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ACTS  
OF  
The General Assembly  
OF  
NEWFOUNDLAND;

**Passed in the 27th Year of the Reign of Her Majesty  
Queen Victoria.**



J. C. Withers, Queen's Printer.

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1864.

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ANNO VICESIMO-SEPTIMO

# VICTORIÆ REGINÆ.

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## CAP. I.

*An Act for Granting to Her Majesty certain Duties on Goods, Wares and Merchandize, imported into this Colony and its Dependencies.*

[Passed 13th April, 1864.]

MAY IT PLEASE YOUR MAJESTY :

**WE**, Your Majesty's most dutiful and loyal Subjects, the Commons of Newfoundland, in General Assembly convened, towards raising the necessary Revenue to defray your Majesty's Public Expenses in this Colony, have freely and voluntarily resolved to give and grant unto Your Majesty the Duties hereinafter mentioned ; and do therefore beseech Your Majesty that it may be enacted : Preamble.

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows :

I.—From and after the passing of this Act, and during the continuance thereof, there shall be raised, levied, collected, and paid, unto Your Majesty, Your Heirs and Successors, upon all Goods, Wares and Merchandize, imported, brought, or in any way Duties imposed,



coming into this Island or any of its Dependencies, the several and respective Duties inserted, described and set forth in Figures in the Table of Duties hereinafter contained, denominated "Table of Duties," opposite to and against the respective Articles in the said Table mentioned, described and enumerated, and according to the value, number or quantity of such articles therein specified, as follows :

## No. 1.

## TABLE OF DUTIES.

	£	s.	d.
Ale, Porter, Cider, and Perry, viz :			
Table of Duties. In Bottles the dozen of 2 gallons..	0	1	0
In Casks . . . . . the gallon..	0	0	4
Bacon, Hams, Smoked Beef and Sausages the cwt. . . . .	0	8	3
Beef, salted and cured, the bbl of 200 lbs and 10 per cent. thereon.	0	2	0
Biscuit or Bread . . . . . the cwt..	0	0	3
and 10 per cent. thereon.			
Butter . . . . . the cwt..	0	3	0
and 10 per cent. thereon.			
Cheese . . . . . the cwt..	0	5	6
Chocolate and Cocoa . . . . . the lb..	0	0	1
and 10 per cent. thereon.			
Cigars . . . . . the M..	0	11	0
Coffee . . . . . the lb..	0	0	1
and 10 per cent. thereon.			
Coals—other than such as come under the Provisions of the Reciprocity Treaty	the ton	0	1 0
Feathers and Feather Beds the lb..	0	0	1
and 10 per cent. thereon.			
Flour . . . . . the bbl..	0	1	6
and 10 per cent. thereon.			
Fruit, dried . . . . . the lb..	0	0	1½
" other descriptions the £100..	11	0	0

**Table of Duties (Continued.)**

		£	s.	d.	
Confectionary	the cwt..	0	13	9	
Packages in which Dry Goods are imported, 11 per cent. ad valorem					Table of Duties.
Molasses	the gallon..	0	0	2½	
Oatmeal and Indian Meal	the bbl..	0	0	6	}
and 10 per cent. thereon.					
Pork	the bbl. of 200 lbs..	0	3	0	}
and 10 per cent. thereon.					
Salt	the ton..	0	0	6	
Shooks and Staves, manufactured or dressed	the £100..	11	0	0	

**Spirits, viz:**

Brandy, Gin, Whiskey, or other Spirits not herein defined or enumerated, and not exceeding the strength of proof by Sykes's Hydrometer, and so in proportion for any greater strength than the strength of proof, } the gallon 0 5 0

All Spirits of greater strength than forty-three over proof shall be deemed to be Undefined Spirits and subject to duty accordingly.

Cordials, Shrub and other Spirits, being sweetened or mixed so that the degree of strength cannot be ascertained as aforesaid, } the gallon 0 3 0

Rum, not exceeding the strength of proof by Sykes's Hydrometer, and so in proportion for any greater strength than the strength of proof, } the gallon 0 2 6

**Table of Duties (Continued.)**

		£	s.	d.	
	Sugar, viz., Loaf and Refined	the cwt..	0	12	0
		and 10 per cent. thereon.			
	“ Unrefined	the cwt..	0	8	3
Table of Duties.	“ Bastard	“ ..	0	10	0
	Souchong, Congou and Bohea Tea	the lb	0	0	4
	All other Tea	“	0	0	5
	Tobacco, Manufactured and Leaf	“	0	0	3
		and 10 per cent. thereon.			
	Tobacco Stems	the cwt..	0	2	0
		and 10 per cent. thereon.			
	Vinegar	the gallon..	0	0	3
		and 10 per cent. thereon.			
	<b>Wines, viz :</b>				
	Wines of all kinds, in bottles, (except Claret)	the gallon..	0	6	0
	Port, Madeira, Hock, Burgundy, in wood or other vessels, not being bottles	the gallon	0	5	0
	Sherry, 12½ per cent. <i>ad valorem</i> , and the gallon		0	3	0
	Claret, in wood or bottles	the gallon..	0	2	6
		and 12½ per cent. <i>ad valorem</i>			
	All other Wines	the gallon..	0	2	6
		and 12½ per cent. <i>ad valorem</i>			
	Anchors	} the £100	5	10	0
	Barley and Oats				
	Canvas				
	Cordage and Cables				
	Copper and Composition				
	Metal for Ships, viz :				
	Sheathing, Bar, Bolt, and Nails				
	Corks and Corkwood				
	Fishing Tackle, Indian Corn				
	Iron, viz : Bar, Bolt, Sheathing and Sheet, Wrought				
	Nails				

	£	s.	d.		
Medicines	} the	£100	5 10	0	Table of Duties.
Oakum					
Pease					
Pitch, Tar, Turpentine and Rosin					
Poultry and Fresh Meat	} the	£100	11	0	0
Goods, Wares and Merchandise, not otherwise enumerated, described or charged with duty in this Act, and not otherwise exempt					
Fish, salted, dried or pickled, for every cwt. imported			0	5	6

**Local Distillation.**

Rum, not exceeding the strength of proof by Sykes's Hydrometer, and so in proportion for any greater strength than the strength of proof,	} the	gallon..	0	1	8
Brandy, Gin, or other Spirits, not herein defined or enumerated, not exceeding the strength of proof by Sykes's Hydrometer, and so in proportion for any greater strength than the strength of proof,					
			0	2	6

II.—All Articles in the following Table shall be exempt from any duty, viz :—

**No. 2.**

**TABLE OF EXEMPTIONS.**

Printing Presses, Printing Paper, (Royal and Demy)	} Exemptions
Types, and all other Printing Materials	
Printed Books, Pamphlets, Maps and Charts	

**Table of Exemptions (Continued.)**

Exemptions.	<p>Coin and Bullion</p> <p>Hemp, Flax, Tow</p> <p>Plants, Trees and Shrubs</p> <p>Specimens illustrative of Natural History</p> <p>Works of Art, viz :—Engravings, Paintings, Statuary and all other Articles imported for Religious purposes and not intended for sale.</p> <p>Manures of all kinds</p> <p>Arms, Clothing, and Provisions for Her Majesty's Land and Sea Forces</p> <p>Passengers' Baggage, Household Furniture, and Working Tools and Implements used and in the use of Persons arriving in this Island</p> <p>Refuse of Rice</p> <p>Seeds for Agricultural purposes</p> <p>Vegetables of all sorts</p> <p>Animals of all kinds</p> <p>Articles of every description imported for the use of the Governor</p> <p>Donations of Clothing specially imported for distribution gratuitously by any Charitable Society</p> <p>Cotton Yarn</p> <p>Pig Iron</p> <p>Coke</p> <p>Sulphuric Acid, when used for the Manufacture of Manure</p> <p>Materials for Sheathing the bottoms of Vessels, such as Zinc, Copper and Metal, together with Nails, Paper or Felt, which may be used under the same, shall be free and exempt from duty, when imported in the Vessel on which they are intended to be used, and entered as Ship's Stores ; such Sheathing and Materials to be so used before the Ship again leaves Port, or the same to be entered for duty in the ordinary way.</p>
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Exemptions  
under Treaty.

III.—The following Articles, being the growth and produce of the United States of America, mentioned and enumerated in the Schedule to an Act

made and passed in the Legislature, entitled "An Act to give effect, on the part of the Island of Newfoundland, to a certain Treaty between Her Majesty and the United States of America," shall be admitted Free of Duty, viz :—

**No. 3.**

*TABLE OF EXEMPTIONS UNDER THE  
TREATY WITH THE UNITED STATES.*

Grain, Flour and Breadstuffs, of all kinds	Exemptions under Treaty
Animals of all kinds	
Fresh, smoked, and salted Meats	
Cotton Wool, Seeds and Vegetables	
Undried Fruits, Dried Fruits	
Fish of all kinds	
Products of Fish, and all other creatures living in the water	
Poultry, Eggs	
Hides, Furs, Skins or Tails—undressed	
Stone or Marble, in its crude or unwrought state	
Slate	
Butter, Cheese, Tallow, Lard	
Horns, Manures	
Ores of Metals of all kinds	
Coals	
Pitch, Tar, Turpentine	
Ashes	
Timber and Lumber of all kinds, round, hewed and sawed—unmanufactured in whole or in part	
Firewood, Plants, Shrubs and Trees	
Pelts, Wool	
Fish Oil	
Rice, Broom Corn and Bark	
Gypsum—ground or unground	
Hewn or wrought or unwrought Burr or Grindstones	
Dye Stuffs	
Flax, Hemp, Tow—unmanufactured	
Unmanufactured Tobacco	
Rags	

—So long as the said Treaty between Great Britain and the United States of America, in the said recited Act mentioned, shall remain in force in this Island.

