Directors, no By-law, Rule, Resolution or Regulation for raising money or disposing of the Real Estate of the Corporation shall be finally passed, unless confirmed at the next Meeting of the Directors to take place upon due notice given; Provided that no Director shall have more than one vote at any Meeting of Directors except the President or Chairman of the meeting for the time being, who shall in case of an equal division have the casting vote, although he may have given one vote before; and whenever any vacancy shall happen among the Directors by death, resignation, or removal out of the Province, such vacancy shall be filled up until the next General Meeting of the Shareholders in such manner as may be prescribed by any By-law of the Corporation; and the Directors shall have full power to dispose of such part of the stock of the said Corporation as may remain to be disposed of, or as may from time to time be added into or fall into the general mass, either by forfeiture or otherwise, on such terms and conditions, and to such parties as they think most likely to promote the interest of the said Corporation; and they shall also have full power to make such calls for money from the several Shareholders for the time being hereinbefore provided for, and to sue for, recover and get in all such calls whether already made or hereafter to be made, and to cause and declare the said shares to be forfeited to the said Corporation in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any By-law; And in any action to be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the Defendant is a holder of one share or more in the said Stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount, (stating the number and amount of such Election of Directors.

Proviso.

Proviso

Vacancies how filled.

Calls on Shareholders.

Suits for recovery of amounts called for, and what only need be alleged and proved therein.

such

such calls,) whereby an action hath accrued to the Corporation by virtue of this Act; and it shall be sufficient to maintain such action, to prove by any one witness, that the Defendant at the time of making such call, was a Shareholder in the number of shares alleged, and that the calls sued for were made, and notice given thereof, in conformity with the By-laws of the said Corporation, and it shall not be necessary to prove the appointment of the Directors, nor any other matter whatsoever; and the said Directors shall and may use and affix, or cause to be used and affixed the common seal of the said Corporation to any documents, which, in their judgment may require the same, and any act or deed bearing such seal, and signed by the President (or any two Directors,) and countersigned by the Secretary, shall be held to be the act or deed of the Corporation; and they may appoint such and so many agents, officers and servants of the said Corporation, under them, as to the said Directors may seem meet, and may fix the salaries and remuneration of such officers, agents and servants; may make any payments and enter into any contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs, may generally deal with, treat, purchase, lease, sell, mortgage, let, release and dispose of, and exercise all acts of ownership over the land, tenements, property and effects of the said Corporation, may institute and defend in the name of the said Corporation all suits at law, may from time to time displace the officers, agents and servants of the said Corporation, except as hereinafter provided, and they shall and may have power to do all things whatsoever which may be necessary or requisite to carry out the objects of the Corporation, and to vest the present property and funds of the said Association in the Corporation hereby erected; they shall declare dividends of the profits of the said Corporation, when and as often as the state of the funds thereof may permit; may appoint when special meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of the manner in which the Shareholders may call or require such special meetings to be called; they shall have power to make By-laws for the government and control of the officers and servants of the said Corporation, and for appointing the salary or allowance to be made to them respectively; and shall also have power to make and frame all other By-laws, rules and regulations for the management of the business of the said Corporation in all its particulars and details, whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal; which said By-laws, rules and regulations, shall be submitted for approval, rejection or alteration by the Stockholders at the next general meeting, or at a special meeting to be called by the said Directors, and when and as so ratified and confirmed, shall be put in writing and duly recorded in the minutes of the said Corporation, and be binding upon and observed and taken notice of by all members of the said Corporation; and any

Directors may affix corporate seal, &c.

Directors may appoint Officers, Agents, &c.

Other powers vested in them

They may make By-laws.

Must be confirmed by Stockholders.

copy of the said By-laws, or any of them, purporting to be under the hand of the Clerk, Secretary or other officer of the said Corporation, and having the seal of the Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts of this Province; Provided always, that the Stockholders may at any general or special meeting, appoint such salary or compensation to the President and Directors, respectively, as to them shall seem reasonable and proper.

Proviso.

XIV. The Corporation shall not lend any of its money to any of its Stockholders, and if any such loan of money shall be made to a Stockholder, the Directors who shall make or assent to such loan shall be jointly and severally liable to the extent of the said loan and interest thereon, to any creditor of the said Corporation, for any debt contracted before the repayment of the money so loaned.

Company not to loan money to Stockholders.

XV. The Directors of the Corporation shall be jointly and severally liable for all debts due and owing to their laborers, servants and apprentices, for services performed by them for such Corporation; Provided that no Director shall be liable for any such debt not payable within one year from the date of contracting it, or for the recovery whereof no action shall have been brought within one year from such date.

Liability of Directors to laborers, &c.

Proviso.

XVI. Each Stockholder of the said Corporation shall be severally and individually liable to the creditors thereof to an amount equal to the amount of the stock held by him or his assigns, for all debts and contracts made by such Corporation, until the whole amount of the stock held by such Stockholder shall have been paid in.

Limited liability of Stockholders.

XVII. A majority of the President and Directors shall, on or before the Twentieth day of January in each year, prepare and attest, before a Judge of any Court in this Province, a certificate stating the amount of the Capital actually paid in, the amount of the existing debts, and the amount of the assets of the Corporation; which certificate shall be inserted in the Newspaper published nearest to the chief place of the business of the Corporation.

Yearly statement of affairs of Company to be certified and published.

XVIII. If the President and Directors shall declare or pay any dividend when the Corporation is insolvent, or which would, if paid, render it insolvent, or which would diminish the amount of its Capital Stock, they shall be jointly and severally individually liable for all debts of the Corporation then existing or which may be contracted while they remain in office; Provided that any Director shall be exempt from such liability by filing with the Secretary of the Corporation a written statement protesting against declaring or paying such dividend, and by voting against the same.

Liability of Directors paying dividend and impairing capital.

Proviso.

Liability of Directors for excess of indebtedness.

XIX. If the indebtedness of the Corporation shall at any time exceed the amount of its Capital Stock, the Directors shall be jointly and severally individually liable to any creditor of the Corporation for any debts thereof to the amount of such excess of indebtedness.

Liability for false statements of affairs.

XX. If any certificate or affidavit made by the President and Directors of the Corporation under the provisions of this Act, be false in any material representation, the said President and Directors making the same, knowing it to be false, shall be jointly and severally liable for all the debts of the Corporation contracted while they are Directors thereof.

General meetings when and where held, &c.

XXI. The first General Meeting of the Shareholders of the said Corporation shall be held at the Town of Brantford, in the County of Brant, on the first Monday in September next after the passing of this Act; and the annual General Meetings shall be held on the first Monday in June in each and every year thereafter, unless otherwise provided for by the By-laws of the said Company; and at every such meeting, the said Shareholders shall elect not less than three nor more than five fit and qualified persons to be Directors of the said Company in the place and stead of those who shall retire, as prescribed in the next following section, and until such first election, and until they shall respectively retire as aforesaid, the Trustees of the Association aforesaid, to wit: Isaac Vanetten, Thomas Daly, L. M. Oliver, P. C. VanBrocklin, R. R. Nelson, and the survivors or survivor of them, shall be and are hereby declared to be and are constituted Directors of the said Corporation; and they shall have and exercise all and every the powers, and shall be subject to all and every the clauses, conditions, liability and restrictions imposed on the Directors to be chosen under this Act; Provided always, that in all actions or suits or other legal proceedings to be brought against the said Corporation, it shall be lawful and sufficient for the Plaintiff or Complainant, or any other party, to cause process to be served at the office of the said Corporation, in the Town of Brantford, or personally upon the President, or any one of the Directors, or on the Secretary of the said Corporation, at any other place; And provided, that at the first meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves some one to be President, and also some one to be Vice-President of the said Corporation.

Provisional Directors.

Proviso :

Service of process.

Proviso : election of President, &c.

Retirement of Directors from office.

Proviso.

XXII. At the first General Meeting of the Shareholders and at the Annual General Meeting in each year thereafter, two of the said Directors shall retire from office, (the order of retirement of the said Directors to be decided by lot); Provided always, that all the Directors so retiring shall be eligible for re-election; and the Directors, immediately after the election at each Annual Meeting, shall choose one of their own number to be President.

XXIII. The failure to hold the said first General Meeting, or any other Meeting, or to elect such Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any Special Meeting to be called as the Directors, in conformity with the By-laws of the said Corporation, may see fit to appoint, and until such election of new Directors, those who may be in office for the time being shall be and continue in office and exercise all the rights and powers thereof until such new election be made as hereinbefore provided.

Corporation  
not dissolved  
by failure to  
hold meeting,  
&c.

XXIV. The word "Lands" in this Act shall include all lands, tenements and hereditaments, and real or immoveable property whatsoever; and all words importing the singular number or the masculine gender only shall extend to more than one person, party or thing, and to females as well as males; and the word "Shareholder" shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholder, or any other party having the legal possession of any share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such thing: and generally, all words and clauses herein shall receive such liberal and fair construction as will best insure the carrying into effect of this Act according to its true intent and spirit.

Interpretation  
clause.

XXV. It shall not be lawful for the said Corporation to commence or proceed with their operations under this Act, unless they shall have first paid up the sum of ten per cent. on the amount of their Capital Stock.

Corporation  
not to proceed  
until ten per  
cent. paid up.

XXVI. Nothing in this Act contained shall in any manner derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, body politic or corporate excepting so far as the same may be specially derogated from or affected by the provisions of this Act.

Saving Her  
Majesty's  
rights.

XXVII. The Interpretation Act shall apply to this Act.

Interpretation  
Act to apply.

XXVIII. This Act shall be deemed a Public Act.

Public Act.

## SCHEDULE A.

(Form of Proxy.)

I, A. B. of \_\_\_\_\_ hereby appoint C. D. of \_\_\_\_\_ to be my Proxy and to vote and act for me as such, at all meetings of the Shareholders of *The Canada and Liverpool Mining and Exploring Company*, and in my name to do all things with regard

regard to the business of the said Company which I may by law do by proxy.

Witness my hand, this                      day of                      one thousand  
eight hundred and

## SCHEDULE B.

A. B.

*(Form of Transfer.)*

I, A. B. for value received, do hereby bargain, sell and transfer to C. D.,                      share (or shares) of the Stock of *The Canada and Liverpool Mining and Exploring Company*, to hold to him the said C. D., his heirs, executors, administrators and assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof; and I, the said C. D., do hereby agree to and accept the said share (or shares) subject to the same rules, orders and conditions.

Witness our hands and seals,  
this    day of  
in the year

A. B.  
C. D.

## CAP. LXXIX.

## An Act to incorporate the Victoria Mining Company.

*[Assented to 19th June, 1856.]*

Preamble.

**W**HEREAS the several persons hereinafter named have by their Petition represented that they have associated themselves together with divers others, for the purpose of working Mines of Copper and other ores and minerals in the Province of Canada; and the more effectually to carry out the objects of their enterprise, they have prayed that an Act incorporating them with the powers hereinafter mentioned, may be passed: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

Corporate name and powers.

I. Allan Macdonell, Esquire, J. Venner Brown, Esquire, T. Baines, Esquire, William Botsford Jarvis and Robert G. Dalton, Esquires, and their successors, and such and so many other persons or parties who have become or who shall become shareholders in the capital stock hereinafter mentioned, shall be and they are hereby constituted a body politic and corporate, in fact and in name, by the title of the "Victoria Mining Company," and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto in all

all Courts of law and equity whatsoever, and shall have uninterrupted succession with a common seal, which may be altered, changed or varied at their pleasure; and by the same name they may lawfully acquire and hold real and personal estate for the use of the said Corporation, and sell, alienate, or lease the same as they may deem convenient.

II. No shareholder in the said Corporation shall be in any manner liable or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his, her or their subscribed share or shares in the capital stock of the said Corporation.

Liability of Shareholders limited.

III. The capital stock of the said Corporation shall be twenty-five thousand pounds, and the same is hereby declared to be divided into twenty thousand shares of the value of one pound five shillings.

Capital Stock

IV. Any joint stock company, community, or corporate body, may take shares in the said Company.

Corporate bodies may take Stock.

V. It shall and may be lawful for the said Corporation to have and to hold such lands and immoveable or real property lying on Lakes Huron and Superior, as may be necessary for carrying on the business of the said Corporation; and it shall and may be lawful for the said Corporation to engage in and follow the occupation and business of carrying on explorations for and finding and getting copper, iron and other ores, metals and minerals, and manufacturing and disposing of the same for the benefit of the said Corporation, and to do all things necessary for the purposes aforesaid, not inconsistent with the rights of any other parties or with the conditions of any grant or other title under which the said Corporation may hold the lands on which such things are to be done.

Corporation may explore for mines and minerals.

Other business of Company.

VI. The stock of the said Corporation shall be deemed personal estate, notwithstanding the conversion of any portion of the funds constituting the same into lands; And at all meetings of the shareholders, held in pursuance of this Act, whether the same be general or special, every shareholder shall be entitled to as many votes as he shall have shares in the said stock, and such vote or votes shall be given in person or by proxy; and all questions proposed or submitted for the consideration of the said meetings, shall be finally determined by the majority of the votes; Provided that no person shall be entitled to vote as proxy at any meeting, unless he shall be a shareholder in the said Corporation, and produce written authority as such proxy, in the form to be prescribed by any By-law of the said Corporation.

Stock to be deemed personal estate.

Votes.

Proviso: as to proxies.

VII. If the said sum of twenty-five thousand pounds be found insufficient for the purposes of this Act, then and in such

Capital Stock may be increased.

such case, it shall be lawful for the said Corporation, by vote of not less than two thirds in number of the shareholders, representing not less than eight thousand shares, at any General Meeting to be called expressly for that purpose, to increase the capital stock of the said Corporation, either by the admission of new members as subscribers to the said undertaking, or otherwise, to a sum not exceeding in all the sum of one hundred thousand pounds, currency; and the capital so to be raised by the creation of new shares shall be in all respects part of the capital stock of the said Corporation, and every stockholder of the new stock shall be a member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who are now shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon; and shall also be liable and subject to the same obligations, and stand interested in all the profits and losses of the said undertaking, in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever, as if such other or further sum had been originally raised as part of the said first sum of twenty-five thousand pounds; any thing herein contained to the contrary notwithstanding.

Rights of new  
Stockholders.

And their  
liabilities.

Corporation  
may borrow  
money.

VIII. It shall be lawful for the said Corporation from time to time to borrow, either in this Province or elsewhere, all such sums of money, not exceeding in all, at any one time, an amount equal to the paid up capital stock, as they may deem expedient, and to make the bonds, debentures or other securities they shall grant for the sum so borrowed, payable either in currency or in sterling, with interest, at such place or places as they may deem advisable; and such bonds, debentures and other securities may be made payable to bearer or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit, and the said Directors may hypothecate, mortgage or pledge the lands, revenues and other property of the said Corporation for the due payment of the said sums and the interest thereon; Provided always, that the said Corporation shall not be allowed to borrow the said money aforesaid, until one half of the capital stock of the said Corporation hereinbefore authorized be paid up.

Lands, &c., of  
the Company  
may be pledged.

Proviso: half  
Stock must be  
paid up before  
borrowing.

Shares may be  
assigned by  
delivery of  
certificate.

Evidence of  
transfer.

IX. The shares of the Stock of the said Corporation shall be assignable by the delivery of the certificate to be issued to the holders of such shares respectively, and by assignment, in some convenient form and on conditions to be prescribed by any By-law of the said Corporation; and by such assignment the party accepting such transfer shall thenceforth become in all respects a member of the said Corporation in respect of such share or shares in the place of the party so transferring the same, and a certified copy of such transfer extracted from the proper book of entry and purporting to be signed by  
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the officer of the said Company, duly authorized thereto, shall be sufficient *prima facie* evidence of every such transfer in all Courts in this Province.

X. The Directors of the said Corporation shall have power and authority to establish, and for certain purposes have a place of business or office in the cities of London and Liverpool, in England, and New York, Boston or Philadelphia, in the United States of America, and to open books of subscription in all or any of the said cities for the Stock of the said Corporation, and to receive there subscriptions for the said stock of the said Corporation, transferable there respectively, and to make all such instalments called thereon, and dividends declared thereon payable there respectively; And the said Directors shall also have power to name one or more Agent or Agents in all or any of the aforesaid cities, for all or any of the purposes aforesaid; and it shall be also competent for the said Directors to make all such rules and regulations and to prescribe all such forms as to them shall seem meet, for the better and more satisfactory managing and conducting the affairs and business of the said Corporation, in all or in any of the cities aforesaid, and for facilitating and rendering effectual the subscription for and transfer of and payments upon the said Stock respectively, and for all other purposes connected therewith and incidental thereto.

Directors may establish offices in England, United States, &c.

And appoint Agents, &c.

XI. For the managing of the affairs of the said Corporation, there shall be from time to time elected out of the members of the said Corporation, nine persons, being each a proprietor of not less than twenty shares of the said Capital Stock, to be Directors of the said Corporation; And any five Directors shall form a quorum of the Board and may exercise all the powers of the Directors; Provided always, that, unless at a meeting of the majority of the Directors, no By-law, rule, resolution or regulation for raising money or disposing of the real estate of the Corporation, shall be finally passed, unless confirmed at the next meeting of the Shareholders, to take place upon due notice given: Provided also, that no Director shall have more than one vote at any meeting of the Directors, except the President or the Chairman of the meeting for the time being, who shall, in case of an equal division, have the casting vote, although he may have given one vote before; And provided always, that a majority of the said Directors shall be British subjects; And whenever any vacancy shall happen among the Directors by death or resignation, or declining or neglecting to act within the space of three months after his appointment as Director, such vacancy shall be filled up until the next general meeting of the Shareholders by the appointment of some one of the Shareholders to the vacancy so occurring by the death, the resignation, or by becoming disqualified, or the declining or neglecting to act as aforesaid; And the majority of the Directors for the time being shall have power

Directors.

Qualification.

Quorum.

Proviso.

Proviso.

Proviso.

Vacancies how filled.

Further powers of Directors.

power and authority to elect or appoint the person to fill or supply the vacancy made in the Board of Directors by any of the causes aforesaid ; And the Directors shall have power to dispose of such part of the Stock of the said Corporation as may remain to be disposed of, or as may from time to time be added to or fall into the general mass, either by forfeiture or otherwise, on such terms and conditions and to such parties as they may think most likely to promote the interests of the said Corporation, and they shall have full power to make such calls for money from the several Shareholders for the time being, as may be provided for by any By-law, rule or regulation of the said Corporation, and to sue for, recover and get in all calls, whether already made or hereafter to be made : and to cause and declare the said shares to be forfeited to the said Corporation in case of non-payment, on such terms and in such way as shall be prescribed by some By-law of the Company ; And to maintain an action for the recovery of calls due, it shall be sufficient to prove by any one witness, that the defendant at the time of making such call was a Shareholder in the number of shares alleged, and that the calls sued for were made, and notice thereof given in conformity with the By-laws of the said Corporation ; and it shall not be necessary to prove the appointment of Directors, nor any other matter whatsoever.

Calls on shares.

What shall be sufficient in actions for calls.

Further powers.

Corporate seal.

Appointing Officers.

The said Directors shall and may use and affix or cause to be used and affixed the common seal of the said Corporation to any documents which in their judgments may require the same, and any act or deed bearing such seal and signed by the President (or any two Directors) and countersigned by the Secretary, shall be held to be the act or deed of the Corporation. They may also appoint such and so many Agents, officers and servants of the said Corporation under them as to the said Directors may seem meet, and they shall and may have full power and authority to do all things whatsoever which may be necessary and requisite to carry out the objects of the Corporation.

Further powers.

Making By-laws for government of Officers, &c.

By-laws subject to approval by Stockholders.

Evidence of By-laws.

And they shall have power to make By-laws for the government and control of the officers and servants of the said Corporation, and for appointing the salary or allowance to be made them respectively, and shall also have power to make and frame all other By-laws, rules and regulations for the management of the affairs of the said Corporation, in all its particulars and details ; also for establishing the rule of voting for Directors of the said Company ; and the same also at any time to alter, change, modify and repeal, which by-laws, rules and regulations shall be submitted for approval, rejection or alteration by the Stockholders at the next General Meeting or at a Special Meeting to be called by the said Directors for such special purpose, and in conformity with any By-law providing for such special meetings ; And any copy of the By-laws of the said Corporation, or of any of them purporting to be under  
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the hand of the Clerk, Secretary or other officer of the said Company, and having the seal of the said Corporation affixed to it, shall be received as *prima facie* evidence of such By-law in all Courts in this Province.

XII. The first General Meeting of the Shareholders of the said Corporation shall be held at the Office of the said Corporation in the City of Toronto, at which place the said Corporation shall have its principal place of business, on the first Monday in November in the year of our Lord, one thousand eight hundred and fifty-six : and at such time and place, and on the like day in each and every year thereafter, the said shareholders shall elect nine fit and qualified persons to be Directors of the said Company ; and until such first election, the Directors of the said Corporation are hereby declared to be Allan Macdonell, William Botsford Jarvis, Robert G. Dalton, Charles Jones, Philip Van Koughnet, and Thomas Mair, Esquires, of the City of Toronto, J. Venner Brown, of the City of Detroit, Esquire, Samuel J. Tracy, H. Ward Baines and Charles J. Steadman, Esquires, of the City of New York, and they or the survivor or survivors of them, shall be and are constituted to be Directors of the said Corporation, and shall have and exercise all and every the powers and shall be subject to all and every the clauses, conditions and restrictions imposed on the Directors to be chosen under this Act ; Provided that at the first meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves some one to be the President.

First general meeting.

First Directors.

Proviso : election of President.

XIII. The Corporation shall not lend any of its money to any of its Stockholders ; and if any such loan of money shall be made to a Stockholder, the Directors who shall make or assent to such loan shall be jointly and severally liable to the extent of the said loan, and interest thereon, to any creditor of the said Corporation, for any debt contracted before the repayment of the money so loaned.

Corporation not to lend money to Stockholders.

XIV. The Directors of the Corporation shall be jointly and severally liable for all debts due and owing to their laborers, servants and apprentices, for services performed by them for such Corporation ; Provided that no Director shall be liable for any such debt not payable within one year from the date of contracting it, or for the recovery whereof no action shall have been brought within one year from such date.

Directors liable for debts due to Servants, &c.

Proviso.

XV. Each Stockholder of the said Corporation shall be severally and individually liable to the creditors thereof to an amount equal to the amount of the stock held by him or his assigns, for all debts and contracts made by such Corporation, until the whole amount of the stock held by such Stockholder shall have been paid in.

Liability of Stockholders.

Directors to prepare yearly certified statement of affairs of corporation.

XVI. A majority of the President and Directors shall, on or before the twentieth day of January in each year, prepare and attest, before a Judge of any Court in this Province, a certificate stating the amount of the capital actually paid in, the amount of the existing debts, and the amount of the assets of the Corporation; which certificate shall be inserted in the Newspaper published nearest to the chief place of business of the Corporation.

Penalty for declaring dividends when Company is insolvent.

XVII. If the President and Directors shall declare or pay any dividend when the Corporation is insolvent, or which would, if paid, render it insolvent, or which would diminish the amount of its Capital Stock, they shall be jointly and severally individually liable for all debts of the Corporation then existing, or which may be contracted while they remain in office: Provided that any Director shall be exempt from such liability by filing with the Secretary of the Corporation a written statement protesting against declaring or paying such dividend, and by voting against the same.

Proviso.

Indebtedness not to exceed capital.

XVIII. If the indebtedness of the Corporation shall at any time exceed the amount of its capital stock, the Directors shall be jointly and severally individually liable to any creditor of the Corporation for any debts thereof to the amount of such excess of indebtedness.

Penalty for giving false certificate.

XIX. If any certificate or affidavit made by the President and Directors of the Corporation under the provisions of this Act, be false in any material representation, the said President and Directors making the same, knowing it to be false, shall be jointly and severally liable for all the debts of the Corporation contracted while they are Directors thereof.

Failure to hold meeting not to operate dissolution.

XX. The failure to hold the said first General Meeting or any other meeting, or to elect such Directors or President, shall not dissolve the said Corporation, but such failure or omission shall and may be supplied by and at any special meeting to be called as the Directors in conformity with the By-laws of the said Corporation may see fit to appoint, and until such election of new Directors, those who may be in office for the time being, shall be and continue in office and exercise all the rights and powers thereof until such new election be made, as hereinbefore provided; And all Directors retiring from the Direction of the said Corporation shall be eligible for re-election, and after the election at each Annual Meeting, the Directors who shall be elected shall choose one of their number to be President.

Retiring Directors re-eligible.

When operations may be commenced.

XXI. It shall not be lawful for the said Corporation to commence or proceed with their operations under this Act, unless they shall have paid up the sum of ten per cent. on the amount of their Capital Stock.

Public Act.

XXII. This Act shall be deemed a Public Act.

## C A P . L X X X .

An Act to vest certain Road Allowances in the Township of Brantford, in George S. Wilkes.

[Assented to 19th June, 1856.]

**W**HEREAS George Samuel Wilkes, of the Town of Brantford, owns a tract of Land in the Township of Brantford, lying immediately west of the limits of the Town of Brantford, and known as "Holmedale"; And whereas the original allowances for Roads across the said property have never been opened, and the said George S. Wilkes, by a survey of the said tract into Park Lots, has opened several roads across the said tract, affording increased convenience for travel through the same, and it is therefore just that the said Road allowances should be vested in the said George Samuel Wilkes: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The original allowances for Roads between the third and fourth concessions of the said Township of Brantford, between the Grand River and the northern boundary of the Town Plot of Holmedale, and the side line allowance for road between lots numbers twenty-four and twenty-five in the third and fourth concessions of the said Township, between the points on the said line allowance for road where the same is intersected by the Grand River, and lying entirely within the said Town Plot of Holmedale, shall be and the same are hereby vested in the said George Samuel Wilkes, his heirs and assigns for ever.

II. This Act shall be deemed a Public Act.

Public Act.

## C A P . L X X X I .

An Act to vest a certain allowance for Road, in the Township of South Dumfries, in the County of Brant, in Horace Capron and Myron Ames.

[Assented to 19th June, 1856.]

**W**HEREAS Horace Capron is the owner in fee of the front hundred acres of lots numbers thirty and thirty-one, in the second concession of the Township of South Dumfries, in the County of Brant, and Myron Ames is the owner in fee of the residue of the said lot number thirty; And whereas the intended original allowance for road between lots numbers thirty and thirty-one, in some of the concessions of the said Township is impracticable, and in consequence thereof, there has been opened along the eastern boundary of the said lot number thirty, a travelled road which is now become established by user, and for which no compensation was ever made to the owners of the said

said lot ; And whereas the said Horace Capron and Myron Ames have prayed the Legislature to vest in them the said road allowance in lieu of and as compensation for the land taken for the said road along the eastern boundary of the said lot number thirty as before mentioned ; And whereas it is expedient to vest in them the said road allowance, so far as the same adjoins their respective estates : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Road allow-  
ances vested in  
H. Capron and  
M. Ames, res-  
pectively.

I. The said intended original allowance for road, so far as it adjoins that part of lot number thirty, in the second concession of the said Township of South Dumfries, now owned by the said Horace Capron, shall be vested in him, his heirs and assigns for ever ; and that part of the said intended original allowance for road which adjoins the property of the said Myron Ames, shall be vested in him, his heirs and assigns for ever ; and the said present travelled road between lots twenty-nine and thirty, is hereby declared to have been duly established as a public highway.

Public Act.

II. This Act shall be held to be a Public Act.

## [C A P L X X X I I .

An Act to confirm the Partition made by the Trustees of the Will and Codicils of the late Anne Powell, of the Real Estate of the late Honorable William Dummer Powell, and for the appointment of new Trustees, and for other purposes.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS John Powell, of the Town of Niagara, Esquire, Mary Sophia Coxwell, of the City of Toronto, widow, Samuel Peters Jarvis, of the same place, Esquire, William Botsford Jarvis, of the same place, Esquire, Edmund Meredith, of the same place, Esquire, and Frances Anne, his wife, Augustus Nanton, of the same place, Esquire, and Louisa Mary, his wife, Lewis W. Orde, of the same place, Esquire, and Sarah, his wife, Anne Jane Seymour, of the same place, widow, John Ridout, of the same place, Esquire, and Charlotte Bleecker, his wife, William Clarke, of the Town of Guelph, Esquire, and Clara Pigott, his wife, Grant Powell, of the said City of Toronto, Esquire, and Lawrence W. Mercer, of the Town of Niagara, Esquire, and Catherine, his wife, have presented their Petition stating, (amongst other things) : " That the Honorable William Dummer Powell, late of the Town of York, the now City of Toronto, and Chief Justice of the Province of Upper Canada, departed this life on or about the sixth day of September, in the year of our Lord, one thousand eight hundred and thirty-four, seized of considerable real estate within

Allegations of  
Petitions.

within the said Province of Upper Canada, and having first duly made and published his last will and testament, duly executed according to Law, so as to pass real estate by Devise within Upper Canada, and which said last will and testament bears date on or about the thirteenth day of December, in the year of our Lord, one thousand eight hundred and thirty, and that he did hereby give, devise and bequeath to his wife, Anne Powell, all his real and personal estate in case she should survive him, to hold the same during her natural life, in full confidence that she would dispose of the same to the general satisfaction of his family, which power he thereby gave to her to be exercised by an instrument under her hand and seal, purporting to be her last will and testament duly executed according to Law :

“ That the said Anne Powell, the widow of the said late Honorable William Dummer Powell, survived him, and departed this life on or about the ninth day of March, in the year of our Lord, one thousand eight hundred and fifty, having previously duly made and published her last will and testament in writing, executed so as to pass real estate by devise in Upper Canada, and the several codicils thereto annexed, which said will bears date on or about the fourteenth day of October, in the year of our Lord, one thousand eight hundred and thirty-four, and the said several codicils thereto bearing date respectively, as follows, that is to say :

“ Number one, the ninth day of December, in the year of our Lord, one thousand eight hundred and thirty-four ; Number two, the twenty-second day of May, in the year of our Lord, one thousand eight hundred and thirty-nine ; Number three, the third day of March, in the year of our Lord, one thousand eight hundred and forty ; Number four, the eighteenth day of May, in the year of our Lord, one thousand eight hundred and forty-one ; Number five, the second day of July, in the year of our Lord, one thousand eight hundred and forty-two ; Number six, the second day of July, in the year of our Lord, one thousand eight hundred and forty-two ; Number seven, the nineteenth day of July, in the year of our Lord, one thousand eight hundred and forty-two ; Number eight, the twenty-fourth day of July, in the year of our Lord, one thousand eight hundred and forty-three ; Number nine, the nineteenth day of December, in the year of our Lord, one thousand eight hundred and forty-six ; Number ten, the nineteenth day of January, in the year of our Lord, one thousand eight hundred and forty-nine ; and Number eleven, the thirteenth day of February, in the year of our Lord, one thousand eight hundred and forty-nine :

“ That the said Anne Powell, by the said will and codicils, after making several specific devises as to the real estate of the said the Honorable William Dummer Powell, devised the residue of the same to the Executors and Trustees of her said last

last will and testament, for them to divide the same into six equal shares or portions, to be taken in manner following, that is to say : one share by each of the children of the said the late Honorable William Dummer Powell, living at the time of the decease or intermarriage of her daughter, Elizabeth Powell, therein mentioned, and one share by the said Petitioners, John Powell and Mary Sophia Coxwell, as tenants in common, one share by Mary Boyles Jarvis,\* the wife of the said Samuel Peters Jarvis, and one share by Anne Murray Gwynne ; and in case of the decease of any one of the persons so entitled before their said shares became vested, then such share to become vested in the children of such deceased person respectively ; and by codicil hereinbefore numbered eleven, the said Anne Powell devised the said share of the said Petitioner, John Powell, to the Reverend Henry James Grasett, Clerk, and the Honorable James Christie Palmer Esten, now one of the Vice-Chancellors of the Court of Chancery of Upper Canada, in trust for the said John Powell, and Eleanor, his wife, during their natural lives, and to their children after the decease of the survivor of them ; and by codicil hereinbefore numbered nine, the said Anne Powell devised the said share of the said Mary Sophia Coxwell to the said Samuel Peters Jarvis, William Botsford Jarvis, William C. Gwynne and John Ridout, as Trustees thereof, for William Henry Coxwell, now deceased, the then husband of the said Mary Sophia Coxwell, and the said Mary Sophia Coxwell, and the survivor of them, and for their children after the decease of such survivor, as by reference to the said last will and codicils, will more fully and at large appear :

“ That the said Anne Powell, at the time of her decease, left the following children of the said late Honorable William Dummer Powell, her surviving, that is to say : the said Mary Boyles Jarvis, the wife of Samuel Peters Jarvis, and Elizabeth Powell, and the following issue of such other children as had departed this life before her said decease, that is to say : of John Powell, the said Petitioners, John Powell and Mary Sophia Coxwell, of Grant Powell, the said Petitioner, Anne Jane Seymour, Charlotte Bleecker Ridout, and Elizabeth Grogan, and William Dummer Powell, (since deceased,) and the said Petitioners, Grant Powell and Catherine Mercer, and of William Dummer Powell, Mary Boyles Jarvis, the wife of William Botsford Jarvis, and the said Anne Murray Gwynne :

“ That the said Mary Boyles Jarvis, the wife of William Botsford Jarvis, departed this life on or about the eighth day of June, in the year of our Lord, one thousand eight hundred and fifty-two, intestate, leaving her surviving the following children, namely, the said Petitioners, Frances Anne Meredith, Louisa Mary Nanton and Sarah Orde, and William Dummer Jarvis, and Colborne Jarvis, an infant under age :

“ That

“That the said William Dummer Powell, departed this life on or about the ninth day of August, in the year of our Lord, one thousand eight hundred and fifty-four, having duly made and published his last will and testament in writing, and whereof the said Clara Pigott Clarke is now one of the Trustees :

“That after the said decease of the said Anne Powell, the said Executors and Trustees named in the said will and codicils, and being the said Elizabeth Powell, Samuel Peters Jarvis, William Botsford Jarvis, William Dummer Powell and William C. Gwynne, assumed the general trusts of the said will and codicils, and for the purpose of dividing the said real estate in the said will and codicils mentioned, amongst the several parties beneficially entitled therein, made partition thereof, and a deed of release to uses, bearing date the twenty-second day of April in the year of our Lord, one thousand eight hundred and fifty-three, was made and executed by and between the several parties thereto, as where then of full age and capable of legally binding their respective rights and interests by such partition :

“That the said Elizabeth Powell departed this life on or about the first day of December, in the year of our Lord, one thousand eight hundred and fifty-five, having by her last will and testament duly appointed the Honorable William Benjamin Robinson and Lawrence W. Mercer, her devisees in trust thereof :

“That the Trustees nominated in and by the said codicils numbered nine and eleven, for the said Mary Sophia Coxwell and her children, and the said John Powell, and Eleanor, his wife, and their children, have never assumed the execution of the said respective trusts :

“That by reason of the infancy of several of the persons beneficially interested under the said will and codicils, a complete partition of the said real estate so devised by the said Anne Powell to her Trustees, could not be had without doubts arising as to the same being legally perfect in all respects ; and that other questions have arisen involving doubts as to the legality in other respects of the various dispositions made of the said real estate by the said Anne Powell, under the said will and codicils, of the said real estate of the said late Honorable William Dummer Powell, and that although all the members of his family are desirous to remove the same, such cannot be legally done by reason of such infancy as aforesaid :

“That further, the said Petitioners, the said John Powell and Mary Sophia Coxwell, were desirous of obtaining a partition of their respective shares and that of their children, under the said codicils hereinbefore mentioned, and that the Trustees hereinbefore

hereinbefore appointed, have no power to make such partition under the said codicils, and that instead of such Trustees, new Trustees of such respective portions should be appointed, with power to make such partition and to substitute new Trustees;” and therefore prayed that an Act might be obtained to confirm the various dispositions made by the said Anne Powell, of the real estate of the said late Honorable William Dummer Powell, under her said will and codicils hereinbefore mentioned, and to ratify the partition thereof under the said Deed of Release to uses, bearing date the twenty-second day of April, in the year of our Lord, one thousand eight hundred and fifty-three, and further to nominate and appoint new Trustees of the said John Powell, and Eleanor, his wife, and their children, of their portion of the said estate under the said codicil, dated the thirteenth day of February, in the year of our Lord, one thousand eight hundred and forty-nine, and new Trustees of the said Mary Sophia Coxwell and her children, under the said codicil, dated the nineteenth day of December, in the year of our Lord, one thousand eight hundred and forty-six, in place and in stead of the said Trustees thereby respectively appointed; and in addition to the powers conferred upon the said Trustees respectively, in and by the said codicils, to give to them respectively, the power to partition the said share or portion devised to the said John Powell, and Eleanor, his wife, and their children, and to the said Mary Sophia Coxwell and her children, as tenants in common, and to appoint a new substitute or substitutes, from time to time, as should be deemed expedient; And whereas it is expedient to grant the prayer of the said Petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Dispositions made by Anne Powell, confirmed.

I. The various dispositions made by the said Anne Powell, of the real estate of the said the late Honorable William Dummer Powell, under her said will and codicils, in the preamble to this Act mentioned, are hereby confirmed and declared to be valid and effectual, to bind all persons beneficially entitled to any interest under the said Will and Codicils, being of full age and consenting thereto.

Partition declared valid and effectual.

II. The partition of the said real estate under the said Deed of Release to uses in the said preamble mentioned, to bear date the twenty-second day of April, in the year of our Lord, one thousand eight hundred and fifty-three, is hereby ratified and declared to be valid and effectual to bind all persons beneficially entitled to any interest under the said Deed of Partition.

Trustees appointed to John Powell, his wife and children.

III. The said John Powell, Lawrence W. Mercer and Joseph Woodruff, of the Town of Niagara, Esquires, and the survivors and survivor of them, and the heirs and assigns of such survivor, are and is hereby appointed and declared to be Trustees and

and Trustee for the said John Powell, and Eleanor, his wife, and their children, of their portion of the said Estate of the said the late Honorable William Dummer Powell, under the said Will of the said Anne Powell, and codicil thereto, in the preamble hereof mentioned, to bear date the thirteenth day of February, in the year of our Lord, one thousand eight hundred and forty-nine, in place and instead of the Trustees thereby appointed, and are hereby invested with all the same powers and trusts as if they had been originally named and appointed in and by the said codicil, and the said portion of the said Estate is hereby declared to be vested in them, under and subject to the said Trusts declared in the said codicils.

IV. The said Mary Sophia Coxwell, George Alexander Phillpotts, of the City of Toronto, Esquire, and Henry Powell, of the Town of St. Catharines, Esquire, and the survivors and survivor of them, the heirs and assigns of such survivor, are and is hereby appointed and declared to be Trustees and Trustee for the said Mary Sophia Coxwell and her children, of their portion of the said Estate of the said the late Honorable William Dummer Powell, under the said Will of the said Anne Powell and the said Codicil thereto in the preamble hereof mentioned to bear date the nineteenth day of December, in the year of our Lord one thousand eight hundred and forty-six, in place and instead of the Trustees thereby appointed, and are hereby invested with all the same powers and trusts as if they had been originally named and appointed in and by the said codicil, and the said portion of the said estate is hereby declared to be vested in them, under and subject to the said trusts declared in the said codicil.

Trustees appointed to M. S. Coxwell and her children.

V. At any time or times hereafter, in every case of the decease, removal from the Province of Upper Canada, incapacity or unwillingness to act, or resignation of any of the said Trustees respectively appointed, in and by the said third and fourth sections of this Act, respectively, the surviving or continuing Trustees or Trustee of the said trusts respectively, are empowered respectively by Deed in writing to substitute or appoint a new Trustee or Trustees respectively, in the room and place of such Trustee or Trustees respectively so dying, removing from the said Province or becoming unable or unwilling to act or resigning as aforesaid; and such new Trustees or Trustee so appointed shall have the same powers for all purposes whatsoever in the matters of their respective trusts, as if expressly named and appointed in and by the third and fourth sections of this Act respectively, with similar powers of substitution or new appointment of a new Trustee or Trustees as aforesaid.

In case of incapacity, &c., of Trustees, the remaining Trustees may appoint others.

VI. The said Trustees hereinbefore mentioned or to be appointed under the fifth section of this Act, respectively, are hereby further authorized and empowered to make such partition

Power given to Trustees to make partition of property

vested in John Powell, his wife and children, and M. S. Coxwell, and her children. partition as may by them respectively be agreed upon and deemed expedient, of the share of the said Real Estate as was by the said Will and Codicils of the said Anne Powell, and the said Deed of Partition in the said second section of this Act mentioned, vested in the Trustees of the said John Powell and Eleanor his wife and their children, on the one hand, and the Trustees of the said William Henry Coxwell and Mary Sophia Coxwell and their children on the other, as tenants in common, so that their respective portions of such share may become separately vested in the said Trustees respectively, upon the respective trusts hereinbefore mentioned, and such tenancy in common effectually determined, notwithstanding the coverture or infancy of any of the persons beneficially interested in such share or portion respectively.

Public Act.

VII. This Act shall be deemed a Public Act.

### C A P. L X X X I I I .

An Act to authorize William Weller to hold and convey the Canada Grand Trunk Telegraph Line.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS Adam Wilson and the late John Thomas Arnold, mortgagees in trust of the Telegraph Line and property hereinafter mentioned, did on the eighteenth day of August, one thousand eight hundred and fifty-five, in pursuance of the power of sale contained in an Indenture of mortgage bearing date the tenth day of November, one thousand eight hundred and fifty-four, and made between the Canada Grand Trunk Telegraph Company, of the first part, and the said Adam Wilson and John Thomas Arnold, of the second part, to secure the payment of certain debentures issued under the authority of a By-law of the said Company duly passed by the Stockholders thereof, sell and convey to William Weller all the stock, plant and materials of every kind whatsoever of the Telegraph Line known as the "Canada Grand Trunk Telegraph Line," commencing at Buffalo, in the State of New York, one of the United States of America, and extending to the City of Quebec in Lower Canada, and situate or being in any of the counties or districts of Upper or Lower Canada, including all the branch lines of the same, with all the instruments, batteries and materials then used in working the same or that might thereafter during the continuance of the said Indenture be used in working the same, with all the office furniture and chattel property of every description whatsoever, belonging or appertaining to the said Company, or that might thereafter during the continuance of the said Indenture be purchased for the use of the said Company, contained or being in any of the offices of the said Company in any and every County of Upper or Lower Canada whereat the said Company might have an office or station,

station, or through which the said line or any branch thereof might have been or should be constructed :

And whereas the Electric Telegraph Companies Incorporation Act of 1852 does not in express terms confer upon Companies incorporated under its provisions the power of purchasing and maintaining Telegraph Lines already constructed, and does not confer upon private individuals the power to acquire, erect, hold, maintain, work or dispose of Telegraph Lines :

And whereas the said William Weller and the said Adam Wilson, the surviving mortgagee above named, and the said Grand Trunk Telegraph Company, have by their petition setting forth the facts above stated, prayed that the said Telegraph Line and the other property so purchased as aforesaid may be vested in the said William Weller, and that he may have the necessary powers for erecting branch lines and holding, maintaining and working as well the said line already erected as those to be erected, and also for disposing thereof to any Company or individual :

And whereas the said William Weller has in the said petition set forth, that since the purchase made by him as aforesaid, he has expended large sums of money in putting the said line in repair and in working order, and it is expedient to grant the prayer of the said petition : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. The said William Weller shall be held to have had on the said eighteenth day of August, one thousand eight hundred and fifty-five, full power and authority to purchase and hold the Telegraph Line, and all other the property in the preamble of this Act mentioned, so purchased by him as therein stated, to have and to have had full power to construct, acquire and hold for his own benefit, all other property of a similar nature, acquired or constructed by him since that date or that may hereafter be acquired or constructed by him ; and the said William Weller, his executors, administrators and assigns, shall have and shall be held to have and to have had from the time of such purchase, acquirement and construction as aforesaid, all the powers and privileges conferred upon corporations formed in accordance with the provisions of the Electric Telegraph Companies' Incorporation Act of 1852, (sixteenth Victoria, chapter ten,) and may work, repair, maintain and re-erect the said lines, and may construct branch lines and may amalgamate the said lines with any other Telegraph Lines ; and any person who shall obstruct or interrupt the free use of the said lines, or shall injure any of the said property, shall be subject to be convicted and punished as in that Act is specified.

W. Weller to have and to be deemed to have had power to hold the said Telegraph line and to work the same, &c.

With usual powers under 16 V. c. 10.

Penalty for injuring the line.

Any Telegraph  
may purchase  
and hold the  
said line.

II. Any Telegraph Company already or hereafter to be incorporated under any general or special Act of the Province, may purchase from the said William Weller, his executors, administrators and assigns, and he and they may sell and convey, the Telegraph Line and all other property in the next preceding section of this Act mentioned; and thereupon, such Company shall have, enjoy and exercise, with respect thereto, all the powers, rights and privileges, conferred upon such Company in regard to other property of a similar nature by the said Electric Telegraph Companies' Incorporation Act of 1852, or by its special charter.

Public Act.

III. This Act shall be deemed a Public Act.

### C A P . L X X X I V .

An Act to authorize Henry Augustus Fitzgerald McLeod, to practise as a Provincial Land Surveyor.

[Assented to 19th June, 1856.]

Preamble.

**W**HEREAS Henry Augustus Fitzgerald McLeod, of the City of London, in the County of Middlesex, in this Province, Civil Engineer, hath by his petition to the Legislature represented, that he served for three years, from the first day of July, one thousand eight hundred and fifty-one, to the first day of July, one thousand eight hundred and fifty-four, under articles to John C. Innes, of the City of Kingston, Civil Engineer, for the purpose of learning and practising that profession, and that during the said three years he was constantly employed on Surveys for Railways and works in the field connected with the practice both of a Civil Engineer and of a Surveyor; that the said John C. Innes was not a Provincial Land Surveyor, and that the Petitioner wishing to practise as such, did on the twenty-fifth day of April, one thousand eight hundred and fifty-five, become articulated to Charles L. Davies, of the said City of London, a Provincial Land Surveyor, and hath since that time been steadily and constantly employed in the practice of that profession under him; And the said McLeod hath further represented, that although during the time he was serving with the said John C. Innes, he was in fact learning and practising the science and art as well of a Surveyor as of Civil Engineer, and hath again practised surveying during one year under the said C. L. Davies, making in all four years, he finds that by the Act relating to Land Surveyors and the admission of persons as such, he cannot be admitted to practise until he has served three years with the said C. L. Davies or some other Land Surveyor, while Surveyors from Lower Canada may be admitted after six months of such service, and those from any other part of Her Majesty's Dominions after one year of such service in Upper Canada,—and hath prayed that under these circumstances, an Act may be passed authorizing his admission as a Land Surveyor for Upper Canada; And whereas

it

it is proper and right to grant his petition, as being in accordance with the spirit and intent of the said Surveyors' Act: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall be lawful for the Board of Examiners for Upper Canada, established under the Act passed in the twelfth year of Her Majesty's Reign, chaptered thirty-five, as amended by the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's Reign, chaptered four, to examine the said Henry A. F. McLeod at any meeting of the said Board after the passing of this Act, in the same manner and upon the same notice and application as if he had served three years with the said C. L. Davies, and if they shall be satisfied by such examination, that he is qualified as by the said Act required, and if he shall produce the proper certificates of character, and comply with all the other requirements of the said Act, and if he shall satisfy the said Board that he hath so served with the said John C. Innes, the said Board may grant him a certificate in the usual form authorizing him to practise as a Land Surveyor in Upper Canada.

Henry A. F. McLeod, may be examined, and if found qualified, may be admitted as a Surveyor on certain conditions.

II. This Act shall be deemed to be a Public Act.

Public Act.

C A P . L X X X V .

An Act to continue for a limited time the several Acts and Ordinances therein mentioned, and for other purposes.

[Assented to 1st July, 1856.]

WHEREAS it is expedient further to continue the Acts and Ordinances hereinafter mentioned, which would otherwise expire at the end of the present Session: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Fisheries in the District of Gaspé*; the Act of the said Parliament, passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to prevent obstructions in Rivers or Rivulets in Upper Canada*, as amended and explained by the Act of the said Parliament, passed in the session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to amend, explain and continue an Act passed in the seventh year of the Reign of Her Majesty, intituled, 'An Act to prevent obstructions in Rivers or Rivulets in Upper Canada,'* and by the Act of the said Parliament passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act*

Act of Canada, 4 & 5 V. c. 36.

7 V. c. 36, as amended by—

10 & 11 V. c. 20.

and by—

Act

- 14 & 15 V. c. 123. *Act to explain and amend the Acts for preventing obstructions in Rivers and Rivulets in Upper Canada, and both the said last mentioned Acts; the Act of the said Parliament passed in the eighth year of Her Majesty's Reign, and intituled, An Act for the better preservation of the Peace and the prevention of Riots and violent outrages at and near Public Works, while in the progress of construction, as amended and extended by the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, An Act to continue an Act passed in the eighth year of the Reign of Her Majesty, intituled, 'An Act for the better preservation of the Peace and the prevention of Riots and violent outrages at and near Public Works, while in progress of construction,' and to extend the operation thereof to certain works undertaken by Incorporated Companies, and the said last mentioned Act; the Act of the said Parliament, passed in the eighth year of Her Majesty's Reign, and intituled, An Act to amend the Act and Ordinance therein mentioned, relative to the Registration of Titles to, and Incumbrances upon Real Property in Lower Canada; the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, An Act for the relief of Insolvent Debtors in Upper Canada, and for other purposes therein mentioned, except the forty-fourth Section of the said Act; the Act of the said Parliament, passed in the ninth year of Her Majesty's Reign, and intituled, An Act to empower Commissioners for enquiring into matters connected with the public business, to take evidence on oath; the Act of the said Parliament, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, An Act to enlarge the powers of the Trinity House of Montreal, in certain cases where the Public Health of the City may be endangered; the Act of the said Parliament passed in the eleventh year of Her Majesty's Reign, and intituled, An Act to provide for the Inspection of Butter in Quebec and Montreal; the Act of the said Parliament, passed in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, An Act for the better Management of the Provincial Penitentiary; the Act passed in the same Session, and intituled, An Act to provide a more summary and less expensive process for Proprietors of Real Property in Lower Canada to acquire possession thereof, when illegally detained from them in certain cases, as amended by the Acts passed in the sixteenth year of Her Majesty's Reign, and intituled, An Act to amend the Act fourteenth and fifteenth. Victoria, chapter ninety-two, relating to the illegal detention of Real Property in Lower Canada, and the said last mentioned Act; the Act of the said Parliament, passed in the sixteenth year of Her Majesty's Reign, and intituled, An Act relating to the fisheries on the Labrador and North Shore of the Gulf of St. Lawrence; the Act of the Parliament of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty King George the Fourth, and intituled, An Act for better regulating the Common of the Seigneurie of Laprairie de la Madeleine; the Act of the said*
- 8 V. c. 6.  
as amended and extended by—  
14 & 15 V. c. 76.  
8 V. c. 27.  
8 V. c. 48. except sec. 44.  
9 V. c. 38.  
10 & 11 V. c. 1.  
11 V. c. 7.  
14 & 15 V. c. 2.  
14 & 15 V. c. 92.  
as amended by—  
16 V. c. 205.  
12 V. c. 9.  
Acts of Lower Canada.  
2 G. 4, c. 8.
- Parliament,

Parliament, passed in the same year of the same Reign, and intituled, *An Act to enable the inhabitants of the Seigneurie of La Baie Saint Antoine, commonly called La Baie du Febvre, to provide for the better regulation of the Common in the said Seigneurie*, as amended and extended by the Act of the said Parliament, passed in the fourth year of the same Reign, and intituled, *An Act to authorize the Chairman and Trustees of the Common of the Seigneurie of the Baie Saint Antoine, commonly called the Baie du Febvre, to terminate certain disputes relating to the limits of the said Common, and for other purposes appertaining to the same*; the Act of the said Parliament, passed in the ninth year of the same Reign, and intituled, *An Act to provide for the more effectual extinction of secret incumbrances on lands, than was heretofore in use in this Province*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to prevent fraudulent Debtors evading their Creditors in certain parts of this Province*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to facilitate the proceedings against the Estates and Effects of Debtors in certain cases*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to alter and amend An Act passed in the sixth year of His Majesty's Reign, intituled, 'An Act to authorize the inhabitants of the Fief Grosbois, in the County of Saint Maurice, to make regulations for the Common of the said Fief'*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act for the preservation of the Salmon Fisheries in the Counties of Cornwallis and Northumberland*; the Act of the said Parliament, passed in the first year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to encourage the destruction of Wolves*; the Act of the said Parliament, passed in the third year of the same Reign, and intituled, *An Act further to suspend certain parts of an Act or Ordinance therein mentioned, and to consolidate and further to continue for a limited time the provisions of two other Acts therein mentioned, for more effectually ascertaining the damages on protested Bills of Exchange, and for determining disputes relating thereto, and for other purposes*; the Act of the said Parliament, passed in the sixth year of the same Reign, and intituled, *An Act to provide for the Medical Treatment of sick Mariners*, as amended by the Act of the Parliament of Canada, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the relief of shipwrecked and destitute Mariners, in certain cases therein mentioned*, and by the Act passed in the sixteenth year of Her Majesty's Reign, and intituled, *An Act to exempt certain Vessels from the duty imposed by the Act to provide for the Medical Treatment of sick Mariners*, and both the said last mentioned Acts; the Act of the Parliament of the late Province of Upper Canada, passed in the eleventh year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to authorize the Quarter Sessions*

2 G. 4, c. 10.

as amended  
by—

4 G. 4, c. 26.

9 G. 4, c. 20.

9 G. 4, c. 27.

9 G. 4, c. 28

9 G. 4, c. 32.

9 G. 4, c. 51.

1 W. 4, c. 6.

3 W. 4, c. 14,

6 W. 4, c. 35.

as amended  
by—

8 V. c. 12.

and by—

16 V. c. 166.

Acts of Upper  
Canada.

11 G. 4, c. 20.

*Sessions of the Home District to provide for the relief of Insane Destitute persons in that District*; the Act of the said Parliament, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to continue an Act passed in the eleventh year of His late Majesty's Reign, intituled, 'An Act to authorize the Quarter Sessions of the Home District to provide for the relief of Insane destitute persons in that District,' and to extend the provisions of the same to the other Districts of this Province*; and the Act of the said Parliament, passed in the sixth year of the same Reign, and intituled, *An Act to repeal an Act passed in the forty-ninth year of the Reign of His late Majesty King George the Third, intituled, 'An Act to encourage the destroying of Wolves in this Province,' and to make further provision for exterminating those destructive animals*, shall be, and all and every of the said Acts and Ordinances are hereby continued to the first day of January, one thousand eight hundred and fifty-seven, and from thence until the end of the then next ensuing Session of the Provincial Parliament, and no longer.

3 W. 4. c. 45.

6 W. 4. c. 29.

Continued to  
1st January,  
1857, &c.Acts of Ca-  
nada.

7 V. c. 10

9 V. c. 30.

12 V. c. 18.

13 & 14 V.  
c. 20.Continued for  
certain pur-  
poses to 1st  
January, 1857,  
&c.Act of Lower  
Canada.

6 W. 4. c. 19,

Continued.

Continued.  
Provido: to  
cease when

II. The Act of the Parliament of this Province, passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal an Ordinance of Lower Canada, intituled, 'An Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects,' and to make provision for the same object throughout the Province of Canada*; and the Act amending the same, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to continue and amend the Bankrupt Laws now in force in this Province*, in so far only as the same are continued by and for the purposes mentioned in the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to make provision for the continuance and completion of Proceedings in Bankruptcy now pending*, and the said last mentioned Act; and the Act of the said Parliament, passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to afford relief to Bankrupts in certain cases*, shall respectively be and they are hereby continued, and shall remain in force until the said first day of January, one thousand eight hundred and fifty-seven, and thence until the end of the then next ensuing Session of the Provincial Parliament, and no longer.

III. The Act of the Parliament of the late Province of Lower Canada aforesaid, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to regulate the Fees of persons employed by Justices of the Peace in the Country Parishes, as Clerks or Bailiffs in certain cases*, shall be and is hereby continued to the said first day of January, one thousand eight hundred and fifty-seven, and thence until the end of the then next ensuing Session of the Provincial Parliament, and no longer: Provided always, that in the several Judicial Districts of Lower Canada, so much of the said Act

Act

Act as relates to the Fees to be granted to persons acting as Clerks to Country Magistrates, shall cease to have any force in the said Districts respectively, if or so soon as a Tariff of Fees shall have been promulgated in such District, under the provisions of an Act passed in the Session of the Legislature held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions, with respect to persons charged with indictable offences.* Tariffs are made under— 14 & 15 V. c. 96.

IV. Provided always, That nothing herein contained shall prevent the effect of any Act passed or to be passed during the present Session, repealing, amending, rendering permanent, or continuing to any further period than that herein appointed, any of the Acts or Ordinances hereinbefore mentioned and continued, nor shall continue any provision or part of any of the Acts or Ordinances in this Act mentioned, which may have been repealed by any Act passed during the present Session or in any previous Session. Proviso : this Act not to prevent the effect of any other Act of the present Session.

V. The period limited by the Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Acts passed to remedy certain defects in the Registration of Titles in the County of Hastings*, as that within which it shall be lawful for the Registrar or Deputy Registrar of the County of Hastings to receive and index any memorial, under the authority of the Act of the said Parliament, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to remedy certain defects in the Registration of Titles in the County of Hastings, in Upper Canada*, or of the Act of the said Parliament, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to alter and amend an Act, intituled, 'An Act to remedy certain defects in the Registration of Titles in the County of Hastings, in Upper Canada,'* or to endorse any Deed, Conveyance, Will or Probate, to which such memorial relates, shall be and is hereby extended to the said first day of January, one thousand eight hundred and fifty-seven, and thence until the end of the then next ensuing Session of the Provincial Parliament. Period limited by— 12 V. c. 97. 9 V. c. 12, and— 10 & 11 V. c. 38. extended.

## C A P . L X X X V I .

An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government for the year 1856, and for certain other expenses connected with the public service, and also for raising a Loan on the credit of the Consolidated Revenue Fund.

[Assented to 1st July, 1856.]

MOST GRACIOUS SOVEREIGN :

Preamble.

**W**HEREAS by Messages from His Excellency Sir Edmund Walker Head, Governor General of British North America, and Captain General and Governor in Chief in and over this Province of Canada, and the Estimates accompanying the same, laid before both Houses of the Provincial Parliament, it appears that the sums hereinafter mentioned are required to defray certain expenses of the Civil Government of this Province and of the Public Service thereof, for the year one thousand eight hundred and fifty-six : May it therefore please Your Majesty that it be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, that,—

£716,774 9s.  
3, appropriated  
out of  
Consolidated  
Revenue  
Fund.

I. From and out of the Consolidated Revenue Fund of this Province, there shall be and may be paid and applied a sum not exceeding in the whole the sum of seven hundred and sixteen thousand seven hundred and seventy-four pounds, nine shillings and three pence, currency, for defraying the several charges and expenses of the Civil Government and Public Service of this Province for the year one thousand eight hundred and fifty-six, and other purposes set forth in the Schedule to this Act.

Loan of  
£250,000 may  
be raised.

II. It shall be lawful for the Governor in Council to authorize the raising by way of loan, on the credit of the Consolidated Revenue Fund of this Province, of a sum not exceeding two hundred and fifty thousand pounds, currency, to be placed to the credit of the said Consolidated Revenue Fund, towards making good the sums appropriated out of the said Fund by this Act, for certain contingencies of the Public Service connected with the Public Works.

Debentures  
may be issued  
to the said  
amount.

III. For the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council to authorize the issuing of Debentures, to an amount not exceeding in the whole the sum last aforesaid, in such form, for such separate sums, at  
such

such rate of interest not exceeding six per centum per annum, and to make the principal and interest thereon payable at such periods and at such places, as to him shall seem most expedient, the said principal and interest being hereby made chargeable upon the said Consolidated Revenue Fund of this Province.

IV. Accounts in detail of all moneys received and paid under this Act, and of the Debentures issued and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected, received or paid under the authority of this Act, shall be laid before both Houses of the Legislature of this Province at each Session thereof. Accounting  
clause.

V. The due application of the moneys raised and expended under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct. Accounting  
clause.

## SCHEDULE.

SUMS GRANTED TO HER MAJESTY BY THIS ACT, AND THE PURPOSES FOR WHICH THEY ARE GRANTED

SERVICE.	A sum not exceeding— Currency.	Currency.
<i>Militia.</i>		
	£ s. d.	£ s. d.
Salary of the Provincial Aide-de-Camp, for the year 1856...	300 0 0	
“ of six Clerks in the Offices of the Adjutant General of Militia Department.....	1357 10 0	
“ of a Messenger in do .....	93 15 0	
“ of two Inspecting Field Officers of Volunteer Militia, for the half year ended 30th June, 1856, at the rate of £200 each.....	400 0 0	
“ of two Store-keepers of Armouries, at £75 each, for the four months ended do do .....	50 0 0	
“ of 18 Assistant Adjutants General, at £30 per annum for the year ended do do .....	540 0 0	
Maintenance of 16 Troops of Cavalry, each 10 days Drill, for the year ended do do .....	3118 0 0	
“ of six Field Batteries of Artillery each 20 days Drill, for the year ended do do .....	3561 0 0	
“ of five Companies of Foot Artillery for the year ended do do .....	705 0 0	
“ 40 Companies of Riflemen, 70 men each, for the year ended do do .....	3820 0 0	
Contingent Expenses for Postages, Stationery, Printing, Repairs of Accoutrements, Transport of Arms, Travelling Expenses of Inspecting Field Officers, and all other Incidental Expenses attending the Active Force, for do.	1200 0 0	
Required for purchase of Arms, Accoutrements and Ammunition, for the Militia of Canada.....	10000 0 0	
		25145 5 0
<i>Legislative Council.</i>		
Salary of the Speaker.....	800 0 0	
“ of the Clerk.....	500 0 0	
“ of the Assistant Clerk and French Translator.....	400 0 0	
“ of the Law Clerk.....	250 0 0	
“ of the Chaplain and Librarian.....	200 0 0	
“ of the Gentleman Usher of the Black Rod.....	100 0 0	
“ of the Sergeant-at-Arms.....	100 0 0	
“ of the Head Messenger.....	100 0 0	
“ of the Door Keeper.....	60 0 0	
“ of three Messengers for the Session, at £45 each...	135 0 0	
Contingent Expenses.....	7650 0 0	
Indemnity to the Members for their attendance, at 20s. per diem, including travelling at 6d. per Mile, for the distance between the place of residence of each Member, and the place at which the Session is held.....	7350 0 0	
		17645 0 0

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.	Currency.
	£ s. d.	£ s. d.
<i>Legislative Assembly.</i>		
Salary of the Speaker.....	800 0 0	
“ of the Clerk.....	500 0 0	
“ of the Assistant Clerk.....	400 0 0	
“ of the Law Clerk and English Translator.....	500 0 0	
“ of the Clerk of the Crown in Chancery.....	150 0 0	
“ of the Sergeant-at-Arms.....	100 0 0	
Contingent Expenses (exclusive of Indemnity to Members).....	62000 0 0	
		64450 0 0
<i>Various Public Departments.</i>		
Contingent Expenses of the Clerk of the Crown in Chancery	100 0 0	
Towards the Salary of the Deputy Provincial Registrar and French Translator to Government.....	166 13 0	
Salary of Additional Clerk in the Eastern Branch, Provincial Secretary's Office.....	125 0 0	
“ to the Clerks in Provincial Secretary's Office....	333 7 5	
“ to the Clerks in Provincial Registrar's Office.....	465 17 0	
“ to the Clerks in Receiver General's Office.....	390 0 0	
“ to the Clerks in Inspector General's Office.....	656 5 0	
“ to the Clerks in the Customs Branch Office.....	270 0 0	
Salary of two Extra Clerks in Receiver General's Office.....	517 17 1	
Additional Salary to Messengers, one in the Receiver General, two in the Provincial Secretary's, one to the Governor General's Secretary, four in all, at £19 each.....	76 0 0	
“ the House Keeper and Messenger, Inspector General's Office.....	39 16 8	
Salary of one other Messenger in the Provincial Registrar's Office.....	75 0 0	
“ of the Clerk attached to the Inspector General's De- partment, to look after the Interests of the Crown, in respect to the Quebec Fire Loan.....	200 0 0	
“ of the Clerk arranging the Public Archives, &c. at Montreal, at 10s. per diem.....	183 0 0	
Additional Salary to the Permanent Clerk of the Crown Law Department.....	140 0 0	
Salary of a Clerk in the Customs Branch, Inspector General's Department.....	200 0 0	
“ of two Check Clerks in do at £250 each.....	500 0 0	
“ of Secretary to the Bureau of Registration and Statistics.....	400 0 0	
“ of first Clerk and Accountant.....	300 0 0	
“ of Second do. for the issue and Register of Patents.....	250 0 0	
“ of Third Clerk do.....	225 0 0	
“ of Fourth Clerk do.....	200 0 0	
“ of two Extra Clerks.....	525 0 0	
“ of two Messengers, at £75 each.....	150 0 0	
Contingencies.....	750 0 0	
Additional Salary to the Auditor of Public Accounts.....	100 0 0	
Salary of a Book-keeper in Auditor's Office, from 17th Jan- uary to 31st December, 1856, at £300 per annum.....	286 5 3	
“ of Clerk, in do, from 1st January to 31st March, at 13s. 9d. per diem, and from 1st April to 31st Decem- ber, 1856, at £250 per annum.....	250 1 3	

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.	Currency.
	£ s. d.	£ s. d.
<i>Various Public Departments—Continued.</i>		
Salary of Accountant, in Auditor's Office from 1st January to 31st March, at 12s. 6d. per diem, and from the 1st April to 31st December, 1856, at £250 per annum....	225 12 6	
“ of two Clerks, in do, from 1st January to 31st March, at 10s. per diem, and from 1st April to 31st December, 1856, at £175, equal to £176 15s. each.....	353 10 0	
“ of one Clerk, in do, for the year.....	300 0 0	
“ of an Extra Clerk in the Provincial Secretary's Office, at 11s. per diem.....	201 6 0	
“ of two Clerks in the Executive Council Office, at 12s. 6d. per diem, each.....	457 10 0	
“ of three Clerks in the Receiver General's Office.....	816 15 0	
		10229 16 2
<i>Department of Public Works.</i>		
Additional Salary to Hon. H. H. Killaly, for Engineering Services on the Welland Canal, for the year....	250 0 0	
Salary of one Chief Engineer, from 1st February to 31st December, 1856.....	742 10 0	
“ of one Assistant Engineer and Draughtsman, do ..	421 13 4	
“ of one Book Keeper, from do .....	368 19 2	
“ of one Chief Clerk, from do .....	302 10 0	
“ of one Clerk, from do .....	229 3 4	
And when performing the duties of Paymaster, an addition of Salary of two Clerks, at £250 each, from 1st February to 31st December, 1856.....	137 10 0	
“ of one Office Keeper, from do .....	458 6 8	
“ of one Messenger, from do .....	95 6 8	
“ of one do do .....	108 17 1	
	85 18 9	
		3200 15 0
<i>Pensions to Officers and Servants of the late Legislative Bodies of Upper and Lower Canada.</i>		
William Ginger, as late Sergeant-at-Arms to the Legislative Council of Lower Canada.....	66 13 4	
Samuel Waller, as Clerk of Committees to the Legislative Assembly of do.....	100 0 0	
Wm. Coates, as Writing Clerk to do Upper Canada.....	133 6 8	
John Bright, as Messenger of Legislative Council of do.....	20 0 0	
Louis Noreau, as do of do Lower Canada.....	20 0 0	
Pierre Lacroix, as do of do do ..	18 0 0	
François Rodrigue, do of Legislative Assembly do ..	18 0 0	
Louis Gagné, as do of do do ..	18 0 0	
		394 0 0
<i>Other Pensions.</i>		
Jacques Brien, for Wounds received in the Public Service..	20 0 0	
Mrs. McDonell, allowance during her life, on her claim for Dower on a certain property taken by the late Welland Canal Commissioners.....	50 0 0	
Mrs. Widow Antrobus.....	200 0 0	
Mrs. Catherine Smith, as widow of the late Mr. Justice Pyke	100 0 0	
Widow McCormick.....	100 0 0	

SCHEDULE—Continued.

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.			Currency.		
	£	s.	d.	£	s.	d.
<i>Other Pensions—Continued.</i>						
G. B. Faribault, Esquire, as the late Assistant Clerk of the Legislative Assembly. ....	430	0	0			
<i>Hospitals and other Charities.</i>						
Aid to the Commissioners for relief of Indigent Sick at Quebec. ....	1000	0	0			
“ the same at Montreal. ....	1000	0	0			
“ do at Three Rivers. ....	700	0	0			
“ Corporation of General Hospital at Montreal. ....	1000	0	0			
“ Managers of the Protestant Female Orphan Asylum at Quebec. ....	100	0	0			
“ the Ladies Benevolent Society Montreal, for Widows and Orphans. ....	100	0	0			
“ Roman Catholic Orphan Asylum, Quebec. ....	100	0	0			
“ Montreal Protestant Orphan Asylum. ....	150	0	0			
“ Male Orphan Asylum Quebec. ....	100	0	0			
“ Charitable Association of the Ladies of the Roman Catholic Asylum at Montreal. ....	100	0	0			
“ Protestant Orphans' Home and Female aid Society at Toronto. ....	200	0	0			
“ Roman Catholic Orphan Asylum at Toronto. ....	200	0	0			
“ University Lying-in-Hospital at Montreal. ....	75	0	0			
“ do under the care of the Sœurs de la Miséricorde. ....	75	0	0			
“ Lying-in Hospital at Toronto. ....	75	0	0			
“ Asylum of the Good Shepherd at Quebec. ....	75	0	0			
“ Hospice de la Maternité at Quebec. ....	75	0	0			
“ General Hospital des Sœurs de la Charité at Montreal. ....	250	0	0			
“ Les Sœurs de la Providence at Montreal. ....	350	0	0			
“ Towards the support of the Lunatic Asylum at Toronto. ....	14000	0	0			
“ Towards the support of a temporary Lunatic Asylum at Beauport, near Quebec. ....	10000	0	0			
“ Hamilton Hospital. ....	800	0	0			
“ Toronto General Hospital. ....	2000	0	0			
“ Toronto House of Industry. ....	500	0	0			
“ Towards the relief of Indigent Sick at Kingston. ....	750	0	0			
“ Kingston General Hospital. ....	1000	0	0			
“ Kingston Hotel-Dieu Hospital. ....	200	0	0			
“ Protestant Hospital at Bytown. ....	150	0	0			
“ Roman Catholic Hospital at Bytown. ....	150	0	0			
“ Hamilton Orphan Asylum. ....	200	0	0			
“ do Roman Catholic Orphan Asylum. ....	200	0	0			
“ St. Patrick's Hospital at Montreal. ....	150	0	0			
“ Eye and Ear Institution at Montreal. ....	50	0	0			
“ to Montreal Dispensary. ....	50	0	0			
“ to Canada Military Asylum for Widows and Orphans at Quebec. ....	50	0	0			
“ Montreal House of Refuge. ....	150	0	0			
“ Montreal Home and School of Industry. ....	100	0	0			
“ Deaf and Dumb Institution near Montreal. ....	150	0	0			
						870 0 0
						36375 0 0

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.	Currency.
	£ s. d.	£ s. d.
<i>Various Public Literary, Scientific and Educational Institutions, &amp;c.</i>		
Aid to the Medical Faculty of McGill College.....	250 0 0	
“ School of Medicine at Montreal .....	250 0 0	
“ “ at Kingston.....	250 0 0	
“ Literary and Historical Society at Quebec.....	50 0 0	
“ Natural History Society at Montreal.....	50 0 0	
“ Ste. Mary’s Institute, County of Perth.....	50 0 0	
“ Institute of St. Roch.....	50 0 0	
“ Literary Institute, Laprairie.....	50 0 0	
“ “ Sherbrooke.....	50 0 0	
“ Sherbrooke Library Association and Mechanics’ Institute.....	50 0 0	
“ Hamilton Mercantile Library Association.....	50 0 0	
“ Mr. Juneau’s Literary Institution.....	50 0 0	
“ Montreal Mercantile Library Association.....	50 0 0	
“ Canadian Institute at Toronto.....	250 0 0	
“ Athenæum at Toronto.....	100 0 0	
“ Huron Library Association, and Mechanics’ Insti- tute.....	50 0 0	
“ Teachers’ Association at Quebec, for their Library	50 0 0	
“ Library Association at Quebec.....	50 0 0	
“ Canadian Institute, at do.....	50 0 0	
“ do do at Montreal.....	50 0 0	
“ do do at City of Ottawa.....	200 0 0	
“ Mechanics’ Institutes (as per list annexed).....	3900 0 0	
		5950 0 0
<i>Contingent Expenses of the Administration of Justice.</i>		
In Upper and Lower Canada not otherwise provided for.....	40000 0 0	
For the support of the Provincial Penitentiary at Kingston..	11500 0 0	
For Salaries of four Judges in Lower Canada.....	3800 0 0	
Additional Salary to Judge in the District of St. Francis....	194 9 0	
“ to John Black, Clerk in Registrar’s Office, Court of Chancery.....	75 0 0	
“ to William Stanley, do Master’s Office, do... ..	75 0 0	
“ of a Supernumerary Clerk of the Court of Queen’s Bench, and Clerk of Summonses, Toronto... ..	250 0 0	
“ of an extra Clerk, Attorney General, West, Office.....	100 0 0	
		55994 9 0
<i>Miscellaneous Items.</i>		
Allowances to Keepers of Depots of Provisions on the River St. Lawrence, with the view to the Relief of Ship- wrecked Persons.....	200 0 0	
For Providing Provisions for such Depots.....	350 0 0	
Allowance to Pierre Brochu, for residing on Kempt Road to assist travellers thereon.....	25 0 0	
“ Jonathan Noble, for the same purpose.....	25 0 0	
“ to a Resident at the foot of Lake Metapedia, for do... ..	25 0 0	
“ to do at Assametquagan for do... ..	25 0 0	

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.	Currency.
	£ s. d.	£ s. d.
<i>Miscellaneous Items—Continued.</i>		
For the Expense of Printing and Binding the Laws .....	6000 0 0	
For other Printing, and Subscription to, and Advertising in the Official Gazette .....	2500 0 0	
For the Expense of distributing the Laws .....	500 0 0	
To meet unforeseen Expenses in the various branches of the Public Service .....	500 0 0	
Proportion of the Expenses of Keeping up Light Houses on the Isles of St. Paul and Scatterie in the Gulf .....	750 0 0	
To defray the Expenses of the Quebec Observatory .....	500 0 0	
To defray the Expenses of the Observatory at Toronto .....	1200 0 0	
Expenses of Commissioners appointed to enquire into matters connected with the Public Service under Act 9 Vic. cap. 38 .....	1500 0 0	
New Indian Annuities .....	1100 0 0	
Expenses of Protecting the Fisheries in the Gulf .....	2075 0 0	
For the Temporary Maintenance of the Ottawa and Rideau Canals, from 1st April 1856 to 31st March, 1857 .....	10821 0 0	
One year's rent of the Protestant Burying Ground in St John's Suburbs, Quebec, including arrears of £12 15s. 9d. ..	36 0 9	
Aid to the Board of Agriculture of Upper Canada .....	1000 0 0	
do do Lower Canada .....	1000 0 0	
Expenses of the Boundary Line between New Brunswick and Canada .....	1021 0 0	
To make good various indispensable expenses of the Civil Government, incurred during the year 1855, as detailed in Statement No. A. of the Public Accounts laid before the Legislature .....	102015 16 6	
Expenses for the services of 150 of the Embodied Pensioners on permanent duty in Upper Canada, for 1856 .....	8000 0 0	
Compensation to Pensioners in lieu of Land .....	2433 6 8	
Salary of a Medical Superintendent for Criminal Lunatics at Penitentiary .....	300 0 0	
Contingent Expenses of the same, including the Salaries of the Keepers .....	560 0 0	
Balance, Tonnage Duties, Quebec, to 31st January, 1856, as per Statement No. 14, Public Accounts, 1855, page 207 .....	1707 18 7	
“ Emigration Expenses, as per Statement No. 18, Public Accounts, page 212 .....	2731 3 3	
Aid towards Emigration Expenses for the present year .....	3000 0 0	
Balance, Expenses of Water Police, Quebec, as per Statement No 17, Public Accounts, 1855, page 214 .....	221 1 10	
Amount required to meet the deficiency of the same Fund, for the present year .....	750 0 0	
For Expenses of River Police, Montreal, during the past winter .....	1750 0 0	
For a Safe for the Court House at St. Francis .....	50 0 0	
For Expenses of a Detachment of Enrolled Pensioners at Fort Malden, Amherstburgh, from 25th March to 24th June, 1855 .....	142 14 4	
For the formation of a collection of Canadian Products, to be placed in the Sydenham Crystal Palace, London, in-		

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.	Currency.
	£ s. d.	£ s. d.
<i>Miscellaneous Items—Continued.</i>		
cluding the Remuneration and Travelling Expenses of Mr. Perry.....	2000 0 0	
For Salaries and Contingencies of the Commissioners appointed for the Revision, Consolidation and Classification of the Ordinances and Public General Statutes of Canada.	6000 0 0	
For Expenses in Compiling, Preparing and Printing the Tables and Index to the Laws in Force, as per Resolution of the Legislative Assembly.....	2000 0 0	
		164755 1 11
<i>Education—Upper Canada.</i>		
Aid to the Upper Canada College.....	1111 2 2	
“ Victoria College.....	750 0 0	
“ Queen’s College.....	750 0 0	
“ Regiopolis College, Kingston.....	750 0 0	
“ Grammar Schools of the Counties of Brant, Elgin, Grey, Lambton, Ontario and Halton, at £100 each	600 0 0	
“ St. Michael’s College, Toronto.....	350 0 0	
“ Bytown College.....	200 0 0	
“ Grammar School in Welland.....	100 0 0	
		4611 2 2
<i>Education—Lower Canada.</i>		
Aid towards Superior Education in Lower Canada, Income Fund.....		5000 0 0
<i>Education generally.</i>		
Additional sum for Common Schools in Upper and Lower Canada.....		35000 0 0
<i>Various Public Works and Services.</i>		
For Ocean Steam Service, £24,000 Sterling, equal to.....	29200 0 0	
For Tug Service between Montreal and Kingston.....	6750 0 0	
For do below Quebec.....	11300 0 0	
Forming and protecting foundations of Light House on Pointe Pelée Reef.....	4100 0 0	
Light Houses Lake Huron.....	8000 0 0	
Lanterns, Lenses, Revolving Machinery, Lamps, &c., for Light Houses in course of construction.....	13049 0 0	
Light Houses in Gulf of the St. Lawrence and Straits of Belleisle.....	15000 0 0	
Lanterns, Lenses, Machinery, Lamps, &c.....	8000 0 0	
Scugog and Inland Navigation of Newcastle District.....	7634 0 0	
River Ottawa Works, (lumbering).....	2700 0 0	
River St. Maurice, (do.).....	2255 0 0	
Burlington Bay Canal.....	2000 0 0	
Dredging Vessels, Steam Pumps, &c.....	3500 0 0	
Completion of Marine Hospital, Quebec.....	5680 0 0	
Post Office, Hamilton (completion of).....	1500 0 0	
Repairs and Rents of Public Buildings.....	7436 0 0	

## SCHEDULE—Continued.

SERVICE.	A sum not exceeding— Currency.			Currency.		
	£	s.	d.	£	s.	d.
<i>Various Public Works and Services—Continued.</i>						
Expenditure on Removal of Seat of Government, since 1st January.....	19000	0	0			
Expenditure on Public Buildings, Furniture, &c., at Toronto, since 1st January.....	28000	0	0			
Light House on Snake Island, Lake Ontario.....	3000	0	0			
St. Maurice River, Slides at the Grais, Booms, &c., to be taken from proceeds of Sales of Lumber limits.....	8500	0	0			
Towards improvement of Ottawa Navigation for 1856.....	25000	0	0			
Improvement of the Post Road between Metis and Metapediac, including building of Bridges.....	850	0	0			
Improvement between Malbaie and Grande Baie.....	500	0	0			
Extending main north road from Escoumains to Baie des Roches.....	500	0	0			
Towards the works at the head of the Richelieu Rapids, to prevent inundation, delay in the opening of Navigation, and detention of Vessels.....	2500	0	0			
Towards further improvement of Custom House, Hamilton. . .	2000	0	0			
Do. Post Office, London.....	2500	0	0			
Preparing accommodation for Female Lunatics, Toronto.....	1200	0	0			
Survey of the Ottawa.....	5000	0	0			
Surveys generally.....	5000	0	0			
Arbitration, Awards, &c.....	20000	0	0			
Repairs at Port Stanley.....	10000	0	0			
Burlington Bay Piers.....	500	0	0			
Opening of the Waste Lands of the Crown in Lower and Upper Canada, one-half the amount to be expended in each section.....	25000	0	0			
				287154	0	0
Total Currency.....				716774	9	3

# LIST

## REFERRED TO IN SCHEDULE.

SERVICE.	Currency.		
	£	s.	d.
<i>Mechanics' Institutes, &amp;c.</i>			
Aid to the Aurora Mechanics' Institute and Library Association.....	50	0	0
“ Richmond do do do.....	50	0	0
“ North Wellington Farmers' and Mechanics' Institute.....	50	0	0
“ Mechanics' Institute and Library Association, Industrie.....	50	0	0
“ Institute of St. Viateur de L'Industrie.....	50	0	0
“ Literary Institute of St. Michel de Bellechasse.....	50	0	0
“ St. John's Library Association.....	50	0	0
“ St. Andrew's Library Association and Mechanics' Institute.....	50	0	0
“ Institute and Library Association of Varennes.....	50	0	0
“ Stanstead Library Association and Mechanics' Institute.....	50	0	0
“ Mechanics' Institutes at Quebec—Montreal—Kingston—Toronto—London (Canada West)—Niagara—Hamilton—Belleville—Brockville—Bytown—Cobourg—Perth—Picton—Guelph—St. Thomas—Brantford—St. Catherines—Goderich—Whitby—Three Rivers—Berthier (Lower Canada)—Simcoe—Woodstock—Brampton (County of Peel)—Dunville (for 1855)—Dunville (for 1856)—Milton—Owen Sound—Port Sarnia—Chatham—County of Halton—County of Sherbooke—Port Hope—Stratford—Peterborough—Iberville—Renfrew—Mitchell (County of Perth)—Berlin—Fonthill—Dundas—Oakville—Watertown—St. Vincent de Paul—Huntingdon—L'Original—Chambly—Prescott—Barrie—St. Léon—Dumontville—St. Césaire—West Flamborough—Galt—Lachute—Bowmanville—Lanoraye—Paris—St. Hyacinthe—Sorel—Hemmingford—Smith's Falls—Chatham (L. C.)—Rimouski—St. Hyacinthe—Metcalf—Village of Aylmer (County of Elgin)—Ayr,—£50 each.....	3400	0	0
	£3900	0	0

### CAP. LXXXVII.

An Act for the Inspection of Flour, Indian Meal and Oatmeal.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS it is expedient to amend and to consolidate as amended, the several Acts regulating the inspection of Flour and Meal in this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Acts repealed.

I. The Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Inspection of Flour and Meal*, and the Act passed in the eleventh

eleventh year of Her Majesty's Reign, and intituled, *An Act to continue and amend the Act for the Inspection of Flour and Meal, and to provide for the Inspection of Oatmeal*, and the Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to amend and to continue as amended the Laws regulating the Inspection of Flour and Meal*, shall be and are hereby repealed: but the repeal thereof shall not revive any Act or provision of law repealed by the said Acts or any of them, but the same shall remain repealed.

11 V. c. 6.

13 & 14 V. c. 29.

Acts repealed by them not to revive.

II. Provided always, that nothing in this Act shall invalidate or in any way alter the true intent and meaning of any existing contract for the purchase or sale of Flour or Meal, based on the standard of inspection heretofore established and in use in Quebec, Montreal, Toronto, Kingston and Hamilton; and the quality of all or any Flour or Meal so contracted for, purchased or sold, shall, on the requisition of any party interested in such contract, purchase or sale, be ascertained and tested by the Inspector according to the standard of inspection in use by him immediately previous to this Act taking effect; and the said Inspector shall give a certificate of the quality of such Flour or Meal according to the said standard, but shall, nevertheless if required, brand on the barrels the quality of the Flour or Meal according to the standard of inspection under this Act.

Existing Contracts not to be affected.

How flour to which such contracts refer shall be inspected and branded.

III. From and after the passing of this Act, it shall be lawful for the Board of Trade in the Cities of Quebec, Montreal, Toronto, Kingston and Hamilton, respectively, and for the Municipal Authorities in other places where Inspectors may be required for the purposes of this Act, to appoint a Board of Examiners of applicants for the office of Inspector of Flour and Meal, and from time to time to remove such Examiners and appoint others in their stead; and such Board of Examiners shall in the Cities of Quebec and Montreal, respectively, consist of five, and in other places of three fit, proper and skilful persons resident in the place or in the immediate vicinity of the place, for which they are respectively to act; and such Examiners shall before acting as such, severally take and subscribe the following Oath, before any one of Her Majesty's Justices assigned to keep the Peace, within the District, County or City in which such Examiners are respectively to act; and such Justice is hereby required and authorized to administer the same:

Boards of Trade, and Municipal authorities to appoint Examiners of applicants for the office of Inspector.

"I, A. B., do swear, that I will not directly or indirectly, personally or by means of any person or persons, on my behalf, receive any fee, reward, or gratuity whatever by reason of any function of my Office as Examiner, and that I will therein well and truly in all things act without partiality, favour or affection, and to the best of my knowledge and understanding. So help me God."

Oath of office of Examiners.

Mayor or chief  
Municipal officer to appoint  
an Inspector.

Inspector to  
be examined.

To be appointed on requisition  
of Board of Trade.

To give security.

Form of Bond,  
&c.

No one to act  
for him except  
his sworn  
assistant.

Custody of  
Bond.

Fee for inspecting it.

Board of  
Examiners to  
be assisted by

IV. The Mayor of the said Cities of Quebec, Montreal, Toronto, Kingston and Hamilton, respectively, and the Mayor or Chief Municipal Officer of any other place as aforesaid, for the time being, shall and may from time to time, by an instrument under his hand and the seal of the Corporation, nominate and appoint an Inspector of Flour and Meal, for each of the said Cities and other places, as aforesaid, and may from time to time remove any such Inspector and appoint another in his stead; but no person shall be appointed as such Inspector who shall not previously to his appointment as such have undergone an examination before the Board of Examiners of the place for which he is to be appointed, as to fitness, character and capacity, in the manner hereinafter provided; nor shall any person be appointed an Inspector of Flour and Meal unless approved of and recommended as such by such Board of Examiners, or a majority of them, pursuant to such examination, nor in any place in which there shall be a Board of Trade, except on the requisition of such Board, with which the Mayor or Chief Municipal Officer shall be bound to comply; and before any Inspector shall act as such, he shall furnish two good and sufficient sureties, jointly and severally with himself, for the due performance of the duties of his office, in the sum of five hundred pounds, currency, if such Inspector be appointed for the City of Quebec or for the City of Montreal, and in the sum of two hundred and fifty pounds currency, if such Inspector be appointed for the City of Toronto or of Kingston or Hamilton, or for any other place for which an Inspector may be appointed; and such sureties shall be approved by the Mayor or other Chief Municipal Officer by whom the Inspector shall have been appointed, in whose keeping the Bond shall remain; and the Bond shall be executed to Her Majesty, Her Heirs and Successors in the form used with regard to sureties from persons appointed to Offices of Trust in this Province, and shall avail to the Crown and to all persons whomsoever who shall or may be aggrieved by any breach of the conditions thereof; and no such Inspector shall allow any person whomsoever to act for him about the duties of his Office, excepting only his sworn Assistant or Assistants, to be appointed in the manner hereinafter provided.

V. The Bond or Suretyship which shall be given or executed by any Inspector by virtue of this Act, shall be made and kept at the Office of the Clerk of the Corporation of the City, Town or place for which such Inspector shall be appointed, and every person shall be entitled to have communication and copy of any such Bond or Suretyship at such Clerk's Office, upon payment of one shilling, currency, for every communication, and two shillings and six pence, currency, for each copy.

VI. Provided always, that the Board of Examiners to be constituted as aforesaid, shall be and they are hereby authorized and required, before proceeding to the examination of any person who

who may be hereafter desirous of being appointed an Inspector of Flour and Meal as aforesaid, to require the attendance of two or more persons of the greatest experience and practice in the manufacture of Flour and Meal, or of the fullest knowledge of the qualities of Flour and Meal; and the said Board, in their discretion, are also hereby further authorized to permit any other person or persons to be also present at such examination, and each and every of the said persons so required or permitted to attend, may, in the presence of the said Board, propose questions to the person then under examination touching and respecting his knowledge as to quality, manufacture or other matters relating to or connected with the Inspection of Flour and Meal.

competent persons.

Other persons may put questions.

VII. Each person examined, approved and recommended as aforesaid, shall, if appointed an Inspector of Flour and Meal as aforesaid, before he shall act as such, take and subscribe an Oath before any one Justice assigned to keep the Peace within the District, County or City in which he shall be appointed, (which Justice is hereby required and authorized to administer the same) in the words following, to wit:

Oath of office to be taken by Inspector.

“ I, A. B., do solemnly swear, that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding, execute and perform the office and duty of an Inspector of Flour and Meal, and that I will not directly or indirectly, by myself or by any other person or persons whomsoever, trade or deal in Flour, Indian Meal or Oatmeal, or be connected in any such Trade, nor purchase any Flour, Indian Meal or Oatmeal of any description, otherwise than for the use and consumption of my family, during the time I shall continue such Inspector.—So help me God.”

Form of Oath.

Which Oath shall be recorded in the Office of the Clerk of the Corporation for the City, Town, or place where the same shall be taken; and for recording such Oath and for a Certificate thereof, the Clerk shall be entitled to demand and have the sum of two shillings and six pence, currency, and no more, and shall give communication or copy of the original to any person who shall apply for the same, on payment of one shilling, currency, for every such communication, and two shillings and six pence, currency, for each copy.

Oath to be recorded.

Fee for inspecting it.

VIII. Provided always, that any person who, at the time this Act shall come into force, shall hold the Office of Inspector of Flour and Meal for any place in this Province, shall on his application to that effect immediately after the said time, be reappointed as Inspector under this Act, by the Mayor or Chief Municipal Officer of the place in which he shall have acted as Inspector, without any new examination or any intervention of the Board of Trade, any thing in the foregoing sections of this Act,

Present Inspectors to be continued.

Subject to be removed, &c.

Act, to the contrary notwithstanding; but he shall after such reappointment, be removable and shall give security and shall be bound by all the other provisions of this Act, in the same manner as other Inspectors appointed under the authority thereof.

Inspectors for Quebec and Montreal bound to have assistants.

IX. The said Inspector of Flour and Meal for the City of Quebec, and the Inspector for the City of Montreal, shall and may appoint one or as many more Assistants as he shall from time to time be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of which Assistants he shall be and is hereby declared to be responsible; which number of Assistants he shall be bound to increase from time to time, on a requisition in writing to that effect from the said Board; and each such Assistant shall be subject to the approval of the said Board of Examiners and skilful persons sitting with them, in the manner hereinbefore provided with regard to Inspectors, and shall, before entering upon the duties of his office, furnish two good and sufficient sureties to Her Majesty, in the sum of two hundred and fifty pounds, currency, for the due performance of his duties, by a Bond to be taken, made, recorded, kept and delivered in the manner provided with regard to the Bond given by Inspectors, and shall take and subscribe the following Oath, before the Mayor of the City for which he shall be appointed, who is hereby required to administer the same:

Assistants to be examined.

And give security.

To be sworn.

Form of Oath.

"I, A. B., do swear that I will diligently, faithfully and impartially, perform the duties of the office of Assistant to the Inspector of Flour and Meal for the City of \_\_\_\_\_ according to the true intent and meaning of the Act of the Legislature of this Province, intituled, *An Act for the Inspection of Flour, Indian Meal and Oatmeal*; and that I will not directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever, by reason of my office of Assistant to the said Inspector, (except my salary from the said Inspector) and that I will not directly or indirectly trade in the articles of Flour, Indian Meal or Oatmeal, or be in any manner concerned in the purchase or sale of Flour or Meal, except so far as may be necessary for the use of myself and family.—So help me God."

Custody of Bond and Oath.

And such Bond and Oath as aforesaid, shall be open to inspection, and copies may be had thereof, on the same terms and conditions as are hereinbefore provided with regard to the Bond given and the Oath taken by the Inspector.

Assistants to be paid by Inspector, who may remove them, &c.

X. The said Assistants shall respectively be paid by, and shall hold their offices at the pleasure of the Inspector, and may be removed or reinstated, or others may be appointed in their stead by such Inspector.

Board of Trade may

XI. The Board of Trade of any City or place may examine into any complaints made against any Inspector or Assistant Inspector

Inspector of Flour and Meal thereat, for neglect or improper performance of his duties, and if they shall decide that such complaints are well founded and that such Inspector or Assistant Inspector ought to be removed from office, they may notify such decision to the Mayor or other Head of the Municipality, who shall thereupon remove such Inspector or Assistant Inspector from his office, and shall appoint another in his stead, upon the requisition of the said Board, as provided in Section four of this Act.

hear complaints against Inspectors or Assistants, &c.

XII. The said Inspectors and Assistant Inspectors so to be nominated and appointed, are severally hereby authorized and required to examine and inspect each and every barrel and half barrel of Flour and Meal, on application being made for that purpose by the proprietor, consignee or possessor thereof, and to ascertain the respective qualities and conditions thereof, by boring the head of each barrel or half barrel, and proving the contents to the whole depth of the cask, by an instrument (not exceeding five eighths of an inch in diameter within the gauge or bore of such instrument) for that purpose, and after inspecting such Flour or Meal, the said Inspectors or Assistant Inspectors, respectively, shall plug, or cause to be plugged the hole bored in each barrel or half barrel for inspection: Provided always, that such inspection may be made either at the Store, Shop or Warehouse of such Inspector, which he is hereby required to keep in a convenient situation for that purpose, or at some Store within the limits of the place for which the Inspectors shall be appointed, respectively, at the option of the Proprietor or Possessor of such Flour or Meal.

Mode of inspection, and on whose requisition it shall be made.

Where the inspection shall be made.

XIII. Each and every Inspector or Assistant Inspector, shall if required, deliver to the owner of any Flour or Meal or to his authorized agent, all Flour or Meal which such Inspector or Assistant Inspector may have taken from any barrel or half barrel of such Flour or Meal with the instrument used for the purpose of inspection, under the penalty of five pounds, currency, for each and every time he shall fail in so doing.

Flour, &c., taken from barrel for inspection to be given back if required.

XIV. Each Inspector shall provide and have a sufficient number of iron or other metal brands, for the use of himself and his Assistants, wherewith they shall respectively brand or cause to be branded, immediately after inspection, on each and every barrel or half barrel of Flour or Meal, the words "Quebec," "Montreal," "Toronto," "Kingston," "Hamilton," or the name of any other place, as the case may be, and the initial of the Christian Name and the Surname at full length of the Inspector, with the quality thereof as hereinafter directed; and on each and every barrel or half barrel of Flour or Meal, which may on inspection be found sour, without any other damage or unmerchantable quality, the Inspector or Assistant Inspector, shall brand or cause to be branded the word "Sour" in letters as large as those upon the rest of the brand or mark,

Inspector to have proper branding irons.

Sour flower how to be marked.

Unmerchantable flour how to be marked.

Flour not corresponding to the marker's brand.

Date of Inspection to be marked.

Fee for inspection.

Bill of inspection to be given.

Penalty for false statement therein.

Proviso : As to flour re-inspected.

Proviso : Maker's marks required.

Proviso : Who shall pay costs of inspection.

in addition to the brand or mark designating the quality ; and in all cases where Flour or Meal shall be found to be of unsound or unmerchantable quality arising from other causes, such Inspector or Assistant Inspector shall brand or cause the same to be branded with the word " Rejected " at full length, and in plain legible characters, in addition to the brand or mark designating the quality ; and in all cases where the quality of the Flour or Meal inspected may appear to be inferior to the brand or other mark of the manufacturer, and not to be properly designated by the brand or mark, it shall be the duty of the Inspector or Assistant Inspector, and he is hereby authorized and required to erase and correct the same ; and the Inspector or Assistant Inspector, shall also brand or mark on each barrel of Flour or half barrel of Flour or Meal so inspected by him, the month and year in which they were inspected, with the quality of the Flour or Meal so inspected and examined : And for such inspection and branding or marking, the Inspector shall be entitled to receive of and from the person who may have applied to him to inspect the same, for each and every barrel and half barrel, respectively, of Flour or Meal so inspected and branded or marked, the sum of one penny currency, exclusive of cooperage ; and such fee or allowance shall be paid by the Owner or Consignee of such Flour and Meal before it shall be removed : and as soon as any Flour or Meal shall be inspected, a certificate or Bill of inspection shall be furnished by the Inspector or Assistant Inspector without fee or reward, specifying neatly and legibly the quantity and quality ascertained by inspection, and the charges thereof, and the owner's or manufacturer's mark or marks thereon ; and if any Inspector or Assistant Inspector, shall knowingly and wilfully give an untrue and incorrect certificate of the quantity or quality of any Flour or Meal by him inspected, or shall give such certificate without a personal examination and inspection of such Flour or Meal, he shall forfeit and pay a penalty of twenty pounds, currency, for each offence, and be dismissed from his office and be disqualified from ever after following the same : Provided always, that no Flour or Meal which shall have been so branded, marked or inspected in one month or year, and re-inspected and examined in another, shall bear any other brand or mark of the year and month than that originally affixed to it : and all the said brands and other marks shall be branded or marked on one head of the barrel or half barrel : Provided always, that it shall be the duty of the Inspector or Assistant Inspector, respectively, to examine each and every barrel of Flour or Meal offered for Inspection, and in no case to brand or mark the same, unless the name of the manufacturer or packer, the place of packing, and quality of the Flour and Meal, and the tare and net weight, are branded or marked legibly thereon : Provided also, that in all cases where any Flour or Meal shall have been sold subject to Inspection, the person applying to the Inspector shall be entitled to reimbursement of the price of Inspection from the vendor,

if such applicant be not himself the vendor, unless an express stipulation shall have been made at the time of the sale or of the agreement to submit to Inspection: and such agreement to submit to Inspection shall imply a warranty as well that the Flour or Meal is of the quality for which it is sold, as that all the requirements of this Act have been complied with as to such Flour or Meal and the barrels or half barrels in which it is contained.

Agreement for inspection, what to imply.

XV. It shall be the duty of the Inspector or Assistant Inspector, to ascertain by examination the weight of all the casks which he may suspect not to contain the full weight required by this Act, and if they do not contain such full weight, he shall cause the same to be filled up by the proprietor or person requiring such Flour or Meal to be inspected, so as to contain the weight of Flour or Meal required by this Act, and shall, when required, certify the expense thereby incurred; and every Inspector or Assistant Inspector who shall neglect or refuse to examine and weigh such Flour and to cause the said casks to be weighed in the manner required by this Act, shall, for every such neglect or refusal, forfeit the sum of twenty pounds, currency, and all damages which the buyer or seller of such Flour or Meal may have suffered in consequence of such neglect.

Weight to be tested.

Deficiency to be made up.

Penalty on Inspector neglecting or refusing to weigh.

XVI. All the said brand marks shall be neat and legible, and it shall be the duty of each of the said Inspectors of Flour and Meal, to govern himself, so far as may be possible, by one uniform standard of quality for each description of Flour and Meal, and to brand or mark, within a space not exceeding fourteen inches long by eight inches broad, on every Barrel and half Barrel of Flour and Meal inspected by them, all brands and marks required by this Act, under a penalty of five pounds, currency, for each barrel or half barrel inspected and branded, or inspected and marked, otherwise than is required by this Act.

Mode of branding.

Penalty for contravention.

XVII. If any dispute shall arise between any Inspector appointed under this Act, and the proprietor or possessor of any Flour or Meal by him inspected, with regard to the quality or condition thereof, or relating in any respect to the same, then, upon application by either of the parties in difference to any one of Her Majesty's Justices assigned to keep the Peace within the District, County or City, in which such Inspector or Assistant Inspector shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity, one whereof to be named by the Inspector, another by the proprietor or possessor of the Flour or Meal, and the third by the Justice of the Peace (who, failing the attendance of either of the parties in difference, is hereby authorized and required to name for him) requiring the said three persons immediately to examine the said Flour and Meal, and report their opinion of the quality and condition thereof under Oath, (which Oath the said Justice

Disagreement between Inspector and owner, to be decided by three persons, duly sworn.

Inspector to conform to the decision.

Costs : by whom paid.

Penalty on Inspector refusing or neglecting to inspect when called upon.

Adulterated flour to be seized.

Penalty.

Forfeiture of such flour.

is hereby authorized and required to administer) and their determination, or that of a majority of them, made in writing, shall be final and conclusive, whether approving or disapproving the judgment of the Inspector or Assistant Inspector, who shall immediately attend and conform himself thereto, and brand or paint or cause to be branded or painted each and every barrel or half barrel, of the qualities or condition directed by the determination aforesaid ; and if the opinion of the Inspector or Assistant Inspector be thereby confirmed, the reasonable costs and charges of re-examination, being ascertained and awarded by the said Justice of the Peace, shall be paid by the said proprietor or possessor of the Flour or Meal, and if otherwise, by the Inspector, with all damages.

XVIII. Any Inspector or Assistant Inspector so nominated or appointed, who shall refuse or neglect on application to him made personally or by writing left at his Dwelling House, Store, Office or Warehouse on any lawful day between sunrise and sun-set, by any proprietor or possessor of Flour or Meal (such Inspector or Assistant Inspector not being at the time of such application employed in inspecting Flour or Meal elsewhere) immediately or within two hours thereafter, to proceed to such Inspection, shall for every such neglect or refusal forfeit and pay to such person so applying, on conviction thereof before any one Justice of the Peace, on the Oath of one credible witness other than the informer, the sum of five pounds, currency, over and above all the damages occasioned by such refusal or neglect to the party complaining.

XIX. If, upon the Inspection of any barrel or half barrel of Flour or Meal, the Inspector or Assistant Inspector, respectively, shall discover any foreign substance mixed or blended therewith, or packed therein, it shall be the duty of such Inspector or Assistant Inspector and he is hereby authorized, enjoined and required, immediately to seize and detain the same, and to make report thereon to any one of Her Majesty's Justices of the Peace, under Oath, and such Justice may, if he shall see fit, authorize the detention of the same in some safe place until the suit to be instituted for the penalty thereby incurred shall be determined ; and each and every person, who shall or may hereafter wilfully and fraudulently mix or blend any Flour or Meal by them packed for sale or exportation, with any foreign matter, shall in every such case be liable to a penalty not exceeding twenty pounds currency ; but no prosecution, suit or action for the recovery of any such penalty, shall be commenced after the end of one month from the seizure and report so made, as aforesaid, by the Inspector or Assistant Inspector ; and if such penalty be so recovered, the Flour or Meal shall thereupon be forfeited to and belong to the Corporation of the place.

XX. Every manufacturer or packer of Flour or Meal, who shall undermark the tare of any barrel or half barrel, or shall put therein a less quantity of Flour or Meal than is branded thereon, shall incur a penalty of twenty shillings, currency, for every barrel or half barrel so undermarked or deficient: Provided always, that such penalty shall not be recovered when and so often as the deficiency of weight shall appear to have been occasioned by some accident unknown to such manufacturer or packer, and which happened after the packing of the barrel or half barrel.

Penalty for undermarking tare.

Proviso.

XXI. If any person shall knowingly offer for sale any barrel or half barrel of Flour or Meal, upon which the tare shall be undermarked, or in which there shall be a less quantity of Flour or Meal than is branded thereon, he shall forfeit the sum of twenty shillings, currency, for every cask so undermarked or deficient, without prejudice to the civil remedy of any party aggrieved, for such other damage as he shall in that behalf sustain.

Penalty for knowingly offering flour deficient in weight.

XXII. No Inspector or Assistant Inspector to be appointed in pursuance of this Act, shall directly or indirectly trade or deal in Flour or Meal, or be concerned in any such trade, nor purchase any Flour or Meal of any description, otherwise than for the use and consumption of his family, or act as agent for any party for the sale or purchase of any Flour or Meal, under the penalty of fifty pounds, currency, for each and every offence, and of being immediately removed from the office, and of being disqualified from holding such office in future.

Penalty on Inspector dealing in flour in any way.

XXIII. In branding or marking the different qualities or descriptions of Flour, the same shall be designated as follows, viz: that of a very superior quality by the words "Extra Superfine,"—that of the second quality by the words "Fancy Superfine,"—that of the third quality by the words "Superfine"—that of the fourth quality by the words "Superfine Number two,"—that of the fifth quality by the words "Fine"—that of the sixth quality by the words "Fine Middlings"—that of the seventh quality by the words "Ship Stuff" or "Pollards," and the quality called *Farine entière* by the letters E. N. T., by which latter description of Flour shall be understood the whole produce of the wheat when ground, excepting the coarse Bran and Pollards; and when the wheat from which Flour of any of the qualities had been manufactured was previously kiln dried, the same shall be branded or marked by the Packer on each and every barrel or half barrel, either at length or by the mark "Kiln D;" and in branding or marking the different qualities of Rye Flour, Indian Meal, or Oatmeal, the words "Rye Flour"—"Indian Meal"—or "Oatmeal" shall be plainly branded or marked on each and every barrel and half barrel, to designate the Grain from which the same is made;—and the qualities shall be designated as follows, viz: that of a superior quality of Rye Flour by the word "Superfine," and that of the

Qualities of flour

*Farine entière.*

Kiln dried flour.

Qualities of meal.

the second quality by the word "Fine,"—that of the Superfine qualities of Indian Meal or Oatmeal by the word "First,"—that of the second quality by the word "Second,"—that of the third quality by the word "Third."

Samples of the several qualities to be provided.

XXIV. Each Inspector of Flour and Meal shall, at his own expense, provide sufficient Samples of each of the qualities hereinbefore mentioned of Flour and Meal, such samples to be approved by the Board of Trade for the City or place for which the Inspector is appointed; and such Samples shall be renewed as often as may be requisite, by the Inspector, at his cost, and shall be kept by the Secretary of the said Board of Trade for the time being, to be referred to as occasion may require, and shall be the Standards by which the Inspector shall be governed in establishing the several qualities of Flour and Meal.

To be kept by the Board of Trade.

Weight of barrels of flour and meal.

XXV. Every half barrel of Flour shall contain ninety-eight pounds net, and every barrel of Flour shall contain one hundred and ninety-six pounds net; every half barrel Rye Flour shall contain ninety-eight pounds net, and every barrel of Rye Flour shall contain one hundred and ninety-six pounds net; every half barrel Indian Meal shall contain ninety-eight pounds net, and every barrel of Indian Meal shall contain one hundred and ninety-six pounds net; every half barrel of Oatmeal shall contain one hundred and twelve pounds net, and every barrel of Oatmeal shall contain two hundred and twenty-four pounds net; And it shall be the duty of the Packer or Manufacturer, to brand, paint or mark the initials of his Christian Name, and also to brand, paint or mark his surname at full length, and the name of his mill or place of packing, the quality and weight of the Flour or Meal therein contained, and the tare of the cask, on one end of each and every barrel or half barrel of Flour or Meal packed for sale, in a plain and distinguishable manner, under a penalty of Two Shillings, currency, for each and every barrel or half barrel offered for sale or Inspection, with regard to which the requirements of this section shall not have been complied with.

Maker or Packer's mark required.

Penalty for contravention.

Construction and sizes of barrels and half barrels for flour.

XXVI. All Flour to be hereafter packed in this Province for sale, shall be packed in good and strong barrels or half barrels of seasoned oak, elm or other hardwood timber, and made as nearly straight as may be, and the staves of such barrels shall be of the length of twenty-seven inches from croe to croe, and of half barrels of the length of twenty-two inches from croe to croe, with heads of the same; the diameter of the heads of the barrels shall be from sixteen and a half inches to seventeen inches, and of half barrels from thirteen and a half to fourteen inches; and such barrels and half barrels shall be well seasoned and bound with at least ten wooden hoops, of which three shall be at each end, with a lining hoop within the chimes, the whole well secured by nails, under the penalty of two shillings for each and every

Penalty for using illegal

every cask offered for sale or exported, which shall not be one of the foregoing description of barrels or half barrels. barrels, &c.

XXVII. Each Inspector shall on Monday in each and every week, make out, sign and transmit to the Secretary of the Board of Trade, for the city or place for which he shall be appointed, a statement of the quantity and quality of all Flour and Meal inspected or re-inspected by him or his Assistants during the next preceding week, and of all Flour or Meal by him or them weighed during such week and found deficient in weight, or in respect of which the tare shall have been falsely marked, stating also the Brand and manufacturers' names. Inspectors to make weekly returns of flour or meal inspected.

XXVIII. If any manufacturer or packer of Flour or Meal, or any person or persons whomsoever shall, with a fraudulent view or intention, efface or cause to be effaced or obliterated from any barrel or half barrel of Flour or Meal having undergone Inspection, all or any of the Inspector's marks, or shall counterfeit any such mark or marks, or impress or brand any mark or marks purporting to be the mark or marks of the Inspector or of any manufacturer or packer, either with the proper marking tools of such Inspector, manufacturer or packer, or with counterfeit representations thereof, on any barrel or half barrel of Flour or Meal, or shall empty or partially empty any barrel or half barrel of Flour or Meal marked after Inspection, in order to put into the same barrel or half barrel other Flour or Meal, or shall use for the purpose of packing any Flour or Meal any old barrel or half barrel, without destroying the old brand marks before offering the same for sale, or (not being an Inspector or an Assistant Inspector appointed under this Act) shall brand or mark any Flour or Meal with the Inspector's marks, and if any person in the employ of any manufacturer or packer of Flour or Meal shall hire or loan out the marks of his employer to any person whatsoever, or shall connive at or be privy to any fraudulent evasion of the provisions of this Act,—such person or persons so offending shall for every such offence, respectively, incur a penalty of fifty pounds, currency; and any Inspector or Assistant Inspector who shall inspect or brand or mark any Flour, or brand or mark any Flour or Meal, out of the limits for which he shall be appointed, or shall hire out his marks to any person whatsoever, or shall connive at or be privy to any fraudulent evasion of Inspection of Flour or Meal, by others, shall for each such offence incur a penalty of fifty pounds currency. Penalty for effacing Inspector's marks, or counterfeiting or altering marks; Or using old barrels without removing marks; Or using inspector's brands without authority; Or hiring out brands.

XXIX. All and every fines, penalties and forfeitures imposed by this Act, not exceeding ten pounds, currency, shall, except when it is otherwise hereinbefore provided, be recoverable by any Inspector or by any other person or persons suing for the same, in a summary way before any two of Her Majesty's Justices of the Peace for the place, in their ordinary or other Sessions, and may, in default of payment, be levied by warrant Recovery of penalties or forfeitures.

warrant of distress to be issued by such Justices against the goods and chattels of the offender ; and where the same shall exceed ten pounds, currency, they may be sued for and recovered by any such Inspector or other person, by bill, plaint, information or civil action, in a Recorder's Court or in any other Court of competent jurisdiction, and be levied by execution as in case of debt ; and the moiety of all such fines (except such as may be hereinbefore otherwise applied) when recovered, shall immediately be paid into the hands of the Treasurer of the City, Town or place, for the public uses of the Corporation thereof, and the other moiety shall belong to and be paid to the Inspector or other person who shall sue for the same : Provided always that if any Officer of such Corporation be the prosecutor, the whole penalty shall belong to the Corporation for the uses aforesaid.

Application of penalties.

Limitation of prosecutions.

General issue.

Plaintiff being non-suit, &c.

XXX. If any action or suit, not otherwise provided for, be brought or commenced against any person or persons for any thing done in pursuance of this Act, or contrary to the provisions thereof, such action or suit shall be commenced within six months next after the matter or thing done or omitted to be done, and not afterwards ; and the Defendant or Defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereon ; and if afterwards judgment shall be given for the Defendant or Defendants, or the Plaintiff or Plaintiffs be non-suit or discontinue his or their action after the Defendant or Defendants shall have appeared, then such Defendant or Defendants shall have treble costs awarded against such Plaintiff or Plaintiffs, and have the like remedy for the same as any Defendant or Defendants hath or have in other cases to recover costs at Law.

Inspection not compulsory.

XXXI. Nothing in this Act shall be construed to oblige any person to cause any Flour or Meal to be inspected, but if inspected, it shall be subject to the provisions of this Act, and shall not be marked or branded as inspected unless the said provisions have been in all respects complied with, as regard such Flour or Meal and the barrels or half barrels in which it is contained.

Word "Meal" interpreted.

XXXII. The word " Meal," whenever it occurs in this Act, shall be construed to mean Indian Meal and Oatmeal.

Commencement of Act.

XXXIII. The foregoing enactments of this Act shall have force and effect upon, from and after the first day of August, in the year of our Lord, one thousand eight hundred and fifty-six, and not before.

## CAP. LXXXVIII.

An Act to authorize the Judges of the Superior Court for Lower Canada to appoint Commissioners for taking Affidavits in Upper Canada.

[Assented to 1st July, 1856.]

**W**HEREAS it is desirable that the Judges of the Superior Court for Lower Canada, should have power to appoint Commissioners for taking Affidavits in Upper Canada: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. It shall be lawful for the Chief Justice and any one of the Justices of the Superior Court for Lower Canada for the time being, or in the event of the death or absence from the Province of the Chief Justice for the time being, for any two of the Justices of the said Court for the time being, by one or more commission or commissions under the seal of the said Court, from time to time to empower as many persons as they shall think fit and necessary in Upper Canada, to take and receive all and every such affidavit or affidavits as any person or persons shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter or thing depending, or hereafter to be depending, or in any wise concerning any of the proceedings to be had in the said Court, or in any other Court of Law of Record in Lower Canada ; which said affidavits taken as aforesaid shall be filed in the Office of the said Courts respectively, in the District or Circuit to which the subject matter of such affidavit may relate and be made use of in the said Courts respectively, to all intents and purposes as other affidavits taken in the said Courts respectively ought to be ; and every affidavit taken as aforesaid, shall be of the same force as an affidavit taken in the said Courts respectively shall and may be.

Certain Judges in L. C., may appoint Commissioners to take affidavits in U. C., to be used in the Courts in L. C.

Filing and effect of such affidavits.

II. Proof of the execution of any deed, will or probate thereof or memorial of the same in Upper Canada, may, for purposes of registration in Lower Canada, be made before any of the Commissioners to be appointed under the authority of this Act, in the same manner as such proof may now by law be made in Lower Canada.

Such Commissioners may receive proof of execution of Deed, &c., to be used in L. C.

## CAP. LXXXIX.

An Act providing for the payment of dividends by Insurance Companies.

[Assented to 1st July, 1856.]

**W**HEREAS it is expedient for the security of persons effecting Assurance with, and of the Subscribers to the Stock

Preamble.

Stock

Stock of, the various Fire, Life, Marine, and other Insurance Companies already chartered, or that may hereafter be chartered by the Provincial Legislature, that no dividend or bonus be declared or paid, unless from the surplus earnings or profits arising or made from the business of such Companies over and above the paid up Capital thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Liability of Managers, &c., paying dividends of such Companies which shall impair their Capital Stock.

I. If the Managers, Directors or Trustees, of any Fire, Life, Marine, or other Assurance Company, incorporated by the Legislature of Canada, or of Upper Canada or Lower Canada, shall knowingly and wilfully declare and pay any dividend or bonus, out of the paid up capital of said Company, or when the Company is insolvent, or which would render it insolvent, or which would diminish the amount of its Capital Stock, such Managers, Directors or Trustees who may be present when such dividend or bonus shall have been declared and which said dividend shall be paid, shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be thereafter contracted while they shall respectively continue in office; Provided always that if any of such Managers, Directors or Trustees, shall object to the declaration of such dividend or bonus, or to the payment of the same, and shall at any time before the time fixed for the payment thereof, file a written Statement of such objection in the Office of the Company, and also in the Registry Office of the City, Town or County where such Company is situated, such Managers, Directors or Trustees shall be exempt from such liability.

Proviso: how only such Managers may free themselves from such liability.

### C A P . X C .

An Act to simplify and expedite the proceedings in the County Courts in Upper Canada, and to alter and amend the law in relation to these Courts.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS it is expedient to simplify and expedite the proceedings in the several County Courts in Upper Canada, and to alter and amend the law in relation to these Courts: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain sections of the Acts,  
S V. c. 13,—

I. From the time when this Act shall commence and take effect, the tenth, eleventh, twelfth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twenty-second, twenty-third, twenty-fourth, twenty-eighth, thirty-first, thirty-second, thirty-fifth, thirty-ninth, forty-first, forty-fifth and forty-sixth sections of an Act of the Parliament of this Province passed in the eighth year of Her Majesty's Reign, intituled: *An Act to amend, consolidate and reduce into one Act, the several laws*

laws now in force, establishing or regulating the practice of District Courts in the several Districts of that part of this Province formerly Upper Canada; the second, third and fourth sections of an Act of the Parliament of this Province passed in the twelfth year of Her Majesty's Reign, intituled: *An Act to amend and extend the provisions of the Act of this Province, intituled, 'An Act to amend, consolidate and reduce into one Act the several laws now in force, establishing or regulating the practice of the District Courts in the several Districts of that part of this Province formerly Upper Canada'*; the fourth section of an Act of the Parliament of this Province passed in the thirteenth and fourteenth years of Her Majesty's Reign, intituled: *An Act to alter and amend the Act regulating the practice of the County Courts in Upper Canada, and to extend the jurisdiction thereof*, together with all other Acts or parts of Acts of the Parliament of Upper Canada or of this Province at variance or inconsistent with the provisions of this Act, shall be and the same are hereby repealed, except so far as the said Acts or any of them or any thing therein contained repeal any former Act or Acts, or any part thereof, all which said last mentioned Act or Acts shall remain and continue so repealed, and excepting also so far as the said Acts or parts of Acts hereby repealed and the provisions thereof, or of any of them, shall and may be necessary for supporting, continuing and upholding any Writs that shall have been issued, or proceedings that shall have been had or taken, before the commencement of this Act, and any further proceeding taken or to be taken thereon.

12 V. c. 66,—  
and13 & 14 V.  
c. 52 :

And other provisions inconsistent with this Act, repealed.

Exception: as to repealed Acts, pending proceedings, &amp;c.

II. The enactments contained in the ninth, fourteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, seventy-fourth, seventy-fifth, seventy-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eightieth, eighty-first, eighty-second, eighty-third, eighty-fourth, eighty-fifth, eighty-sixth, eighty-seventh, eighty-eighth, eighty-ninth, ninetieth, ninety-first, ninety-second, ninety-third, ninety-fourth, ninety-fifth, ninety-sixth, ninety-seventh, ninety-eighth, ninety-ninth, one hundredth, one hundred and first, one hundred and second, one hundred and third, one hundred and fourth, one hundred and fifth, one hundred and sixth, one hundred and seventh, one hundred and eighth, one hundred and ninth, one hundred and tenth, one hundred and eleventh, one hundred and twelfth, one hundred and thirteenth, one hundred and fourteenth, one hundred and fifteenth, one hundred and sixteenth, one hundred and seventeenth, one hundred and eighteenth

Certain sections of the Common Law Procedure Act of this Session, and certain Rules to be made under it, to apply to the County Courts.

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 and sixty-first, one hundred and sixty-second, one hundred and  
 sixty-third, one hundred and sixty-fourth, one hundred and sixty-  
 fifth, one hundred and sixty-sixth, one hundred and sixty-  
 seventh, one hundred and sixty-eighth, one hundred and sixty-  
 ninth, one hundred and seventy-first, one hundred and seventy-  
 second, one hundred and seventy-third, one hundred and seventy-  
 fourth, one hundred and seventy-fifth, one hundred and seventy-  
 sixth, one hundred and seventy-seventh, one hundred and  
 seventy-eighth, one hundred and seventy-ninth, one hundred  
 and eightieth, one hundred and eighty-first, one hundred and  
 eighty-second, one hundred and eighty-third, one hundred and  
 eighty-fourth, one hundred and eighty-fifth, one hundred and  
 eighty-sixth, one hundred and eighty-seventh, one hundred and  
 eighty-eighth, one hundred and eighty-ninth, one hundred and  
 ninetieth, one hundred and ninety-first, one hundred and ninety-  
 second, one hundred and ninety-fourth, one hundred and ninety-  
 fifth, one hundred and ninety-sixth, one hundred and ninety-  
 seventh, one hundred and ninety-eighth, one hundred and ninety-  
 ninth, two hundredth, two hundred and first, two hundred and  
 second, two hundred and third, two hundred and fourth, two  
 hundred and fifth, two hundred and sixth, two hundred and  
 seventh, two hundred and eighth, two hundred and ninth, two  
 hundred and tenth, two hundred and eleventh, two hundred  
 and twelfth, two hundred and thirteenth, two hundred and  
 fourteenth, two hundred and fifteenth, two hundred and six-  
 teenth, two hundred and seventeenth, two hundred and eight-  
 eenth, two hundred and nineteenth, two hundred and eighty-  
 seventh, two hundred and eighty-eighth, two hundred and  
 eighty-ninth, two hundred and ninetieth, two hundred and  
 ninety-first, two hundred and ninety-second, two hundred and  
 ninety-fifth, two hundred and ninety-sixth, two hundred and  
 ninety-seventh, two hundred and ninety-eighth, two hundred  
 and ninety-ninth, three hundredth, three hundred and first, three  
 hundred and second, three hundred and third, three hundred  
 and fourth, three hundred and fifth, three hundred and sixth,  
 three hundred and seventh, three hundred and eighth, three  
 hundred

hundred and ninth, three hundred and tenth, and the three hundred and twelfth sections of An Act passed in the present session of Parliament and known as the "Common Law Procedure Act, 1856," and the several provisions of the Rules to be made in pursuance of the said Act, or such of them as may relate to the said sections, shall apply and extend to the several County Courts in Upper Canada and actions and proceedings therein respectively; and this Act shall be read and construed as if the said several sections of the said "Common Law Procedure Act, 1856," were repeated at length in this Act; subject to the following modifications, that is to say, all the powers under the said sections exercisable by the Court of Queen's Bench or the Court of Common Pleas, or by any one of the Judges thereof, shall and may in like manner be exercisable by the Judges of the County Courts respectively in term or vacation, as the case may require, as to matters and proceedings therein within the jurisdiction of the said County Courts respectively; such of the said sections as relate to proceedings in *Banc* or *Nisi Prius* respectively, shall be understood as referring and relating to the sittings of the said County Courts in term and the sittings thereof for the trial of issues of fact, as the case may be; all the provisions of the said sections applicable to Deputy Clerks of the Crown, shall apply to the Clerks of the County Courts respectively; and also subject to such other modifications as may be necessary to give full and beneficial effect to the said several sections in their extension and application to the County Courts, and all actions and proceedings therein within the jurisdiction of the same Courts respectively.

The said sections to be subject to certain modifications, as applied to County Courts.

III. The Clerk of each County Court shall be subject to such rules for his governance in his office as may from time to time be made in that behalf according to the provisions of the three hundred and thirteenth and three hundred and fourteenth sections of "The Common Law Procedure Act, 1856," in like manner as Deputy Clerks of the Crown.

Clerks to be subject to certain Rules.

IV. The Clerk of each County Court shall sign and seal all writs and process whatsoever which are to be issued from such County Courts, and shall account for and pay over all fees due and receivable by County Court Clerks for writs, processes, summonses, orders and proceedings under this Act, as they are now bound by law to do for all other fees received by them and with and under like responsibilities.

Clerks to sign and seal writs, &c., and account for fees.

V. In cases in which the cause of action shall be transitory and within the jurisdiction of a County Court, the action may be brought and the plaintiff may sue out the writ for the commencement of the action in any County Court; where the venue is local, the writ for the commencement of the action shall be sued out from the office of the County Court within the proper County.

In what County suits must be commenced.

Final judgment on *cognovit*, &c, not over £100, may be in any County Court.

VI. Final judgment may be entered upon a *cognovit actionem* or Warrant of Attorney to confess judgment, for an amount not exceeding one hundred pounds, which shall have been given or executed in the first instance and before the suing out of any process, in any County Court at the option of the Plaintiff, unless some particular Court in which the judgment is to be entered be expressly stated in such *cognovit* or warrant.

Clerk to keep a book for docketing judgments, and what it shall contain.

VII. The Clerk of each and every County Court shall keep a regular book, in which shall be minuted and docketed all Judgments entered by such Clerk ; and such minute shall contain the name of every Plaintiff and Defendant, the date of the commencement of the action, the date of the entry of such judgment, the form of action, the amount recovered, the amount of costs taxed, and whether such judgment was entered upon or by verdict, default, confession, *non pros*, non-suit, discontinuance, or how otherwise ; and in case the original judgment-roll be lost or destroyed, so that no exemplification or examined copy thereof can be procured, a copy of the entry in such docket book, certified by the Clerk having such book in his custody, shall be evidence of all matters therein set forth and expressed ; and when any such Clerk shall enter up any Judgment in either of the said Courts, he may give to the party on whose behalf it is entered, or to his legal representative, a certificate signed by him, of such Judgment, containing the like particulars as are required in certificates of Judgments given by the Clerks of the Crown and Pleas, and such certificate may be registered in the Registry Office of any County in Upper Canada, and the same certificate and the registration thereof shall have the like force and effect in binding or operating as a charge upon lands, tenements and hereditaments situate within such County, as if the certificate had been granted by a Clerk or Deputy Clerk of the Crown.

Copies of entries to be evidence in certain cases.

Certificates may be given and registered so as to bind lands.

As to writs issued before this Act shall be in force.

Continuing writs.

VIII. When any Writ of Summons or *Capias* in any such action shall have been issued before, and shall be in force at the time of the commencement of this Act, such Writ may, at any time before the expiration thereof, be renewed under the provisions of, and in the manner directed by this Act ; and where any Writ, issued in continuation of a preceding Writ, according to the provisions of the laws in force in the County Courts before the passing of this Act, shall be in force and unexpired, or where one month next after the expiration thereof shall not have elapsed at the commencement of this Act, such continuing Writ may, without being returned *non est inventus*, or entered of record according to the provisions of the said laws, be filed in the proper office of the Court, within one month next after the expiration of such Writ, or within twenty days after the commencement of this Act, and the original Writ of Summons or *Capias* in such action may thereupon, but within the same period of one month next after the expiration of the continuing Writ or within twenty days after the commencement of this Act,

Act, be renewed under the provisions of, and in the manner directed by this Act; and every such Writ shall, after such renewal, have the same duration and effect for all purposes, and shall be, if necessary, subsequently renewed in the same manner as if it had originally issued under the authority of this Act.

Renewal thereof.

IX. Causes of action of whatever kind, provided they be by and against the same parties and in the same rights, may be joined in the same suit, but this shall not extend to replevin or ejectment, or to causes of action which are local and arise in different Counties, and the Court or a Judge shall have power to prevent the trial of different causes of action together, if such trial would be inexpedient, and in such case the Court or a Judge may order separate records to be made up and separate trials to be had; Provided always, that nothing herein contained shall be construed to restrict or diminish the obligation or right of a Plaintiff to include in one action all or any of the drawers, makers, endorsers and acceptors of any Bill of Exchange or Promissory Note.

What causes of action may be joined.

Proviso.

X. If it be made to appear, at any time after the issuing of the writ of any County Court, to the satisfaction of the Judge, upon the application of either party, that the matters in dispute consist wholly or in part of matters of mere account, which cannot conveniently be tried in the ordinary way, it shall be lawful for such Judge, upon such application, if he think fit, to decide such matter in a summary manner, or to order that such matter, either wholly or in part, be referred to an arbitrator appointed by the parties, upon such terms as to costs and otherwise as such Judge shall think reasonable; and the decision or order of such Court or Judge, or the award or certificate of such referee, shall be enforceable by the same process as the finding of a Jury upon the matter referred.

Matters of account may be decided summarily or referred

XI. If it shall appear to the Judge that the allowance or disallowance of any particular item or items in such account depends upon a question of law fit to be decided by the Court or upon a question of fact fit to be decided by a Jury, it shall be lawful for such Judge to direct a case to be stated or an issue or issues to be tried; and the decision of the Judge upon such case, and the finding of the Jury upon such issue or issues, shall be taken and acted upon by the arbitrator as conclusive.

Questions of law or fact as to items in such account, how determined.

XII. It shall be lawful for the arbitrator upon any compulsory reference under this Act, if he shall think fit, and if it is not provided to the contrary, to state his award as to the whole or any part thereof, in the form of a special case for the opinion of the Court; and when an action is referred, judgment, if so ordered, may be entered according to the opinion of the Court.

Arbitrator may state special case in award.

XIII.

Proceedings  
in arbitration  
cases.

XIII. The proceedings upon any such arbitration as aforesaid shall, except otherwise directed hereby or by the submission or document authorizing the reference, be conducted in like manner and subject to the same rules and enactments as to the power of the arbitrator and of the Court, the attendance of witnesses, the production of documents, enforcing or setting aside the award, or otherwise, as upon a reference made by consent under a rule of the Superior Courts or Judge's order.

Matters of  
mere calcula-  
tion need not  
be referred.

XIV. In actions in which it shall appear to the Judge that the amount of damages which ought to be recovered by the Plaintiff is substantially a matter of calculation, it shall not be necessary to assess the damages by a Jury, but the Judge may ascertain the amount for which final Judgment is to be signed, and the attendance of witnesses and the production of documents before such Judge may be compelled by subpoena, in the same manner as before a Jury; and it shall be lawful for such Judge to appoint the day for hearing the case, and to adjourn the inquiry from time to time, as occasion may require; and such Judge shall make an order in writing declaring the amount found by him, and such and the like proceedings may thereupon be had, as to taxation of costs, signing Judgment, and otherwise, as upon the finding of a Jury upon an assessment of damages.

Where the  
Plaintiff ne-  
glects to bring  
the matter to  
trial; Plaintiff  
may apply,  
&c.

XV. Where any issue is or shall be joined in any cause, and the Plaintiff has neglected or shall neglect to bring such issue on to be tried at the first sittings of the Court then next following, whether the Plaintiff shall in the meantime have given notice of trial or not, the Defendant may give twenty days' notice to the Plaintiff to bring the issue on to be tried at the next sittings of the Court after the expiration of the notice; and if the Plaintiff afterwards neglects to give notice of trial for such sittings or to proceed to trial as required by the said notice given by the Defendant, the Defendant may suggest on the record that the Plaintiff has failed to proceed to trial, although duly required so to do, (which suggestion shall not be traversable, but only be subject to be set aside if untrue,) and may sign Judgment for his costs; provided that the Judge shall have power to extend the time for proceeding to trial, with or without terms.

And sign judg-  
ment.

Judge may  
require wit-  
nesses or do-  
cuments, on  
hearing mo-  
tions, &c.

XVI. Upon the hearing of any motion or Summons, it shall be lawful for the Judge, at his discretion and upon such terms as he shall think reasonable, from time to time to order such documents as he may think fit to be produced, and such witnesses as he may think necessary, to appear and be examined *vivâ voce* either before such Judge or before the Clerk of the Court, and upon hearing such evidence or reading the report of the Clerk, to make such order as may be just.

XVII. It shall be lawful for any creditor who has obtained a Judgment in any County Court, to apply to the Judge for a rule or order that the Judgment debtor should be orally examined as to any and what debts are owing to him, before such Judge of any County Court or before any other person to be specially named, and the Judge may make such order for the examination of such Judgment debtor, and for the production of any books or documents, and the examination shall be conducted in the same manner as in the case of an oral examination of an opposite party under this Act.

Judgment creditor may have his debtor examined as to his property.

And with respect to costs ; Be it enacted :

XVIII. Until otherwise ordered by rule of Court made in pursuance of the "Common Law Procedure Act, 1856," the costs of writs issued under the authority of this Act and of all other proceedings under the same, shall be and remain, as nearly as the nature thereof will allow, the same as heretofore, but in no case greater than those already established, except that there shall be payable to the Clerks of the County Courts for and to form part of the General fee fund, the following fees, viz: for every Special Hearing before the Judge five shillings, and the sum of ten shillings for every day's sittings in taking examinations and evidence, and the like sum on every reference to the County Judge from the Superior Courts, together with one shilling per folio on the evidence taken before him, and five shillings for every report thereon ; Provided always that hereafter no mileage shall be taxed or allowed for the service of any writ, paper or proceeding, without an affidavit being made and produced to the proper taxing officer, stating the sum actually disbursed and paid for such mileage and the name of the party to whom such payment was made.

Fees to remain as now until altered.

Exception.

Proviso.

XIX. In any case not expressly provided for by law, the practice and proceedings in the several County Courts in Upper Canada shall be regulated by and shall conform to the practice of the Superior Courts of Common Law at Toronto ; and the practice of the said Superior Courts, as the same remains now or may be hereafter altered, shall, in matters not expressly provided for as aforesaid, apply and extend to the County Courts and to all actions and proceedings therein.

Practice in cases not provided for.

XX. And whereas it is expedient to enlarge and more clearly define the jurisdiction of the several County Courts in Upper Canada—It is enacted, That for and notwithstanding any thing contained in the first section of an Act of the Parliament of this Province, passed in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to amend and alter the Acts regulating the practice of the County Courts in Upper Canada, and to extend the jurisdiction thereof*, or any other Act of the Parliament of this Province, the said County Courts respectively shall hold plea of all personal actions where the debt

Recital.

Jurisdiction of County Courts enlarged, notwithstanding 13 & 14 V. c. 52.

Proviso : as to cases involving title to land.

or damages claimed is not more than fifty pounds, and of all causes or suits relating to debt, covenant or contract where the amount is liquidated or ascertained by the act of the parties or the signature of the defendant, to one hundred pounds; Provided always, that the said County Courts shall not have cognizance of any action where the title to land shall be brought in question, or in which the validity of any devise, bequest or limitation under any will or settlement may be disputed, or for any libel or slander, or for criminal conversation or for seduction.

Fees in certain special cases.

XXI. In all applications and proceedings before the County Judges, not relating to suits instituted in any Court of Civil Judicature in Upper Canada, there shall be payable to the Clerks of the several County Courts, for and to form part of the general fee fund thereof, such fees, as nearly as the nature of the case will allow, as are now payable on proceedings under the Act for the relief of insolvent debtors.

Judge's salary to be from £250 to £650, and fixed by Governor in Council.

XXII. Every County Judge shall be paid by a certain salary of not more than six hundred and fifty pounds or less than two hundred and fifty pounds; and the Governor in Council shall fix the remuneration to be paid to the Judges respectively, having due regard as well to the population of the several Counties or Unions of Counties, as to the amount of fees received by the County Treasurer, under the several Statutes establishing Fee Funds; and the remuneration of Judges may be increased, or as vacancies shall occur may be diminished, by the Governor in Council.

Part of Schedule of fees to be from 8 V. c. 13, repealed, and the whole of that to 9 V. c. 7.

New Schedule substituted.

XXIII. So much of the Schedule of Fees annexed to the Act passed in the eighth year of Her Majesty's Reign, chaptered thirteen, as applies to the "Fees to be received by the Clerk, and to belong to and be paid over to the Fee Fund," and the whole of Schedule A annexed to an Act passed in the ninth year of Her Majesty's Reign, chaptered seven, shall be and the same are hereby repealed, and the following Schedule is substituted therefor :

The Schedule.

Every Writ of Summons or *Capias ad Respondendum*, one shilling and six pence,

Every Verdict, six shillings and three pence,

Executing each Writ of Trial and Enquiry and making Return thereto, six shillings and three pence,

Every Report made by the Judge of the proceedings on executing a Writ of Trial or Enquiry, five shillings,

Every Certificate of proceedings made by the Judge to be transmitted to the Court of Queen's Bench, two shillings and six pence,

Every Rule requiring a motion in open Court, one shilling and six pence,

Every Rule or Order of Reference, one shilling and six pence,

Every

Every other Rule or Judge's order, one shilling and three pence,

Every Recognizance of Bail taken by Judge, one shilling and six pence,

Every Affidavit administered by Judge, one shilling,

Every Computation of principal and interest on a Bill, Note, Bond or Covenant for payment of money, three shillings,

Every Writ of Subpœna, one shilling,

Every Judgment entered, six shillings and three pence,

Every Oath administered in open Court, one shilling.

XXIV. In addition to the Fees now received by each Sheriff for mileage and poundage, it shall be lawful for him to charge and receive for mileage, two pence per mile on all writs executed, and for poundage, upon all moneys actually made under a *fi. fa.* or a *ca. sa.*, six pence in the pound. Sheriff's mileage and poundage.

XXV. It shall be lawful for the Governor in Council to cause to be paid to the Clerk of the County Court for the United Counties of York and Peel, and after the dissolution of the Union of such Counties, to the Clerk of the County Court for the County of York, over and above all Fees now received by him, an allowance not to exceed one hundred pounds per annum, out of any surplus that may remain of the Fee Fund of such United Counties or County, after all present charges thereon shall have been first defrayed. Extra allowance to Clerk of York and Peel.

XXVI. The provisions of this Act, shall come into operation on the twenty-first day of August, one thousand eight hundred and fifty-six. Commencement of this Act.

XXVII. In citing this Act, in any instruments, documents or proceedings, it shall be sufficient to use the expression, "The County Courts Procedure Act, 1856." Short Title.

### CAP. XCI.

An Act to amend the Act to alter and amend the Act regulating the practice of the County Courts in Upper Canada, and to extend the jurisdiction thereof.

[Assented to 1st July, 1856.]

**W**HEREAS the large number of cases usually entered for trial at the Assizes for the United Counties of York and Peel render it difficult to provide for the despatch of business as at present conducted : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows : Preamble.

I. From and after the passing of this Act, no plaintiff having a cause of action within the jurisdiction of the County Court in Cases within the jurisdiction of the said

County Court of York or Peel not to be brought in the Superior Courts, unless upon Judge's fiat founded on affidavit.

said United Counties, (or in the County of York if separated from the County of Peel,) shall institute or carry on such action in either of the Superior Courts of Common Law in Upper Canada, under the provisions of the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to alter and amend the Act regulating the practice of the County Courts in Upper Canada, and to extend the jurisdiction thereof*, or under any other Act or authority whatsoever, unless such plaintiff shall, before issuing the first process in such action, obtain the fiat of one of the Judges of either of such Superior Courts, allowing the plaintiff to bring such action in one of such Superior Courts, on proof, by affidavit, to the satisfaction of such Judge, that some important question of law or evidence is likely to arise in such action, rendering it advisable to have such action tried in such Superior Court, in which case such suit may be brought in the same manner as to costs and otherwise as provided by said last mentioned Act.

## C A P . X C I I .

An Act to amend so much of the Upper Canada Jurors' Law Amendment Act of 1853, as fixes the amount of Fees payable to Sheriffs and Clerks of the Peace.

[Assented to 1st July, 1856.]

Preamble.

16 V. c. 120.

**W**HEREAS it is expedient to amend so much of the Upper Canada Jurors' Law Amendment Act of 1853, as fixes the amount of Fees payable to Sheriffs and Clerks of the Peace: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Part of section 9, repealed.

I. So much of the ninth section of the Act above cited as fixes the amount of Fees payable to Sheriffs and Clerks of the Peace, shall be and the same is hereby repealed.

Fees to Clerks of Peace and of Recorder's Courts.

II. The Clerk of the Peace of every County or Union of Counties, and the Clerks of the Recorder's Courts in every City in which a Recorder's Court shall have been established, shall be entitled to the following sums of money for the respective services performed by them under this Act, that is to say:

For receiving and examining the Reports of Selectors for each City, Town, Village and Township, causing any deficiency which may be found therein to be supplied, and filing the same in his office, three shillings and nine pence;

For giving certificates to Selectors of Jurors, of Report having been made, two shillings and six pence;

For

For preparing in proper form the Jurors' book and superintending the making up of the same (besides actual disbursements for stationer's charges), each, thirty shillings ;

For arranging alphabetically and in order the names contained in Selector's Report, per one hundred names, fifteen shillings ;

For making up Jurors' books, entering all the names and numbers, and all other matter required to be entered therein, per one hundred names, fifteen shillings ;

For each copy of the Jurors' book required by the Jurors Acts, per one hundred names, fifteen shillings ;

For preparing on cards the ballots for Jurors, to correspond with the numbers in the Jurors' book, per one hundred names, two shillings and six pence ;

For each certificate required to be entered on the Jurors' book to verify same, five shillings ;

For balloting and entering each jury list, per one hundred names, thirty shillings ;

For copy of Jury list required to be entered, per one hundred names, fifteen shillings ;

For each panel of Jurors drafted from the Jury list, per one hundred names on such Jury list, twenty shillings ;

For entering each panel in the Jurors' book, with the numbers corresponding to the Jury list, ten shillings ;

For making up aggregate return in detail of Jurors, forty shillings ;

For copy thereof and transmitting same to Provincial Secretary when required, and for office copy of the same, each, twenty shillings.

The Sheriff, High Bailiff or other officer of every such County, Union of Counties or City shall, exclusive of such fees as he may be entitled to from the parties in any suit, be entitled to the following sums of money for the respective services performed by him under the Jurors' Acts, that is to say :

For each panel of Jurors whether Grand or Petit returned and summoned by him in obedience to any general precept for the Return of Grand or Petit Jurors for any sittings or sessions of Assize and Nisi Prius, Oyer and Terminer, Gaol Delivery, Sessions

Sessions of the Peace or County or Recorder's Court respectively, under this Act, twenty-five shillings ;

For copies of such panel to be returned in the offices of the Superior Courts of Common Law at Toronto, each, five shillings ;

For every summons served upon the Jurors on such panel, the sum of two shillings and six pence ;

And for every certificate given to any or such Jurors of his having served, to evidence his exemption from serving again until his time for doing so shall return in its course, the sum of one shilling and three pence ; .

And in case of the Sheriffs of Counties, the further sum of six pence for every mile that the Sheriff or his Deputy or Bailiffs may necessarily and actually have had to travel from the County Town for the purpose of serving such summonses.

How the said fees shall be paid.

Which several sums shall be paid by the Treasurer of such County or Union of Counties, or by the Chamberlain of such City, as the case may be, to such Officers severally, out of any moneys in his hands belonging to such County, Union of Counties, or City respectively, not otherwise specially appropriated by Act of Parliament, upon proof by affidavit made before some Commissioner for taking affidavits in some one of Her Majesty's Superior Courts of Common Law at Toronto, for such County or Union of Counties, of such several services having been executed, and of such travel having been so necessarily performed in the service of such summonses ; for all which moneys so to be paid as aforesaid, every such Treasurer and Chamberlain shall be allowed in his accounts with such County, Union of Counties or City, as if the same had been paid under the special authority and direction of the Municipal Corporation of such County, Union of Counties or City respectively ; Provided always nevertheless, that in all such cases when there shall be more than a hundred or more than an even number of hundreds of such names, if the broken number beyond such hundred or hundreds shall fall short of fifty names, the same shall not be reckoned, and if such broken number shall amount to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred.

Proviso :  
Where there is a broken number of names.

## C A P . X C I I I .

An Act to extend the provisions of the Insolvent Debtors' Act of Upper Canada, and for the relief of a certain class of persons therein mentioned.

[Assented to 1st July, 1856.]

**W**HEREAS there are many persons who, having been Preamble.  
Traders in Upper Canada, within the meaning of the Bankrupt Act, (passed in the seventh year of the reign of Her Majesty, chapter ten), either before or since the expiration thereof, have become insolvent, but by reason of such expiration have been unable to avail themselves of its benefits; And whereas these persons, from having been such Traders, are precluded from the benefit of the Insolvent Debtors' Act, (passed in the eighth year of the Reign of Her Majesty, chapter forty-eight); And whereas it is expedient to relieve such persons on their making a full surrender of their property for the benefit of their creditors: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. All such Traders coming within the description above in the preamble to this Act set forth, shall be entitled to avail themselves of the benefit of the Act of this Province, passed in the eighth year of the reign of Her Majesty, and intituled, *An Act for the relief of Insolvent Debtors in Upper Canada, and for other purposes therein mentioned*, on their taking the steps and proceedings therein set forth for obtaining their discharge. Certain Traders to have the benefit of 8 V. c. 48.

II. As to such persons, the order called the Final Order in the said last mentioned Act, shall, in addition to its effect as set forth in the fourth section of the said Act, operate as a discharge of all debts or liabilities, due or contracted up to the time of the presentment of the petition under the first section of the said Act, in each case respectively, as fully and completely, and to the same extent, as if such Trader had obtained a certificate under the fifty-ninth section of the said Act relating to Bankrupts. Effect of the final order with respect to such Traders.

III. Provided always, that this Act shall apply only to Upper Canada. Act limited to U. C.

## C A P . X C I V .

An Act to alter and amend the Game Laws of Upper Canada.

[Assented to 1st July, 1856.]

**W**HEREAS it is expedient to amend the law for the preservation of Game and Wild Fowl in Upper Canada: Therefore, Her Majesty, by and with the advice and consent of Preamble.  
the

the Legislative Council and Assembly of Canada, enacts as follows:

Time for killing Deer.

I. No Deer, Moose, Elk, Reindeer or Carriboo, shall be hunted, taken or killed, between the first of February and the first of August in any year.

Turkey, Grouse, &c.

II. No wild Turkey, Grouse, Partridge or Pheasant, shall be hunted, taken or killed, between the first of March and the first of September in any year.

Quail.

III. No Quail shall be hunted, taken or killed, between the first of March and the first of October in any year.

Woodcock.

IV. No Woodcock shall be hunted, taken or killed, between the first of March and the first of July in any year.

Water Fowl.

V. No wild Swan, Goose or Duck of the kinds known as the Mallard, Grey Duck, Black Duck, Wood Duck, or any of the kinds of Duck known as Teal, shall be hunted, taken or killed, between the fifteenth of April and the first of August in any year.

Certain Birds to be killed only with the gun.

VI. No wild Turkey, Grouse, Partridge or Pheasant, Quail or Woodcock, shall be trapped or taken by means of traps, nets, springes or other means of taking such birds other than by shooting, at any time whatever; nor shall any trap, net or snare be made, erected or set, either wholly or in part for the purpose of such trapping or taking.

Penalty for having game at unlawful times.

VII. No person shall have in possession any of the animals or birds hereinbefore mentioned, within the periods above prohibited, without lawful excuse, the proof whereof to be on the party charged.

Prosecution and recovery of penalties.

VIII. Any offence against any provision of this Act shall be punished, on conviction before a Justice of the Peace, by a fine not exceeding five pounds nor less than five shillings in the discretion of such Justice, with costs, or in default of payment, by imprisonment for a term not exceeding one month; one half of such fine to go to the Municipality, and half to the informer.

Application.

IX. The following Acts, that is to say, the Act passed in the seventh year of Her Majesty's Reign, and chaptered twelve,—the Act passed in the eighth year of Her Majesty's Reign, and chaptered forty-six,—the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and chaptered sixty-one,—and the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered one hundred and seventy-one,—and all Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed.

Repeal of—  
7 V. c. 12.  
8 V. c. 46.  
14 & 15 V. c. 61.  
16 V. c. 171,  
&c.

Exemption.

X. This Act shall not apply to Indians.

Applies to U. C.

XI. This Act shall apply only to Upper Canada.

## C A P . X C V .

An Act to provide for the separation of the County of Victoria from the County of Peterborough, and to fix the County Town at Lindsay.

[Assented to 1st July, 1856.]

**W**HEREAS a great number of the Inhabitants of the several Townships and places in the County of Victoria have by their Petition, prayed that the said County of Victoria, now united to the County of Peterborough, may be set apart as a separate County for Judicial and other purposes, without unnecessary delay; and the wealth and population thereof being sufficient to warrant the same, it is expedient to make provision to enable the said County to separate from the said County of Peterborough, as soon as the necessary provisions for that purpose shall have been made: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall be lawful for the County Council of the United Counties of Peterborough and Victoria, whenever they shall receive petitions from a majority of the Township Councils in the said County of Victoria, in favor of a dissolution of the said Union, to appoint some convenient day in the month of January of any succeeding year, for the purpose of taking a vote of the rate-payers of the said several Townships composing the said County of Victoria, upon the question of such dissolution, which said vote shall be taken at the same places, in the same manner, and by the same officers, as votes are taken for the election of Councillors, and shall be recorded in books prepared for that purpose, each voter in favor of such dissolution voting "Yea," and each voter against such dissolution voting "Nay;" at least ten days' notice of the time appointed for taking the said vote being previously given in at least ten public places in each Municipality.

Council of Peterborough and Victoria on receiving petitions to that effect, may cause a vote of the Rate-payers of Victoria to be taken on the question of a dissolution.

II. The Returning officers to take such votes for the respective Townships shall, within ten days thereafter, return their Poll Books verified under oath, to the Clerk of the County Council, who shall publish and declare the result of the same for the information of all concerned; and if it shall appear that a majority of all the rate-payers voting at the said polling, have recorded their votes in favor of the said dissolution, then the Town Reeves and Deputy Town Reeves of the several Townships in the said County of Victoria, as the same is described and limited in and by the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intitled, *An Act to make certain alterations in the Territorial Divisions of Upper Canada*, shall form a Provisional Municipal Council for the said County, and shall with respect to the

Returning Officers to return Poll-books to Clerk of County Council, who shall declare the result. Provisional Council formed if the majority of votes be yea. 14 & 15 V. c. 5.

said

Its powers to be as under—

12 V. c. 78, &c.

Power to purchase the requisite lands in Lindsay, which shall be the County Town.

Proclamation and dissolution when the requisite buildings are erected at Lindsay.

County Officers to be appointed.

First meeting of Provisional Council.

Notice.

Failure of meeting.

Warden to appoint a person to preside until election.

said County, have, possess and exercise, all and singular the rights, powers, privileges and duties conferred, granted or imposed by the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for temporary Unions of Counties for Judicial and other purposes, and for the future dissolution of such Unions as the increase of wealth and population may require*, upon Provisional Municipal Councils erected by Proclamation under the authority of the said Act, and also all the powers which may be conferred on Provisional Municipal Councils generally by any other Act or Law in force in Upper Canada; and such Provisional Council shall and may, so soon as they shall think fit so to do, purchase or otherwise procure the necessary property at the Town of Lindsay, which is hereby declared to be the County Town of the said County of Victoria, and proceed to erect the necessary public buildings on such property; and all the provisions of the Act last above cited shall apply to the said Provisional Municipal Council and to the said County of Victoria.

III. So soon as the Court House and Gaol of the said County shall be erected and completed at the Town of Lindsay aforesaid, according to the provisions of the fifteenth section of the said lastly in part recited Act, and the other provisions of the said fifteenth section shall have been complied with by the said County, it shall and may be lawful for the Governor of this Province to appoint the necessary officers as provided by the seventeenth section of the said lastly in part recited Act, and by Order in Council to issue a Proclamation dissolving the union between the said County of Victoria and the said County of Peterborough, from the date to be mentioned in such Proclamation: and all the provisions of the said lastly in part recited Act, or of any other Act or law in force in Upper Canada applicable to Counties on and after their being separated from other Counties, shall apply to the said Counties of Peterborough and Victoria respectively.

IV. The said Provisional Council shall first meet at the said Town of Lindsay, and a notice of such meeting shall be published in some newspaper published within the said County of Victoria or in some adjoining County, and a copy of such notice sent by mail or otherwise to each member of such Provisional Council, at least eight days before the day appointed for such meeting, by the Warden of the said United Counties of Peterborough and Victoria; or if such meeting should fail on the said day, a meeting may be called in like manner for another day.

V. The said Warden of the United Counties of Peterborough and Victoria shall, by a warrant under his hand and seal, appoint one of the Town Reeves or Deputy Town Reeves of the said County of Victoria, to preside at the first meeting of the said

said Provisional Municipal Council until a Provisional Warden of Provisional shall be elected by such Provisional Municipal Council. Warden.

VI. This Act shall be deemed to be a Public Act.

Public Act.

## C A P . X C V I .

An Act to settle the Northern Boundary Line of the City of Toronto.

[Assented to 1st July, 1856.]

**W**HEREAS the Concession Line now forming the northern limit of the liberties of the City of Toronto, (being the allowance for road between the Park Lots and the second Concession in the Township of York,) has been found to diverge from the proper course, and the Common Council of the City of Toronto caused the same to be made straight, and expended a large sum of money in turnpiking and otherwise improving the said line of road and in building stone culverts thereon, and after such expenditure was made it was discovered that the said line in the original survey thereof had been either through carelessness or inadvertence run irregularly and crookedly, by means whereof the line of road upon which such expenditure was made is without the liberties of the said City, and the Mayor, Aldermen and Commonalty of the City of Toronto have no power to retain possession thereof or arrange with the owners and proprietors or others interested in the land so taken in the straightening of the said road for the value thereof or for damages claimed by them; And whereas it is expedient that authority be given to the Mayor, Aldermen and Commonalty of the City of Toronto, to straighten the said road and to arrange with the said proprietors or owners of land necessarily taken for that purpose, or other persons interested therein, and that such straight line should be made the northern boundary of the said City of Toronto: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. From and after the passing of this Act the said Concession Line so straightened as aforesaid shall be taken to be and shall be the northerly boundary line of the liberties of the said City of Toronto; and all the land lying between the line so straightened and the line as originally run, together with the land contained within the said original line, shall be vested in the Mayor, Aldermen and Commonalty of the City of Toronto for the purposes hereinafter mentioned.

The Line as straightened to be the northern boundary of Toronto: and the land gained vested in Corporation.

II. All claims for compensation to parties whose property shall be taken by virtue of the preceding section, shall be settled and adjusted by arbitration in the manner prescribed by the thirty-third section of the Act passed in the sixteenth year of

Settlement of claims of persons losing land.

of

of Her Majesty's Reign, and chaptered one hundred and eighty-one.

How the land gained shall be dealt with.

To be conveyed to certain parties on certain conditions.

III. All the land lying between the new line of road so straightened as aforesaid and the southern limit of the old line, and vested in the Mayor, Aldermen and Commonalty of the City of Toronto by this Act, shall be held by them in trust from time to time to convey the same to the respective owners or proprietors of the land lying to the south of and immediately adjoining the said old line of road or the person or persons having the legal estate therein, according to the frontage of their respective lots thereon, so soon as such owner or proprietor or such other person or persons as aforesaid, or any of them, shall have paid to the said Mayor, Aldermen and Commonalty of the City of Toronto, the value of their several and respective pieces of land agreed upon at any time hereafter between the said respective owners or proprietors, or other person or persons as aforesaid, and the said Mayor, Aldermen and Commonalty of the City of Toronto; and in case such value shall not be agreed upon between them as aforesaid, within one month after the passing of this Act, the same shall be ascertained by arbitration in like manner as is prescribed in the second section of this Act; And in making their award in the premises it shall be the duty of the arbitrators to take into consideration all the circumstances which have rendered necessary the said reference; Provided always, that until the settlement of such value and the payment thereof to the said Mayor, Aldermen and Commonalty of the City of Toronto, it shall not be lawful for any person or persons, or other party whomsoever, to enclose or in any wise obstruct the said old line of road under any pretence whatsoever.

Proviso.

Public Act.

IV. This Act shall be deemed a Public Act.

### C A P . X C V I I .

An Act to authorize the City of London to negotiate a Loan of sixty-three thousand pounds to consolidate the debt of the City, and for other purposes.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS the Corporation of the City of London have petitioned to be authorized by law to borrow, on the debentures of the said City, a sum not exceeding one hundred thousand pounds, for certain purposes and under certain restrictions in the said petition set forth, and it is expedient that the prayer of their petition should be granted so far as to enable them to pay off the debts hereinafter set forth: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I.

I. It shall and may be lawful to and for the City Council of the City of London to raise by way of loan, upon the credit of the debentures hereinafter mentioned, from any person or persons, body or bodies corporate, in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding sixty-three thousand pounds.

City Council  
to raise  
£63,000 by  
Debentures.

II. It shall and may be lawful for the Mayor of the said City of London for the time being, to cause to be issued debentures of the said City of London, under the Corporation Seal of the said city, signed by the Mayor and countersigned by the Chamberlain of the said city for the time being, in such sums, not exceeding in the whole the said sum of sixty-three thousand pounds, as the Common Council shall direct and appoint, and the principal sum secured by the said debentures and the interest accruing thereon, shall be made payable in this Province, in Great Britain or elsewhere.

Form of  
Debentures.

III. So much of the said loan so to be raised as aforesaid shall be necessary for the purpose, shall be applied by the City Council of the City of London in the redemption of all such debentures of the said city as shall be outstanding when this Act shall come into force; and the Chamberlain of the City of London is hereby authorized and empowered, on receiving instructions so to do, from the City Council, and with the consent of the holders thereof, to call in such debentures of the City of London as may have heretofore been issued by virtue of a By-law of the Town Council of the Town of London, passed on the first day of July in the year of Our Lord one thousand eight hundred and fifty-two, authorizing the issue of debentures to raise by way of loan the sum of five thousand pounds, for the purpose of paying certain debts due by the said Town of London, and for making improvements therein, known as By-law number nineteen; and by virtue of a certain other By-law of the said Town Council, passed on the ninth day of October in the year of Our Lord one thousand eight hundred and fifty-two, authorizing the issue of debentures to raise by way of loan the sum of five thousand five hundred pounds, for the purpose of paying certain debts due by the said town and for making improvements therein, known as By-law number twenty-four; and by virtue of a certain other By-law of the said Town Council, passed on the twenty-seventh day of January in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the issuing of debentures to raise by way of loan the sum of two thousand pounds, for the purpose of paying the purchase money of certain land acquired for the enlargement of Covent Garden Market, known as By-law number twenty-nine; and by virtue of a certain other By-law of the said Town Council, passed on the twenty-seventh day of June in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the issuing of debentures to raise by way of loan the sum of nine hundred pounds, for the purpose of defraying the expense

Application  
of money so  
raised.

Debentures issued by virtue of certain By-laws, may be called in.

of erecting the Firemen's Hall and Engine House on King Street, known as By-law number thirty-eight; and by virtue of a certain other By-law of the said Town Council, passed on the twenty-seventh day of June, in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the issuing of debentures to raise by way of loan the sum of twenty thousand pounds, for the purpose of paying for certain land purchased for the enlargement of Covent Garden Market, and for defraying the expense of erecting a Town Hall, Market House and other buildings thereon, known as By-law number thirty-six; and by virtue of a certain other By-law of the said Town of London, passed on the seventh day of November in the year of Our Lord one thousand eight hundred and fifty-three, to authorize the Town Council of the Town of London, to raise by way of loan the sum of six thousand five hundred pounds, for the purpose of constructing a sewer from Waterloo Street to Richmond Street, and thence Southerly along the centre of Richmond Street to the River Thames, known as By-law number forty-three; and by virtue of a certain other By-law of the said Council passed on the twenty-second day of August, in the year of Our Lord one thousand eight hundred and fifty-three, authorizing the issue of debentures to raise by way of loan the sum of two thousand pounds, known as By-law number forty; and by virtue of a certain other By-law of the said Council passed on the thirtieth day of January, in the year of Our Lord one thousand eight hundred and fifty-four, authorizing the issuing of debentures to raise by way of loan the sum of two thousand eight hundred pounds, for the purpose of paying for five hundred shares of stock in the London Gas Company, known as By-law number fifty; and by virtue of a certain other By-law of the said Council passed on the second day of October, in the year of Our Lord one thousand eight hundred and fifty-four, to authorize the issue of debentures to the extent of eighteen thousand pounds, to defray the costs of certain improvements in the Town of London, known as By-law number sixty-one; and to substitute therefor debentures to be issued under this Act; Provided always, that no debentures shall be redeemed before due at any greater sum than was received for such debentures so to be redeemed; Provided also, that no portion of the debentures to be issued under this Act, or of the proceeds thereof, shall be applied to the payment of any interest accrued or to accrue on the debentures to be redeemed.

New Debentures to be substituted for those called in.

Proviso.

Proviso.

The said By-laws may be repealed upon Debentures being paid.

IV. For and notwithstanding any provision, clause, matter or thing contained in any Act of the Parliament of this Province to the contrary, it shall and may be lawful for the City Council of the City of London, after having called in or paid the debentures described in the next preceding section, to repeal such By-laws in the said section set forth as have not been already quashed by the Court of Queen's Bench for Upper Canada.

V. For the payment, satisfaction and discharge of the debentures to be issued by virtue of this Act, it shall and may be lawful for the Common Council of the said City of London, and they are hereby required so to do, in any By-law or By-laws to be passed authorizing the said loan, and the issuing the debentures therefor, to impose a special rate per annum over and above, and in addition to, all other rates to be levied in each year, and over and above the interest to be payable on such debentures, which shall be sufficient to form a sinking fund of two per cent. per annum for that purpose.

Sinking Fund of two per cent. to be provided.