And similar Articles, (except Coals) being the growth, produce and manufacture of the United Kingdom, British North American Provinces, or of the Island of Prince Edward, or the Channel Islands, shall be admitted Duty Free, notwithstanding any law to the contrary.

Biscuit, the produce of the United Kingdom, the Channel Islands and the North American Provinces, imported direct from these places, shall be admitted Duty Free, notwithstanding any law to the contrary.

Foreign Fish  
not to be Ware-  
housed without  
payment of  
Duty.

IV.—It shall not be lawful for any Importer of Fish, salted, dried, or pickled, not exempted from duty by any of the provisions of this Act, to Warehouse the same in any of the Ports of this Colony or its Dependencies, without the payment of the Duty hereinbefore imposed; and the provisions of any Act of this Colony with regard to the Warehousing of Goods on the first Entry thereof, or to the allowance of Drawbacks upon Exportation, shall not in either case apply, or be construed to apply, to such Fish.

Duties on Li-  
quors distilled  
in this Island.

V.—From and after the passing of this Act, the Duty to be levied, paid and collected, on Spirituous Liquors manufactured, extracted or distilled in this Island, shall be at the rate mentioned in the Table of Duties in this Act for Local Distillation.

Duties to be col-  
lected in Sterling  
Money.

VI.—All Sums of Money payable under this Act, as Duties, Penalties, or Forfeitures, shall be deemed, and are hereby declared to be in Sterling Money of Great Britain, and shall be received, taken, and paid in such British Sterling Money; and all such Duties shall be paid and received according to Imperial Weights and Measures by law established in this Colony; and in all cases where such Duties are im-

posed according to any specific quantity or value, the same shall apply in like proportion to any greater or less quantity or value.—Provided, from and after the time when an Act passed in the last session of the Legislature, entitled “An Act for the Regulation of the Currency,” shall come into operation, the Duties and Monies unpaid and payable by this Act shall be collected in Dollars and Cents; and whenever any amount of duty payable thereunder, on the importation of any article, shall give or have the fraction of a Cent, a whole Cent shall be payable by the Importer in lieu of such fraction; And whenever a Sum of Money payable under this Act shall give or have a fraction of a Cent, a whole Cent in lieu of such fraction shall be paid to the party receiving such Money.

VII.—All Yachts sailing under Warrant of the Lords of the Admiralty, or belonging to the Royal Yacht Club, shall be exempted, on view of the said Warrant, from payment of all Local Duties whatsoever.

Yachts exempt.

VIII.—The several Duties imposed, and in the said Table of Duties mentioned in this Act, shall be paid by the Importer or Importers of such Articles respectively, and shall be collected and secured by means of and under the regulations and penalties, and in the way and manner provided by this Act, and by any other Act or Acts of the General Assembly of this Island for collecting the Revenue of this Island and its Dependencies.

Importers to pay Duties.

IX.—There shall be allowed and paid annually to the following Officers of Her Majesty’s Customs in this Colony, hereinafter mentioned, to defray all expenses of remuneration for the collection of the Colonial Revenue, and charges incidental thereto, the sums set opposite the names of the said Officers, for the period during which this Act shall be in operation, viz:

Salaries to Officers.



Salaries to Officers.

The Assistant Collector at St. John's, Three Hundred Pounds.

The Landing and Tide Surveyor, Two Hundred and Fifty Pounds.

Two Landing Waiters at St. John's, each Two Hundred Pounds.

First Clerk and Warehouse Keeper at St. John's, Two Hundred Pounds.

Second Clerk at St. John's, One Hundred and Fifty Pounds.

Third Clerk at St. John's, One Hundred and Fifty Pounds.

Fourth Clerk at St. John's, One Hundred and Fifty Pounds.

Assistant Clerk at St. John's, Fifty Pounds.

One Locker at St. John's, Thirty Pounds, and Three Shillings per day when employed.

The Collector at Labrador, One Hundred Pounds, and  $2\frac{1}{2}$  per cent. on all Duties collected.

The Sub-Collector at Lamaline, One Hundred Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Fogo, One Hundred and Twenty Five Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at LaPoile, One Hundred and Thirty Five Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Greenspond, One Hundred and Twenty Five Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Gaultois, One Hundred Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Trinity, One Hundred and Fifty Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Harbor Grace, One Hundred and Sixty Pounds, and two and a half per cent. on all duties collected. Provided that the amount of the said salary shall be equal to but not more than Two Hundred and Fifty Six Pounds.

Salaries to Officers.

The Tide Waiter and Clerk at Harbor Grace, One Hundred and Twenty Five Pounds.

The Sub-Collector at Carbonear, One Hundred and Twenty Five Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Brigus, One Hundred Pounds and two and a half per cent. on all duties collected.

The Sub-Collector at Burin, One Hundred Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Harbor Britain, One Hundred Pounds, and two and a half per cent. on all duties collected.

The Sub-Collector at Twillingate, One Hundred Pounds, and two and a half per cent. on all duties collected.

The Preventive Officer at Great Placentia, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Bay Bulls, Fifty Pounds.

The Preventive Officer at Ferryland, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at St. Mary's, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Little Placentia, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at La Manche, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Bay Roberts, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at St. Lawrence, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Bellorem, Fifty Pounds, and ten per cent. on all duties collected.

**Salaries to Officers.** The Preventive Officer at Pussthrough, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Burgeo, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Bay-de-North, Fifty Pounds, and ten per cent. on all duties collected.

The Preventive Officer at Channel, Fifty Pounds, and ten per cent. on all duties collected.

**Tide Waiters**

To defray the expenses of Tide Waiters and Preventive Boats and Crews at St. John's, and Tide Waiters at the Out Ports, a sum not exceeding Seventeen Hundred and Forty Pounds.

**Night Boat.**

To defray the expenses of the Night Boat and Crew at St. John's, Three Hundred Pounds.

**Printed Forms and Postages.**

Stationery, Printed Forms, Postages, and other incidental expenses, One Hundred and Fifty Pounds.

**Keeper of Custom House.**

The Keeper of the Custom House at St. John's, Forty Pounds.

**This Act not to affect recited Act**

X.—Nothing in this Act contained shall in any way affect any matter or thing contained in the hereinbefore in part recited Act.

**Repeal of previous Act.**

XI.—When and so soon as this Act shall come into operation, the Act of the Legislature, passed in the last Session thereof, entitled "An Act for Granting to Her Majesty certain Duties on Goods, Wares, and Merchandize, imported into this Colony and its Dependencies," shall be and stand repealed. Provided always that all Bonds given and Payments made for Duties under the said Act are hereby confirmed and declared valid, and nothing herein contained shall be construed to affect the same.

**Continuance of Act.**

XII.—This Act shall continue in force from the passing thereof up to the Twentieth day of May, which will be in the Year One Thousand Eight Hundred and Sixty Five, and no longer.

## CAP. II.

*An Act to Amend and Consolidate the Laws of the Customs.*

[Passed 13th April, 1864.]

**W**HEREAS it is expedient to amend and consolidate the Laws for the Establishment of a Board of Revenue, and for the Regulation, Management, and Collection, of all Duties granted to Her Majesty, Her Heirs and Successors, on Goods, Wares and Merchandize imported into this Island and its Dependencies, and to Repeal certain Acts relating thereto. Preamble.

Be it therefore enacted, by the Governor, Legislative Council and Assembly in Legislative Session convened, as follows :

1.—An Act passed in the eighteenth and nineteenth years of Her present Majesty, entitled “An Act for the establishment of a Board of Revenue, and for the Regulation, Management and Collection of all Duties granted to Her Majesty, Her Heirs and Successors, on Goods, Wares and Merchandize imported into this Island and its Dependencies, and to Repeal certain Acts relating thereto;” also, an Act passed in the nineteenth year of Her present Majesty, entitled, “An Act to amend An Act passed in the nineteenth year of the Reign of Her Majesty, entitled An Act for the Establishment of a Board of Revenue, and for the Regulation, Management, and Collection of all Duties granted to Her Majesty, Her Heirs and Successors, on Goods, Wares and Merchandize imported into this Island and its Dependencies, and to repeal certain Acts relating thereto”; also, an Act passed in the twenty-first year of the Reign of Her present Majesty, entitled “An Act to repeal and amend certain parts of An Act entitled An Act for the Establishment of a Board of Revenue, and for the Regulation, Management, and

Repeal of 18 &  
19 Vic. cap. 4,  
19 Vic. cap. 2.  
21 Vic. cap. 5

Collection of all Duties granted to Her Majesty, Her Heirs and Successors, on Goods, Wares and Merchandize imported into this Island and its Dependencies, and to Repeal certain Acts relating thereto;" shall be, and the same are hereby severally repealed: Provided always that nothing herein contained shall be construed to annul, make void, or in any way affect, any commissions or appointments, bonds, matters or things done, performed, or pending, under and by virtue of the said several recited Acts, or either of them, or to revive any Acts or parts of Acts by the said several recited Acts, or either of them, repealed.