VI. It shall be the duty of the Chamberlain of the City of London, from time to time to invest all sums of money raised by special rate for the sinking fund provided for by this Act, in any debentures issued by the Government of Canada, or in such other securities as the Governor of this Province shall by Order in Council direct or appoint, and to apply all dividends or interest on the said sinking fund to the extinction of the debt created under this Act.

Investment of Sinking Fund.

VII. Any By-law to be passed under this Act shall not be repealed until the debt or debts created under this Act and the interest thereon shall be paid and satisfied.

By-laws not to be repealed until debts are paid.

VIII. And whereas the sum of sixteen thousand pounds, part of the debt of the City of London, was contracted in the construction of certain main sewers in the said City, and at the time such sewers were directed to be made, it was the intention of the Corporation that a considerable portion of the cost of such sewers should be raised by assessing the proprietors of such real property as might be immediately benefitted by such improvements; but no By-law was ever passed by the Town Council of the Town of London for that purpose; Be it enacted, that it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of London, to assess the proprietors of such real property in the City of London as may abut upon any public street, highway, square or place through which the said sewers pass, or immediately opposite or near to such sewers, for such sum or sums of money yearly, in like manner as the Common Council of the said City of London are by this Act empowered to impose assessments for the redemption of the debentures to be issued under the authority of this Act.

Recital

Special assessments authorized for certain Sewers.

IX. It shall be the duty of the Chamberlain of the City of London, whenever any money shall be collected by virtue of the preceding section of this Act, to invest the same in manner as by this Act is provided for the sinking fund contemplated by this Act.

Money collected to be invested as Sinking Fund.

X. The funds to be derived from the negotiation of the debentures to be issued under this Act, when received, and all such debentures as shall be issued but not negotiated, shall be deposited

Funds derived from Debentures to be

deposited in  
Banks.

And how  
dealt with.

deposited by the Chamberlain of the said City for the time being in some one of the chartered Banks in this Province, on such conditions as the City Council shall from time to time agree upon, and only be withdrawn therefrom as they may from time to time be required for the payment or redemption of the debentures so to be redeemed.

Rates imposed  
in 1853, con-  
firmed.

XI. The rate imposed upon the Town of London for the year of our Lord one thousand eight hundred and fifty-three, under any of the By-laws mentioned in the third section of this Act, is hereby declared to be a legal rate; and it shall and may be lawful for the Collector or Collectors of the City of London for the time being, at any time before the first day of January, A. D., one thousand eight hundred and fifty-eight, to collect from the persons rated and charged upon the Collectors' roll for the said year of our Lord one thousand eight hundred and fifty-three, who shall not before have paid the taxes so therein imposed, such sum or sums as are rated and set down on the said roll, and to use the same means for the collection thereof, as for the taxes of the year in which such collection shall be made.

By-laws not to  
affect Deben-  
tures.

XII. The By-laws to be made under the authority of this Act shall not affect the priority of any debentures issued for stock taken in any Railway Company.

Public Act.

XIII. This Act shall be deemed a Public Act.

### C A P . X C V I I I .

An Act to incorporate the Town of Woodstock, and to divide the same into Wards, and to define the limits thereof.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS the Municipal Council of the Town of Woodstock have, by Petition, prayed the Legislature to incorporate the same into a Town having the same rights, powers, privileges and jurisdiction as Towns in general; And from the said petition, it appears that by a census lately taken, the said Town contains a population exceeding three thousand souls; And whereas it is expedient and necessary and would tend to promote and be for the benefit and convenience of the inhabitants if the prayer of the said Petition were granted: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Town of  
Woodstock in-  
corporated  
from 1st Jan-  
uary, 1857,

I. The tract of Land now known as the Town of Woodstock shall, upon and from and after the first day of January, in the year one thousand eight hundred and fifty-seven, be incorporated as a Town, with the rights, powers, and privileges of incorporated Towns in general, and as if the said Town had been mentioned

mentioned and included in the Schedule B annexed to the Upper Canada Municipal Corporations Act of 1849, and with the rights, powers and privileges which shall by virtue of any Act or parts of Acts now in force in Upper Canada, or which shall hereafter be in force, belong to incorporated Towns in general; and all the rules, regulations, provisions and enactments therein contained, or which shall in any wise relate or belong to the same, shall apply to the Town of Woodstock as fully as if the said Town had been contained in the said Schedule B., with the exception hereinafter made as regards the first election.

with the usual privileges.

II. The said Town of Woodstock shall be divided into five Wards in the manner described in the Schedule to this Act.

Divided into five Wards.

III. The Clerk for the time being of the said town of Woodstock shall be *ex officio* Returning Officer for the purpose of holding the first Municipal Election under this Act, and shall, on or before the twenty-first day of December next after the passing of this Act, by his warrant, appoint a Deputy Returning Officer for each of the five wards into which the said Town of Woodstock is hereby divided, to hold the first election therein; and in the discharge of their duties, each Deputy Returning Officer shall severally be subject to all the provisions of the Upper Canada Municipal Corporations Acts applicable to the first elections in Towns incorporated under the said Acts.

Returning Officer at first election.

Deputies for the Wards.

IV. This Act shall be deemed a Public Act.

Public Act.

## SCHEDULE.

### WARDS OF THE TOWN OF WOODSTOCK.

St. Andrew's Ward shall be bounded as follows, that is to say: commencing at the point on the northern limit of the town where the centre line of Vansittart street intersects the said northern limit; from thence extending in a southerly direction along the said centre line of Vansittart street to the northern limit of Dundas street; thence following the same course to the centre line of Dundas street; thence in a southerly direction to the point of intersection of the southern limit of Dundas street and the centre line of Bishop street; thence along the centre line of Bishop street and Broadway street, to a point opposite the northern termination of the division line between lots numbers fifteen and sixteen on the south side of Main street; thence southerly to the northern termination of the said division line; thence southerly along the said division line to the southern termination thereof; thence southerly in a straight line to the point where the southern boundary of Sudworth street intersects the centre line of Robertson street; thence in a southerly direction along the centre line of

Robertson street, to the southern boundary of lot number twenty-one in the first concession of the township of East Oxford; thence in the same course to the southern limit of the town; thence in a westerly direction along the said southern limit to the eastern limit of the allowance for road between the said lot twenty-one and the Gore between East and West Oxford; thence in a northerly direction along the western limit of the town to the southerly bank of Cedar Creek; thence following the limit of the town by Cedar Creek and the River Thames to the north-west corner of the town; thence easterly along the northern limit of the town to the place of beginning.

St. George's Ward shall be bounded as follows, that is to say: commencing at the point on the northern limit of the town where the centre line of Vansittart street intersects the said northern limit; thence extending in a southerly direction along the said centre line of Vansittart street, to the northern limit of Dundas street; thence following the same course to the centre line of Dundas street; thence in an easterly direction along the centre line of Dundas street, to the centre line of Victoria street; thence in a northerly direction along the centre line of Victoria street, to the centre line of Percival street; thence in a westerly direction along the centre line of Percival street, to the centre line of Wellington street; thence in a northerly direction along the centre line of Wellington street, to the northern limit of lot number twenty in the first concession of the township of Blandford; thence continuing the same course to the northern limit of the town; thence along the northern limit of the town, in a westerly direction, to the place of beginning.

St. David's Ward shall be bounded as follows, that is to say: commencing at the point on the northern limit of the town where the centre line of Wellington street produced, would intersect the said northern limit; thence in a southerly direction along the said centre line of Wellington street to the centre line of Percival street; thence in an easterly direction along the said centre line of Percival street, to the centre line of Victoria street; thence in a southerly direction along the centre line of Victoria street, to the centre line of Dundas street; thence in an easterly direction along the centre line of Dundas street, to a point opposite the south-west angle of lot number eighteen, in the first concession of the township of Blandford; thence in a northerly direction to the said south-west angle; thence in a northerly direction along the eastern limit of the town to the north-east angle of the town; thence in a westerly direction along the northern limit of the town to the place of beginning.

St. Patrick's Ward shall be bounded as follows, that is to say: commencing at the point on the centre line of Dundas street, where the centre line of Vansittart street, produced in a southerly direction, would intersect the centre line of Dundas street;

street; thence in a south-easterly direction to the point where the northern limit of Dundas street intersects the centre line of Bishop street; thence southerly and easterly along the centre lines of Bishop street and Broadway street, to a point opposite the northern termination of the division line between lots numbers fifteen and sixteen on the south side of Main street; thence in a southerly direction to the said northern termination of the said division line; thence in a southerly direction along the said division line to the northern termination thereof; thence in a southerly direction in a straight line to the point where the southern boundary of Sudworth street intersects the centre line of Robertson street; thence in a southerly direction along the centre line of Robertson street, to the southern boundary of lot number twenty-one, in the first concession of the Township of East Oxford; thence following the same course to the southern limit of the town; thence in an easterly direction along the southern limit of the town to a point opposite the southern termination of the division line between lots numbers nineteen and twenty, in the first concession of the Township of East Oxford; thence northerly to the said southern termination of the said division line; thence northerly along the said division line to the southern limit of the Great Western Railway; thence in a westerly direction along the said southern limit of the said Railway to the point where the centre line of Victoria street, if produced southerly, would intersect the said southern limit of the said Railway; thence in a northerly direction along the said produced line to the southern termination of the centre line of Victoria street; thence northerly along the said centre line of Victoria street to the centre line of Dundas street; thence in a westerly direction along the said centre line of Dundas street, to the place of beginning.

St. John's Ward shall be bounded as follows, that is to say: commencing at the point where the centre line of Dundas street intersects the centre line of Victoria street; thence in a southerly direction along the centre line of Victoria street, to the northern boundary of the Great Western Railway; thence following the same course to the southern boundary of the said Railway; thence in an easterly direction along the said southern boundary, to the division line between lots numbers nineteen and twenty in the first concession of the Township of East Oxford; thence in a southerly direction along the said division line, to the northern limit of the allowance for road between the first and second concessions of the Township of East Oxford; thence in the same course to the southern limit of the town; thence in an easterly direction along the southern limit of the town, to the south-east angle of the town; thence in a northerly direction along the eastern limit of the town to the northern limit of Dundas street; thence in a westerly direction along the northern limit of Dundas street to the south-west angle of lot number eighteen in the first concession of the township of Blandford;

24 \*

thence

thence in a southerly direction on the same course as the westerly boundary of the said lot, to the centre line of Dundas street; thence in a westerly direction along the centre line of Dundas street, to the place of beginning.

## CAP. XCIX.

### An Act to incorporate the Village of Kemptville.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS it appears that the tract of land hereinafter described, in the Township of Oxford in the County of Grenville, contains within it more than one thousand inhabitants, and that more than one hundred of such inhabitants have petitioned His Excellency the Governor General to be incorporated, but that inasmuch as such population does not appear by the now last census returns, the said incorporation cannot be effected under the ordinary operation of the Upper Canada Municipal Corporations Acts; And whereas these facts have been represented by Petition to the Legislature, with a prayer that the incorporation aforesaid may be effected by a special Act, which prayer it is expedient to grant: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Kemptville incorporated as a Village from 1st January, 1857.

I. Upon, from and after the first day of January, one thousand eight hundred and fifty-seven, the tract of land comprised within the boundaries mentioned in the Schedule to this Act, shall be a Village under the name of the Village of Kemptville, and the inhabitants thereof shall be incorporated with the rights and privileges of an incorporated Village.

Its privileges. Municipal Corporations Acts to apply to it.

II. So much of the Upper Canada Municipal Corporations Acts as relates to incorporated Villages, shall, from and after the day last aforesaid, apply to the said Village of Kemptville, and the said Village shall have and exercise all and singular the rights, powers, privileges and jurisdiction which are thereby granted or conferred to or upon, or as shall by virtue of the said Acts or of any other Act or Acts now in force or hereafter to be in force in Upper Canada, belong to incorporated Villages: and all the rules, regulations and enactments in the said Acts or any of them contained, or which shall in any wise apply to incorporated Villages, shall apply to the said Village of Kemptville, as fully as if it had become an incorporated Village under the ordinary operation of the said Upper Canada Municipal Corporations Acts, with the exceptions hereinafter made.

Returning Officer at first election.

III. The Municipal Council of the Township of Oxford shall and may, at any time after the passing of this Act, and before the first day of December next, appoint a fit and proper person

to be the Returning Officer for holding the first Municipal Election in and for the said Village of Kemptville, under this Act; and in the discharge of his duties, the said Returning Officer shall be governed by the provisions of the Upper Canada Municipal Corporations Acts, applicable to first Elections in incorporated Villages. His duties, &c.

IV. Provided always, that the said Village of Kemptville shall remain liable jointly with the said Township of Oxford, for any debt or debts created by the Municipality of the said Township before the passing of this Act; and shall pay such share of such debt or debts as shall bear the same proportion to the whole of such debt or debts, as the assessed value of property in the said Village of Kemptville bears to the assessed value of property in the said Township, according to the last Assessment Roll; and the share so payable by the said Village shall be payable by it to the said Township for the purpose of being applied to the payment of such debt or debts, and if not paid, may be recovered by the Township as a debt from the Village; Provided always, that the said Township and the said Village may, by their respective Councils, agree upon any other mode of settling the share of the said debt to be paid by each, and such agreement shall be valid as between them, but shall not affect the rights of the creditor or creditors. Proviso: as to debts due by the Township of Oxford and for which Kemptville is liable.  
Proviso.

V. This Act shall be deemed a Public Act. Public Act.

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SCHEDULE.

*Boundaries of the Village of Kemptville.*

Commencing in front of the Third Concession of the Township of Oxford, at the centre of Lot number Twenty-four in the said Third Concession,—Thence along a line (parallel to the side line) through the centre of the said Lot, to the rear of the said Concession,—Thence eastward along the rear of the said Third Concession, to the easterly limit of Lot number Twenty-eight in the said Third Concession,—Thence northward along the side line between Lots numbers Twenty-eight and Twenty-nine, to the front of the said Third Concession,—and thence westward along the Third Concession Line, to the place of beginning.

## C A P . C .

## An Act to legalize a certain By-law of the Municipal Council of the Township of Cornwall.

[Assented to 1st July, 1856.]

## Preamble.

WHEREAS it appears by a Petition from the Municipal Council of the Township of Cornwall, presented to Parliament at the present Session, that on the twenty-second day of February, one thousand eight hundred and fifty-five, the said Municipal Council, acting on the Petition of a large number of the freeholders of the said Township, praying them to erect a Town Hall for the use of the said Township, adopted a By-law to raise by debentures the sum required for the purchase of a site and erecting a Town Hall thereon; That the said By-law was duly published in the manner pointed out by the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and chaptered one hundred and nine, for three months from the first day of March, one thousand eight hundred and fifty-five, and was finally passed by the said Council on the eleventh day of June, one thousand eight hundred and fifty-five, the day appointed in the notice appointing the day for the adoption of the said By-law; That a site was purchased and a Town Hall erected thereon, and opened for use on the Annual Township Meeting in January last, and has since been used for the meetings of the said Council; That Debentures were issued by authority of the said By-law for four hundred and seventy-five pounds currency, which with the sum of twenty-five pounds paid by the Council, was expended in the purchase of a site and erection of the Town Hall; and that two hundred pounds, part of the Debentures aforesaid, have been redeemed; That the said By-law was finally passed on the eleventh day of June, one thousand eight hundred and fifty-five, after the passing of the Act of the eighteenth Victoria, chapter one hundred and thirty-three, which requires that all By-laws for raising money by loan should be submitted to the Electors for ratification; and the said Council have further set forth in the said Petition, that at the time of adopting the said By-law, they were not aware of the passing of the said Act, altering the mode of sanctioning a By-law for raising a loan, and were not made aware of the fact until some months afterwards; And whereas the said Council have by their said Petition, prayed that an Act may be passed to remove any doubt that may exist as to the legality of the said By-law, and to legalize the same, and it is expedient to grant their prayer: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The By-law mentioned in the Preamble, confirmed.

I. The said By-law is hereby declared to be valid in all respects, and the debentures issued by authority thereof to have been legally issued, and the amount thereof, with the interest therein

therein specified and accruing thereon, shall be to all intents and purposes a debt of the said Municipality.

II. This Act shall be deemed a Public Act.

Public Act.

## C A P . C I .

### The Lower Canada Municipal and Road Amendment Act of 1856.

[Assented to 1st July, 1856.]

**W**HEREAS it has become necessary to amend certain parts Preamble.  
of *The Lower Canada Municipal and Road Act* of 18 V. c. 100.  
1855, and to remove doubts as to the interpretation of other parts  
thereof: Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Council and Assembly of Canada,  
declares and enacts as follows:

#### INTERPRETATION.

1. The words "said Act" whenever they occur in this Act shall, notwithstanding the citing of other Acts therein, be understood to refer to *The Lower Canada Municipal and Road Act of 1855*. Words "said Act" to mean 18 V. c. 100.

2. This Act and the said Act shall be considered as forming but one Act, in the same manner as if all the provisions in this Act contained had originally formed part of the said Act, except only in so far as any parts of the said Act are hereby repealed. This Act to be construed as one Act with 18 V. c. 100.

#### NOTICES.

II. Nothing in the eighth and ninth sections or in any other part of the said Act shall prevent the Secretary-Treasurer of any Council or the County Superintendent from giving or certifying any notice either public or special required by the said Act as amended by this Act: and whenever any such notice is given by either of the said officers, the certificate of the publication or service thereof shall be attested under the oath of office of the person giving the notice, if he has taken such oath; if not, under a special oath, as required by the said Act. Sections 8 & 9 of 18 V. c. 100, amended, as to certain notices.

#### PROVISIONS APPLICABLE TO MUNICIPAL COUNCILS GENERALLY.

##### CORPORATE SEAL.

III. Notwithstanding any thing contained in the eleventh section of the said Act, every Municipal Corporation shall hereafter have a common seal; and every instrument or document in writing which under the said Act should be signed by the Chief officer of any such Corporation shall be equally valid without his signature, provided the seal of the Corporation and Section 11 of 18 V. c. 100, amended.  
Every Municipality to have a common seal. &c. the

the signature of the Secretary-Treasurer be affixed thereto, whether such instrument or document shall have been executed before, or after the passing of this Act.

#### APPOINTMENT OF OFFICERS.

Appoint-  
ments valid  
tho' made after  
the time fixed  
by the said  
Act, &c.

IV. No appointment of any officer shall be held or declared to be void solely by reason of the same having been made after the period fixed by the said Act for making such appointment; and any act done by any person previous to the appointment of a Secretary-Treasurer to any Council which might or should have been done by such officer, if appointed, shall have the same force and effect as if the same had been done by such Secretary-Treasurer so duly appointed.

#### POWERS COMMON TO ALL COUNCILS.

Nothing in  
sub-section 9,  
of section 15 of  
18 V. c. 100,  
to affect By-  
laws made un-  
der 16 V. c. 22,  
and 18 V. c. 13.

V. Nothing contained in the ninth sub-section of the fifteenth section of the said Act, shall in any way relate to or affect any By-laws made or to be made under the authority of the Act passed in the sixteenth year of Her Majesty's Reign, intituled: *An Act to establish a Consolidated Municipal Loan Fund for Upper Canada*, as amended by the Act passed in the eighteenth year of Her Majesty's Reign, intituled: *An Act to extend and amend the Act to establish a Consolidated Municipal Loan Fund for Upper Canada, by applying the same to Lower Canada, and for other purposes.*

#### PERSONS DISQUALIFIED AS MEMBERS OR OFFICERS OF THE MUNICIPAL COUNCILS.

Word "Judge"  
section 17 of  
18 V. c. 100,  
explained.

VI. The word "Judge," in the seventeenth section is hereby declared to apply and to have been intended to apply only to the Judges of the Court of Queen's Bench, the Superior Court, the Court of Vice Admiralty and the Circuit Court.

#### POWERS OF COUNTY COUNCILS.

Place of sit-  
ting of any  
County Coun-  
cil to be per-  
manent when  
a Registry  
Office is built  
at it.

VII. Whenever a Registry Office has been established, or a public edifice for the use of the County Council has been provided, or is in course of construction, at a place appointed by By-law under the said Act for the sittings of such Council, such sittings shall continue to be held at the place so appointed, until otherwise determined by the Legislature.

County Coun-  
cils to make  
By-laws,  
&c.

VIII. In addition to the powers vested in County Councils under the said Act, every County Council shall have power to make, in the month of March of every year, By-laws for the following objects:

Intoxicating  
Liquors.

1. To prohibit and prevent the sale of all Spirituous, Vinous, Alcoholic, and intoxicating Liquors, or to permit such sale subject to such limitations as they shall consider expedient;

2. To determine under what restrictions and conditions, and in what manner the Revenue Inspector of the District shall grant Licenses to Shop Keepers, Tavern Keepers, or others, to sell such Liquors ;

Licenses to sell the same.

3. To fix the sum payable for each such License, provided that it shall in no case be less than the sum now payable therefor ;

Sum payable for License.

4. For the ordering and governing of all Shop Keepers, Tavern Keepers, or other retailers of such Liquors, in whatever place they may be sold, as they may deem proper and expedient for the prevention of drunkenness.

Governing persons so licensed.

IX. Every County Council shall also have power and authority to revise, amend or annul all By-Laws, Reports or *Procès-Verbaux*, made, passed, approved or homologated by any Local Council within the County, except those made by Town or Village Councils, whenever the same are appealed from in the manner hereinafter provided :

Power to County Council to revise, &c. By-laws of Local Councils, appealed against.

2. Whenever a majority of the persons interested if they be less than ten in number, and whenever any number not less than five of the assessable inhabitants of a Local Municipality, or the County Superintendent of the County in which such Municipality is situate, shall, within fifteen days after the homologation of any Valuation-Roll or *Procès-Verbal*, or after the expiration of the period within which such Valuation-Roll or *Procès-Verbal* is allowed to be revised and homologated by a Local Council, or within fifteen days after the first publication of any By-Law passed by the Council of such Local Municipality, if the By-Law, Report, *Procès-Verbal*, or Valuation-Roll, be made, passed, approved, homologated or published after the passing of this Act, otherwise within thirty days from and after the passing of this Act, file in the office of any County Council, a petition in appeal, praying for the revision or amendment of any such Valuation-Roll or *Procès-Verbal* or for the amendment or disallowance of any such By-Law, and setting forth the grounds or reasons for which such revision, amendment or disallowance is prayed for, it shall be the duty of the Warden of the County to convene a Special Session of the County Council and to give Public Notice of such Special Session ; and every such Special Session shall be held within twenty days from the date of the filing of such petition ;

Special Session of County Council to revise By-law, &c., appealed from.

3. The County Council at any such Special Session shall, after hearing the Petitioners and the Mayor, Councillors or Clerk of the Local Council, or any of such parties who may require to be heard, homologate without amendment, or amend and homologate as so amended, such *Procès-Verbal* or Valuation-Roll, and shall confirm, amend or disallow such By-Law as they may deem expedient, and every *Procès-Verbal*, Valuation-Roll

Decision of County Council, and its effect.

Valuation-Roll or By-Law so amended, shall come into force as so amended from the day of the date of such amendment, and every By-Law so disallowed shall become null and void to all intents and purposes as if the same had never been passed ;

Adjournment *sine die* without decision to operate confirmation.

4. But whenever any such County Council shall close such Special Session, or shall adjourn the same *sine die*, or for any period beyond ten days from the first day thereof without having decided upon the merits of the petition in Appeal, the *Procès-Verbal*, Valuation-Roll or By-Law, to which such petition relates, shall be considered as having been homologated by such Council ;

Publication of decision.

5. Every By-Law of a Local Council when amended by the County Council, shall be published as so amended in the manner in the said Act provided, and every judgment of a County Council disallowing any By-Law passed by a Local Council shall be published in like manner ;

County Council not to disallow or amend a By-law of a Town or Village, &c.

6. No County Council shall have power to disallow or amend any By-Law passed by the Council of a Town or Village Municipality, nor shall the Mayor of any Town or Village Municipality vote or take any part in the proceedings before a County Council on appeals from other Local Councils ;

County Council to equalize valuations throughout the County.

7. Every County Council shall, at a special session to be holden for that purpose, at some period not later than the thirty-first day of December in the present year, and not later than the first day of June, in every other year during which new Valuation Rolls shall hereafter be made, examine the Valuation Rolls of the different Local Municipalities in the County and ascertain whether the valuation made in each bears a just relation to the valuation made in the others ; and thereupon the County Council may increase or decrease the valuations of all assessable property in any one or more of such Local Municipalities by adding or deducting such sums upon the hundred as may in their opinion be necessary to produce a just relation between all the valuations in the County ; but no such Council shall reduce the aggregate amount of the valuations made by the Valutors in the whole County ;

Principle of such equalization.

8. Whenever it shall be represented to a County Council that the residents of any two or more Townships, no one of which contains a population sufficient to constitute a Municipality, are desirous of being united for the purpose of forming jointly a Municipality, it shall be lawful for such County Council by a Resolution to unite for that purpose so many of such Townships, under the joint names thereof, as shall be necessary to make the joint population of such United Townships amount to three hundred souls ; and from and after the first day of January next after the publication of such resolution, the Townships so united, shall form a Local Municipality, and an election of Councillors for

County Council may upon proper application unite two or more Townships containing each less than 300 souls.

for such Municipality shall take place in such month of January, in the manner prescribed by the said Act, notwithstanding that such time be not the year and month fixed by the twenty-seventh section of the said Act for holding an election; and the Councillors so elected shall remain in office until the next general election of Councillors to be held under the provisions of the said Act;

Election where to be held: and 27th section of 18 V. c. 100, amended so far.

9. And notwithstanding any thing in the thirty-third section or in any other part of the said Act contained, whenever a Township or part of a Township in one County is annexed to a tract of land in another County to form a Parish, such Parish shall be a separate Municipality unless the population of such Township or part of a Township amount to three hundred souls, in which case such Township or part of a Township shall form a separate Municipality, and shall for all municipal purposes be held and considered as forming part of the County in which the remaining portion of the Parish is situate.

Case of a Parish extending into a Township in another County provided for: and 33rd section of 18 V. c. 100, amended so far.

## COUNTY SUPERINTENDENT.

X. Notwithstanding any thing in the said Act contained, it shall be lawful for any County Council to pass a By-law to allow the offices of County Superintendent and Secretary-Treasurer of the County Council to be held by one and the same person; and from and after the publication of such By-law, in the manner provided by the said Act, all such parts of the said Act as are repugnant to the provisions of this clause shall be deemed repealed so far as such County shall be concerned; but all the proceedings of each of the said offices shall, nevertheless, be kept as distinct and separate as if the two offices were held by two different persons.

Offices of Superintendent and Secretary-Treasurer may be joined.

2. In every County where the offices of County Superintendent and Secretary-Treasurer of the County Council shall be held by one and the same person, all notices which should have otherwise been given by the County Superintendent to the Secretary-Treasurer shall be given to the Warden, and all such acts relating to the County Superintendent as would otherwise require to be certified by the Secretary-Treasurer shall be certified by the Warden, or by one of the County Councillors.

As to certain notices in such cases.

## POWERS OF LOCAL COUNCILS.

XI. Whenever there shall be within the limits of a Local Municipality at least forty inhabited houses erected within a space not exceeding sixty superficial arpents, the Council of such Local Municipality shall have full power and authority to pass a By-law defining the limits of such tract and recognizing its existence as an unincorporated Village, under such name as they may please to assign thereto; and from and after the date of the publication of any such By-law, the Local Council shall have

Formation of unincorporated Villages by By-laws of the Local Councils.

have the same power and authority to make By-laws for such unincorporated Village as the Council of any Town or Village erected under the said Act ;

Power to amend valuation-roll extended : and sub-section 2 of section 68 of 18 V. c. 100, amended so far.

2. The power vested by the second sub-section of the sixty-eighth section of the said Act in the Council of each Local Municipality to amend the valuation-roll thereof, shall extend to the revision and amendment of such valuation with reference to the assessment of the business of merchants and other persons and the incomes of professional men :

Sub-section 1 of section 23 of 18 V. c. 100, amended.

3. The word "within," is hereby substituted for the word "beyond," in the proviso in the first sub-section of the twenty-third section, commencing with the word "but," and the said proviso shall be read and interpreted as if the first mentioned word had been originally inserted therein.

Sub-section 6 of section 23 of 18 V. c. 100, repealed.

4. The sixth sub-section of the twenty-third section of the said Act, is hereby repealed ;

Local Council may prohibit sale of intoxicating liquors.

5. Every local Council shall have power to make By-laws to prevent or prohibit the sale of all Spirituous, Vinous, Alcoholic and Intoxicating Liquors, in any year when the County Council has failed in the month of March to regulate by By-law such sale.

### REVENUE INSPECTORS.

Licenses not to be granted for places where sale of intoxicating liquors is prohibited.

XII. No Revenue Inspector shall grant any License for the sale of any of the Liquors mentioned in the eighth section of this Act in any Municipality where such sale has been prohibited by By-law, nor in any Municipality where a By-law determining the restrictions and conditions under which such licenses may be granted has been passed, otherwise than in conformity with the provisions thereof ; Provided always, that a copy of such By-law has been transmitted by the Secretary-Treasurer to such Revenue Inspector.

Proviso.

### SPECIAL POWERS OF TOWN AND VILLAGE COUNCILS.

Sub-section 7 of section 24 of 18 V. c. 100, amended.

XIII. The words "*and immediately in front of such property,*" in the fourth and fifth lines of the seventh sub-section of the twenty-fourth section of the said Act, are hereby annulled : and the said sub-section shall be henceforth read and interpreted as if the said words had never been inserted therein.

### ELECTION OF COUNCILLORS.

Councillors may be taken from Villages,

XIV. Nothing in the twenty-seventh or in any other section of the said Act contained, shall prevent Councillors being chosen for a Parish or Township Municipality either from among the inhabitants

inhabitants of such Municipality, or from among the inhabitants of any Town or Village Municipality within the limits of such Parish or Township, or partly from one class and partly from the other. &c., in the municipality; and section 27 of 18 V. c. 100, amended so far.

2. The amount of the value of the property required to qualify a person to be appointed a Councillor, fixed by the said Act at one hundred and fifty pounds, is hereby reduced to one hundred pounds with respect to Councillors to be elected or appointed after the passing of this Act. Qualification of Councillors, reduced, and section 27 of 18 V. c. 100, amended so far.

**NUMBER OF LOCAL COUNCILLORS.**

XV. The word "seven" shall be substituted for the word "five" in the twenty-ninth section, and in every other part of the said Act in which the word "five" occurs as representing the total number of Councillors of a Local Council, declared by the sixth sub-section of the eleventh section of the said Act to be composed of seven councillors, and the said Act shall henceforth in all such parts be read as if the word "seven," instead of the word "five," had been originally inserted in the above parts. Number to be seven; and section 29, &c. of 18 V. c. 100, amended so far. Sub-section 6 of section 11.

**ERECTION OF TOWNS AND VILLAGES**

XVI. No tract of land shall be erected into a Town Municipality unless it be shewn by the Report of the County Superintendent that there are at least three thousand inhabitants within such tract. Towns must contain 3,000 souls.

2. It shall be lawful for the Governor, upon due proof that the number of inhabitants in any Village previously, incorporated as such, amounts to three thousand souls, to issue a Proclamation creating such Village a Town Municipality; Village containing 3,000 souls may be made a Town.

3. It shall be the duty of the Warden of the County in which any newly erected Town or Village Municipality is situate, to cause an election of Councillors to be had, and to organize the Council thereof, in the manner prescribed by the said Act, so soon as the proclamation erecting the same shall take effect, notwithstanding that such time be not the year and month fixed by the twenty-seventh section of the said Act for holding an election; and the Councillors so elected shall remain in office until the next general election of Councillors to be held under the provisions of the said Act; Warden to cause Councillors to be elected, and Council organized.

4. No proclamation for uniting a Town or Village Municipality to some adjoining Local Municipality under the provisions of the fifteenth sub-section of the thirty-fourth section of the said Act, shall have any force or effect until the first day of January next after the expiration of the two months immediately following the date of such proclamation; When the Proclamation under sub-section 15 of section 34 shall take effect.

Certain documents to be furnished to a new Town or Village.

5. It shall be lawful for any Town or Village Municipality to demand from the Council of the Municipality from which such Town or Village has been separated, or of any other Municipality, who may have then in their possession, and it shall be the duty of such Council on such demand, to give up to such Town or Village Municipality, all documents or papers of any kind whatsoever, relating exclusively to the territory included in such Village or Town Municipality, and to allow the Secretary-Treasurer of such Village or Town Municipality, or such other officer as shall be appointed for that purpose, to take copies of such parts of all other documents as relate to such territory, without any further fee than for the certificate of the authenticity of such copies ;

Section 34 of 18 V. c. 100. amended.

6. The thirty-fourth section of the said Act shall henceforth be read and interpreted as if the word "thirty" had been inserted instead of the word "forty" in the fifth line thereof—and the third sub-section of the same section shall henceforth be read and interpreted as if the word "forty" had been inserted in the first line thereof, instead of the word "sixty" and as if the word "sixty" had been inserted in the second line thereof instead of the word "thirty."

#### APPOINTMENTS BY THE GOVERNOR.

Appointments by Governor may be revoked.

XVII. It shall be lawful for the Governor to revoke any appointment by him made, under the provisions of the said Act.

#### EXISTING PROCES-VERBAUX AND BY-LAWS.

Sub-section 4 of section 46 of 18 V. c. 100, repealed.

XVIII. The fourth sub-section of the forty-sixth section of the said Act is hereby repealed.

#### NEW PROCES-VERBAUX.

Sub-section 7 of section 47 of 18 V. c. 100, repealed.

XIX. The seventh sub-section of the forty-seventh section of the said Act is hereby repealed.

When only a *Procès-Verbal* shall be deemed homologated: and sub-section 9 of section 49 of 18 V. c. 100, amended so far.

XX. Notwithstanding any thing in the ninth sub-section of the forty-ninth Section or in any other part of the said Act contained, no *Procès-Verbal* shall be considered as having been duly homologated, unless it shall have been homologated, with or without amendment, by the Council charged with the examination or revision thereof, or until it shall have remained deposited in the office of such Council, without having been homologated or amended, during a period of ten days after the time when the first general meeting of such Council should have been, by law, held, subsequently to the date of the deposit of such *Procès-Verbal*.

2. Notwithstanding any thing in the forty-ninth section or in any other part of the said Act contained, the County Superintendent shall not be bound to deposit his *procès-verbal* before the expiration of thirty days after the time when he shall have visited the place where the work to which such *procès-verbal* relates is to be done.

Further amendment of the said section 49, &c.

#### POWERS AND DUTIES OF ROAD OFFICERS, &c.

XXI. Notwithstanding any thing in the said Act contained, no County Superintendent or other officer or person mentioned in the second sub-section of the fifty-third section of the said Act, shall be bound to give special notice, or any notice whatsoever, before entering upon any land for any of the purposes specified in the said sub-section.

Sub-section 2 of section 53, of 18 V. c. 100, amended as regards certain notices.

XXII. Notwithstanding any thing in the fifty-fifth section or in any other part of the said Act contained, no Inspector of Roads shall be bound to notify any Overseer of Roads in his division of the time when he intends to visit the section of such Overseer otherwise than verbally—nor shall any such Inspector be required to report to the County Superintendent, as provided under the said section, oftener than every three months, unless specially required by the County Superintendent so to do.

Section 55 of 18 V. c. 100, amended as to notice of visits of Overseer of Roads.

#### EXECUTION OF COUNTY WORKS.

XXIII. The words "*or of one or more Local Municipalities in two or more County Municipalities,*" in the sixty-fourth section of the said Act, are hereby annulled, and the words "*or of more than one Local Municipality in one or more County Municipalities,*" are hereby substituted therefor, so that the said sixty-fourth section shall be read as if the latter words had been originally inserted therein.

Section 46 of 18 V. c. 100, amended.

#### VALUATORS AND VALUATION.

XXIV. A valuation-roll for every local Municipality in Lower Canada shall be made in the year one thousand eight hundred and sixty, and thenceforward triennially, notwithstanding a valuation-roll may have been made in any local Municipality within the period of three years immediately preceding the time so fixed for making such triennial valuation-roll.

Valuation-Roll to be made in 1860, and every third year thereafter.

2. Every Valuator appointed after the passing of this Act shall remain in office until the next triennial appointment of Valuators.

Term of office of Valuators.

3. The appointment of Valuators shall hereafter be made at the time and in the manner prescribed by the said Act, if such

Period for the appointment of Valuators.

such appointment takes place in the year fixed for the general election of Councillors, and if in any other year, then, at the general monthly meeting in the month of January, or at a special meeting held within fifteen days after such general meeting.

#### COLLECTION OF ASSESSMENTS, &c.

Sub-sections 5 & 6 of section 74 of 18 V. c. 100, repealed, and other provisions substituted.

XXV. The fifth and sixth sub-sections of the seventy-fourth section of the said Act are hereby repealed, and in lieu thereof the following provisions for the collection of assessments are substituted, and the said seventy-fourth section shall henceforth be read and interpreted as if the said provisions had originally stood in the place of the said fifth and sixth sub-sections hereby repealed.

The new provisions.

2. The Secretary-Treasurer upon completing his Collection-Roll, shall proceed to collect the assessments therein mentioned, and for that purpose shall, on the next following Sunday, give or cause to be given public notice that the Collection-Roll is completed and deposited in his office, and that all persons whose names appear therein, as liable for the payment of any assessment, are required to pay the amount thereof to him at his office within twenty days of the publication of such notice ;

Collection and general notice to Rate-payers.  
[Form No. 1.]

Special notice to Rate-payers in default.

3. If at the expiration of the said twenty days any assessment remains unpaid, the Secretary-Treasurer shall leave at the usual place of residence or domicile of such person in arrear or with him personally, a statement in detail of the various sums and the total amount of assessments due by such person, and shall at the same time, in and by a notice annexed to such statement, demand payment of the assessments therein mentioned, together with the costs of the service of such notice according to such tariff as the Council shall have established ;

Costs of such notice.

In case of default for fifteen days, assessment to be levied by seizure and sale.

4. If any person neglect to pay the amount of assessments imposed upon him, for the space of fifteen days after such demand made as aforesaid, the Secretary-Treasurer shall levy the same with costs, by Warrant under the hand of the Mayor of the Municipality authorizing the seizure and sale of the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his possession, wherever the same may be found within the local Municipality ; and no claim of property, or privilege thereon or thereto shall be available to prevent the sale thereof for the payment of the assessments and costs out of the proceeds thereof.

#### PENALTIES.

Section 76 of 18 V. c. 100, to apply to cases under this Act.

XXVI. All the provisions of the seventy-sixth Section of the said Act, shall apply to this Act, in as full a manner as if this Act had originally formed part of the said Act.

#### RECOVERY

RECOVERY OF PENALTIES, TAXES, &c.

XXVII. The first sub-section of the seventy-seventh section of the said Act is hereby repealed.

Sub-sec. 1 of sec. 77 of 18 V. c. 100, repealed.

2. All penalties imposed by the said Act as amended by this Act, or by any By-law made by competent authority in virtue of the said Act or of this Act, shall be recoverable before the Circuit Court of the Circuit in which the Local Municipality or the major part thereof is situated, or before any Justice of the Peace; all the fines and penalties incurred by any one person may be included in the same suit; and the costs in all such suits before a Justice of the Peace shall be taxed according to the tariff of the Court of Commissioners for the trial of small causes; any law to the contrary notwithstanding;

How penalties under this Act and 18 V. c. 100, shall be recoverable.

3. The said seventy-seventh section of the said Act shall henceforth be read and interpreted as if the next preceding sub-section had originally been inserted therein, and had formed the first sub-section thereof in lieu of the sub-section hereby repealed.

How section 77 of 18 V. c. 100, shall be construed.

( No. 1. )

PUBLIC NOTICE TO BE GIVEN BY A SECRETARY-TREASURER OF THE COMPLETION OF HIS COLLECTION-ROLL.

Public Notice is hereby given that the Collection-Roll of the Municipality of the (*Parish, Township*) of (*Name*) is completed and is now deposited in the office of the undersigned. All persons whose names appear therein as liable for the payment of any Assessment, are hereby required to pay the amount thereof to the undersigned at his said office, within twenty days from this day, without further notice.

A. B.

Secretary-Treasurer of the Municipality of

(*Place.*)

(*Date.*)

185

( No. 2. )

SECRETARY-TREASURER'S NOTICE FOR THE PAYMENT OF ASSESSMENT.

Sect. XXV.

MUNICIPALITY OF THE (Pa-  
rish, Township, &c.)

Mr.

(Copy of Account.)

£

Notice served.  
(here insert date of notice.)

Costs.

Notice.....£

MUNICIPALITY OF THE (Parish, Township, &c.)  
(Date of delivery.)

Mr. , Dr.

To the Corporation of the (Parish, Township, &c.)

£	s.	d.
Assessment on your (here mention the property, as house, land, &c.) valued at £ , at (¼d.) in the £.....		
(Here add the various other items of taxation).....		
Total.....		

SIR,—Take notice that, having failed to pay the above mentioned sum within the time prescribed by public notice, you are hereby required, within fifteen days from the date hereof, to pay the same to me at my office, together with the costs of this notice and service thereof as below, in default whereof, execution will issue against your goods and chattels.

A. B.  
Secretary-Treasurer.

Costs.  
Notice.....£

## C A P . C I I .

An Act to regulate the amount of security to be given by the Registrars of Lower Canada.

[Assented to 1st July, 1856.]

**W**HEREAS by an Act passed by the Legislature of the Province of Canada, in the eighteenth year of Her Majesty's Reign, intituled, *An Act to establish a Registry Office in and for each Electoral County in Lower Canada*, the responsibility attached to Registrars has been greatly diminished by the reduction of the limits within which their duties are confined; And whereas the several penal sums required by *An Act to explain and amend the Laws relating to the registration of Deeds in Lower Canada*, passed in the session of the said Legislature held in the fourteenth and fifteenth years of Her Majesty's Reign, to be inserted in any recognizance entered into by any Registrar, were fixed for Counties of greater extent than those to which the first above mentioned Act refers, and it is therefore just to reduce the amount of the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.  
18 V. c. 99.  
14 & 15 V.  
c. 93.

I. Notwithstanding any thing contained in the second section of the said *Act to explain and amend the laws relating to the registration of Deeds in Lower Canada*, the penal sum in any recognizance to be entered into by any Registrar hereafter for any County for Registration purposes, under the first above mentioned Act, shall be one thousand pounds; Provided always, that the foregoing provisions of this Act shall in no wise affect or alter the amount of security given or to be given by the Registrars of the Registration divisions of Quebec, Montreal, Three-Rivers, and Sherbrooke, which shall continue to be the amount established for them respectively before the passing of this Act.

Amount of security to be given hereafter reduced, notwithstanding 14 & 15 V. c. 93.  
Proviso: Exceptions as to certain Registration divisions.

II. No Registrar appointed since the passing of the said first mentioned Act, nor his sureties shall be liable henceforth, under recognizance entered into and now in force, for any greater amount than the said penal sum of one thousand pounds which would require to be inserted in a recognizance entered into by such Registrar after the passing of this Act; but the penal sum in any such recognizance heretofore entered into, and now in force as aforesaid, is hereby reduced to the amount by this Act fixed and prescribed.

Amount of existing security reduced to £1,000.

## C A P. C I I I .

## An Act to amend an Ordinance of Lower Canada for the Relief of certain Religious Societies.

[Assented to 1st July, 1856.]

Preamble.

Act of L. C.,  
2 V. c. 26.

WHEREAS by an Ordinance of the Legislature of Lower Canada, passed in the second year of Her Majesty's Reign, chapter twenty-six, Congregations or Societies of Christians, of any denomination whatsoever, in Lower Canada, are enabled to hold ground, for the purposes and under the limitations therein specified, by the instrumentality of a Trustee or Trustees, to whom and to whose successors, (to be appointed in the manner set forth in the Deed of Grant, Concession or Conveyance) the lands necessary for such purposes may be conveyed; And whereas lands have been conveyed to Trustees on behalf of such Congregations or Societies in Lower Canada under the said Ordinance without the manner of appointing successors to such Trustees being set forth in the Deeds of Grant, Concession or Conveyance of such lands, as required by the said Ordinance, and it is expedient to provide a remedy for such omission: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Meeting for settling the manner of continuing the succession of Trustees, where the Trust Deed does not provide for the same

I. It shall be lawful for any Congregation or Society of Christians of any denomination, on whose behalf lands in Lower Canada are now held under the said Ordinance by a Trustee or Trustees without the manner of appointing successors being set forth in the Deed of Grant, Concession or Conveyance of such lands, at any time within one year after the passing of this Act to assemble in a public meeting, duly convened by notice in writing signed by at least five members of such Congregation or Society, and affixed to the door of their Church or place of Worship, and at such meeting, by the votes of a majority of the adult male members of such Congregation or Society, then and there present, to determine and declare in what manner the successors to such Trustee or Trustees shall be appointed.

Record of the proceedings to be made, and how.

II. A record of the proceedings of the meeting shall be made out in writing and signed by the Chairman and Secretary thereof, and shall thereafter be deposited of record among the archives of the Congregation or Society, and a copy of such record, certified to be a true copy by such Chairman or Secretary, on oath before a Justice of the Peace, shall be deposited, by *acte de dépôt*, in the usual manner, in the office of a Public Notary, whose copies thereof shall thenceforth be *prima facie* evidence of the contents thereof.

III. Such determination shall in every such case have the same effect as a clause in the Deed of Grant, Concession or Conveyance of the lands to which it relates setting forth the manner of appointing Successors to the Trustee or Trustees therein named would have, and no more. Effect of the decision at such meeting.

## C A P. C I V .

An Act to authorize the improvement of Water-courses.

[Assented to 1st July, 1856.]

**W**HEREAS the improvement of Water-courses would be a source of great prosperity to the Country: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: Preamble.

I. Every proprietor of land is hereby authorized to improve any water-course bordering upon, running along or passing across his property, and to turn the same to account by the construction of mills, manufactories, works and machinery of all description, and for this purpose to erect and construct in and about such Water-course, all the works necessary for its efficient working, such as flood gates, canals, embankments, dams, dykes, and the like. Proprietors of lands may turn water courses adjoining them, to account, &c.

II. The proprietors or lessees of any such works shall be liable for all damages resulting therefrom to any person whomsoever, whether by the too great elevation of the flood gates or otherwise. But shall be liable for all damages.

III. Such damages shall be ascertained by *Experts* to be appointed by the parties interested, in the ordinary manner; and in default of one of the said parties to appoint such *Experts*, one of the *Experts* of the municipality, to be selected by the Warden, shall act. In case of difference of opinion, the two *Experts* appointed as aforesaid, shall choose a third. The *Experts* shall be sworn before a Justice of the Peace well and duly to perform their duty in the said capacity. In assessing the damages and fixing the compensation to be paid, the *Experts*, if the case shall require it, may set off against the whole or any part of such damages, the increased value which the property of the claimants may have acquired by reason of the erection of such works, mills, manufactories or machinery. Such damages to be ascertained by *Experts* in case of dispute. Proviso: as to estimates of such damages.

IV. In default of payment of the damages and indemnity so awarded within six months from the date of the report of the *Experts*, together with legal interest to be computed from the said date, the party by whom the payment is due shall be bound to demolish the works which he shall have erected, or they shall be so demolished at his costs and charges, upon judgment to that Demolition of works if damages are not duly paid.

that effect rendered, the whole without prejudice to the damages and interest already incurred.

Act limited  
to L. C.

V. This Act shall apply to Lower Canada only.

## C A P . C V .

An Act to erect part of the Township of Chatham, in the County of Argenteuil, into a separate Municipality.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS it is expedient to constitute a separate Township Municipality out of part of the present Township of Chatham, in the County of Argenteuil, inasmuch as such Division of the said Township will greatly promote the welfare and convenience of its inhabitants, and is required by the population and progress of the Township: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Township of  
Bellingham  
constituted out  
of part of  
Chatham

I. Upon, from and after the first day of January, one thousand eight hundred and fifty-seven, the sixth, seventh, eighth, ninth, tenth, eleventh and twelfth Ranges of the said Township of Chatham shall constitute a separate Township and Municipality by the name of the Township of Bellingham, and the remainder of the said present Township shall constitute a separate Township and Municipality by the name of the Township of Chatham.

County Council  
to pass a  
By-law as to  
debts of Chat-  
ham.

II. All and every the debts of the present Municipality shall be divided between the respective Municipalities of the said Townships by virtue of a By-law to be passed by the County Council to that effect, and so soon as the said debts shall have been divided as aforesaid, each of the said Municipalities shall be bound to the payment of the share of the said debts which shall have been so assigned to it as aforesaid, as though such share of the said debts had been incurred by such Municipality.

Vote of ma-  
jority of elec-  
tors required  
for such divi-  
sion.

III. The division of the said Municipality of the Township of Chatham into two Municipalities, shall only take place after the same shall have been approved of by a vote of the majority of the municipal electors of the said Township of Chatham. The said vote to be taken on such day as shall be fixed by the Municipal Council of the said County, within three months from the passing of this Act.

Public Act.

IV. This Act shall be deemed a Public Act.

## C A P . C V I .

## An Act to establish a Recorder's Court in the City of Quebec.

[Assented to 1st July, 1856.]

**W**HEREAS it is expedient to provide a summary and inexpensive mode of recovering the debts, fines and penalties, and of hearing and determining the offences hereinafter mentioned, in the City of Quebec : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

I. There shall be a Court of Record in the said City, which shall be called "Recorder's Court" of the City of Quebec, and wherein the Recorder for the time being shall preside, assisted by one or more of the Councillors of the said City, or in the absence of the Recorder, from sickness or other causes, or when there shall be no Recorder, the Mayor, or one of the Councillors of the said City, shall preside ; and such Court shall in all cases possess the like powers, and have the like jurisdiction, as to crimes, offences and misdemeanors committed in the said City, as the Court of Weekly Sessions of the Peace for the said City of Quebec now has or hereafter may have by law, as to crimes, offences and misdemeanors committed within its local jurisdiction, as well as in all those matters of civil concern, not belonging to the ordinary jurisdiction of a Court of Justice, as have been or may hereafter be by law vested in the said Court of Weekly Sessions of the Peace ; and it shall be lawful for the said Recorder's Court to hear and determine all causes and suits that may be brought by the said Corporation of the said City, for the recovery of any sum or sums of money that may be due and payable to the said Corporation of the said City, as the amount of any rate, assessment, tax, duty or impost lawfully imposed by any By-law, rule, regulation or order, now in force, or that hereafter may be in force in the said City, and all causes and suits that may be brought by the said Corporation for the recovery of any sum or sums of money that may be due and payable to the said Corporation, for the rent or occupation of any butcher's or huckster's stall, or other stall or stand whatsoever, in or upon any of the public markets of the said City, or as and for the amount of any rate, tax, duty or impost now levied or collected, or that may hereafter be lawfully imposed, levied or collected on any of the said public markets ; also, to hear and determine all causes and suits that may be brought by the said Corporation of the said City of Quebec, for the recovery of any water rent or revenue, or any sum or sums of money whatsoever, that may be due and payable to the said Corporation for water rent, or for any supply of water given or furnished from the Quebec Water Works, now the property of the said Corporation, to any house or premises, or to or for the use of any

Preamble.

Recorder's Court established at Quebec.

By whom to be held.

Powers.

Crimes and offences.

Suits for money due for City taxes, &amp;c.

Water rent.

any person or persons in the said City, or for the introduction of any pipe or pipes from the said works into any house or premises in the said City, or the enlarging, extending, repairing, altering, removing or changing of any such pipe or pipes, in any house or premises, or at the instance or request, or for the use or benefit of any person or persons in the said City; and also to hear and determine all offences against any such By-law, regulation or order, or against any law concerning any market or markets in the said City, or against any law concerning any assessment, tax or duty, to be levied in the said City, or against any of the provisions of an Ordinance of the Legislature of the Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal*; and also to hear and determine all suits and prosecutions that may be brought for the recovery of any fine or penalty that may hereafter be incurred, and be due and payable under any such By-law, rule, regulation or order now in force, or that hereafter may be in force in the said City as aforesaid, or under this Act, or under any Act or Acts concerning any market or markets in the said City, or under any Act or Acts concerning assessments to be raised in the said City, under any of the provisions of the said Ordinance, passed in the second year of Her Majesty's Reign, and intituled, as above mentioned, *An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal*; And for the purposes aforesaid, the said Recorder's Court shall be held from time to time, as occasion may require, in the City Hall of the said City, or in such other place in the said City as the said Council of the said City may ordain; and the Clerk of the said Recorder's Court shall be appointed by the City Council during pleasure; and the precepts, writs and processes to be issued out of the said Recorder's Court, shall not require to be under seal, but shall run and be in the name and style of Her Majesty, Her Heirs or Successors, and shall be signed by the said Clerk or his Deputy; and it shall be lawful for the said Court to summon, by a writ to be signed as aforesaid, the party accused of any offence as aforesaid, or from whom any sum of money shall be claimed for any one or more of the causes in this section before set forth, and the witnesses to be heard as well in his favour as against such party, and upon the appearance or default of the party accused or complained against, or in case of his not appearing, upon proof of service of such summons by the return in writing under oath of the person who made the service, to proceed with the examination of the witness or witnesses on oath, and to give judgment accordingly, awarding costs for the successful party; and when the party accused or complained against shall be convicted of such offence, or if judgment be given in favour of the prosecutors for the sum of money sought to be recovered, or for any part thereof, on proof or by confession, to issue a warrant or warrants, to be signed as aforesaid, requiring any constable

Market regul-  
ations.

Ordinance,  
2 V. c. 2.

Ordinance,  
2 V. c. 2.

Place of hold-  
ing the Court.  
Clerk.

Clerk.

Process.

Execution of  
the judgment.

constable or bailiff, of the goods and chattels belonging to the party convicted, or against whom such judgment shall be rendered, to levy the amount of such judgment, or of any penalty or fine to be imposed by such conviction, as the case may be, and costs of suit, and to cause sale thereof to be made; which warrant shall authorize any constable or bailiff to execute such warrant in any part of the District of Quebec, by *saisie* and sale of any goods and chattels which shall and may be found in the said District, appertaining to the person or persons against whom such warrant shall thus be issued; Provided that when a warrant or *saisie* execution shall issue against the goods, debts and chattels of a defendant, the following goods and chattels be exempted, to wit: one stove, every article of bedding and dress, one cord of firewood, one pig, one cow, and tradesmen's tools of any kind.

Proviso: certain articles exempted from seizure.

II. It shall be lawful for the said Recorder's Court to cause order to be preserved in the said Recorder's Court, and to punish by fine and imprisonment any person guilty of any contempt of the said Court, or of any member thereof, if such contempt be committed during the sitting and in the presence of the said Recorder's Court; to enforce the attendance of any witnesses in any action, cause or prosecution, that may be pending before the said Recorder's Court, and to compel such witnesses to answer all lawful questions; to authorize and require the examination of any party on interrogatories, on facts and articles (*faits et articles*), or on the *juramentum litis decisorium* or on the *juramentum judiciale*, in the same and like cases and circumstances in which such examination may be lawfully required and had in the ordinary Courts of civil jurisdiction in Lower Canada; and to cause the execution of, and obedience to any order, precept, writ, process or warrant, that may issue from the said Recorder's Court, for any one or more of the purposes aforesaid, by the like means as are used for any such purpose or purposes in the ordinary Courts of civil jurisdiction in Lower Canada; And it shall be lawful for the Council of the said City of Quebec, to appoint so many bailiffs of the said Court, as the said Council may think fit; and to make and settle a tariff of the fees which may be exacted by the Clerk of the said Recorder's Court, and by the bailiffs and other such officers to be employed in and about the said Recorder's Court; Provided always, that no fee shall be exacted under such tariff until such tariff be approved by the Governor in Council; And it shall be the duty of the Clerk of the said Recorder's Court, to prepare and make out all the precepts, writs and processes severally that may issue from the said Court, and in a Register to be kept for that purpose, to enter in a succinct manner, all the proceedings had in the said Court, and to record at full length all the judgments rendered, and convictions pronounced by the said Court, but not to take in writing the depositions of witnesses or of parties examined in the said Court; and any person who shall, either as a party

Recorder's Court may punish contempt committed in Court.

Further powers to compel attendance of witnesses, &c.

Bailiffs.

Fees.

Proviso.

Duties of Clerk of the Court.

False swearing, &c., to be OR perjury.

Who shall be competent witnesses.

One witness sufficient in certain cases in the said Court.

Proviso.

Recorder to be a Barrister of L. C., &c.

Salary.

Proviso: not to be appointed except on request of the City Council.

Court may sit daily, and for what purposes.

2 V. c. 2.

or as a witness, wilfully and corruptly give false evidence in any cause, suit, action, prosecution or other proceeding in the said Recorder's Court, shall be deemed guilty of wilful and corrupt perjury, and shall be liable to the penalties of wilful and corrupt perjury; and any member of the said Council, excepting the Mayor or Councillors of the said Council then sitting in the said Court, and any member, officer or servant of the said Corporation, shall be a competent witness in any suit or prosecution that may be instituted in the said Recorder's Court, if he have no direct interest in the issue of such suit or prosecution, or be not otherwise rendered incompetent, any law, usage or custom to the contrary notwithstanding; and any toll, assessment, tax, duty or impost, fine or penalty that may be sued for in the said Recorder's Court, shall be recoverable there, upon the oath of one credible witness; and any person prosecuted in the said Court, for any offence that may be heard and determined by the said Court, shall be liable to be convicted on the oath of one credible witness; Provided always, that it shall be lawful for the said Recorder, or the person doing the duties of the Recorder, to grant a delay of at least one month, and which shall not exceed three months to any defendant, on confession of judgment when the action is brought before the said Court.

III. The Recorder for the said City of Quebec shall be a Barrister of Lower Canada, of not less than five years' standing, and shall be appointed by the Crown during pleasure; and such Recorder shall be *ex officio* a Justice of the Peace in and for the said City and District of Quebec, and shall receive a salary of not less than three hundred pounds and not more than five hundred pounds per annum, payable monthly out of the funds of the said City; Provided always, nevertheless, that the said Recorder shall not in the first instance be appointed until after the Corporation of the said City shall have communicated to the Governor of this Province, through the Provincial Secretary thereof, their opinion that such officer is required for the better conduct of the affairs of the said City, and the administration of justice therein.

IV. It shall be lawful for the said Recorder's Court to be held and to sit daily, and as many times as may be necessary each day, without previous notice or time fixed, to summarily hear and determine upon the case of any person offending against the provisions of the said Ordinance passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal*, or the provisions of any Act or Acts concerning assessments to be raised in the said City, or concerning markets, or against any By-law, rule, regulation or order now in force, or that may be hereafter in force in the said City; and upon the case of any vagrant, loose, idle or disorderly person, and other offenders arrested by or in charge of the

the Police of the said City; and the cases of persons arrested on view, or immediately after the commission of any offence, or by warrant issued out of the said Court, or by the said Recorder, or by any Justice of the Peace for the said District of Quebec: and it shall and may be lawful for the Police or Constabulary Force of the said City of Quebec, or for any other peace officer or constable, to bring before the said Recorder's Court, or before the said Recorder, or, in case of absence as aforesaid, before his Deputy or before the Mayor, or such of the Councillors of the said City as may be appointed to act in his stead, in the City Hall of the said City, any person offending as aforesaid against the provisions of the said Ordinance, against any Act or Acts concerning assessments or markets, or against any By-law, rule, regulation or order now in force, or that may hereafter be so, in the said City, and any vagrant, loose, idle or disorderly person, and every person arrested as such, to be then and there dealt with according to law, as the said Recorder's Court, the said Recorder or his Deputy individually, or the Mayor or Councillor aforesaid, may adjudge and determine.

Police may bring offenders before the said Court.

V. All fines and penalties imposed by any By-law, rule, order, or regulation, which may be in force at the time of the passing of this Act, whether made by the Justices of the Peace for the District of Quebec, before the passing of the said Ordinance to incorporate the City or Town of Quebec, or by the said Council since the passing of that Ordinance, or hereafter to be made by the said Council, and all fines and penalties imposed by this Act or any Act concerning any market or markets in the said City, or by any Act concerning any assessment, tax or duty to be raised in the said City, or by the said Ordinance, intituled, *An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal*, which shall or may be prosecuted for or recovered in the said Recorder's Court, and generally, all fines and penalties sued for, recovered, imposed or levied in the said Court, shall be recovered in the name of "The Mayor, Councillors and Citizens of the City of Quebec," and for the use of that Corporation, and shall belong to and form part of the general funds of the said City, and in no other name or for no other use: And it shall be lawful for the said Council to remit any such fine or penalty, or to accept payment of any such fine or penalty from any party willing to pay the same, without prosecution, and all fines or penalties that may be so paid without prosecution shall form part of the general funds of the said City.

How certain fines shall be recovered and applied.

2 V. c. 2.

To be sued for in the name of the Corporation.

Council may remit fines, or receive them without prosecution.

VI. It shall be competent for the Recorder for the said City of Quebec, to hold the said Recorder's Court of the City of Quebec, with or without the assistance, or in the presence or absence of any one or more of the Councillors of the said City.

Recorder may hold the Court alone.

Court may try certain cases of assault, &c.

VII. It shall be lawful for the said Recorder's Court to hear, try and determine any case of common assault or assault and battery arising within the said City, upon complaint of the party aggrieved praying the said Court to proceed therein under this Act, in the same manner and to the same effect, and subject to the same provisions, as any Justice of the Peace may by law now summarily hear, try and determine any complaint of any such offence, and also to hear, try and determine any complaint under the Act passed in the eighteenth year of Her Majesty's Reign, intituled, *An Act to amend and consolidate the provisions contained in the Ordinances to incorporate the City and Town of Quebec, and to vest more ample powers in the Corporation of the said City and Town*, against any person for assaulting or resisting any officer or constable appointed under the said Act, in the execution of his duty, or for aiding or inciting any person so to assault or resist.

18 V. c. 159.

In case of sickness, &c., of Recorder, Governor may appoint a Deputy.

Proviso.

VIII. In case of sickness or absence of the Recorder above mentioned, a Deputy may be appointed by the Crown to act during the sickness or absence of the said Recorder, which said Deputy shall be a Barrister of Lower Canada, of not less than five years' standing, and shall be *ex officio* a Justice of the Peace, in and for the said City and District of Quebec, during his continuance in office as Deputy of the said Recorder, but shall not be appointed until after the Corporation of the said City shall have communicated to the Governor of this Province, through the Provincial Secretary thereof, their opinion that such an officer is required for the better conduct of the affairs of the said City and administration of justice therein.

Clerk of the Court may appoint a Deputy.

IX. It shall be lawful for the Clerk of the said Recorder's Court of Quebec, from time to time, by an instrument under his hand and seal, to be acknowledged by him before and duly deposited and filed in the office of the said Recorder's Court, and entered and recorded in the Register thereof, to appoint one fit and proper person to be and act as his Deputy in the discharge of all and every his duties as Clerk of the said Recorder's Court, and to remove any person so appointed, and appoint another in his stead; and each and every person so appointed shall at all times, while his said appointment shall remain in force and unrevoked, be to all intents and purposes a Clerk of the said Recorder's Court.

Rights of the Crown saved.

X. Nothing in this Act contained shall in any manner derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, except in so far only as the same may be expressly derogated from or affected by the provisions of this Act.

Interpretation clause.

Governor.

XI. The words "Governor of this Province," whenever they occur in this Act, shall be understood as meaning the Governor, or any person authorized to execute the commission of Governor within

within this Province for the time being; and the word "Councillor" and the word "Councillors," whenever they occur in this Act, shall be understood as meaning any member or members of the said Council of the City of Quebec, unless by the context it shall appear clearly that the words "Councillor" or "Councillors," respectively, are intended to apply exclusively to a member of the said Council, who is not the Mayor of the said City; and the words "the said Corporation," or "the said Corporation of the City of Quebec," whenever they occur in this Act, shall be understood as meaning the said Corporation of "the Mayor, Councillors and Citizens of the City of Quebec," unless the context necessarily requires a different meaning to be given to these words; and the words "Lower Canada," whenever they occur in this Act, are to be understood as meaning and comprehending that part of the Province of Canada which formerly constituted the Province of Lower Canada; and any word or words implying the singular number, or the masculine gender only, shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Councillors.

Corporation.

LowerCanada.

Gender and number.

XII. This Act shall be held and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices and other persons whomsoever, without being specially pleaded.

Public Act.

### CAP. CVII.

An Act to amend and consolidate as amended, the laws relative to the incorporation of the Trustees of the Kingston Hospital.

[Assented to 1st July, 1856.]

WHEREAS it is expedient to amend the laws relative to the incorporation of the Trustees of the Kingston Hospital and to consolidate the same as amended: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The Act passed in the Session held in the twelfth year of Her Majesty's Reign and intituled, *An Act to incorporate the Trustees of the Kingston Hospital*, shall be and is hereby repealed.

12 v. c. 103. repealed.

II. From and after the passing of this Act, the Mayor of the City of Kingston, for the time being, the Warden of the United Counties of Frontenac, Lennox and Addington, for the time being, the Judge of the United Counties of Frontenac, Lennox and

How the Corporation shall be constituted.

and Addington, for the time being, the Sheriff of the United Counties of Frontenac, Lennox and Addington, for the time being, one of the Medical Professors of "Queen's College" to be nominated annually by the Senate thereof, James Sampson, M. D., the Honorable John Macaulay, the Honorable John Alexander Macdonald, John R. Forsyth, Thomas Kirkpatrick, John Watkins, James Hopkirk, Thomas Askew, John Paton, William G. Hinds and James Harty, Esquires, and their successors in the manner hereinafter mentioned, shall be, within the meaning of the "Interpretation Act," a body corporate, by the name of the "Governors of the Kingston Hospital," and as such, shall, besides the powers by the said last mentioned Act conferred upon bodies corporate or Corporations, have power to hold the said Hospital and all the land held by or vested in the Trustees of the said Hospital, under the Act hereby repealed or in any manner whatsoever, all which and all property now vested in the Trustees of the said Hospital, shall be and are hereby vested in the Corporation as hereby constituted, which shall in law be the same Corporation with that created by the Act above cited and repealed, and shall and may be capable of receiving, taking and holding from Her Majesty, or from any person or persons, or any body corporate or politic, by grant, devise or otherwise, any lands, or interest in lands, or any goods, chattels or effects, which Her Majesty or any such person or persons, body corporate or politic, may be desirous of granting or conveying to them for the use and support of the said Hospital or for the endowment thereof.

General powers.

Hospital, &c., vested in it.

Governors of the Hospital constituted.

III. The eleven persons named aforesaid, and any person who may have paid, or may hereafter pay the full sum of twenty-five pounds towards the support or endowment of the Hospital, and continue to pay thereafter, the sum of one pound yearly, on or before the first day of November in each year, shall be and are hereby made Governors of the said Hospital; and the aforementioned eleven persons shall hold office during life; and the Governors other than the eleven persons aforesaid shall hold office so long as their annual subscriptions shall be regularly paid.

Governor to be informed of vacancies among the 11 Governors.

IV. If any one of the said eleven Governors shall die, remove from the county, resign office, or become incapable of acting from any cause, his said office shall thereby become vacant, and it shall be the duty of the Secretary to the Board of Governors (to be appointed as hereinafter provided,) to communicate such fact to the Governor of this Province.

How such vacancy shall be filled.

V. In the event of any vacancy, as in the last section mentioned, it shall and may be lawful for the Governor of this Province, in Council, to supply the said vacancy within three months after the Secretary shall communicate, as aforesaid, the fact of such vacancy, and if the said vacancy be not supplied by the Governor in Council within the period aforesaid,

it

it shall be lawfull for the Board of Governors, to proceed, at their first Annual Meeting thereafter, to the election, by ballot, of one Governor to fill each such vacancy as aforesaid.

VI. It shall and may be lawful for the Board of Governors, from time to time, to make By-laws and Rules, for the admission into, and for the internal management and regulation of the said Hospital, or for the leasing or management of such of the lands or property of the said Hospital as may not be required for the immediate use thereof, and generally to make such By-laws and Rules for the internal management and regulation of the said Hospital, as shall to them seem meet and expedient: Provided always, that such By-laws or Rules shall be laid before the Governor of this Province, in Council, for his approval, within thirty days after the same shall have been made or adopted, and may be by him disallowed within one month after the same shall be received when transmitted by the said Board of Governors; And provided always, that if no notification of approval or disapproval be received by the said Board within one month after the same shall have been transmitted to the Governor in Council, then such By-laws and Rules shall be deemed to have been approved, and shall then forthwith be in force.

Governors to make By-laws for certain purposes.

Proviso: for approval of By-laws.

Proviso.

VII. Any five of the said Governors shall form a quorum for the transaction of business.

Quorum.

VIII. The annual general meeting of the Board of Governors shall be held on the first Monday of November in each and every year: The first meeting to be held on Wednesday, the fifth day of November, in the year one thousand eight hundred and fifty-six.

General meeting.

First meeting.

IX. The said Governors shall at each Annual Meeting to be held as aforesaid, appoint a Chairman to hold office for the then ensuing year; the Chairman of the preceding year shall hold office till the appointment of his successor.

Appointment of Chairman.

X. The said Board of Governors shall have power to appoint a Secretary and such other officers for the proper management of the Hospital as they shall consider necessary, with power to remove the said Secretary or any such officer at pleasure, and to appoint another or others in his or their places.

Appointment of Secretary, &c.

XI. It shall be the duty of the Clerk or Secretary, to attend all meetings of the Board and to keep minutes of their proceedings, and to communicate vacancies as hereinbefore provided, and generally to perform such other duties as may be prescribed by the Board in a By-law for regulating his office.

Duties of Secretary.

XII. It shall be the duty of the said Board of Governors to invest in good, safe and sufficient securities, all moneys which may

Governors to invest Hospital moneys.

may at any time come into their hands, for the use and support of the said Hospital, which may not be required for the immediate expenditure of the same; and from time to time, when required so to do by the Governor of this Province, to render an account in detail of all moneys received by them as Governors of the said Hospital, specifying the sources from which the same have arisen or been received, and the manner in which the same have been invested or expended, and all such particulars as may be necessary to shew the state of the funds or endowment, if any, of the said Hospital; and the said Board of Governors shall also lay an annual statement of the affairs of the Hospital before both Houses of the Legislature, within thirty days after the commencement of each session.

To account to  
Governor of  
this Province.

Reports to  
Legislature.

Additional  
powers to  
Board of Go-  
vernors.

XIII. The said Board of Governors, by the corporate name aforesaid, shall have, in addition to the powers conferred by the "Interpretation Act" aforesaid, power to distrain for any rent or rents of any lands or buildings, or any account whatever, and to distrain for rents when the same are in arrear and unpaid, and to act in all matters touching the collection and control of the funds of the said Hospital, and the management and disposition of any lands belonging to the same, as shall appear to them to be most conducive to the interest of the said Hospital.

Medical Stud-  
ents may visit  
the Hospital.

XIV. It shall and may be lawful for any Medical Student in the said City of Kingston to visit the wards of the said Hospital and attend them, upon the payment of such fees, and under such regulations and instructions as the said Board of Governors shall and may by any By-law from time to time direct and appoint, and with the sanction of the attending medical Officers.

Existing con-  
tracts not af-  
fected.

XV. Neither the repeal of the Act hereinbefore repealed, nor the change hereby made in the corporate name of or in the composition of the Corporation thereby constituted and hereby continued, shall in any wise affect contracts or any proceedings heretofore *bonâ fide* made or had pursuant to the provisions of the said Act, or any other Act relating to the said Hospital.

Public Act.

XVI. This Act shall be deemed a Public Act.

Interpretation.

XVII. The Interpretation Act shall apply to this Act, except wherever the provisions of this Act are inconsistent therewith.

## CAP. CVIII.

An Act to enable the Town Council of the Town of St. Catharines, to sell and convey certain Land purchased by the said Council for the purpose of a Public Cemetery.

[Assented to 1st July, 1856.]

**W**HEREAS the Town Council of the Town of St. Catharines, Preamble.  
 in the year one thousand eight hundred and fifty-four, purchased a part of Lot number seven in the seventh concession of the Township of Grantham, for the purpose of a Public Cemetery; And whereas the said Council subsequently acquired another tract of land more advantageously situate for the purpose of a Public Cemetery, and has expended a large sum of money in preparing the said last mentioned tract of land for Cemetery purposes; And whereas the said Council no longer requires the said land so purchased as aforesaid, and desires to be authorized to dispose thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. The said Town Council of the Town of St. Catharines shall have full power and authority to sell and dispose of that part of Lot number seven in the seventh concession of the Township of Grantham, in the County of Lincoln, heretofore purchased by the said Council for the purpose of a Public Cemetery, and to convey the same in fee simple to such person or persons as may be desirous of purchasing the same. Town Council may dispose of the said lot.

II. This Act shall be a Public Act, and the Interpretation Act shall apply to it. Public Act.

## CAP. CIX.

An Act to alter the survey of that part of the Third Concession of the Township of Onondaga, commonly called "Martin's Bend," and to confirm a new survey thereof, and for other purposes.

[Assented to 1st July, 1856.]

**W**HEREAS the Lots laid out in that part of the Third Concession West of Fairchild's Creek in the Township of Onondaga in the County of Brant, commonly called Martin's Bend, being part of the Indian Lands on the Grand River, according to the survey of the said Township made by James Kirkpatrick, Deputy Provincial Surveyor, are not adapted to the peculiar topographical position of the land in the said Bend; And whereas all the land in the said Bend has been settled upon, and the settlers have made improvements upon the lands Preamble.

occupied by them without reference to the shape or boundaries of the lots as defined by the said survey, and such settlers are desirous of purchasing the lands held by them without reference to such survey; And whereas a survey of the said Bend has been made by Lewis Burwell, a Deputy Provincial Surveyor, and a diagram thereof bearing date the thirty-first day of January, in the year of our Lord one thousand eight hundred and fifty-three, subdividing the said Bend in accordance with the respective possessions of the several settlers in the said Bend, has been submitted to His Excellency the Governor in Council, and is now among the plans in the Indian Department; And whereas the settlers in the said Bend have petitioned to be allowed to purchase the lands held by them in accordance with the said survey of the said Lewis Burwell, and that the several roads marked on said diagram should be established and confirmed as public highways; And whereas it is expedient that the said survey of the said James Kirkpatrick, as far as the same relates to lots numbers twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one of the said third Concession of the Township of Onondaga, being the Lots contained in the said Bend, should be set aside, and that the said survey of the said Lewis Burwell should be adopted in the place thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Lands at Martin's Bend may be granted according to the Survey of Lewis Burwell.

I. It shall and may be lawful for the Superintendent General of Indian affairs to sell and dispose of and cause to be granted all or any of the lands in the said Bend lying and being to the south-west of the limit between Lots numbers twenty and twenty-one, and embracing lots from twenty-one to thirty-one, both inclusive, in the said Third Concession of the said Township of Onondaga, in accordance with the survey of the said Lewis Burwell, and without reference to the survey of the said James Kirkpatrick or the boundaries of Lots thereby established.

Survey of Burwell substituted for that of Kirkpatrick.

II. From and after the passing of this Act, the said survey of the said James Kirkpatrick, as far as the same relates to the subdivision of the said Bend south-westerly from the said limit between lots numbers twenty and twenty-one, shall be superseded by the said survey of the said Lewis Burwell, and the said survey of the said Lewis Burwell, as far as the lands in the said Bend are concerned, shall have the same force and effect as and shall for all purposes be deemed and taken to be the original survey of the said concession.

Certain roads on Burwell's Plan confirmed.

III. The roads marked on the said diagram of the said Lewis Burwell in red, the one running from the Grand River opposite the Village of Newport, between lots G. and H. F. and J. and D. and E., and through lots B. and A., and the other from the last mentioned Road, near the centre of lot D., south-easterly through

through C. and part of the lot commonly called the "Mission Lot," to the Grand River, shall be established and are hereby confirmed of the width of forty feet as public highways.

IV. And whereas the allowance for Road between lots numbers nineteen and twenty in the said Third Concession of the Township of Onondaga, from the River's edge, south-easterly to the present travelled road running across the said Lots nineteen and twenty, is by reason of the nature of the ground unsuited and impracticable for a road; And whereas William N. Alger of the said Township of Onondaga, Esquire, is seized in fee of the said lots nineteen and twenty, and is willing to lay out a road along the northern eastern limit of the said lot number nineteen, in the place of the said original allowance for Road between lots numbers nineteen and twenty; therefore it shall and may be lawful for the Governor in Council to cause to be granted to the said William N. Alger, his heirs and assigns for ever, the said original allowance for road between lots nineteen and twenty, from the said travelled road to within one chain of the River's edge, as an equivalent for the road to be opened by him along the north-eastern limit of the said lot nineteen.

Recital.  
A certain road allowance may be granted to W. N. Alger, on his giving other land for the road.

V. For and notwithstanding any Act, law, usage or custom to the contrary thereof, it shall and may be lawful for the Superintendent General of Indian affairs to cause to be sold or granted any of the Indian lands not already granted in the Town of Cayuga, in the County of Haldimand, lying to the west of Ouse Street, and south of the Bridge across the Grand River at King Street, in the said Town or Cayuga, without any reservation of right to the public or any individual to cross such lands to the River's edge, or any manner of reservation whatsoever, except any right of way already acquired by the public or by any individual; Provided always, that nothing herein contained shall authorize or be construed to authorize the selling or granting of any lands laid out as streets or allowance for streets upon the plan of the said Town of Cayuga.

Certain lands in Cayuga Town may be granted without reservation of right of way to the River.

Proviso.

VI. This Act shall be deemed a Public Act.

Public Act.

C A P . C X .

An Act to vest in the Agricultural Societies of Middlesex and Elgin, certain Lands in the City of London granted for Agricultural purposes, with power to dispose of the same.

[Assented to 1st July, 1856.]

WHEREAS the Agricultural Society of the County of Elgin have by their petition set forth,—that on the third day of September, one thousand eight hundred and forty five,

Preamble.

Letters Patent were issued granting ten acres of land in the then Town and now City of London, to the then Municipal Council of the District of London, which comprised the tract of land now forming the Counties of Middlesex and Elgin, in trust for the use of the inhabitants of the said District of London, as a site for holding Free Fairs according to law,—that after the passing of the Act substituting Counties for Districts in Upper Canada, the said Counties of Middlesex and Elgin were united but have since been disunited, and that as the said land was granted, as aforesaid, for the use of inhabitants of the now Counties of Middlesex and Elgin, and as at the time of the disuniting of the said Counties as aforesaid, the subject in question was expressly excluded from the proceedings had for adjusting the respective liabilities of the said Counties to each other, and was left as an open question for future settlement, the inhabitants of the County of Elgin are entitled to an equitable share of the said land or of the proceeds thereof,—and they therefore pray that an Act may be passed vesting the said land in the Agricultural Societies of the Counties of Middlesex and Elgin, and empowering and requiring them to sell the said land, and to apportion the proceeds thereof between the Counties of Middlesex and Elgin; And whereas certain portions of the said lands have been disposed of by the Municipal Council of the County of Middlesex to the Great Western Railway Company and to the London and Port Stanley Railway Company, and it is desirable that the titles of the said Companies thereto should be confirmed, and that the remainder of the said lands not so sold, or their value, should be appropriated so as to secure to each of the said Counties of Middlesex and Elgin, an equitable share thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The unsold portion of the land vested in the said Agricultural Societies in trust, to be sold for the purposes of this Act.

I. So much of the said land as was not sold as aforesaid, by the Municipal Council of the County of Middlesex to the said Railway Companies, or either of them, shall be and is hereby vested in the Agricultural Society of the County of Middlesex and the Agricultural Society of the County of Elgin, as tenants in common, in trust to sell and dispose of the same to the best advantage, by Public Auction, or in such other manner as may be agreed upon by a majority of the President, Vice-President and Directors for the time being of each of the said Societies, and to convey the same in fee to the purchaser or purchasers, under the corporate seals of the said Societies, and the hands of their respective Presidents for the time being; and such purchaser or purchasers shall hold the same quit and clear of any trust to which the said land was subject, and shall not be bound to see to the execution of any such trust, or to the application of the purchase money; Provided always, that such sale or sales shall be subject to all existing leases or interests created by the Municipal Council of the County of Middlesex, in the said land or any part thereof.

Proviso: existing leases, &c., not to be disturbed.

II. The proceeds of such sale or sales whenever they shall be made, shall be apportioned and divided between the Agricultural Societies of the said Counties of Middlesex and Elgin, in proportion to their respective populations by the last census; and the amount (if any) so ascertained to belong to each of the said Societies, out of any moneys arising from the said land and received by the Municipal Council of the County of Middlesex, shall be paid over forthwith, or so soon as it shall be received by the said Council, to the Society to which it shall belong, and until it shall be so paid, shall be a debt due by the said County to such Society and recoverable accordingly, and the moneys so apportioned shall be invested or applied by the said Societies respectively, in such manner as to them shall seem best for the promotion and encouragement of Agriculture, and for no other use or purpose whatsoever.