Board of Revenue.

2.—The Receiver General shall be President of, and, with five other persons, to be appointed by the Governor in Council, shall constitute, the Board of Revenue, the members of which shall be sworn faithfully to discharge the duties of their office, and shall hold office during pleasure; the President, or in his absence the Assistant Collector, and any other two members, shall be a quorum for the transaction of business; and there shall be paid to each non-official member, for every day's attendance at the Board, two dollars a day: Provided that the whole amount to be paid to the said Board shall not exceed the sum of two hundred and thirty dollars in any year.

Powers of Board

3.—The Board shall superintend the working and practical operation and effect of the Revenue system, and report thereon to the Governor, when required; they shall examine disputed claims for drawbacks, and grant certificates therefor, when allowed; they shall direct and carry on prosecutions against delinquent officers and their sureties; and also prosecutions for seizures, forfeitures, penalties, and breaches of Revenue laws, over which they shall have a general control; they may remit penalties in whole or in part, and direct the restoration of property seized, or of the proceeds thereof; they shall, subject to the control of the Governor in Council, make such regulations as to the

removal of spirituous liquors distilled in the colony after payment of duties thereon, and as to the carriage of goods coastwise, as may be necessary and expedient; they shall have authority to remit in whole or in part the duties on goods lost or destroyed in the warehouses, upon such terms as they may deem just, and may, under such restrictions and regulations as they may consider expedient, but subject to the control of the Governor in Council, permit permanent or continuing security to be given for duties payable by Outport Importers in cases where satisfactory sureties cannot be had on the spot for each successive importation, and also for the payment of duties on Goods landed from steamships.

4.—It shall be lawful for the Governor in Council to appoint proper persons to execute the duties of the several officers necessary to the due collection and management of the Revenue now levied, or which may hereafter be levied, on Goods, Wares and Merchandize imported into this Island and its Dependencies, that is to say :—

Governor to appoint Revenue Officers.

The Receiver General at St. John's, who shall superintend the Collection, Receipt, and payment of all the said Revenue, and shall have under his direction and control—

Revenue Officers

An Assistant Collector at St. John's.

Landing and Tide Surveyor.

Two Landing Waiters.

First Clerk and Warehouse-keeper.

Second Clerk.

Third Clerk

Fourth Clerk and Locker.

Two Lockers.

Tidewaiters.

Boats and Hands at St. John's and Harbor Grace.

Sub-Collector at Lamaline.

Ditto Fogo.

Ditto Twillingate.

Revenue Officers.	Sub-Collector	Greenspond.
	Ditto	Gaultois
	Ditto	Trinity.
	Ditto	Harbor Grace.
	Ditto	Carbonear.
	Ditto	Brigus.
	Ditto	Great Placentia.
	Ditto	Burin.
	Ditto	Harbor Briton.
	Ditto	LaPoile.
	Preventive Officer at Bay Bulls	
	Ditto	Ferryland.
	Ditto	Channel
	Ditto	Burgeo.
	Ditto	Pushthrough.
	Ditto	English Harbor and Bellorem.
	Ditto	Bay-de-North.
	Ditto	Fortune.
	Ditto	Grand Bank.
	Ditto	St. Lawrence.
	Ditto	LaManche.
	Ditto	Little Placentia.
	Ditto	St. Mary's.
	Ditto	Bay Roberts.
	Ditto	Hant's Harbor.
	Ditto	Bonavista.
	Clerk and Landing Waiter at Harbour Grace.	
	Collector for the Labrador, and his Sub-Collectors.	

Governor power  
to alter limits of  
Ports, &c.

5.—The Governor in Council shall have power to alter the limits of Ports, and to abolish any office of Sub-Collector and substitute a Preventive Officer therefor, subject to the approval of the Legislature.

Appointment of  
extra officers.

6.—It shall be lawful for the Governor, by and with the advice of Her Majesty's Council, on the recommendation of the said Board of Revenue, to appoint from time to time such additional or extra Officers and Tide Waiters as shall be necessary for the due security and collection of the Revenue, and to grant to such

additional or extra Officers and Tide Waiters such salaries or allowances as may be deemed reasonable: Provided always that no salary or allowance so granted shall exceed in amount the salary or allowance payable to the like officer: Provided also that a copy or copies of the Warrant or Warrants appointing such additional or extra officer or officers, shall be laid before the Legislature, if then in session, or if not then in session, then within one month from the commencement of its next following session.

Proviso.

7.—If any officer, clerk, or other person, acting in any office or employment under this Act, shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any sort or description whatever, directly or indirectly, from any person (not being a person duly appointed to some office under this Act) on account of anything done or to be done by him in, or in anywise relating to, his said office or employment, except such as he shall receive under any order or permission of the Governor, any such officer so offending shall, on proof thereof to the Governor in Council, be dismissed from his office: And if any person (not being a person duly appointed to some office under this Act), shall give, offer, or promise to give, any such fee, perquisite, gratuity, or reward, such person, for every such offence, shall forfeit the sum of Four Hundred Dollars.

Officers taking fee or reward not allowed shall be dismissed, &c.

Penalty.

8.—Every person who shall be appointed to any office or employment under this Act, shall, on his admission thereto, make and sign the following declaration before the Receiver General or the Assistant Collector at Saint John's, that is to say:—

“I, A. B., do declare that I will be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge and inspection, and that I will not require, take, or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description what-

Declaration on admission to office.



“ ever, either directly or indirectly, for any service, act,  
 “ duty, matter or thing done or performed in the exe-  
 “ cution or discharge of any of the duties of my office  
 “ or employment, on any account whatever, other than  
 “ my salary, and what is or shall be allowed me by  
 “ law, or by any special order of the Governor for the  
 “ time being.”

Officers to give  
 security by Bond

9.—The several Officers appointed as aforesaid shall enter into, and they are hereby required to give, such security, by Bond, to Her Majesty, Her Heirs and Successors, with sufficient sureties, for the due collection and safe-keeping of such Public Moneys as may come into their hands, and for their good conduct in their respective offices and employments, as the Governor shall, by and with the advice of Her Majesty's Council, deem reasonable and necessary.

Officers not lia-  
 ble to serve in  
 any other Pub-  
 lic Office.

10.—No person appointed to any office or employment under this Act shall, during the time of his acting in such office or employment, be compelled to serve in any other Public Office or employment, or to serve on any Jury or Inquest, any Law, Usage or Custom, to the contrary notwithstanding.

Public Holidays.

11.—No day shall be kept as a Public Holiday by the Officers appointed under this Act, except Christmas Day, Good Friday, Her Majesty's Birthday in every year, the first day of every New Year, and any days appointed by the Governor by Proclamation for a General Fast or Thanksgiving.

Ship and cargo  
 reported on ar-  
 rival.

12.—The master of every ship arriving in any port or place in this Island or its Dependencies, whether laden or in ballast, shall come directly, and before bulk be broken, to the office of the Receiver General, Assistant or Sub-Collector, or other proper officer of the port or district where he arrives, and there make a report in writing to the said Receiver General, Assistant or Sub-Collector, or other proper officer, of the arrival and voyage of such ship, stat-

ing her name and tonnage, the name of the master, and the number of the crew of such ship, and whether she be laden or in ballast, and if laden, the marks, numbers, and contents of every package and parcel of goods on board, and where the same were respectively laden, and where and to whom consigned, and where any and what goods, if any, had been unladen during the voyage, as far as any such particulars can be known to him; and the master shall further produce the certificate of Registry of his ship, and shall answer all such questions concerning the ship and cargo, and the crew and the voyage, as shall be demanded of him by such officer; and if any goods be unladen from any ship before such report be made, or if the master fail to make such report, or make an untrue report, or do not truly answer to the questions demanded of him, he shall forfeit the sum of Four Hundred Dollars, and if any goods be not reported, such goods shall be forfeited.

Particulars of Report.

13.—The master of every ship shall, at the time of making such report, deliver to the Receiver General, Assistant or Sub-Collector, or other proper Officer, a manifest of the cargo of such ship, and every such manifest shall set forth the name and tonnage of the ship, the name of the master, and the place or places where the goods, if any, were respectively taken on board, and of the place or places for which they are respectively destined, and shall contain a particular account and description of all the packages on board, with the marks and numbers thereon, and of the sorts of goods, and of the different kinds of each sort contained therein, to the best of the master's knowledge and belief, and the particulars of such goods as are stowed loose, and the names of the respective consignees, so far as the same can be known to the said master; and to such particular account shall be subjoined a general account or recapitulation, in words at length, of the total number of the packages of each sort, describing the same by their usual names, or by such description as the same can be known by, and the different goods therein, and also

Master to deliver manifest.

Particulars of Manifest.

the total quantities of the different goods stowed loose ; and all goods not so manifested shall be forfeited.

Master of Ship arriving coastwise to report particulars.

14.—The master of every ship having on board Goods, Wares or Merchandize, subject to duty, arriving Coastwise at any port in this Island or its Dependencies, shall, within twenty-four hours after arrival, and before bulk be broken, make due report in such form as may be prescribed for that purpose, containing the several particulars set forth in the twelfth section of this Act.

Vessels engaged in fisheries or coasting trade.