Division of the proceeds between the said Societies.

As to moneys already received by the Middlesex County Council.

III. All deeds, contracts and agreements heretofore *bonâ fide* made or entered into as aforesaid, by the said Municipal Council of the County of Middlesex to or with the said Railway Companies, or either of them, for the disposal of any part of the said lands, are hereby confirmed and declared to be binding and effectual on all the parties thereto, according to the true intent and meaning thereof; and the said Railway Companies shall hold any portion of the said lands so conveyed to them quit and clear of all trusts, in like manner as purchasers under this Act, and shall pay to the said Municipal Council, any portion of the purchase money of the said land which may be unpaid at the passing of this Act.

Deeds to or contracts with the Railway Companies confirmed.

IV. This Act shall be deemed a Public Act.

Public Act.

## C A P . C X I .

An Act to grant additional aid to the Grand Trunk Railway Company of Canada.

[Assented to 1st July, 1856.]

**W**HEREAS it is expedient to grant facilities in aid of the Grand Trunk Railway Company of Canada, for objects and under conditions hereinafter mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. For the purpose of enabling the Grand Trunk Railway Company of Canada to complete their undertaking, the Governor in Council shall be and hereby is authorized to carry into effect the arrangement provisionally entered into between the Government of Canada and the said Company, based upon the following terms, viz:

Governor in Council authorized to carry out a certain provisional arrangement.

The

Issue of Preferential Bonds.

The said Company shall be authorized to issue Preferential Bonds to the extent of two millions of pounds sterling. The holders of such bonds to have priority of claim therefor over the present first lien of the Province.

Railway to be first completed from St. Thomas to Stratford.

Such issue shall not take place until the Railway of the said Company from St. Thomas, in Lower Canada, to Stratford, in Upper Canada, shall have been finished and in operation.

Deposit of proceeds of bonds.

The proceeds of the said Bonds shall be deposited with the Provincial Agents in London, and released to the Company on the certificates of the Receiver General, upon proof to the satisfaction of the Governor in Council of progress of the several works hereinafter mentioned.

How to be released to Company.

The said proceeds shall be appropriated to the aid or construction of the following works and apportioned as hereinafter stated, and released to the Company as the said works are severally proceeded with :

Appropriation of such proceeds.

The Railways from St. Mary's to London and Sarnia.....	£450,000
The Railway from St. Thomas, Lower Canada, to Rivière-du-Loup.....	525,000
Victoria Bridge.....	800,000
Three Rivers and Arthabaska.....	125,000
To enable the said Company to assist the Port Hope, and Cobourg and Prescott Railways as subsidiary Lines.....	100,000
	£2,000,000

The St. Mary's and London branch and subsidiary lines shall be completed by the.... 1st September, 1857.  
 Stratford and Sarnia..... 1st September, 1858.  
 Arthabaska and Three Rivers..... 1st September, 1859.  
 The Victoria Bridge..... 1st January, 1860.

The St. Thomas and Rivière-du-Loup Line as follows :

From St. Thomas to Rivière Ouelle... 1st January, 1859.  
 From Rivière Ouelle to Rivière du-Loup 1st January, 1860.

Provision in favour of Trois-Pistoles Railway.

In order to restore to the Trois-Pistoles Road, the guarantee diverted from it by the Act of 1854 (18 Victoria, Chapter 33) and expended on the Toronto and Stratford section, there shall be reserved from the proceeds of the Preferential Bonds as they are paid over to the Provincial Agents, such a portion for the section of the Road from St. Thomas to Rivière-du-Loup, as shall ensure its progress equally with the other works above mentioned.

II. Provided that the proceeds of the said Preferential Bonds to the amount aforesaid, be deposited with the Provincial Agents, the interest accruing on the Provincial Debentures issued to the Company shall, during the period of five years, (being the time necessary for the completion of the works and for the development of the through traffic,) be advanced by the Province, and such advances, as they are made, shall be repaid to the Province in share capital of the Company, and the lien of the Province, subject to the preceding conditions, shall rank, as to dividend or interest, with that of the Company's bond-holders.

On the said conditions certain interest to be advanced by the Province, and repaid in Stock; and Company's Bondholders to rank equally with the Province.

III. All Orders in Council to be made, and things to be done by the Governor of this Province in Council in pursuance of and in accordance with the conditions above mentioned, and for the purpose of the carrying out the same, shall be valid and binding: and no enactment which the Legislature of this Province may hereafter make, for carrying out and giving effect to the said conditions or any Order in Council to be made under this Act or under any provision of any Act theretofore passed relating to the said Company, according to the true intent and purport thereof, shall be deemed an infringement of the rights of the Company or of any party whatever.

Orders in Council, &c., may be made for giving effect to the foregoing provisions.

IV. This Act shall be deemed a Public Act.

Public Act.

C A P . C X I I .

An Act to provide for and encourage the construction of a Railway from Lake Huron to Quebec.

[Assented to 1st July, 1856.]

WHEREAS it is of the utmost importance to the general interests of this Province, that a main line of Railway communication should be opened from Lake Huron to the Ottawa and thence to Quebec in the most direct line; And whereas the opening of such line from Arnprior or some place between Arnprior and Pembroke, on the River Ottawa, to such point on Lake Huron as may be found best adapted for the purpose, would secure for the said main line so large a proportion of the travel and traffic of the Great West as to ensure the success of the remainder of the line from the River Ottawa to Quebec, while it would also open for settlement a most valuable tract of country now unimproved and waste, and it is therefore expedient to grant special encouragement and aid to the construction of such Railway as aforesaid: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. The Presidents, Directors and Stockholders of the North Shore Railway Company, the Vaudreuil Railway Company, the Montreal

How the Company shall be formed.

Montreal and Bytown Railway Company, the Bytown and Pembroke Railway Company, and the Brockville and Ottawa Railway Company, shall be and are hereby constituted a body politic and corporate by the name of the Lake Huron, Ottawa and Quebec Junction Railway Company, each for the share hereinafter mentioned.

Railway from Grenville to Ottawa City, to be made by two Companies jointly.

II. The Montreal and Bytown Railway Company, and the Vaudreuil Railway Company shall be entitled each to make half the Railway from opposite Grenville to the City of Ottawa, dividing such Railway between them; the Montreal and Bytown Railway Company taking the half nearest to Grenville; but with power to the Directors of the two Companies to agree that the Road shall be made and worked by the Companies in common, upon such terms and conditions as shall be made in such agreement.

Share of each of the Companies composing the New Company in that Company's Stock, &c.

III. Each of the said Companies shall have a share in the Company hereby constituted, and hereinafter also called the New Company, proportionate to the length of so much of its own Railway as forms part of the General Line from the Upper Ottawa to Quebec, but inasmuch as the distance from Montreal to Bytown, ought only to be reckoned once in establishing such proportion; therefore—

Proportion of respective shares.

1. The Montreal and Bytown Railway Company, and the Vaudreuil Railway Company shall only be entitled together to a share in the New Company, proportionate to the whole distance from Montreal to the City of Ottawa;—and inasmuch as the last named Company has renounced any share in the Capital of the New Company founded on that part of its line between Vaudreuil to some point in the Township of Hawkesbury opposite Grenville; therefore—

Shares further defined.

2. Dividing the whole Capital of the New Company into one thousand parts, the number of parts to which each Company will be entitled, shall be as follows, viz :

	Parts.
The North Shore Railway Company. ....	441
The Montreal and Bytown Railway Company. ....	240
The Vaudreuil Railway Company. ....	71
The Bytown and Pembroke Railway Company. ....	107
The Brockville and Ottawa Railway Company. ....	141
	1000

Certain clauses of 14 & 15 V. c. 51, incorporated with this Act.

IV. The several clauses of the Railway Clauses Consolidation Act with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said last mentioned Act with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation,"

valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their election and duties," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for indemnity and fines and penalties and their prosecution," "Working of the Railway," and "General Provisions," shall be incorporated with this Act, and shall accordingly apply to the said New Company and their Railway, except only in so far as they may be inconsistent with the express enactments hereof; and the expression "this Act" when used herein, shall be understood to include the provisions of the Railway Clauses Consolidation Act which are incorporated with this Act as aforesaid.

V The Company hereby incorporated and their servants and agents shall have full power under this Act to lay out, construct and complete a Railway connection between the River Ottawa, at Arnprior, or some place between Arnprior and Pembroke, and the waters of Lake Huron at such point as may seem to the Company best adapted to attain the objects mentioned in the Preamble, with full power to pass over any portion of the Country between the points aforesaid, and to carry the said Railway through the Crown Lands lying between the same.

Line of the  
Railway  
described.

VI. The capital of the Company hereby incorporated shall be six thousand five hundred pounds sterling for each mile in length of their Railway from the Ottawa to Lake Huron, (with power to increase the same in the manner provided by the Railway Clauses Consolidation Act,) which said capital shall be held by the Companies aforesaid, in the proportions hereinbefore mentioned.

Capital Stock.

Provision for  
increasing it.

VII. The Presidents for the time being, of the several Companies aforesaid, and one Director of each to be chosen by the other Directors thereof, shall form the Board of Directors of the New Company, and shall elect a President and Vice-President from among themselves.

Directors of  
the New  
Company.

VIII. The said Directors shall have the powers of Directors under the Railway Clauses Consolidation Act, except that the calls for instalments on the capital shall be made upon the several Companies composing the said New Company, instead of being made upon the individual shareholders: and upon such call being made, it shall be the duty of the Directors of each Company forthwith to pay the amount thereof to the Directors of the new Company if they have a sufficient sum in their hands, and if not, they shall forthwith make such call upon the shareholders of their Company as will enable them to pay such instalment to the New Company, and in default of their so making such call, they shall themselves be personally liable to pay the same.

General powers  
of the  
Directors.

Provision as to  
calls on Stock.

Capital of the Companies forming the New Company to be proportionately increased.

IX. The Capital Stock of each of the said Companies shall be increased by such sum as shall be requisite to pay its share of the Capital of the New Company; and such additional Capital may be raised by each of the said Companies, either by the issue of new Shares or in any other way in which money may be raised by such Company, under its Special Act and the clauses of the Railway Clauses Consolidation Act incorporated with such Special Act.

How such increased Capital shall be raised.

X. The Capital so to be raised by the issue of new shares shall be divided into shares of twenty-five pounds sterling each; and the Directors of any of the said Companies may, if they see fit, pass a By-law for converting the present shares of its stock into shares of twenty-five pounds sterling each, at par, and in that case each Stockholder shall be deemed to hold stock to the number of sterling shares which will be nearest to and not less than the value of his currency shares, paying the Company the difference, if any.

When certain conditions are complied with, the work may be commenced, but not before.

XI. Whenever the whole capital of the said Companies shall have been subscribed, including the amount required to pay the share of each of them in the New Company, and ten per cent of the whole shall have been paid up and deposited in some chartered Bank or Banks, for the purposes of this Act and of the Special Acts of the said Companies, and secured to be applied to such purposes only to the satisfaction of the Governor in Council, then and not before, the said Company may commence the said Railway and the works therewith connected, and shall go into full operation in all respects: Provided always, that the Survey for the said Railway may be commenced and made by the said New Company at any time after the passing of this Act.

Proviso: as to Survey.

Quorum of Directors.

XII. Any meeting of the Directors of the New Company, at which not less than five of such Directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said Directors.

Certificates of shares, bonds, &c., to be given by Directors.

XIII. It shall and may be lawful for the Directors of the New Company for the time being, to make, execute and deliver all such scrip and share, certificates, and all such bonds, debentures mortgages, or other securities as to the said Directors, for the time being, shall from time to time seem most expedient for raising the necessary capital or funds for the time being authorized to be raised by the said Company, or for raising any part thereof.

Bonds, &c., how to be executed.

XIV. All bonds, debentures and other securities to be executed by the said company, may be payable to bearer, and all such bonds, debentures or other securities of the New Company, and all dividends and interest warrants thereon respectively, which shall purport to be payable to bearer, shall be assignable at law

law by delivery, and may be sued on and enforced by the respective bearers and owners thereof for the time being in their own names.

XV. Calls may be made by the Directors of the New Company for the time being as they shall see fit ; Provided that no call to be made upon any Company holding stock in the New Company shall exceed the sum of ten pounds per centum upon the amount of stock in the New Company held by such Company, and that the amount of any such calls in any one year shall not exceed fifty pounds per centum upon the stock so held.

Calls on Stock.  
Proviso.

XVI Deeds and Conveyances under this Act for the lands to be conveyed to the said Company for the purposes of this Act, shall and may as far as the title to the said lands or circumstances of the parties making such conveyance will admit, be made in the form given in the Schedule to this Act marked A., and all Registrars are hereby required to register in their Registry Books such deeds on the production thereof and proof of execution, without any memorial, and to minute every such entry on the deed ; the said Company are to pay the Registrar for so doing the sum of two shillings and six pence, and no more.

Form and registration of Deeds of Conveyance to the Company.

Fee to Registrar.

XVII. And whereas it may be necessary for the said Company to possess gravel pits and lands containing deposits of gravel, as well as lands for stations and other purposes, at convenient places along their line of Railway for constructing and keeping in repair and for carrying on the business of the said Railway, and as such gravel pits or deposits cannot at all times be procured without buying the whole lot of land whereon such deposits may be found ; It is therefore enacted, That it shall be lawful for the said Company, and they are hereby authorized, from time to time to purchase, have, hold, take, receive, use and enjoy, along the line of the said Railway or separated therefrom, and if separated therefrom then with the necessary right of way thereto, any lands, tenements and hereditaments which it shall please Her Majesty or any person or persons, or bodies politic, to give, grant, sell or convey unto, and to the use of or in trust for the said Company, their successors and assigns ; and it shall and may be lawful for the said Company to establish stations or workshops on any of such lots or blocks of land, and from time to time, by deed of bargain and sale or otherwise, to grant, bargain, sell or convey any portions of such lands not necessary to be retained for gravel pits, sidings, branches, wood-yards, station-grounds or workshops, or for effectually repairing, maintaining and using to the greatest advantage the said Railway and other works connected therewith.

Power to take land for gravel pits, &c.

And to dispose of portions not required.

XVIII. And in order to aid and encourage the said Railway from the River Ottawa to Lake Huron ; Be it enacted, That four millions

Grant of land to the Company.

ny as an aid to  
make the  
Road.

Conditions of  
grant.

millions of acres of the ungranted lands of the Crown in the neighborhood of the line of the said Railway, shall be and are hereby set apart for the purposes of this Act; and whenever any portion of the said Railway, not less than twenty-five miles in length, shall be actually completed in a good and permanent manner, equal at least to that in which the Great Western Railway is made, and with stations, rolling-stock, and other appurtenances sufficient for the proper working of the said Railway, then, upon the report of some skilled Engineer whom the Governor shall appoint for the purpose, and the approval of such report by the Governor in Council, and upon a similar Report (made and approved in like manner) that each of the Companies forming the said New Company has completed in like manner, with proper rolling-stock and appurtenances, a portion of its Railway forming part of the general line, and bearing at least as great a proportion to the whole length of such part as such Company's share in the stock of the New Company, bears to the whole of the said stock,—then there shall be granted to the said Lake Huron, Ottawa and Quebec Junction Railway Company, by the Governor in Council, a portion of the said four millions of acres of land lying adjacent to the portion of the said Railway so completed, and bearing such proportion to the four millions of acres, as the length of the portion of the Railway of the said New Company so completed bears to that of the whole of the said Railway; and such grant shall be a free grant, and the Company shall have full power to alienate the lands so granted, and to deal with them in such manner as they may think proper; Provided always, that the grants to be so made to the said Company shall be of tracts of land fronting on the said Railway, such frontages to be of ten miles each, and alternating with tracts fronting thereon of the same width and quantity, to be reserved as Public Lands and dealt with as such.

Proviso.

Company may  
pledge their  
interest in such  
lands.

Unpledged  
lands how di-  
vided, &c.

XIX. Subject to the conditions abovementioned, the Directors of the New Company may pledge its interest in the said lands, as security for any sum they may find it necessary to raise for constructing the Railway and works; but any of the said lands which may be granted to the New Company, which may be clear of any such pledge, may be divided among the several Companies composing the New Company, in proportion to their respective shares in its Capital Stock, and the portion of such lands coming to each Company may be dealt with and disposed of as the Company shall by its By-laws direct.

Time for com-  
mencing and  
completing  
the work.

XX. The said Railway from the Ottawa to Lake Huron shall be commenced and twenty miles thereof completed within three years and the whole line completed within seven years from the passing of this Act, otherwise the powers and privileges hereby granted shall cease; Provided always, that if within the three years aforesaid, the said Montreal and Bytown Railway Company shall not have raised their share of the

the funds for the purposes of the Company incorporated by this Act, and commenced their share of the said road from the Ottawa to Lake Huron, it shall in that case be lawful for the said Vaudreuil Railway Company to take and complete alone the said share, and the said Company shall then be entitled to the proportion of the said lands forming the share coming to the said Montreal and Bytown Railway Company, for that part of the road which lies between Hawkesbury and the City of Ottawa.

XXI. The Company hereby incorporated and the North Shore Railway Company, the Vaudreuil Railway Company, the Montreal and Bytown Railway Company, the Bytown and Pembroke Railway Company, and the Brockville and Ottawa Railway Company, may, if they deem it advisable, unite together as one Company, and to such Union and to all proceedings previous or subsequent thereto, the provisions of the Acts passed in the sixteenth year of Her Majesty's Reign and chaptered respectively thirty-nine and seventy-six, shall apply as fully as to the Railways and Railway Companies therein mentioned, and the Company formed by such Union shall have all the rights and be subject to all the obligations of the New Company hereby incorporated: Provided always, that the corporate name of the Company formed by such union shall be the same as that of the Company hereby incorporated.

The several Companies first mentioned may unite if they think fit.

Act 16 V. cc. 39 & 76 to apply to such union.

Proviso.

XXII. All provisions of the several Special Acts incorporating the Companies mentioned in the next preceding section, or of any Act or Acts amending such Special Acts or of any other Act or Law, which shall be inconsistent with this Act are and shall be repealed from the passing thereof.

Inconsistent enactments repealed.

XXIII. The expression "the New Company" in this Act, shall always mean the Lake Huron, Ottawa and Quebec Junction Railway Company, hereby incorporated; the expression "the North Shore Railway Company" shall mean the Company incorporated by that name by the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered one hundred; the expression "the Vaudreuil Railway Company" shall mean the Company incorporated by that name, by the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered one hundred and thirty-four; the expression "the Montreal and Bytown Railway Company" shall mean the Company incorporated by that name, by the Act passed in the sixteenth year of Her Majesty's Reign and chaptered one hundred and three; the expression "the Bytown and Pembroke Railway Company" shall mean the Company incorporated by that name by the Act passed in the sixteenth year of Her Majesty's Reign and chaptered one hundred and thirty-seven; and the expression "the Brockville and Ottawa Railway Company" shall mean the Company incorporated by that name by the Act passed in the sixteenth year of Her Majesty's Reign and chaptered one hundred and six.

Interpretation.

Public Act,  
&c.

XXIV. The Interpretation Act shall apply to this Act, nor shall enactment hereinafter to be made for the purpose of carrying out its several provisions according to their true intent, be deemed an infringement of the rights of any of the Companies aforesaid or of any person or party; and this Act shall be deemed a Public Act.

SCHEDULE A.

Know all men by these presents that I, *(insert the name of the wife also, if she is to release her dower, or for any other reason to join in the conveyance,)* do hereby in consideration of \_\_\_\_\_ paid to me *(or as the case may be)* by the Lake Huron, Ottawa and Quebec Junction Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Lake Huron, Ottawa and Quebec Junction Railway Company, their successors and assigns for ever, all that certain parcel or tract of land situate *(describe the land)*—the same having been selected and laid out by the said Company for the purpose of their Railway; to have and to hold the said land and premises, together with every thing appertaining thereto to the said Lake Huron, Ottawa and Quebec Junction Railway Company, their successors and assigns for ever, *(if there be dower to be released, add and I, (name the wife) hereby release my dower in the premises.*

Witness my *(or our)* hand *(or hands)* and seal *(or seals)* this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

A. B. [L. S.]

C. D. [L. S.]

Signed, sealed and delivered in }  
the presence of O. K. }

C A P . C X I I I .

An Act to amend and extend the Charter of the Amherstburgh and St. Thomas Railway Company.

*[Assented to 1st July, 1856.]*

Preamble.

**W**HEREAS the Amherstburgh and St. Thomas Railway Company have prayed for amendments to their Act of Incorporation, and it is expedient to grant their prayer: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

First general meeting under 18 V. c. 182, when to be held.

I. Notwithstanding any thing in the seventh section of the Act passed in the eighteenth year of the Her Majesty's Reign, and intituled, *An Act to incorporate the Amherstburgh and St. Thomas Railway Company*, as soon as two hundred and fifty thousand

thousand pounds of the Capital Stock of the said Company shall have been subscribed, and ten per cent. paid thereon, in the manner required by the said Act, a general meeting of the Shareholders shall be held at the Town of Amherstburgh or St. Thomas, or at some intermediate place, for the purpose of electing Directors and putting the said Act into effect, as if the said sum had been that fixed by the said section, instead of the sum of five hundred thousand pounds.

The said Act amended in this respect.

II. And whereas it may be necessary for the said Company to possess gravel pits, and lands containing deposits of gravel, as well as lands for stations and other purposes, at convenient places along their line of Railway, for constructing and keeping in repair, and for carrying on the business of the said Railway, and as such gravel pits or deposits cannot at all times be procured, without purchasing the whole lot of land whereon such deposits may be found; it is therefore enacted, that it shall be lawful for the said Company, and they are hereby authorized, from time to time, to purchase, have, hold, take, receive, use and enjoy, along the line of the said Railway or separated therefrom, and if separated therefrom, then with the necessary right of way thereto, any lands, tenements and hereditaments which it shall please Her Majesty, or any person or persons, or bodies corporate, to give, grant, sell or convey unto, and to the use of, or in trust for, the said Company their successors and assigns; and it shall and may be lawful for the said Company to establish stations or workshops on any of such lots or blocks of land, and from time to time, by deed of bargain and sale or otherwise, to grant, bargain, sell or convey any portion of such lands not necessary to be retained for the purposes of the said Company.

Company may hold land for gravel pits, &c.

III. The said Company are hereby empowered to unite with any other Railway Company, whose Railway intersects that of the said Company, or touches a place which their road also touches, and to such Union the provisions of the Acts passed in the sixteenth year of Her Majesty's Reign, and chaptered respectively thirty-nine and seventy-six, shall extend and apply.

Company may unite with any other, under 16 V. cc. 39 & 76.

IV. The Railway and works of the said Company shall be commenced within three years and completed within six years after the passing of this Act; any thing in the Act hereby amended to the contrary notwithstanding.

Period for commencing and completing the Railway.

V. This Act shall be deemed a Public Act.

Public Act.

## CAP. CXIV.

## An Act to incorporate the Queenston and St. Catharines Railway Company.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS certain persons have petitioned that an Act may be passed authorizing the construction of a Railway from Queenston in the County of Lincoln to or near to St. Catharines in the same County, so as to form a Railway connection between the said places as near as may be; And whereas a Railway so constructed would tend to the improvement of the section of country through which it would pass: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

I. Joseph P. Boomer, Richard Woodruff, Senior, Joseph Wynn, Peter B. Clement, Thomas Merritt, Calvin S. Phelps, W. H. Merritt, Junior, William A. Chisholm, James C. Woodruff, J. C. Rykert, William Woodruff, Job Chubbuck, and Adam Brown, Esquires, together with such other person or persons, Corporations and Municipalities as shall, under the provisions of this Act, become shareholders in the Company hereby incorporated, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, by and under the name of the "Queenston and Saint Catharines Railway Company."

Corporate name.

Certain clauses of 14 &amp; 15 V. c. 51, incorporated with this Act.

II The several clauses of the Railway Clauses Consolidation Act with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said last mentioned Act with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their election and duties," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for indemnity and fines and penalties and their prosecution," "Working of the Railway," and "General Provisions," shall be incorporated with this Act, and shall accordingly apply to the said Company and the said Railway, except only in so far as they may be inconsistent with the express enactments hereof; and the expression "this Act" when used herein, shall be understood to include the provisions of the Railway Clauses Consolidation Act which are incorporated with this Act as aforesaid.

Line of Railway defined.

III. The said Company and their servants and agents shall have full power under this Act to lay out, construct and complete a Railway connection between Queenston in the County of Lincoln and St. Catharines in the same County, with full power

power to pass over any portion of the intermediate country, to intersect and unite with the Great Western or any other Railway at or near St. Catharines, in the manner provided in the ninth section of the Railway Clauses Consolidation Act.

IV. Deeds and Conveyances under this Act for the lands to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said lands or circumstances of the parties making such conveyance will admit, be made in the form given in the Schedule to this Act marked A., and all Registrars are hereby required to register in their Registry Books such deeds on the production thereof and proof of execution, without any memorial, and to minute every such entry on the deed; the said Company are to pay the Registrar for so doing the sum of two shillings and six pence, and no more.

Form of Deeds to the Company and mode of registering them.

Fee to Registrar.

V. From and after the passing of this Act the said Joseph P. Boomer, Richard Woodruff, Joseph Wynn, Peter B. Clement, Thomas Merritt, Calvin S. Phelps, James C. Woodruff, J. C. Rykert, William Woodruff and Adam Brown, Esquires, shall be Provisional Directors of the said Company for carrying into effect the object and purposes of this Act.

Provisional Directors.

VI. It shall and may be lawful for the Provisional Directors for the time being of the said Company or a majority of them, to supply the place or places of any of their number from time to time dying or declining to act as such Provisional Director or Directors, out of the several subscribers for stock in their said Railway to the amount of at least two hundred and fifty pounds provincial currency each, during the period of their continuance in office; and such Provisional Directors, except as hereinafter is excepted, shall be and they are hereby invested with all the powers, rights, privileges and indemnities, and they shall be and are hereby made subject unto the like restrictions, as the elected Directors of the said Company, upon their being elected by the stockholders of the said Company as hereinafter provided, would under the provisions of the Railway Clauses Consolidation Act and of this Act, become invested with or subject unto respectively.

Vacancies among them how filled.

Their powers and duties.

VII. When and so soon as shares to an amount equivalent to sixty thousand pounds provincial currency in the capital stock of the said Company shall be taken, and ten pounds per centum thereon shall have been paid into some of the chartered Banks of this Province, it shall and may be lawful for the Provisional Directors of the said Company for the time being, to call a meeting at the Town of Queenston or St. Catharines, of the subscribers for stock in the said Company, and who have paid ten per centum thereon as aforesaid, for the purpose of electing Directors of the said Company; Provided always, that if the said Provisional Directors shall neglect or omit to call such meeting, then the same may be called by any five of the holders

First general meeting of Stockholders.

Proviso.

Proviso. Notice.  Election of Directors.  By-laws.  Proviso.	Term of office of Directors.  Annual gene- ral meeting.  Special gene- ral meetings and powers thereof.	Capital £100,000, and how to be raised.	<p>of shares in the said Company holding among them not less than an amount equivalent to four thousand pounds provincial currency; And provided always, that in either case public notice of the time and place of holding such meeting shall be given during one month in some one newspaper published in the Town of St. Catharines; and at such General Meeting the shareholders assembled, with such proxies as shall be present, shall choose seven persons to be Directors of the said Company, being each a proprietor of shares in the said Company to an amount of not less than two hundred and fifty pounds provincial currency, and shall also proceed to pass such rules, regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act; Provided also that such ten per cent shall not be withdrawn from such Bank or otherwise applied, except for the purposes of such Railway or upon the dissolution of the Company, from any cause whatsoever.</p> <p>VIII. The Directors so elected or those appointed in their stead in case of vacancy, shall remain in office until the first Wednesday in June, one thousand eight hundred and fifty-eight; and on the said first Wednesday in June and on the first Wednesday in June in each year thereafter, or such other day as shall be appointed by any By-law, an Annual General Meeting of the Shareholders shall be held at the office of the Company for the time being, to choose eleven Directors in the room of those whose period of office shall have expired, and generally to transact the business of the Company; but if at any time it should appear to any ten or more of such Shareholders holding together two hundred and fifty shares at least, that a Special General Meeting of the Shareholders is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof, in such newspapers as are hereinbefore provided, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place and the reason and intention of such Special Meeting respectively; and the shareholders are hereby authorized to meet pursuant to such notice and proceed to the execution of the powers by this Act given to them, with respect to the matter so specified only: and all such acts of the shareholders or the majority of them at such Special Meetings assembled, (such majority not having either as principals or proxies less than two hundred and fifty shares,) shall be as valid to all intents and purposes as if the same were done at Annual Meetings.</p> <p>IX. For the purpose of making, constructing and maintaining the Railway and other works necessary for the proper use and enjoyment of the Railway by this Act authorized to be constructed, it shall and may be lawful for the Directors of the said Company for the time being, to raise in such manner by loan, subscription of Stock, issuing of shares or otherwise, as to the Directors of the said Company, for the time being, shall from time to time seem fit, the sum of one hundred thousand pounds</p>
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pounds Provincial currency, such shares to be issued in sums of twenty-five pounds Provincial currency each : Provided always, that the said capital sum may from time to time, if necessary, be increased in the manner provided for by those clauses of the Railway Clauses Consolidation Act, which in and by the second section of this Act are expressed to be incorporated with this Act.

Proviso for increase of Capital.

X. It shall and may be lawful for the Directors of the said Company for the time being, to make, execute and deliver all such scrip and share certificates, and all such bonds, debentures, mortgages, or other securities, as to the said Directors for the time being shall from time to time seem most expedient for raising the necessary capital for the time being authorized to be raised by the said Company, or for raising any part thereof.

Directors to issue shares, scrip, &c.

XI. Every proprietor of shares in the said Company shall be entitled on every occasion when the votes of the members of the said Queenston and St. Catharines Railway Company are to be given, to one vote for every share of twenty-five pounds currency held by him.

One vote for each share.

XII. All bonds, debentures and other securities to be executed by the said Railway Company may be payable to bearer, and all such bonds, debentures or other securities of the said Company, and all dividends and interest warrants thereon respectively, which shall purport to be payable to bearer, shall be assignable at law by delivery, and may be sued on and enforced by the respective bearers and owners thereof for the time being in their own names.

Debentures, &c., may be payable to bearer.

XIII. Any meeting of the Directors of the said Company, at which not less than five of such Directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said Directors.

Quorum of Directors.

XIV. Calls may be made by the Directors of the said Company for the time being ; Provided that no call to be made upon the subscribers for stock in the said Railway Company, shall exceed the sum of ten pounds per centum upon the amount subscribed for by the respective shareholders in the said Company, and that the amount of any such calls in any one year shall not exceed fifty pounds per centum upon the stock so subscribed ; Provided also, that upon the occasion of any person or Corporation becoming a subscriber for stock in the said Company, it shall and may be lawful for the Provisional and other Directors of the said Company, for the time being, to demand and receive to and for the use of the said Company, the sum of ten pounds per centum upon the amount so by such person or Corporation respectively subscribed, and the amount of such calls as shall have already been made payable in respect of the stock then already subscribed, at the time of such person or Corporation respectively subscribing for stock.

Calls how made, and amount at one time, &c.

Proviso : ten per cent. may be demanded on subscribing.

Company may purchase lots of land for gravel pits, stations, etc.

XV. And whereas it may be necessary for the said Company to possess gravel pits and lands containing deposits of gravel, as well as lands for stations and other purposes at convenient places along their line of Railway, for constructing and keeping in repair and for carrying on the business of the said Railway, and as such gravel pits or deposits cannot at all times be procured without buying the whole lot of land whereon such deposits may be found; It is therefore enacted, that it shall be lawful for the said Company, and they are hereby authorized, from time to time to purchase, have, hold, take, receive, use and enjoy, along the line of the said Railway or separated therefrom, and if separated therefrom, then with the necessary right of way thereto, any lands, tenements, and hereditaments which it shall please Her Majesty or any person or persons, or bodies politic, to give, grant, sell or convey unto, and to the use of or in trust for the said Company, their successors and assigns, and it shall and may be lawful for the said Company to establish stations or workshops on any of such lots or blocks of land, and from time to time by deed of bargain and sale or otherwise, to grant, bargain, sell or convey any portions of such lands not necessary to be retained for gravel pits, sidings, branches, wood yards, station-grounds or workshops, or for effectually repairing, maintaining and using to the greatest advantage, the said Railway and other works connected therewith.

May dispose of such lots of land as they shall not require.

Commencement and completion of Railway.

XVI. The said Railway shall be commenced within two years and completed within five years after the passing of this Act.

Public Act.

XVII. The Interpretation Act shall apply to this Act, and this Act shall be deemed a Public Act.

#### SCHEDULE A.

Know all men by these presents that I,  
*(insert the name of the wife also, if she is to release her dower, or for any other reason to join in the conveyance,)* do hereby in consideration of \_\_\_\_\_ paid to me *(or as the case may be)* by the Queenston and St. Catharines Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Queenston and St. Catharines Railway Company, their successors and assigns for ever, all that certain parcel or tract of land situate *(describe the land)* the same having been selected and laid out by the said Company for the purpose of their Railway; to have and to hold the said land and premises together with every thing appertaining thereto to the said Queenston and St. Catharines Railway Company, their successors and assigns for ever, *(if there be dower to be released, add)* and I, *(name the wife)* hereby release my dower in the premises.

Witness

Witness my hand (or our hands) and seal (or seals) this day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

A. B. [L. S.]  
C. D. [L. S.]

Signed, sealed and delivered in }  
the presence of O. K. }

C A P . C X V .

An Act to incorporate the Waterloo and Saugeen Railway Company.

[Assented to 1st July, 1856.]

**W**HEREAS certain persons in the City of Hamilton have petitioned, that an Act may be passed authorizing the construction of a Railway from the Town of Berlin, in the County of Waterloo, to the waters of Lake Huron, at or near Port Elgin, in the County of Bruce, so as to form a Railway connection between the said places; And whereas a Railway so constructed would tend to the improvement of the section of country through which it would pass: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: Preamble.

I. Jasper T. Gilkison, Adam Brown, William P. MacLaren, Samuel B. Freeman, of the City of Hamilton, Esquires, John Hoffman, Isaac Weaver, and Hartman Schnair, of the Village of Waterloo, Esquires, Henry Snider, Peter N. Tagge, Charles Hendry, John Moyer; Peter Winger, and Edward Bristow, of the Township of Woolwich, Esquires, Michael P. Empey, John Hawk, J. Ament, W. Ballard, John Zoeger, William Hastings, Peter Smith, and Alexander Buchanan, of the Township of Wellesley, Esquires, Peter N. Tagge, Isaac Clements, Samuel Shants, Samuel B. Bowman, and Jonathan B. Bowman, of the Township of Waterloo, Esquires, David S. Shoemaker, John Scott, George Davidson, John A. Mackie, Jacob Hoffman, John Klein, Abram Tyson, Enoch Zeigler, David S. Bowlby, and Charles Stanton, of the Town of Berlin, Esquires, Abraham A. Erb, Jacob Hespeler, and Otto Klotz, of the Village of Preston, Esquires, William Osborne and Emilius Irving, of the Town of Galt, Esquires, together with such other person or persons, Corporations and Municipalities as shall, under the provisions of this Act, become Shareholders in the Company hereby incorporated, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, by and under the name of the "Waterloo and Saugeen Railway Company." Certain persons incorporated.

II. The several clauses of the Railway Clauses Consolidation Act, with respect to the first, second, third and fourth clauses thereof; and also the several clauses of the said last mentioned Act with Certain clauses of 14 & 15 V. c. 51,

incorporated  
with this Act.

with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their Election and Duties," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for indemnity, and fines and penalties and their prosecution," "Working of the Railway," and "General Provisions," shall be incorporated with this Act, and shall accordingly apply to the said Company and the said Railway, except only in so far as may be inconsistent with the express enactments hereof; and the expression "this Act" when used herein, shall be understood to include the provisions of the Railway Clauses Consolidation Act which are incorporated with this Act as aforesaid.

Line of Rail-  
way defined.

III. The said Company and their servants and agents shall have full power under this Act to lay out, construct and complete a Railway connection between Berlin, in the County of Waterloo, by way of Waterloo Village, and the waters of Lake Huron at or near Port Elgin, in the County of Bruce, to intersect and unite with the Grand Trunk Railway at Berlin, as provided by the ninth section of the Railway Clauses Consolidation Act, and to construct a Fork or Branch to Owen Sound from any point north of Durham.

Branch to  
Owen Sound.

Form of Deeds  
to the Compa-  
ny and mode  
of registering  
them.

IV. Deeds and conveyances under this Act for the lands to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said lands or circumstances of the parties making such conveyance will admit, be made in the form given in the Schedule to this Act marked A; and all Registrars are hereby required to register in their Registry Books such deeds on the production thereof and proof of execution, without any memorial, and to minute every such entry on the Deed; the said Company are to pay the Registrar for so doing the sum of two shillings and six pence, and no more.

Provisional  
Directors.

V. From and after the passing of this Act the said William P. MacLaren, Samuel B. Freeman and James Cummings, John Ferrie, Charles A. Sadlier, John Brown, Jasper T. Gilkison, Jacob Hespeler, William Clarke, John Hoffmān, Henry Snider, David S. Shoemaker, Michael P. Empey, Peter N. Tagge, John F. Moore, Nehemiah Ford and Charles Hendry, Esquires, shall be the Provisional Directors of the said Company for carrying into effect the object and purposes of this Act.

Vacancies  
among them  
how filled.

VI. It shall and may be lawful for the Provisional Directors for the time being of the said Company, or a majority of them, to supply the place or places of any of their number from time to time dying or declining to act as such Provisional Director or Directors, out of the several subscribers for stock in their said Railway to the amount of at least two hundred and fifty pounds provincial

provincial currency each, during the period of their continuance in office; and such Provisional Directors, except as hereinafter is excepted, shall be and they are hereby invested with all the powers, rights, privileges and indemnities, and they shall be and they are hereby made subject unto the like restrictions, as the elected Directors of the said Company, upon their being elected by the Stockholders of the said Company as hereinafter provided, would under the provisions of the Railway Clauses Consolidation Act and of this Act, become invested with or subject unto respectively.

Their powers and duties.

VII. When and so soon as shares to an amount equivalent to one hundred thousand pounds provincial currency, in the capital stock of the said Company shall be taken, and ten pounds per centum thereon shall have been paid into some one of the Chartered Banks of this Province, it shall and may be lawful for the Provisional Directors of the said Company for the time being, to call a meeting at the Town of Berlin of the subscribers for stock in the said Company, and who have paid ten per centum thereon as aforesaid, for the purpose of electing Directors of the said Company; Provided always, that if the said Provisional Directors shall neglect or omit to call such meeting, then the same may be called by any ten of the holders of shares in the said Company holding among them not less than an amount equivalent to five thousand pounds provincial currency; And provided always, that in either case public notice of the time and place of holding such meeting shall be given during one month, in some one newspaper published in the Town of Berlin, and also in some one newspaper published in each of the counties through which the said Railway shall pass or be intended to pass, or in such of the said counties as shall have a newspaper published therein respectively; and at such General Meeting the Shareholders assembled, with such proxies as shall be present, shall choose eleven persons to be Directors of the said Company, being each a proprietor of shares in the said Company to an amount of not less than two hundred and fifty pounds provincial currency, and shall also proceed to pass such Rules, Regulations and By-laws, as shall seem to them fit, provided they be not inconsistent with this Act: And provided also, that such ten per cent. shall not be withdrawn from such Bank, or otherwise applied except for the purposes of such Railway, or upon the dissolution of the Company from any cause whatsoever.

First general meeting of Stockholders.

Proviso: Failure of meeting.

Proviso. Notice.

Election of Directors.

Making By-laws.

Proviso.

VIII. The Directors so elected or those appointed in their stead in case of vacancy, shall remain in office until the first Wednesday in June, one thousand eight hundred and fifty-eight, and on the said first Wednesday in June and on the first Wednesday in June in each year thereafter, or such other day as shall be appointed by any By-law, an Annual General Meeting of the Shareholders shall be held at the office of the Company

Term of office of Directors.

Annual general meeting.

Special general meetings and powers thereof.

Company for the time being, to choose eleven Directors in the room of those whose period of office shall have expired, and generally to transact the business of the Company; but if at any time it should appear to any ten or more of such Shareholders holding together one thousand shares, at least, that a Special General Meeting of the Shareholders is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof in such newspapers as are hereinbefore provided, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place and the reason and intention of such Special Meeting respectively; and the shareholders are hereby authorized to meet pursuant to such notice and proceed to the execution of the powers by this Act given to them, with respect to the matters so specified only; and all such acts of the shareholders, or the majority of them, at such Special Meetings assembled, (such majority not having either as principals or proxies less than one thousand shares,) shall be as valid to all intents and purposes as if the same were done at Annual Meetings.

Capital £750,000, and how to be raised.

Proviso for increase of Capital.

IX. For the purpose of making, constructing and maintaining the Railway and other works necessary for the proper use and enjoyment of the Railway by this Act authorized to be constructed, it shall and may be lawful for the Directors of the said Company for the time being, to raise in such manner by loan, subscription of stock, issuing of shares or otherwise as to the Directors of the said Company for the time being shall from time to time seem fit, the sum of seven hundred and fifty thousand pounds provincial currency, such shares to be issued in sums of five pounds provincial currency each; Provided always, that the said capital sum may from time to time, if necessary, be increased in the manner provided for by those clauses of the Railway Clauses Consolidation Act, which in and by the second section of this Act are expressed to be incorporated with this Act.

Directors to issue shares, scrip, &c.

X. It shall and may be lawful for the Directors of the said Company for the time being, to make, execute and deliver all such scrip and share certificates, and all such bonds, debentures, mortgages or other securities, as to the said Directors for the time being shall from time to time seem most expedient, for raising the necessary capital for the time being authorized to be raised by the said Company, or for raising any part thereof.

One vote for each share.

XI. Every proprietor of shares in the said Company shall be entitled, on every occasion when the votes of the members of the said Waterloo and Saugeen Railway Company are to be given, to one vote for every share of five pounds currency held by him.

XII. All bonds, debentures and other securities to be executed by the said Railway Company may be payable to bearer, and all such bonds, debentures or other securities of the said Company, and all dividends and interest warrants thereon respectively, which shall purport to be payable to bearer, shall be assignable at law by delivery, and may be sued on and enforced by the respective bearers and owners thereof for the time being, in their own names.

Debentures, &c., may be payable to bearer.

XIII. Any meeting of the Directors of the said Company, at which not less than five of such Directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said Directors.

Quorum of Directors.

XIV. Calls may be made by the Directors of the said Company for the time being: Provided that no call to be made upon the subscribers for stock in the said Railway Company, shall exceed the sum of ten pounds per centum upon the amount subscribed for by the respective Shareholders in the said Company, and that the amount of any such calls in any one year shall not exceed fifty pounds per centum upon the stock so subscribed: Provided also, that upon the occasion of any person or Corporation becoming a subscriber for stock in the said Company, it shall and may be lawful for the Provisional and other Directors of the said Company, for the time being, to demand and receive to and for the use of the said Company, the sum of ten pounds per centum upon the amount so, by such person or Corporation respectively, subscribed, and the amount of such calls as shall have already been made payable in respect of the stock then already subscribed, at the time of such person or Corporation respectively subscribing for stock.

Calls how made, and amount at one time, &c.

Proviso: ten per cent. may be demanded on subscribing.

XV. And whereas it may be necessary for the said Company to possess gravel pits and lands containing deposits of gravel, as well as lands for stations and other purposes, at convenient places along their line of Railway, for constructing and keeping in repair and for carrying on the business of the said Railway; And as such gravel pits or deposits cannot at all times be procured without buying the whole lot of land whereon such deposits may be found: It is therefore enacted, that it shall be lawful for the said Company, and they are hereby authorized, from time to time, to purchase, have, hold, take, receive, use and enjoy along the line of the said Railway or separated therefrom, and if separated therefrom, then with the necessary right of way thereto, any lands, tenements and hereditaments which it shall please Her Majesty or any person or persons, or bodies politic, to give, grant, sell or convey unto, and to the use of or in trust for the said Company, their successors and assigns, and it shall and may be lawful for the said Company to establish stations or workshops on any of such lots or blocks of land, and from time to time, by deed of bargain and sale or otherwise, to grant, bargain, sell or convey any

May purchase lots of land for gravel pits, stations, &c.

May dispose of such lots of land as they any

shall not require.

any portions of such lands not necessary to be retained for gravel pits, sidings, branches, wood-yards, station grounds or work-shops, or for effectually repairing, maintaining and using to the greatest advantage the said Railway and other works connected therewith.

Commencement and completion of Railway.

XVI. The said Railway shall be commenced within three years and completed within ten years after the passing of this Act.

Public Act.

XVII. The Interpretation Act shall apply to this Act, and this Act shall be deemed a Public Act.

### SCHEDULE A.

Know all men by these presents that I,  
(*insert the name of the wife also, if she is to release her dower, or for any other reason to join in the conveyance,*) do hereby in consideration of \_\_\_\_\_ paid to me (*or as the case may be,*) by the Waterloo and Saugeen Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Waterloo and Saugeen Railway Company, their successors and assigns for ever, all that certain parcel or tract of land situate (*describe the land*)—the same having been selected and laid out by the said Company for the purpose of their Railway; to have and to hold the said land and premises together with every thing appertaining thereto, to the said Waterloo and Saugeen Railway Company, their successors and assigns for ever, (*if there be dower to be released, add*) and I, (*name the wife*) hereby release my dower in the premises.

Witness my (*or our*) hand (*or hands*) and seal (*or seals*) this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

A. B. [L. S.]  
C. D. [L. S.]

Signed, sealed and delivered in the presence of

O. K.

### C A P . C X V I .

An Act to render operative the Carillon and Grenville section of the Montreal and Bytown Railway.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS the Montreal and Bytown Railway Company have already constructed a portion of the said Railway consisting of about twelve and a half miles from Carillon to Grenville, which has been ready for use during the last two years; And

And whereas the Company, in consequence of financial difficulties, have been unable to complete the said road, and have been prevented from working the portion of the same already completed, by the proprietors of the lands through which the said road passes not having been indemnified for the same; And whereas it would be advantageous to that portion of the Country, and to the creditors of the said Company, that the said portion of the road should be put in operation: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall be lawful for the Directors of the said Company to transfer, within one year from the passing of this Act, the said portion of the said Railway from Carillon to Grenville, with the rolling-stock, to the Wardens for the time being, of the Municipalities of the Counties of Ottawa and Argenteuil, in trust, for the purpose of working the said road for the benefit of the creditors of the said Company; and the said Wardens shall have all the rights, privileges and powers of the said Company, for the purposes of purchasing lands and of working and managing that portion of the said Railway.

Directors may transfer the said portion to the Wardens of Ottawa and Argenteuil, in trust, &c.

II. The transfer of the said section of the Road shall not be accepted by the Wardens of the said Municipalities, without the consent of the Members of the Councils, expressed by a Resolution to be passed at a Special Meeting called for that purpose after fifteen days' notice.

Wardens not to accept without the consent of their Councils.

III. It shall be in the power of the said Wardens, by and with the consent of the Municipal Councils of the said Counties of Ottawa and Argenteuil, to borrow a sum not exceeding six thousand pounds Sterling, for the purpose of paying and indemnifying the proprietors of the lands through which the said portion of the road runs, and also to pay the claims of the workmen who have been employed on the said Road, and to make the necessary repairs to put the same in working order, on the security of the said portion of the road and to be a first mortgage on the same.

Wardens with consent of Councils may borrow £6000 for the purposes of this Act.

IV. It shall be the duty of the said Wardens to apply the proceeds of the said road,—first, to the payment of the running expenses; secondly, to the payment of the interest on the said sum of six thousand pounds sterling, or any portion thereof which may have been borrowed by the said Wardens for the purposes aforesaid; thirdly, for creating a sinking fund of two per cent per annum on the sum so borrowed, for the purpose of paying the same;—and the balance of said proceeds, if any, shall be by them deposited in some chartered Bank in the City of Montreal, to be applied to the payment of the claims of the creditors against the said Company, in proportion to their respective claims and according to the priority or preference of such claims.

How the proceeds of the Railway shall be applied by the Wardens.

Balance to be deposited for the creditors.

Company may resume the said portion when the said £6,000, and interest is paid off.

V. The said Montreal and Bytown Railway Company shall have a right to assume the said Section, on repayment of the said six thousand pounds sterling, or such portion thereof as shall have been borrowed for the purposes aforesaid and all unpaid interest accrued thereon, with other necessary charges, and the powers of which they are hereby divested, shall then be again vested in the said Company, and the functions of the parties in whom they are hereby vested shall cease; and whenever the said six thousand pounds sterling, and all interest thereon, and other charges authorized to be paid under this Act, shall be paid off, then the said Railway and powers shall revert to and be reinvested in the said Company.

Creditors' rights of Company saved.

VI. Nothing in this Act shall be interpreted to divest any of the creditors of the said Company of any claim or right they might have or exercise before the passing of this Act.

Public Act.

VII. This Act shall be deemed a Public Act.

## C A P . C X V I I .

### An Act to incorporate the Kingston and Newburgh Railway Company.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS Overton Smith Gildersleeve, John Watkins, William Wilson, David Shaw, John R. Dickson, John R. Forsyth, James Harty, Archibald J. McDonell, Alexander Campbell, Thomas Kirkpatrick, George Davidson, and Horatio Yates, of the City of Kingston, Esquires, and others, have petitioned the Legislature to incorporate a Company to construct a Railway from the City of Kingston through Clark's Mills to Newburgh, and it is expedient to grant the prayer of the said petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Incorporation of Company

I. The above named persons, together with such persons, corporations, municipalities and companies, as well foreign as provincial, as shall under the provisions of this Act become Shareholders in the Company hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact by and under the name and style of the "Kingston and Newburgh Railway Company."

Corporate name.

Certain clauses of 14 & 15 V. c. 51, incorporated with this Act.

II. The several clauses of "The Railway Clauses Consolidation Act" with respect to the first, second, third and fourth clauses thereof, and also, the several clauses of the said Act with respect to "interpretation," "incorporation," "powers," "plans and surveys," "lands and their valuation," "highways and bridges," "fences," "tolls," "general meetings," "Directors, their election and duties," "shares and their transfer," "municipalities,"

“municipalities,” “shareholders,” “actions for indemnity, and fines and penalties and their prosecution,” “working of the Railway,” and “general provisions,” shall be incorporated with this Act, and shall be included by the expression “this Act,” whenever used therein.

III. The said Company and their servants or agents, shall have full power under this Act, to lay out, construct, make and finish a double or single iron Railway or Road at their own cost and charges, on and over any part of the country lying between the City of Kingston and Newburgh, through Clark’s Mills. Line of Railway defined.

IV. Deeds and conveyances under this Act, for lands to be conveyed to the said Company for the purposes of this Act, shall and may as far as the title to the said lands or the circumstances of the parties making such conveyances will admit, be made in the form given in the Schedule to this Act, marked A ; and all Registrars are hereby required to enter in their Registry Books such deeds, on the production thereof and proof of execution, without any memorial, and to minute every such entry on the deed ; and the said Company are to pay to the said Registrar for so doing, the sum of two shillings and six pence, and no more. Form of Deeds to the Company.  
Registration.  
Fee.

V. The Capital Stock of the said Company shall not exceed in the whole the sum of three hundred thousand pounds currency, to be divided into twenty thousand shares of twenty-five pounds each, which amount shall be raised by the persons or parties above named, or some of them, together with such other persons and Corporations as may become subscribers towards such Stock ; and the said money so raised shall be applied in the first place towards the payment and discharge of all fees, expenses and disbursements for procuring the passing of this Act, and for making the surveys, plans and estimates of the said Railway and connected therewith. Capital of Company.  
How to be applied.

VI. Within three months after this Act shall be passed, a General Meeting of the Shareholders shall be held at the City of Kingston, for the purpose of putting this Act into effect, which Meeting shall be called by any five of the persons named in this Act, ten days’ public notice thereof being given by being published in any one of the newspapers of the City of Kingston ; at which said General Meeting, the Shareholders present having paid five per cent. on their Stock subscribed, shall, either in person or by proxy, choose nine Directors in the manner and qualified as hereinafter mentioned, who, together with the *ex officio* Directors, as provided by the Railway Clauses Consolidation Act, shall hold office until the first Annual General Meeting for the election of Directors, and until others are elected in their stead : Provided always, that such Meeting shall not be called until at least ten per cent. upon the entire capital of the First general meeting.  
Notice.  
Election of Directors.  
Term of office, Proviso.  
Company

- Company shall have been paid in to some one of the Chartered Banks of this Province; And provided also, that such ten per cent. shall not be withdrawn from such Bank, or otherwise applied, except for the purposes of such Railway, or upon the dissolution of the Company from any cause whatsoever.
- Annual general meeting.** VII. On the second Monday in June in each year, at the City of Kingston, at the office of the Company, there shall be chosen by the Shareholders nine Directors in the manner herein-after directed; and public notice of such annual election shall be published one month before the day of election, in any two newspapers published in the City of Kingston; and all elections for Directors shall be by ballot, and the persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen that two or more shall have an equal number of votes, the Shareholders shall determine the election by another or other votes until a choice is made; and if a vacancy shall at any time happen among the Directors, by death, resignation, or removal from the Province, such vacancy shall be filled for the remainder of the year by a majority of the Directors; and the said nine Directors, with the said *ex officio* Directors, shall form the Board of Directors.
- Notice.**
- Ballot.**
- Tics.**
- Vacancies, how filled.**
- Board of Directors.**
- Quorum.** VIII. The number of Directors who shall form a quorum for the transaction of business may be regulated by the By-laws of the Company, and until such By-laws shall be passed, a majority of the Directors shall form such quorum; Provided that the Directors may employ one of their number as a paid Director.
- Paid Director.**
- Qualification of Directors.** IX. The persons qualified to be elected Directors of the said Company, under this Act, shall be every Shareholder holding stock to the amount of two hundred and fifty pounds, who shall have paid up all calls on such Stock.
- Calls limited.** X. No call of money from the Shareholders shall exceed ten per cent. on their shares.
- One vote for each share.** XI. Each Shareholder in his own right shall be entitled to a number of votes equal to the number of shares which he shall have in his name two weeks prior to the time of voting.
- Company may be a party to Bills of Exchange, &c., and bonds.** XII. The said Company shall have power to become parties to promissory notes and Bills of Exchange, for sums not less than twenty-five pounds; and any such promissory note made or endorsed, and any such Bill of Exchange drawn, accepted, or endorsed by the President or the Vice-President of the Company, and countersigned by the Secretary and Treasurer, and under the authority of a majority of a quorum of the Directors, shall be binding upon the Company; and every such promissory note or bill of exchange made, drawn, accepted or endorsed by the President or Vice-President of the said Company, and countersigned

countersigned by the Secretary and Treasurer as such, shall be presumed to have been properly made, drawn, accepted or endorsed, as the case may be, for the Company, until the contrary be shown; and in no case shall it be necessary to have the seal of the Company affixed to any such bill of exchange or promissory note, nor shall the President, Vice-President or the Secretary and Treasurer of the Company so making, drawing, accepting or endorsing any such promissory note or bill of exchange, be therefore subjected individually to any liability whatever; Provided always, that nothing in this section shall be construed to authorize the said Company to issue any note payable to bearer, or any promissory note intended to be circulated as money or as the notes of a Bank.

Seal not required.

Proviso :  
Against Banking.

XIII. The gauge of the said Railway shall not be broader or narrower than five feet six inches.

Gauge.

XIV. The said Railway shall be commenced within two years, and completed within five years from the passing of this Act.

Commencement of Railway.

XV. This Act shall be deemed a Public Act.

Public Act.

#### SCHEDULE A.

Know all men by these presents, that I \_\_\_\_\_ of \_\_\_\_\_  
(insert the name of the wife also, if she is to release Her Dower, or for any other reason to join in the conveyance,) do hereby in consideration of \_\_\_\_\_ paid to me by the Kingston and Newburgh Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Kingston and Newburgh Railway Company, their successors and assigns for ever, all that certain parcel or tract of land situate (describe the land) the same having been selected and laid out by the said Company for the purposes of their Railway, to have and to hold the said land and premises, together with the hereditaments and appurtenances thereto to the said Kingston and Newburgh Railway Company, their successors and assigns for ever; (if there be Dower to be released, add) and I (name of wife) hereby release my Dower on the premises.

Witness my (or our) hand (or hands) and seal (or seals),  
this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred  
and \_\_\_\_\_.

Signed, sealed and delivered in presence of

A. B. [L. S.]

(and if the wife join)

C. B. [L. S.]

C A P .

## C A P . C X V I I I .

## An Act to incorporate the Toronto and Georgian Bay Canal Company.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS Thomas Clarkson and others have petitioned to be incorporated for the purposes of this Act: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

I. Thomas Clarkson, James Sunson, John Fiskin, W. Rees, T. D. Harris, E. F. Whittemore, James John Hayes, Samuel Thompson, John Beverly Robinson, George A. Pyper, Duncan McDonnell, John Harrington, James Mitchell, Hugh Miller, W. McMaster, D. K. Feehan, R. B. Bernard, Thomas Steers, the Honorable John Hillyard Cameron, M. P. P., Angus Morrison, M. P. P., Joseph Hartman, M. P. P., John W. Gamble, M. P. P., M. P. Hayes, Charles Robertson, Thomas Shortis, Thomas Baines, Angus MacDonell, Allan McDonnell, or either of them, together with all such persons (subjects of Her Majesty or others,) as shall become Stockholders of the Company hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact and by the name of the "Toronto and Georgian Bay Canal Company," and by that name they and their successors shall and may have continued succession; and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure; and also, they and their successors by the same name of the *Toronto and Georgian Bay Canal Company*, shall be in law capable of purchasing and holding to them and their successors, any estate, real, personal or mixed, to and for the use of the said Company, and of letting, selling, conveying or otherwise departing therewith for the benefit and on the account of the said Company, from time to time, as they shall deem expedient or necessary.

Corporate name and powers.

May purchase and hold real estate.

Directors may survey and hold line for Canal.

And purchase mills, warehouses, &c.,

II. The Directors of the said Company shall have full power and authority to survey and explore the Country lying between the Georgian Bay of Lake Huron and Lake Ontario, and to designate and establish, and for the said Company to take, appropriate, have and hold, to and for the use of them and their successors, the line and boundaries of an intended Canal, and to build and erect the same with the necessary locks, tow-paths, branches, feeders, basons and railways to connect the waters of Lake Huron with those of Lake Ontario, and also, to select such

such sites for such warehouses and other erections, as may be considered expedient by the said Directors, and to purchase and dispose of the same to and for the use and profit of the said Company; Provided that nothing hereinbefore contained shall be construed to extend to compel the owners of any mill seat which shall be in existence before the construction of the said Canal or any of its branches or feeders, to sell or convey the same to the said Company unless the same shall be in the line of the said Canal, or that the possession of the same shall be necessary to the construction of the said Canal or any of its branches or feeders; Provided also, that the owner or owners of any mill seat or mill seats, using any additional supply of water brought thereto by the said Canal or its branches or feeders, shall pay a reasonable compensation therefor to the said Company, to be determined as hereinafter provided for determining any damage done to property by the said Company.

for use of Company.

Proviso.

Proviso: as to persons using water brought by Canal, &amp;c.

III. It shall and may be lawful for the said Company, and they are hereby authorized and empowered, from and after the passing of this Act, to supply the said Canal, whilst making and when made, with water from all such brooks, springs, streams, water-courses, lakes, hollows or repositories of water, as shall be found in making the said Canal, or within the distance of two thousand yards of the same or any part thereof, or any reservoir or reservoirs to be made for the supplying of the said Canal with water; and the said Company are hereby authorized and empowered to make all such reservoirs, and such and so many feeders, branches, aqueducts, tunnels and channels in connection with and for the use of the said Canal, as to them shall seem necessary and proper: and for the purposes aforesaid, the said Company, their agents, servants and workmen, are hereby authorized and empowered to enter upon and into the lands and grounds of, or belonging to, the Queen's Majesty, Her Heirs or Successors, or to any other person or persons, bodies corporate or politic (except as hereinbefore mentioned,) and to survey and take lands of the same or any part thereof, and to set out and ascertain such parts as they shall think necessary and proper for the making of the said Canal and its appurtenances, and for the completion of the said water connection and navigation according to the true intent and meaning of this Act, and all such other matters and conveniences as they shall think proper and necessary for making, preserving, improving, completing and using the said intended navigation, and also to bore, dig, trench, cut, remove, take, carry away, and lay soil, clay, stone, rubbish, trees, roots and stumps of trees, beds of gravel or sand, or any other matter or thing which may be dug or got in the making of the said Canal, or in deepening or improving the navigation of any river or rivers, lake or lakes, in connection with, and forming part of the intended navigation, or out of any land of any person or persons adjoining or contiguous thereto, and which may be

Certain powers granted to Company.

Surveys.

Works.

proper or convenient for carrying on the repairing of the said Canal or other the said works, or which may hinder or obstruct the making, completing and using the same, and the same to lay in or upon the boundaries of the said Canal or the rivers and lakes forming portions of the said navigation, or in and upon the land of any person or persons adjoining thereto; And also to make, build, erect and set up in and upon the said Canal, and at the points of entrance to the same or any part thereof or of the said intended navigation, or upon the land adjoining or near the same, such and so many wharves, quays, piers, landing places, bridges, tunnels, aqueducts, sluices, rivers, pens for water, tanks, reservoirs, drains, bridges and other ways, roads and works, as the said Company shall think requisite and convenient for the purposes of the said navigation; and also, from time to time to alter, enlarge, amend and repair the said works or any of them, for conveying all manner of materials necessary for making, erecting, altering or repairing, widening or enlarging the said works or any part thereof, and also to place, lay, work and manufacture the said materials, and erect such work-shops, forges or other erections as they may deem necessary, upon the lands near to the said works; and to make, maintain, and alter any places or passages over, under or through the said Canal or any of its branches or connections, or other part of the said intended navigation; And also to make, purchase, set up and appoint such tow-boats, barges, vessels or rafts, for the use of the said navigation, as they shall see fit; also to erect and keep in repair any piers, arches or other works, in, upon and across any rivers, brooks or lakes, for making, using, maintaining and repairing the said Canal, and other the rivers and navigable waters forming part of the said intended navigation, and the towing-paths and other conveniences connected therewith; And also to construct, make and do all other works, matters and things whatsoever, which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Canal and the said intended navigation in pursuance of and within the true meaning of this Act, they, the said Company, doing as little damage as may be in the execution of the powers hereby granted, and making satisfaction, in manner hereinafter mentioned, for all damages to be sustained by the owners or occupiers of such lands, hereditaments and tenements.

**Wharves, &c.**

**Vessels.**

**Other things.**

**Lands, &c., may be conveyed to Company.**

**Such conveyances and con-**

IV. After any land or ground shall be set out and ascertained to be necessary for the purposes of the said navigation or other purposes herein mentioned, it shall be lawful for all owners, whether individuals or bodies corporate or politic, or trustees or lessees, or other party or parties holding any right, title, interest or claim to any of such lands, or grounds, to contract for, sell and convey to the said Company, all or any part of such land or ground which shall from time to time be set out and ascertained as aforesaid; and all such contracts, agreements, sales

sales and conveyances shall be valid and effectual in law, to all intents or purposes, notwithstanding any law, statute or usage to the contrary, and the amount of the purchase moneys to be paid for such lands or grounds respectively, shall be ascertained by arbitration as hereinafter mentioned, unless in such cases as the owner or owners may agree thereupon without the intervention of any third party.

tracts to be valid.

V. The Directors of the said Company may contract, compound, compromise, settle and agree with owners or occupiers respectively, of any land through or upon which they may determine to cut and construct the said Canal or other works hereby authorized, either for the purchase of so much of the land as they shall require for the purposes, uses or profit of the Company, or for damages which he, she or they shall or may be entitled to recover from the said Company, in consequence of any of the works hereby authorized being constructed in or upon his or their respective lands; and in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers aforesaid, the amount of the purchase moneys for the land and tenements purposed to be purchased, or the amount of damages to be paid to them as aforesaid, shall be ascertained by arbitration in manner herein-after mentioned.

Directors may contract for lands, &c.

Arbitration in case of dispute as to sum to be paid.

VI. In each and every case where any dispute shall arise between the said Directors and any other person or persons whomsoever, touching any purchase, sale or damage, or the money to be paid in respect thereof, and in each and every case where, under the provisions of this Act, any purchase, sale or damage, or the money to be paid in respect of the same are directed to be ascertained and determined by arbitration, the same shall be referred to, ascertained and determined by three indifferent persons, one of whom shall be chosen by the owner or occupier of the land, or other person or persons interested who shall disagree with said Directors in respect to the compensation or purchase money to be paid him, her or them respectively, pursuant to the provisions of this Act, one other of the said arbitrators shall be chosen by the said Directors, and the third shall be chosen by the two persons to be so named as aforesaid, and such three persons shall be the arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, and the award of such three persons, or any two of them, shall be final; and the said arbitrators so appointed are hereby required to attend at some convenient place on or near the line of the said Canal, to be appointed by the said Directors, within eight days after notice in writing shall be given them by the said Directors for that purpose, then and there to arbitrate, award and determine such matters as shall be submitted to their consideration by the parties interested; and each of the said arbitrators

Arbitrators to be appointed in cases of dispute touching sale or purchase of lands.

Arbitrators how to be chosen.

Arbitrators to be sworn.

arbitrators shall be sworn before one of Her Majesty's Justices of the Peace for the County, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment; Provided that no arbitrator shall be compellable to attend such meeting who ordinarily resides more than fifty miles from the place of meeting: Provided also, that if the owner or owners, or other person or persons interested in any of the land required for carrying out the purposes of this Act, shall neglect or refuse to appoint an arbitrator, upon being notified to do so by the Directors aforesaid, by writing a letter to that effect, addressed to him, her or them, at his or their last, or then present residence, and by publication of such notice for one month in one or more local newspapers of the County in which such land is situated, then and in that case, after the expiration of thirty days from the time of such notice being fully completed, the Judge of the County Court within which the lands are situate shall act as arbitrator for such party or parties so refusing or neglecting, and the said Judge shall, with the other two arbitrators, as hereinbefore provided, proceed to adjudge and determine the damages or purchase money, or other matter or thing submitted to their judgment, according to the provisions of this Act.

Proviso.

Proviso.

Penalty for refusing to appoint Arbitrators.

Judge of County Court to appoint in such cases.

Company to take surveys and levels of lands through which Canal is to pass, and to make map or plan thereof.

Book of reference to be deposited with plan.

Copies may be obtained.

Copies of plan &c., to be evidence in Courts of law or elsewhere.

VII. For the purpose of this Act, the said Company shall and may by some sworn Land Surveyor in the Province, and by an Engineer by them to be appointed, cause to be taken and made, surveys and levels of the said lands through which the said intended Canal is to be carried, together with a map or plan of such intended Canal and the course and direction thereof, and of the said lands through which the same is to pass, and also a book of reference of the said canal, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers and proprietors thereof, so far as the same can be ascertained, and in which shall be contained everything that is necessary for the right understanding of such map or plan, copies of which said map or plan and book of reference shall, on the completion of such survey, map and book of reference, be deposited by the said Company in the offices of the respective Clerks of the Peace for the several Counties through which the said Canal or any part thereof shall pass, and also in the office of the Secretary of this Province; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts from or copies thereof as occasion shall require, paying to the said Secretary of this Province or to the said respective Clerks of the Peace, at the rate of six pence current money of this Province, for every one hundred words; and the said copies of the said map or plan and book of reference so deposited, or a true copy or copies thereof, certified by the Secretary of the Province, or by one of the said Clerks of the Peace for the said respective Counties, shall severally be, and they are hereby declared

declared to be good evidence in the Courts of Law and elsewhere.

VIII. Whenever any highway or public road shall be cut through by the said Canal or any of its branches, the said Company shall within one month thereafter cause to be constructed a secure and sufficient bridge over the same, so as to establish the communication between the several parts of such highway, under a penalty of five pounds per day for every day after the expiring of the said time during which the Company shall neglect to construct the said bridge.

Bridges to be constructed by Company.

Penalty for neglect.

IX. If any person or persons shall maliciously or wilfully break, injure, throw down or destroy any bank, lock, gate, sluice or any other work, machine or device belonging or pertaining to the said Company, or do any other wilful act, hurt or mischief, to disturb, hinder or prevent the carrying into execution the completing and supporting the said Canal and navigation or any of its branches, feeders or other connections or works belonging to the said Company, every such person or persons so offending shall forfeit and pay to the said Company the full value of the damage so done, including loss or inconvenience occasioned by such obstruction, proved by the oath of two or more credible witnesses to have been done; such damages, with costs of suit in that behalf incurred, to be recovered in any Court in this Province having competent jurisdiction, or in case of default of payment such offender or offenders shall and may be committed to the Common Gaol for any time not exceeding twelve months, at the discretion of the Court before whom such offenders shall have been convicted.

Penalty for wilfully injuring or destroying works, &c.

X. If any person shall obstruct or impede the navigation of the said Canal or other portion of the said intended navigation, by the introduction of any timber or boats, or vessels, contrary to the rules and regulations laid down for the government of the same to be made by the said Directors, and shall not immediately, upon notice given to the owner or person in charge of such timber, boat or vessel so obstructing the navigation, remove the same, every such owner or person in charge of such timber, raft, boat or vessel so obstructing or impeding the navigation as aforesaid, shall forfeit and pay the sum of one pound currency, for every hour during which the said obstruction shall continue; and it shall be lawful for the Company or their servants to cause such obstruction to be removed, and to cause every such boat, vessel or raft as shall be so over laden as to cause obstruction, to be detained and unloaded, so as to prevent or remove such obstruction and to recover the cost of so doing from the owner or person in charge of the same, and to seize and detain such vessel, boat or raft, and the cargo thereof, or any part of the cargo or furniture of such vessel, boat or raft, until the charges occasioned by such unloading or removal, or both, shall be paid or satisfied; And if any vessel, Company may boat remove and

Persons obstructing navigation, &c., to be fined.

retain sunken vessels, &c.

boat or raft shall be sunk in any part of the said intended navigation and the owners shall neglect or refuse to weigh and remove the same forthwith, the said Company may cause the same to be weighed and removed and retain the same until all charges necessarily incurred in so doing shall be paid or satisfied, and all such charges may be recovered in any court of competent jurisdiction from the owners or persons in charge of such vessel, boat or raft.

In case of accident, company may immediately enter upon adjacent lands.

XI. In case of any accident requiring immediate repair on the said canal or any part of the said navigation, the said Company, their Agent or workmen, may enter upon the adjoining land (not being an orchard or garden) without any previous treaty with the owners or occupiers thereof, and dig for, work, get and carry away and use, all such gravel, stone, earth, clay or other materials as may be necessary for the repair of the accident aforesaid, doing as little damage as may be to such land, and making compensation therefor within six months next after the same shall have been demanded, and in case of dispute or difference regarding the amount to be so paid, the same shall be decided by arbitration as hereinbefore provided.

Ponds and basins for the lying up or turning of vessels.

XII. The said Company may open, cut and erect such ponds and basins for the lying up and turning of vessels, boats or rafts, using the said Canal or navigation, and at such portions of the navigation as they shall deem expedient, and they may also build and erect such dry docks, slips and machinery connected therewith for the hauling out and repairing of vessels, as they shall think proper, and may let the same on such terms as they shall deem expedient, or carry on the business of the same by their servants or agents as the said Company or the Directors thereof shall decide from time to time.

Works to be completed within 15 years.  
Penalty.

XIII. The said Company, in order to entitle themselves to the benefit and privileges conferred upon them by this Act, shall commence the said work within three years, and they are hereby required to complete the said navigation within fifteen years from the passing hereof, that is to say, to open a channel of water communication from some point on the Georgian Bay of Lake Huron, to some point on Lake Ontario, so as to be navigable for vessels drawing ten feet water; otherwise, this Act and every thing herein contained shall be null and void to all intents and purposes.

Draught to be legibly marked on all vessels.

XIV. Every vessel of whatsoever kind using the said canal shall have her draught of water legibly marked in figures not less than six inches long, from one foot to her greatest draught, upon the stem and stern posts, and any wilful misstatement of such figures so as to mislead the officers of the canal as to any vessel's true draught, shall be punishable as a misdemeanor on the part of the owner and master of such vessel, and the said Directors may detain any such vessel upon which incorrect

incorrect figures of draught shall be found, until the same are corrected at the expense of her owner.

XV. And for preventing disputes touching the tonnage of vessels navigating the said canal, every owner or master of every boat, barge, raft or vessel, navigating the said canal or other part of the said navigation, shall permit the same to be gauged and measured, and for refusing to permit the same, shall forfeit and pay the sum of five pounds, and it shall be lawful for the person appointed for that purpose by the said Directors to gauge and measure all vessels using the said navigation, and his decision shall be final in respect to the tolls to be paid thereon, and he may mark the tonnage or measurement on every vessel habitually using the said canal, and such measure so marked by him shall always be evidence respecting the tonnage in all questions respecting the tolls or dues to be paid to the said Company by virtue hereof.

Vessels to be gauged and measured and marked.

XVI. The said Company may hold all such lands, hereditaments and tenements as may at any time be granted to them by Her Majesty the Queen, Her Heirs or Successors, in furtherance of the objects contemplated by this Act, or by any person or persons, body or bodies corporate or politic.

Company may hold certain real estate.

XVII. The Capital Stock of the said Company shall not exceed six millions of pounds currency or the equivalent in sterling, (exclusive of any real estate which the said Company may have or hold by virtue of this Act,) to be held in two hundred and forty thousand shares of twenty-five pounds each; and the shares of the said Capital Stock shall, after the first instalment thereon shall have been paid, be transferable by the respective persons subscribing or holding the same, to any other person or persons; and such transfer shall be registered in a book or books to be kept by the said Company for that purpose.

Capital Stock and number of shares.

XVIII. All persons, subjects of Her Majesty or others, may subscribe for any number of shares not exceeding, in the first instance, two hundred shares, the amount whereof shall be payable to the said Company in the manner hereinafter mentioned, that is to say, five per cent. on each share so subscribed shall be payable to the said Company immediately after the Stockholders shall have elected the Directors as hereinafter mentioned, and the remainder by instalments of not more than ten per centum, at such period as the President and Directors shall, from time to time, direct for the payment thereof, provided that no instalment shall be called in at a shorter period than thirty days from the next preceding instalment, nor until public notice shall have been given as hereinafter mentioned with respect to notice of meetings to be holden under this Act, for at least thirty days previous to the day on which such instalment is made payable; Provided always, that if any Stockholder or Stockholders shall neglect or refuse to pay the said Company the instalment due upon any share or shares held by him,

Who may subscribe for shares, and to what amount, in the first instance.

Proviso: forfeiture if instalments be not paid as called for.

her,

her; or them, at the time required by law, such share or shares, with the amount previously paid thereon, shall be forfeited, and the said Directors shall sell such share or shares by public auction, after having given thirty days' notice of such intended sale to such Stockholder or respective Stockholders, and the proceeds thereof with the amount previously paid thereon shall be accounted for and applied in the same manner as the other funds of the Company; Provided always, that such purchaser or purchasers shall pay all instalments which shall be due upon such shares, over and above the purchase money thereof, immediately after the sale and before they shall be entitled to a certificate of the transfer of such share or shares so to be purchased as aforesaid.

Proviso: all calls to be paid before transfer.

Any person may subscribe for any amount after a certain time.

XIX. If the whole number of shares shall not be subscribed within three years after the passing of this Act, it shall and may be lawful for any former subscriber to increase his, her or their former subscription.

First meeting for election of Directors.

XX. So soon as one million pounds of the Capital Stock shall have been subscribed and ten per cent. thereon shall have been paid into some one or more of the Chartered Banks of this Province, or into some branch or agency of such Bank or Banks, it shall and may be lawful for the subscribers or any of them to call a meeting, pursuant to directions hereinafter contained, for the purpose of proceeding to elect Directors as hereinafter mentioned, and such election shall then and there be made by a majority of the subscribers present in person or by proxy, and the persons then chosen shall remain in office as Directors, and be capable of serving until the first Monday in May succeeding their election; and until the aforesaid one million pounds of Stock shall be subscribed, the following persons shall be Provisional Directors of the said Company: Thomas Clarkson, James Sanson, John Fiskin, W. Rees, T. D. Harris, E. F. Whittemore, James John Hayes, Samuel Thompson, John Beverley Robinson, George A. Pyper, Duncan McDonnell, John Harrington, James Mitchell, Hugh Miller, W. McMaster, D. K. Feehan, R. B. Bernard, Thomas Steers, the Honorable John Hillyard Cameron, M. P. P., Angus Morrison, M. P. P., Joseph Hartman, M. P. P., John W. Gamble, M. P. P., M. P. Hayes, Charles Robertson, Thomas Shortis, Thomas Baines, Angus MacDonell, Allan McDonnell; Provided always, that the parties hereinbefore named or a majority of them, shall cause books of subscription to be opened in the City of Toronto, for thirty days, and afterwards in such other places as they may from time to time appoint, until the meeting of Shareholders hereinafter provided for, for receiving the subscriptions of persons willing to become subscribers to the said undertaking; and for that purpose it shall be their duty, and they are hereby required to give public notice in one or more newspapers published in the said City, as they or a majority of them may think proper, of the time and places at which such books will be opened and ready

Provisional Directors until £1,000,000 is subscribed, and 10 per cent. paid up.

Books of subscription to be opened at Toronto.

ready for receiving subscriptions as aforesaid, the persons authorized by them to receive such subscriptions, and the Chartered Bank or Banks into which the ten per cent. thereon is to be paid, and the time hereinafter limited for such payment; and every person whose name shall be written in such books as a subscriber to the said undertaking, and who shall have paid, within ten days after the closing of the said books into the Bank or Banks aforesaid, or any branches or agencies thereof, ten per centum on the amount of stock so subscribed for, to the credit of the said Company, shall thereby become a member of the said Company, and shall have the same rights and privileges as such, as are hereby conferred on the several persons who are herein mentioned by name as members of the said Company; Provided also, and it is hereby enacted, that such ten per cent. shall not be withdrawn from the said Bank or Banks, or otherwise applied except for the purposes of the said Company.

Rights of subscribers.

Ten per cent. to be paid down.

Proviso.

XXI. The chief duties of the Directors so chosen shall be, in the first place, to provide for and pay the preliminary expenses of the undertaking, procure and provide means for the payment for accurate and detailed surveys, specifications, plans and estimates of the work to be done, in order to complete the intended navigation as contemplated by this Act; also to ask, advertise for, and receive tenders for the whole or any part of the proposed work, and generally to do all things authorized by the said Company to be done by virtue of this Act; also to issue to the parties, persons or bodies who may have contributed towards the payment of the preliminary expenses, stock certificates of the Company for the amount of their respective contributions.

Duties of Directors.

Stock certificates.

XXII. The said Company, may from time to time, lawfully borrow, either in this Province or elsewhere, such sum or sums of money, not exceeding at any time the subscribed and paid up capital of the Company, as they may find expedient, and at such rate of interest as they may think proper, and may make the bonds, debentures or other securities they shall grant for the sums so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province, as they may deem advisable, and may mortgage or pledge the lands, tolls, revenues or other property of the said Company, for the due payment of the said sums and the interest thereon, and the said Company may issue debentures in sums of not less than twenty-five pounds currency, at not less than twelve months, provided the whole debt, including such debentures, does not at any time exceed the subscribed capital.

Company may borrow money;

And grant mortgages on their property.

XXIII. The number of votes to which each proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the members of the said Company are to be given, shall be in proportion to the number of shares held by him, that is to say:

Votes according to number of shares.

say: one vote for each share less than fifteen, and one for every ten shares over that number; Provided always, that no proprietor as aforesaid shall have more than fifty votes, and all proprietors of shares, whether resident in this Province or not, may vote by proxy, if he, she or they shall see fit, provided that such proxy do produce from his constituent or constituents a notice in writing in the words or to the effect following, that is to say:

Form of appointment by proxy. " I, \_\_\_\_\_, of \_\_\_\_\_, one of the proprietors of the Toronto and Georgian Bay Canal Company, do hereby nominate, constitute and appoint \_\_\_\_\_, of \_\_\_\_\_, to be my proxy, in my name and in my absence to vote or give my assent or dissent to any business, matter or thing relating to the said undertaking that shall be mentioned or proposed at any meeting of the proprietors of the said undertaking, or any of them, in such manner as he the said \_\_\_\_\_ shall think fit, according to his opinion and judgment for the benefit of the said undertaking, or any thing appertaining thereto. In witness whereof, I have hereunto set my hand and seal, the \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand eight hundred and \_\_\_\_\_."