15.—The master of every vessel engaged in the fisheries or coasting trade of this Island or its Dependencies, not having on board any Goods, Wares, or Merchandize, subject to duty, shall, before departure from the port of lading, deliver to the proper officer of Customs, an entry outwards, under his hand, of such ship, stating the name, country, and tonnage of the ship, the name of the master and number of the crew ; and thereupon the proper officer aforesaid shall give to the master a certificate under his hand that such vessel hath been specially cleared out for the fisheries or coasting trade ; and such certificate shall be in force till the Thirty-first December next after the date thereof, and such vessel shall be exempt from all obligations to clear at any Custom House, upon departure from any port in the said Island or its Dependencies, during the continuance of the season for which such certificate may have been granted ; and if any vessel shall depart without such certificate, the master shall forfeit the sum of Two Hundred Dollars : Provided always that in case such vessel have on board, during the continuance of the season for which such certificate may have been granted, any Goods, Wares, or Merchandize, subject to duty, such vessel shall be subject and liable to the same rules, restrictions, and regulations, as vessels bound to ports beyond the seas are subject or liable to, or to such other regulations as to the carrying of goods coastwise as the Board of Revenue may from time to time prescribe.

Proviso.

16.—The master of any vessel bound outwards from any port or place in this Island or its Dependencies to any port or place beyond the seas, shall deliver to the Receiver General, Assistant or Sub-Collector, or other proper officer, an entry outwards, under his hand, of the destination of such ship, her name, country, and tonnage, (if British, the port of registry,) the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such vessel; and before such vessel shall depart, the master shall bring and deliver to the Receiver General, Assistant or Sub-Collector, or other proper officer, a content in writing, under his hand, of the Goods, Wares or Merchandize, laden, and the names of the respective shippers and consignees of the Goods, Wares or Merchandize, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content, as far as any particulars can be known to him; and the master of every vessel bound outwards from any port in this Island and its Dependencies to any port or place beyond the seas, whether in ballast, or laden, shall, before departure, come before the Receiver General, Assistant or Sub-Collector, or other proper officer, and answer all such questions concerning the vessel and the cargo, if any, and the crew and the voyage, as shall be demanded of him by such officer; and thereupon the Receiver General, Assistant or Sub-Collector, or other proper officer, if such vessel be laden, shall make out and give to the master a certificate of the clearance of such vessel for the intended voyage, containing an account of the total quantities of the several sorts of Goods, Wares or Merchandize laden therein, or a certificate of her clearance in ballast, as the case may be; and if the vessel shall depart without such clearance, or if any goods be laden on board any such vessel before reporting outwards, or if the master shall deliver a false content, or shall not truly answer the questions demanded

Vessels bound outwards—Masters to notify Officers of Customs as to destination of vessel, &c.

of him, he shall forfeit a sum not exceeding Four Hundred Dollars.

Goods reported for importation at a port other than that of arrival, or for exportation or coastwise. Importer or owner to give bond accordingly for payment of duties thereon.

Proviso.

17.—Whenever and so often as any Goods, Wares or Merchandize, subject to duty, shall be reported for importation at a Port within this Island or its Dependencies, other than the port at which the importing ship shall first arrive, or for exportation, or shall be entered to be transhipped on board any vessel to be carried coastwise, the proprietor of such Goods, Wares or Merchandize, or his agent, shall give, or procure to be given, security by bond (in such of the approved forms, A. B. C, in the Schedule to this Act, as may be applicable to the case) in treble the amount of duties of importation, that such Goods, Wares or Merchandize shall be duly landed at the port for which they are reported for entry, or to be landed, subject to the payment of the duties leviable thereon at such last-mentioned port: Provided always that it shall not be lawful to report such Goods, Wares or Merchandize for entry at a port or place within this Island and its Dependencies, not duly constituted a port of entry, with a resident Officer of Customs appointed to carry out the provisions of this Act, and of the other Acts of the Legislature relating to the management and collection of the Revenue: But the duties leviable on all Goods, Wares and Merchandize, reported or entered to be landed, or intended to be landed, at any port or place in this Island or its Dependencies, not being a duly constituted port of entry, shall be paid at the port at which the importing ship shall first arrive; and such Goods, Wares and Merchandize shall be liable to the same duties, rules and regulations that the like articles are subject and liable to, if entered for the due landing thereof at such first port of arrival.

If seal, &c. be broken. Master to forfeit a sum not exceeding 400 dollars.

18 — It shall be lawful for the Tide Surveyor or other proper Officer to board any such ship arriving at any port or place in this Island or its Dependencies, and freely to stay on board until all the goods laden therein shall have been duly delivered from the same; and such

officer shall have free access to every part of the ship, with power to fasten down hatchways, and to mark any goods before landing, and to lock-up, seal, mark, or otherwise secure, any goods on board such ship; and if any place, or any box or chest, be locked, and the keys be withheld, such officers, if they be of a degree superior to Tidesmen or Boatmen, may open any such place, box or chest, in the best manner in their power, and if any goods be found concealed on board of any such ship they shall be forfeited; and if the proper Officer shall place any lock, mark or seal upon any goods on board any such ship, and such lock, mark or seal be wilfully opened, altered or broken, before due delivery of such goods, or if any such goods be secretly conveyed away, or if the hatchways after having been fastened down by such Officer, be opened, the master of such ship shall forfeit a sum not exceeding Four Hundred Dollars: Provided always that Tidewaiters on duty on board of any vessel shall be provided with suitable boarding and accommodation therein by the captain or owner of such vessel; and if any master shall refuse such boarding and accommodation to any Tidewaiter, he shall forfeit the sum of Twenty Dollars.

Proviso.

19.—No goods shall be unladen from on board any ship in any port or place in this Island or its Dependencies, nor within three miles of the coast thereof, until due entry shall have been made of such goods, and warrant granted for the unloading of the same; and no goods shall be so unladen except at some place at which an officer is appointed to attend to the unloading of the goods, or at some place for which a Sufferance shall be granted by the Receiver General, Sub-Collector, Assistant, or other proper Officer of the port or district, for the unloading of such goods; and no goods shall be so unladen except in the presence or with the permission in writing of the proper officer; and all goods unladen contrary to the regulations of this Act or of any other law relating to the Revenue, shall be forfeited, and the

Entry of Goods  
to be unladen.

master of the ship from which the same shall be unladen, shall forfeit the sum of Four Hundred Dollars.

Revenue Officers  
may board ves-  
sels.

20.—Any Officer of Revenue may go on board any vessel being within three miles of any of the coasts of this Island or its Dependencies, and stay on board while she remains in port or within such distance, and may examine on oath the master of such vessel touching his cargo and voyage, and if such master shall not truly answer any questions that may be put to him, he shall forfeit the sum of Two Hundred Dollars.

Master of Vessel  
to produce man-  
ifest and deliver  
copy.

21 — The master of any such vessel shall, if required, produce his manifest to such Revenue Officer, and if required, shall also deliver to him a copy thereof, and such officer shall note on the original manifest the date of production, and return the same to the master; and if any such master shall refuse to produce his manifest, or to deliver a copy thereof, as aforesaid, he shall forfeit the sum of Two Hundred Dollars.

Goods subject  
to *ad valorem*  
duty.

22.—Whenever any goods are entered to pay duty according to the value thereof, such value shall be stated in the entry; and the importer or his known agent shall make a declaration, written upon the entry, setting forth that such value is the true value thereof; and if any person shall make such declaration, not being the importer or proprietor of such goods, nor his agent duly authorised by him, or if any person shall make an untrue declaration, such person shall forfeit the sum of Four Hundred Dollars, and such affirmation shall be binding on the person by or on behalf of whom the same shall be made, and shall be in manner and form following, that is to say:

Forfeiture.

I (A. B., the Importer, or C. D., the known Agent of the Importer, as the case may be), do declare that the articles mentioned in the Entry above-written, and contained in the packages therein specified, are of the

value of                    pounds                    shillings and  
pence sterling ; and that such is the true value thereof,  
and I do now tender the same for all duties.

Witness my hand

this                    day of                    18 .

A. B. or C. D

(as the case may be.)

Taken before me  
this                    day of                    18 .

(E. F., Receiver General, Assistant or Sub-Collector,  
as the case may be.)

23.—At the time of entering such Goods, Wares or Merchandize, the importer thereof, or his known agent, shall, if required by the Receiver General, Assistant or Sub-Collector, or other proper officer, exhibit the original invoices of such Goods, Wares or Merchandize, and shall, if required, certify on oath that they are the original invoices, and that they contain all the dutiable goods imported by, or belonging to, or consigned to him in the packages specified in the entry, to the best of his knowledge or belief; or if he have not, and cannot procure the original invoices, he shall, if required, make oath thereof, and account for the want of the same; and shall also state on oath what he believes to be the true value of the goods at the place whence they were imported, as nearly as can be ascertained: All such oaths shall be signed by the party attesting, and taken before the Receiver General, Assistant or Sub-Collector, or other proper officer: Wrecked or derelict goods shall be charged for *ad valorem* duty on the gross proceeds or value thereof in this market, less one-fifth for duties, charges and expenses.

Importer to exhibit Invoice and declare on oath known value of goods if required.

24.—At any time after entry, or within five days after landing, the importer thereof or his known agent shall, if required by the Receiver General, As-

Importer to produce Invoice.



sistant or Sub-Collector, or other proper officer, produce the invoice of such Goods, Wares or Merchandize, and shall answer on oath all such questions relating to the value thereof as shall be put to him by such officer, who is hereby authorized to administer such oath; and in case of failure or refusal to produce such invoice (unless there be no invoice) or to answer such questions, or to answer them truly, or if other than the true and real invoice be produced, or if such true and real invoice be altered by such importer or his known agent, then, and in every such case, such importer shall forfeit the sum of Four Hundred Dollars.