Votes by proxy to be binding. And such vote or votes, by proxy, shall be as valid as if such principals had voted in person; and whatever question, election of proper officers, matters or things, shall be proposed, discussed or considered in any public meeting of the proprietors to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present and so given aforesaid, and all decisions and acts of any such majority shall bind the said Company, and be deemed the decision and acts of the said Company; Provided always, that no proprietor who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized under an Act of the British Parliament, or Act of the Parliament of this Province, shall be elected President, Vice-President or Treasurer of the said Company.

Shareholders not liable for debts of Corporation. XXIV. No Shareholder in the said Company shall be in any manner whatsoever liable or charged for any debt or demand due by the said Company, beyond the payment or the extent of his, her or their share in the capital of the said Company not paid up.

Board of Directors to manage business, and elect President, &c. Proviso. XXV. The affairs of said Company shall be managed by a Board of seven Directors, who shall elect from among themselves a President and Vice-President; the said Directors may be subjects of Her Majesty or otherwise; Provided always, no person shall be eligible to the offices of President, Vice-President, Secretary or Treasurer of the said Company, except subjects of Her Majesty, by birth or naturalization; the said Directors shall be elected on the first Monday in May in every year, at a meeting of Stockholders, to be held in the City of \_\_\_\_\_

Meeting for election of Directors to

of Toronto, and the said election shall be made by such Stockholders as shall be present at such meeting in person or by proxy; and all elections for Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election, shall be Directors, (except as hereinbefore or after provided), and if two or more persons shall have an equal number of votes in such manner that more than seven shall by a plurality of votes appear to be chosen Directors, a second ballot shall be held to determine which of the said persons having an equal number of votes, shall be Director or Directors.

be held in  
Toronto.

Vote by ballot.

Ties.

XXVI. The Directors so chosen or those appointed in their stead in case of vacancy, shall remain in office until the first Monday in the month of May next following their election, and on the said first Monday in May, and on the first Monday in May in each year thereafter, or on such other day as shall be appointed by any By-law, an annual general meeting of the said Proprietors shall be held at the office of the Company, for the time being, to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any ten or more of such Proprietors holding together two hundred shares at least, that for more effectually putting this Act in execution, a special general meeting of Proprietors is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof, in two public newspapers as aforesaid, or in such manner as the Company shall by any By-law direct or appoint, specifying in the said notice the time and place and the reason and intention of such special meeting respectively; and the proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the proprietors or the majority of them at such special meetings assembled, such majority not having either as principal or proxies less than two hundred shares, shall be as valid to all intents and purposes as if the same were done at annual meetings; Provided always, that it shall and may be lawful for the said Directors, in case of the death or absence, resignation or removal of any person elected a Director to manage the affairs of the said Company, in manner aforesaid, to appoint another or others in the room or stead of those of the Directors who may die or be absent, resign or be removed as aforesaid; any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

Term of office  
of Directors.

Annual meet-  
ings of Com-  
pany.

Special meet-  
ings of Prop-  
rietors may  
be called.

Proviso.

Vacancies,  
how to be  
filled.

XXVII. At each of the said annual meetings of the stockholders, three of the said seven Directors shall retire in rotation, the order of retirement of the said first elected seven Directors being

Three Direc-  
tors shall an-  
nually retire,  
but may be  
re-elected.

Proviso.

being decided by lot; but the Directors then or at any subsequent time retiring, shall be eligible for re-election; Provided always, that no such retirement shall have effect, unless the Proprietors shall at such annual meeting proceed to fill up the vacancies thus occurring in the direction.

Directors to elect a President and Vice-President.

XXVIII. The Directors shall at their first (or at some other) meeting after the day appointed for the Annual General Meeting in each year, elect one of their members by ballot to be the President of the said Company, who shall always (when present) be the Chairman of and preside at all meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead, and the said Directors may in like manner elect a Vice-President who shall act as Chairman in the absence of the President.

Five Directors to be a quorum.

Proviso: Directors to have only one vote each.

XXIX. Any meeting of the said Directors, at which not less than five Directors shall be present, shall be a *quorum*, and shall be competent to use and exercise all and any of the powers hereby vested in the said Directors: Provided always, that no one Director, though he may be a proprietor of many shares, shall have more than one vote at any meeting of the Directors, except the President and Vice-President when acting as Chairman, or any temporary Chairman who in case of the absence of the President and Vice-President, may be chosen by the Directors present, either of whom when presiding at a meeting of the Directors shall, in case of a division of equal numbers, have the casting vote, although he may have given one vote before; And provided also, that such Directors shall from time to time be subject to the examination and control of the said annual and special meetings of the said Proprietors as aforesaid, and shall pay due obedience to all By-laws of the said Company and to such orders and directions in and about the premises as they shall from time to time receive from the said Proprietors at such annual or special meetings; such orders and directions not being contrary to the special directions or provisions in this Act contained; And provided also that the act of any majority of a *quorum* of the Directors present at any meeting regularly held, shall be deemed the act of the Directors.

Casting vote of President, &c.

Proviso: Directors subject to control of general meetings.

Proviso.

No officer of Company or Contractor to be Director.

XXX. Provided always, That no person holding any office, place or employment or being concerned or interested in any contract or contracts under the said Company, shall be capable of being chosen a Director or of holding the office of Director.

Annual meeting to appoint Auditors.

XXXI. Every such annual meeting shall have power to appoint not exceeding three Auditors, to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers and other officer or officers to be by the said Directors appointed, or by any other person or persons whatsoever, and employed by or concerned for or under them in and about the said undertaking, and

to that end the said Auditors shall have power to adjourn themselves over from time to time and from place to place, as shall be thought convenient by them; and the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the stockholders of the said Canal and other works, to defray the expenses of or to carry on the same as they from time to time find wanting and necessary for these purposes, except as before provided; and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company, as well in contracting for and purchasing lands, rights and materials for the use of the said company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking, and to affix or authorize any person to affix the common seal of the Company to any act, deed, by-laws, notice or other document whatsoever; and any such act, deed, by-laws, notice or other document, bearing the common seal of the Company, and signed by the President, Vice-President or any Director or Directors, shall be deemed the act of the Directors of the said Company, nor shall the authority of the signer of any document purporting to be so signed and sealed, to sign and affix the said seal thereto be liable to be called in question by any party except the Company; and the Directors shall have such other and further powers as, being vested in the Company by this Act, shall be conferred upon the said Directors by the by-laws of the Company.

Powers of Directors to make calls.

Further powers of Directors.

Signing and sealing documents.

**XXXII.** The owner or owners of one or more shares in the said undertaking, shall pay his, her or their shares and proportion of the moneys to be called for as aforesaid, to such person or persons and at such time and place, as the said Directors shall, from time to time appoint and direct, of which thirty days' notice at least shall be given in two newspapers as aforesaid, or in such other manner as the said proprietors or their successors shall by any By-law direct or appoint, and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her or their respective share or shares in the said undertaking, and all the profit and benefit thereof, all which forfeitures shall go to the rest of the Proprietors of the said undertaking, their successors and assigns, for the benefit of the said proprietors, in proportion to their respective interests; and in every case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof.

Shareholders to pay calls.

Forfeiture for not paying calls.

**XXXIII.** The said Company shall always have power and authority at any general meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid,

Company may remove any person chosen by Board of

Directors, and may elect others in case of death: &c.

And repeal or amend By-laws.

By-laws to be in writing and published.

Certified copies to be evidence.

Form of transfer of shares.

aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other officer or officers under them, to revoke, alter, amend or change any of the By-laws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling general meetings, and their time and place of assembling, and manner of voting and appointing Directors only excepted,) and shall have power to make such new Rules, By-laws and Orders for the good government of the said Company, and their servants, agents or workmen, for the good and orderly making and using the said Canal, and all other works connected therewith or belonging thereto, as hereby authorized, and for the well-governing of all persons whatever travelling upon or using the said Canal and other works, or transporting any goods, wares, merchandize or other commodities thereon, which said By-laws and Orders shall be put into writing under the common seal of the said Company, and shall be kept in the office of the Company, and a printed or written copy of so much of them as relate to or affect any party other than the members or servants of the Company, shall be affixed openly in all and every of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and Orders so made and published as aforesaid shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same; and any copy of the said By-laws, or any of them, certified as correct by the President, or some person authorized by the Directors to give such certificate, and bearing the common seal of the said Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court, without further proof.

XXXIV. All sales of the shares in the said undertaking shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require:

“ I, A. B., in consideration of the sum of \_\_\_\_\_ paid  
 “ by C. D., of \_\_\_\_\_ do hereby bargain, sell and transfer  
 “ to the said C. D., \_\_\_\_\_ share (or shares) of the stock of  
 “ the Toronto and Georgian Bay Canal Company; to hold to him  
 “ the said C. D., his executors, administrators and assigns,  
 “ subject to the same rules and orders, and on the same conditions  
 “ that I held the same immediately before the execution hereof;  
 “ and I, the said C. D., do hereby agree to accept of the said  
 “ \_\_\_\_\_ share (or shares) subject to the same rules, orders and  
 “ conditions.

“ Witness our hands and seals, this \_\_\_\_\_ day of  
 “ in the year one thousand eight \_\_\_\_\_ ”

Proviso.

Provided always, that no such transfer of any share shall be valid until all calls or instalments then due thereon shall have been paid up.

XXXV.

XXXV. It shall and may be lawful to and for the said Directors, and they are hereby authorized from time to time, to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due execution of their respective offices as the Directors shall think proper; and such Clerk shall, in a proper book or books, enter and keep a true and perfect account of the names and places of abode of the several Stockholders of the said Company and of the several persons who shall, from time to time, become owners or proprietors of or entitled to any share or shares therein, and of the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Directors to appoint Treasurer and Clerks.

Duties of Clerk.

XXXVI. The said Company or the Directors of the said Company shall, and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the said Company or by the Directors or Treasurer of the said Company, or otherwise, for the use of the said Company by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditures of the said Company or the said Directors: And at the General Meetings of the proprietors of the said undertaking to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise, and such dividend shall be at and after the rate of so much per share upon the several shares held by the proprietors in the Joint Stock of the said Company, as such meeting or meetings shall think fit to appoint or determine; Provided always, that no dividend shall be made, whereby the Capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

Accounts of profits to be annually made up and balanced.

Dividends to be made from time to time at a general meeting.

Proviso: Capital not to be impaired.

XXXVII. In all cases where there shall be a fraction in the distance which vessels, rafts, goods, wares, merchandize or other commodities or passengers shall be conveyed or transported on the said navigation, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile; and in all cases where there shall be the fraction of a ton, in the weight of any such goods, wares, merchandize, and other commodities, a proportion of the said rates shall be demanded and taken by the said Company of proprietors to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Fractions in miles and in weights of goods in ascertaining rates, how regulated.

Interpretation  
clause.

XXXVIII. Every matter or thing which the said Company are authorized or empowered to do or suffer, shall be interpreted to mean that the said Company shall be empowered to do and suffer all such acts, matters and things by their duly appointed agents, servants and workmen whether the same be specially mentioned or not; and in all cases wherein the said Canal is mentioned in this Act, the same shall apply to all branches, feeders, reservoirs, and rivers or parts of rivers which shall be made part or parcel of the navigation thereof, or of the supplying of the same with water.

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

XXXIX. The said Company shall at all times, when thereunto required by the Post Master General of this Province, the Commander of the Forces, or any person having the superintendence or command of any Police Force, carry Her Majesty's Mails, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others, travelling on Her Majesty's service, on the said Canal on such terms and conditions, and under such regulations as the Governor or Person administering the Government shall, in Council, appoint and declare.

Treasurer,  
Receiver and  
Collector to  
give security.

XL. The said Company shall and are hereby required and directed to take sufficient security by one or more bond or bonds, in a sufficient penalty or penalties from their Treasurer, Receiver and Collector for the time being, of the moneys to be raised by virtue of this Act, for the faithful execution by such Treasurer, Receiver and Collector of his and their offices and offices respectively.

Limitation of  
actions for  
things done in  
pursuance of  
this Act.

XLI. If any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendant or Defendants in such action or suit, shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be non-suited, or discontinue his, her or their action or suit, after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases by law.

General issue.

Costs to de-  
fendant if  
plaintiff fail.

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

Any contra-  
vention of this  
Act not other-  
wise punish-  
able, to be a  
misdemeanor.

XLIII. Nothing herein contained shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Saving of Her  
Majesty's  
rights and  
those of other  
persons.

XLIV. This Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.

Public Act.

C A P . C X I X .

An Act to amend the Act incorporating the Bond Head Harbour Company, to increase the Capital Stock of the said Company, and to incorporate the Village of Newcastle.

[Assented to 1st July, 1856.]

**W**HEREAS the President, Directors and Company of the Bond Head Harbour Company, have by their Petition prayed that the name of the said Company may be changed to that of the "Newcastle Harbour Company," that the Stock of the said Company may be increased to Fifteen Thousand Pounds, that the period for completing the said Harbour may be extended to five years, and that authority may be given to the said Company to obtain a Loan of Five Thousand Pounds on the credit of the said Harbour and the Tolls thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. From and after the passing of this Act, the corporate name of the said Company shall be the "Newcastle Harbour Company," but such change of name shall not be construed to make the said Company a new Corporation, or to alter its rights, or those of any other party.

Name of the  
Corporation  
changed.

II. For and notwithstanding any thing contained in the tenth section of the Act of the Parliament of Upper Canada, incorporating the said Company, passed in the first year of Her Majesty's Reign, and intituled, *An Act to incorporate certain persons under the style and title of the Bond Head Harbour Company,*

Capital Stock  
increased, not-  
withstanding  
limitatio  
Act of U. C.,  
1 V. c. 31.

Period for  
constructing  
works extend-  
ed.

*Company*, the Capital Stock of the said *Company* may be increased to fifteen thousand pounds and the number of shares to sixteen hundred, and may be taken up in such manner as the Directors shall appoint: and the period limited by the said Act, for completing the said Harbour, is hereby extended to the end of five years from the passing of this Act, and the said *Company* shall continue and be held to have continued, and the said Act shall be in force, and be held to have been in force, as if the period hereby limited had been limited in the said Act, instead of the period mentioned in the fifteenth section thereof.

*Company*  
may borrow  
£5,000.

III. The said *Company* shall have full power and authority to contract a loan of five thousand pounds from the Government, from any body corporate, or from any person willing to make such loan, and to give such security on the Harbour and Tolls as the party making such loan may require; Provided always, that the rate of interest shall not exceed eight per cent. per annum, and shall be payable half yearly at any of the chartered Banks of the Province at which it may be agreed upon to pay the same.

Proviso: in-  
terest not to  
exceed 8 per  
cent.

Recital.

Village of  
Newcastle  
incorporated  
and described.

IV. And whereas the Village of Newcastle will be greatly benefitted by the improvement of the said Harbour, and may afford assistance towards the completion thereof, if incorporated and authorized to do so; Be it therefore enacted, that upon, from and after the first day of January, one thousand eight hundred and fifty-seven, the said Village shall be incorporated by the name of Newcastle, and shall consist of lots twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine and thirty, in the broken front and first Concession of the Township of Clark, and the south halves of the lots bearing the same numbers, in the second Concession of the said township, in the County of Durham.

Upper Canada  
Municipal  
Corporations  
Acts to apply  
to it.

V. So much of the Upper Canada Municipal Corporations Acts as relates to incorporated Villages, shall, from and after the day last aforesaid, apply to the said Village of Newcastle, which shall, as an incorporated Village, have and exercise all and singular the rights, powers, privileges and jurisdiction which are thereby granted or conferred to or upon, or as shall by virtue of the said Acts, or of any other Act or Acts now in force or hereafter to be in force in Upper Canada, belong to incorporated Villages: and all the rules, regulations and enactments in the said Acts or any of them contained, or which shall in any wise apply to incorporated Villages, shall apply to the said Village of Newcastle, as fully as if it had become an incorporated Village under the ordinary operation of the said Upper Canada Municipal Corporations Acts, with the exception hereinafter made.

Returning  
Officer at first  
election.

VI. The Municipal Council of the Township of Clark shall and may at any time after the passing of this Act, appoint a fit person

person to be a Returning Officer for holding the first Municipal Election under this Act, and the person so appointed shall, in the discharge of his duties as such Returning Officer, be subject to all the provisions of the Upper Canada Municipal Corporations Acts applicable to first Elections in incorporated Villages; Provided always, that at the first Election to be held in the said Village, the qualification of Electors and of Councillors shall be the same as in Townships.

Proviso : qualification of electors at such election.

VII. This Act shall be deemed a Public Act.

Public Act.

C A P . C X X .

An Act to amend and consolidate the Acts relating to the Commercial Bank of the Midland District, and to change its corporate name to the "Commercial Bank of Canada."

[Assented to 1st July, 1856.]

**W**HEREAS the corporation now called and known as "The Commercial Bank of the Midland District," was created and constituted by and under the Act of the Legislature of Upper Canada passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to incorporate certain persons under the style and title of the President, Directors and Company of the Commercial Bank of the Midland District*, which said Act was amended by the Act of the said Legislature passed in the third year of the same Reign and chaptered forty-two, and the Act thereof passed in the fifth year of the same Reign and chaptered forty-five; And whereas the said Acts were again amended and the charter and privileges of the said Corporation were confirmed and extended by the Act of the Legislature of this Province passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to extend the charter of the Commercial Bank of the Midland District, and to increase its Capital Stock*, which said Act hath since been amended and the privileges of the said Corporation have been further extended by the Act of the said Legislature passed in the ninth year of Her Majesty's Reign and chaptered eighty-seven, and by that of the said Legislature passed in the twelfth year of Her Majesty's Reign and chaptered one hundred and seventy, by which the corporate name of the said Bank was altered to "The Commercial Bank of the Midland District," and the said Acts were further amended and an increase of the Capital Stock of the said Corporation was authorized by the Act of the said Legislature passed in the eighteenth year of Her Majesty's Reign, chaptered forty-two; And whereas the said Corporation hath by its Petition prayed, that the provisions of the said several Acts may be consolidated with certain amendments and extensions of the powers and privileges thereby conferred, and that the corporate name of the Bank may be altered as hereinafter

Preamble.

Former Acts cited.

Acts of U. C., 2 W. 4, c. 11.

3 W. 4, c. 42.  
5 W. 4, c. 45.

Acts of Canada, 6 V. c. 26.

9 V. c. 87.

12 V. c. 170.

18 V. c. 42.

hereinafter mentioned ; And whereas it is expedient to grant the prayer of the said Petition : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Inconsistent provisions of the said Acts repealed.

I. So much of the Acts hereinbefore cited or of any of them, as may be inconsistent with or repugnant to the provisions of this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, shall be and is hereby repealed.

Name of Bank changed.

II. The Corporation hereinbefore mentioned shall hereafter be called and known as the *Commercial Bank of Canada*, which shall be the corporate name thereof, instead of the Commercial Bank of the Midland District, but such change of name shall not be construed to make the said corporation a new corporation, or in any way to affect any right or liability thereof, or any suit, action or proceeding pending at the time when this Act shall come into force, but the name assigned to the said Corporation shall be substituted, as of course, for its former name, in any subsequent record, document or writing in such suit, action, or proceeding.

Change not to affect any right of any party.

Corporation continued.

Powers.

III. The said Corporation shall by the name hereby assigned to it, and during the time this Act shall remain in force, continue to have all, each and every of the rights, powers and authority in and by the Acts hereinbefore cited, or any of them, conferred upon or vested in it, subject always to the provisions of this Act ; and shall continue to have perpetual succession and a common seal, with power to break, renew, change and alter the same at pleasure ; and shall be capable of suing and being sued, pleading and being impleaded in all Courts of law and equity, and other places, in all manner of actions, causes and matters whatsoever ; and for the convenient management of its business, but for no other purpose, shall and may purchase, acquire and hold real or immovable estates and property, not exceeding the yearly value of five thousand pounds currency, and may sell, alienate and dispose of the same, and purchase, acquire and hold others in their stead, not exceeding in the whole the yearly value aforesaid.

Real estate limited.

Capital £1,00,000.

Shares £25 each

As to shares now unsubscribed for.

IV. The Capital Stock of the said Bank, (the words "the said Bank" meaning throughout this Act the Corporation aforesaid,) shall be one million of pounds currency, divided into shares of twenty-five pounds currency, or one hundred dollars each ; and so many of the said shares as may be unsubscribed for when this Act shall come into force, may be subscribed for either within or out of this Province, in such proportions or numbers, and at such times and places, and under such regulations, and at such rate of premium, to be paid by the subscribers over and above the amount of the shares, as the Directors of the said Bank shall from time to time establish ; and the shares so subscribed

Instalments.

subscribed for shall be paid in by such instalments, and at such times and places as the said Directors shall from time to time appoint, and executors, administrators and curators paying instalments upon shares of deceased shareholders, shall be and are hereby respectively indemnified for paying and are required to pay the same : Provided always, that no share shall be held to be lawfully subscribed for, unless the premium (if any) which shall have been fixed by the Directors, and at least ten per centum on the amount of such share be paid at the time of subscribing : And provided also, that no part of the Capital Stock unsubscribed for at the time when this Act shall come into force, shall be subscribed for after the end of five years from that time ; and the whole of the stock subscribed for shall be called in before the thirty-first day of December, one thousand eight hundred and sixty-one ; And provided further, that it shall not be obligatory upon the said Bank to raise the full amount of the Capital Stock hereby allowed, but the number of shares to be thereafter subscribed for, may at any time be limited by a By-law of the said Bank, in such manner as the shareholders shall deem most advantageous for the interests of the Bank.

Proviso : ten per cent. payable on subscribing.

Proviso : time for subscribing limited.

Proviso : Bank not bound to raise the full capital.

V. If any person or party, subscribing for shares of the Capital Stock of the said Bank, shall also be willing to pay up at the time of subscribing the full amount of the shares subscribed for, together with such premium thereon as aforesaid, it shall and may be lawful for the Directors of the Bank, and at any time within the period hereinbefore limited for subscribing for such Stock, to admit and receive such subscriptions and full payment, or payment of any number of instalments, together with such premium ; and in every case, the premium so received on any Stock subscribed for, shall be carried to the account of the ordinary profits of the said Bank.

Subscribers may pay in full, &c.

As to premium.

VI. If any Shareholder or Shareholders, shall refuse or neglect to pay any instalment upon his, her or their shares of the said Capital Stock, at the time or times required by the Directors as aforesaid, such Shareholder or Shareholders, shall incur a forfeiture to the use of the said Bank, of a sum of money equal to ten pounds per centum on the amount of such shares ; and moreover it shall be lawful for the Directors of the said Bank, (without any previous formality other than thirty days public notice of their intention) to sell at public auction, the said shares or so many of the said shares as shall, after deducting the reasonable expenses of the sale, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeitures incurred upon the whole ; and the President, with the Vice-President or the Cashier of the said Bank, shall execute the transfer to the purchaser of the shares of Stock so sold, and such transfer being accepted, shall be as valid and effectual in law, as if the same had been executed by the original holder or holders of the

Forfeiture for non-payment of calls.

Sale of shares on which calls are not paid.

Proviso : forfeiture may be re-leased.

the shares of Stock thereby transferred : Provided always, that nothing in this section contained shall be held to debar the Directors or Shareholders, at a general meeting, from remitting either in whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of any instalment as aforesaid.

Chief place of business.

VII. The chief place or seat of business of the said Bank, shall be in the City of Kingston, but it shall and may be lawful for the Directors of the Bank, to open and establish in other Cities, Towns and Places in this Province, Branches or Agencies or offices of discount and deposit of the said Bank, under such rules and regulations for the good and faithful management of the same, as to the said Directors shall from time to time seem meet, not being repugnant to any law of this Province, to this Act, or to the By-laws of the said Bank.

Branches.

Ten Directors to be elected annually ;

VIII. For the management of the affairs of the said Bank, there shall continue to be Ten Directors annually elected by the Shareholders of the Capital Stock thereof, at a general meeting of them to be held annually on the twenty-fifth day of June in each year, (except when that day shall be a Sunday or legal holiday, and then on the next day which shall not be a Sunday or legal holiday,) beginning in the month of June, in the year of our Lord one thousand eight hundred and fifty-seven ; at which meeting the Shareholders shall vote according to the rule or scale of votes hereinafter established ; and the Directors elected by a majority of votes given in conformity to such rule or scale, shall be capable of serving as Directors for the ensuing twelve months ; And at their first meeting after such election the Directors shall choose out of their number a President and a Vice-President, who shall hold their offices respectively during the same period : and in case of a vacancy occurring in the said number of ten Directors, the remaining Directors shall fill the same by election from among the Shareholders, and each Director so elected shall be capable of serving as a Director, until the next annual general meeting of the Shareholders ; and if the vacancy occurring in the said number of ten Directors shall also cause the vacancy of the office of President or of Vice-President, the Directors at their first meeting after their number shall have been completed as aforesaid, shall fill the vacant office by choice or election from among themselves, and the Director so chosen or elected to be President or Vice-President shall fill the office to which he shall be so chosen or elected, until the next general annual meeting of the Shareholders : Provided always, that each of the Directors shall be the holder and proprietor in his own name of not less than ten shares of Capital Stock of the said Bank, wholly paid up, and shall be a natural born or naturalized subject of Her Majesty ; And provided also, that it shall be lawful for the Shareholders at any annual general meeting, to pass a By-law directing that five of the Directors in office at the period of each annual election, shall be re-elected for the next ensuing twelve months.

By a majority of votes.

President and Vice-President.

Vacancies how filled.

Proviso : qualification of Directors.

Proviso : Shareholders may make a By-law that five must be re-elected.

IX. If at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, the said Corporation shall not be deemed or taken to be thereby dissolved, but it shall be lawful at any subsequent time to make such election, at a general meeting of the Shareholders to be called for that purpose; and the Directors in office when such failure of election shall take place, shall remain in office until such election shall be made.

Provision if any election should fail.

X. The Books, Correspondence and Funds of the said Bank, shall at all times be subject to the inspection of the Directors, but no Shareholder not being a Director, shall inspect, or be allowed to inspect, the account or accounts of any person or persons dealing with the said Bank.

Who may inspect the Bank's books.

XI. At all meetings of the Directors of the said Bank, not less than five of them shall constitute a board or quorum for the transaction of business; and at the said meetings the President, or in his absence the Vice-President, or in their absence one of the Directors present, to be chosen *pro tempore*, shall preside; and the President, Vice-President or President *pro tempore*, so presiding, shall vote as a Director, and if there be an equal division on any question, shall also have a casting vote.

Quorum of Directors.

Casting vote of President, &c.

XII. The Shareholders of the said Bank, who at the time this Act shall come into force shall be Directors thereof, shall be and continue to be Directors thereof until the first election of Directors under this Act, and shall then go out of office; and the said Directors shall, until the first election under this Act, have in all respects the rights, duties and powers assigned to the Directors of the said Bank by this Act, and be governed by its provisions as if elected under it.

Present Directors continued.

Their powers.

XIII. It shall and may be lawful for the Directors of the said Bank from time to time to make and enact By-laws, Rules and Regulations, (the same not being repugnant to this Act or to the Laws of this Province) for the proper management of the affairs of the said Corporation, and, from time to time, to alter or repeal the same, and others to make and enact in their stead; Provided always, that no By-law, Rule or Regulation so made by the Directors, shall have force or effect until the same shall, after six weeks public notice, have been confirmed by the Shareholders at an annual general meeting or at a special general meeting called for that purpose; And provided also, that the By-laws of the said Bank in force at the time when this Act shall come into force, in so far as they are not repugnant to this Act, or to Law, shall continue to be the By-laws thereof, until others shall have been made and enacted and confirmed as provided for by this section.

Directors to make By-laws for certain purposes.

Proviso.

Notice.

Proviso: as to existing By-laws.

XIV. The Shareholders may by a By-law appropriate a sum of money for the remuneration of the services of the President and

Payment of President and Directors.

and Directors as such, and the President and Directors may annually apportion the same among themselves as they may think fit: No Director shall act as a Private Banker.

Proviso.

Directors to appoint Bank Officers and Servants.

Proviso: security to be taken from each.

The Amount.

XV. The Directors of the said Bank, shall have power to appoint a Cashier, Assistant Cashier and Secretary, and Clerks and servants under them, and such other Officers as shall be necessary for conducting the business of the Bank, and to allow reasonable compensation for their services respectively, and shall also be capable of exercising such powers and authority, for the well governing and ordering of the affairs of the Corporation, as shall be prescribed by the By-laws thereof; Provided always, that before permitting any Cashier, Assistant Cashier, Officer, Clerk or Servant of the Bank, to enter upon the duties of his office, the Directors shall require him to give bond, with sureties, to the satisfaction of the Directors, that is to say, every Cashier in a sum not less than five thousand pounds, currency, every Assistant Cashier in the sum of Three Thousand pounds currency, and every other Officer, Clerk or Servant, in such sum of money as the Directors shall consider adequate to the trust to be reposed in him, with condition for good and faithful behaviour.

Directors to make dividends.

Proviso.

XVI. It shall be the duty of the Directors to make half yearly dividends of so much of the profits of the said Bank as to them shall appear advisable, and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously: Provided always, that such dividends shall not in any manner lessen or impair the Capital Stock of the said Bank.

Statement of affairs to be exhibited at yearly meetings.

XVII. The general meetings of the Shareholders of the said Bank to be held annually as aforesaid in the City of Kingston, for the purpose of electing Directors in the manner hereinbefore provided, shall be general meetings also for all other general purposes touching the affairs and the management of the affairs of the said Bank, and at each of the said annual general meetings, the Directors shall exhibit a full and clear statement of the affairs of the Bank.

Scale of voting at general meetings.

XVIII. The number of votes which the Shareholders of the said Bank shall respectively be entitled to give at their meetings, shall be according to the following scale, that is to say: for one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for every thirty shares; for every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and no Shareholder shall be entitled to give a greater number of votes than

than twenty ; and it shall be lawful for absent Shareholders to give their votes by proxy, such proxy being also a Shareholder, and being provided with a written authority from his constituent or constituents, in such form as shall be established by a By-law, and which authority shall be lodged in the Bank : Provided always, that a share or shares of the Capital Stock of the said Bank which shall have been held for a less period than three calendar months immediately prior to any meeting of the Shareholders, shall not entitle the holder or holders to vote at such meeting, either in person or by proxy : Provided also, that where two or more persons are joint holders of shares, it shall be lawful that one only of such joint holders be empowered by Letter of Attorney from the other joint holder or holders, or a majority of them, to represent the said shares and vote accordingly : And provided also that no Shareholder who shall not be a natural born or naturalized subject of Her Majesty, or who shall be a subject or citizen of any Foreign Prince or State, shall either in person or by proxy, vote at any meeting whatever of the Shareholders of the said Bank, or shall assist in calling any meeting of the Shareholders ; any thing in this Act to the contrary notwithstanding.

Voting by proxy.

Proviso : Shares voted on must have been held a certain time.

Proviso : as to Joint Stock-holders.

Voters must be British Subjects.

XIX. No Cashier, Assistant Cashier, Bank Clerk or other Officer of the Bank, shall vote either in person or by proxy at any meeting for the election of Directors, or hold a proxy for that purpose.

Bank Officers not to vote.

XX. Any number not less than twenty of the Shareholders of the said Bank, who together shall be proprietors of at least one thousand shares of the paid up Capital Stock of the said Bank, by themselves or their proxies, or the Directors of the said Bank or any seven of them, shall respectively have power at any time to call a Special General Meeting of the Shareholders of the said Bank, to be held at their usual place of meeting in the City of Kingston, upon giving six weeks previous public notice thereof, and specifying in such notice the object or objects of such meeting ; and if the object of any such Special General Meeting be to consider of the proposed removal of the President or Vice-President, or of a Director or Directors of the Corporation, for mal-administration, or other specified and apparently just cause, then and in any such case the person or persons whom it shall be so proposed to remove, shall from the day on which the notice shall be first published, be suspended from the duties or his or their office or offices ; and if it be the President or Vice-President whose removal shall be proposed as aforesaid, his office shall be filled up by the remaining Directors (in the manner hereinbefore provided in the case of a vacancy occurring in the office of President or Vice President,) who shall choose or elect a Director to serve as such President or Vice-President, during the time such suspension shall continue or be undecided upon.

Special general meetings, how called, &c.

If the object be the removal of a Director, &c.

Shares to be personalty, and how transferable.

Must be registered in the Bank Books.

Shares sold under execution.

Bank's lien on shares.

XXI. The shares of the Capital Stock of the said Bank, shall be held and adjudged to be personal estate, and shall be transmissible accordingly, and shall be assignable and transferable at the chief place of business of the said Bank, or at any of its Branches which the Directors shall appoint for that purpose, and according to such form as the Directors shall from time to time prescribe; but no assignment or transfer shall be valid and effectual unless it be made and registered in a Book or Books to be kept by the Directors for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him, her or them to the Bank, which may exceed in amount the remaining Stock, (if any) belonging to such person or persons; and no fractional part or parts of a share, or other than a whole share, shall be assignable or transferable; and when any share or shares of the said Capital Stock shall have been sold under a writ of execution, the Sheriff by whom the writ shall have been executed, shall within thirty days after the sale, leave with the Cashier of the Bank, an attested copy of the writ, with the certificate of such Sheriff indorsed thereon, certifying to whom the sale has been made, and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Bank, shall have been discharged as aforesaid) the President, or Vice-President, or Cashier of the Corporation, shall execute the transfer of the share or shares so sold to the purchaser, and such transfer being duly accepted, shall be to all intents and purposes as valid and effectual in Law as if it had been executed by the original holder or holders of the said share or shares; any law or usage to the contrary notwithstanding.

Shares may be transferred and dividends paid in the United Kingdom.

Proviso.

XXII. Shares in the Capital Stock of the said Bank may be made transferable, and the dividends accruing thereon may be made payable in the United Kingdom, in like manner as such shares and dividends are respectively transferable and payable at the Chief office of the said Bank in the City of Kingston; and to that end, the Directors may, from time to time, make such rules and regulations, and prescribe such forms, and appoint such agent or agents, as they may deem necessary. Provided always, that at no time shall more than one half of the whole Capital Stock be registered in the book to be kept for that purpose in the United Kingdom.

By what declaration, &c., the transmission of shares otherwise than by regular transfer shall be authenticated.

XXIII. If the interest in any share in the said Bank become transmitted in consequence of the death, or bankruptcy, or insolvency of any Shareholder, or in consequence of the marriage of a Female Shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors of the Bank shall require; and every such declaration shall distinctly state the manner in which and the party to whom such share

share shall have been so transmitted, and shall be, by such party, made and signed ; and every such declaration shall be, by the party making and signing the same, acknowledged before a Judge or Justice of a Court of Record, or before the Mayor, Provost, or Chief Magistrate of a City, Town, Borough, or other place, or before a Public Notary, where the same shall be made and signed ; and every such declaration, so signed and acknowledged, shall be left with the Cashier, or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission, in the Register of Shareholders ; and until such transmission shall have been so authenticated, no party or person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the Bank, nor to vote in respect of any such share, as the holder thereof: Provided always, that every such declaration and instrument as by this and the following section of this Act is required to perfect the transmission of a share of the Bank, which shall be made in any other Country than in this or some other of the British Colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British Consul or Vice-Consul, or other the accredited representative of the British Government in the Country where the declaration shall be made, or shall be made directly before such British Consul or Vice-Consul, or other accredited representative : And provided also, that nothing in this Act contained shall be held to debar the Directors, Cashier, or other officer or agent of the Bank, from requiring corroborative evidence of any fact or facts alleged in any such declaration.

Proviso : as to declarations made in foreign parts.

XXIV. If the transmission of any Share of the said Bank be by virtue of the marriage of a Female Shareholder, the declaration shall contain a copy of the Register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share ; and if the transmission have taken place by virtue of any testamentary instrument or by intestacy, the Probate of the Will, or the Letters of Administration, or Act of Curatorship, or an official extract therefrom, shall, together with such declaration, be produced and left with the Cashier, or other Officer or Agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission, in the Register of Shareholders.

As to transmission of shares by marriage or by will, or intestacy.

XXV. If the transmission of any share or shares in the Capital Stock of the said Bank be by decease of any Shareholder, the production to the Directors, and deposit with them, of any probate of the will of the deceased Shareholder, or of letters of administration of his estate, granted by any Court in this Province having power to grant such probate or letters of administration, or by any prerogative, diocesan or peculiar Court or authority in England, Wales, Ireland, India or any other British Colony,—or of any testament-testamentary or testament-dative expedite in Scotland,—or if the deceased Shareholder shall

Probate of will or letters of administration to be sufficient authority to the Directors for paying dividends, &c.

shall have died out of Her Majesty's dominions, the production to and deposit with the Directors of any probate of his will or letters of administration of his property or other document of like import, granted by any Court or authority having the requisite power in such matters,—shall be sufficient justification and authority to the Directors for paying any dividend or transferring or authorizing the transfer of any share, in pursuance of and in conformity to such probate, letters of administration or other such document as aforesaid.

Bank not bound to see to trusts.

XXVI. The said Bank shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares of its Stock may be subject; and the receipt of the party in whose name any such share shall stand in the Books of the Bank, or if it stands in the name of more parties than one, the receipt of one of the parties, shall, from time to time, be a sufficient discharge to the Bank for any dividend or other sum of money, payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had notice of such trust; and the Bank shall not be bound to see to the application of the money paid upon such receipt; any law or usage to the contrary notwithstanding.

Bank to invest one tenth of its paid up capital in provincial or municipal loan fund Debentures.

XXVII. It shall be the duty of the Directors of the said Bank to invest, as speedily as the debentures hereinafter mentioned can be procured from the Receiver General, and to keep invested at all times, in the debentures of this Province payable within the same, or secured upon the Consolidated Municipal Loan Fund, one tenth part of the whole paid up Capital of the said Bank, and to make a Return of the numbers and amount of such debentures, verified by the oaths and signatures of the President and Chief Cashier or Manager of the said Bank, to the Inspector General, in the month of January in each year, under the penalty of the forfeiture of the Charter of the said Bank in default of such investment and return: Provided always, that the said Bank shall not be bound to invest any portion of its Capital in debentures under the provisions of this section unless it shall have availed itself of the power to increase its Capital Stock to an amount exceeding five hundred thousand pounds, under this Act, or the said Act passed in the eighteenth year of Her Majesty's Reign, and chaptered forty-two.

Proviso.

Bank not to hold real property except as limited in section 3.

XXVIII. The said Bank shall not either directly or indirectly hold any lands or tenements, (save and except such as by the third section of this Act it is specially authorized to acquire and hold) or any ships or other vessels, or any share or shares of the Capital Stock of the said Bank, or of any other Bank in this Province; nor shall the said Bank either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation (*hypothèque*) of any lands or tenements, or of any ships or other vessels, nor upon the security

or

or pledge of any share or shares of the Capital Stock of the said Bank, or of any goods, wares or merchandize; nor shall the said Bank either directly or indirectly, raise loans of money or deal in the buying, selling or bartering of goods, wares or merchandize, or engage or be engaged in any trade whatever, except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as legitimately appertains to the business of Banking; Provided always, that the said Bank may take and hold mortgages and *hypothèques* on real estate, and on ships, vessels and other personal property in this Province, by way of additional security for debts contracted to the Bank in the course of its dealings, and also for such purpose may purchase and take any outstanding mortgages, judgments or other charges upon the real or personal property of any debtor of the said Bank.

Nor exercise any but banking business.

Proviso: may hold mortgages, &c., as additional security.

XXIX. The aggregate amount of discounts and advances made by the said Bank upon commercial paper or securities bearing the name of any Director of the said Bank, or the name of any copartnership or firm in which any Director of the said Bank shall be a partner, shall not at any one time, exceed one twentieth of the total amount of discounts or advances made by the Bank at the same time.

Discounts to Directors limited to one twentieth of the whole.

XXX. The Bank may allow and pay interest not exceeding the legal rate in this Province, upon money deposited in the Bank; and, in discounting promissory notes, bills, or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same; And when notes, bills, or other negotiable securities or paper, are *bonâ fide* payable at a place within the Province different from that at which they are discounted, the Bank may also, in addition to the discount, receive or retain an amount not exceeding one half per centum on the amount of every such note, bill or other negotiable security or paper, to defray the expenses of agency and exchange attending the collection of every such note, bill, or other negotiable security or paper; And the Bank may charge any note or bill held by and made payable at the Bank, against the deposit account of the maker or acceptor of such note or bill at the maturity thereof; any law, statute or usage to the contrary notwithstanding.

Bank may retain discount, &c.

May charge a premium in certain cases.

May charge notes, &c., against the deposit accounts of certain parties thereto.

XXXI. The bonds, obligations and bills obligatory or of credit of the said Bank, under its common seal and signed by the President or Vice-President, and countersigned by a Cashier (or Assistant Cashier) thereof, which shall be made payable to any person or persons, shall be assignable by indorsement thereon under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees successively, and to enable such assignee or assignees to bring and

Certain Bonds, &c., of the Bank to be assignable by indorsement.

Bills and notes valid tho' not under seal.

Assignable in certain cases by delivery.

Proviso: Directors may authorize any Officers to sign notes.

and maintain an action or actions thereon in his, her or their own name or names; and signification of any assignment by indorsement shall not be necessary, any law or usage to the contrary notwithstanding; and bills or notes of the said Bank, signed by the President, Vice-President, Cashier or other officer appointed by the Directors of the said Bank to sign the same, promising the payment of money to any person or persons, his or their order or to the bearer, though not under the corporate seal of the said Bank, shall be binding and obligatory upon it, in the like manner and with the like force and effect as they would be upon any private person if issued by him in his private or natural capacity, and shall be assignable in like manner as if they were so issued by a private person in his natural capacity; Provided always that nothing in this Act shall be held to debar the Directors of the said Bank from authorizing or deputing from time to time, any Cashier, Assistant Cashier or Officer of the Bank, or any Director other than the President or Vice-President, or any Cashier, Manager or local Director of any branch or office of discount and deposit of the said Bank, to sign the bills or notes of the Corporation intended for general circulation and payable to order or to bearer on demand.

Recital.

XXXII. And whereas it may be deemed expedient, that the name or names of the person or persons intrusted and authorized by the Bank to sign bank-notes and bills on behalf of the Bank, should be impressed by machinery, in such form as may from time to time be adopted by the Bank, instead of being subscribed in the hand-writing of such person or persons respectively: And whereas doubts might arise respecting the validity of such notes: Be it therefore further declared and enacted, That all bank notes and bills of the Commercial Bank of Canada, whereon the name or names of any person or persons intrusted or authorized to sign such notes or bills on behalf of the Bank, shall or may become impressed by machinery provided for that purpose by or with the authority of the Bank, shall be and be taken to be good and valid, to all intents and purposes as if such notes and bills had been subscribed in the proper hand-writing of the person or persons intrusted and authorized by the Bank to sign the same respectively, and shall be deemed and taken to be bank-notes or bills within the meaning of all laws and statutes whatever; and shall and may be described as bank-notes or bills, in all indictments and civil or criminal proceedings whatsoever; any law, statute or usage to the contrary notwithstanding.

Signature to Bank notes may be impressed by machinery.

Bank notes to be payable at the place of date.

XXXIII. The notes or bills of the said Bank made payable to order or to bearer and intended for general circulation, whether the same shall issue from the chief seat or place of business of the said Bank in the City of Kingston, or from any of its branches, shall be payable on demand in specie at the place where they bear date.

XXXIV.

XXXIV. Notwithstanding the change hereby made in its Corporate name, it shall be lawful for the said Bank, until notes bearing the Corporate name hereby assigned to it shall be prepared and ready for issue, to issue or re-issue its notes intended for general circulation, although in such notes it may be designated as 'The Commercial Bank of the Midland District,' and any such note, or any other note, bill, bond or other instrument, document or writing whatever, in which the said Bank shall be designated as 'The Commercial Bank of the Midland District,' or as 'The President, Directors and Company of the Commercial Bank of the Midland District,' shall, after this Act shall be in force, have in all respects the same effect, as regards the rights and liabilities of the said Bank or of any other person or party, as if the said Bank had been therein designated as 'The Commercial Bank of Canada.'

Present notes may be used notwithstanding the change of corporate name.

XXXV. A suspension by the said Bank, either at its chief place or seat of business in the said City of Kingston, or at any of its branches or offices of discount and deposit at any other place in this Province, of payment on demand in specie of the notes or bills of the said Bank payable there on demand, shall, if the time of suspension extend to sixty days, consecutively or at intervals within any twelve consecutive months, operate as and be a forfeiture of its charter, and of all and every the privileges granted to it by this or any other Act.

Suspension of payment for sixty days, to forfeit charter.

XXXVI. The total amount of the bank-notes and bills of the Bank, of all values, in circulation at any one time, shall never exceed the aggregate amount of the paid up capital stock of the Bank, and the gold and silver coin and bullion, and debentures or other securities, reckoned at par, issued or guaranteed by the Government under the authority of the Legislature of this Province, on hand; and of the bank-notes and bills in circulation at any one time, not more than one fifth of the said aggregate amount shall be in bank-notes or bills under the nominal value of one pound currency each; but no bank-note of bill of the Bank, under the nominal value of five shillings, shall be issued or put in circulation.

Total amount of Bank notes limited.

And of those under £1.

None to be under 5 shillings.

XXXVII. The total amount of the debts which the said Bank shall at any one time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of its Capital Stock paid in, and the deposits made in the Bank in specie and Government securities for money; and in case of excess, or in case the total amount of the bills or notes of the said Bank payable to order, or to bearer on demand and intended for general circulation shall at any time exceed the amount hereinbefore limited, the said Bank shall forfeit its charter and all the privilege granted to it by this or any other Act, and the Directors under whose administration the excess shall happen, shall be liable jointly and severally for the same in their private capacity, as well to the Shareholders as to the holders

Total liabilities of the Bank limited.

Forfeiture of charter for excess under this or the next preceding section; and liability of Directors.

Proviso : how  
Director may  
avoid such  
liability.

holders of the bonds, bills and notes of the said Bank, and an action or actions in this behalf may be brought against them or any of them, and the heirs, executors, administrators, or curators of them or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the said Bank or its lands, tenements, goods or chattels, from being also liable for such excess: Provided always, that if any Director present at the time of contracting any such excess of debt, do forthwith, or if any Director absent at the time of contracting any such excess of debt, do within twenty-four hours after he shall have obtained a knowledge thereof, enter on the minutes or register of the Bank, his protest against the same, and do within eight days thereafter publish such protest in at least two Newspapers published in the City of Kingston, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors and administrators or curators, from the liability aforesaid, any thing herein contained or any law to the contrary notwithstanding: provided always, that such publication shall not exonerate any Director from his liability as a shareholder.

Proviso.

Limitation of  
liability of  
Shareholders  
in case of in-  
solvency of  
the Bank.

XXXVIII. In the event of the property and assets of the said Bank becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of its stock, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of their respective shares, that is to say, the liability and responsibility of each Shareholder to the creditors of the said Bank, shall be limited to a sum of money equal in amount to his stock therein, over and above any instalment or instalments which may be unpaid on such stock, for which he shall also remain liable and shall pay up: Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the said Bank hereinbefore mentioned and declared.

Proviso.

Statement of  
affairs to be  
published  
monthly.

XXXIX. Besides the detailed statement of the affairs of the said Bank hereinbefore required to be laid before the Shareholders thereof, at their annual general meeting, the Directors shall make up and publish on the first Monday in each and every month, statements of the Assets and Liabilities of the said Bank, in the form of the Schedule A., hereunto annexed, shewing under the heads specified in the said form, the average amount of the notes of the said Bank in circulation, and other liabilities, at the termination of the month to which the statement shall refer, and the average amount of specie and other Assets, that at the same times were available to meet the same: and it shall be the duty of the Directors to submit to the Governor of this Province, if required, a copy of such monthly statements, and, if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production

Governor may  
require further  
information.

production of the weekly or monthly balance sheets from which the said statements shall have been compiled : and furthermore the said Directors shall from time to time when required, furnish to the said Governor of this Province, such further reasonable information respecting the state and proceedings of the said Bank, and of the several branches and offices of discount and deposit thereof, as such Governor of this Province, may reasonably see fit to call for : Provided always, that the weekly or monthly balance sheets, and the further information that shall be so produced and given, shall be held by the said Governor of this Province, as being produced and given in strict confidence that he shall not divulge any part of the contents of the said weekly or monthly balance sheets, or of the information that shall be so given ; And provided also, that the Directors shall not, nor shall any thing herein contained be construed to authorize them or any of them, to make known the private account or accounts of any person or persons whatever having dealings with the said Bank.

Proviso : such further information to be confidential.

Proviso : private accounts not to be disclosed.

XL. It shall not be lawful for the said Bank, at any time whatever, directly or indirectly, to advance or lend to or for the use of or on account of any Foreign Prince, Power or State, any sum or sums of money or any securities for money : and if such unlawful advance or loan be made, then and from thenceforth, the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages granted to it by this or any other Act, shall cease and determine.

Bank not to lend money to any foreign state, &c.

XLI. The several public notices by this Act required to be given, shall be given by advertisement, in one or more of the Newspapers published in the City of Kingston, and in the *Canada Gazette*, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of official documents and notices emanating from the Civil Government of this Province, if any such Gazette be then published.

Public notices how to be given.

XLII. If any Cashier, Assistant Cashier, Manager, Clerk or Servant of the said Bank, shall secrete, embezzle or abscond with, any Bond, Obligation, Bill Obligatory or of Credit, or other Bill or Note, or any Security for money, or any moneys or effects, intrusted to him as such Cashier, Assistant Cashier, Manager, Clerk or Servant, whether the same belong to the said Bank, or belonging to any other person or persons, body or bodies politic or corporate, or institution or institutions, be lodged and deposited with the said Bank, the Cashier, Assistant Cashier, Manager, Clerk or Servant, so offending, and being thereof convicted in due form of Law, shall be deemed guilty of felony.

Punishment of embezzlement &c., by Bank Officers.

XLIII. Every person convicted of felony under this Act shall be punished by imprisonment at hard labor in the Provincial Penitentiary, for any term not less than two years, or

Imprisonment over two years to be in Penitentiary.

by imprisonment in any other Gaol or place of confinement for any less term than two years, in the discretion of the Court before which he shall be convicted.

Power to search for forged notes or machinery used for forging.

XLIV. It shall and may be lawful to and for any Justice of the Peace, on complaint made before him, upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons is or are or hath, or have been concerned in making or counterfeiting any false bills of exchange, promissory notes, undertakings or orders of the said Bank, or hath in his possession any plates, presses or other instruments, tools or materials for making or counterfeiting the same or any part thereof, by warrant under the hand of such Justice, to cause the dwelling house, room, workshop, or outhouse, or other building, yard, garden, or other place belonging to such suspected person or persons, or where any such person or persons shall be suspected of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any plates, presses, or other tools, instruments or materials, shall be found in the custody or possession of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whomsoever discovering the same, to seize, and he or they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, presses, or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, in some Court of Justice proper for the determination thereof, and the same, after being so produced in evidence, shall by order of the Court be defaced or destroyed, or otherwise disposed of as such Court shall direct.

How dealt with if found.

Saving of rights of the Crown, &c.

XLV. Nothing in this Act contained shall in any manner derogate from, or affect, or be construed to derogate from or affect, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act.

Public Act.

XLVI. This Act shall be held, and taken to be a Public Act, and shall be judicially taken notice of and have the effect of a Public Act, without being specially pleaded, and shall be known as the *Charter of the Commercial Bank of Canada*, and the Interpretation Act shall apply thereto.

Short Title.

**XLVII.** This Act, and so much of the Acts mentioned in the preamble as is not repealed by this Act, shall be and remain in force until the first day of January, which will be in the year of our Lord one thousand eight hundred and seventy, and from that time until the end of the then next Session of the Parliament of this Province, and no longer.

Duration of this Act.

**XLVIII** The foregoing sections of this Act shall have force and effect upon, from and after the first day of January, in the year of Our Lord, one thousand eight hundred and fifty-seven, and not before, and the said sections only shall be understood as intended, by the words "this Act," whenever in any of them the time when this Act shall be in force is mentioned.

Commencement of this Act.

**SCHEDULE A**

*Referred to in the Thirty-ninth Section of the foregoing Act.*

Return of the Average Amount of Liabilities and Assets of the Commercial Bank of Canada, during the period from the first to one thousand eight hundred and

**LIABILITIES.**

Promissory Notes in circulation not bearing interest..	£
Bills of Exchange in circulation not bearing interest..	£
Bills and Notes in circulation bearing interest.....	£
Balances due to other Banks.....	£
Cash deposits, not bearing interest.....	£
Cash deposits, bearing interest.....	£
<b>Total average Liabilities.....</b>	<b>£</b>

**ASSETS.**

Coin and Bullion.....	£
Landed or other property of the Bank.....	£
Government Securities.....	£
Promissory Notes or Bills of other Banks.....	£
Balances due from other Banks.....	£
Notes and Bills discounted.....	£
Other Debts due to the Bank, not included under the foregoing heads.....	£
<b>Total average Assets.....</b>	<b>£</b>

## C A P. C X X I .

## An Act to amend and consolidate the Acts forming the Charter of the Bank of Upper Canada.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS the Corporation called and known as "The Bank of Upper Canada," was created and constituted by and under the Act of the Legislature of Upper Canada passed in the fifty-ninth year of the Reign of King George the Third, and intituled, *An Act to incorporate sundry persons under the style and title of The President, Directors and Company of the Bank of Upper Canada*, which said Act was amended by the Act of the said Legislature passed in the second year of the Reign of King George the Fourth, and chaptered seven, and by the Act thereof passed in the second year of the Reign of His late Majesty King William the Fourth, and chaptered ten; And whereas the said Acts were again amended by the Act of the Legislature of this Province passed in the session thereof held in the fourth and fifth years of Her Majesty's Reign, and chaptered ninety-five, and the charter and privileges of the said Corporation were confirmed and extended by the Act of the said Legislature passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to extend the charter of the Bank of Upper Canada, and to increase the Capital Stock thereof*, which said Act hath since been amended and the privileges of the said Corporation have been further extended by the Act of the said Legislature passed in the ninth year of Her Majesty's Reign, and chaptered eighty-six, and by that of the said Legislature passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered one hundred and thirty-seven, and the said Acts were further amended and an increase of the Capital Stock of the said Corporation was authorized by the Act of the said Legislature passed in the eighteenth year of Her Majesty's Reign, chaptered thirty-nine; And whereas the said Corporation hath by its Petition prayed, that the provisions of the said several Acts may be consolidated with certain amendments and extensions of the powers and privileges thereby conferred, and it is expedient to grant the prayer of the said Petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Inconsistent provisions of the said Acts repealed.

I. So much of the Acts hereinbefore cited, or any of them, as may be inconsistent with or repugnant to the provisions of this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, shall be and is hereby repealed.

Corporation continued.  
Powers.

II. The said Corporation of the Bank of Upper Canada shall, during the time this Act shall remain in force, continue to have all, each and every of the rights, powers and authority

authority in and by the Acts hereinbefore cited, or any of them, conferred upon or vested in it, subject always to the provisions of this Act; and shall continue to have perpetual succession and a common seal, with power to break, renew, change and alter the same at pleasure; and shall be capable of suing and being sued, pleading and being impleaded in all Courts of law and equity, and other places, in all manner of actions, causes and matters whatsoever; and for the convenient management of its business, but for no other purpose, shall and may purchase, acquire and hold real or immoveable estates and property, not exceeding the yearly value of five thousand pounds currency, and may sell, alienate and dispose of the same, and purchase, acquire and hold others in their stead, not exceeding in the whole the yearly value aforesaid.

Real estate limited.

III. The Capital Stock of the said Bank, (the words "the said Bank" meaning throughout this Act the Corporation aforesaid,) shall be one million of pounds currency, divided into shares of twelve pounds ten shillings currency, or fifty dollars each; and so many of the said shares as may be unsubscribed for when this Act shall come into force, may be subscribed for either within or out of this Province, in such proportions or numbers and at such times and places, and under such regulations, and at such rate of premium, to be paid by the subscribers over and above the amount of the shares, as the Directors of the said Bank shall from time to time establish; and the shares so subscribed for shall be paid in by such instalments, and at such times and places as the said Directors shall from time to time appoint, and executors, administrators and curators paying instalments upon shares of deceased shareholders, shall be and are hereby respectively indemnified for paying and are required to pay the same: Provided always, that no share shall be held to be lawfully subscribed for, unless the premium (if any) which shall have been fixed by the Directors, and at least ten per centum on the amount of such share be paid at the time of subscribing: And provided also, that no part of the Capital Stock unsubscribed for at the time when this Act shall come into force, shall be subscribed for after the end of six years from that time; and the whole of the stock subscribed for shall be called in before the thirty-first day of December, one thousand eight hundred and sixty-one: And provided further, that it shall not be obligatory upon the said Bank to raise the full amount of the Capital Stock hereby allowed, but the number of shares to be thereafter subscribed for, may at any time be limited by a By-law of the said Bank, in such manner as the shareholders shall deem most advantageous for the interests of the Bank.

Capital  
£1,000,000.  
Shares £12  
10s. each.

As to shares now unsubscribed for.

Instalments.

Proviso: ten per cent payable on subscribing.

Proviso: time for subscribing limited.

Proviso: Bank not bound to raise the full capital.

IV. If any person or party, subscribing for shares of the Capital Stock of the said Bank, shall also be willing to pay up at the time of subscribing the full amount of the shares subscribed for, together with such premium thereon as aforesaid, it shall and

Subscribers may pay in full, &c.

and may be lawful for the Directors of the Bank, and at any time within the period hereinbefore limited for subscribing for such Stock, to admit and receive such subscriptions and full payment, or payment of any number of instalments, together with such premium; and in every case, the premium so received on any Stock subscribed for, shall be carried to the account of the ordinary profits of the said Bank.

As to premium.

Forfeiture for non-payment of calls.

Sale of shares on which calls are not paid.

Proviso: forfeiture may be re-leased.

V. If any Shareholder or Shareholders shall refuse or neglect to pay any instalment upon his, her or their shares of the said Capital Stock, at the time or times required by the Directors as aforesaid, such Shareholder or Shareholders shall incur a forfeiture to the use of the said Bank, of a sum of money equal to ten pounds per centum on the amount of such shares; and moreover, it shall be lawful for the Directors of the said Bank (without any previous formality other than thirty days' public notice of their intention) to sell at public auction the said shares, or so many of the said shares as shall, after deducting the reasonable expenses of the sale, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeitures incurred upon the whole; and the President, with the Vice-President or the Cashier of the said Bank, shall execute the transfer to the purchaser of the shares of Stock so sold, and such transfer being accepted, shall be as valid and effectual in law as if the same had been executed by the original holder or holders of the shares of Stock thereby transferred: Provided always, that nothing in this section contained shall be held to debar the Directors or shareholders, at a general meeting, from remitting either in whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of any instalment as aforesaid.

Chief place of business.

Branches.

VI. The chief place or seat of business of the said Bank, shall be in the City of Toronto, but it shall and may be lawful for the Directors of the Bank, to open and establish in other Cities, Towns and Places in this Province, Branches or Agencies or offices of discount and deposit of the said Bank, under such rules and regulations for the good and faithful management of the same, as to the said Directors shall from time to time seem meet, not being repugnant to any law of this Province, to this Act, or to the By-laws of the said Bank.

Ten Directors to be elected annually.

VII. For the management of the affairs of the said Bank, there shall continue to be Ten Directors annually elected by the Shareholders of the Capital Stock thereof, at a general meeting of them to be held annually on the twenty-fifth day of June in each year, (except when that day shall be a Sunday or legal holiday, and then on the next day which shall not be a Sunday or legal holiday,) beginning in the month of June, in the year of our Lord one thousand eight hundred and fifty-seven; at which meeting the Shareholders shall vote according to the rule or scale of votes hereinafter established; and the Directors elected

elected by a majority of votes given in conformity to such rule or scale, shall be capable of serving as Directors for the ensuing twelve months ; and at their first meeting after such election the Directors shall choose out of their number a President and a Vice-President, who shall hold their offices respectively during the same period : and in case of a vacancy occurring in the said number of ten Directors, the remaining Directors shall fill the same by election from among the Shareholders, and each Director so elected shall be capable of serving as a Director, until the next annual general meeting of the Shareholders ; and if the vacancy occurring in the said number of ten Directors shall also cause the vacancy of the office of President or of Vice-President, the Directors at their first meeting after their number shall have been completed as aforesaid, shall fill the vacant office by choice or election from among themselves, and the Director so chosen or elected to be President or Vice-President shall fill the office to which he shall be so chosen or elected, until the next general annual meeting of the Shareholders : Provided always, that each of the Directors shall be the holder and proprietor in his own name of not less than ten shares of Capital Stock of the said Bank, wholly paid up, and shall be a natural-born or naturalized subject of Her Majesty ; And provided also, that it shall be lawful for the Stockholders at any annual general meeting, to pass a By-law directing that five of the Directors in office at the period of each annual election, shall be re-elected for the next ensuing twelve months.

By a majority of votes.

President and Vice-President.

Vacancies, how filled.

Proviso : qualification of Directors.

Proviso : a By-law may be passed requiring that five must be re-elected.

VIII. If at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, the said Corporation shall not be deemed or taken to be thereby dissolved, but it shall be lawful at any subsequent time to make such election, at a general meeting of the Shareholders to be called for that purpose, and the Directors in office, when such failure of election shall take place, shall remain in office until such election shall be made.

Provision if any election should fail.

IX. The Books, Correspondence and Funds of the said Bank, shall at all times be subject to the inspection of the Directors, but no Shareholder not being a Director, shall inspect, or be allowed to inspect, the account or accounts of any person or persons dealing with the said Bank.

Who may inspect the Bank's Books.

X. At all meetings of the Directors of the said Bank, not less than five of them shall constitute a board or quorum for the transaction of business ; and at the said meetings the President or in his absence the Vice-President, or in their absence one of the Directors present, to be chosen *pro tempore*, shall preside ; and the President, Vice-President or President *pro tempore*, so presiding, shall vote as a Director, and if there be an equal division on any question ; shall also have a casting vote.

Quorum of Directors.

Casting vote.

Present Directors continued.

XI. The Shareholders of the said Bank, who at the time this Act shall come into force shall be Directors thereof, shall be and continue to be Directors thereof until the first election of Directors under this Act, and shall then go out of office; and the said Directors shall, until the first election under this Act, have in all respects the rights, duties and powers assigned to the Directors of the said Bank by this Act, and be governed by its provisions as if elected under it.

Their powers.

Directors to make By-laws for certain purposes.

XII. It shall and may be lawful for the Directors of the said Bank from time to time to make and enact By-laws, Rules and Regulations, (the same not being repugnant to this Act or to the Laws of this Province) for the proper management of the affairs of the said Corporation, and, from time to time, to alter or repeal the same, and others to make and enact in their stead; Provided always, that no By-law, Rule or Regulation, so made by the Directors, shall have force or effect until the same shall, after six weeks' public notice, have been confirmed by the Shareholders at an annual general meeting or at a special general meeting called for that purpose; And provided also, that the By-laws of the said Bank in force at the time when this Act shall come into force, in so far as they are not repugnant to this Act, or to Law, shall continue to be the By-laws thereof until others shall have been made and enacted and confirmed as provided for by this section.

Proviso.

Notice.

Proviso: as to existing By-laws.

Payment of President and Directors.

XIII. The Shareholders may by a By-law appropriate a sum of money for the remuneration of the services of the President and Directors as such, and the President and Directors may annually apportion the same among themselves as they may think fit: No Director shall act as a Private Banker.

Directors to appoint Bank Officers and Servants.

XIV. The Directors of the said Bank, shall have power to appoint a Cashier, Assistant Cashier and Secretary, and Clerks and Servants under them, and such other Officers as shall be necessary for conducting the business of the Bank, and to allow reasonable compensation for their services respectively, and shall also be capable of exercising such powers and authority, for the well governing and ordering of the affairs of the Corporation, as shall be prescribed by the By-laws thereof; Provided always, that before permitting any Cashier, Assistant Cashier, Officer, Clerk or Servant of the Bank, to enter upon the duties of his office, the Directors shall require him to give bond, with sureties, to the satisfaction of the Directors, that is to say, every Cashier in a sum not less than five thousand pounds, currency, every Assistant Cashier in the sum of Three Thousand pounds currency, and every other Officer, Clerk or Servant, in such sum of money as the Directors shall consider adequate to the trust to be reposed in him, with condition for good and faithful behaviour.

Proviso: security to be taken from each.

The amounts.

XV. It shall be the duty of the Directors to make half yearly dividends of so much of the profits of the said Bank as to them shall appear advisable, and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously: Provided always, that such dividends shall not in any manner lessen or impair the Capital Stock of the said Bank.

Directors to make dividends.

Proviso.

XVI. The general meetings of the Shareholders of the said Bank to be held annually as aforesaid in the City of Toronto for the purpose of electing Directors in the manner hereinbefore provided, shall be general meetings also for all other general purposes touching the affairs and the management of the affairs of the said Bank; and at each of the said annual general meetings, the Directors shall exhibit a full and clear statement of the affairs of said Bank.

Statement of affairs to be exhibited at yearly meetings.

XVII. The number of votes which the Shareholders of the said Bank shall respectively be entitled to give at their meetings, shall be according to the following scale, that is to say: for one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for every thirty shares; for every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and no Shareholder shall be entitled to give a greater number of votes than twenty; and it shall be lawful for absent Shareholders to give their votes by proxy, such proxy being also a Shareholder, and being provided with a written authority from his constituent or constituents, in such form as shall be established by a By-law, and which authority shall be lodged in the Bank: Provided always, that a share or shares of the Capital Stock of the said Bank which shall have been held for a less period than three calendar months immediately prior to any meeting of the Shareholders, shall not entitle the holder or holders to vote at such meeting, either in person or by proxy: Provided also, that where two or more persons are joint holders of shares, it shall be lawful that one only of such joint holders be empowered by Letter of Attorney from the other joint holder or holders, or a majority of them, to represent the said shares and vote accordingly: And provided also that no Shareholder who shall not be a natural-born or naturalized subject of Her Majesty, or who shall be a subject or citizen of any Foreign Prince or State, shall either in person or by proxy, vote at any meeting whatever of the Shareholders of the said Bank, or shall assist in calling any meeting of the Shareholders; any thing in this Act to the contrary notwithstanding.

Scale of voting at general meetings.

Voting by proxy.

Proviso: Shares voted on must have been held a certain time.

Proviso: as to Joint Stock-holders.

Voters must be British Subjects.

Bank Officers  
not to vote.

XVIII. No Cashier, Assistant Cashier, Bank Clerk or other Officer of the Bank, shall vote either in person or by proxy at any meeting for the election of Directors, or hold a proxy for that purpose.

Special general meetings  
how called,  
&c.

XIX. Any number not less than twenty of the Shareholders of the said Bank, who together shall be proprietors of at least one thousand shares of the paid up Capital Stock of the said Bank, by themselves or their proxies, or the Directors of the said Bank or any seven of them, shall respectively have power at any time to call a Special General Meeting of the Shareholders of the said Bank, to be held at their usual place of meeting in the City of Toronto, upon giving six weeks' previous public notice thereof, and specifying in such notice the object or objects of such meeting; and if the object of any such Special General Meeting be to consider of the proposed removal of the President or Vice-President, or of a Director or Directors of the Corporation, for mal-administration, or other specified and apparently just cause, then and in any such case the person or persons whom it shall be so proposed to remove, shall from the day on which the notice shall be first published, be suspended from the duties of his or their office or offices; and if it be the President or Vice-President whose removal shall be proposed as aforesaid, his office shall be filled up by the remaining Directors (in the manner hereinbefore provided in the case of a vacancy occurring in the office of President or Vice-President,) who shall choose or elect a Director to serve as such President or Vice-President, during the time such suspension shall continue or be undecided upon.

If the object  
be the removal  
of a Director,  
&c.

Shares to be  
personally,  
and how  
transferable.

XX. The shares of the Capital Stock of the said Bank, shall be held and adjudged to be personal estate, and shall be transmissible accordingly, and shall be assignable and transferable at the chief place of business of the said Bank, or at any of its Branches which the Directors shall appoint for that purpose, and according to such form as the Directors shall from time to time prescribe; but no assignment or transfer shall be valid and effectual unless it be made and registered in a Book or Books to be kept by the Directors for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him, her or them to the Bank, which may exceed in amount the remaining Stock, (if any) belonging to such person or persons; and no fractional part or parts of a share, or other than a whole share, shall be assignable or transferable; and when any share or shares of the said Capital Stock shall have been sold under a writ of execution, the Sheriff by whom the writ shall have been executed, shall within thirty days after the sale, leave with the Cashier of the Bank, an attested copy of the writ, with the certificate of such Sheriff indorsed thereon, certifying to whom the sale has been made, and thereupon (but not until after all debts due by the original holder or holders of the said shares to the

Must be registered  
in the  
Bank Books.

Shares sold  
under execution.

Bank's lien on  
shares.

Bank,

Bank, shall have been discharged as aforesaid) the President, or Vice-President, or Cashier of the Corporation, shall execute the transfer of the share or shares so sold to the purchaser, and such transfer being duly accepted, shall be to all intents and purposes as valid and effectual in Law as if it had been executed by the original holder or holders of the said share or shares; any law or usage to the contrary notwithstanding.

XXI. Shares in the Capital Stock of the said Bank may be made transferable, and the dividends accruing thereon may be made payable in the United Kingdom, in like manner as such shares and dividends are respectively transferable and payable at the Chief office of the said Bank in the City of Toronto; and to that end, the Directors may, from time to time, make such rules and regulations, and prescribe such forms, and appoint such agent or agents, as they may deem necessary; Provided always, that at no time shall more than one half of the whole Capital Stock be registered in the book to be kept for that purpose in the United Kingdom.

Shares may be transferred and dividends paid in the United Kingdom.

Proviso.

XXII. If the interest in any share in the said Bank become transmitted in consequence of the death, or bankruptcy, or insolvency of any Shareholder, or in consequence of the marriage of a Female Shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors of the Bank shall require; and every such declaration shall distinctly state the manner in which and the party to whom such share shall have been so transmitted, and shall be, by such party made and signed; and every such declaration shall be, by the party making and signing the same, acknowledged before a Judge or Justice of a Court of Record, or before the Mayor, Provost, or Chief Magistrate of a City, Town, Borough, or other place, or before a Public Notary, where the same shall be made and signed; and every such declaration, so signed and acknowledged, shall be left with the Cashier, or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission, in the Register of Shareholders; and until such transmission shall have been so authenticated, no party or person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the bank, nor to vote in respect of any such share, as the holder thereof; Provided always, that every such declaration and instrument as by this and the following section of this Act is required to perfect the transmission of a share of the Bank, which shall be made in any other Country than in this or some other of the British Colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British Consul or Vice-Consul, or other the accredited representative of the British Government in the Country where

By what declaration, &c., the transmission of shares otherwise than by regular transfer shall be authenticated.

Proviso: as to declarations made in foreign parts.

where the declaration shall be made, or shall be made directly before such British Consul or Vice-Consul, or other accredited representative: And provided also, that nothing in this Act contained shall be held to debar the Directors, Cashier, or other officer or agent of the Bank, from requiring corroborative evidence of any fact or facts alleged in any such declaration.

Proviso.

As to transmission of shares by marriage or by will, or intestacy.

XXIII. If the transmission of any Share of the Bank be by virtue of the marriage of a Female Shareholder, the declaration shall contain a copy of the Register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if the transmission have taken place by virtue of any testamentary instrument or by intestacy, the Probate of the Will, or the Letters of Administration, or Act of Curatorship, or an official extract therefrom, shall, together with such declaration, be produced and left with the Cashier, or other Officer or Agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission, in the Register of Shareholders.

Probate of will or letters of administration to be sufficient authority to the Directors for paying dividends, &c.

XXIV. If the transmission of any share or shares in the Capital Stock of the said Bank be by decease of any Shareholder, the production to the Directors, and deposit with them, of any probate of the will of the deceased Shareholder, or of letters of administration of his estate, granted by any Court in this Province having power to grant such probate or letters of administration, or by prerogative, diocesan or peculiar Court or authority in England, Wales, Ireland, India or any other British Colony,—or of any testament-testamentary or testament-dative expedite in Scotland,—or if the deceased Shareholder shall have died out of Her Majesty's dominions, the production to and deposit with the Directors of any probate of his will or letters of administration of his property or other document of like import, granted by any Court or authority having the requisite power in such matters,—shall be sufficient justification and authority to the Directors for paying any dividend or transferring or authorizing the transfer of any share, in pursuance of and in conformity to such probate, letters of administration or other such document as aforesaid.

Bank not bound to see to trusts.

XXV. The said Bank shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares of its Stock may be subject; and the receipt of the party in whose name any such share shall stand in the Books of the Bank, or if it stand in the name of more parties than one, the receipt of one of the parties, shall, from time to time, be a sufficient discharge to the Bank for any dividend or other sum of money, payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had notice of such trust; and the Bank shall not be bound to see to the application of the

the money paid upon such receipt; any law or usage to the contrary notwithstanding.

XXVI. It shall be the duty of the Directors of the said Bank to invest, as speedily as the debentures hereinafter mentioned can be procured from the Receiver General, and to keep invested at all times, in the debentures of this Province payable within the same, or secured upon the Consolidated Municipal Loan Fund, one-tenth part of the whole paid up Capital of the said Bank, and to make a Return of the numbers and amount of such debentures, verified by the oaths and signatures of the President and Chief Cashier or Manager of the said Bank, to the Inspector General, in the month of January in each year, under the penalty of the forfeiture of the Charter of the said Bank in default of such investment and return: Provided always, that the said Bank shall not be bound to invest any portion of its Capital in debentures under the provisions of this section unless it shall have availed itself of the power to increase its Capital Stock to an amount exceeding five hundred thousand pounds, under this Act or the said Act passed in the Eighteenth year of Her Majesty's Reign, and chaptered thirty-nine.

Bank to invest one tenth of its paid up capital in provincial or municipal loan fund Debentures.

Proviso.

XXVII. The said Bank shall not either directly or indirectly hold any lands or tenements, (save and except such as by the \*third section of this Act it is specially authorized to acquire and hold) or any ships or other vessels, or any share or shares of the Capital Stock of the said Bank, or of any other Bank in this Province; nor shall the said Bank either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation (*hypothèque*) of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the Capital Stock of the said Bank, or of any goods, wares or merchandize; nor shall the said Bank either directly or indirectly, raise loans of money or deal in the buying, selling or bartering of goods, wares or merchandize, or engage or be engaged in any trade whatever, except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as legitimately appertains to the business of Banking; Provided always, that the said Bank may take and hold mortgages and *hypothèques* on real estate, ships, vessels and other personal property in this Province, by way of additional security for debts contracted to the Bank in the course of its dealings, and may also for such purpose purchase and take any outstanding mortgages, judgments or other charges upon the real or personal property of any debtor of the said Bank.

Bank not to hold real property except as limited in section 2.

\*second—See french.

Nor exercise any but banking business.

Proviso: may hold mortgages, &c. as additional security.

XXVIII. The aggregate amount of discounts and advances made by the said Bank upon commercial paper or securities bearing the name of any Director of the said Bank, or the name

Discounts to Directors limited to one twentieth of the whole.

of any copartnership or firm in which any Director of the said Bank shall be a partner, shall not at any one time, exceed one twentieth of the total amount of discounts or advances made by the Bank at the same time.

Bank may retain discount, &c.

May charge a premium in certain cases.

May charge notes, &c., against the deposit accounts of certain parties thereto.

Certain bonds, &c., of the Bank to be assignable by indorsement.

Bills and notes valid tho' not under seal.

Assignable in certain cases by delivery.

Proviso: Directors may authorize any Officers to sign notes.

XXIX. The Bank may allow and pay interest not exceeding the legal rate in this Province, upon moneys deposited in the Bank; and in discounting promissory notes, bills, or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same; and when notes, bills, or other negotiable securities or paper, are *bond fide* payable at a place within the Province different from that at which they are discounted, the Bank may also in addition to the discount receive or retain an amount not exceeding one half per centum on the amount of every such note, bill or other negotiable security or paper, to defray the expenses of agency and exchange attending the collection of every such note, bill, or other negotiable security or paper; And the Bank may charge any note or bill held by and payable at the Bank, against the deposit account of the maker of such note or acceptor of such bill, at the maturity thereof; any law, statute or usage to the contrary notwithstanding.

XXX. The bonds, obligations and bills obligatory or of credit of the said Bank, under its common seal and signed by the President or Vice-President, and countersigned by a Cashier (or Assistant Cashier) thereof, which shall be made payable to any person or persons, shall be assignable by indorsement thereon under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees successively, and to enable such assignee or assignees to bring and maintain an action or actions thereon in his, her or their own name or names; and signification of any assignment by indorsement shall not be necessary, any law or usage to the contrary notwithstanding; and bills or notes of the said Bank, signed by the President, Vice-President, Cashier or other officer appointed by the Directors of the said Bank to sign the same, promising the payment of money to any person or persons, his or their order or to the bearer, though not under the corporate seal of the said Bank, shall be binding and obligatory upon it, in the like manner and with the like force and effect as they would be upon any private person if issued by him in his private or natural capacity, and shall be assignable in like manner as if they were so issued by a private person in his natural capacity; Provided always that nothing in this Act shall be held to debar the Directors of the said Bank from authorizing or deputing from time to time, any Cashier, Assistant Cashier or Officer of the Bank, or any Director other than the President or Vice-President, or any Cashier, Manager or local Director of any branch or office of discount and deposit of  
the

the said Bank, to sign the bills or notes of the Corporation intended for general circulation and payable to order or to bearer on demand.

XXXI. And whereas it may be deemed expedient, that the name or names of the person or persons intrusted and authorized by the Bank to sign bank-notes and bills on behalf of the Bank, should be impressed by machinery; in such form as may from time to time be adopted by the Bank, instead of being subscribed in the hand-writing of such person or persons respectively: And whereas doubts might arise respecting the validity of such notes: Be it therefore further declared and enacted, That all bank-notes and bills of the Bank of Upper Canada, whereon the name or names of any person or persons intrusted or authorized to sign such notes or bills on behalf of the Bank, shall or may become impressed by machinery provided for that purpose by or with the authority of the Bank, shall be and be taken to be good and valid, to all intents and purposes as if such notes and bills had been subscribed in the proper hand-writing of the person or persons intrusted and authorized by the Bank to sign the same respectively, and shall be deemed and taken to be bank-notes or bills within the meaning of all laws and statutes whatever; and shall and may be described as bank-notes or bills, in all indictments and other criminal proceedings whatsoever; any law, statute or usage to the contrary notwithstanding.

Recital.

Signature to Bank-notes may be impressed by machinery.

XXXII. The notes or bills of the said Bank made payable to order or to bearer and intended for general circulation, whether the same shall issue from the chief seat or place of business of the said Bank in the City of Toronto, or from any of its branches, shall be payable on demand in specie at the place where they bear date.

Bank-notes to be payable at the place of date.

XXXIII. A suspension by the said Bank, either at its chief place or seat of business in the said City of Toronto, or at any of its branches or offices of discount and deposit at any other place in this Province, of payment on demand in specie of the notes or bills of the said Bank payable there on demand, shall, if the time of suspension extend to sixty days, consecutively or at intervals within any twelve consecutive months, operate as and be a forfeiture of its charter, and of all and every the privileges granted to it by this or any other Act.

Suspension of payment for sixty days to forfeit charter.

XXXIV. The total amount of the bank-notes and bills of the Bank, of all values, in circulation at any one time, shall never exceed the aggregate amount of the paid up capital stock of the Bank, and the gold and silver coin and bullion, and debentures or other securities, reckoned at par, issued or guaranteed by the Government under the authority of the Legislature of this Province, on hand; and of the bank-notes and bills in circulation at any one time, not more than one-fifth of the said aggregate amount

Total amount of Bank-notes limited.

And of those under £1.

None to be under 5 shillings

amount shall be in bank-notes or bills under the nominal value of one pound currency each; but no bank-note or bill of the Bank, under the nominal value of five shillings, shall be issued or put in circulation.

Total liabilities of the Bank limited.

Forfeiture of charter for excess under this or the next preceding section: and liability of Directors.

XXXV. The total amount of the debts which the said Bank shall at any one time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of its Capital Stock paid in, and the deposits made in the Bank in specie and Government securities for money; and in case of excess, or in case the total amount of the bills or notes of the said Bank payable to order or to bearer on demand and intended for general circulation shall at any time exceed the amount hereinbefore limited, the said Bank shall forfeit its charter and all the privileges granted to it by this or any other Act, and the Directors under whose administration the excess shall happen, shall be liable jointly and severally for the same in their private capacity, as well to the Shareholders as to the holders of the bonds, bills and notes of the said Bank, and an action or actions in this behalf may be brought against them or any of them, and the heirs, executors, administrators, or curators of them or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the said Bank or its lands, tenements, goods or chattels, from being also liable for such excess: Provided always, that if any Director present at the time of contracting any such excess of debt, do forthwith, or if any Director absent at the time of contracting any such excess of debt, do within twenty-four hours after he shall have obtained a knowledge thereof, enter on the minutes or register of the Bank, his protest against the same, and do within eight days thereafter publish such protest in at least two Newspapers published in the City of Toronto, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors, and administrators or curators, from the liability aforesaid, any thing herein contained or any law to the contrary notwithstanding: Provided always, that such publication shall not exonerate any Director from his liability as a shareholder.

Proviso: how Director may avoid such liability.

Proviso.

Limitation of liability of Shareholders in case of insolvency of the Bank.

XXXVI. In the event of the property and assets of the said Bank becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of its stock, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of their respective shares, that is to say, the liability and responsibility of each Shareholder to the creditors of the said Bank, shall be limited to a sum of money equal in amount to his stock therein, over and above any instalment or instalments which may be unpaid on such stock, for which he shall also remain liable and shall pay up: Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the said Bank hereinbefore mentioned and declared.

Proviso.

XXXVII. Besides the detailed statement of the affairs of the said Bank hereinbefore required to be laid before the Shareholders thereof, at their annual general meeting, the Directors shall make up and publish on the first Monday in each and every month, statements of the Assets and Liabilities of the said Bank, in the form of the Schedule A, hereunto annexed, shewing under the heads specified in the said form, the average amount of the notes of the said Bank in circulation, and other liabilities, at the termination of the month to which the statement shall refer, and the average amount of specie and other Assets, that at the same times were available to meet the same: and it shall be the duty of the Directors to submit to the Governor of this Province, if required, a copy of such monthly statements, and, if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production of the weekly or monthly balance-sheets from which the said statements shall have been compiled: and furthermore, the said Directors shall from time to time when required, furnish to the said Governor of this Province, such further reasonable information respecting the state and proceedings of the said Bank, and of the several branches and offices of discount and deposit thereof, as such Governor of this Province, may reasonably see fit to call for: Provided always, that the weekly or monthly balance-sheets, and the further information that shall be so produced and given, shall be held by the said Governor of this Province, as being produced and given in strict confidence that he shall not divulge any part of the contents of the said weekly or monthly balance-sheets, or of the information that shall be so given; And provided also, that the Directors shall not, nor shall any thing herein contained be construed to authorize them or any of them, to make known the private account or accounts of any person or persons whatever having dealings with the said Bank.

Statement of affairs to be published monthly.

Governor may require further information.

Proviso: such further information to be confidential.

Proviso: private accounts not to be divulged.

XXXVIII. It shall not be lawful for the said Bank, at any time whatever, directly or indirectly, to advance or lend to or for the use of or on account of any Foreign Prince, Power or State, any sum or sums of money or any securities for money: and if such unlawful advance or loan be made, then and from thenceforth, the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages granted to it by this or any other Act, shall cease and determine.

Bank not to lend money to any foreign state, &c.

XXXIX. The several public notices by this Act required to be given, shall be given by advertisement, in one or more of the Newspapers published in the City of Toronto, and in the *Canada Gazette*, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of official documents and notices emanating from the Civil Government of this Province, if any such Gazette be then published.

Public notices how to be given.

XL. If any Cashier, Assistant Cashier, Manager, Clerk or Servant of the said Bank, shall secrete, embezzle or abscond with,

Punishment of embezzlement

&c., by Bank  
Officers.

with, any Bond, Obligation, Bill Obligatory or of Credit, or other Bill or Note, or any Security for money, or any moneys or effects, intrusted to him as such Cashier, Assistant Cashier, Manager, Clerk or Servant, whether the same belong to the said Bank, or belonging to any other person or persons, body or bodies politic or corporate, or institution or institutions, be lodged and deposited with the said Bank, the Cashier, Assistant Cashier, Manager, Clerk or Servant, so offending, and being thereof convicted in due form of Law, shall be deemed guilty of felony.

Imprisonment  
over two years  
to be in Peni-  
tentiary.

XLII. Every person convicted of felony under this Act shall be punished by imprisonment at hard labor, in the Provincial Penitentiary, for any term not less than two years, or by imprisonment in any other Gaol or place of confinement for any less term than two years, in the discretion of the Court before which he shall be convicted.

Power to  
search for  
forged notes  
or machinery  
used for forg-  
ing.

XLIII. It shall and may be lawful to and for any Justice of the Peace, on complaint made before him, upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons is or are or hath, or have been concerned in making or counterfeiting any false bills of exchange, promissory notes, undertakings or orders of the said Bank, or hath in his possession any plates, presses or other instruments, tools or materials for making or counterfeiting the same or any part thereof, by warrant under the hand of such Justice, to cause the dwelling house, room, workshop, or outhouse or other building, yard, garden or other place, belonging to such suspected person or persons, or where any such person or persons shall be suspected of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any plates, presses, or other tools, instruments or materials, shall be found in the custody or possession of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whomsoever discovering the same, to seize, and he or they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, presses, or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, in some Court of Justice proper for the determination thereof, and the same, after being so produced in evidence, shall by order of the Court be defaced or destroyed, or otherwise disposed of as such Court shall direct.

How dealt  
with if found.

XLIII. Nothing in this Act contained shall in any manner derogate from, or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act. Saving of rights of the crown, &c.

XLIV. This Act shall be held, and taken to be a Public Act, and shall be judicially taken notice of and have the effect of a Public Act, without being specially pleaded, and shall be known as the *Charter of the Bank of Upper Canada*, and the Interpretation Act shall apply thereto. Public Act.  
Short Title.

XLV. This Act, and so much of the Acts mentioned in the preamble as is not repealed by this Act, shall be and remain in force until the first day of January, which will be in the year our Lord one thousand eight hundred and seventy, and from that time until the end of the then next Session of the Parliament of this Province, and no longer. Duration of this Act.

XLVI. The foregoing sections of this Act shall have force and effect upon, from and after the first day of January, in the year of Our Lord, one thousand eight hundred and fifty-seven, and not before, and the said sections only shall be understood as intended, by the words "this Act," whenever in any of them the time when this Act shall be in force is mentioned. Commencement of this Act.

**SCHEDULE A**

*Referred to in the Thirty-seventh Section of the foregoing Act.*

Return of the Average Amount of Liabilities and Assets of the Bank of Upper Canada, during the period from first hundred and to one thousand eight hundred and

**LIABILITIES.**

Promissory Notes in circulation not bearing interest..	£
Bills of Exchange in circulation not bearing interest..	£
Bills and Notes in circulation bearing interest.....	£
Balances due to other Banks.....	£
Cash deposits, not bearing interest.....	£
Cash deposits, bearing interest.....	£

Total average Liabilities... £

**ASSETS.**

Coin and Bullion.....	£
Landed or other property of the Bank.....	£
Government Securities.....	£

Promissory Notes or Bills of other Banks.....	£
Balances due from other Banks.....	£
Notes and Bills discounted.....	£
Other Debts due to the Bank, not included under the foregoing heads.....	£

Total average Assets.....£

## C A P . C X X I I .

### An Act to incorporate the Union Bank of Canada.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS the persons whose names are hereinafter mentioned, have by their petition prayed, that they and their legal representatives may be incorporated for the purpose of establishing a Bank in the City of Hamilton, and have represented that there is a great deficiency of Banking Capital in the said City; And whereas it would greatly conduce to the prosperity of that locality, and of the Province generally, by aiding to develop the commercial and agricultural resources thereof, if such Bank were established: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

I. The Honorable Sir Allan Napier McNab, the Honorable Walter Dickson, the Honorable Joseph C. Morrison, Arthur Rankin, Jaspar T. Gilkeson, Hugh Bowlsby Willson, Samuel Black Freeman, Richard Porter Street, George William Burton, Edmund Ritchie, Hugh C. Baker, Daniel C. Gunn, James D. McKay, James D. Pringle, James Adam, John Osborne, John W. Willson, John F. Moore, Nehemiah Merritt, Valentine H. Tisdale, Thomas Stinson, George Rykert and James Little, Esquires, of Canada, and the Honorable Silas M. Holmes, Eber B. Ward and Uriah Tracy Howe, Esquires, of Detroit, Michigan, and Henry Martin Benedict, Esquire, of New York, and William McKenzie Shaw, Esquire, of St. Germain en Laye in France, and such other persons as may become Shareholders in the Bank to be by this Act created, and their assigns, shall be and they are hereby created, constituted and declared to be a Corporation, body corporate and politic by the name of the "Union Bank of Canada," and shall continue such Corporation, and shall have perpetual succession, and a corporate seal, with power to alter and change the same at pleasure, and may sue and be sued, implead and be impleaded in all Courts of Law as other Corporations may do, and shall have the power to acquire and hold real and immoveable estate for the management of their business, not exceeding the annual value of five thousand pounds currency, and may sell, alienate or exchange the same and acquire other instead, and may when duly organized as hereinafter provided, make, ordain and establish

Corporate name and general powers.

Real property limited.

establish such rules, regulations and by-laws as to them shall seem meet and necessary for the due and proper administration of their affairs and the due management of the said Bank (such by-laws and regulations not being inconsistent with this Act, or contrary to the laws of this Province) : Provided however, that such rules, regulations and by-laws shall be submitted for approval to the Stockholders or Shareholders in the said Bank, at their regular annual meetings.

By-laws.

By-laws must be approved by Shareholders.

II. The capital Stock of the said Bank shall be one million of pounds of lawful money of Great Britain, divided into fifty thousand shares of twenty pounds of like lawful money each, which said shares shall be and are hereby vested in the several persons who shall subscribe for the same, their legal representatives and assigns.

Capital, £1,000,000 sterling.

Shares, £20.

III. As soon as two hundred thousand pounds of the said Capital Stock shall have been subscribed and fifty thousand pounds actually paid in thereupon, it shall and may be lawful for the subscribers, or the majority of them, to call a meeting at some place to be named, in the City of Hamilton, for the purpose of proceeding to the election of the number of Directors for the said Bank hereinafter mentioned, and such election shall then and there be made by a majority of shares voted upon, in the manner hereinafter prescribed in respect of the Annual election of Directors ; and the persons then and there chosen, shall be the first Directors, and shall be capable of serving until the third Monday in June then next ensuing the said election ; Provided always, that no such meeting of the said subscribers shall take place until a notice specifying the objects of such meeting is published in one or more newspapers published in the Cities of Hamilton and such other places as a majority of the Corporation may direct, at least twenty days previous to such time of meeting.

First meeting for election of Directors.

By a majority of votes.

Proviso : Notice to be given.

IV. The shares of the Capital Stock subscribed for shall be paid in and by such instalments, and at such times and places as the said Directors shall appoint ; and Executors, Administrators and Curators paying instalments upon the shares of deceased Shareholders, shall be and they are hereby respectively indemnified for paying the same ; Provided always, that no share or shares shall be held to be lawfully subscribed for, unless a sum equal at least to ten pounds per centum on the amount subscribed for, be actually paid at the time of subscribing ; Provided further, that it shall not be lawful for the subscribers of the Capital Stock hereby authorized to be raised, to commence the business of Banking, until a sum not less than fifty thousand pounds shall have been duly paid in by such subscribers ; Provided further, that the remainder of the said Capital Stock shall be subscribed and paid up as follows, that is to say, the sum of one hundred thousand pounds within eighteen months, the further sum of two hundred thousand pounds

Instalments on Stock.

Proviso.

Proviso.

Proviso.

pounds within three years, the further sum of two hundred thousand pounds within four years, and the further sum of four hundred and fifty thousand pounds within five years after the Bank shall have so commenced the business of Banking under penalty of forfeiture of their charter.

Number of Directors.

Term of office.

Notice of election.

Ties at election.

Proviso: qualification of Directors.

Failure of election how remedied.

Scale of votes.

V. The stock, property, affairs and concerns of the said Bank shall be managed and conducted by ten Directors, one of whom to be the President, who, excepting as is hereinbefore provided for, shall hold their offices for one year, which Directors shall be Stockholders residing in the Province, and be elected on the third Monday in June in every year, at such time of the day and at such place in the City of Hamilton aforesaid, as a majority of the Directors for the time being shall appoint; and public notice shall be given by the Directors as hereinbefore provided in the third section, previous to the time of holding such election; and the said election shall be held and made by such of the said Shareholders of the said Bank as shall attend for the purpose in their own proper person or by proxy; and all elections for Directors shall be by ballot, and the said proxies shall only be capable of being held and voted upon by Shareholders then present; and the ten persons who shall have the greatest number of votes at any election shall be the Directors, except as hereinafter directed; and if it should happen at any election that two or more persons have an equal number of votes in such a manner that a greater number of persons shall, by a plurality of votes appear to be chosen as Directors, then the Directors who shall have had a greater number of votes, or the majority of them, shall determine which of the said persons, so having an equal number of votes, shall be the Director or Directors, so as to complete the whole number of ten; and the said Directors as soon as may be after the said election, shall proceed in like manner to elect by ballot, two of their number to be the President and Vice-President; Provided always, that no person shall be eligible to be or continue as Director unless he shall hold in his name and for his own use, stock in the said Bank to the amount of forty shares, and shall be a natural-born or naturalized subject of Her Majesty, and resident in this Province.

VI. In case it should at any time happen that an election of Directors of the said Bank should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election of Directors in such manner as shall have been regulated by the By-laws of the said Bank.

VII. Each Shareholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in the said Bank, in his or her own name, at least three months prior to the time of voting, according to the following scale,

scale, that is to say, one share and not more than two, one vote, and for every two shares above two, one vote ; and all questions proposed for the consideration of the said shareholders shall be determined by the majority of their votes, the Chairman elected to preside at any such meeting of the said shareholders shall have the casting vote ; Provided always, that no Cashier, Bank-Clerk, or other officer of the Bank shall either vote in person or by proxy at any meeting for the election of Directors, or hold a proxy for that purpose.

Casting vote.  
  
Proviso : Officers not to vote.

VIII. The Books, Correspondence and Funds of the Corporation shall at all times be subject to the inspection of the Directors, but no shareholder not being a Director, shall inspect or be allowed to inspect the account or accounts of any person dealing with the Corporation.

Inspection of books, accounts, &c.

IX. It shall be the duty of the Directors of the said Bank to make half yearly dividends, of so much of the profits of the said Bank, as to them or the majority of them shall appear advisable.

Dividends.

X. The Directors for the time being, or the major part of them, shall have power to make such By-laws and regulations not repugnant to the provisions of this Act or the laws of this Province, as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Bank, and touching the duties and conduct of the Officers, Clerks and Servants employed therein, and for the calling of Special General Meetings of the Shareholders, prescribing how and under what circumstances the same shall be called, and all such other matters as appertain to the business of a Bank, and shall also have power to appoint as many Officers, Clerks and Servants for carrying on the said business, and with such salaries and allowances as to them shall seem meet, and shall have power to make such calls of money from the several shareholders for the time being, upon the shares in the said Bank subscribed for by them respectively, as the said Board shall find necessary, and in the corporate name of the said Bank to sue for, recover and get in all such calls, or to cause and declare such shares to be forfeited to the said Bank in case of non-payment of any such call ; and an action of debt may be brought to recover any money due on any such call ; And it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the Defendant is the holder of one share or more (as the case may be), in the Capital Stock of the said Bank, and is indebted for calls upon the said share or shares to the said Bank, in the sum to which the call or calls amount, (as the case may be, stating the number and amount of such calls), whereby an action hath accrued to the said Corporation, to recover the same from such Defendant by virtue of this Act ; and it shall be sufficient to maintain

Directors to make By-laws

To appoint Officers.

Calls of money on Stock.

Actions for calls.

What must only need be stated and proved.

maintain such action, to prove by any one witness (a shareholder being competent) that the Defendant at the time of making any such call, was a shareholder in the number of shares alleged, and to produce the By-law or resolution of the Board making and prescribing such call, and to prove notice thereof given in conformity with such By-law or Resolution, and it shall not be necessary to prove the appointment of the said Board of Directors or any other matter whatsoever; Provided that each such call shall be made at intervals of thirty days, and upon notice to be given at least thirty days prior to the day on which such call shall be payable, and any such call shall not exceed twenty per cent of each share subscribed; And provided always, that before permitting any Manager, Officer, Clerk or Servant of the Corporation to enter upon the duties of his office, the Directors shall require every such Manager, Officer, Clerk or Servant, to give Bond, to the satisfaction of the Directors, that is to say, every Manager, in a sum not less than Five Thousand Pounds, current money of Canada, and every other Officer, Clerk or Servant, in such sum of money as the Directors consider adequate to the trust to be reposed, with condition for good and faithful behaviour.

Proviso: calls limited.

Officers to give security.

The amounts.

Payment of Directors.

Quorum.

XI. The Directors, including the said President and Vice-President, shall be entitled to such emoluments for their services as may be fixed by any order or resolution passed at the usual Annual Meeting of Shareholders; and any five shall constitute a Board for the transaction of business, of whom the President or Vice-President shall be one, except in case of sickness or absence, in which case the Directors present may choose out of their number a Chairman for such Meeting.

Bank-notes not to be issued until the Bank has a certain sum in coin.

XII. No bill or note for any sum whatever shall be issued or put into circulation by the said Bank until fifty thousand pounds of the Capital Stock of the said Bank shall have been actually paid in, and shall be held by and in actual possession of the said Bank, in gold or silver coin current in this Province.

Chief place of business.

Branches.

XIII. The chief place or seat of business of the said Bank shall be in the city of Hamilton aforesaid, but it shall and may be lawful for the Directors of the said Bank, to open and establish in Windsor and other cities, towns and places in this Province, branches and agencies or offices of discount and deposit of the said Bank, under such rules and regulations for the good and faithful management of the same, as to the said Directors shall from time to time seem meet, and shall not be repugnant to any law of this Province, to this Act, or to the By-laws of the said Bank.

Statement of affairs to be submitted at annual meetings.

XIV. At every Annual General Meeting of the Shareholders of the said Bank, to be held in the City of Hamilton in the manner hereinbefore provided, the Directors shall submit a full and clear statement of the affairs of the said Bank, containing on  
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the one part, the amount of Capital Stock paid in, the amount of the notes of the Bank in circulation, and net profits made, and the balance due to other banks and institutions, and the cash deposited in the Bank, distinguishing deposits bearing interest from those not bearing interest; and on the other part, the amount of current coins, the gold and silver bullion in the vaults of the Bank, the balances due to the Bank from other banks and institutions, the value of the real and other property of the Bank, and the amount of debts owing to the Bank, including and particularising the amounts so owing upon bills of exchange, discounted notes, mortgages and other securities; thus exhibiting on the one hand the liabilities of or the debts due by the Bank, and on the other hand the assets and resources thereof; and the said statements shall also exhibit the rate and amount of the then last dividend declared by the Directors, the amount of reserved profits at the time of declaring the said dividend, and the amount of debts to the Bank over-due and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts.

What it must contain.

XV. The shares of the Capital Stock of the said Bank shall be held and adjudged to be personal estate, and be transmissible accordingly, and shall be assignable and transferable at the Bank according to the Schedule A annexed to this Act; but no assignment or transfer shall be valid or effectual unless it be made and registered in a book or books to be kept by the Directors for that purpose, nor until the person or persons making the same shall previously discharge all debts already due by him, her or them to the Bank, which may exceed in amount the remaining stock, if any, belonging to such person or persons; and no fractional part or parts of a share or other than a whole share shall be assignable or transferable; and when any share or shares of the said Capital Stock shall have been sold under a writ of execution, the Sheriff by whom the writ shall have been executed shall, within thirty days after the sale, leave with the Manager of the said Bank an attested copy of the writ with the certificate of such Sheriff endorsed thereon, certifying to whom the sale has been made, and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Bank shall be discharged as aforesaid), the President or Vice-President or the Manager of the Bank shall execute the transfer of the share or shares so sold, to the purchaser, and such transfer being accepted shall be to all intents and purposes as valid and effectual in law as if it had been executed by the original holder of such shares; any law or usage to the contrary notwithstanding.

Shares to be personalty, and how transferable.

Sales of shares in execution.

Debts to Bank must be paid before transfer.

XVI. The said Bank hereby constituted shall not, either directly or indirectly, hold any lands or tenements, (save and except such as by the first section of this Act it is specially authorized to acquire and hold,) or any ships or other vessels, or any share or shares in the Stock of the Corporation, nor in

Bank not to hold real property, except under sect. 1.

any

any Bank in this Province ; nor shall the said Bank, either directly or indirectly, lend money or make advances upon the security or mortgage of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the Capital Stock of the said Bank, nor shall the said Bank, either directly or indirectly raise loans of money, or deal in the buying or selling or bartering of goods, wares and merchandize, or engage or be engaged in any trade except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes, and negotiable securities, and in all such trade generally as legitimately appertains to the business of Banking ; Provided always, that the said Bank may take and hold mortgages and liens and assignments of mortgages and liens on real and other property, by way of security for debts contracted to or with the Bank in the course of its dealings, and may proceed either at Law or in Equity for the realization of the same.

Proviso : Bank may take mortgages for securing debts, &c.

Discounts to Directors limited.

XVII. The aggregate amount of discounts and advances made by the said Corporation upon commercial paper or securities bearing the name of any Director or the copartnership name or firm of any Director of the said Corporation, shall not at any one time exceed one twentieth of the total amount of discounts or advances made by the Corporation at the same time.

Bank may deduct discount.  
May charge a per centage in certain cases.

And may charge notes and bills overdue to the deposit accounts of certain parties.

XVIII. The Bank may allow and pay interest not exceeding the legal rate in this Province, upon money deposited in the Bank ; and, in discounting promissory notes, bills, or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same ; And when notes, bills, or other negotiable securities or paper, are payable within the Province, at a place different from that at which they are discounted, the Bank may also in addition to the discount make a charge not exceeding one half per centum on the amount of every such note, bill or other negotiable security or paper, to defray the *bonâ fide* expenses of agency and exchange attending the collection of every such note, bill, or other negotiable security or paper ; And the Bank may charge any note or bill held by the Bank or made payable at the Bank, against the deposit account of the maker of such note or acceptor of such bill, at the maturity thereof ; any law, statute or usage to the contrary notwithstanding.

Bonds and bills under seal, how assignable.

XIX. The bonds, obligations, and bills obligatory and of credit of the said Bank, under its common seal, and signed by the President or Vice-President, which shall be made payable to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees successively, and to enable such assignee or assignees to bring,  
on

on due acceptance, an action or actions thereupon, in his, her or their name or names; and signification of any such assignment by endorsement shall not be necessary, any law or usage to the contrary notwithstanding: and bills and notes of the said Bank, signed by the President or Vice-President, and countersigned by the Manager of the said Bank, promising the payment of money to any person or persons, his, her or their order or to bearer, though not under the seal of the said Bank, shall be binding and obligatory on the same, with the like force and effect and in the same manner as they would be upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacities, and shall be assignable or negotiable in the like manner as if they were so issued by such private person or persons; Provided always, that nothing in this Act contained shall be held to debar the Directors of the said Bank from authorizing or deputing from time to time any Director other than the President or Vice-President to sign, or any Manager of a branch or office of discount and deposit thereof or other Officer of the Bank to countersign, the bills and notes of the said Bank intended for general circulation, and payable to order or to bearer on demand.

And when not under seal, how to be signed, &c.

Proviso: Officers may be deputed to countersign.

XX. The notes or bills of the said Bank made payable to order or to bearer and intended for general circulation, whether the same shall issue from the chief seat or place of business of the said Bank in the City of Hamilton, or from any of its branches or agencies, shall be payable on demand in specie at the place where they bear date.

Bank-notes to be payable in specie at the place where they bear date.

XXI. And whereas it may be deemed expedient that the name or names of the person or persons intrusted and authorized by the Bank to sign Bank-notes and Bills on behalf of the Bank, should be impressed by machinery, in such form as may from time to time be adopted by the Bank, instead of being subscribed in the hand-writing of such person or persons respectively; And whereas doubts might arise respecting the validity of such notes: Be it therefore further declared and enacted, That all Bank-notes and bills of the Union Bank of Canada, whereon the name or names of any person or persons intrusted or authorized to sign such notes or bills on behalf of the Bank, shall or may become impressed by machinery provided for that purpose by or with the authority of the Bank, shall be and be taken to be good and valid, to all intents and purposes, as if such notes and bills had been subscribed in the proper hand-writing of the person or persons intrusted and authorized by the Bank to sign the same respectively, and shall be deemed and taken to be bank-notes or bills within the meaning of all laws and statutes whatever; and shall and may be described as bank-notes or bills in all indictments and other criminal proceedings whatsoever; any law, statute or usage to the contrary notwithstanding.

Recital.

Signatures of persons empowered to sign Bank-notes may be impressed by machinery.

And such notes shall be valid, &c.

Suspension of payment for sixty days to forfeit this Act.

XXII. A suspension by the said Corporation either at the chief place or seat of business, or at any of their branches or offices of discount and deposit at other places in this Province, of payment on demand, in specie, of the notes or bills of the said Corporation, payable on demand, shall, if the time of suspension extend to sixty days consecutively or at intervals, within any twelve consecutive months, operate as and be a forfeiture of this Act of Incorporation, and all and every the privileges hereby granted.

Total amount of notes under £1 limited.

XXIII. The total amount of the notes or bills of the said Corporation, being for a less sum than one pound, current money of Canada, each, which shall be or may have been issued and put in circulation, shall not exceed at any one time one fifth of the amount of the capital stock of the Corporation then paid in; Provided always, that no notes under the nominal value of five shillings shall at any time be issued or put into circulation by the Corporation; nor shall any further limitation by the Legislature of the total amount of notes to be issued or re-issued by the said Corporation be held to be any infringement upon the privileges hereby granted; Provided that the several provisions of an Act passed in the sixteenth year of Her Majesty's reign, intituled, *An Act to encourage the issue by the Chartered Banks of this Province, of notes secured in the manner provided by the General Banking Law*, shall be and are hereby declared to be applicable to the Bank to be established under this Act.

No note to be under 5 shillings.

Proviso: 16 V. c. 162.

Total liabilities of the Bank limited.

XXIV. The total amount of the debts which the said Corporation shall at any time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of the capital stock paid in, and the deposits made in the Bank, in specie and Government securities for money; and at no one period after the passing of this Act shall the notes or bills payable on demand and to bearer, exceed the amount of the actual paid up capital stock of the Corporation, and the amount of Provincial or Municipal Loan Fund Debentures held by the Corporation; and in case of excess, the said Corporation shall forfeit this Act of Incorporation and all the privileges hereby granted; and the Directors under whose administration the excess shall happen, shall be liable jointly and severally for the same, in their private capacities, as well to the shareholders as to the holders of the bonds, bills and notes of the Corporation; and an action or actions in this behalf may be brought against them, or any of them, and the heirs, executors, administrators or curators of them, or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the Corporation or their lands, tenements, goods or chattels, from being also liable for such excess; Provided always, that if any Director present at the time of contracting any such excess of debt, do forthwith, or if any Director absent at the time of contracting any such excess of debt, do within twenty-four hours after he shall have obtained a knowledge

And of Bank notes.

Penalty on Bank, and on Directors in case of excess.

Proviso: how Directors may avoid such penalty.

knowledge

knowledge thereof, enter on the minutes or register of proceedings of the Corporation, his protest against the same, and do within eight days thereafter publish such protest in at least one newspaper published in the City of Hamilton, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors and administrators or curators from the liability aforesaid, any thing herein contained, or any law to the contrary notwithstanding: And provided always, that such publication shall not exonerate any Director from his liability as a shareholder. Proviso.

**XXV.** In the event of the property and assets of the said Bank hereby constituted, becoming insufficient to liquidate its liabilities and engagements or debts, the shareholders of the said Bank in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of their capital stock, that is to say, the liability and responsibility of each shareholder shall be limited to the amount of his or her share or shares of the said capital stock, and a sum of money equal in amount thereto; Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the Corporation hereinbefore mentioned and declared. Liability of Shareholders limited.  
Proviso.

**XXVI.** Besides the detailed statement of the affairs of the said Bank hereinbefore required to be laid before the shareholders thereof at their annual general meetings, the Directors shall make up and publish on the first day of each month in every year, statements of the assets and liabilities of the said Bank, in the form of the Schedule B hereunto annexed, shewing under the head specified in the said form, the average of the amount of the notes of the Bank and other liabilities during the month then last past to which the statement shall refer, and the average amount of specie and other assets that at the same time were available to meet the same; and it shall also be the duty of the Directors to submit to the Governor a copy of each such monthly statement; and if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production of the weekly or monthly balance sheets from which the said statements shall have been compiled; And furthermore, the said Directors shall from time to time, if required, furnish to the said Governor such further information as such Governor may reasonably see fit to call for; Provided always, that the Directors shall not, nor shall any thing herein contained be construed to authorize them, or any of them, to make known the private account or accounts of any person or persons whatsoever, having dealings with the said Bank. Monthly statements to be published by the Bank.  
Governor may require further information.  
Proviso: as to private accounts.

**XXVII.** The provisions of this Act, so far as the same relate to the said Bank, shall no wise be forfeited for non-user at any time before the first day of June, in the year one thousand eight hundred and sixty. Forfeiture of Act by non-user.

**XXVIII.**

Bank not to  
lend money to  
foreign state.

XXVIII. It shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly, to advance or lend to, or for the use of or on account of any Foreign Prince, Power or State, any sum or sums of money or any securities for money; and if such unlawful advance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted shall cease and determine; any thing in this Act to the contrary notwithstanding.

What shall be  
a public notice  
under this Act.

XXIX. The several public notices by this Act required to be given, shall be given by advertisement in one or more of the newspapers published in the City of Hamilton, and such other places as the Directors may from time to time appoint, and in the *Canada Gazette*, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of official documents and notices emanating from the Civil Government of this Province.

Books of sub-  
scription may  
be open in  
the United  
Kingdom or  
in France, and  
shares made  
transferable  
there.

XXX. Books of subscription may be opened in the United States and in the United Kingdom and in France, and shares in the capital stock of the Bank may be issued and made transferable, and the dividends accruing may also be made payable in the said countries, in like manner as such shares and dividends are respectively made transferable and payable at the Bank in the City of Hamilton; and to that end, the Directors may from time to time make such rules and regulations, and prescribe such forms and appoint such agent or agents, as they may deem proper.

How the trans-  
mission of  
shares other-  
wise than by  
regular trans-  
fer shall be  
authenticated.

XXXI. If the interest in any share in the said Bank become transmitted in consequence of the death or bankruptcy or insolvency of any Shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, the Directors may require such transmission to be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors of the Bank shall require, and every such declaration or other instrument so signed, made and acknowledged, shall be left at the Bank, with the Manager or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission in the register of shareholders, and until such transmission shall have been so authenticated, no party or person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the Bank, nor to vote in respect of any such share or shares as the holder thereof; Provided always, that every such declaration and instrument as by this and the following section of this Act is required to perfect the transmission of a share of the Bank, and as shall be made in any other country than this or some other of the British Colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British Consul or Vice-Consul,

Vice-Consul, or other the accredited representative of the British Government, in the country where the declaration shall be made, or shall be made directly before such British Consul or Vice-Consul, or other accredited representative; And provided also, that nothing in this Act contained shall be held to debar the Directors, Manager or other officer or agent of the Bank from requiring corroborative evidence of any fact or facts alleged in any such declaration.

XXXII. If the transmission of any share of the Bank be by virtue of the marriage of a female Shareholder, the declaration shall contain a copy of the register of such marriage or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if the transmission have taken place by virtue of any testamentary instrument or by intestacy, the probate of the will or the letters of administration or of tutorship or curatorship, or an official extract therefrom, shall, together with such declaration, be produced and left with the Manager or other officer or agent of the Bank, who shall then enter the name of the party entitled under such transmission in the register of shareholders.

If the transmission be by marriage.

XXXIII. Whenever the interest in any share or shares of the Capital Stock of the said Bank shall be transmitted by the death of any Shareholder or otherwise, or whenever the ownership of, or legal right of possession in any such share or shares, shall change by any lawful means other than by transfer according to the provisions of this Act, and the Directors of the said Bank shall entertain reasonable doubts as to the legality of any claim to and upon such share or shares of stock, then and in such case it shall be lawful for the said Bank to make and file, in one of the Superior Courts of Law for Upper Canada, a declaration and petition in writing addressed to the Justices of the Court, setting forth the facts and the number of shares previously belonging to the party in whose name such shares stand in the Books of the Bank, and praying for an order or judgment adjudicating and awarding the said shares to the party or parties legally entitled to the same, and by which order or judgment the Bank shall be guided and held fully harmless and indemnified and released from all and every other claim for the said shares, or arising therefrom; Provided always that notice of such petition shall be given to the party claiming such share or shares, who shall upon the filing of such petition establish his right to the several shares referred to in such petition: and the delays to plead and all other proceedings in such cases shall be the same as those observed in analogous cases before the said Superior Courts; Provided also, that the costs and expenses of procuring such order and adjudication, shall be paid by the party or parties to whom the said shares shall be declared lawfully to belong, and such shares shall not be transferred until such costs and expenses be paid, saving the recourse of such party against any party contesting his right.

Bank may apply to Courts in case of doubt as to legal owners of shares.

Provido: as to notice, pleading, &c.

Provido: as to costs.

Bank not bound to see to trusts.

XXXIV. The Bank shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares in the Bank may be subject, and the receipt of the party in whose name any such share shall stand in the Books of the Bank, or if it stand in the names of more parties than one, the receipt of one of the parties, shall from time to time be a sufficient discharge to the Bank for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had notice of such trust, and the Bank shall not be bound to see to the application of the money paid upon such receipt; any law or usage to the contrary notwithstanding.

Bank may invest part of capital in provincial Debentures, &c.

XXXV. It shall be the duty of the Directors of the said Bank to invest as speedily as the debentures hereinafter mentioned can be procured from the Receiver-General, and to keep invested at all times in the debentures of this Province, payable within the same, or secured upon the Consolidated Municipal Loan Fund, one tenth part of the whole paid up Capital of the said Bank, and to make a return of the numbers and amount of such debentures, verified by the oaths and signatures of the President and Chief Manager of the said Bank, to the Inspector General, in the month of January in each year, under the penalty of the forfeiture of the Charter of the said Bank, in default of such investment and return; Provided always, that the said Directors shall not commence the ordinary business of banking until the sum of twenty thousand pounds shall have been invested in such debentures.

Proviso.

Duration of this Act.

XXXVI. This Act shall be and remain in force until the first day of June, one thousand eight hundred and seventy, and from that time until the end of the then next Session of the Parliament of this Province, and no longer.

Public Act.

XXXVII. This Act shall be deemed a Public Act.

#### SCHEDULE A

*Referred to in the foregoing Act.*

For value received from \_\_\_\_\_, I (or we,) \_\_\_\_\_ of \_\_\_\_\_, do hereby assign and transfer into the said \_\_\_\_\_ shares, (on each of which has been paid \_\_\_\_\_ pounds shillings, currency, amounting to the sum of \_\_\_\_\_ pounds, shillings,) in the Capital Stock of the Union Bank of Canada, subject to the rules and regulations of the said Bank.

Witness my (or our) hand (or hands) at the said Bank, this \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand eight hundred \_\_\_\_\_ and \_\_\_\_\_

(Signature.)

I (or we) do hereby accept the foregoing assignment of shares in the Stock of the Union Bank of Canada, assigned to me (or us) as above mentioned.

At the Bank, this                      day of                      , one thousand  
 eight hundred and                      (Signature.)

**SCHEDULE B**

*Referred to in the foregoing Act.*

Return of the average amount of liabilities and assets of the Union Bank of Canada, during the period from the first of one thousand eight hundred and                      , to the last day of the said month.

**LIABILITIES.**

Promissory notes in circulation not bearing interest....	£
Bills of exchange in circulation not bearing interest....	£
Bills and notes in circulation bearing interest.....	£
Balances due to other Banks.....	£
Cash deposits not bearing interest.....	£
Cash deposits bearing interest.....	£
Total average liabilities.....	£

**ASSETS.**

Coin and Bullion .....	£
Landed or other property of the Bank.....	£
Government securities.....	£
Promissory notes or bills of other Banks.....	£
Balances due from other Banks.....	£
Notes and bills discounted.....	£
Other debts due to the Bank, not included under the foregoing heads.....	£
Total average assets.....	£

**C A P . C X X I I I .**

An Act to incorporate the Colonial Bank of Canada.

[Assented to 1st July, 1856.]

**W**HEREAS John Major, James R. Boyd, and Amos Bostwick, have by their Petition prayed that they and their legal representatives might be incorporated for the purpose of establishing a Bank in the City of Toronto; And whereas such Bank would be conducive to the general prosperity of that section of the Country, and greatly facilitate and promote the agricultural and commercial growth of the said locality, and it is but  
Preamble.

just that the said persons and others who see fit to associate themselves, should be incorporated for the said purpose : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Certain persons incorporated.

Corporate name and general powers.

Real property limited.

By-laws may be made.

Proviso.

Capital, £500,000, in shares of £25.

First general meeting.

Election of Directors.

Term of service.

I. The several persons hereinabove named, together with Alexander McKenzie Clark, John G. Bowes, George Boomer, George Duggan, Jr., John C. King, Samuel Sexton Pomroy, Genet Conger, J. Weatherly, and Ambrose White Thompson, and such other persons as may become Shareholders in the Company to be by this Act created, and their assigns, shall be and they are hereby created, constituted and declared to be a Corporation, body corporate and politic by the name of the "Colonial Bank of Canada," and shall continue such Corporation, and shall have perpetual succession, and a corporate seal, with power to alter and change the same at pleasure, and may sue and be sued, implead or be impleaded in all Courts of Law as other Corporations may, and shall have the power to acquire and hold real and immoveable estate for the management of their business, not exceeding the yearly value of two thousand five hundred pounds currency, and may sell, alienate or exchange the same and acquire other instead, and may, when duly organized as hereinafter provided, make, ordain and establish such rules, regulations and by-laws as to them shall seem meet and necessary for the due and proper administration of their affairs and the due management of the said Bank, such by-laws and regulations not being inconsistent with this Act, or contrary to the laws of this Province : Provided however, that such rules, regulations and by-laws shall be submitted for approval to the Stockholders or Shareholders in the said Bank, at their regular annual meetings.

II. The Capital Stock of the said Bank shall be five hundred thousand pounds of lawful money aforesaid, divided into twenty thousand shares of twenty-five pounds of like money each, which said shares shall be and are hereby vested in the several persons who shall subscribe for the same, their legal representatives and assigns.

III. As soon as the sum of one hundred thousand pounds of the said Capital Stock shall have been subscribed and twenty-five thousand pounds actually paid in thereupon, it shall and may be lawful for the subscribers, or the majority of them, to call a meeting at some place to be named, in the City of Toronto, for the purpose of proceeding to the election of the number of Directors for the said Bank hereinafter mentioned, and such election shall then and there be made by a majority of shares voted upon, in the manner hereinafter prescribed in respect of the Annual election of Directors ; and the persons then and there chosen shall be the first Directors, and shall be capable of serving until the first Wednesday of May then next ensuing the said election ; Provided always, that no such meeting of the said

said subscribers shall take place, until a notice specifying the objects of such meeting is published in the *Canada Gazette*, and also in one or more newspapers published in the Cities of Toronto, Kingston, Hamilton and London, and in the town of Cobourg, at least twenty days previous to such time of meeting.

Proviso :  
Notice to be  
given.

IV. The shares of Capital Stock subscribed for, shall be paid in by instalments, and at such times and places as the said Directors shall appoint; and Executors, Administrators and Curators paying instalments upon the shares of deceased Shareholders, shall be and they are hereby respectively indemnified for paying the same; Provided always, that no share or shares shall be held to be lawfully subscribed for, unless a sum equal at least to ten pounds per centum on the amount subscribed for, be actually paid at the time of subscribing, or within one month thereafter; Provided further, that it shall not be lawful for the subscribers of the Capital Stock hereby authorized to be raised, to commence the business of Banking, until a sum not less than twenty-five thousand pounds shall have been duly paid in by such subscribers; Provided further, that the remainder of the said Capital Stock shall be subscribed and paid up as follows, that is to say, the sum of fifty thousand pounds within eighteen months, the further sum of one hundred thousand pounds within three years, the further sum of one hundred thousand pounds within four years, and the further sum of two hundred and twenty-five thousand pounds within five years after the said Bank shall have so commenced the business of Banking, under the penalty of forfeiture of their Charter.

Instalments  
how called in.

Proviso : ten  
per cent. to be  
paid down.

Proviso :  
£25,000 must  
be paid up  
before com-  
mencing.

Proviso : when  
the capital  
must be paid.

V. The stock, property, affairs and concerns of the said Bank shall be managed and conducted by five Directors, one of whom shall be the President, who, excepting as is hereinbefore provided for, shall hold their offices for one year, which Directors shall be Stockholders residing in the Province, and be elected on the first Wednesday of May in every year, after such first election, at such time of the day and at such place in the City of Toronto aforesaid as a majority of the Directors for the time being shall appoint; and public notice shall be given by the said Directors as herein provided, previous to the time of holding the said election; and the said election shall be held and made by such of the said Stockholders of the said Bank as shall attend for that purpose in their own proper person, or by proxy resident within this Province; and all elections for Directors shall be by ballot, and the said proxies shall only be capable of being held by and voted upon by Shareholders then present; and no one Shareholder shall be entitled to give upon proxies held by him, more than one hundred votes at such election; and the five persons who shall have the greatest number of votes at any election shall be the Directors, except as is hereinafter directed; and if it shall happen at any election, that two or more persons have an equal

Affairs to be  
managed by  
7 Directors  
elected yearly.

Election to be  
by ballot.

Ties.

number of votes, in such a manner that a greater number of persons than five shall, by a plurality of votes, appear to be chosen as Directors, then the Directors who shall have had a greater number of votes, or the majority of them, shall determine which of the said persons so having an equal number of votes shall be the Director or Directors, so as to complete the whole number of five; and the said Directors, as soon as may be after the said election, shall proceed in like manner to elect by ballot two of their number to be their President and Vice-President: and two of the Directors who shall be chosen in any year, excepting the President and Vice-President, shall be ineligible to the office of Director for one year after the expiration of the time for which they shall have been chosen Directors, and in case a greater number than three of the Directors, exclusive of the President and Vice-President who served for the last year, shall appear to be elected, then the election of such person or persons above the said number, and who shall have the fewest votes, shall be considered void, and such other of the Stockholders as shall be eligible and shall have the next greatest number of votes shall be considered as elected in the room of such last described person or persons who are hereby declared ineligible as aforesaid, and the President and Vice-President for the time being shall always be eligible for re-election to the office of Director, but Stockholders not residing within the Province of Canada shall be ineligible, and if any Director shall move out of this Province, his office shall be considered as vacant; and if any vacancy or vacancies should at any time happen amongst the said Directors, by death, resignation, disqualification or removal, during the current year of office, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by the remaining Directors, or the majority of them, electing in such place or places a Shareholder or Shareholders eligible for such office: Provided always, that no person shall be eligible to be or continue as Director unless he shall hold in his name, and for his own use, stock in the said Bank to the amount of twenty shares.

President and Vice-President.

Two Directors to be ineligible for the next year.

Non-residents ineligible.

Casual vacancies how filled.

Proviso: Stock qualification.

Provision in case of failure of election.

VI. In case it should at any time happen that an election of Directors of the said Bank should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day, to hold and make an election of Directors in such manner as shall have been regulated by the By-laws of the said Bank.

Ratio of votes to shares.

V. Each shareholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in the Bank, in his or her own name, for at least three months prior to the time of voting, according to the following scale, that is to say: for one share and not more than two, one vote, and for every two shares above two, one vote; and all questions proposed for the consideration of the said shareholders shall

shall be determined by the majority of their votes, the Chairman elected to preside at any such meeting of the said shareholders having the casting vote ; Provided that no Cashier, Bank-Clerk, or other officer of the Bank shall either vote in person or by proxy at any meeting for the election of Directors, or hold a proxy for that purpose.

Proviso : Officers not to vote.

VIII. The Books, Correspondence and Funds of the Corporation shall at all times be subject to the inspection of the Directors, but no shareholder not being a Director, shall inspect or be allowed to inspect, the account or accounts of any person dealing with the Corporation.

Inspection of books and accounts.

IX. It shall be the duty of the Directors of the said Bank to make half-yearly dividends, of so much of the profits of the said Bank, as to them or the majority of them shall appear advisable.

Dividends.

X. The Directors for the time being or the major part of them, shall have power to make such By-laws and Regulations not repugnant to the provisions of this Act or the laws of this Province, as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Bank, and touching the duties and conduct of the Officers, Clerks and Servants employed therein, and all such other matters as appertain to the business of a Bank, and shall also have power to appoint as many Officers, Clerks and Servants for carrying on the said business and with such salaries and allowances, as to them shall seem meet, and shall have power to make such calls of money from the several shareholders for the time being, upon the shares in the said Bank subscribed for or held by them respectively, as the said Directors find necessary, and in the corporate name of the said Bank to sue for, receive and get in all such calls, or to cause and declare such shares to be forfeited to the said Bank, in case of non-payment of any such call ; and an action of debt may be brought to recover any money due on any such call ; And it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the Defendant is the holder of one share or more (as the case may be), in the Capital Stock of the said Bank, and is indebted for calls upon such share or shares to the said Bank, in the sum to which the call or calls amount, (as the case may be, stating the number and amount of such calls), whereby an action hath accrued to the said Corporation, to recover the same from such Defendant by virtue of this Act ; and it shall be sufficient to maintain such action, to prove by any one witness, (a shareholder being competent), that the said Defendant at the time of making any such call was a shareholder in the number of shares alleged, and to produce the By-law or resolution of the Board making and prescribing such call, and to prove notice thereof given in conformity with such By-law or Resolution, and it shall not be necessary to prove the appointment

Directors to make By-laws.

To appoint Officers.

To make Calls.

What only must be alleged and proved in suits for calls.

of the said Board of Directors or any other matter whatsoever; Provided that each such call shall be made at intervals of thirty days, and upon notice to be given at least thirty days prior to the day on which such call shall be payable, and any such call shall not exceed twenty per cent of each share subscribed; And provided always, that before permitting any Cashier, Officer, Clerk or Servant of the Corporation to enter upon the duties of his office, the Directors shall require every such Cashier, Officer, Clerk or Servant of the Corporation, to give Bond, to the satisfaction of the Directors, that is to say, every Cashier, in a sum not less than Five Thousand Pounds, current money of Canada, and every other Officer, Clerk or Servant, in such sum of money as the Directors consider adequate to the trust reposed, with condition for good and faithful behaviour.

Proviso : calls limited.

Officers to give security.

The amounts.

Directors may be paid.

Quorum.

XI. The Directors, including the said President and Vice-President, shall be entitled to such emolument for their services as may be fixed by any order or resolution passed at the usual Annual Meeting of Shareholders; and any five shall constitute a Board for the transaction of business, of whom the President or Vice-President shall be one, except in case of sickness or absence, in which case the Directors present may choose out of their number a Chairman for such Meeting.

No note to issue until £25,000 is paid up.

XII. No bill or note, for any sum whatever, shall be issued or put into circulation by the said Bank until twenty-five thousand pounds of the Capital Stock of the said Bank shall have been actually paid in, and shall be held by and in the actual possession of the said Bank, in gold or silver coin current in this Province.

Chief place of business.

Branches.

XIII. The chief place or seat of business shall be in the City of Toronto aforesaid, but it shall and may be lawful for the Directors of the said Bank to open and establish in other cities, towns and places in this Province, branches and agencies or offices of discount and deposit of the said Bank, under such rules and regulations for the good and faithful management of the same, as to the said Directors shall from time to time seem meet, and shall not be repugnant to any law of this Province, to this Act, or to the By-laws of the said Bank.

Statement of affairs at annual general meetings.

XIV. At every Annual Meeting of the Shareholders of the said Bank, to be held in the City of Toronto in the manner hereinbefore provided, the Directors shall submit a full and clear statement of the affairs of the said Bank, containing on the one part, the amount of the Capital Stock paid in, the amount of the notes of the Bank in circulation, and net profits made, and the balance due to other banks and institutions, and the cash deposited in the Bank, distinguishing deposits bearing interest from those not bearing interest, and on the other part the amount of current coins and gold and silver bullion in the vaults of the Bank,

Bank, the balances due to the Bank from other banks and institutions, the value of the real and other property of the Bank, and the amount of debts owing to the Bank, including and particularising the amounts so owing upon bills of exchange, discounted notes, mortgages and other securities; thus exhibiting on the one hand the liabilities of or the debts due by the Bank, and on the other hand the assets and resources thereof; and the said statements shall also exhibit the rate and amount of the then last dividend declared by the Directors, the amount of reserved profits at the time of declaring the said dividend, and the amount of debts to the Bank overdue and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts.

Debts overdue  
to be shown.

XV. Any number not less than twenty of the Shareholders of the said Bank, who together shall be proprietors of at least five hundred shares of the paid up Capital Stock of the said Bank, by themselves or their proxies, or the Directors of the said Bank or any three of them, shall respectively have power at any time to call a Special General Meeting of the Shareholders of the said Bank, to be held at their usual place of meeting in the City of Toronto, upon giving six weeks' public notice thereof, and specifying in such notice the object or objects of such meeting; and if the object of any such Special General Meeting be to consider of the proposed removal of the President or Vice-President, or of a Director or Directors of the Corporation, for mal-administration or other specified and apparently just cause, then and in any such case the person or persons whom it shall be so proposed to remove, shall, from the day on which the notice shall be first published, be suspended from the duties of his or their office or offices; and if it be the President or Vice-President whose removal shall be proposed as aforesaid, his office shall be filled up by the remaining Directors (in the manner hereinbefore provided in the case of a vacancy occurring in the office of President or Vice-President,) who shall choose or elect a Director to serve as such President or Vice-President, during the time such suspension shall continue or be undecided upon.

Mode of calling special general meetings; and proceedings thereat.

XVI. The shares of the Capital Stock of the said Bank shall be held and adjudged to be personal estate, and be transmissible accordingly, and shall be assignable and transferable at the Bank according to the form of Schedule A annexed to this Act; but no assignment or transfer shall be valid or effectual unless it be made and registered in a book or books to be kept by the Directors for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him, her or them to the Bank, which may exceed in amount the remaining stock, if any, belonging to such person or persons; and no fractional part or parts of a share or other than a whole share shall be assignable or transferable; and when any share or shares of the said Capital Stock shall have been sold

Shares to be personalty, and how transferable.

Shares sold in execution.

sold

sold under a writ of execution, the Sheriff by whom the writ shall have been executed shall, within thirty days after the sale, leave with the Cashier of the said Bank an attested copy of the writ with the certificate of such Sheriff endorsed thereon, certifying to whom the sale has been made, and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Bank shall be discharged as aforesaid), the President or Vice-President or the Cashier of the Bank shall execute the transfer of the share or shares so sold, to the purchaser, and such transfer being accepted shall be to all intents and purposes as valid and effectual in law as if it had been executed by the original holder of such shares or shares; any law or usage to the contrary notwithstanding.

What only shall be the business of the Bank and what property it may hold

XVII. The said Bank hereby constituted shall not, either directly or indirectly, hold any lands or tenements, (save and except such as by the first section of this Act, it is specially authorized to acquire and hold,) or any ships or other vessels, or any share or shares in the Stock of the Corporation, nor in any Bank in this Province; nor shall the said Bank, either directly or indirectly lend money or make advances upon the security or mortgage of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the Capital Stock of the said Bank, nor shall the said Bank either directly or indirectly raise loans of money or deal in the buying and selling or bartering of goods, wares and merchandize, or engage or be engaged in any trade except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes, and negotiable securities, and in all such trade generally as legitimately appertains to the business of Banking; Provided always, that the said Bank may take and hold mortgages and liens and assignments of mortgages and liens on real and other property, by way of security for debts contracted to or with the Bank in the course of its dealings, and may proceed either at Law or in Equity for the realization of the same.

Proviso: as to mortgages in the course of business.

Discount to Directors limited.

XVIII. The aggregate amount of discounts and advances made by the said Corporation upon commercial paper or securities bearing the name of any Director, or the co-partnership name or firm of any Director of the said Corporation, shall not at any time exceed one twentieth of the total amount of discounts or advances made by the Corporation at the same time.

Interest and discounts.

XIX. The Bank may allow and pay interest not exceeding the legal rate in this Province, upon moneys deposited in the Bank; and, in discounting promissory notes, bills, or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same; And when notes, bills, or other negotiable securities or paper, are *bond fide* payable at a place within this Province different from

Further per centage may be taken in certain cases.

from that at which they are discounted, the Bank may also, in addition to the discount, receive or retain an amount not exceeding one half per centum on the amount of every such note, bill or other negotiable security or paper, to defray the expenses of agency and exchange attending the collection of every such note, bill or other negotiable security or paper; And the Bank may charge any note or bill held by and payable at the Bank, against the deposit account of the maker of such note or acceptor of such bill, at the maturity thereof; any law, statute or usage to the contrary notwithstanding.

Note, &c.,  
overdue may  
be charged  
against deposit  
accounts in  
certain cases.

XX. The bonds, obligations, and bills obligatory and of credit of the said Bank, under its common seal, and signed by the President or Vice-President, which shall be made payable to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, or of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees successively, and to enable such assignee or assignees to bring, on due acceptance, an action or actions thereupon, in his, her or their name or names; and signification of any such assignment by endorsement shall not be necessary, any law or usage to the contrary notwithstanding: and bills and notes of the said Bank, signed by the President or Vice-President, and countersigned by the Cashier, promising payment of money to any person or persons, his, her or their order or to the bearer, though not under the seal of the said Bank, shall be binding and obligatory on the same, with the like force and effect and in the same manner as they would upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacities, and shall be assignable or negotiable in the like manner as if they were so issued by such private person or persons; Provided always, that nothing in this Act contained shall be held to debar the Directors of the said Bank from authorizing or deputing from time to time any Officer of the Bank, or any Director other than the President or Vice-President, or any Cashier, Manager or local Director of a branch or office of discount and deposit of the Bank, to sign, and any Accountant or Book-keeper of the said Bank, or of any Branch or office of discount and deposit thereof, to countersign, the bills and notes of the said Bank intended for general circulation and payable to order or to bearer on demand.

Bonds, notes,  
&c.. how to be  
signed, and  
how assign-  
able.

Proviso: as to  
signing notes  
by other Offi-  
cers, &c.

XXI. And whereas it may be deemed expedient, that the name or names of the person or persons intrusted and authorized by the Bank to sign Bank-notes and Bills on behalf of the Bank, should be impressed by machinery, in such form as may from time to time be adopted by the Bank, instead of being subscribed in the hand-writing of such person or persons respectively; And whereas doubts might arise respecting the validity of such notes: Be it therefore further declared and enacted, That all bank-notes and bills of the said Bank, whereon

Recital.

Signature of  
Officers ap-  
pointed to sign

notes may be impressed by machinery.

whereon the name or names of any person or persons intrusted or authorized to sign such notes or bills on behalf of the bank, shall or may become impressed by machinery provided for that purpose by or with the authority of the Bank, shall be and be taken to be good and valid, to all intents and purposes, as if such notes and bills had been subscribed in the proper hand-writing of the person or persons intrusted and authorized by the Bank to sign the same respectively, and shall be deemed and taken to be bank-notes or bills within the meaning of all laws and statutes whatever; and shall and may be described as bank-notes or bills, in all indictments and other civil or criminal proceedings whatsoever; any law, statute or usage to the contrary notwithstanding.

And such notes shall be valid, &c.

Notes to bear date and be payable at the place of date.

**XXII.** The notes or bills of the said Bank made payable to order or to bearer and intended for general circulation, whether the same shall issue from the chief seat or place of business of the said Bank in the City of Toronto, or from any of its branches, shall be payable on demand in specie at the place where they bear date.

Suspension of payment of notes to forfeit charter.

**XXIII.** A suspension by the said Corporation (either at the chief place or seat of business, or at any of their branches or offices of discount and deposit at other places in this Province,) of payment on demand, in specie, of the notes or bills of the said Corporation payable on demand, shall, if the time of suspension extend to sixty days consecutively or at intervals, within any twelve consecutive months, operate as and be a forfeiture of this Act of Incorporation, and of all and every the privileges hereby granted.

Total amount of notes for less than £1 each limited.

**XXIV.** The total amount of the notes or bills of the said Corporation, being for a less sum than one pound, current money of Canada, each, which shall be or may have been issued and put in circulation, shall not exceed at any one time one fifth of the amount of the capital stock of the Corporation then paid in; Provided always, that no note under the nominal value of five shillings shall at any time be issued or put in circulation by the Corporation; nor shall any further limitation by the Legislature of the total amount of notes to be issued or re-issued by the said Corporation be held to be any infringement upon the privileges hereby granted; Provided that the several provisions of an Act passed in the sixteenth year of Her Majesty's reign, intituled, *An Act to encourage the issue by the Chartered Banks of this Province, of Notes secured in the manner provided by the General Banking Law*, shall be and are hereby declared to be applicable to this Act.

Proviso: none to be under 5 shillings.

Proviso: Bank to have benefit of 16 V. c. 162.

Total liabilities of Bank limited.

**XXV.** The total amount of the debts which the said Corporation shall at any time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of the capital stock paid in, and the deposits made in the Bank

in

in specie and Government securities for money ; and at no one period after the passing of this Act, shall the notes or bills payable on demand to bearer, exceed the amount of the actually paid up capital stock of the Corporation, and the amount of Provincial or Municipal Loan Fund Debentures held by the Corporation ; and in case of excess, the said Corporation shall forfeit this Act of Incorporation and all the privileges hereby granted ; and the Directors under whose administration the excess shall happen, shall be liable jointly and severally for the same, in their private capacities, as well to the shareholders as to the holders of the bonds, bills and notes of the Corporation ; and an action or actions in this behalf may be brought against them, or any of them, and the heirs, executors, administrators or curators of them, or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the Corporation or their lands, tenements, goods or chattels, from being also liable for such excess ; Provided always, that if any Director present at the time of contracting any such excess of debt, do forthwith, or if any Director absent at the time of contracting any such excess of debt, do within twenty-four hours after he shall have obtained a knowledge thereof, enter on the minutes or register of proceedings of the Corporation, his protest against the same, and do within eight days thereafter publish such protest in at least one newspaper published in the City of Toronto, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors and administrators or curators, from the liability aforesaid, any thing herein contained, or any law to the contrary notwithstanding ; And provided always, that such publication shall not exonerate any Director from his liability as a shareholder.

And of its  
Bank-notes.

Liability of  
Directors for  
excess.

Proviso : how  
a Director  
may avoid  
such liability.

Proviso.

XXVI. In the event of the property and assets of the said Bank hereby constituted, becoming insufficient to liquidate its liabilities and engagements or debts, the shareholders of the said Bank, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of their capital stock, that is to say, the liability and responsibility of each shareholder shall be limited to the amount of his or her share or shares of the said capital stock, and a sum of money equal in amount thereto ; Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the Corporation hereinbefore mentioned and declared.

Liability of  
Shareholders  
limited.

Proviso.

XXVII. Besides the detailed statement of the affairs of the said Bank, hereinbefore required to be laid before the shareholders thereof, at their annual general meetings, the Directors shall make up and publish on the first day of each month in every year, statements of the assets and liabilities of the said Bank,

Monthly  
statements of  
affairs to be  
published.

Bank, in the form of the Schedule B. hereunto annexed, shewing under the heads specified in the said form, the average of the amount of the notes of the Bank and other liabilities during the month to which the statement shall refer, and the average amount of specie and other assets that at the same time were available to meet the same; and it shall be also the duty of the Directors to submit to the Governor a copy of each such monthly statement; and if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production of the weekly or monthly balance-sheets from which the said statements have been compiled; And furthermore, the said Directors shall from time to time, if required, furnish to the said Governor such further information as such Governor may reasonably see fit to call for; Provided always, that the Directors shall not, nor shall any thing herein contained be construed to authorize them or any of them, to make known the private account or accounts of any person or persons whatever having dealings with the said Bank.

Governor may require further information.

Proviso.

Forfeiture for non-user.

XXVIII. The provisions of this Act so far as the same relate to the said Bank, shall in no wise be forfeited for non-user at any time before the first day of June in the year one thousand eight hundred and sixty.

Bank not to lend to foreign state.

XXIX. It shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly, to advance or lend to, or for the use of or on account of any Foreign Prince, Power or State, any sum or sums of money or any securities for money; and if such unlawful allowance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and the powers, authorities, rights, privileges, and advantages hereby granted shall cease and determine; any thing in this Act to the contrary notwithstanding.

How public notices shall be given.

XXX. The several public notices by this Act required to be given, shall be given by advertisement in one or more of the newspapers published in the Cities of Toronto, Hamilton, Kingston and London, and in the Town of Cobourg, and in the *Canada Gazette*, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of official documents and notices emanating from the Civil Government of this Province.

Books of subscription may be opened in United Kingdom.

XXXI. Books of subscription may be opened and shares of the capital stock of the Bank may be made transferable, and the dividends accruing thereon may be made payable in the United Kingdom, France and the United States of America, in like manner as such shares and dividends are respectively made transferable and payable at the Bank in the City of Toronto, and to that end the Directors may from time to time make such rules and regulations and prescribe such forms and appoint such agent or agents, as they may deem necessary.

XXXII.

**XXXII.** If the interest in any share in the said Bank become transmitted in consequence of the death or bankruptcy or insolvency of any Shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, the Directors may require such transmission to be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors of the Bank shall require; and every such declaration or other instrument so signed, made and acknowledged, shall be left at the Bank, with the Cashier or other officer or agent of the Bank, who shall thereupon enter the name of the party entitled under such transmission in the register of shareholders; and until such transmission shall have been so authenticated, no party or person claiming by virtue of any such transmission, shall be entitled to receive any share of the profits of the Bank, nor to vote in respect of any such share or shares as the holder thereof; Provided always, that every such declaration and instrument as by this and the following section of this Act is required to perfect the transmission of a share of the Bank, as shall be made in any other country than in this or some other of the British Colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British Consul or Vice-Consul, or other the accredited representative of the British Government in the country where the declaration shall be made, or shall be made directly before such British Consul or Vice-Consul, or other accredited representative; And provided also, that nothing in this Act contained shall be held to debar the Directors, Cashier or other officer or agent of the Bank, from requiring corroborative evidence of any fact or facts alleged in any such declaration.

Proof of transmission of shares otherwise than by regular transfer.

Proviso: how the declaration shall be authenticated in certain cases.

Proviso.

**XXXIII.** If the transmission of any share of the Bank be by virtue of the marriage of a female Shareholder, the declaration shall contain a copy of the register of such marriage or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if the transmission have taken place by virtue of any testamentary instrument or by intestacy, the probate of the will or the letters of administration or of tutorship or curatorship, or an official extract therefrom, shall, together with such declaration, be produced and left with the Cashier or other officer or agent of the Bank, who shall then enter the name of the party entitled under such transmission in the register of shareholders.

If the transmission be by marriage.

**XXXIV.** Whenever the interest in any share or shares of the Capital Stock of the said Colonial Bank of Canada shall be transmitted by the death of any Shareholder or otherwise, or whenever the ownership or legal right of possession in any such share or shares shall change, by any lawful means other than by transfer according to the provisions of this Act, and the Directors of the said Bank shall entertain reasonable doubts as to the legality of

Decision of Superior Courts may be had as to contested claims to shares.

of

of any claim to and upon such share or shares of stock, then and in such case it shall be lawful for the said Bank to make and file, in one of the Superior Courts of Law for Upper Canada, a declaration and petition in writing addressed to the Justices of the Court, setting forth the facts and the number of shares previously belonging to the party in whose name such shares stand in the Books of the Bank, and praying for an order or judgment adjudicating and awarding the said shares to the party or parties legally entitled to the same, and by which order or judgment the Bank shall be guided and held fully harmless and indemnified and released from all and every other claim for the said shares or arising therefrom; Provided always that notice of such petition shall be given to the party claiming such share or shares, who shall upon the filing of such petition establish his right to the several shares referred to in such petition: and the delays to plead and all other proceedings in such cases shall be the same as those observed in analogous cases before the said Superior Courts; Provided also, that the costs and expenses of procuring such order and adjudication, shall be paid by the party or parties to whom the said shares shall be declared lawfully to belong, and such shares shall not be transferred until such costs and expenses be paid, saving the recourse of such party against any party contesting his right.

Proviso :  
Notice to be  
given.

Proviso : as to  
costs.

Bank not  
bound to see  
to trusts.

As to shares  
held jointly.

XXXV. The Bank shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares in the Bank may be subject, and the receipt of the party in whose name any such share shall stand in the Books of the Bank, or if it stand in the names of more parties than one, the receipt of one of the parties, shall from time to time be a sufficient discharge to the Bank for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Bank have had notice of such trust, and the Bank shall not be bound to see to the application of the money paid upon such receipt; any law or usage to the contrary notwithstanding.

Bank to invest  
one tenth of  
its paid up  
capital in pro-  
vincial and  
municipal De-  
bentures.

XXXVI. It shall be the duty of the Directors of the said Bank to invest, as speedily as the debentures hereinafter mentioned can be procured from the Receiver General, and to keep invested at all times in the debentures of this Province, payable within the same, or of the Consolidated Municipal Loan Fund, one tenth part of the whole paid up Capital of the said Bank, and to make a return of the numbers and amount of such debentures, verified by the oaths and signatures of the President and Chief Cashier or Manager of the said Bank, to the Inspector General, in the month of January of each year, under the penalty of the forfeiture of the Charter of the said Bank, in default of such investment and return; Provided always, that the said Directors shall not commence the ordinary business

Proviso.

of banking until the sum of ten thousand pounds shall have been invested in such debentures.

XXXVII. This Act shall be and remain in force until the first day of June, which will be in the year of Our Lord one thousand eight hundred and seventy, and from that time until the end of the then next Session of the Parliament of this Province, and no longer. Duration of this Act.

XXXVIII. This Act shall be deemed a Public Act. Public Act.

**FORM OF SCHEDULE A**

*Referred to in the foregoing Act.*

For value received from \_\_\_\_\_, I, (or we,) of \_\_\_\_\_, do hereby assign and transfer unto the said shares, (on each of which has been paid \_\_\_\_\_ pounds shillings, currency, amounting to the sum of \_\_\_\_\_ pounds, shillings,) in the Capital Stock of the Colonial Bank of Canada, subject to the rules and regulations of the said Bank.

Witness my (or our) hand (or hands) at the said Bank, this day of \_\_\_\_\_, in the year of Our Lord one thousand eight hundred and \_\_\_\_\_ (Signature.) O. K.

I (or we) do hereby accept the foregoing assignment of shares in the stock of the Colonial Bank of Canada, assigned to me (or us) as above mentioned.

At the Bank, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_ (Signature.)

**FORM OF SCHEDULE B**

*Referred to in the foregoing Act.*

Return of average amount of liabilities and assets of the Colonial Bank of Canada, during the period from first to one thousand eight hundred and \_\_\_\_\_

**LIABILITIES.**

Promissory notes in circulation not bearing interest....	£
Bills of exchange in circulation not bearing interest....	£
Bills and notes in circulation bearing interest....	£
Balances due to other Banks.....	£
Cash deposits, not bearing interest.....	£
Cash deposits, bearing interest.....	£

Total average liabilities.....£  
**ASSETS.**

## ASSETS.

Coin and Bullion.....	£
Landed or other property of the Bank.....	£
Government securities.....	£
Promissory notes or bills of other Banks.....	£
Balance due from other Banks.....	£
Notes and bills discounted.....	£
Other debts due to the Bank, not included under the foregoing heads.....	£
Total average assets.....	£

## CAP. CXXIV.

## An Act to incorporate the Canada Marine Insurance Company.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS the formation and establishment of Marine and Inland Navigation Insurance Companies is of great public utility, and is necessary to the prosperity of the trade of this Province; And whereas the several persons hereinafter named are willing and desirous to establish and maintain such a Company, but the same cannot be effected without the aid of the Legislature: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Incorporation of Company.

I. The Honorable George Moffatt, Joseph Knapp, James Mitchell, Donald Lorn McDougall, Hugh Allan, Louis Renaud, M. H. Seymour, H. H. Whitney, H. L. Routh, Thomas Morland, Wolfred Nelson, John Ogilvy, D. Lewis, J. J. C. Abbott, N. S. Whitney and C. C. Abbott, and every other person who shall hereafter become a Shareholder of the said Company shall be, and are hereby united into a Company, for making and effecting Inland Navigation and Marine Insurances, according to the rules and directions hereinafter mentioned, and for that purpose shall be a body corporate until the first day of January, One thousand nine hundred and sixty, under the name of the Canada Marine Insurance Company.

Duration and corporate name.

Power and authority to make Insurances on vessels and goods by water.

II. The said Company shall have power and authority to make, with any person or persons, all and every Insurances connected with Marine risks and risks of navigation, and transportation by water, against loss or damage of or to any Vessel, Steamer, Boat, or other Craft, either sea-going or navigating upon Lakes, rivers, or navigable waters—and of, or to, any Cargo, Goods, Wares and Merchandizes, Specie, Bullion, Jewells, Bank-notes, Bills of Exchange, and other evidences of debts, conveyed therein, and of, and to, any Timber, or other property of every description, borne or carried by water, and of,

of, and to, any freight, profit, commission, bottomry, or respondentia interest, and to cause themselves to be reinsured when deemed expedient, against any loss or risk on which they have made or may make Insurance, and generally to do and perform all other necessary matters and things relating to such objects.

III. The said Company shall have power and authority to purchase, have and hold, to them and their successors, any real or immovable estate, lands and tenements, which shall be necessary for their immediate accommodation, and the transaction of their business, and the same to sell and dispose of, and others to acquire as may be deemed expedient; and to take and hold any real estate *bonâ fide* mortgaged and hypothecated to the said Company by way of security, or conveyed to them in satisfaction or payment of any debt previously contracted in the course of their dealings, or purchased at any sale under any judgment, order or decree of Court, which may have been obtained for such debts, or by virtue of any proceeding at law, or acquired by purchase to avoid a loss to the said Company through prior claims, and to hold the same for a period not exceeding five years, during which time the said Company shall be bound to sell or dispose of, and convert the same into money or property authorized to be held by virtue of this Act.

Power to take or hold real estate to a limited extent, and for certain purposes.

IV. It shall be lawful for the said Company to invest their funds, or any part thereof, in loans on Public or Landed Securities, and the same to call in and reloan as occasion may require, and as may be deemed expedient by their Directors from time to time,—and in the purchase of Public Securities, Stocks of chartered Banks or other chartered Companies, the bonds and debentures and the other evidences of debt of the Government, Municipal Debentures or Debentures issued by the Government of Canada in exchange for those of any incorporated Town, City or Municipality of the said Province of Canada,—the shares of ships, steamers or vessels, or bottomry bonds, and to sell and transfer the same; Provided always, that the said Company shall not deal in any goods, wares or merchandizes other than such as they shall become possessed of by virtue of any insurance made thereon, or which may be abandoned to them.

Company may invest their capital, and in what securities.

Proviso.

V. The Capital of the said Company shall be formed by, and consist of, twenty thousand shares of twenty-five pounds each, and the said Capital Stock with the property of the Company, and the Notes, Bills and Securities of special partners hereinafter described, shall be held liable for the payment of all engagements, losses or damages that may from time to time occur, and be justly claimed from, or charged upon, the said Company.

Capital Stock and shares.

Management  
by a Board of  
Directors.

VI. The corporate powers, property, and business of the said Company shall be conducted and managed by a Board of fifteen Directors, who shall be named and chosen at a meeting of Stockholders of the said Company, to be held as hereinafter provided.

Books of sub-  
scription to be  
opened.

VII. It shall be the duty of the parties named in the preamble of this Act, or a majority of them, to open books in the City of Montreal for the subscription of the stock of the said Company, after giving at least ten days' notice thereof in the *Canada Gazette*, and in one English and one French newspaper published in the said City; and the said books of subscription shall be and remain open and accessible to the public for at least one day at a place to be designated in such notice, and should the said twenty thousand shares not be fully subscribed during such time and at such place, the said parties aforementioned in the preamble of this Act, or a majority of them, or when their powers shall have ceased, the Directors for the time being, shall have power to obtain subscriptions for the remaining shares there or elsewhere, as they may deem proper, and in any manner they may consider expedient, not inconsistent with the provisions of this Act; Provided always, that it shall be the duty of the said parties or a majority of them, as aforesaid, so soon as, and whenever fifty thousand pounds, or two thousand shares, of the said stock shall have been subscribed, to organize the said Company, and to call a meeting of the shareholders, by giving at least ten days' notice in two newspapers published in the City of Montreal, as aforesaid, for that purpose.

Proviso : for  
organization  
of the Com-  
pany when  
£50,000 is  
subscribed.

Election of  
Directors.

VIII. It shall be the duty of the said shareholders, or so many of them as shall attend the meeting provided for in the last preceding clause of this Act, at such meeting to proceed to the appointment and election of fifteen Directors, as provided for by this Act, upon whom shall devolve thereafter the duty of organizing, conducting and managing the affairs of the said Company, until the first annual general meeting of shareholders upon the next ensuing first Monday in February, as provided for in this Act. And the said parties named in the preamble of this Act, shall, after such election, be relieved from further duty touching the organization or management of the affairs of the said Company.

Term of office.

Provisions  
respecting  
election of  
Directors.  
Annual meet-  
ings.

IX. All elections of Directors shall be by ballot, and after the first meeting hereinbefore provided for, a general meeting of the shareholders shall be held at the usual place of business of the said Company, or any other place in the City of Montreal, upon the first Monday of February, annually, for the election of Directors, which Directors shall serve till the next annual general meeting, and until such time as their successors shall be elected, and for the transaction of such other business as may properly be laid before such meeting, and for the review of the general affairs of the said Company; and it shall be the duty of the  
Directors

Directors for the time being, to give due notice of such meeting, by publishing the same at least ten days before the day aforesaid, in at least one newspaper published in the City of Montreal; and in the event of the first Monday in February in any year being a legal holiday, then the annual meeting aforesaid shall be held on the next following day not being a holiday; and the shareholders present, either in person or by proxy, at all general meetings, shall have one vote for each and every share that shall have been held in his or her name, or in the name of any firm, association or partnership of which he or she may be a partner, upon the books of the said Company, for at least fifteen days next preceding such annual election; Provided always, that no more than one vote, be given or taken upon any share, and that the scrutineers at such election shall decide as to the right of any person to vote, in the event of disagreement or dispute between parties holding shares registered in the name of any firm, association or partnership as aforesaid; and in case of a failure to elect from an equality of votes, for more than fifteen Directors, a new election shall be held to fill the undetermined places; and in case of any vacancy occurring in the number of Directors, such vacancy shall be filled up for the remainder of the year in which it may occur, by a shareholder to be nominated by a majority of the Directors; Provided always, that no person shall be elected or nominated to be a Director, who shall not be a shareholder in the Company to the extent of at least ten shares, at the time of his election or nomination, and during his continuance in office, either registered in his own name or the name of the firm or partnership of which he is a member; Provided further that no two persons of a firm or partnership be qualified by the same shares.

Notice of meetings.

Proviso: one vote for a share, &c.

Ties.

Vacancies to be filled by Directors.

Proviso: each Director must hold ten shares at least.

Proviso.

X. The Corporation shall not be dissolved by a failure to elect Directors at the time when such election should be made pursuant to this Act, but such election may be made on any other day, in such manner as may be directed and required by the By-laws of the Company; Provided that any ten or more of the shareholders, holding or representing at least one fourth of the subscribed stock, may require the Directors to call a special general meeting of the shareholders, in the manner prescribed for the annual general meetings, and on their refusal or neglect to do so, may themselves call such meeting by an advertisement to be published in two newspapers published in Montreal as aforesaid.

Corporation not dissolved by a failure to elect.

Special general meeting may be called by Shareholders.

XI. Any number of the Directors aforesaid, being a majority of them, shall have full power from time to time to make and enact By-laws, Rules and Regulations (the same not being repugnant to this Act, or the laws of this Province) for the proper management of the affairs of the said Company, and from time to time to alter and repeal the same, and others to make and enact in their stead; Provided that no such By-laws, Rules and Regulations made as aforesaid shall be valid or have effect, unless

Directors may make By-laws, &c.

By-laws must be approved by Shareholders.

unless approved and confirmed by a majority of the Shareholders present at an annual or special general meeting convened as aforesaid.

- Directors shall meet monthly;** **XII.** There shall be a monthly meeting of the Directors, and any seven or more of the Directors shall form a quorum for transacting and managing the business and affairs of the Company, at the first of which monthly meetings the said Board of Directors shall appoint one of their members as President, who shall serve for one year, or until the next annual general meeting of Directors, and until his successor shall be appointed, and such other officers as shall be deemed necessary, at such salaries as they may deem proper, and at each monthly meeting shall also nominate and appoint two out of their number to cooperate and advise with the President until the next meeting of the Board, in managing the ordinary affairs of the Company.
- Shall appoint a President ;**
- And other Officers ;**
- Also Sub-Boards.**
- Duties of the Sub-Boards.** **XIII.** The President and two Directors so appointed shall be a Sub-Board, and shall hold daily meetings for the transaction of business, and all Policies of Insurance issued by the Company, shall be signed by the President and Manager, and at least one of the Directors so appointed for the current month, and sealed with the seal of the Company ; and it shall be the duty of the said Board, as far as practicable, to carry out the policy of the General Board as shall be expressed at their monthly meetings : Provided always, that no Director or Officer shall be held liable, except as a shareholder in the Company, for the giving out and signing Policies of Insurance or any other lawful acts, deeds or transactions done and performed in pursuance of this Act ; and no Director shall be answerable for, or chargeable with, the defaults, neglects or misdeeds of others of them, or of any Officer or Clerk of the Company.
- Proviso.**
- Directors not responsible for each other or for Officers.**
- Punishment of Officers or others for fraud.** **XIV.** Any Manager, or other Officer of the Company who shall be guilty of any wilful falsehood or fraud, in any matter or thing pertaining to his office or duty, shall be guilty of a misdemeanor ; and any person falsely personating a member entitled to vote, and offering to vote as such member at any election of Directors, or who shall falsely sign or affix the name of any member of the Company to any appointment of a proxy, shall be guilty of a misdemeanor.
- On subscription of £50,000 and payment of Company may be organized.** **XV.** So soon as fifty thousand pounds of the said capital stock shall have been subscribed as aforesaid, and the sum of ten thousand pounds shall be paid in on account thereof, and not before, the said Board of Directors shall thereafter proceed with the business and purposes of the said Company.
- Five per cent. on amount of subscription to be paid on subscribing.** **XVI.** Any person may subscribe for such and so many shares as he may think fit, and five per centum on each share shall be paid at the time of subscribing therefor, and the remainder at such times as the Directors for the time being shall appoint ; and if

if any Shareholder refuse or neglect to pay the said instalments at the time when required so to do, he shall forfeit his share, together with the amount paid thereon; and the said share shall be sold, and the sum arising from such sale, together with the amount so previously paid, shall be accounted for and divided in the like manner as the other moneys of the Company, unless the sum produced from such sale shall be more than sufficient to pay all arrears and interest on such instalment, together with the expense of such sale, and in such case the surplus of such money shall be paid on demand to the owner; and no more shares shall be sold than what shall be deemed necessary to pay such arrears, interest and expenses.

Remainder by instalments.  
Forfeiture for non-payment of calls.

XVII. In case the said Directors shall deem it more expedient in any case to enforce the payment of any unpaid instalments than to forfeit the share therefor, it shall and may be lawful for the Company to sue for and recover the same from such Shareholders with interest thereon, in any action for debt, in any Court having civil jurisdiction to the amount claimed; and in any such action it shall be sufficient to allege that the defendant is the holder of one or more shares (stating the number of shares), and is indebted to the Company in the sum to which the calls in arrear may amount; and to maintain such action, it shall be sufficient that the signature of the defendant to some book, or paper, by which his subscription for such share shall appear, be proved by one witness, whether in the employment of, or interested in the Company, or in any way allied, or related to any of the said Directors or Shareholders, or other persons interested in the said Company, or not, and that the number of calls in arrear have been made.

Proceedings to enforce payment in place of forfeiture.

What only need be alleged and proved:

XVIII. The shares of the said Company shall be assignable and transferable according to such rules as the Board of Directors shall appoint and establish, and such transfers shall be recognized and acknowledged by the Company, only after they shall have been entered in the Books of the Company; and no Shareholder or member indebted to the Company shall be permitted to make a transfer or receive a dividend until his debt is paid, or security to the satisfaction of the Directors be given to them that it will be paid.