Penalty.

Goods undervalued may be detained and sold.

25.—If upon examination it shall appear to the Receiver General, Assistant or Sub-Collector, or other proper officer, that such articles are not valued according to the true value thereof, it shall be lawful for such officer aforesaid, to detain and secure such articles, and within five days from the landing thereof, to take such articles for the use of the Crown: And the said Receiver General, Assistant or Sub-Collector, or other proper officer, shall thereupon, in any such case, cause the amount of such valuation, with an addition of ten per centum thereon, and also the duties paid upon such entry, to be paid to the importer or proprietor of such articles in full satisfaction for the same, and shall dispose of such articles for the benefit of the Crown; and if the produce of the sale shall exceed the sum so paid and all charges so incurred by the Crown, one moiety of the overplus shall be given to the officer or officers who shall have detained or taken such articles, and the other moiety detained for the benefit of the Crown, shall be paid to the Receiver General of this Island, to be applied to the public uses of the Colony as the Legislature shall direct: Provided always that should any articles whatsoever seized and detained under this Act be of a perishable nature, and likely to deteriorate in value by being kept to abide the provisions hereof, it shall

Proviso.

be lawful for the Receiver General, Assistant or Sub-Collector, or other proper officer aforesaid, at the expiration of two days after such seizure and detention aforesaid, to cause any such articles aforesaid to be sold, and the proceeds thereof shall be subject to the same provisions and conditions as are contained in this Act with respect to the articles themselves.

26.—When the true weight shall not be given of articles subject and liable to duty according to weight, it shall be lawful for the Receiver General, Assistant or Sub-Collector, or other proper officer, to detain and secure so much of such articles as may be over the weight set forth in the entry; and within five days from the landing thereof to take such articles for the use of the Crown; and the said Receiver General, Assistant or Sub-Collector, or other proper officer, shall thereafter in any such case cause the valuation to be calculated on such articles so detained as aforesaid, at the prices stated in the invoices, should the true invoices be produced by the importer to the satisfaction of the Receiver General, Assistant or Sub-Collector, or other proper officer, otherwise such articles to be appraised by two fit persons, to be chosen by the said officer; and it shall be the duty of such appraisers to estimate such articles according to such value as they shall deem to be a fair first cost market price of such articles, free of charge, at the place from whence such goods may have been imported; and the said officer shall cause the amount of either such valuations, together with an addition of ten per centum thereon, to be paid to the importers or proprietors of such articles in full satisfaction of the same; and shall dispose of such articles for the benefit of the Crown; and the produce of such sale shall be appropriated in the manner provided by the foregoing section of this Act, in respect to goods detained and sold as undervalued.

Goods subject to duty by weight may be detained and sold if true weight not given.

27.—The person entering any goods shall deliver to the Receiver General, Assistant or Sub-Collector,

Particulars of Entry.

or other proper officer, a bill of the entry thereof, fairly written in words at length, containing the name of the importer, and of the ship, and of the master, and of the place whence the goods were imported, and of the place within the port or district where the goods are to be unladen, and the particulars of the quality and quantity of the goods, and the packages containing the same, and the marks and numbers on the packages, and shall deliver at the same time one or more duplicates of such bill, in which all sums and numbers may be expressed in figures, and the particulars to be contained in such bill of entry, shall be written and arranged in such manner and form, and the number of duplicates shall be such, as the Receiver General, Assistant or Sub-Collector, or other proper officer, shall require; and such person shall at the same time pay down or otherwise secure all duties payable upon the said goods; and the said officer shall thereupon grant his warrant for the unloading of such goods.

Entry not valid if goods not properly described.

28.—No entry nor any warrant for the landing of any goods, or for the taking of any goods out of any warehouse, shall be deemed valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report and manifest of the ship, or in the certificate or other document, where any is required, by which the importation or entry of such goods is authorized, nor unless the goods shall have been properly described in such entry by the denominations and with the character and circumstances according to which such goods are charged with duty or may be imported; and any goods taken or delivered out of any ship or out of any warehouse by virtue of any entry or warrant not corresponding or agreeing in all such respects, or not properly describing the same, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited.

29.—If the importer of any goods shall make and subscribe a declaration before the Receiver General, Assistant or Sub-Collector, or other proper officer, that he cannot for want of full information make perfect entry thereof, it shall be lawful for such officer to receive an entry by bill of sight for the packages or parcels of such goods, by the best description that can be given, and to grant a warrant thereupon, in order that the same may be landed and secured to the satisfaction of the proper officer and at the expense of the importer, and may be seen and examined by such importer in the presence of the proper officer; and within five days after the goods shall have been so landed the importer shall make a perfect entry thereof, and pay or otherwise secure all duties payable thereon, and in default of such entry such goods shall be secured by the proper officer; and if the importer shall not within one month after such landing make perfect entry of such goods, and pay down or otherwise secure the duties payable thereupon, together with charges of removal and warehouse rent, such goods shall be sold for the payment thereof, and the overplus, if any, shall be paid to the proprietor of the goods.

Entry by Bill of Sight.

Duties to be paid or secured within five days.

30.—It shall and may be lawful for the proper officers to take such samples of any goods as shall be necessary for ascertaining the amount of any duties payable on the same, and that all such samples shall be disposed of and accounted for in such manner as the Governor shall, with the advice of Her Majesty's Council, direct.

Samples may be taken.

31.—In any case where the duty set forth in any entry, or payable upon any Spirits distilled in this Colony, shall not amount to Two Hundred Dollars, the Receiver General, Assistant or Sub-Collector, or other proper officer, shall forthwith collect the same before granting his warrant for the removal of the articles imported; and in case such duties shall

Bond may be taken for Duties if they amount to 200 dollars.

amount to Two Hundred Dollars, then the Receiver General, Assistant or Sub-Collector, or other proper officer aforesaid, shall be at liberty to secure the said duties by taking bond in the Form D. in the Schedule hereto annexed, from the importer, owner, or consignee, to Her Majesty, Her Heirs and Successors, with two sufficient sureties for the payment thereof, in four months from the date of such bond.

Master of steam-boat allowed to land and warehouse cargo.

32.—The Receiver General, Assistant or Sub-Collector, or other proper Officer, may permit the master of any steam-boat employed regularly in the conveyance of passengers, upon due report of such boat, to deposit the cargo in a warehouse, to be provided by the owner or agent of the boat, and approved of by the Receiver General, the owner or agent of the boat having first given general security by bond, in the form E., in the Schedule hereto annexed, with two sureties, for the payment of the full duties of importation on all such goods as shall be at any time so warehoused therein, or for the exportation thereof; and goods so deposited shall be deemed to be on board the importing steam-boat, and shall be subject to the same regulations, penalties and forfeitures, as if they had not been taken thereout; and the master or owner of the steam-boat shall have the same lien on the goods, for freight or other charges, as if the same had not been deposited in the warehouse, but shall not be entitled to any rent for the goods so deposited. The owner or consignee of the goods must make due entry thereof within six days from the time of their being so deposited in the warehouse.

Cattle allowed to be landed on arrival.

Provide.

33.—The Receiver General, Assistant or Sub-Collector, or other proper officer, at the port where any vessel having on board any cattle may arrive, shall, upon application of the importer thereof, permit the immediate landing of the same: Provided that at the time of entry of such vessel due entry of and payment of the duties imposed by law on such cattle shall be paid.

34.—No goods shall be imported into this Island and its Dependencies, as being imported from places beyond the seas, if any advantage attach to such distinction, unless such goods appear by the cocket, clearance or other proper document for the same, to have been duly shipped and cleared outwards for exportation.

Goods imported from beyond the seas must appear in cockets in certain cases.

35.—The surplus stores remaining unconsumed on board of any ship arriving in this Island or its Dependencies, from ports beyond the seas, shall be subject to the same duties, restrictions and regulations, as the like sort of goods shall be subject to when imported by way of merchandize: Provided always that if it shall appear to the Receiver General, Assistant or Sub-Collector, or other proper officer, in charge of the port or district where such vessel shall arrive, that the quantity or description of such stores is not excessive or unsuitable under all the circumstances of the voyage, such stores, if not landed, shall be duty free.

Surplus stores to be treated as Imported Merchandise.

Provide.

36.—Every importer of any goods shall, within twenty days after the arrival of the importing ship, make due entry of such goods, and land the same; and in default of such entry and landing, it shall be lawful for the proper Officers to land and convey such goods to the Crown's warehouse; and if the duties payable upon such goods be not paid within three months after such twenty days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold and the produce thereof shall be applied, first, to the payment of freights and charges, and next of the duties, and the overplus, if any, shall be paid to the proprietor of the goods, or any other person authorised to receive the same: Provided that it shall be lawful for the Officers of the Customs to remove any goods to the warehouse before the expiration of the said twenty days, if the consignees thereof are unknown, and all other goods be cleared from the ship.

If goods be not entered in 20 days officers may land and secure the same.

Duties not paid in 3 months, goods to be sold.

Provide.