Transfer of shares.

Debts to the Company must be first paid.

XIX. It shall be the duty of the Sub-Board to reinsure the excess of any risk or risks that shall be taken by the Company upon a single bottom, exceeding five per centum upon the subscribed Capital of the Company, including the amount of notes or securities contributed by special partners for the time being, any thing in this Act or any By-law to the contrary notwithstanding; and any wilful neglect to obtain or apply for such re-insurance shall subject the said Sub-Board, or any member of the same so offending, to be suspended or discharged from office by the Board.

Duty of Sub-Board to reinsure in certain cases.

Proportion of premium to be returned in certain cases.

XX. Policy holders whose Policies shall not have resulted in a loss to the Company, either total or partial, the premiums on which shall have amounted to ten pounds or upwards during the current year, shall be entitled to a dividend in cash upon the amount of such premiums paid by them, in such proportion to the dividend declared to Stockholders as shall be fixed upon by a By-law of the Company; Provided always, that any By-law for such purpose may, if deemed expedient, require that each and every Policy shall be voted upon and dealt with without reference to any other Policy taken from or made with the said Insurance Company.

Proviso.

Shareholders shall be paid interest on amounts paid in.

XXI. Prior to any dividend being declared, there shall be paid or allowed to the Shareholders respectively, upon the amount paid in upon their Stock, an annual interest not exceeding the income derived from the investment of the funds of the Company, without reference to the profits of the Company which shall be made up annually to the first day of February, and paid from time to time to the said Shareholders.

Annual statements, dividends, &c.

XXII. No separate statement shall be required for the part of year following the day on which the Company shall have issued their first Policy, but after that period an annual dividend statement shall be made which shall exhibit a full and unreserved statement of the affairs of the Company, of their funds, property and securities, the amount in real estate, bonds and mortgages, notes and other securities therefor, public debt, or other Stock, and the amount of debt due to and from the Company, together with a fair estimate of the net profits of the Company not before divided, up to the first day of February in each year, and allowing for any previous or probable deficiencies, which said annual statement shall be submitted to the Annual General Meeting aforesaid.

Declaration of dividend.

XXIII. At each Annual General Meeting, after the allowance of such reduction to insurers as aforesaid, and after the submission of the said statement and approval thereof by the Shareholders, the Board of Directors shall declare such dividend in favor of Stockholders, and in favor of those who shall have become special partners for the current year as aforesaid, out of the net profits of the preceding period, as they shall think fit, and which dividend shall be paid in cash.

Limitation of liability of Shareholders.

XXIV. Shareholders, recipients of return premiums or grantors of notes in advance for premiums, shall not be held liable for any claim, engagement, loss or payment whatsoever, for or by reason of the liabilities of the said Company of what nature soever, beyond the amount of the share or shares, note or notes, or securities, which each may respectively hold or have granted, and after payment to the said Company of the full amount of such share or shares, note or notes, or securities, such Shareholders, or grantors of notes, shall not be liable for any further sum of money whatever.

XXV. All shares in the Company shall be deemed personal property. Shares to be personalty.

XXVI. No dividends shall be declared or paid out of the Capital Stock of the Company; nor shall any dividend out of the said net profits be declared or paid, unless the said Capital shall be unimpaired, together with such dividends and interest as shall have been collected upon the invested Capital of the Company. No dividend to be paid out of capital.

XXVII. Whereas certain doubts have been and are still entertained as to the liability of persons dealing with Insurance Companies doing business upon the mutual principle, and it is desirable that the said Canada Marine Insurance Company should cause its re-assurances to be made with Mutual Insurance Companies: It is therefore expressly enacted, That the liability of the said Canada Marine Insurance Company, shall be limited to, and in no case exceed, the amount of premiums paid or agreed to be paid by the same, to such Mutual Insurance Companies; and that the said Canada Marine Insurance Company may, at any time, and at all times, receive from any such Mutual Insurance Companies, their return premiums, either in cash or scrip, as the case may be, and collect, hold, or dispose of the same as they may deem expedient and proper; and the said Canada Marine Insurance Company shall be exonerated, and its Stockholders, President and Directors, either collectively or individually, are hereby expressly declared not to be liable for more than the amount of the premiums paid, or expressly stipulated to be paid to such Mutual Insurance Companies. Recital.  
Limitation of liability on Scrip of Mutual Companies.

XXVIII. The operations and business of the said Company shall be carried on at such place in the City of Montreal as the Directors shall direct, but Agencies, with or without Branch Boards of Directors, may be established elsewhere, either in or out of Canada, as the Stockholders shall deem expedient, and which Branch Boards of Directors shall consist of not less than three, who shall be shareholders to the extent of at least ten shares or two hundred and fifty pounds each, and shall be appointed by the Montreal Board of Directors. Business to be carried on principally at Montreal.  
Branch Boards may be established.

XXIX. Suits at law or in Equity may be prosecuted and maintained by any member against the said Company; and no member of the Company not being in his individual capacity a party to such suit, shall be incompetent as a witness in suits and legal proceedings, by or against the Company. Suits by Members against Company.

XXX. This Act shall be a Public Act, and shall be subject to the provisions contained in the Interpretation Act of this Province, twelfth Victoria, chapter ten, which shall be held to form part hereof, so far as the same shall apply. Public Act.

## C A P . C X X V .

## An Act to incorporate the British Farmers' Union Insurance Company.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS Henry Yardington, Doctor Alfred Digby, Alexander Bunnell, Arthur Smith, Frederick George, Charles C. Perley, Henry Lemmon and others, have petitioned the Legislature, praying that an association under the style and title of the "British Farmers' Union Insurance Company," may be incorporated, as well for the purpose of enabling parties, owners of, or interested in buildings or property situated in country places, isolated and comparatively safe from fire, mutually to insure each other, and to extend the benefits of such institution more effectually among the rural and agricultural population in this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons incorporated.

I. The said Henry Yardington, Dr. Alfred Digby, Alexander Bunnell, Arthur Smith, and all such other persons as shall hereafter become members of the said Company, are hereby constituted a body corporate by the style and title of the "British Farmers' Union Insurance Company," and by that name they and their successors shall have continued succession, and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and may change and alter the same at pleasure; may mutually insure their respective properties under the restrictions, limitations and conditions hereinafter contained; and may also insure the houses and personal property of others for such time and at such premiums as shall be agreed upon between the said Corporation and parties insuring; and also they and their successors, by and under the name of the "British Farmers' Union Insurance Company," shall be capable in law of purchasing, holding and conveying any estate, real or personal, for the use of the said Company, subject to the rules and conditions hereinafter mentioned.

Corporate name and general powers.

May hold real estate under certain provisions.

Stock of Company divided into "Mutual" and "Proprietary."

Mutual Stock.

Proprietary.

II. The stock and property of the said Company shall be held liable for the payment of all losses that may from time to time occur to the said Company, and for that purpose shall be divided, and consist of two separate and distinct descriptions of stock, namely, Mutual and Proprietary; the Mutual Stock being comprised of premium notes deposited for the purpose of mutual insurance, together with all payments and other property received or held thereon, or in consequence of such mutual insurance; and the Proprietary Stock being composed of stock in

in shares, subscribed and paid for the purpose of fire insurance to others, which Proprietary Stock shall not exceed One Hundred Thousand Pounds, divided into shares of Twenty Pounds each; and also the members of, or persons composing the said Company, shall, in like manner, consist of, and be divided into two classes, namely, those who deposit premium notes for the purpose of mutual insurance, denominated Mutual Members, and Proprietary Members, or those who hold shares in the Proprietary Stock of the said Corporation; Provided always, that nothing herein mentioned and contained shall prevent the same person from holding at the same time both descriptions of stock.

Mutual Members

Proprietary Members.

Proviso.

III. Persons being members of the said Corporation by reason of deposit of premium notes for the purpose of mutual insurance, shall not be held liable for any claims for losses or payments beyond the amount of his, her or their premium notes respectively; and neither shall proprietary members be held liable for any claims for losses or payments beyond the amount of such share or shares of the proprietary stock which each may respectively hold; and also in all the transactions of the said Company the profits and benefits arising from or on account of the mutual branch of the said Corporation shall be secured to the members thereof; and in like manner, the profits and benefits arising from or on account of the proprietary branch of the said Company shall be secured to the proprietary members; and further, all the expenses necessary and incurred for the conducting and management of the said Company, shall be fairly assessed upon and divided between each branch or department of the said Company.

Mutual Members not liable beyond amount of their premium notes, nor Proprietary Members beyond the amount of their respective proprietary stock.

As to expenses.

IV. Provided always, that no dividend or bonus shall be declared or paid out of the capital stock of the Company, whether Proprietary or Mutual.

No dividend to be declared out of capital stock.

V. The said Company, by their corporate name aforesaid, shall be capable of purchasing, having and holding, to them and their successors, such estate, real, personal or mixed, as may be requisite for its accommodation in relation to the convenient transaction of its business; and may take and hold any real estate *bonâ fide* mortgaged to the said Company, by way of security for the payment of any debts which may be contracted with the said Company, and may proceed on the said mortgaged securities for the recovery of moneys thereby secured, either in law or equity, in the same manner as any other mortgagee is or shall be authorized to do, and also to purchase on sales made by virtue of any proceedings at law or equity, or otherwise, to receive and to take any real estate in payment, or towards the satisfaction of any debt previously contracted and due to the said Corporation, and to hold the same until they can conveniently and advantageously sell and convert the same into money or other personal property; Provided always, that

Company may hold real estate, &c.

Also real estate mortgaged to Company as security for payment of debts.

Proviso: as to the real estate.

the lands, tenements and hereditaments which it shall be lawful for the said Company to hold, shall be only such as shall be requisite for its accommodation in relation to the convenient transaction of its business, or such as shall have been *bonâ fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Company not to deal in merchandize, nor engage in Banking, &c.  
May hold stock as an investment.

VI. It shall not be lawful for the said Company to deal in, use or employ any part of the funds or moneys thereof, in buying or selling any goods, wares or merchandize, in the way of traffic, or banking operations; but it shall nevertheless be lawful for the said Company to purchase or hold any stock, Government securities, or other securities of public companies or funded debt, for the purpose of investing therein any part of their funds or money, and also to sell and transfer the same, and again to renew such investment when and as often as a due regard to the interests of the said Company shall require.

Board of Directors.

First Directors.

Election of Directors.

Election to be by ballot.

Ties.

Directors to elect President.

Vacancies how filled.

VII. The property, affairs and concerns of the said Company, shall be managed and conducted by a Board of seven Directors, one of whom shall be chosen President, and one Vice-President, which Board, in the first instance, and until the first annual general meeting of the Company, and until others may be chosen and appointed as hereinafter provided, shall consist of Henry Yardington, Dr. Alfred Digby, Alexander Bunnell, Arthur Smith, Frederic George, Charles C. Perley, and Henry Lemmon; and of which Board two Directors shall go out of office by rotation each year, but who shall, nevertheless, be immediately eligible for re-election as Directors; and the election of two Directors, in place of those so retiring from office, shall be held and made at the general annual meeting of the Company by such of the members thereof as attend for that purpose, either in their own proper persons or by proxy; and all elections of such Directors shall be by ballot, and the two persons who shall have the greatest number of votes of any election, shall be Directors; and if it shall, at any such election, happen that two or more persons have an equal number of votes, in such manner that a greater number of persons than two shall, by a plurality of votes, appear to be chosen Directors, then the said members hereinbefore authorized to hold such election shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, as soon as may be after the said election, shall proceed to elect one of their number to be President and one other of their number to be Vice-President; and if any vacancy or vacancies shall at any time happen among the Directors, or in the office of President or Vice-President, by death,

death, resignation, removal from the Province or ceasing to hold the interest in the Corporation hereinafter required, such vacancy or vacancies shall be filled up for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors ; Provided always, that no person shall be elected to the office of Director who is not a member of the Company holding an interest therein, either to the extent of mutual insurance to the amount of Five Hundred Pounds, or if mutually insured to a less amount than Five Hundred Pounds and more than Three Hundred and Fifty Pounds, together with five shares of Proprietary Stock, or if so insured less than Three Hundred and Fifty Pounds, and more than Two Hundred Pounds, to possess ten shares ; and if not mutually insured, or so insured to a less amount than Two Hundred Pounds, then to hold not less than fifteen shares of Proprietary Stock.

Proviso: qualification of Directors.

VIII. The Board of Directors shall name and determine the day for the holding of the general annual meetings of the Company ; and public notice of all general meetings shall be given in at least three newspapers that may be published in the Province of Canada, at least one month previous to the time of holding the said general meeting or meetings ; and at the first general annual meeting of the Company, to be held as above directed, the members then present shall decide and determine, by a by-law of the Company to be then passed, the mode and manner in which the two retiring members shall be then and in future elected, and the notice of all subsequent general annual meetings for election of Directors shall contain the names of the two retiring Directors.

General annual meetings.

Notice of meeting to be given in newspapers.

Retirement of two Directors.

IX. Each member of the said Company shall be entitled to the number of votes proportioned to the amount of stock by him, her or them insured or held at least one month prior to the time of voting according to the following rates, that is to say : Mutual Members, for any sum insured in the said Company, amounting to fifty pounds, one vote ; two hundred pounds, two votes ; three hundred and fifty pounds, three votes ; and five hundred pounds, four votes ; Proprietary Members, one vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten.

Members entitled to votes in proportion to stock according to scale.

X. If it shall happen at any time or for any cause that an election of Directors shall not be made on any day when, pursuant to this Act or the By-laws and Ordinances of the Company, it ought to have been made, the said Corporation shall not for that cause be dissolved, but it shall be lawful on any other day to hold and make an election of Directors in such manner as shall be regulated by the By-laws and Ordinances of the Company, and the Directors in office shall so continue until a new election shall be made.

Corporation not dissolved if Directors be not elected on proper day.

Directors to  
make By-  
laws and man-  
age business ;

XI. Any number of the Directors of the said Company, being a majority of the said Directors, shall have full power and authority to make, prescribe and alter such By-laws, Rules, Regulations and Ordinances, as shall appear to them proper and needful, touching the well ordering of the Company, the rates and amount of insurance and issuing policies, the management and disposition of its stock, property, estate and effects, and also to call in any instalment or instalments, assessment or assessments, at such time or season and times and seasons, as they shall think fit, giving due notice thereof as hereinafter provided, and also to declare and cause to be paid or distributed to the respective Stockholders of the Company, any dividend or dividends of profits at such times and seasons as they shall deem expedient, and also to appoint a Secretary and Treasurer, with such salary and allowance to each, as well as to other officers or agents of the Company, and take security from them for the due performance of their respective duties, as they shall think meet and advisable ; Provided always, that for the purposes in this section mentioned, except as hereinafter specially provided, a majority of the Directors shall be present and assisting, and it shall not be competent for a Board consisting of a less number of persons than were present at the time, to alter, repeal or amend any matter or things so done.

And appoint  
Officers.

Proviso.

Quorum for  
business.

Weekly meet-  
ings for dis-  
patch of busi-  
ness.

XII. There shall be weekly meetings of the Board of Directors of the said Company. and any three or more of the said Directors shall be a quorum for the purpose of transacting and managing the details of the business and affairs of the said Company, and at all meetings of the Board of Directors, all questions before them shall be decided by a majority of voices or votes, and in case of an equality of votes, the President, Vice-President or presiding Director shall give the casting vote over and above his proper vote as a Director ; Provided always, that nothing herein contained shall be construed to authorize the making, prescribing, altering or repealing any by-laws or ordinances of the said Company, or calling in any instalments or assessments on Stock, or declaring dividends of profits, or the appointment of Treasurer or Secretary, or the appointment of salaries to, or securities from officers or agents of the said Company, by any less number of Directors, or in any other manner than is mentioned and provided in the next preceding section.

Proviso : a  
quorum re-  
quired for  
transacting  
business.

Directors to  
receive reason-  
able compen-  
sation for at-  
tendance at  
the Board.

XIII. The said Directors, and such others as may be chosen by the said Company, shall receive reasonable compensation for their attendance at the Board, to be ascertained and determined by a by-law or rule of the Board, which compensation shall not exceed fifteen shillings to members living in the County, nor seven shillings and six pence to those residing in the Town of Brantford, and the said Directors shall be indemnified and saved harmless by the members of the said Corporation, in proportion to their several interests in the same, in and for

for their giving out and signing policies of insurance and all other lawful acts, deeds and transactions done and performed in pursuance of this Act, and neither shall the said Directors be answerable for, or chargeable with the defaults, neglects or misdeeds of others of them.

Indemnity to  
Directors.

XIV. The Corporation hereby created, shall have power and authority to make and effect contracts of Insurance with any person or persons, body politic or corporate, against loss or damage by fire, on any houses, stores or other buildings whatsoever; and in like manner on any goods, chattels or personal estates whatsoever, and for such premises and considerations and under such restrictions as may be agreed upon by and between the Company and the persons agreeing with them for Insurance, and generally to do and perform all other necessary matters and things connected with and proper to promote those objects.

Power of  
Company to  
effect con-  
tracts against  
loss by fire.

XV. Provided always, That in all cases of mutual Insurance, there shall not be insured more than two thirds of the value of any building, nor shall a sum be involved exceeding five hundred pounds on any one risk; and no mutual Insurance shall be effected on buildings or other property, situate in blocks or exposed parts of towns or villages, nor any kind of mills, carpenters' or other shops, which by reason of the trade or business followed, are rendered extra hazardous, machinery, breweries, distilleries, tanneries, or other property involved in a similar or equal hazard.

No insurance  
to be over two  
thirds of value  
of building  
insured, nor  
for more than  
£500, &c.

XVI. All policies or contracts of Insurance issued or entered into by the said Company, shall be signed by the President and countersigned by the Secretary, or as otherwise directed by the rules and regulations of the Company, in case of their absence; and being so signed and countersigned, and under the seal of the said Company, shall be deemed valid and binding upon them according to the tenor and meaning thereof.

Policies to be  
signed by  
President and  
countersigned  
by Secretary.

XVII. In all cases of mutual Insurance, the assured shall have title in fee unincumbered to the building or buildings insured, and the land covered by the same; or if the assured shall have a less title therein, or if the premises be incumbered, then the true title of the assured and the incumbrances on the premises, shall be expressed therein and in the application therefor, otherwise the Policy of Insurance granted thereon shall be null and void.

Parties insured  
to have title  
in fee to pro-  
perty insured.

XVIII. At the annual general meeting of the Company, and before the members then assembled, the Board of Directors shall exhibit a full and unreserved statement of the affairs of the Company; of the funds, property and securities, shewing the amount in real estate, in bonds and mortgages, in notes, and the securities thereof, in public debt or stock, and the amount of debt to and from the said Company.

Annual state-  
ment of affairs  
of Company  
to be made by  
Directors.

XIX.

Manner of proceeding when losses by fire occur.

Arbitration in case of dispute.

Appeal from award to a Jury.

XIX. In case of any loss or damage by fire happening to any property insured with the said Company, immediate notice thereof shall be given by the assured to the Secretary of the Company or to the Agent of the Company, if there should be one acting for it in the neighbourhood of the place where such fire occurred, and shall as soon after as may be furnish to such Agent or otherwise to the Secretary, a full statement of all particulars of the said fire as far as can be ascertained, together with a detailed account of all damage done, which statement and account shall be verified upon oath by the parties making the same, if required; and the Directors upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of such loss or damage, and if the party suffering shall not be satisfied with the determination of the Directors, the question shall then be submitted to three disinterested persons as referees, one of whom shall be named by the suffering party and one by the Board, and the two referees so named shall choose a third, and the decision or award of a majority of them shall be binding; and if the award is not satisfactory, either party may sustain its case in an action at law, and if upon the trial of such action a greater sum shall be recovered than the amount determined on by the Directors, the parties suffering shall have judgment therefor against the Company, with interest thereon from the time at which such payment for such loss or damage should have been made by the terms of the policy, had no such question or disagreement arisen, with costs of suit, but if no more shall be recovered than the amount so previously determined, or a less sum be awarded, then the plaintiff or plaintiffs in such suit shall not be entitled to costs against the defendants, and the defendants shall be entitled to costs, as in the case of a verdict for them.

Mutual Members to be held to pay their portion of losses happening to mutual branches of Company.

XX. Every mutual member of the Company shall be and is hereby bound and obliged to pay his or her proportion, not exceeding in any case the amount of his, her or their premium note of all losses and expenses happening or accruing in or to the mutual branch of the Company during the continuance of his or her policy of Insurance, and all the right, title, interest and estate at the time of the insurance of the insured, of, in, or to the building insured by and with the said Company, and to the lands on which the same shall stand, and to all other lands thereto adjacent, which shall be mentioned and declared liable to the policy of insurance, shall stand pledged to the said Company.

Directors to make assessment of sums to be paid by Mutual Members in cases of loss by fire.

XXI. The Directors shall, after receiving any notice of any loss or damage by fire sustained by any mutual member, with account and proof thereof, and ascertaining the same, or after the recovery of any judgment as aforesaid against the Company for such loss or damage, settle and determine the sums to be paid by the several mutual members thereof, as their respective proportion

proportion of such loss, and publish the same in such manner and form as they shall see fit or as by the By-laws shall have been prescribed; and the sum to be paid by each mutual member shall always be in proportion to the original amount of his or her premium note or notes, and shall be paid to the Treasurer within thirty days next after the publication of such notice; and if any member shall for the space of thirty days after the publication of such notice, neglect or refuse to pay the sum assessed upon him, her or them, or his, her or their proportion of any loss or damage aforesaid, in such case the Directors may sue for and recover the whole amount of his, her or their premium note or notes with costs of suit; and the money thus collected shall remain with the Treasurer of the Company, subject to the payment of such loss or expense as shall or may accrue during the continuance of his, her or their policy, and the balance, if any remaining, shall be returned to the party from whom it was collected, on demand, after thirty days from the expiration of the term for which such insurance was made: Provided always, that no payment, assessment or instalment shall be called in on the said premium or deposit notes until all savings, profits or funds arising from or on account of payments made or moneys received on account of the mutual branch of Insurance of the said Company, shall have been first applied to and expended upon the payment of losses or damages previously occurring therein.

May recover if assessment is not paid.

Proviso: savings to be expended before payments on premium notes are called for.

XXII. If it shall ever happen that the whole amount of premium notes shall be insufficient to pay the loss occasioned by any one fire or fires, in such cases the sufferers insured by the said Company shall receive towards making good their respective losses a proportionate dividend of the whole amount of such premium notes, according to the sums by them respectively insured; and any member upon payment of the whole of his or her premium note, and surrendering his or her policy before any subsequent loss or expense has been incurred, shall be discharged by the said Company.

Provision in case deposit notes are insufficient to cover losses.

XXIII. Whenever any assessment is made on any premium note given to the said Company for any hazard taken by the said Company, or as consideration for any policy of Insurance issued or to be issued by the said Company, and an action is brought to recover such assessment, the certificate of the Secretary of the Company, specifying such assessment and the amount due to the Company on such note by means thereof, shall be taken and received as *prima facie* evidence thereof in all Courts and places whatsoever.

Certificate of Secretary of assessment on premium note to be *prima facie* evidence thereof.

XXIV. When any house or other building shall be alienated by sale or otherwise, the policy of mutual Insurance shall be void, and be surrendered to the Directors of the Company to be cancelled, and upon such surrender the assured shall be entitled to his, her or their deposit note or notes, upon payment of his

Policies to be void on sale &c., of buildings insured.

Proviso :  
Alienee may  
have them  
continued on  
certain condi-  
tions.

his, her or their proportion of all losses and expenses that have occurred prior to such surrender: Provided always, that the grantee or alienee having the policy assigned to him, her or them, may have the same ratified and conferred to him, her or them, for his, her or their own proper use and benefit, upon application to the Directors, and with their consent,—within thirty days next after such alienation, on giving proper security to the satisfaction of the Directors for such portion of the premium note as shall remain unpaid; and by such satisfaction and confirmation, the party causing the same shall be entitled to all the rights and privileges, and be subject to all the liabilities to which the original party insured was entitled and subjected under this Act.

Provision as to  
destruction of  
buildings situ-  
ated upon  
leased lands.

XXV. In case any building or buildings, situated upon leased lands and mutually insured by the Company, be destroyed by fire, in such cases the Company may retain the amount of the premium note given for the insurance thereof, until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have the right to demand and receive such part of the retained sum or sums as has not been expended in losses or assessments.

Five per cent.  
to be paid on  
each share of  
Proprietary  
Stock on sub-  
scribing there-  
to.

Proviso : In-  
stalments  
limited.

Forfeiture for  
non-payment  
of calls.

XXVI. The said Company shall not commence business until twenty per cent. of their Capital Stock shall have been subscribed. Five per cent. on each share of the Proprietary Stock shall be paid as a deposit at the time of subscribing thereto, and the remainder shall be paid in such instalments as the Directors for the time being shall appoint; Provided that no instalment shall exceed ten per cent. upon the capital stock, or be called for or become payable in less than thirty days after public notice shall have been given in one or more of the several newspapers published in every county, where stock may be held, to that effect; and if any Shareholder or Shareholders refuse or neglect to pay to the said Directors the instalment due upon any share or shares held by him, her or them, at the time when required by law so to do, such Shareholder or Shareholders as aforesaid, shall forfeit such shares as aforesaid, together with the amount paid thereon; and the said share or shares so forfeited, it shall and may be lawful for the said Directors to sell, and the sum arising from such sale, together with the amount previously paid thereon, shall be accounted for and divided in like manner as the other moneys of the Proprietary Branch of this Corporation.

Directors may  
sue for amount  
of instalments  
instead of for-  
feiting stock,  
if they think  
proper.

XXVII. In case the said Directors shall think it more expedient in any case to enforce the payment of any instalment or instalments of Proprietary Stock in the said Company, held by any person or persons, and called in and unpaid, than to forfeit the same, it shall and may be lawful for the said Company to sue for and recover of and from such person or persons, such instalment or instalments as aforesaid, which shall be so called

in,

in, and which shall be unpaid at the time or times when the same shall be due or payable, which said instalments shall be sued for and recovered with interest thereon, in any action or actions of debt in any Court having jurisdiction in civil cases to the amount; and in any such action, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one or more shares (stating the number) in the stock, and is indebted to the Company in the sum to which the calls in arrears may amount; and in any such action, it shall be sufficient to maintain the same, that the signature of the defendant to some book or paper by which it shall appear that such defendant subscribed for a share or any certain number of shares of the stock of the said Company, be proved by one witness, whether in the employment of or interested in the Company or not, and that the number of calls in arrear have been made.

What only need be alleged and proved in action for calls.

**XXVIII.** The Proprietary Stock of the said Company shall be assignable and transferable, according to such rules as the Board of Directors shall make and establish; and no Stockholder indebted to the Company shall be permitted to make or transfer, or receive a dividend, until such debt be paid or security for its being paid be given to the satisfaction of the Directors.

Proprietary Stock to be transferable.

**XXIX.** No transferred share or stock shall enable the transferee to vote until the expiration of thirty days from such transfer.

Votes on shares transferred.

**XXX.** If any insurance on any house or building shall be and subsist in the said Company, and in any other office, or from and by any other person or persons at the same time, the insurance made in and by this Company shall be deemed and become void, unless such double insurance subsist with the consent of the Directors signified by endorsement on the policy signed by the President and countersigned by the Secretary, or otherwise, as directed by the By-laws and regulations of the Company.

Double insurance void unless made by consent of Directors.

**XXXI.** In all actions, suits and prosecutions in which the said Company may be engaged at any time, the Secretary or other officer of the said Company shall be a competent witness, notwithstanding any interest he may have therein.

Officers of Company to be competent witnesses.

**XXXII.** The said Company, shall on the first day of January in each and every year, make to the Governor a full and unreserved statement of the affairs of the Company, of their funds, property and securities, shewing the amount in real estate, in bonds and mortgages, in notes and the securities thereof, in public debt or other stock, and the amount due to and from the said Company, and also a list of the Stockholders and of the Directors, and such statement shall be laid before the Legislature within the first fifteen days of each session.

Statement of affairs to be made to Legislature.

## INLAND NAVIGATION.

Inland Navigation Insurance in certain places only.

XXXIII. The Company may insure inland navigation risks on the Grand River or any of its tributaries, on boats, vessels, grain, produce, lumber, and any description of goods, to their destination in any part of the Province, if in the same bottom.

Public Act.

XXXIV. This Act shall be deemed a Public Act.

## CAP. CXXVI.

An Act for incorporating and granting certain powers to the Canadian Loan and Investment Company.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS the improvement and advancement of this Province are greatly retarded by reason of the deficiency of capital which prevails therein; And whereas such difficulty would to a great extent be overcome by the establishment of an Incorporated Joint Stock Company, possessing power to borrow money on the security of their subscribed Capital, and to advance and lend the same together with such portions of their subscribed Capital as may be paid up, on securities real or personal, in this Province, and the several persons hereinafter named are consequently desirous of forming such a Joint Stock Company, and it is expedient to unite the said persons into a Joint Stock Company and to invest them with the powers, privileges, authorities and immunities necessary for the accomplishment of their undertaking: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain persons and their associates incorporated.

I. The Honorable Philip M. Vankoughnet, the Honorable Benjamin Seymour, the Honorable Sir Allan Napier MacNab, Knight, M. P. P., the Honorable John Sandfield MacDonald, M. P. P., Antoine Polette, M. P. P., Henry Smith, junior, Solicitor General, M. P. P., Luther H. Holton, M. P. P., George Crawford, Esquire, M. P. P., Samuel Zimmerman, Roland MacDonald, John Cameron, John A. Donaldson, Hector Cameron, Frederick William Jarvis, Allan Neil McLean, John Stoughton Dennis, Archibald G. McLean, and all and every such other person and persons, body and bodies politic, corporate and collegiate, and their respective executors, administrators, assigns and successors, or such of them as shall from time to time be possessed of any share or shares in the undertaking hereby authorized to be carried on, shall be united into a Company according to the powers and authorities, rules, orders and regulations hereinafter set forth or referred to, and shall be one body politic and corporate by the name of the Canadian Loan and Investment Company, and by that name shall have perpetual succession and a common seal, with power to break and alter such seal, and by that

Corporate name and general powers.

that name may sue and be sued, plead and be impleaded in all Courts whether of Law or Equity whatsoever.

II. The said Company shall be and they are hereby authorized and empowered to lay out and invest their Capital, in the first place, in paying and discharging all costs, charges and expenses incurred in applying for and obtaining this Act, and all other expenses preparatory or relating thereto, and the remainder of such Capital, or so much thereof, as may, from time to time, be deemed necessary, in the manner and for the purposes herein-after mentioned, that is to say: it shall be lawful for the said Company, from time to time, and at any time or times, to lend and advance money by way of loan or otherwise, on such security, real or personal, or both real and personal, and upon such terms and conditions, and at such rate of interest not exceeding eight per centum per annum, as to the said Company shall seem satisfactory or expedient, and to do all acts that may be necessary for the advancing such sums of money, and for recovering and obtaining repayment thereof, and for compelling the payment of all interest (if any) accruing from such sums so advanced, or the observance and fulfilment of any conditions annexed to such advances, or any forfeitures consequent on the non-payment thereof, and to give receipts and acquittances and discharges for the same, either absolutely and wholly or partially; and for all and every and any of the foregoing purposes, to lay out and apply the Capital and property, for the time being, of the Company, or any part thereof, or any of the moneys authorized to be hereafter raised by the Company, in addition to their Capital for the time being, and to do, authorize and exercise all acts and powers whatsoever, in the opinion of the Directors of the said Company for the time being, requisite or expedient to be done or exercised in relation thereto.

Powers of the Company.

Power to lend money on real or personal security, or both, at interest not over 8 per cent. per annum;

And to recover the same

III. It shall be lawful for the said Company, and the said Company are hereby empowered to lend and advance money to the Government of this Province for any purpose whatsoever, or to any Municipal Council in this Province, or to any Board, Trustees, Commissioners or other persons or person, having the care of, or making or executing any public works in this Province, and at such rate of interest not exceeding eight per centum per annum, as may be agreed upon in any such case, and to take and accept from such Government, Municipal Council or any such Board, Trustees, Commissioners or other persons or person, such assignment, grant, demise or security of or upon any public revenues or property of this Province, or upon any rates, tolls, charges or assessments within this Province, or such other security for the repayment of the money so to be advanced, and also for the interest thereof, as to the said Company shall appear satisfactory, and which shall be good, valid and effectual for the purposes expressed therein, and shall and may be enforced for the benefit of the said Company, and to do all acts that may be necessary for the advancing such

Power to the Company to lend money to the Government of the Province, or to any Municipal Council, or Board of Public Trust;

And to recover the same.

sums of money and recovering and obtaining repayment thereof and for enforcing the payment of all interest (if any) accruing therefrom, or any conditions annexed to such advances, or any forfeitures consequent on the non-payment thereof, or any parts thereof, respectively, and to give receipts, acquittances and discharges for the same, either absolutely, wholly or partially; and for all and every or any of the foregoing purposes, to lay out and employ the Capital and property for the time being, of the said Company, or any part of the moneys authorized to be hereafter raised by the Company in addition to their Capital for the time being; and to do, assent to and exercise all acts whatsoever in the opinion of the Directors of the said Company, for the time being, requisite or expedient to be done in regard thereto.

Power to hold lands by mortgage for the transaction of their business: or in satisfaction of debt.

Proviso.

IV. It shall be lawful for the Company to hold any real estate in this Province by mortgage as security for loans, and also to acquire such real estate as may be necessary for the transaction of their business, or may fall to them in course of law in satisfaction of any debt; Provided always, that in the last mentioned case, it shall be incumbent on them to sell the same within two years after it shall have so fallen to them, otherwise the same shall revert to the previous owner or his heirs or assigns.

Power to lease and sell lands acquired as aforesaid

V. It shall be lawful for the Company, from time to time, to deal with and dispose of all lands acquired and possessed by or held in trust for the Company, or contracted for, or to which the said Company shall be entitled, or of any part thereof, by sale, mortgage, lease or other disposition thereof, which they may deem most conducive to the promoting of the objects and advantages of the Company; and the Company shall be and are hereby authorized and empowered to lay out and invest their capital and property for the time being, or any moneys to be raised by them, in so dealing with and disposing of their lands.

Further powers not inconsistent with this Act, may be given to the Company by the Imperial Parliament.

VI. It shall be lawful for the said Company to be invested with and exercise any further powers not inconsistent with this Act, which the Parliament of the United Kingdom of Great Britain and Ireland shall from time to time, by any Act or Acts to be at any time passed, thereby give to the said Company, and to do all acts necessary for the exercise of such powers, in the same manner and to the same extent as if the said further powers were expressly given, and the said Acts expressly authorized by the present Act; and in such case it shall be lawful for the said Company, in furtherance and execution of the powers so given to it, and in doing the acts so authorized, to apply and deal with the property and capital for the time being of the said Company, and the moneys hereafter authorized to be raised by the said Company, in the same manner, and to the same extent, as if such dealings with, and application of such property, capital and moneys, had been expressly

expressly authorized among the purposes for which the said Company was incorporated ; and the said Company shall be bound and required to do all such acts, and to exercise all such further powers, as may at any time be authorized or given to it by such authority as aforesaid, in such manner and subject to all such limitations, conditions and provisions as may be prescribed and provided by any Act of the said Parliament, whereby such powers shall be given or such acts authorized ; and such limitations, conditions and provisions shall have effect in the same manner and to the same extent, as if prescribed and provided by the present or any other Act of the Legislature of this Province ; and in case the Imperial Parliament shall at any time repeal the whole or any part of such Act or Acts giving further powers, the said powers shall cease in the same manner, and to the same extent, as if such Act or Acts had been repealed by an Act of the Legislature of this Province.

Effect of repeal of any such Imperial Act.

VII. All conveyances to be made by the Company, under or by virtue of, or in pursuance of the several powers and authorities given to it by this Act, may be made according to the form in the Schedule (A) to this Act annexed, or as near thereto as the circumstances will admit.

Form of conveyance by the Company.

VIII. In any such conveyance of lands to be made by the Company, the word " Grant " shall operate as express covenants by the Company for themselves and their successors, with the respective grantees therein named, and their successors, heirs, executors, administrators and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance ; (that is to say :) A Covenant, that notwithstanding any act or default done by the Company, they were at the time of the execution of such conveyance, seized or possessed of the lands or premises thereby granted, for an indefeasible estate of inheritance, in fee simple, free from all incumbrances, done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them ; A Covenant, that the grantee of such lands, his heirs, successors, executors, administrators and assigns (as the case may be) shall quietly enjoy the same against the Company and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the Company and their Successors, from all incumbrances created by the Company ; A Covenant for further assurance of such lands at the expense of such grantee, his heirs, successors, executors, administrators or assigns, (as the case may be), by the Company or their successors, and all other persons claiming under them ; and all such grantees, and their several successors, heirs, executors, administrators and assigns respectively,

Effect of the word "Grant" in such conveyance.

Covenants carried by the said word.

according

according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them, assign breaches of covenant as they might do if such covenant were expressly inserted in such conveyance.

Form of mortgage and bond in favor of Company.

IX. Every Mortgage and Bond for securing money borrowed from the Company, shall be by deed under seal, wherein the consideration shall be duly stated; and every such Mortgage or Bond may be according to the form in the Schedule (B) to this Act annexed, or as near as the circumstances will admit.

Company may demand and receive half yearly interest in advance.

X. The said Company may and are hereby empowered to demand and receive in advance from any person or persons, or from the Government of this Province, or from any Municipal Council, Board, Trustee or Commissioners, or other person or persons, the half yearly interest from time to time accruing on any loans granted by the said Company, under and by virtue of the powers given them by this Act; any Law or Statute of this Province, or of the late Province of Upper Canada, notwithstanding.

Capital and number of shares.

XI. The capital of the said Company shall be one million pounds in shares of twenty pounds each: and such shares shall be numbered in arithmetical progression, beginning with number One, and be respectively distinguished by the numbers affixed to them.

Shares to be personal estate.

XII. All shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

Registry of Shareholders.

XIII. The Company shall keep a book, to be called "The Register Book of Shareholders"; and in such book shall be fairly and distinctly entered, from time to time, the names of the several Corporations, and the names and additions of the several persons, being Shareholders of the Company, the number of shares to which such Shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares; and such book shall be authenticated by the common seal of the Company being affixed thereto.

Addresses of Shareholders.

XIV. In addition to the said register of shareholders the Company shall provide a proper book to be called "The Shareholders' Address Book," in which the Secretary shall, from time to time, enter the places of abode of the several Shareholders of the Company; and every Shareholder, or if such Shareholder be a Corporation, the Clerk or Agent of such Corporation, may at all convenient times peruse such book gratis, and may require a copy thereof, or of any part thereof; and for every hundred words so required to be copied, the Secretary may demand a sum not exceeding six pence.

XV.

XV. On demand of the holder of any share, the Company shall cause a certificate of the proprietorship of such share to be delivered to such Shareholder, and such certificate shall have the Common Seal of the Company affixed thereto; and such certificate shall specify the share or number of shares in the undertaking to which such Shareholder is entitled, and the same may be according to the form in the Schedule (C) to this Act annexed, or to the like effect; and for such certificate the Secretary may demand any sum not exceeding two shillings and six pence.

Certificates of Shares.

XVI. Such certificate shall be admitted in all Courts as *prima facie* evidence of the title of such Shareholder, his executors, administrators, successors or assigns, to the share therein specified; nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate to be *prima facie* evidence.

XVII. If any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the Secretary in the Register of Shareholders; and for every certificate so given or exchanged, the Secretary may demand any sum not exceeding two shillings and six pence.

Certificate to be renewed when destroyed.

XVIII. Subject to the regulations herein contained, every Shareholder may sell and transfer his shares, or any of them, by deed, in which the consideration shall be truly stated, and such deed may be according to the form in Schedule (D) to this Act annexed, or to the like effect; and the same (when duly executed) shall be delivered to the Secretary; and be kept by him; and the Secretary shall enter a memorial thereof in a book, to be called "The Register of Transfers," and shall endorse such entry on the deed of transfer; and for every such entry and endorsement the Secretary may demand any sum not exceeding five shillings, and on the request and at the option of the purchaser of any share, a new certificate shall be granted in the manner aforementioned, and an endorsement of such transfer shall be made on the certificate of such share and new certificate, and for such endorsement the Secretary may demand any sum not exceeding five shillings, and such endorsement, being signed by the Secretary, shall be considered, in every respect, the same as a new certificate; and until such transfer shall have been so delivered to the Secretary as aforesaid, the seller of such share shall remain liable for all future calls, and the purchaser of the share shall not be entitled to receive any

Transfers of shares to be registered.

any share of the profits of the said undertaking, or to vote in respect of such share.

Transfer not to be made until calls paid.

XIX. No Shareholder shall be entitled to transfer any share until he shall have paid all calls, for the time being due on every share held by him.

Transfer of shares to be made only with consent of Directors, after notice given.

XX. Every person who shall be desirous of transferring any share or shares in the Company, shall, as soon as he shall have procured any person to be a holder of such share or shares in the Company, give notice thereof in writing, to the Directors of the Company, at the place or principal place of business in *London* for the time being of the Company, and shall describe in such notice, the name and residence of such other person, and the number or numbers of such share or shares; or such notice may be given by the person proposed to be the holder of such share or shares; and the Directors shall proceed without delay to take every such notice into consideration, and shall under the hands of two or more of them, certify in writing, to the person or persons giving the notice, the approbation or disapprobation of the Directors, of the proposed holder or holders, and such proposed holder or holders shall not be admitted or registered as a shareholder or shareholders, unless he, she or they shall be approved of by the Directors, and shall have complied with the regulations and provisions of the Company, relating to persons in future acquiring shares in the Company.

Transmission of shares by other means than transfer to be authenticated by a declaration.

XXI. And with respect to the registration of shares, the interest in which may become transmitted in consequence of the death, or bankruptcy, or insolvency of any Shareholder, or in consequence of the marriage of a female Shareholder, or by any other legal means than by a transfer according to the provisions of this Act; Be it enacted, that no person claiming by virtue of any such transmission, shall be entitled to receive any share of the profits of the said undertaking, nor to vote in respect of any such share as the holder thereof, until such transmission has been authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors shall require; and every such declaration shall state the manner in which, and the party to whom, such share shall have been so transmitted, and shall be made and signed by some credible person before a Justice, or before a Master or Master Extraordinary in the Court of Chancery, and such declaration shall be left with the Secretary, and thereupon he shall enter the name of the person entitled under such transmission, in the Register Book of Shareholders of the Company, whereby such person shall be and become a Shareholder in the said undertaking; and for every such entry, the Secretary may demand any sum not exceeding five shillings.

Assignees of Bankrupt or

XXII. No assignee of any bankrupt or insolvent shareholder possessed of shares shall become a member of the Company  
in

in respect of such shares as shall be vested in him in such capacity; but such assignee of a bankrupt or insolvent shareholder shall sell and dispose of such shares in the manner and subject to the provisions herein expressed and contained with respect to the sale and transfer of shares.

insolvent Shareholders not to be Members of the Company, but must sell.

XXIII. The assignee of any bankrupt or insolvent shareholder in respect of the shares vested in him in such capacity, shall be entitled to receive such dividends as shall have become due and shall remain unpaid, on the shares so vested in him in any such capacity as aforesaid, before his title to the same shares shall have accrued; but no dividend which shall become due on the same shares after his title shall have accrued, shall be payable to or demandable by him, but such last mentioned dividend shall, until some person shall have duly become a shareholder in respect of the same shares, remain in suspense, and shall not be paid until such new holder shall have complied with the regulations and provisions of the Company, in regard to the sale and transfer of shares, whereupon such new holder of the same shares shall be entitled to such last mentioned dividend; and every transfer shall carry with it the profits, interests and shares of capital and surplus or reserve or contingent funds, in respect of the shares transferred, so as to close all the right and interest of the party making such transfer in respect of such transferred shares.

Assignees to have dividends accrued before the commencement of their title, but not those accruing after.

XXIV. If such transmission be by virtue of the marriage of a female Shareholder, the said declaration shall contain a copy of the register of such marriage, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument or by intestacy, the probate of the Will, or letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the Secretary; and upon such production in either of the cases aforesaid, the Secretary shall make an entry of the declaration in the said Register of Transfers.

Proof of transmission of shares by marriage, will, &c.

XXV. With respect to any share to which several persons may be jointly entitled, all notices directed to be given to the Shareholders, shall be given to such of the said persons whose name shall stand first in the register of Shareholders, and notice so given shall be sufficient notice to all the proprietors of such share, unless any such joint proprietor shall, by writing under his hand, request such notice to be given to any other or all such joint proprietors.

Notices to joint proprietors of shares.

XXVI. If any money be payable to any shareholder, being a minor, idiot, or lunatic, the receipt of the guardian of such minor, or the receipt of the Committee of such idiot or lunatic, shall be a sufficient discharge to the Company for the same.

Receipts for money payable to minors, &c.

Company not bound to regard trusts.

**XXVII.** The Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject, and the receipt of the party in whose name any such share shall stand in the books of the Company, shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of such share; notwithstanding any trusts to which such share may then be subject, and whether or not the Company have had notice of such trusts; and the Company shall not be bound to see to the application of the money paid upon such receipt.

Power to make calls.

Calls limited.

**XXVIII.** The Company may from time to time make such calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they shall think fit, provided that thirty-one days' notice at the least be given of each call, and that no call exceed the amount of Two Pounds per share, and that successive calls be not made at less than the interval of Three Months, and that the aggregate amount of calls made in any one year do not exceed the amount of Eight Pounds per share; and every Shareholder shall be liable to pay the amount of the calls so made in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the Company.

Interest on calls overdue and unpaid.

**XXIX.** If before or on the day appointed for payment, any Shareholder do not pay the amount of any call to which he may be liable, then such Shareholder shall be liable to pay interest on the same, at the rate of Five Pounds per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

Company may receive payment of stock before call.

**XXX.** The Company may, if they think fit, receive from any of the Shareholders willing to advance the same, all or any part of the money due upon their respective shares, beyond the sums actually called for; and upon the principal money so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls made upon the shares in respect of which such advance shall have been made, the Company may pay interest at such rate, not exceeding Five Pounds per centum per annum, as the Shareholder paying such sum in advance and the Company shall agree upon.

And allow a limited interest.

Enforcement of calls by action.

**XXXI.** If at the time appointed by the Company for the payment of any call, the holder of any share fail to pay the amount of such call, the Company may sue such Shareholder for the amount thereof in any court of law or equity having competent jurisdiction, and may recover the same with interest, at the rate of Five Pounds per centum per annum, from the day on which such call may have been made payable.

**XXXII.**

**XXXII.** In any action to be brought by the Company against any Shareholder, to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare that the defendant is a holder of one share or more in the Company, (stating the number of shares,) and is indebted to the Company in the sum of money to which the calls in arrear shall amount, in respect of one call or more, upon one share or more, (stating the number and the amount of each of such calls) whereby an action hath accrued to the Company by virtue of this Act.

Declaration in action for calls

**XXXIII.** On the trial of such action it shall be sufficient to prove that the defendant, at the time of making such call, was a holder of one share or more in the Company, and that such call was in fact made, and such notice thereof given, as is directed by this Act; and it shall not be necessary to prove the appointment of the Directors who made such call, nor any other matter whatsoever; and thereupon the Company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the amount of Two Pounds per share, or that due notice of such call was not given, or that the interval of three months between two successive calls had not elapsed, or that calls amounting to more than the sum of Eight Pounds in one year had been made.

What matters only need be proved in action for calls.

**XXXIV.** The production of the Register Book of Shareholders of the Company, shall be *prima facie* evidence of such defendant being a Shareholder, and of the number and amount of his shares, and of the sums paid in respect thereof.

Proof of proprietorship.

**XXXV.** If the holder of any share fail to pay a call payable by him in respect thereof, together with the interest, if any, that shall have accrued thereon, the Directors, at any time after the expiration of one month from the day appointed for payment of such call, may declare such share forfeited, and that whether the Company have sued for the amount of such call or not.

Forfeiture of shares for non-payment of calls.

**XXXVI.** Before declaring any share forfeited, the Directors shall cause notice of such intention to be left at the usual or last known place of abode of the person appearing by the Register Book of Proprietors to be the proprietor of such share; and if the proprietor of any such share be abroad, or if the interest in any such share shall be known by the Directors to have become transmitted otherwise than by transfer as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted shall not be known to the Directors, the Directors shall give public notice of such intention in the *London Gazette*, and also by advertisement in a newspaper as hereinafter provided; and the several notices aforesaid

Notice of forfeiture to be given before declaration thereof.

aforesaid shall be given twenty-one days at least before the Directors shall make such declaration of forfeiture.

Forfeiture to be confirmed by a general meeting.

**XXXVII.** Such declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share, until such declaration has been confirmed at some general meeting of the Company, to be held after the expiration of two months at the least from the day on which such notice of intention to make such declaration of forfeiture shall have been given, and it shall be lawful for the Company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of; and after such confirmation the Directors may sell the forfeited shares, and either separately or together, or in lots, as to them shall seem fit.

Sale of forfeited shares.

Evidence as to forfeiture of shares.

**XXXVIII.** A declaration in writing by an officer or servant of the Company, or by some credible person (not interested in the matter,) made before any Justice, or before any Master or Master Extraordinary in the Court of Chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the Secretary of the Company for the price of such share, shall constitute a good title to such share, and thereupon such purchaser shall be deemed the proprietor of such share, discharged from all calls made prior to such purchase; and a certificate of proprietorship shall be delivered to such purchaser, upon his signing the undertaking to hold the said shares so purchased by him as aforesaid, subject to the provisions of this Act, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to any such sale.

No more shares to be sold than sufficient for payment of calls.

**XXXIX.** The Company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited share, be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter, or in default thereof, applied in and towards satisfaction of any calls made thereafter, but prior to such demand being made as last aforesaid, in respect of the remaining unsold shares of such defaulter.

XL. If payment of such arrears of call, and interest and expenses, be made before any share so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

On payment of calls before sale, forfeited shares to revert to owner.

XLI. No Shareholder of the Company shall be liable for or charged with the payment of any debt or demand due from the Company, beyond the extent of his shares in the capital of the Company not then paid up.

Extent of liability of Shareholders.

XLII. If any execution, either at law or in equity, shall have been issued, taken out or used against the lands, property or effects of the Company, and if there cannot be found sufficient whereon to levy such execution, then such execution may be issued against any of the Shareholders of the Company, to the extent of their shares, respectively, in the capital of the Company, not then paid up: Provided always, that no such execution shall issue against any Shareholder, except upon an order of the Court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open Court, after twenty days' notice in writing to the persons sought to be charged; and upon such motion such Court may order execution to issue accordingly; and for the purpose of ascertaining the names of the Shareholders and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the Register Book of Shareholders without fee.

Execution against Shareholders to the extent of capital not paid up.

Proviso.

XLIII. If, by means of any such execution, any shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls already made, and for interest thereon, if any, and all costs and expenses in respect thereof, he shall forthwith be reimbursed such additional sum by the Directors out of the funds of the Company.

Re-imbursement to Shareholders over-paying.

XLIV. In case the money hereby authorized to be raised shall be found insufficient for the purposes of the Company, it shall be lawful for the Company to borrow on mortgage or bond, such sums of money as shall from time to time be authorized to be borrowed by an order of a general meeting of the Company, not exceeding in the whole the sum of one million of pounds, and for securing the repayment of the money so borrowed, with interest, at a rate not exceeding eight per centum, to mortgage all or any of the lands and hereditaments of the Company, and the future calls on the Shareholders of the Company, and to give bonds or mortgages in manner hereinafter mentioned.

Power to the Company to borrow money.

Amount limited.

Security.

XLV. If, after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the Company pay

Re-borrowing after paying off any loan.

pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the Company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

Form of mortgages and bonds given by the Company.

XLVI. Every mortgage and bond for securing money borrowed by the Company, shall be by deed under the Common Seal of the Company, wherein the consideration shall be truly stated; and every such mortgage deed or bond may be according to the form in the Schedule (E) or (F) to this Act annexed, or to the like effect.

Rights of mortgagees.

XLVII. The respective mortgagees shall be entitled, one with another, to their respective proportions of the rents, lands and premises comprised in such mortgage, and of the future calls payable by the Shareholders of the Company, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees, respectively, and to be repaid the sums so advanced, with interest, without any preference one above another, or above the bond-creditors of the Company, by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized, or on any other account whatsoever.

Rights of Obligees.

XLVIII. The respective obligees in such bonds shall proportionally, according to the amount of the money secured thereby, be entitled to be paid out of the property or effects of the Company, and of the future calls payable by the Shareholders of the Company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another, or above the mortgagees of the Company, by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever.

Register of mortgages and bonds.

XLIX. A Register of mortgages and bonds shall be kept by the Secretary, and within fourteen days after the date of any such mortgage or bond, an entry or memorial, specifying the number and date of such mortgage or bond, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the Shareholders, or by any mortgagee or bond-creditor of the Company, or by any person interested in any such mortgage or bond, without fee or reward.

Transfer of mortgages and bonds.

L. From time to time, any party entitled to any such mortgage or bond, may transfer his right and interest therein to any other person, by deed wherein the consideration shall be truly stated; and every such transfer may be according to the form in the Schedule (G) to this Act annexed, or to the like effect.

Form.

LI. Within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the Secretary, and thereupon the Secretary shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage, and after such entry, every such transfer shall entitle the transferee, his executors, administrators or assigns, to the full benefit of the original mortgage or bond, in all respects; and no party having made such transfer shall have power to make void, release or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the Secretary may demand a sum not exceeding the amount of two shillings and six pence.

Entry of transfers of mortgages and bonds.

LII. The interest of the money borrowed upon any such mortgage or bond, shall be payable and paid half-yearly to the several parties entitled thereto, and in preference to any dividends payable to the Shareholders of the Company.

Payment of interest on loans.

LIII. The Company may, if they think proper, fix a period for the re-payment of the principal money so borrowed, with the interest thereof, and in such case the Company shall cause such period to be inserted in the mortgage deed or bond, and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall be paid to the party entitled to such mortgage or bond.

Re-payment of money borrowed at a time fixed.

LIV. If no time be fixed in the mortgage deed or bond, for the re-payment of the money as borrowed, the party entitled to the mortgage or bond may, at the expiration, or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months previous notice for that purpose, and the Company may at all times pay off the money borrowed, or any part thereof, on giving the like notice; and such notice, if given by a mortgagee or bond creditor, shall be by writing delivered to the Secretary, and if given by the Company shall be by writing given either personally to such mortgagee or bond-creditor, or if such mortgagee or bond creditor be unknown or cannot be found, such notice shall be given by advertisement in the *London Gazette*, and in some newspaper as after mentioned; and at the expiration of the said notice, when given by the Company, interest shall cease to be payable on the money secured by such mortgage or bond, unless on demand of such money the Company shall fail to pay the same pursuant to such notice.

Re-payment of money borrowed where no time is fixed.

LV. And in order to provide for the recovery of arrears of interest and costs, or the principal and interest and costs of any such mortgage or bond, at the respective times at which such interest, or such principal and interest and costs, become due; Be it enacted, that if such interest, or any part thereof, shall,

Provision for enforcing payment of interest or principal in arrear.

for

for thirty days after the same shall have become due, and demand thereof shall have been made in writing, remain unpaid, the mortgagee or bond-creditor may either sue for the interest so in arrear, by action of debt in any of the Superior Courts, or he may require the appointment of a receiver, by an application to be made as hereinafter provided.

Further provision for enforcing the payment of principal and interest.

LVI. And with respect of such principal money, interest and costs; Be it enacted, that if such principal money and interest be not paid within six months after the same has become payable and after demand thereof in writing, the mortgagee or bond-creditor may sue for the same in any of the Superior Courts of law or equity, or if his debt amount to the sum of five thousand pounds, he may alone, or if his debt does not amount to the sum of five thousand pounds, he may in conjunction with other mortgagees or bond-creditors, whose debts being so in arrear after demand as aforesaid, shall, together with his, amount to the sum of ten thousand pounds, require the appointment of a receiver, by an application to be made as hereinafter provided.

Appointment of a Receiver.

LVII. Every such application for a receiver in the cases aforesaid shall, if made in this Province, be made to the Court of Chancery, or to any of the Courts of Queen's Bench, or to any Judge or Judges of the said Courts, or to any Judge of a County Court within his County; and on any such application so made, and after hearing the parties, it shall be lawful for such Judges or Courts, by order in writing, to appoint some person to receive the whole or a competent part of the sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the sums aforesaid, be fully paid; and upon such appointment being made, all such sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, or as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest and costs have been so received, the power of such receiver shall cease.

Mortgagees not to vote as Shareholders.

LVIII. No party shall, in right of any mortgage, be deemed a Shareholder, or be capable of acting or voting as such at any meeting of the Company.

Access to account books by mortgagees

LIX. At all reasonable times, the books of account of the Company shall be open to the inspection of the respective mortgagees and bond-creditors thereof, with liberty to take extracts therefrom without fee or reward.

LX. It shall be lawful for the Company, with the consent of any extraordinary meeting of the Shareholders, specially convened for that purpose, from time to time to raise by contribution amongst themselves, or by the admission of other persons as subscribers to the said undertaking, or in part by each of those means, a further sum or further sums of money, not exceeding in the whole the sum of one million pounds, in shares of twenty pounds each, in such manner and upon such terms and conditions, and under such regulations, as shall be approved and agreed upon at such meeting; and such shares shall be numbered in regular succession from and in continuation of the numbers affixed to the shares of the Company then already issued, in arithmetical progression, and every such share shall always be distinguished by the number to be appointed to the same.

Power to enlarge capital to £2,000,000.

LXI. The holders of the said new shares, so long as the deposits and calls made in respect thereof, shall amount to less than the sums called for and payable in respect of the said original shares, shall only be entitled to such an amount of dividend in respect thereof, in case any dividend be then declared and become payable under the provisions of this Act, as by the meeting of proprietors authorizing the creation of the new capital in aid of which such new shares may have been issued, shall be declared and agreed upon.

Rights of owners of new shares as to dividend of Capital.

LXII. The capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, and interest upon arrears thereof, or the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital, except as to the time of making calls for such additional capital and the amount of such calls, which respectively it shall be lawful for the Company, from time to time, to fix as they shall think fit.

New capital to be considered as part of the original capital, and the shares to be liable to the same provisions.

LXIII. If at the time of any such augmentation of capital taking place by the creation of new shares, the then existing shares of the capital stock of the Company be at a premium or of greater actual value than the nominal value thereof, then the sum so to be raised shall be divided into shares of such amounts as will conveniently allow the said sum to be apportioned among the then Shareholders, in proportion to the existing shares held by them, respectively; and such new shares shall be offered to the then Shareholders in the proportion of one for every existing share held by them respectively; and such offer shall be made by letters, under the hand of the Secretary, given to or sent by post to each Shareholder, or left at his usual or last place of abode; and such new shares shall vest in and belong to the Shareholders who shall accept the same and pay the value thereof to the Company, at the time and by the instalments

If old shares at a premium, new shares to be offered to original Shareholders.

instalments which shall be fixed by the Company; and if any Shareholder fail, for one month after such offer of new shares, to accept the same and pay the instalment called for in respect thereof, it shall be lawful for the Company to dispose of such shares to any party willing to become the purchaser thereof, for such sum as the Company can obtain for the same, or in such other manner as may be deemed expedient.

If not at a premium, to be issued as Company think fit.

LXIV. If at the time of such augmentation of capital taking place, the existing shares of the capital stock of the Company be not at a premium, then such new shares may be of such amount, and may be issued in such manner, as the Company shall think fit.

Votes of Shareholders at general meetings.

LXV. At all meetings of the Company, every Shareholder shall be entitled to vote according to the scale of voting herein-after mentioned, that is to say: every Shareholder shall be entitled to one vote for every five shares held by him, but no Shareholder shall be entitled to vote at any meeting, unless he shall have paid all the calls then payable upon all the shares held by him.

Manner of voting.

LXVI. Such votes may be given either personally or by proxies, the holders of such proxies being Shareholders authorized by writing according to the form of Schedule (H) to this Act annexed, or in a form to the like effect, under the hand of the Shareholder nominating such proxy, or if such Shareholder be a Corporation, then under their Common Seal; and every proposition at any such meeting shall be determined by show of hands, or, upon demand of any proprietor after such show of hands, by the majority of the votes of the parties present including proxies; the Chairman of the meeting being entitled to vote not only as a principal or proxy, but to have a casting vote if there be an equality of votes.

Regulation as to proxies.

LXVII. No person shall be entitled to vote as a proxy, unless the instrument appointing such proxy have been transmitted to the Clerk or Secretary of the Company five clear days before the holding of the meeting at which such proxy is to be used, and no person shall at any one meeting represent, as proxy, more than thirty Shareholders; neither shall any person, not being a Shareholder qualified to vote, be entitled to speak at any meeting in right of any proxy which he may hold on behalf of any absent Shareholder.

Votes of joint Shareholders.

LXVIII. If several persons be jointly entitled to a share, the person whose name stands first on the Register of Shareholders as one of the holders of such share, shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof, and on all occasions the vote of such first named Shareholder alone, either in person or by proxy, shall be allowed as the vote in respect of such share, and no proof of the concurrence of the other holders thereof shall be requisite.

LXIX.

**LXIX.** If any Shareholder be a lunatic or idiot, such lunatic or idiot may vote by his committee, and if any Shareholder be a minor, he may vote by his guardians, or any one of his guardians, and every such vote may be given either in person or by proxy.

Votes of lunatics and minors.

**LXX.** Such persons shall be the first Directors, Auditors and other Officers of the said Company, as shall be named in a Royal Charter of Incorporation, or in an Act of the Parliament of the United Kingdom of Great Britain and Ireland, for granting to the said Company the powers and authorities in Great Britain, necessary for carrying on and accomplishing the undertaking authorized by this Act; and the election of future Directors and Officers, and also the times, place and mode of calling and holding General or Extraordinary, or other Meetings of the said Company, and of the Directors and other Officers of the said Company, and the proceedings at such General or Extraordinary or other Meetings of the said Company, and of the Directors of the said Company, shall (save and except so far as they are herein specially provided for) be subject to and regulated by such rules, regulations and provisions, and the said General or Extraordinary or other Meetings of the said Company, and of the Directors and other Officers of the said Company, shall have such powers, privileges and authorities, as may be set forth and directed by such Royal Charter of Incorporation, or by such Act of the Imperial Parliament of Great Britain, as above mentioned: Provided that such powers, privileges or authorities are not contrary to or inconsistent with the provisions of this Act.

Appointment of Directors and other Officers of the Company.

Election of future Directors and other Officers.

Meetings of the Company and of the Directors, and their powers.

To be regulated by Royal Charter or Act of the Imperial Parliament.

Proviso.

**LXXI.** And with respect to the exercise of the powers of the Company; Be it enacted, that the Directors shall have the management and superintendence of the affairs of the Company, except as to such matters as are directed by this Act to be transacted by a general meeting of the Company; And amongst other powers to be exercised by the Directors,—they may use and affix, or cause to be used and affixed, the Seal of the Company to any Document or Paper which in their judgment may require the same; they may make and enforce the calls upon the shares of the respective Shareholders; they may declare the forfeiture of all shares on which such calls are not duly paid; they may make any payments, loans and advances, on such securities as they may deem expedient, which are or shall at any time be authorized to be made by or on behalf of the Company, and enter into all contracts for the execution of the purposes of the Company, and for all other matters necessary for the transaction of its affairs; they may generally deal with, treat, sell and dispose of and exercise all other acts of ownership over the lands, property and effects of the Company for the time being, in such manner as they shall deem expedient and conducive to the benefit of the Company, in such and the same manner as if the same lands, property and effects were held

Certain powers of the Company to be exercised by the Directors.

Further powers may be granted by Charter or Imperial Act.

held and owned according to the tenure, and subject to the liabilities, if any, from time to time affecting the same, not by a body corporate, but by any of Her Majesty's subjects being *sui juris*, and of full age; they may do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities which may hereafter be at any time granted to the Company by the Parliament of the United Kingdom of Great Britain and Ireland, or by the Legislature of this Province, or for the performance and fulfilment of any conditions or provisions from time to time prescribed by the said Parliament of the United Kingdom of Great Britain and Ireland, or by the Legislature of this Province, in giving such powers and authorities, or in altering or repealing the same, respectively, or any of them; but all the powers so to be exercised shall be exercised in accordance with, and subject to the provisions of this Act in that behalf, and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for that purpose, but not so as to render invalid any act done by the Directors prior to any resolution passed by such general meeting.

Powers of the Company not to be exercised by the Directors.

LXXII. The following powers of the Company, that is to say: the choice and removal of Directors, Auditors and Treasurer, unless in the event hereby specially authorized, the determination as to the remuneration of the Directors and of the Auditors, the determination as to the borrowing of money on mortgage, the determination as to the augmentation of Capital, and the declaration of Dividends, shall be exercised only at a General meeting of the Company.

Proceedings of Directors to be entered in a book, and to be open for inspection.

LXXIII. The Directors shall cause notices, minutes or copies as the case may require, of all appointments made, or contracts entered into by the Directors and Committees of Directors, to be duly entered in books to be from time to time provided for that purpose, which shall be kept under the superintendence of the Directors; and every such entry shall be signed by the Chairman of the meeting at which the matter in respect of which such entry is made, was moved or discussed, at or previously to the next meeting of the said Company, Directors, or Committee of Directors, as the case may be; and such entry so signed shall be received as evidence in all Courts and before all Judges, Justices, and others, without proof of such respective meeting having been duly convened, or of the persons making or entering such orders or proceedings being Shareholders or Directors, or Members of the Committee, respectively, or by the signature of the Chairman, all of which last mentioned matters shall be presumed; and all such books shall, at any reasonable time, be open to the inspection of any of the Shareholders.

Informalities in appointment of Directors not to invalidate

LXXIV. All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding it may be afterwards discovered that

that

that there was some defect or error in the appointment of any person attending such meeting as a Director, or acting as aforesaid, or that such person was disqualified, be as valid as if such person had been duly appointed and was qualified to be a Director. ate all proceedings.

LXXV. No Director, by being a party to, or making, signing or executing, in his capacity of Director, any contract or other instrument on behalf of the Company, or otherwise lawfully executing any of the powers given to the Directors, shall be subject to be sued or prosecuted, either collectively or individually, by any person whomsoever; and the bodies or goods, or lands of the Directors, or any of them, shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed or executed by them or any of them, or by reason of any other lawful act done by them or any of them in the execution of any of their powers as Directors; and the Directors, their heirs, executors and administrators, shall be indemnified out of the Capital of the Company for all payments made or liabilities incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them; and the Directors for the time being of the Company shall apply the existing funds and capital of the Company for the purposes of such indemnity, and shall, if necessary for that purpose, make calls of the capital remaining unpaid. Indemnity of Directors.

LXXVI. Every officer or person employed by the Company shall from time to time, when required by the Directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand, of all money received by him on behalf of the Company: and such account shall state how, and to whom and for what purpose such money shall have been disposed of, and together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the Directors, or to any person appointed by them to receive the same, all money which shall appear to be owing from him upon the balance of such accounts. Officers to account on demand.

LXXVII. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if, for three days after being thereunto required, he fail to deliver up to the Directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters and things in his possession or power relating to the execution of this Act, or belonging to the Company, then on complaint thereof being made to a Justice, such Justice shall, by Summons or Warrant, under his hand, cause such officer to be brought before any two or more Justices, and upon such officer being so brought before him, or Summary remedy against Officers failing to account.  
if

if such officer cannot be found, then in his absence, such Justice may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appears, either upon the confession of such officer, or upon evidence, or upon inspection of the account, that any money of the Company is in the hands of such officer, or owing by him to the Company, such Justice may order such officer to pay the same, and if he fail to pay the amount, it shall be lawful for such Justices to grant a Warrant to levy the same by distress, or in default thereof to commit the offender to gaol, there to remain without bail for a period not exceeding three months; and in any of the following cases, that is to say: if any such officer do not appear before the Justices at the time and place appointed for that purpose; or if such officer appear, but fail to make out such account in writing; or if such officer refuse to produce and deliver to the Justices the several vouchers and receipts relating to such account; or if such officer refuse to deliver up any books, papers or writings, property, effects, matters or things in his possession or power, belonging to the Company, such Justices may lawfully commit such offender to Gaol; and in every such case of commitment, the prisoner shall remain in custody without bail, until he have made out and delivered such accounts, and delivered up the vouchers and receipts, if any, relating thereto, in his possession or power, and have delivered up such books, papers, writings, property, effects, matters and things, if any, in his possession or power.

Sureties not to be discharged.

LXXVIII. No such proceeding against, or dealing with any such officer as aforesaid, shall deprive the Company of any remedy which they might otherwise have against any surety of such officer.

Accounts to be kept.

LXXIX. Full and true accounts shall be kept of all sums of money received or expended on account of the Company by the Directors, and all persons employed by or under them, and of the articles, matters and things for which such sums of money shall have been received or disbursed and paid.

Dividend not to reduce capital.

LXXX. The Company shall not make any dividend whereby their capital stock will be in any degree reduced.

Fund for contingencies.

LXXXI. Before apportioning the profits aforesaid, the Directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging or improving the estates of the Company, or any part thereof, or promoting the objects and purposes for which they are incorporated, and may divide the balance only among the proprietors.

Dividend not payable on any share paid unless all calls paid.

LXXXII. No dividend shall be paid in respect of any share, until all calls then due, in respect of that, or of any other share held by the person to whom such dividend may be payable, shall have been paid.

LXXXIII.

LXXXIII. And with respect to the power of the Company to make By-laws; Be it enacted, that it shall be lawful for the Company, from time to time, to make such By-laws as they may think fit for the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects whatsoever, and from time to time to alter or repeal any such By-laws, and make others, provided such By-law be not repugnant to the laws of this Province or of that part of the United Kingdom, or of those of Her Majesty's Colonial possessions and their dependencies, where the same are to have effect, or to the provisions of this Act; and such By-laws shall be reduced into writing, and shall have affixed thereto the Common Seal of the Company; and a copy of such By-laws shall be given to every officer and servant of the Company.

Power to make By-laws for the Officers of the Company.

LXXXIV. The Company may impose such reasonable fines and forfeitures upon all persons, being officers or servants of the Company, offending against such private By-laws, as the Company think fit, not exceeding five pounds for any one offence, and such fines and forfeitures may be recovered in the manner hereinafter provided.

Fines for breach of such By-laws.

LXXXV. The production of a written or printed copy of the By-laws of the Company, having the Common Seal of the Company affixed thereto, shall be sufficient evidence of such last mentioned By-laws, in all cases of prosecution under the same.

Proof of By-laws.

LXXXVI. And for the purpose of providing for the recovery of penalties or forfeitures imposed by this Act, or by any By-laws made in pursuance thereto, the recovery of which is not otherwise provided for; Be it enacted, that every such penalty or forfeiture may be recovered by summary proceedings, upon complaint made before two or more Justices; and on the complaint being made to any such Justice, he shall issue a Summons requiring the party complained against to appear on a day and at a time and place to be named in such Summons; and every such Summons shall be served on the party offending, either in person, or by leaving the same with some inmate at his usual place of abode; and either upon the appearance, or upon the default to appear, of the party offending, it shall be lawful for any two or more Justices to proceed to the hearing of the complaint, and although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by confession of the party complained against or upon the oath of one credible witness or more, it shall be lawful for any two or more Justices to commit the offender, and upon such conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction, as such Justices shall think fit.

Penalties under this Act to be summarily recovered before two Justices, or more.

Penalties to be levied by distress.

LXXXVII. If forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture and of such costs as aforesaid, be not paid, the amount of such penalty and costs, together with the costs of the distress, shall be levied by distress, and any two Justices shall issue their warrant of distress accordingly.

Imprisonment in default of distress.

LXXXVIII. It shall be lawful for the Justices to order any offender so convicted as aforesaid, to be detained and kept in safe custody until return can be conveniently made to the Warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security by way of recognizance or otherwise, to the satisfaction of the Justices, for his appearance before them on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress, it shall appear to the Justices, by the admission of the offender or otherwise, that no sufficient distress can be had whereon to levy such penalty or forfeiture and costs, they may, if they think fit, refrain from issuing such Warrant of distress, and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justices, then such Justices shall, by Warrant, cause such offender to be committed to gaol, there to remain without bail, for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

Application of penalties.

LXXXIX. And with respect to the application of any penalties or forfeitures recovered by virtue of this Act, the application whereof is not herein otherwise provided for; Be it enacted, that the Justices by whom any such penalty or forfeiture shall be imposed, shall award one half thereof to the informer, and the other half to the Crown.

Penalties to be sued for within six months.

XC. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act, for any offence hereinbefore made cognizable before a Justice, unless the complaint respecting such offence, shall have been made before such Justice within six months next after the commission of such offence.

Penalty on witness making default.

XCI. It shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person who shall be summoned as a witness before any Justice touching any offence committed against this Act, or any matter in which Justice shall have jurisdiction by the provisions of this Act, shall without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose,

purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath, or to give evidence before such Justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

XCII. The Justices, before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up according to the form in the Schedule (I) to this Act annexed. Form of conviction.

XCIII. Where in this Act any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained. Distress how to be levied.

XCIV. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceedings relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity, may recover full satisfaction for the special damage in an action upon the case. Distress not unlawful for want of form.

XCv. If any person shall think himself aggrieved by any determination or adjudication of any Justice under the provisions of this Act, he may appeal to the General Quarter Sessions for the County in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making such determination or adjudication, and unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, and unless the appellant, forthwith after such notice, enter into recognizances, with two sufficient sureties, before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon. Parties may appeal to Quarter Sessions on giving security.

XCVI. At the Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way; or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such appeal, the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money, paid by the appellant, or levied by distress upon his goods, to be returned to him; and may also order Court to make such order as they think reasonable.

Costs.

order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

Service of notices upon Company.

XCVII. And with respect to the service of notices, and demands to be made upon the Company; Be it enacted, that any summons, notice, demand or writ, or other proceeding at law or in equity, requiring to be served or made upon the Company, may be served or made by the same being given personally to the Agent or the Principal Officer of the Company resident in Canada, or being left at the office of the Company in Canada, or being delivered to some inmate at the place of abode of such Agent or other Principal Officer, or in case there be no such Agent or other Principal Officer resident in Canada, or the place of abode of the Agent or other Principal Officer shall not be found, then by being given to any one Shareholder of the said Company, or being delivered to some inmate of the place of abode of any such Shareholder.

Service by Company on Shareholders.

XCVIII. And with respect to any such notice required to be served by the Company upon the Shareholders; Be it enacted, that unless any such notice be expressly required to be served personally, it shall be sufficient to transmit the same by post directed according to the registered address or other known address of the Shareholder, within such period as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice; and in proving such service, it shall be sufficient to prove that such notice was properly directed, and that it was so put into the Post Office.

Notice by advertisement.

XCIX. All notices required by this Act to be given by advertisement in a newspaper, shall be signed by the Chairman of the meeting at which such notices shall be directed to be given, or by the Secretary or other Officer of the Company, and shall be advertised in two or more of the London and Canada newspapers, unless otherwise specially provided by this Act, and the same shall thereupon be deemed and considered the same as personal notices.

Authentication of notices.

C. Every summons, demand or notice, or other such document requiring authentication by the Company, may be signed by one Director or by the Treasurer or the Secretary of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Release to witnesses.

CI. In all legal proceedings under this Act, general or other releases for the purpose of qualifying any person in the service of the Company to give evidence as a witness, may be granted by any two or more of the Directors; and every such release or discharge under the hands and seals of two of the Directors, shall

shall be as effectual for the purpose aforesaid as if made under the common seal of the Company.

CII. In case any Fiat in Bankruptcy shall be awarded against any person who shall be indebted to the Company, or against whom the Company shall have any claim or demand, it shall be lawful for any person who shall, from time to time, in that behalf, be appointed by writing under the hands of any three or more of the Directors of the Company for the time being, to appear, and he is hereby authorized to appear and act on behalf of the Company in respect of any such claim, debt or demand, before the Commissioners under any such Fiat in Bankruptcy, either personally or by his affidavit sworn and exhibited in the usual manner, in order to prove and establish any such debt, claim or demand, under such Fiat; and such person to be so appointed shall, in all such cases, be admitted and allowed to make proof, or tender a claim, under any such commission, on behalf of the Company in respect of such debt, claim or demand, and shall have such and the same powers and privileges as to voting in the choice of assignees and signing certificates, and otherwise, in respect of any such debt admitted to be proved on behalf of the Company, as any other person being a creditor of such bankrupt, in his own right, would have in respect of the debt proved by him under such Fiat.

How debts to Company may be proved in cases of bankruptcy.

CIII. And with respect to actions brought in respect of any proceeding under the provisions of this Act; Be it enacted, that if before action brought, any party having committed any irregularity, trespass or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority given, make tender of sufficient amends to the party injured, such party shall not recover in any action brought on account of such irregularity, trespass, or other wrongful proceeding; and if no such tender shall have been made, it shall be lawful for the defendant, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Tender of amends in case of prosecution for any thing done in carrying out this Act.

CIV. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say: words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, words importing the masculine gender shall include females; the word "Month," shall mean Calendar Month; the expression "Superior Courts," shall mean Her Majesty's Supreme Courts of Record in the Province of Canada, or at Westminster or Dublin, as the case may require; the word "Oath," shall include affirmation in the case of Quakers, or other declaration or solemnity lawfully

Interpretation clause.

Number.

Gender.

Month.

Supreme Court.

Oath.

Secretary.  
Lands.  
Justice.

The Company.

Directors and  
Secretary.

Public Act.

lawfully substituted for an oath, in the case of other persons exempted by law from the necessity of taking an oath; the word "Secretary," shall include the word "Clerk"; the word "Lands" shall extend to messuages, lands, tenements and hereditaments of any tenure; the word "Justice," shall mean Justice of the Peace for the County, City, liberty or place, in England or Canada, where the matter requiring the cognizance of any Justice shall arise, and who shall not be interested in the matter; and where the matter shall arise in respect of lands being the property of one and the same party situate not wholly in any one County, City, liberty or place, where any part of such lands shall be situate, and who shall not be interested in such matter; the expression "The Company," shall mean the Canadian Loan and Investment Company, in this Act mentioned and described; the expression "The Directors" and "The Secretary," shall mean the Directors and the Secretary, respectively, for the time being, of the said Company.

CV. This Act shall be deemed a Public Act, and shall be judicially taken notice of as such.

SCHEDULES REFERRED TO BY THE FOREGOING ACT.

SCHEDULE A.

By virtue of an Act of the Legislature of Canada, passed in the \_\_\_\_\_ year of the Reign of Queen Victoria, intituled, (*here set forth the title of this Act*) We, the Canadian Loan and Investment Company, in consideration of the sum of \_\_\_\_\_ to us paid by A. B., of \_\_\_\_\_, do hereby grant to the said A. B., his heirs and assigns, all (*describing the premises to be conveyed*) together with all ways, rights and appurtenances thereto belonging, and all such estate, right, title and interest in and to the same, as we, the said Company, are or shall become possessed of, or are by the said Act empowered to convey. To hold the said premises to the said A. B., his heirs and assigns, for ever. Given under the Common Seal of the said Company, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord,

SCHEDULE B.

FORM OF MORTGAGE DEED.

By virtue of an Act of the Legislature of Canada, passed in the \_\_\_\_\_ year of the Reign of Queen Victoria, intituled, (*here insert the title of this Act*) I, A. B., of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ paid to me by the Canadian Loan and Investment Company, do hereby, pursuant to the said Act, convey to the said Company, their successors and assigns, all (*describing the real or personal property to be conveyed,*)

conveyed) and all such estate, right, title and interest in and to the same, as I am or shall become or be possessed of. To hold the same to the said Company, their successors and assigns, for ever, subject to redemption on payment to the said Company, their successors or assigns, of the said sum of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ eighteen \_\_\_\_\_, with interest for the same, at the rate of \_\_\_\_\_ for every hundred pounds, by the year, payable half yearly, on the \_\_\_\_\_ day of \_\_\_\_\_ and \_\_\_\_\_ day of \_\_\_\_\_ in every year, (*add any special powers which may be agreed on.*) In witness whereof, I have hereunto set my hand and seal, the \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord

FORM OF BOND.

By virtue of an Act of the Legislature of Canada, passed in the \_\_\_\_\_ year of the Reign of Queen Victoria, intituled (*here insert the title of this Act,*) I, A. B., in consideration of the sum of \_\_\_\_\_ to me in hand paid by the Canadian Loan and Investment Company, am held and firmly bound to the said Company, their successors and assigns, in the penal sum of \_\_\_\_\_ pounds, to be paid to the said company, their successors or assigns.