Duty may be remitted on damaged goods:

37.—If any Goods, Wares or Merchandize which are rated to pay duty, according to the tale, weight, guage or measure thereof, shall have received damage during the voyage, abatement of such duties shall be allowed in proportion to the damage so received ; provided proof be made to the satisfaction of the officer in charge of the port or district in which the vessel importing such Goods, Wares or Merchandize, shall have arrived, that such damage was received after such Goods, Wares and Merchandize were shipped, and before they were landed in this Island or its Dependencies, and that such abatement be claimed at the time of first examination of such Goods, Wares or Merchandize.

Proviso.

Damaged goods to be examined by officers.

38.—Upon such claims as aforesaid, the officers appointed to superintend the landing of such Goods, Wares or Merchandize, shall examine the same with reference to such damage, and shall thereupon state the amount of damage received, and make a proportionate abatement of duties accordingly : Provided that if such officers be incompetent to estimate such damage, or if the importer of such Goods, Wares or Merchandize be not satisfied with the abatement made by them, the Receiver General, Assistant or Sub-Collector, or other proper officer in charge of the port or district, shall appoint two disinterested persons, experienced in the nature and value of such Goods, Wares or Merchandize, to examine the same, and to report in writing the amount of damage so received as aforesaid, and an abatement of duties shall thereupon be made in proportion to the amount of damage thus ascertained.

Proviso.

Governor may appoint warehousing ports.

39.—It shall be lawful for the Governor, by and with the advice of Her Majesty's Council, to constitute and appoint any port in this Island or its Dependencies to be a warehousing port for the purposes of this Act ; and for the Receiver General, the Assistant or Sub-Collector.

tor of any port so constituted and appointed, by notice in writing under his hand to appoint from time to time such warehouses at such port as shall be approved by him for the warehousing and securing of goods therein; and also in such notice declare what sort of goods may be so warehoused; and also by like notice to revoke or alter any such appointment or declaration: *Provide* always that every such notice shall first be transmitted to the Colonial Secretary, and be published in such manner as the Governor shall direct.

40.—It shall be lawful for the importer of any such goods into the said ports to warehouse the same in the warehouses so appointed, without payment of any duty on the first entry thereof; subject nevertheless to the rules, regulations, restrictions and conditions hereinafter contained. *Goods may be warehoused without payment of duty.*

41.—All goods so warehoused, shall be stowed in such parts or divisions of the warehouse, and in such manner, as the Receiver General, Assistant or Sub-Collector aforesaid, shall direct; and the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times, and in the presence of such officers, and under such rules and regulations, as the Receiver General, Assistant or Sub-Collector shall direct; and that all such goods shall, after being landed upon importation, be carried to the warehouse, or shall, after being taken out of the warehouse for exportation, be carried and shipped under such rules and regulations as the Receiver General, Assistant or Sub-Collector of the port shall direct. *Stowage of goods in warehouse.*  
*Locking.*  
*Carrying goods to and from warehouse.*

42.—Upon the entry of any goods to be warehoused, the importer of such goods, instead of paying or otherwise securing the duties payable thereon, shall give bond, (as in form F., in the Schedule annexed), with two sufficient sureties, to be approved of by the Receiver General, Assistant or Sub-Collector of the port, in treble *Bond on entry of goods to be warehoused.*



the duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties payable upon such goods or for the exportation thereof, according to the first account taken of such goods upon the landing of the same; and with further condition that no part thereof shall be taken out of such warehouse until cleared from thence upon due entry and payment of duty, or upon the entry for exportation; and with the further condition that the whole of such goods shall be so cleared from such warehouse, and the duties upon any deficiency of the quantity, according to such first account, shall be paid within two years from the date of the first entry thereof; and if after such bond shall have been given, the goods, or any part thereof, shall be sold or disposed of so that the original bonder shall be no longer interested in or have any control over the same, it shall be lawful for the Receiver General, Assistant, or Sub-Collector, to direct fresh security to be given by the bond, (as in form G., in the Schedule annexed.) of the new proprietor or other person having control over such goods, with his sufficient sureties, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security given.

Goods not duly  
warehoused to  
be forfeited.

43.—If any goods which have been entered to be warehoused shall not be duly carried into and deposited in the warehouse, or shall afterwards be taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse, shall not be duly carried and shipped, or shall afterwards be re-landed, except with the permission of the proper officer, the said goods shall be forfeited.

Account of goods  
to be taken on  
landing.

44.—Upon the entry and landing of any goods to be warehoused, the proper officer shall take a particular account of the same, and shall mark the contents on each

package, and shall enter the same in a book to be kept for that purpose; and no goods which have been so warehoused shall be taken or delivered from the warehouse except upon due entry, and under the care of the proper officer, for exportation, or upon due entry and payment of duty for home use; and whenever the whole of the goods warehoused, under any entry, shall be cleared from the warehouse, or whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid, and of the quantity exported, and of the quantity (to be then ascertained) of the goods still remaining in the warehouse, as the case may be, deducting from the whole the quantity contained in any original package, if any, which may have been abandoned for duties; and if upon such account there shall in either case appear to be any deficiency of the original quantity, the duty payable upon the amount of such deficiency shall then be paid.

45.—It shall be lawful for the Receiver General, Assistant or Sub-Collector of the port, under such regulations as he shall see fit, to permit moderate samples to be taken, without entry, of any goods so warehoused, and without payment of duty, except as the same shall eventually become payable, as on a deficiency of the original quantity.

Samples may be taken.

46.—The unshipping, landing and carrying of all Goods, Wares and Merchandize, and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in a proper place of deposit, until duly delivered, shall be performed by or at the expense of the importer.

Expense of removing and repacking, &c., to be paid by owner.

Goods removed from ship, &c., to be warehoused according to regulations.

47.—If any Goods, Wares or Merchandize shall be removed from any ship, wharf or other place, previously to the examination thereof by the proper officer of Customs, unless under the care or authority of such officer, or if any Goods, Wares or Merchandize entered to be warehoused, or to be re-warehoused, shall be carried into the warehouse unless with the authority or under the care of the proper officer, and in such manner and within such time and by such means of conveyance as such officer shall direct, such Goods, Wares and Merchandize shall be forfeited.

Goods, &c., when to be landed.

48.—No Goods, Wares or Merchandize entered to be warehoused shall be unshipped from any ship or be landed or put on shore on Sundays or Holidays without the special permission of the Receiver General, the Assistant or Sub-Collector: nor shall they be so unshipped, landed or put on shore on any other day except between the hours of eight in the morning and four in the afternoon, or during such other hours as may be appointed by the Receiver General; nor shall any such Goods, Wares or Merchandize be unshipped or landed unless with the authority of the proper officer of Customs, nor shall they be landed except at such wharf or place appointed for the landing of such Goods, Wares and Merchandize; and if any such Goods, Wares and Merchandize shall be unshipped, landed or removed contrary thereto, the same shall be forfeited.

Goods entered and landed to be warehoused though not actually so may be entered for home use or exportation.

Proviso.

49 —If after any Goods, Wares or Merchandize shall be duly entered, and landed to be warehoused, though not actually deposited in the warehouse, the importer shall further duly enter the same or any part thereof, for home use or for exportation, the same may be taken for home use or for exportation as the case may be: Provided always that if any such Goods, Wares or Merchandize shall be delivered, withheld or removed from the proper place of examination without such entry for home use or for exportation, such Goods, Wares or Merchandize shall be forfeited.

50.—The property of and in any one or more parcels of any Goods, Wares or Merchandize warehoused, shall be transferable from party to party on a transfer note signed by the parties, or a written contract of sale made, executed and delivered by a Broker, or other person, legally authorized for or on behalf of the parties respectively, provided that a transfer of such Goods, Wares or Merchandize, according to such sale, shall have been entered in the Warehouse Register or Book kept for that purpose by the proper officer of Customs, who is hereby required to enter such transfer, with the date thereof, upon the application of the owners of such Goods, Wares or Merchandize: Provided that such transfer or sale shall be of whole packages only; and the party being the proprietor of such Goods, Wares or Merchandize, for the time being shall be deemed to be the importer thereof for the purposes of this Act, or any Act relating to the management and collection of the Duties of Importation.

Transfer note

Proviso.

51.—All warehoused Goods, Wares and Merchandize, shall be cleared either for home use or exportation at the expiration of two years from the day on which the same were so warehoused, or within such further period, and in such cases, as the Receiver General, Assistant or Sub-Collector, shall direct, unless the owner or proprietor of such Goods, Wares or Merchandize shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officers, and the Duties payable upon any deficiency or difference between the quantity ascertained on landing and the quantity found to exist on such examination, together with the necessary expense attendant thereon, shall be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof, in the same manner as on the first importation.

Time wherein warehoused goods are to be cleared.

Re-warehousing

52.—If any warehoused Goods, Wares or Merchandize, shall not be duly cleared, exported or re-warehoused, and the duties ascertained to be payable on

Sale of goods  
warehoused but  
not cleared, ex-  
ported or re-  
warehoused to  
meet duties  
thereon.

the deficiencies as aforesaid, shall not be paid down at the expiration of two years from the previous entry and warehousing thereof, or within such further period as shall be directed as aforesaid, the same, if worth the duty thereon, shall after three months notice to the owner or proprietor, if known, with all convenient speed be sold either for home use or exportation with or without the consent of the owner or proprietor, and the proceeds thereof shall be applied to the payment of the duties, warehouse rent and charges, and the surplus, if any, shall be paid to the owner or proprietor of such Goods, Wares or Merchandize, if known; but if such owner or proprietor cannot be found, such surplus shall be carried to the Colony's account, to abide the claim of such owner or proprietor on his appearing and making good his claim thereto: And if such Goods, Wares or Merchandize, shall not be worth the duty, then the same, after such three months' notice as aforesaid, may be exported or destroyed with or without the concurrence of the owner thereof, or of the proprietor of the warehouse in which the same were so warehoused, as the Receiver General, Assistant or Sub-Collector shall see fit; and the duties payable upon any deficiency thereof shall be forthwith paid by the proprietor or owner of the goods.