The condition of the above obligation is such, that if the said A. B. his heirs, executors or administrators, shall pay to the said Company, their successors or assigns, on the \_\_\_\_\_ day of \_\_\_\_\_ which will be in the year eighteen \_\_\_\_\_, the principal sum of \_\_\_\_\_ together with the interest for the same, at the rate of \_\_\_\_\_ per centum per annum, payable half-yearly, on the \_\_\_\_\_ day of \_\_\_\_\_ and \_\_\_\_\_ day of \_\_\_\_\_, then the above written obligation is to become void, otherwise to remain in full force and virtue. In witness whereof, I have hereunto set my hand and seal, the \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord

SCHEDULE C.

FORM OF CERTIFICATE OF SHARE.

Canadian Loan and Investment Company.  
Number \_\_\_\_\_

These are to certify that A. B. is a proprietor of the share Number \_\_\_\_\_ of the Canadian Loan and Investment Company, subject to the rules, regulations and orders of the said Company, and that the said A. B. his executors, administrators, (*or successors*) and assigns, is and are entitled to the profits and advantages of such share.

Given under the Common Seal of the said Company, the \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord

SCHEDULE

## SCHEDULE D.

## FORM OF TRANSFER OF SHARES.

I, \_\_\_\_\_ of \_\_\_\_\_ in consideration of the sum of \_\_\_\_\_ paid to me by \_\_\_\_\_ of \_\_\_\_\_ do hereby assign and transfer to the said share (or shares, *as the case may be,*) numbered \_\_\_\_\_ of \_\_\_\_\_ and in the undertaking called the Canadian Loan and Investment Company, to hold unto the said \_\_\_\_\_ his executors, administrators and assigns (or successors and assigns) subject to the same conditions as I held the same immediately before the execution hereof; and I, the said \_\_\_\_\_ do hereby agree to accept and take the said share (or shares) subject to the same conditions. As witness our hands and seals, the \_\_\_\_\_ day of \_\_\_\_\_

## SCHEDULE E.

## FORM OF MORTGAGE DEEDS.

Number \_\_\_\_\_  
By virtue of an Act passed in the \_\_\_\_\_ year of the Reign of Queen Victoria, intituled, (*here set forth the title of the Act,*) We, the Canadian Loan and Investment Company, in consideration of the sum of \_\_\_\_\_ to us paid by A. B. of \_\_\_\_\_ do assign unto the said A. B. his executors, administrators and assigns, (*here describe the property, profits, calls, capital or other security upon which the money shall have been agreed to be advanced*) and all estate, right, title and interest of the said association of, in and to the same, and power to make and enforce payment of all or any of the calls hereby assigned or intended so to be; to hold unto the said A. B. his executors, administrators and assigns until the said sum of \_\_\_\_\_ together with the interest for the same after the rate of \_\_\_\_\_ for every one hundred pounds for a year, shall be fully paid and satisfied.

Given under our Common Seal, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord \_\_\_\_\_

## SCHEDULE F.

## FORM OF BOND.

The Canadian Loan and Investment Company.

Bond Number \_\_\_\_\_

By virtue of an Act passed by the Legislature of Canada, in the \_\_\_\_\_ year of the Reign of Queen Victoria, intituled, (*here insert the title of this Act*), We, the Canadian Loan and Investment Company, in consideration of the sum of \_\_\_\_\_ pounds to us in hand paid by A. B. of \_\_\_\_\_ do bind ourselves and our successors unto the said A. B. his executors, administrators and assigns, in the penal sum of \_\_\_\_\_ pounds.

The

The condition of this obligation is such, that if the said Company shall pay unto the said A. B. his executors, administrators or assigns, on the \_\_\_\_\_ day of \_\_\_\_\_ which will be in the year of Our Lord, one thousand eight hundred and \_\_\_\_\_ the principal sum of \_\_\_\_\_ pounds, together with interest for the same, at the rate of \_\_\_\_\_ pounds per centum per annum, payable half yearly, on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ then the above written obligation is to become void, otherwise to remain in full force.

Given under our Common Seal, this \_\_\_\_\_ day of \_\_\_\_\_

SCHEDULE G.

FORM OF TRANSFER OF MORTGAGE OR BOND.

I, A. B. of \_\_\_\_\_ in consideration of the sum of \_\_\_\_\_ paid by \_\_\_\_\_ of \_\_\_\_\_ do hereby transfer a certain mortgage (or bond) Number \_\_\_\_\_, made by the Canadian Loan and Investment Company to \_\_\_\_\_, bearing date the \_\_\_\_\_ day of \_\_\_\_\_ for securing the sum of \_\_\_\_\_ and interest, and all my right, estate and interest in and to the possessions, profits, calls, and property (*as the case may be*) thereby assigned, together with all covenants and other securities granted or entered into by or on behalf of the said association in respect thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord

SCHEDULE H.

FORM OF PROXY.

A. B. of \_\_\_\_\_ one of the Shareholders of the Canadian Loan and Investment Company, doth hereby appoint C. D. of \_\_\_\_\_ to be proxy of the said A. B. in his absence to vote in his name upon any matter relating to the undertaking, proposed at the meeting of the Shareholders of the Company, to be held on the \_\_\_\_\_ day of \_\_\_\_\_ next, in such manner as the said C. D. doth think proper. In witness whereof, the said A. B. doth hereunto set his hand (*or if it be a Corporation, say, the Common Seal of the Corporation,*) the \_\_\_\_\_ day of \_\_\_\_\_

SCHEDULE I.

FORM OF CONVICTION.

District, County &c. }  
To wit : }

Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_ C. D. and E. F. two of Her Majesty's Justices

Justices of the Peace in and for the County of \_\_\_\_\_, in Upper Canada (*here describe the offence generally, and the time and place, and when and where committed*) contrary to the provisions of the Canadian Loan and Investment Company Act, passed in the year of Our Lord one thousand eight hundred and fifty-six.

Given under our hands and seals, the day and year first above written.

C. D.  
E. F.

## C A P . C X X V I I .

An Act to authorize the Reverend Henry Patton to convey in fee simple a portion of a certain Glebe.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS the Station House, Engine House and all the other buildings connected with the Station on the line of the Grand Trunk Railway of Canada, at the Town of Cornwall in the County of Stormont in Upper Canada, and also the said Railway for the distance of about one mile, are situate on that part of the Glebe of the Rectory of Cornwall aforesaid, situate immediately in rear of the said Town and in front of the second concession of the Township of Cornwall, in the County aforesaid, and which in the Patent granting the same is described as containing sixty-four acres, more or less; And whereas, heretofore on the thirteenth day of June in the year of Our Lord one thousand eight hundred and fifty-three, a certain provisional agreement was made between the Reverend Henry Patton, the then and present Incumbent of said Rectory, and Messieurs Jackson, Peto, Brassey and Betts, the Contractors for the construction of that portion of said Railway affecting the said Lands, for the sale of the said portion of the said Glebe above described; And whereas the said parties desire to have the said agreement carried out, and that power should be given to the said Henry Patton to convey in fee simple the said portion of the said Glebe so agreed to be conveyed to the parties in the said agreement mentioned, and that the moneys arising from the sale should be reinvested in a manner more advantageous and profitable to the said Rectory than the land now is, and it is expedient to grant such power; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The Rector of Cornwall empowered to convey certain Glebe land to the Grand Trunk Railway Company.

I. The said the Reverend Henry Patton, the Rector of Cornwall aforesaid, may and he is hereby empowered to convey in fee simple the said lands above mentioned and hereinafter described, in pursuance of the said agreement in the Preamble of this Act referred to and according thereto, that is to say: all that portion of the Glebe of the Rectory of Cornwall situate immediately

immediately in rear of the said Town of Cornwall, and in front of the second concession of the Township of Cornwall in the County of Stormont, and which in the original grant thereof from the Crown, is described as containing by admeasurement sixty-four acres, be the same more or less; and such conveyance may be made by the usual and ordinary deed of bargain and sale to the said parties named above in the Preamble of this Act or their certain Attorney, and such deed when executed by the said Henry Patton in his own name in the usual manner, shall vest in the grantees therein named, their heirs and assigns, the fee simple of the said lands and tenements in this section above described, as fully and effectually as if the same had been granted by the Crown in the first instance to the said Henry Patton, his heirs and assigns, to his and their own use for ever; Provided always, that there shall be reserved from the east and west end of the said Glebe, for the public use, the usual road allowance. Proviso.

II. Upon and after the delivery of the said deed in the preceding section mentioned, the grantee or grantees therein named shall and may hold, possess and deal with the said lands therein and in the preceding section hereinabove mentioned, in all respects freed from all trusts, charges or limitations other than those incidental to the ordinary grants of lands in fee simple from the Crown to purchasers. Grantees to hold the said lands free of trusts, &c.

III. The said the Reverend Henry Patton may receive from the said parties to the said agreement the amount agreed by them to be paid as purchase money, on the execution of the said deed, and the said money shall be invested for the benefit of the said Rectory in the manner hereinafter mentioned; and the said grantee or grantees in the said deed of conveyance, or the said parties paying the purchase money, shall not be bound to see to the disposal thereof, nor shall they after payment of the purchase money to the said Henry Patton, be further liable in respect thereof, and the receipt of the said Henry Patton for the same shall, as against all persons whomsoever, relieve the persons paying the same, or the said grantee or grantees, from all claims and demands connected with the said lands or the purchase money therefor. The Rector may receive the purchase money and discharge the grantees.

IV. The said purchase money in the last preceding section mentioned, shall be invested for the benefit of the said Rectory and for the support of the present Incumbent and his successors, in the name of such Incumbent the said the Reverend Henry Patton and the Churchwardens of Trinity Church in the said Town of Cornwall, in Provincial Securities, the interest only to be received by the said Incumbent and his successors, and to be applied to his and their use as such Incumbent: Provided always nevertheless, that nothing in this Act contained shall extend to supersede or interfere with any legal proceedings now pending in any Court of Law or Equity in this Province, in Purchase money to be invested and interest only to be used by Incumbent.

Proviso: Act not to affect decision as to legality of Rectories, which

except that the money is to stand in the stead of the lands.

which the legality of the Patent constituting the said Rectory is involved, or with any legislation affecting the Rectories generally; and in the event of any such legislation or of any such judicial decision being adverse to the said Patent, then and in such case the said purchase money invested as aforesaid shall stand in place of the said lands, and shall be affected in the same manner as the said lands would have been but for the passing of this Act.

Public Act.

V. This Act shall be deemed a Public Act.

## C A P . C X X V I I I .

An Act to amend and consolidate the several Acts, incorporating the Mount Royal Cemetery Company.

[ *ssented to 1st July, 1856.* ]

Preamble.

**W**HEREAS it is expedient to amend and consolidate the several Acts now in force in this Province incorporating the Mount Royal Cemetery Company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Certain Acts repealed, viz: 10 & 11 V. c. 67.

16 V. c. 56,

16 V. c. 118.

I. From and after the passing of this Act the Act passed in the session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the Montreal Cemetery Company*, and the two Acts passed in the Session held in the sixteenth year of Her Majesty's Reign, and intituled, respectively, *An Act to amend the Act to incorporate the Montreal Cemetery Company, and for other purposes therein mentioned*, and *An Act to amend the Act incorporating the Mount Royal Cemetery Company*, shall be and the same are hereby repealed.

The present Corporation continued.

Corporate name and general powers.

II. The present Stockholders, being severally the proprietors of a Lot or Lots in the said Cemetery for which they shall have paid to the said Company the sum of Five pounds Currency or more, and such others as may hereafter become Shareholders, having paid to the said Company for a Lot or Lots in the said Cemetery the sum of Five pounds Currency or more, and their successors for ever, shall continue to be and are hereby constituted a body politic and corporate in fact and in name by the name of "The Mount Royal Cemetery Company;" and by that name they and their successors shall have perpetual succession, and a common seal, with power to alter and make new the same at pleasure, and may by that name contract and be contracted with, sue and be sued, plead and be impleaded in all Courts and places whatsoever, and shall have full power and authority to take, purchase, and acquire by any title whatsoever, and to hold, possess, and enjoy without letters of mortmain (saving always the *droit d'indemnité* of the Seigneur) any lands

lands or immoveable property within the Island of Montreal, but without the present limits of the city, not exceeding two hundred arpents in extent, and may also take and hold moveable property for the purposes hereinafter mentioned: Provided always, that such immoveable property shall be held and used solely for the purpose of a Public Cemetery and Garden and the necessary and convenient roads and access to the same.

Real property.

Proviso: real property to be held for certain purposes only.

III. The Capital Stock of the said Company shall be divided into shares of Five pounds Currency each; and each shareholder, except those who have already entered their names in the Books of Subscription heretofore opened by the Company, shall, before he shall be considered a shareholder, enter his name in the Book or Books of the Company to be kept for that purpose, and shall after his name enter in the said Book or Books that one of the several religious denominations hereinafter mentioned to which he chooses to be deemed to belong, that is to say, Members of the Church of England, Presbyterians, Methodists, Congregationalists, Baptists or Unitarians.

Capital of the Company to be in shares of £5 each.

Subscription books.

Subscribers to state the denomination to which they belong.

IV. There shall be an annual General Meeting of the Company and an Election of Trustees on some two days in each year appointed or to be appointed from time to time by the By-Laws of the Company; and the Trustees shall always remain in office, as shall the Trustees now in office, until the end of the day appointed for the election of their successors and until the appointment of their successors as hereinafter mentioned, but shall always be re-eligible if qualified as shareholders.

Annual meetings and election of Trustees.

Term of office.

V. Twenty-one Trustees shall be annually elected to manage the affairs of the said Company in the following manner: A Public Meeting of all the Shareholders shall be called once a year by advertisement in one of the Newspapers published in the City of Montreal, announcing the time and place when and where such Public Meeting will be held, or in such other manner as may be provided for by the By-Laws of the Company; and at the said meeting the Chairman and Secretary who shall then be appointed for that purpose shall ascertain the number of shares held by persons of each of the religious denominations aforesaid: and the shareholders of each such denomination shall be entitled to elect a number of Trustees bearing such proportion to Twenty-one as the shares held by persons of such denomination shall bear to the whole amount of the Capital Stock; and the Chairman and Secretary shall declare such proportion; Provided that each one of the said denominations shall be entitled to elect at least one Trustee, and that if by such proportion there be a fractional number equal to more than half the number which would entitle any denomination to elect another Trustee, such denomination shall be entitled to elect such other Trustee, but if the fractional number be less than this, it shall not be reckoned; and if any question shall arise as to the number of Trustees to be elected

Election of 21 Trustees annually.

Number to be elected by each denomination, how determined.

Proviso: each to have at least one Trustee.

Provision in case of difference as to

the number to which each is entitled.

by any of the said religious denominations, the same shall be decided by the Chairman and Secretary, or if they differ, then by the majority of the persons present at the meeting, voting according to the scale hereinafter provided.

Election by each denomination of the number to which it is entitled.

VI. At the said Meeting a day and hour shall be appointed (not less than three days nor more than one week from the day of such Meeting) when the members of each religious denomination shall meet at some place in the said City, to be also named, for the purpose of electing by a majority of votes the number of Trustees to which such denomination may be entitled, being members of the said Company, and whose names shall be returned to the Chairman or Secretary appointed at the first meeting, who shall enter them in the Books of the Company; and at every future annual Election of Trustees the same general rule of election shall be followed, the several religious denominations being entitled to elect a number of Trustees proportionate to the amount of shares they shall respectively hold at the time of the Election: Provided nevertheless that if on the day appointed for the election of the successors of the Trustees then in office, the members of the several religious denominations or of either of them shall neglect to elect a Trustee or Trustees, or to return the names of such Trustee or Trustees to the Chairman or Secretary, then and in that case the Trustee or Trustees representing the religious denominations so neglecting to elect shall remain in office until his or their successors be appointed.

Same rule to be observed at future elections.

Proviso: in case of failure of any denomination to elect.

Day, hour and place of annual meetings to be fixed by By-laws.

VII. The day, hour and place of all Annual General Meetings, and of the meetings of the members of the several religious denominations for the election of the number of Trustees to which they may be entitled, and the persons or officers who shall preside at such meetings, and the mode of proceeding thereat, shall be as fixed by the By-Laws of the Company made or to be made in that behalf, and not being contrary to the provisions, and being in accordance with the intent and spirit of this Act; and it shall not be necessary that the General Meeting or Elections be on the same day in every year, provided they be not more than fourteen nor less than ten calendar months from each other; and by such By-Laws provision may be made for another meeting or election in case of failure to meet or elect on the days first appointed.

Need not be on the same day in every year.

Trustees to manage business of Corporation.  
Quorum.

VIII. The whole management of the affairs and property of the Company shall be vested in the Trustees for the time then being, elected as aforesaid, and any seven of the said Trustees shall be a quorum for the transaction of business, and any majority of such quorum may exercise all the powers hereby or by the By-Laws of the Company vested or to be vested in the Trustees; and the Trustees shall, as soon as may be convenient after the election in each year, elect one of their number to be the President of the Company, and another to be Vice-President thereof,

Election of President, &c.

thereof, and shall also elect a Treasurer and Secretary, and the President, if present, (or if he be not present, then the Vice-President, or if he be not present, then some Trustee to be chosen for the occasion,) shall preside at all meetings of the Trustees, and shall in case of equality of votes have a double or casting vote, unless it be otherwise provided by the By-Laws of the Company; and the said Trustees may empower the President or any other Trustee to sign and seal with the common seal of the Company, and any officer of the Company to countersign any *Acte*, Instrument, or Document in the name and on behalf of the Company, and any *Acte*, Instrument, or Document so signed and sealed shall be deemed to be the *Acte* of the Company; and the said Trustees shall have power to treat for and acquire immoveable and moveable property for the Company, and to lay out and manage the same, subject always to such By-Laws as may be made touching such management, and shall have such other powers, not inconsistent with this Act, as, being hereby vested in the said Company, shall by the By-Laws thereof be assigned to and vested in the Trustees.

Casting vote.

Execution of Deeds, &c. of the Corporation.

Further powers of Trustees.

IX. The said Trustees shall have full power from time to time to frame By-Laws for the government of the Company and of the members and officers thereof, and to submit the same to a general Meeting of the Company to be called by the Trustees after such notice by advertisement or otherwise as is now or shall be hereafter by the By-Laws of the Company provided for; the power and authority of the said Trustees to make By-Laws to extend to the making of By-Laws for the management of the affairs of the Company generally,—the regulation of the sale and sub-division of Lots,—the collection and recovery of Debts due to the Company, and the forfeiture of Lots not paid for according to the terms of any agreement in that behalf, or of the By-Laws of the Company made or to be made concerning such forfeiture; and such By-Laws being so submitted may be allowed or disallowed, amended or altered at such meeting: and such By-Laws only as shall be finally allowed thereat, as well as the By-Laws of the Company now in force, shall be binding on all members of the Company until repealed or altered in like manner.

Trustees to frame By-laws.

Purposes of By-laws.

To be subject to allowance, or disallowance, amendments, &c. by the Company.

X. At all meetings of the Trustees the votes shall be given *per capita*; but at all meetings of the members of the Company they shall be given by the members present thereat, according to the following proportion, that is to say: each member shall be entitled to one vote for each share he may hold, up to ten, but no member shall have more than ten votes.

Votes of Trustees.

Votes of Members of Company.

XI. The Company shall have power to keep hearses and mourning coaches, with the requisite horses and other articles for conveying the corpse and mourners and other persons to and from their Cemetery, and to charge such reasonable rates for

Company may keep hearses, &c.

for the use thereof as shall be from time to time fixed by the Trustees.

Graves for the poor *gratis*.

XII. The said Company shall furnish graves for the poor belonging to the several denominations mentioned in the third section of this Act free of charge on the certificate of a Minister or Clergyman of the denomination to which such poor belong, that the relations of the deceased are poor and cannot afford to purchase a Lot in the said Cemetery; and the Trustees of the said Company shall have power to make broken or irregular Lots of less or more than one hundred superficial feet, and to charge for the same in proportion to the superficies thereof.

Broken lots.

To what purposes only the funds of the Company shall be applied.

XIII. All the funds of the said Company, except in so far as it may be deemed expedient by the Trustees to make investments thereof as hereinafter mentioned, shall be appropriated and applied solely to the purchasing, laying out, fencing, ornamenting, and keeping up the said Cemetery, and roads and access to the same, and for the other purposes authorized by this Act, and the defraying of the necessary expenses of the Company; and no dividend or profit of any kind shall be paid by the said Company to any member or members thereof; and the price of all Lots sold and of all rates or fees received for the use of any part thereof, or of any property of the Company, shall go into the general fund of the Company and be appropriated and applied as aforesaid. The said Trustees are hereby nevertheless authorized and empowered to make investments from time to time in Provincial Stocks or public Securities or in such other way as they may deem expedient of such portions of the funds of the Company as they may deem requisite for the purpose of creating a fund in aid of fees to defray wages and other expenses incurred in the management of the affairs of the Company.

No dividend to be paid.

Price of lots to make part of funds.

Trustees may invest moneys for certain purposes.

Trustees may employ Officers and Servants.

XIV. The said Trustees shall have power to employ such surveyors, architects, gardeners, superintendents, clerks, and other officers and servants as they may think necessary, and to pay them such remuneration as may be deemed proper, subject always to any By-Laws made or to be made in that behalf.

The whole ground to be under Chief Gardener, &c.

Proviso: as to erection of Chapels, &c. by any denomination.

XV. The whole Cemetery shall be under the management of the same Chief Gardener or Superintendent, and subject to the general regulations now in force or which are or shall be prescribed by any By-Law made or to be made for the laying out, planting, and ornamenting of the Cemetery: Provided always, that the members of any religious denomination may, on ground belonging to members of the Company of their own persuasion, and with the consent of such members, erect a Church or Chapel thereon, at the expense of such members of such persuasion, and have the same consecrated or set apart for Divine Service, according to the rites and ceremonies of such persuasion, and

and may have their own manager for all purposes connected with the burial of their Dead and with the keeping of their Registers, and for all other purposes, saving and excepting the laying out, planting or ornamenting of the Cemetery; but nothing herein contained shall be held to exempt the members of any such denomination from contributing to all the expenses of the Company for the purposes mentioned in the thirteenth section, or from the payment of the rates or fees therein mentioned.

All to contribute to certain expenses.

XVI. The Lots in the said Cemetery shall be held to be immoveable property, and shall be inherited or may be devised or assigned and conveyed accordingly, saving only that it shall not be necessary that such conveyance or assignment be before a Notary or Notaries, but may be made in writing and executed before two witnesses in the form of Schedule A to this Act annexed, which shall be a valid conveyance thereof: Provided nevertheless that no such conveyance shall be valid and effectual until the same shall be entered or enregistered in a book or books to be kept by the Company for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him or them to the said Company upon the Lot or Lots so conveyed or assigned; and no hypothec or incumbrance shall in any wise subsist upon any such Lot, nor shall any other registration of the conveyance or assignment be requisite to its validity.

Lots to be real property.

How transferable, &c.

Proviso :  
Transfers to be registered.

Not subject to hypothec, &c.

XVII. The Trustees shall have full power to collect all payments or instalments due on Lots heretofore subscribed for, with interest thereon from the dates at which the said payments became due, or in their discretion to forfeit and declare forfeited the Instalments paid and all right to the Lots so subscribed for.

Trustees may compel payment of instalments, &c.

XVIII. In the event of the consecration of the said Cemetery or any part thereof, by any religious denomination holding property therein, such act of consecration shall not be held to invest the said religious body with any exclusive powers of jurisdiction either spiritual or temporal within the said Cemetery, saving the powers invested in such religious bodies under the provisions contained in the fifteenth section of this Act.

Consecration not to give any exclusive powers, &c.

XIX. No religious denomination shall be entitled to elect one Trustee, unless the members of such Religious denomination are subscribers of twenty shares of the Capital Stock of the said Company.

Amount of stock entitling a denomination to a Trustee.

XX. The real estate of the said Company, and the lots or plots, when conveyed by the Company to individual proprietors, shall be exempt from taxation or assessment of any kind, and not liable to be seized or sold on execution, or attached, or applied to the payment of debts by assignment under any Bankrupt or Insolvent Law.

Lots not liable to taxation, seizure, &c.

Penalty for  
injuring the  
Cemetery, or  
property in it;

XXI. Any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone or other structure placed in the Cemetery aforesaid, or any fence, railing or other work for the protection of the said Cemetery, or of any tomb, monument, grave-stone or other structure aforesaid, or of any lot within the Cemetery aforesaid, or shall wilfully destroy, cut, break or injure any tree, shrub or plant within the limits of the said Cemetery, or play at any game or sport, or discharge fire arms (save at a military funeral) in the Cemetery aforesaid, or who shall wilfully or unlawfully disturb any persons assembled for the purpose of burying any body therein, or who shall commit any nuisance in such Cemetery, shall be deemed guilty of misdemeanour, and shall upon conviction thereof, before any Justice of the Peace, or other Court of competent jurisdiction, be punished by a fine of not less than one pound nor more than ten pounds, according to the nature of the offence, and in default of payment of the said fine shall be liable to imprisonment in the common gaol of the District of Montreal, for a period of not less than fifteen days nor more than thirty days; and such offender shall also be liable to an action of trespass to be brought against him in any court of competent jurisdiction, in the name of the said company, to pay all damages which shall be occasioned by his unlawful act or acts; which money, when recovered, shall be applied under the direction of the Trustees, to the reparation and reconstruction of the property destroyed or injured; and members and officers of the Company may be competent witnesses in such suits.

How enforced.

Company may  
also recover  
damages.

Members, &c.  
may be wit-  
nesses.

By-laws for  
regulating  
burials.

XXII. The said Corporation shall make regulations for ensuring that all burials within the said Cemetery are conducted in a decent and solemn manner.

No burials  
under Chapels,  
&c.

XXIII. No body shall be buried in any Vault under any Chapel or other building in the said Cemetery.

Cemetery to  
be properly  
drained by the  
Company.

XXIV. The said Corporation shall make all proper and necessary sewers and drains in and about the said Cemetery, for draining it and keeping it dry; and they may from time to time, as occasion requires, cause any such sewer or drain to open into any existing sewer, with the consent in writing of the persons having the management of the street or road, and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Powers for that  
purpose.

Company may  
take land for  
road from *Côte  
des Neiges*.

XXV. The said Company shall have full power and authority to designate and establish, take, appropriate, have and hold the requisite land adjoining the site of the Cemetery, adapted and required for the purposes of the said Company, and for the more easy ingress and egress to and from the said  
Cemetery

Cemetery from the City of Montreal and from the *Côtes des Neiges* road, according to the provisions hereinafter contained for acquiring the same; and to dig, take, and carry away stone, gravel, sand, earth, and other like materials from any adjoining or neighbouring lands, and also to cut, make and keep in repair, upon such adjoining or neighbouring lands such ditches, drains and water courses as may be necessary for the effectual draining and carrying off the water from the said Cemetery, and the roads leading thereto; and for the purposes aforesaid, the said Company, and their agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies, corporate or politic.

Powers for that purpose.

XXVI. If the owner or owners, occupier or occupiers of any lands which the said Company may be desirous of acquiring for the purposes aforesaid, or from which materials are to be taken, shall, upon demand made by the Trustees of the said Company, neglect or refuse to agree upon the price or amount of damages to be paid for such land, and the appropriation thereof to the use of the said Company, or for the exercise of any such powers as aforesaid, it shall and may be lawful for the said Company to name one arbitrator, and for the owner or occupier of such land so required, or with regard to which such power is intended to be exercised as aforesaid, to name another arbitrator, and for the said two arbitrators to name a third, to arbitrate upon, adjudge and determine the amount which the said Company shall pay before taking possession of such land, or exercising such power as aforesaid; and upon such sum being ascertained, due attention being had by the arbitrators in ascertaining the same to the benefits to accrue to the party requiring compensation, it shall be lawful for the said Company to tender such sum to the said party claiming compensation, who shall thereupon execute a conveyance to the said Company, or such other document as may be requisite, and the said Company shall after such tender, whether such conveyance or document be executed or not, be fully authorized to enter upon and take possession of such land to and for the uses of the said Company, and to hold the same, or to exercise such powers as aforesaid, in such and the like manner as if such conveyance thereof or other document had been executed as aforesaid: Provided always, That if such owner or occupier shall neglect to name an arbitrator for the space of twenty days after having been notified so to do by the said Company, or if the said two arbitrators do not agree upon such third arbitrator within twenty days after the appointment of the second arbitrator, then upon the application of the said Company, or of the other party, a Circuit Judge shall nominate the second or third arbitrator, in lieu of the one so to be appointed and named, but not appointed or agreed upon by the party or the two first named arbitrators as aforesaid; and any award made by the majority of the said arbitrators shall be as binding as if the three arbitrators had concurred in and made the same.

Arbitration for settling amount to be paid in case Company and proprietor do not agree.

Company to pay or tender amount awarded, and may then exercise the right in question.

Proviso: in default of appointment of Arbitrator or third Arbitrator.

Award of majority binding.

XXVII.

Appointment of Arbitrator on the part of absentees, or unknown proprietors.

Payment of amount awarded.

Award in certain cases to stand in place of a Deed.

Costs of arbitration how paid.

Interpretation clause.

Proviso.

XXVII. Whenever any lands or grounds required by the said Company for the purposes aforesaid are held or owned by any person or persons, bodies politic, corporate, or collegiate whose residence may not be within this Province, or unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unable to treat with the said Company for the sale thereof, or to appoint arbitrators as aforesaid, it shall and may be lawful for the said Company to nominate one indifferent person, and for a Circuit Judge, having jurisdiction in the District of Montreal, on the application of the said Company, to nominate and appoint one other indifferent person, who together with one other person, to be chosen by the persons so named before proceeding to business, or in the event of their disagreeing as to the choice of such other person, to be appointed by any such Judge as aforesaid, before the others proceed to business, shall be arbitrators, to award, determine, adjudge, and order the respective sums of money, which the said Company shall pay to the respective parties entitled to receive the same, for the said lands or damages as aforesaid, and the decision of the majority of such arbitrators shall be binding; which said amount so awarded, the said Company shall pay or cause to be paid to the several parties entitled to the same when demanded: and in any case under this Act, where there shall be no deed conveying the property in question to the Company, a record of the award or arbitration shall be made up and signed by the said arbitrators, or a majority of them, specifying the amount awarded and the cost of such arbitration, which may be settled by the said arbitrators or a majority of them, which record shall be registered in the Registry Office for the County of Montreal; and that the expenses of any arbitration under this Act, shall be paid by the said Company, and by them deducted from the amount of such award, if the Company shall, before the appointment of their arbitrator, have tendered an equal or greater sum than that awarded by the arbitrators, and otherwise by the opposite parties, and the arbitrators shall specify in their award by which of the parties the said costs are to be paid.

XXVIII. In construing this Act, words importing the masculine gender or the singular number only, shall be deemed to include more than one person or thing, and females as well as males, unless there be something in the context repugnant to or inconsistent with such construction; and if there be any omitted case or matter touching which it is necessary that provision be made in order to give full effect to this Act, and to the true intent and object thereof, such provision may be made by any By-Law of the Company not inconsistent with or repugnant to this Act: Provided always, that no By-Law of the Company shall be repugnant to the Laws of Lower Canada, except in so far as the same are modified by this Act.

XXIX. This Act shall be a Public Act.

Public Act.

SCHEDULE A.

FORM OF CONVEYANCE AND ASSIGNMENT.

For value received from \_\_\_\_\_, of \_\_\_\_\_, I, \_\_\_\_\_, of \_\_\_\_\_, do hereby convey and assign unto the said \_\_\_\_\_, present accepting \_\_\_\_\_, that certain Lot of land in the Cemetery of the Mount Royal Cemetery Company, Parish of Montreal, designated on the plan of the ground and in the books of the Company as Lot No. \_\_\_\_\_, Section \_\_\_\_\_, containing \_\_\_\_\_ superficial feet, together with all the rights and privileges thereunto belonging, subject however to the By-Laws and regulations from time to time made by the Company.

Witness our hands hereunto subscribed, at \_\_\_\_\_, this day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

Witnesses, }  
}

C A P . C X X I X .

An Act to cancel part of the Letters Patent for the endowment of a Rectory in the Township of Warwick.

[Assented to 1st July, 1856.]

**W**HEREAS lot number twenty-five, in the first concession south of the Egremont Road, in the Township of Warwick, was by mistake set apart as an endowment for the first Rectory of the said Township, constituted on the twenty-first day of January, one thousand eight hundred and thirty-six; And whereas before the issue of the Letters Patent so setting apart the said Lot together with other lands, the said Lot was regularly sold to one R. H. Alison, through whom and from whom one James Shaw now claims the same; And whereas it is expedient to cancel so much of the said Letters Patent as regards the said lot: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. After the passing of this Act, so much of the said Letters Patent as relates to Lot number twenty-five in the first concession south of the Egremont Road, in the Township of Warwick, shall be and be taken to be cancelled to all intents and purposes, so that the Governor in Council may cause a new Patent to be issued instead thereof to the party or parties justly entitled thereto.

Patent for the said lot 25 cancelled, and a new Patent may issue.

## C A P . C X X X .

An Act to amend the Act to enable Ministers of the Evangelical Lutheran Church in this Province to solemnize Matrimony and to keep Registers of Marriages, Baptisms and Burials.

[Assented to 1st July, 1856.]

Preamble.

18 V. c. 58.

**W**HEREAS it is expedient to amend the Act passed in the eighteenth year of Her Majesty's reign, intituled, *An Act to enable Ministers of the Evangelical Lutheran Church in this Province to solemnize Matrimony and to keep Registers of Marriages, Baptisms and Burials*; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Section 1 of the said Act, repealed.

I. The first section of the Act mentioned in the preamble of this Act is hereby repealed; and the following section shall be substituted in lieu thereof, and shall be held to be the first section of the said Act:

Minist-rs of the said persuasion to have the benefit of the Act of U. C., 11 G. 4, c. 36, although not subjects of Her Majesty, provided they take the oath of allegiance and otherwise comply with the said Act.

“In Upper Canada, all the powers, privileges and advantages by the Act of the Legislature of the late Province of Upper Canada, passed in the eleventh year of the reign of His Majesty King George the Fourth, and intituled, *An Act to make valid certain Marriages heretofore contracted and to provide for the future solemnization of Matrimony in this Province*, conferred upon or vested in any Clergyman or Minister of any of the several religious denominations mentioned in the third section of the said Act, shall be and the same are hereby conferred upon and vested in any Clergyman, Minister, or Pastor of the said Religious denomination called The Evangelical Lutheran Church, whether he be or be not a subject of Her Majesty by birth or naturalization, (provided he shall take the oath of allegiance to Her Majesty and otherwise comply with the requirements of the fourth section of the said last cited Act,) as fully and effectually to all intents and purposes, and upon the same conditions and restrictions with respect to his ordination, constitution and appointment as such Clergyman, Minister or Pastor, as if the Evangelical Lutheran Church aforesaid had been among the number of religious denominations mentioned in the said third section, and subject to all the penalties imposed by the said Act for any contravention of the provisions thereof.”

Public Act.

II. This Act shall be deemed a Public Act.

## C A P . C X X X I .

An Act to incorporate the Society called the *Union of St. Joseph of Montreal*.

[Assented to 1st July. 1856.]

**W**HEREAS an Association under the name of the *Union of St. Joseph of Montreal*, has existed for several years in the City of Montreal, having for its object the aid of its members in case of sickness, and the ensuring of like assistance and other advantages to the widows and children of deceased members; And whereas the members of the said Association have prayed to be incorporated, and it is expedient to grant their petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. Louis Leclair, S. T. Rathé, Jacques Alexis Plinguet, David Leblanc, Antoine Bazinet, J. B. Duplessis, L. Théophile Lescarbeau, Michel Cyr, Louis Chabot, C. A. Rochon, Alexis Favreau, Louis Longpré, together with such other persons as now are members of the said institution, or may hereafter become members thereof, in virtue of this Act, shall be and they are hereby constituted a body politic and corporate, in fact and in name, under the name of the *Union of St. Joseph of Montreal*, and by that name shall have power from time to time, and at any time hereafter to purchase, acquire, possess, hold, exchange, accept and receive for themselves and their successors, all lands, tenements and hereditaments, and all real or immoveable estate, being and situated in Lower Canada, necessary for the actual use and occupation of the said Corporation, and the said property to hypothecate, sell, alienate and dispose of, and to acquire other instead thereof for the same purposes; and any majority whatsoever of the said Corporation, for the time being, shall have full power and authority to make and establish such rules, regulations and by-laws, in no respect inconsistent with this Act, nor with the laws then in force in Lower Canada, as they may deem expedient and necessary for the interests and administration of the affairs of the said Corporation, and for the admission of members thereof; and the same to amend and repeal, from time to time, in whole or in part, and also such regulations and by-laws as may be in force at the time of the passing of this Act; such majority may also execute and administer, or cause to be executed and administered all and every the other business and matters appertaining to the said Corporation, and to the government and management thereof, in so far as the same may come under their control, respect being nevertheless had to the regulations, stipulations, provisions and by-laws to be hereafter passed and established.

Certain persons incorporated.

Corporate name and general powers.

Amount of real property limited.

Majority to make By-laws.

Further powers of majority.

II. Provided always, that the rents, revenues and profits arising out of every description of moveable property belonging

Appropriation of revenues of to

certain purposes only.

to the said Corporation, shall be appropriated and employed exclusively for the benefit of the members of the said Corporation, and for the erection and repair of the buildings necessary for the purposes of the said Corporation, and for the payment of expenses legitimately incurred in carrying out any of the objects above referred to.

Property of Association transferred to Corporation.

Also liabilities.

III. All real and personal estate at present the property of the said Association, or which may hereafter be acquired by the members thereof in their capacity, as such, by purchase, donation or otherwise, and all debts, claims and rights which they may be possessed of in such capacity, shall be and they are hereby transferred to the Corporation constituted by this Act, and the said Corporation shall be charged with all the liabilities and obligations of the said Association, and the rules, regulations and by-laws now or hereafter to be established for the management of the said Association, shall be and continue to be the rules, regulations and by-laws of the said Corporation, until altered or repealed in the manner prescribed by this Act.

Corporation to appoint Officers, &c.

IV. The members of the said Corporation, for the time being, or the majority of them, shall have power to appoint administrators or managers for the administration of the property of the Corporation, and such officers, managers, administrators or servants of the said Corporation, as may be required for the due management of the affairs thereof, and to allow to them respectively a reasonable and suitable remuneration; and all officers so appointed shall have the right to exercise such other powers and authorities for the due management and administration of the affairs of the said Corporation, as may be conferred upon them by the regulations and by-laws of the said Corporation.

Annual Report to the Legislature.

V. The said Corporation shall be bound to make annual reports to both Branches of the Legislature, containing a general statement of the affairs of the Corporation, which said reports shall be presented within the first twenty days of every Session of the Legislature.

Public Act.

VI. This Act shall be a Public Act.

## C A P . C X X X I I .

### An Act to incorporate the Lachute College.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS a number of the principal inhabitants of the Village of Lachute and others in the County of Argenteuil, have represented that in order to the well working of a certain educational and agricultural establishment commenced in the Village of Lachute, and for the greater advantage of Education

Education in the said County, it is desirable that certain persons should be incorporated under the name of the "Lachute College"; And whereas it is expedient to grant their prayer, inasmuch as such incorporation would be advantageous to the welfare and progress of Education, as well in the said localities in particular, as for the country in general: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. John Meikle, Thomas Christie, the Rev. Thomas Henry, the Rev. Walter Scott, the Rev. James Bishop, Thomas Lockie, Thomas Pollock, John McAllister, and Thomas Morrison, all of the Village of Lachute, in the County of Argenteuil, and such other persons as shall, under the provisions of this Act, succeed them in the offices, duties and obligations which they shall perform and hold under this Act, shall be and they are hereby constituted a body politic and corporate in deed and in name, by the name of the "Lachute College," and shall, by the same name, from time to time and at all times hereafter, be able and capable to enter into contracts generally, and to purchase, acquire, hold, possess, exchange, sell, accept and receive for them and their successors, to and for the uses and purposes of the said Corporation, any lands, tenements, hereditaments situate in this Province, and required for the actual use and occupation only of the said corporation, or any constituted rents in money, also in this Province, and to sell, and alienate the same, and acquire others by any title whatsoever for the same purposes; and they shall have full power and authority to make and establish such By-laws, Rules and Regulations as they shall think proper for the government of the said College, which shall not be altered or repealed otherwise than in such manner and by such number of votes as they shall have determined in making and establishing the same, at the general meetings of the Corporation, which are to be called by the Secretary-Treasurer, (hereafter to be appointed,) by order of the President or three of the Directors, and at which any seven members shall form a Quorum, and be entitled to pass Resolutions and give decisions, adopt plans and measures, and put the same into execution, in order to promote and advance Education, for which purpose they are constituted a Corporation as aforesaid: Provided always, that nothing in the aforesaid By-laws, Rules and Regulations, Decisions, Plans and Measures, shall be contrary to this Act or the laws in force in this Province.

Certain persons incorporated.

Corporate name and general powers.

May hold real property and constituted rents.

By-laws.

Quorum of Directors.

Proviso.

II. Provided always, that all the rents, revenues, issues and profits whatsoever, of the said Corporation, shall be appropriated and exclusively applied to the support of the said College, the welfare of Education, and to the construction, repairing and renting of buildings necessary for the purposes of the Corporation, and in such manner as the members of the Corporation shall judge best to attain the said purposes, which shall not be other than those of Education.

Funds to be devoted solely to education.

III.

Power to sue,  
&c.

Service of  
process.

Directors may  
appoint Attor-  
nies and  
Teachers, &c.

May enter into  
agreements  
with School  
Trustees.

Directors how  
chosen.

Term of office.

Election.

President, &c.

Quorum.

Replacing  
retiring Mem-  
bers.

Casual vacan-  
cies how  
filled.

As to re-elec-  
tion of Direct-  
ors.

III. Under the said corporate name of the "Lachute College," the said Corporation may sue and be sued in any Court of Law or Equity in this Province, and for the purposes of such suits or actions, service of process may and shall be made upon the President of the said Corporation, and not otherwise.

IV. The Directors of the said Corporation for the time being, or a majority of them, in such manner as shall be provided by their By-laws, shall have power to appoint such Attornies as Administrators of the property of the Corporation, and such persons as they shall think proper for the purposes of Education, and to grant them respectively such salary or remuneration as they shall think proper, and entrust such persons with the duty of teaching on such charges and conditions, and in such forms and under such system as they shall deem preferable: and the Directors of the Corporation may enter into an agreement with the School Trustees of their School Municipality, and the said Trustees, under this Act, may also enter into an agreement with the said members of the Corporation, so as to unite their efforts and resources in order to place the Elementary Schools in connection or in relation with the College, and thus favour Elementary Education.

V. Seven of the said members of the Corporation created under this Act, to be elected before the first of October next, shall act as Directors for the space of three years, except that after the first Election of the Board of Directors, two of them, (to be determined by lot) shall go out of office at the end of one year, and two more (to be determined in like manner) shall go out at the end of two years, and the remaining three at the end of three years—to be computed from the day on which the first meeting of the members of the Corporation shall take place, at which meeting they shall be elected, and which may be called at any time after the passing of this Act, by any three of the above named members; and the said Directors so chosen, shall, from their number, elect a President and Secretary-Treasurer; and the said Board of Directors shall always be composed of seven members, and no more, and four of whom shall form a Quorum: and the Directors shall, on retiring from office, be replaced by others, to be elected at the General Annual Meeting of the said Corporation.

VI. If one or more vacancy shall happen among the Directors, by reason of permanent absence from the District, death, or incapacity by sickness, or otherwise, they shall be replaced by the members of the Corporation called together for that purpose by order of the President, at which meeting, he may, or, in his absence, any one of the Directors may be chosen to preside.

VII. No Director shall be re-elected, except by his own consent, during three years next after his going out of office.

VIII.

VIII. The said Corporation shall, when required by either of the three branches of the Legislature, transmit a Return, shewing the amount of real or other property held by them under the provisions of this Act, and the income derived therefrom, together with a List of the Directors and officers of the said Corporation, a Copy of the By-laws, and a Statement of the course of Study pursued.

Returns may be required by the Legislature.

IX. This Act shall be deemed a Public Act.

Public Act.

C A P . C X X X I I I .

An Act to amend the Act incorporating the Order of the Sons of Temperance in Canada West.

[Assented to 1st July, 1856.]

WHEREAS the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, "to incorporate the Grand Division and Subordinate Divisions of the Order of the Sons of Temperance in Canada West," does not contain any provision whereby the members of the Corporations thereby created are rendered competent as witnesses in cases to which such Corporations may be parties, and it is desirable to supply the omission of such provision: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble. 14 & 15 V. c. 159.

I. Each and every member of the Corporation of "the Grand Division of the Order of the Sons of Temperance in Canada West," created by the Act referred to in the Preamble of this Act, or of any subordinate Division of the said Order, incorporated under the provisions of the said Act, shall be competent to be examined as a witness for or on behalf of or against any party in any suit, or proceeding either at law or in equity, to which the Corporation of which he is a member may be a party; any law, usage or custom to the contrary notwithstanding.

Members of the Corporation to be competent witnesses in suits where it is a party.

II. This Act shall be a Public Act.

Public Act.

C A P . C X X X I V .

An Act to authorize the Courts of Queen's Bench, Common Pleas, and Chancery, for Upper Canada, to admit Geoffry Hawkins to practise as an Attorney and Solicitor therein respectively.

[Assented to 1st July, 1856.]

WHEREAS it appears that Geoffry Hawkins, of the City of Toronto, Gentleman, hath been duly admitted, and now is an Attorney of Her Majesty's Courts of Common Law,

Preamble.

at Westminster, and a Solicitor in Her Majesty's High Court of Chancery in England, and that the said Geoffry Hawkins hath been in actual service, not under articles, for upwards of one year with practising Attornies in Upper Canada; And whereas the said Geoffry Hawkins hath presented his petition, praying that the Court of Queen's Bench, the Court of Common Pleas, and the Court of Chancery for Upper Canada, may be authorized in their discretion to admit him to practise as an Attorney and Solicitor therein respectively, and it is reasonable and expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said Courts may, in their discretion, admit G. Hawkins to practise.

I. It shall and may be lawful for the Court of Queen's Bench, the Court of Common Pleas, and the Court of Chancery in Upper Canada, respectively, in their discretion to admit the said Geoffry Hawkins to practise as an Attorney and Solicitor therein respectively, any Law or Statute to the contrary notwithstanding.

Public Act.

II. This Act shall be deemed a Public Act.

### C A P . C X X X V .

An Act to authorize the Courts of Queen's Bench, Chancery, and Common Pleas, in Upper Canada, to admit Benjamin Walker to practise as an Attorney and Solicitor therein respectively.

[Assented to 1st July, 1856.]

Preamble.

**W**HEREAS Benjamin Walker, of the City of Toronto, Gentleman, hath, by his petition, represented that he is duly admitted and enrolled as an Attorney of the Court of Queen's Bench, and Solicitor of the High Court of Chancery of England, and was for several years engaged in the practice of his profession in the Island of Jamaica, and has since been Her Majesty's Vice-Consul at Charleston, in the State of South Carolina, that he is now settled in Upper Canada, and intends to become a permanent resident therein, and is desirous of practising his profession, but is advised that he cannot be admitted as an Attorney and Solicitor in the Courts there without a Special Act, which he has prayed may be passed; And whereas it is expedient to grant the prayer of his petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said Courts may, in their dis-

I. It shall and may be lawful for the Court of Queen's Bench, the Court of Common Pleas, and the Court of Chancery, in Upper Canada, respectively, in their discretion to admit the said

said Benjamin Walker to practise as an Attorney and Solicitor therein respectively ; any Law or Statute to the contrary notwithstanding.

cretion, admit  
B. Walker to  
practise.

II. This Act shall be deemed a Public Act.

Public Act.

## C A P . C X X X V I .

An Act to authorize the Court of Chancery, and the Courts of Queen's Bench and Common Pleas, in Upper Canada, to admit Thomas Wright Lawford to practise as a Solicitor and Attorney.

[Assented to 1st July, 1856.]

**W**HEREAS by an Act of the Legislature of Upper Canada, passed in the second year of the Reign of His Majesty King George the Fourth, intituled, *An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's Reign, intituled, 'An Act for the better regulating the practice of the law,'* and to extend the provisions of the same, it is amongst other things enacted, That from and after the passing of the said Act, no person shall be admitted by the Court of King's Bench to practise as an Attorney unless upon an actual service under articles for five years with some practising Attorney ; And whereas it appears by the Petition of Thomas Wright Lawford of the Town of London, in the County of Middlesex in this Province, gentleman, and by certificates and documents attached thereto and produced in support thereof, that the Petitioner was duly articled to John Jackson Price, of Swansea, in the County of Glamorgan, in the United Kingdom, then a practising Attorney of Her Majesty's Courts of Exchequer, Queen's Bench and Common Pleas, as also a Solicitor in Her Majesty's High Court of Chancery in England, and studied with the said John Jackson Price, for the term of two years and a half, and was then assigned to Edward Lawford of the City of London, in England, also an Attorney of all Her Majesty's said Courts, and remained with the said Edward Lawford, for a further period of two years and a half, making in all five years ; And whereas it also appears that the Petitioner has taken the usual oaths of allegiance for admission, and was duly admitted and is now an Attorney of Her Majesty's Courts of Exchequer, Queen's Bench and Common Pleas, and also a Solicitor of the High Court of Chancery in England ; And whereas it also appears that the Petitioner came into this Province in the month of September last, and settled in the Town of London, with the intention of practising his profession ; And whereas the said Petitioner is desirous of practising in the Courts of Law and Equity in this Province, and it is expedient to relieve him from the disability imposed by the said Act : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble.

Act of U. C.,  
2 G. 4, c. 5.

Courts of Q.  
B., C. P. and  
Chancery  
may, in their  
discretion,  
admit T. W.  
Lawford to  
practise there-  
in.

I. It shall and may be lawful for the Courts of Queen's Bench and Common Pleas in Upper Canada, in their discretion, to admit the said Thomas Wright Lawford, without further servitude or oath of allegiance, to practise as an Attorney of the said Courts; and it shall also be lawful for the Court of Chancery in Upper Canada, in its discretion, to admit the said Thomas Wright Lawford to practise as a Solicitor in the said Court of Chancery, without further oath of allegiance or servitude; any law or usage to the contrary notwithstanding.

Public Act.

II. This Act shall be deemed a Public Act.

### C A P . C X X X V I I .

An Act to authorize the Courts of Queen's Bench, Common Pleas and Chancery in Upper Canada, to admit Hewitt Bernard to practise as an Attorney and Solicitor therein.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS Hewitt Bernard, of the Town of Barrie, in the County of Simcoe, in this Province, hath by his Petition set forth, that after a period of five years' service under articles of Clerkship, he hath been admitted an Attorney of Her Majesty's Supreme Court of Judicature of the Island of Jamaica, and a Solicitor of Her Majesty's High Court of Chancery for that Island; And whereas by the certificates produced by the said Hewitt Bernard it appears that the said Hewitt Bernard was admitted as such Attorney as of October Term in the year one thousand eight hundred and forty-six; And whereas the said Hewitt Bernard hath been under articles of Clerkship to a practising Attorney or Attornies of Her Majesty's Courts of Queen's Bench and Chancery of Upper Canada, since the fourteenth day of May in the year one thousand eight hundred and fifty-two, and hath served for a period of nearly four years under such articles in this Province; And whereas by a certain Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of King William the Fourth, intituled, *An Act to amend the Law for the admission of Barristers and Attornies, and to provide for the further relief of William Conway Keele*, it is enacted, that it shall be lawful for the Court of King's Bench, in its discretion, to admit any duly admitted Attorney or Solicitor of His Majesty's Courts of law or Equity in England or Ireland, or any writer to the signet or Solicitor before the Higher Courts in Scotland, to practise as an Attorney of the Court of King's Bench in this Province, upon sufficient proof being given that such Attorney, Solicitor or writer to the signet aforesaid, has served under articles of Clerkship to a practising Attorney in this Province for the space of three years; And whereas the said Hewitt Bernard is now desirous that the privilege of such admission should be extended to him, and that

Act of U. C.,  
7 W. 4, c. 15.

that he should be admitted to practise at Law as an Attorney and Solicitor in this Province; And whereas it is reasonable under the circumstances of the case that the Courts of Law and Equity in this Province should be authorized, in their discretion, to admit the said Hewitt Bernard to practise as such Attorney and Solicitor: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall and may be lawful for the Courts of Queen's Bench and Common Pleas and the High Court of Chancery of Upper Canada, in their discretion and upon sufficient proof being given that the said Hewitt Bernard has served under articles of Clerkship to a practising Attorney in this Province for the space of three years, to admit the said Hewitt Bernard as an Attorney and Solicitor of those Courts respectively; any Law or usage to the contrary notwithstanding.

The said Courts may, in their discretion, admit H. Bernard to practise therein.

II. This Act shall be deemed a Public Act.

Public Act.

## C A P . C X X X V I I I .

An Act to authorize the Court of Chancery, and the Courts of Queen's Bench and Common Pleas, in Upper Canada, to admit William Lynn Smart, to practise as an Attorney and Solicitor.

[Assented to 1st July, 1856.]

**W**HEREAS by an Act of the Legislature of Upper Canada, passed in the second year of the reign of His Majesty King George the Fourth, intituled, *An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, 'An Act for the better regulating the practice of the law,' and to extend the provisions of the same,* it is amongst other things enacted, that from and after the passing of the said Act, no person shall be admitted by the Court of King's Bench to practise as an Attorney, unless by an actual service under articles for five years with some practising Attorney; And whereas it appears by the Petition of William Lynn Smart, of the Town of Woodstock, County of Oxford, and Province of Canada, gentleman, and by certificates and documents produced in support thereof, that the Petitioner was duly articled for five years to John Edward Buller, of Lincoln's Inn Fields, in the County of Middlesex, England, in the United Kingdom, a practising Attorney of Her Majesty's Courts of Queen's Bench, Exchequer and Common Pleas, also a Solicitor in Her Majesty's High Court of Chancery in that part of the United Kingdom of Great Britain called England; And whereas it also appears that the Petitioner having passed the usual examination and taken the oaths of allegiance for admission, was duly admitted, and now is an Attorney of Her Majesty's Courts

Preamble.

Act of U. C.,  
2 G. 4, c. 5.

Courts

Courts of Queen's Bench, Exchequer, Common Pleas and Bankruptcy, and also a Solicitor of the High Court of Chancery in England, and practised as such until May, one thousand eight hundred and fifty-three, when the Petitioner left England for this Province; And whereas the said Petitioner is desirous of practising in the Courts of Law and Equity in this Province, and it is expedient to relieve him from the disability imposed by the said Act: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

The said Courts may, in their discretion, admit W. L. Smart to practise therein.

I. It shall and may be lawful for the Courts of Queen's Bench and Common Pleas in Upper Canada, in their discretion, to admit the said William Lynn Smart, without further servitude or oath of allegiance, to practise as an Attorney of the said Courts; And it shall also be lawful for the Court of Chancery in Upper Canada aforesaid, in its discretion, to admit the said William Lynn Smart, to practise as a Solicitor in the said Court of Chancery, without further servitude or oath of allegiance as aforesaid; any law or usage to the contrary notwithstanding.

Public Act. II. This Act shall be deemed a Public Act.

### C A P . C X X X I X .

#### An Act to naturalize Alfred Falkenberg.

[Assented to 1st July, 1856.]

Preamble.

WHEREAS Alfred Falkenberg, late of Gottenburg, in the Kingdom of Sweden, and now of Quebec, in this Province, merchant, hath represented by his Petition, that he has been a resident in this Province during the last three years, and that he has determined to become a permanent resident in this Province, and has prayed that he may be naturalized as a subject of Her Most Gracious Majesty; And whereas it is expedient that his prayer should be granted: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Alfred Falkenberg to be deemed a British Subject.

I. The said Alfred Falkenberg shall be deemed, adjudged and taken to be, and to have been ever since he has resided in this Province, a natural born British subject of Her Majesty and of Her Royal Predecessors, to all intents, constructions and purposes whatsoever, as if he had been born in this Province; Provided always, that in order to entitle himself to the benefit of this Act, the said Alfred Falkenberg shall take and subscribe, within three months from the date of the passing of this Act, before the Clerk of the Peace of the District of Quebec, (who is hereby authorized and directed to administer the same,) the oath of Allegiance to Her Majesty, Her Heirs and Successors, and that such oath so taken and subscribed shall be kept by the said Clerk of the Peace among the records of his office.

Proviso: to take Oath of Allegiance within a certain time.

Public Act. II. This Act shall be taken to be a Public Act.

STATUTES  
OF THE  
PROVINCE OF CANADA

PASSED IN THE  
NINETEENTH AND TWENTIETH YEARS OF THE REIGN OF HER MAJESTY  
QUEEN VICTORIA  
AND IN THE SECOND SESSION OF THE FIFTH PARLIAMENT  
OF CANADA

Begun and holden at Toronto on the Fifteenth of February, in the year of  
Our Lord One thousand Eight Hundred and Fifty-Six.

RESERVED ACT.



HIS EXCELLENCY  
SIR EDMUND WALKER HEAD, BARONET,  
GOVERNOR GENERAL.

TORONTO:  
PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,  
Law Printer to the Queen's Most Excellent Majesty.

Anno Domini, 1856.





ANNO DECIMO-NONO ET VICESIMO

VICTORIÆ REGINÆ.

CAP. CXL.

An Act to change the Constitution of the Legislative Council by rendering the same Elective.

Reserved for the signification of Her Majesty's pleasure 16th May, 1856.

The Royal Assent given by Her Majesty in Council on the 24th June, 1856 ; and Proclamation thereof made by His Excellency Sir EDMUND WALKER HEAD, Governor General, in the Canada Gazette of the 14th July, 1856.

**W**HEREAS by an Act of the Parliament of the United Kingdom passed in the seventeenth and eighteenth years of the Reign of Her Most Gracious Majesty, chaptered one hundred and eighteen "to empower the Legislature of Canada "to alter the Constitution of the Legislative Council for that "Province, and for other purposes," it is enacted, That the Legislature of this Province may change the Constitution of the Legislative Council of the said Province, and make other provisions relative to the same subject and to other subjects therein mentioned : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble.  
Imperial Act,  
17 & 18 V.  
c. 118.

I. The Legislative Council shall hereafter be composed of the present Members thereof, and of forty-eight Members to be elected, in the proportion and at the times and in the manner hereinafter provided ; and to this end, the Province shall be divided into forty-eight Electoral Divisions, twenty-four in Upper Canada and twenty-four in Lower Canada, in the manner set forth in Schedule A.

How the Legislative Council shall be constituted hereafter.

II. The present Councillors shall continue to hold their seats as heretofore, subject to the conditions contained in the Imperial Act of the third and fourth Victoria, chapter thirty-five, "to re-unite the Provinces of Upper and Lower Canada and for "the Government of Canada."

Present Councillors continued.

III. The Elective Members shall be elected for eight years.

Term of service of E. C.

IV.

Qualification  
of Elective  
Councillors.

IV. No person shall be eligible or shall sit or vote as a Legislative Councillor unless he be a British Subject by birth or naturalization, resident in Canada, of the full age of thirty years, and be legally or equitably seized as of freehold, for his own use and benefit, of lands or tenements held in free and common soccage, or seized or possessed, for his own use and benefit, of lands or tenements held in fief, *franc-aleu* or *roture*, in this Province, of the value of two thousand pounds currency over and above all debts, charges and dues, nor unless his residence or his lands or tenements as aforesaid to the value aforesaid be within the limits of the Electoral Division for which he shall seek to be, or shall have been, elected.

Disqualifica-  
tion in certain  
cases.

V. No person shall be elected a Legislative Councillor who is a public defaulter, or shall have been convicted of felony, or of any infamous crime.

Members of  
the other  
House.

VI. No Member of one House shall be elected a member of the other.

Forfeiture of  
Seat of Elec-  
tive Council-  
lors in certain  
cases.

VII. The seat of an Elective Legislative Councillor shall be forfeited in any of the following cases: if he be a public defaulter, or become a Bankrupt, or insolvent, or take the benefit of any law whatsoever in relation to insolvent debtors, or be convicted of felony or of any infamous crime, or shall cease to hold a property qualification required by the fourth clause.

Writs for the  
first Election.

VIII. Upon or before the first day of September next following the day on which this Act shall receive the Royal Assent, the Governor shall issue Writs for the election of twelve Legislative Councillors to represent the twelve Electoral Divisions first entitled to return Members to the Legislative Council as hereinafter provided; and the said Writs shall be transmitted to the Returning Officers by the Clerk of the Crown in Chancery, and be returnable on the first Tuesday of November following: and in every second year thereafter Writs for the periodical elections shall be issued on or before the first day of September, and returnable the first Tuesday of November.

And for sub-  
sequent peri-  
odical Elections:

Form of Writs.

IX. The Writs of Election shall be in the form of Schedule B.

Governor to  
appoint Re-  
turning Offi-  
cers.

X. The Governor shall appoint the Returning Officers for the Electoral Divisions, from among those persons who might by law be Returning Officers at Elections of Members of the Legislative Assembly for places within the limits of such Divisions.

Place of Elec-  
tion.

XI. The Returning Officer for any Electoral Divisions shall fix a place as nearly as may be in the centre of such Division, for the nomination of Candidates and the proclamation of the Candidate elected.

XII. The electors of Legislative Councillors shall, as regards their qualification, be the same as those of Members of the Legislative Assembly, and shall vote at the places at which they ordinarily vote at the election of the latter : The boundaries and extent of the Electoral Divisions are defined by Schedule A.

Electors : qualification, &c., place of voting.  
Boundaries of Divisions.

XIII. The laws relating to the election of Members of the Legislative Assembly, as regards the qualification of Electors,—the issue and return of Writs of Election,—Returning Officers,—the powers and duties of Returning Officers and of Deputy Returning Officers, and of Election and Poll Clerks,—the prevention or punishment of offences committed at elections or with respect to elections,—to controverted elections,—and to all matters connected with or incidental to elections,—shall, except where such laws may be inconsistent with this Act, apply in analogous cases to elections of Legislative Councillors.

Present Election Laws to apply in like manner as they do to the Legislative Assembly.

XIV. Every candidate for election to the Legislative Council shall, if thereunto required by another candidate, or by an elector, or by the Returning Officer, make in person a written declaration in the form of Schedule C ; and the provisions of the election laws which prior to the passing of this Act related to the declaration of qualification of candidates for election to the Legislative Assembly, shall, with the exception of the amount of property qualification, apply in a precisely similar manner to the declaration of qualification of the candidate for election to the Legislative Council.

Candidates, if required, to make a declaration of property qualification.

XV. The period for which the Legislative Councillors shall serve shall commence on the day of the return of the Writs, and shall end upon the day next preceding the return day of the Writs for the election of their successors.

Period of service of Councillors, how reckoned.

XVI. Every Legislative Councillor shall, before taking his seat, take the oath in the Schedule D. before the Clerk of the said Council.

Oath of office.

XVII. The order in which the Electoral Divisions shall be entitled to return Members to the Legislative Council shall be determined by lot, as soon as possible after the commencement of this Act, in the manner provided in the Schedule E, and shall forthwith be made known by Proclamation.

Determination by lot of the order in which the several Electoral Divisions shall become entitled to representatives.

XVIII. For the purpose of such determination by lot, the electoral divisions shall be united in groups of four each, as in Schedule F.

Proclamation. Divisions to be formed into groups.

XIX. Periodical Elections of Legislative Councillors to represent the several electoral divisions shall take place in the order determined by lot and made known by Proclamation as aforesaid ;

Periodical Elections of Councillors.

aforesaid ; the twelve Electoral Divisions named in the List of the "First Drawing" being those first entitled to return Members to the said Council, those named in the List of the "Second Drawing" being those next entitled to return Members to the said Council, and so on.

Elective Councillors may resign, &c.

XX. An Elective Councillor may resign his seat in the same manner and under the same circumstances as a member of the Legislative Assembly ; and he may hold his seat until the day next preceding that of the return of the Writ of Election of his successor. In case of his resigning or going out at the expiration of the period for which he is elected, he may be re-elected subject to the conditions contained in this Act.

May be re-elected.

To be subject to Laws for securing Independence of Legislative Assembly.

XXI. Elective Legislative Councillors shall, under the same circumstances as Members of the Legislative Assembly, be subject to the laws for securing the independence of the Legislative Assembly of this Province.

Appointment as Speaker not to vacate.

XXII. The acceptance by a Councillor of the Office of the Speaker of the Legislative Council shall not, however, vacate his seat.

Power of Speaker, &c. in case of vacancy.

XXIII. In cases of accidental vacancy provided for by Sections twenty and twenty-one the Speaker of the Legislative Council, the Legislative Council and the several Members thereof, shall have the same powers and duties as the Speaker of the Legislative Assembly, the Legislative Assembly and the several Members thereof ; and the Writs shall be made returnable within fifty days at furthest from the issue thereof.

As to vacancies a short time before periodical vacancy of same seat.

XXIV. An accidental vacancy of the seat for any Electoral Division happening within the three months next before the regular periodical vacancy of such seat, shall not be filled until the time appointed for filling such periodical vacancy.

Period of service of Councillors elected to fill accidental vacancies.

XXV. In case of any accidental vacancy of the seat for any electoral division, not provided for by the next preceding section, the period of service of the Councillor elected to fill such vacancy shall be that at which his predecessor would regularly have gone out.

Appointment of Speaker.

XXVI. The Speaker of the Legislative Council shall, as heretofore, be appointed by the Governor, and shall be selected from amongst the Members of the said Council.

Present Speaker to remain till replaced.

XXVII. The Councillor who shall be Speaker at the time of the passing of this Act shall continue to be so until he be replaced by another.

New Assembly to make new Parliament.

XXVIII. Each General Election of Members of the Legislative Assembly shall make a new Parliament, as heretofore.

# LOWER CANADA.

## SCHEDULE A.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Gulf .....	The Counties of Gaspé, Bonaventure and Rimouski.
Grandville .....	The Counties of Temiscouata and Kamouraska, the Parishes of St. Roch des Aulnets and St. Jean Port Joli, and the prolongation thereof in a straight line to the Province Line in the County of L'Islet.
De la Durantaye....	The remainder of the County of L'Islet, the Counties of Montmagny and Bellechasse and the Parishes of St. Joseph, St. Henri and Notre Dame de la Victoire, in the County of Lévi.
Lauzon .....	The remainder of the County of Lévi, the Counties of Dorchester and Beauce.
Kennebec .....	The Counties of Lotbinière, Megantic and Arthabaska.
De la Vallière .....	The Counties of Nicolet and Yamaska, the Townships of Wendover, Grantham, and that part of Upton which lies in the County of Drummond.
Wellington .....	The remainder of the County of Drummond, the County of Richmond, the Town of Sherbrooke, the Counties of Wolfe, Compton and Stanstead.
Saurel .....	The Counties of Richelieu and Bagot, the Parishes of St. Denis, La Présentation, St. Barnabé, and St. Jude, in the County of St. Hyacinth.
Bedford.....	The Counties of Missisquoi, Brome and Shefford.
Rougemont .....	The remainder of the County of St. Hyacinth, the Counties of Rouville and Iberville.
Montarville.....	The Counties of Verchères, Chambly and Laprairie.
De Lorimier. ....	The Counties of St. John's and Napierville ; St. Jean Chrysostôme and Russeltown in the County of Chateauguay ; Hemmingford in the County of Huntingdon.
The Laurentides....	The Counties of Chicoutimi, Charlevoix, Saguenay and Montmorency, the Seigniori of Beauport, the Parish of Charlesbourg, the Townships of Stoneham and Tewkesbury, in the County of Quebec.

Names of Electoral Divisions.	Limits of Electoral Divisions.
La Salle .....	The remainder of the County of Quebec, the County of Portneuf, and all that part of the <i>Banlieue</i> of Quebec which lies within the Parish of <i>Notre Dame de Quebec</i> .
Stadacona.....	The remainder of the City and <i>Banlieue</i> of Quebec.
Shawinegan .....	The Counties of Champlain and St. Maurice, the Town of Three Rivers, the Parishes of <i>River du Loup</i> , St. Léon, St. Paulin, and the Township of Hunterstown and its augmentation, in the County of Maskinongé.
De Lanaudière.....	The remainder of the County of Maskinongé, the Counties of Berthier and Joliette, with the exception of the Parish of St. Paul, the Township of Kildare and its augmentation, and the Township of Cathcart.
Repentigny.....	The Parish of St. Paul, the Township of Kildare and its augmentation, and the Township of Cathcart, in the County of Joliette, the Counties of L'Assomption and Montcalm.
Mille Isles.....	The Counties of Terrebonne and Two Mountains.
Inkerman .....	The Counties of Argenteuil, Ottawa and Pontiac.
Alma .....	The Parishes of Long Point, <i>Pointe aux Trembles</i> , <i>River des Prairies</i> , <i>Sault aux Récollets</i> , in the County of Hochelaga, and that part of the Parish of Montreal which lies to the East of the prolongation of St. Denis Street; the County of Laval, that part of the City of Montreal which lies to the East of Bonsecours and St. Denis Streets, and their prolongation.
Victoria.....	The remainder of the City of Montreal exclusive of the Parish.
Rigaud .....	The remainder of the Parish of Montreal, and the Counties of Jacques Cartier, Vaudreuil and Soulanges.
De Salaberry .....	The remainder of the County of Chateauguay, the remainder of the County of Huntingdon, and the County of Beauharnois.

## UPPER CANADA.

Names of Electoral Divisions	Limits of Electoral Divisions.
Western .....	The Counties of Essex and Kent.
St. Clair .....	The County of Lambton and the West Riding of Middlesex.
Malahide .....	The East and West Ridings of Elgin, the East Riding of Middlesex and the City of London.
Tecumseth .....	The Counties of Huron and Perth.
Saugeen .....	The Counties of Bruce and Grey and the North Riding of Simcoe.
Brock .....	The North and South Ridings of Wellington and the North Riding of Waterloo.
Gore .....	The South Riding of Waterloo and the North Riding of Oxford.
Thames .....	The South Riding of Oxford and the County of Norfolk.
Erie .....	The East and West Ridings of Brant and the County of Haldimand.
Niagara .....	The Counties of Lincoln and Welland and the Town of Niagara.
Burlington .....	The North and South Ridings of Wentworth and the City of Hamilton.
Home .....	The Counties of Halton and Peel.
Midland .....	The North Riding of York and the South Riding of Simcoe.
York .....	The City of Toronto and the Township of York.
King's .....	The East and West Ridings of York (except the Township of York) and the South Riding of Ontario.
Queen's .....	The North Riding of Ontario, the County of Victoria and the West Riding of Durham.
Newcastle .....	The East Riding of Durham and the East and West Ridings of Northumberland.
Trent .....	The County of Peterborough, the North Riding of Hastings and the County of Lennox.

## UPPER CANADA.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Quinté .....	The South Riding of Hastings and the County of Prince Edward.
Cataraque .....	The Counties of Addington and Frontenac, and the City of Kingston.
Bathurst .....	The South Riding of Leeds and the North and South Ridings of Lanark.
Rideau .....	The Counties of Renfrew and Carleton and the City of Ottawa.
St. Lawrence .....	The Town of Brockville and Township of Elizabethtown, the South Riding of Grenville, the North Riding of Leeds and Grenville and the County of Dundas.
Eastern .....	The Counties of Stormont, Prescott, Russell, Glengarry and the Town and Township of Cornwall.

## SCHEDULE B.

## PROVINCE OF CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Returning Officer of

Greeting :

WHEREAS

We therefore command you, firmly enjoining that having first made Proclamation in the said Electoral Division of \_\_\_\_\_, immediately after the receipt of this our Writ, and thereby notified (giving not less than eight days' notice thereof) a day and place for electing a Legislative Councillor to serve for the said Electoral Division of \_\_\_\_\_, in our Legislative Council, you cause on the said day and place a Legislative Councillor, the most fit and discreet, to be freely and indifferently chosen to represent the said Electoral Division of \_\_\_\_\_, in our Legislative Council, by those who shall be present at the day of election to be fixed by such Proclamation as aforesaid, and the name of such Legislative Councillor so chosen, in certain Indentures between you and those who shall be present at such election (whether the person

person so chosen shall be present or absent) you cause to be inserted, and cause the said person so chosen as aforesaid to come to the said Legislative Council, so that the said Legislative Councillor have full and sufficient power for himself and the commonalty of the said Electoral Division of \_\_\_\_\_, severally from them to do and consent to those things which then and there by the favor of God shall happen to be ordained by the Common Council of our said Province, upon the said affairs, so that for default of such powers or through improvident election of such Legislative Councillor, the said affairs remain not undone in any wise.

And we will not that any minister of the Churches of England or Scotland, or a Minister, Priest, Ecclesiastic or Teacher, either according to the rites of the Church of Rome or under any other form or profession of religious faith or worship, by any means be chosen. And that you certify forthwith unto Us, into our Chancery at the City of \_\_\_\_\_, the said election so made, distinctly and openly, under your seal and the seals of those who shall be present at such election, sending unto Us one part of the said Indentures annexed to these presents, together with this Our Writ.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province of Canada to be hereunto affixed.

Witness,

At Our Government House, at the City of \_\_\_\_\_ in Our said Province of Canada, the day of \_\_\_\_\_ in the year of Our Lord One Thousand Eight Hundred and \_\_\_\_\_ and in the year of Our Reign.

By Command,

A. B.,

Clerk of the Crown in Chancery.

### SCHEDULE C.

#### DECLARATION OF QUALIFICATION.

I, A. B., declare and testify that I am of the full age of thirty years, that I am a British subject, and that I am a resident in (*here insert name of Electoral Division in which Candidate resides*), that I am duly seized at law (*or in equity*) as of freehold for my own use and benefit, of the following lands (*or tenements*) held in free and common socage, (*or duly seized and possessed for my own use and* benefit

benefit of lands) (or tenements) held *en fief* or *en roture* or *en franc-aleu* (as the case may be) that is to say, of (here insert a correct and clear description of the lands or tenements forming the property qualification of the candidate and of their local situation,) which said lands (or tenements) I declare to be of the full value of two thousand pounds currency, over and above all rents, mortgages, charges and incumbrances charged upon or due or payable out of or affecting the same: and I further declare that I have not collusively or colourably obtained a title to or become possessed of the said lands (or tenements) or any part thereof, for the purpose of qualifying or enabling me to be returned as a Member of the Legislative Council of this Province.

#### SCHEDULE D.

##### OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear that I will be faithful and bear true Allegiance to Her Majesty Queen *Victoria*, as lawful Sovereign of the United Kingdom of *Great Britain* and *Ireland*, and of this Province of *Canada* dependent on and belonging to the said United Kingdom; and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatever, which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary:—So help me God.

#### SCHEDULE E.

##### DRAWING BY LOT.

1. The Speaker of the Legislative Council shall cause to be placed before the Governor in Council twelve boxes marked respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.

2. The names of the forty-eight Electoral Divisions shall be plainly written separately, upon a like number of pieces of paper of the same shape and size.

3. The Clerk of the Legislative Council shall place these papers in the boxes, one by one, having first shewn them and then folded them so as to conceal the writing.

4. He shall place in each box the names of the Electoral Divisions which form the group in Schedule F, corresponding in number to such box.

5. Having shaken the boxes, he shall four several times withdraw one piece of paper from each box in succession, unfold each piece of paper in turn as it is withdrawn, exhibit it, and declare aloud and write down on a list the name written thereon.

6. Four lists of names of Electoral Divisions shall in this way be made by the Clerk of the Legislative Council, on four separate pieces of paper previously headed respectively "First Drawing" "Second Drawing" "Third Drawing" and "Fourth Drawing" in each of which lists there will be twelve names.

7. These lists shall be then and there authenticated by the signatures of the Executive Councillors present and the counter-signature of the Clerk of the Legislative Council, and shall remain of record in the office of the Executive Council.

8. The result of the drawing shall be embodied in a Minute of Council and communicated without delay to the Governor.

## SCHEDULE F.

### GROUPS OF ELECTORAL DIVISIONS.

#### LOWER CANADA.

##### GROUP 1.

Gulf, Grandville, De la Durantaye and Lauzon.

##### GROUP 2.

The Laurentides, La Salle, Stadacona and Shawinegan.

##### GROUP 3.

Kennebec, De la Vallière, Wellington and Saurel.

##### GROUP 4.

De Lanaudière, Repentigny, Mille-Isles and Inkerman.

##### GROUP 5.

Bedford, Rougemont, Montarville and De Lorimier.

##### GROUP 6.

Alma, Victoria, Rigaud and De Salaberry.

## UPPER CANADA.

## GROUP 7.

Western, St. Clair, Malahide and Tecumseth.

## GROUP 8.

Saugeen, Brock, Gore and Thames.

## GROUP 9.

Erie, Niagara, Burlington and Home.

## GROUP 10.

Midland, York, King's and Queen's.

## GROUP 11.

Newcastle, Trent, Quinté and Cataraque.

## GROUP 12.

Bathurst, St. Lawrence, Rideau and Eastern.

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TORONTO:—PRINTED BY S. DERBISHIRE & G. DESBARATS,  
Law Printer to the Queen's Most Excellent Majesty.

# STATUTE

OF THE

# PROVINCE OF CANADA,

PASSED IN THE

NINETEENTH AND TWENTIETH YEARS OF THE REIGN OF HER MAJESTY

QUEEN VICTORIA,

AND IN THE SECOND SESSION OF THE FIFTH PARLIAMENT  
OF CANADA.

Begun and holden at Toronto on the Fifteenth day of February, in the  
year of Our Lord One Thousand Eight Hundred and Fifty-Six.

RESERVED ACT.



HIS EXCELLENCY

SIR EDMUND WALKER HEAD, BARONET,  
GOVERNOR GENERAL.

TORONTO:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,  
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1856.





ANNO DECIMO-NONO ET VICESIMO

# VICTORIÆ REGINÆ.

C A P. C X L I.

## An Act to enable the Members of the United Church of England and Ireland in Canada to meet in Synod.

Reserved for the signification of Her Majesty's pleasure, 19th June, 1856.

The Royal Assent given by Her Majesty in Council on the 6th May, 1857; and Proclamation thereof made by His Excellency Sir EDMUND WALKER HEAD, Baronet, Governor General, in the Canada Gazette of the 28th May, 1857.

**W**HEREAS doubts exist whether the members of the United Church of England and Ireland in this Province have the power of regulating the affairs of their Church, in matters relating to discipline, and necessary to order and good government, and it is just that such doubts should be removed, in order that they may be permitted to exercise the same rights of self-government that are enjoyed by other religious communities: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

I. The Bishops, Clergy and Laity, members of the United Church of England and Ireland in this Province, may meet in their several Dioceses, which are now, or may be hereafter constituted in this Province, and in such manner and by such proceedings as they shall adopt, frame constitutions and make regulations for enforcing discipline in the Church, for the appointment, deposition, deprivation, or removal of any person bearing office therein, of whatever order or degree, any rights of the Crown to the contrary notwithstanding, and for the convenient and orderly management of the property, affairs and interests of the Church in matters relating to and affecting only the said Church, and the officers and members thereof, and not in any manner interfering with the rights, privileges or interests of other religious communities, or of any person or persons not being a member or members of the said United Church of

Bishops, Clergy and Laity of the Church of England in each Diocese may meet and frame constitutions and regulations for the government of the said Church in such Diocese.

England

Proviso.

England and Ireland; Provided always that such constitutions and regulations shall apply only to the Diocese or Dioceses adopting the same.

They may meet in general assembly by their representatives from each Diocese, and frame a constitution and regulations for the said Church in this Province.

Proviso: they shall impose no tax.

Proviso.

II. The Bishops, Clergy and Laity, members of the United Church of England and Ireland in this Province, may meet in general Assembly within this Province, by such Representatives as shall be determined and declared by them in their several Dioceses; and in such general Assembly frame a Constitution and regulations for the general management and good government of the said Church in this Province; Provided always, that nothing in this Act contained shall authorize the imposition of any rate or tax upon any person or persons whomsoever, whether belonging to the said Church or not, or the infliction of any punishment, fine or penalty upon any person, other than his suspension or removal from an office in the said Church, or exclusion from the meetings or proceedings of the Diocesan or General Synods; And provided also, nothing in the said constitutions or regulations, or any of them, shall be contrary to any Law or Statute now or hereafter in force in this Province.

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Law Printer to the Queen's Most Excellent Majesty.

SECOND SESSION, FIFTH PARLIAMENT.

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