If not worth  
duties may be  
destroyed.

Goods ware-  
housed may be  
re-packed, &c.

53.—With the sanction of the Receiver General, Assistant or Sub-Collector, and after such notice given by the respective importers or proprietors, and at such times and under such regulations and restrictions as any of the said respective officers shall from time to time require and direct, it shall be lawful, in the warehouse, to sort, separate, pack, and re-pack any Goods, Wares or Merchandize, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof: Provided that such Goods, Wares or Merchandize be re-packed in the packages in which they were imported, or in such other packages as any of the said respective officers shall permit; and after such Goods, Wares or Merchandize

Proviso.

have been so separated and re-packed in proper or approved packages, any of the respective officers may, at the request of the importer or proprietor of such Goods, Wares or Merchandize, cause or permit any refuse, damaged or surplus Goods, Wares or Merchandize, occasioned by such separation or re-packing, which may not be worth the duty, to be destroyed, and may remit the duty payable thereon; and also to permit any packages of Sugar and Molasses, or other Goods, Wares or Merchandize, in casks, to be taken out of the warehouse, without payment of duty, for the purpose of being repaired or trimmed or such other purpose as to any such respective officers may appear expedient, and in such quantities and under such regulations and restrictions, and with such security by bond for the return thereof, or the payment of the duties payable thereon, as any such officer may direct or require: **Provided** Proviso. that the Goods, Wares or Merchandize taken out of the warehouse for this purpose shall not be deemed Goods, Wares or Merchandize duly cleared and delivered.

54.—If the proprietor or owner of any warehoused goods, or his agent, shall fraudulently conceal in, or remove from the warehouse, or abstract from any package, or transfer from one package to another, or otherwise, for the purpose of illegal removal or concealment, any warehoused goods, such goods shall be forfeited. Forfeiture of goods for clandestine removal, &c.

55.—No compensation shall be made by any such respective officers to the importer, proprietor or consignee of any Goods, Wares or Merchandize by reason of any damage occasioned thereto in the warehouse, except by his or their wilful act or default. Indemnity to officers in reference to warehoused goods.

56.—Any Goods, Wares or Merchandize warehoused at any port in this Island and its Dependencies, may be removed by sea or by inland carriage to any other port of entry therein, and be re-warehoused or entered for duty at such port, or, with the permission of the proper officers of Customs, removed from any warehouse in any port to any other warehouse in the same Removal of warehoused goods, to any other Port of Entry, &c.

port, under such regulations as may be directed by the Receiver General, and with security by bond (in the form marked H in the Schedule of forms to this Act), in treble the amount of the duties of importation, on the delivery to the proper officer, by the person requiring such removal, of an entry, stating the particulars of the Goods, Wares and Merchandize required to be removed, the name of the port, or of the warehouse if in the same port to which the same are intended to be removed, and with such other information, and in such manner and form, as the Receiver General may direct or require.

Regulations in reference to removal of warehoused goods.

57.—On delivery of any Goods, Wares or Merchandize for removal, an account containing the particulars thereof shall be transmitted by the proper officers of the port of removal to the proper officers of the port of destination, and the person requiring the removal thereof shall enter into bond (in the form marked H in the Schedule of forms of this Act,) with two sufficient sureties in treble the amount of Duties payable on such Goods, Wares or Merchandize, for the due arrival and re-warehousing or entry for duty thereof at the port of destination within such time as the Receiver General, Assistant or Sub-Collector, may direct, and such bond shall not be discharged unless such Goods, Wares or Merchandize shall have been produced to the proper officer, and duly re-warehoused or entered for duty at the port of destination within the time allowed for such removal, nor until the full duties payable upon any deficiency of such Goods, Wares or Merchandize, not so accounted for, shall have been paid.

Warehoused goods liable at the port of destination.

58.—Upon the arrival of such Goods, Wares and Merchandize at the port or place of destination the same shall be entered for duty or warehoused in the same manner and under and subject to the same laws, rules and regulations, as far as the same can be made applicable, as are required on the entry for duty or

warehousing of Goods, Wares and Merchandize on the first importation thereof.

59.—Before any Goods, Wares or Merchandize shall be entered outwards for exportation from the warehouse, the exporter or his agents shall give security by bond, in the form marked I in the Schedule of forms to this Act, in treble the duties of importation, with two sufficient sureties to be approved of by the Receiver General, Assistant or Sub-Collector, that such Goods, Wares or Merchandize shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards, or otherwise accounted for to the satisfaction of any of the respective officers.

Warehoused goods entered for exportation —Bond to be given.

60.—Goods warehoused shall be liable for freight as if on ship-board.

Warehoused goods liable for freight.

61.—It shall be lawful for the Receiver General to remit the duties on Wines and Spirits taken out of bond for the use of the officers of any of Her Majesty's sea or land forces under such regulations as may be made by the Governor in Council.

Duties on Wines for the use of the Officers of Her Majesty's Ships remitted.

62.—There shall be allowed upon the exportation from this Island and its Dependencies of any Goods, Wares and Merchandize, the duties on which were chargeable and paid according to the tale, guage, weight or measure thereof, a drawback of the full duties which shall have been so paid as aforesaid: Provided that on every such exportation the exporter of such Goods, Wares or Merchandize shall, before the same be laden on board of any ship or vessel, give notice in writing of such intended export, and shall deliver to the Receiver General, Assistant or Sub-Collector, or other principal officer in charge of the port or district, an account specifying the several articles intended to be exported, their nature, quality and quantity, and shall annex to the said account an affidavit, to be made before the Receiver General, Assistant or Sub-Collec-

Drawback on exports.

Proviso.

Account.



tor, or other principal officer aforesaid, or any Justice of the Peace for the district, that the full duties on such Goods, Wares or Merchandize were paid at the time of the importation or entry thereof, and setting forth the date of such importation or entry, the name of the importing vessel, of the master thereof, and of the place whence such Goods, Wares and Merchandize were imported, and of the establishment where such goods were manufactured, which account shall, on the clearance of such Goods, Wares and Merchandize, be signed by the Receiver General, Assistant or Sub-Collector, or other principal officer, aforesaid; and on the production of certificates under the hand of the Collector of Her Majesty's Customs at the port of importation in the United Kingdom, or the Receiver General or the Collector of duties in any British possession, or under the hand and seal of the British Consul or Vice-Consul of any foreign port or place, or if there be no Consul or Vice-Consul in such foreign port or place, then under the hands and seals of two well-known merchants, of the actual and due landing of the several articles specified in such account as aforesaid, at such port in the United Kingdom, or in such British possession, or in such foreign port or place, such exporter shall be entitled to receive the drawback granted by law: Provided always that no drawback shall be allowed on any Goods, Wares or Merchandize unless the same shall be exported in boats or vessels exceeding in burthen forty tons of registered tonnage, and unless such drawback shall exceed the amount of Twelve Dollars on each article so exported, and be claimed within one year from the day of shipment aforesaid: Provided nevertheless that the Receiver General, Assistant or Sub-Collector, or other proper officer, may allow a further time for the production of such certificate, on reasonable cause: Provided further that if it be proven to the satisfaction of the Receiver General, Assistant or Sub-Collector, or other proper officer, that the vessel in which such goods so exported has been lost at sea, or otherwise destroyed, and that

Certificate.

Proviso.

Proviso.

Proviso.

such goods so exported are totally lost, it may be lawful for the Receiver General, Assistant or Sub-Collector, or other proper officer, to return the duties paid on such goods, as if proof had been given of the actual and due landing of the same: Provided further, that no drawback shall be allowed where the duties have been only secured by bond and not actually paid.

63.—No Spirits (except from Europe, the British West Indies, or the British Possessions in North America) shall be imported into this Island or its Dependencies, or be carried coastwise from one port to any other thereof, in any cask or other vessel capable of containing liquors not being of the size or contents of Fifty Gallons at least, or be exposed for sale or be in the possession of any person unless the same shall have been transferred to such smaller cask or vessel after it shall have been brought into this Island or its Dependencies, of which the proof shall be upon the party in possession: Provided that nothing herein contained shall extend to any spirits imported in any ship in bottles as part of the cargo, nor to any spirits being really intended for the consumption of the seamen or passengers of such ship during her voyage, and not being more in quantity than is necessary for that purpose; and if any spirits or other Goods, Wares or Merchandize shall be imported or brought into this Island or its Dependencies contrary to the prohibitions or restrictions contained in this Act in respect thereof, then, and in every such case, such spirits or other Goods, Wares or Merchandize, together with the packages containing the same, shall be forfeited.

Prohibition as to importation of spirits in certain cases.

Proviso.

64.—The owner or manager, or his authorized agent, of every establishment where spirituous liquors are made, shall, on the first Monday in every month, render to the Receiver General or the Assistant or Sub-Collector of the Colonial Revenue, an account of the spirituous liquors made at the establishment since the last preceding account, and shall make and

Provisions respecting Distilleries.

subscribe before the Receiver General, Assistant or Sub-Collector, the following oath :—

Oath.

I, A. B., do swear that the account which I have now rendered is a correct account of all spirituous liquors made at the establishment of \_\_\_\_\_ since the \_\_\_\_\_ day of \_\_\_\_\_ and that no spirituous liquors, to my belief, have been removed from the establishment without being gauged and the strength ascertained according to law, or without a permit from the Receiver General or Assistant or Sub-Collector of the Colonial Revenue for the District.

Entry.

65.—Entry shall at the same time be made of the Liquors and Duties thereon paid, or the Liquors warehoused. If the duties be paid, the Receiver General, Assistant or Sub-Collector, shall give a removal permit in the following form :—

Permit.

“Permit A. B. to receive from the stock of \_\_\_\_\_ the following Liquors made by him, that is to say :—

Given under my hand, at  
this \_\_\_\_\_ day of \_\_\_\_\_ 186  
Signed (as the case may be)

C. D., Receiver General,  
Assistant or Sub-Collector.

Revenue Officers  
to investigate.

66.—For investigating the correctness of the accounts, and ascertaining the true quantity of liquors made at any establishment, the Revenue Officers shall have the same power as by law conferred with respect to dutiable Goods imported.

Unreported Li-  
quors forfeited.

67.—If any spirituous liquors shall be found in any establishment after the day on which the same ought to have been reported, without having been reported and entered, the same shall be forfeited.

68.—If the duty on entry for home use be not paid within twenty-four hours thereafter, the Receiver General, Assistant or Sub-Collector, or other proper officer, shall take the liquor into his custody, and shall within fifteen days, sell at public auction, giving ten days' public notice thereof, so much of the liquor as shall suffice to pay the duties on the whole, with the charges of storage and sale, and shall pay the surplus monies and deliver the remaining liquors to the person entitled thereto.

If duty not paid liquor may be sold therefor.

69.—If any spirituous liquors shall be found elsewhere than in the possession of the maker, without the duties thereon having been paid, or without the removal permit where required, such liquors shall be forfeited, and every person in possession thereof shall forfeit Two Hundred Dollars. The duty shall be deemed unpaid until the contrary be shewn.

Liquors found in possession of parties—Duty not paid and no removal permit—to be forfeited.

70.—The Board of Revenue shall, if they see fit, employ officers for attending the Manufactories or Distilleries, so that one officer shall always be present at every Manufactory or Distillery, while in operation; and the officers, under the direction of the Board, or of the Receiver General, Assistant or Sub-Collector, shall be employed alternately in superintending the progress of the manufacture or distillation, and shall report the same at least twice a week to the Receiver General, Assistant or Sub-Collector.

Board to appoint officers to attend distilleries.

71.—The officers shall be sworn by the Receiver General, Assistant or Sub-Collector, faithfully to attend the establishment to which they may be appointed, and to report to the Receiver General, Assistant or Sub-Collector, to the best of their belief, all quantities of spirituous liquors made thereat, and to use their utmost exertions for preventing evasion of the Revenue laws.

Officers to be sworn.

72.—The officers shall be entitled to receive from the Receiver General, on the certificate of the Board,

Compensation to such officers.

One Dollar each for every day on which they shall be actually employed.

Punishment of officer neglecting duty.

73.—If any officer shall absent himself from the establishment to which he may have been appointed, while such establishment is at work, or shall in any way connive at an evasion of the Revenue laws, he shall forthwith be dismissed from office, and shall forfeit Two Hundred Dollars.

Board to make regulations for officers and distilleries.

74.—The Board may make regulations, as may be necessary respecting the attendance of the officers, and the seasons of the year, and the hours at which Distilleries and Manufactories shall be allowed to work, and for checking frauds therein; for the supervision of the buildings in which the same are conducted, when not in operation as well as when at work; and for keeping closed such buildings when the Manufactory or Distillery may not be in operation; and for the expense incident thereto, and for searching for concealed pipes, and other secret means by which fraud may be perpetrated, and with that object for opening doors or windows or otherwise entering buildings, and taking down and removing partitions and other impediments to search, which it may be proper to take down or remove for that purpose, and also for making the owners or occupiers of the buildings, when fraud shall be detected, liable for the expense incident thereto, and generally for ensuring a faithful account of the duties payable, and for carrying into effect the provisions of this Act in relation to the manufacture and distillation of liquors; and may cause to be entered in a book to be kept for that purpose by every distiller, the number of gallons of spirituous liquors distilled by him, and also the number of gallons sold or removed for consumption or sale, and the proof thereof; which book shall be always open in the day-time, Sundays excepted, for the inspection of any officer of Customs, who may take any minutes, memoranda, or transcripts thereof;

and such distiller shall render a general account in writing, taken from his books, of the number of gallons of spirituous liquors distilled and sold or removed for consumption or sale, and the proof thereof, for the period of one month or fractional part of each month preceding, as may be required; and shall also keep a book or books, in a form to be prescribed by the Board of Revenue, and to be open at all seasonable hours for inspection by any officer of Customs, wherein shall be entered, from day to day, the quantities of grain or other vegetable productions or other substances put into the mash tub by him, his agent or superintendent, for the purpose of producing spirits; and shall verify or cause to be verified the said entries, reports, books, and general accounts, by oath or affirmation, to be taken before the Receiver General, or Assistant or Sub-Collector, and shall be in substance as follows:—

I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by \_\_\_\_\_ at \_\_\_\_\_ in the district of \_\_\_\_\_ amounting to \_\_\_\_\_ gallons, according to proof prescribed by the law of this colony, and the owner, agent or superintendent of any distillery aforesaid, shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation aforesaid the following oath or affirmation;—

Oath:

I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true; and that I have taken all the means in my power to make them so.

75.—Manufacturers and distillers shall observe the regulations made under the preceding section, and give free access to the officers at all times by day or night,

Manufacturers to observe regulations, under penalty.

when required ; and any manufacturer or distiller who shall not obey such regulations, or shall impede the officer in the execution of his duty, shall, for every such offence, forfeit the sum of Two Hundred Dollars.

Vessels, carriages, &c., used in removing goods liable to forfeiture—forfeited.

76.—All vessels, boats, carriages, and cattle, made use of in the removal of goods liable to forfeiture under this Act, shall be forfeited ; and every person who shall assist or be otherwise concerned in the importing, unshipping, landing or removal, or in harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of four hundred dollars at the election of the officers appointed or to be appointed under this Act ; and the averment in any declaration, information or libel to be filed or exhibited for the recovery of such penalty, that the officer proceeding, has elected to sue for the sum therein mentioned, shall be deemed sufficient proof of such election without any other or further evidence of such fact.

Goods, vessels, carriages, &c., may be seized.

77.—All goods, and all ships, vessels and boats, and all carriages and all cattle, liable to forfeiture under this Act, shall be and may be seized and secured by any officer appointed under this Act, or other person duly employed for that purpose ; and any person who shall in any way hinder, oppose, molest or obstruct any officer in the exercise of his office under this Act, or any person duly employed thereunder in the exercise of such employment, or any person acting in aid or assistance of such officer or person so employed, shall, for every such offence, forfeit the sum of Eight Hundred Dollars ; and if any person shall, by force or violence, assault, resist, oppose, molest, hinder, or obstruct any officer appointed under this Act, or other person employed, as aforesaid, in the exercise of his office or employment, or any person acting in aid or assistance as aforesaid, such person being convicted thereof shall be adjudged a felon, and shall be pro-

ceeded against as such, and punished at the discretion of the Court before whom such person shall be tried.

78.—If any person appointed under this Act, or any person duly employed for the prevention of smuggling, shall make any collusive seizure or deliver up or make any agreement to deliver up, or not to seize, any vessel, boat, carriage, or any cattle or goods liable to forfeiture under this Act, or shall take any bribe, gratuity, recompense or reward, for the neglect or non-performance of his duty, every such officer or other person shall forfeit for every such offence the sum of Two Thousand Dollars; and every person who shall give or offer or promise to give, or procure to be given, any bribe, recompense, gratuity or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal or connive at anything whereby the provisions of this Act may be evaded, shall forfeit the sum of Eight Hundred Dollars.

Officers making collusive seizures, &c. subject to penalties.

79.—All vessels, boats, goods and other things which shall be seized as forfeited under this Act shall be deemed and taken as condemned, and may be dealt with in the manner directed by law in respect to vessels, boats, goods and other things seized and duly condemned for breach of the provisions of this Act, unless the person from whom such vessels, boats, goods and other things shall have been seized, or the owner of them, or some person authorized by him, shall, within one calendar month from the day of seizing the same, give notice in writing to the person or persons seizing the same, or to the officer in charge of the nearest port or district, that he claims the said vessel, boat, or goods, or other things, or intends to claim them.

Seized goods. &c. if unclaimed for one month to be condemned. &c

80.—Under the authority of a writ of assistance granted by a Judge of the Supreme Court of New-

Writ of assistance.



foundland (who is hereby authorized and required to grant such writ of assistance upon application made to him for that purpose by the principal officer appointed under this Act), it shall be lawful for any officer appointed under this Act, taking with him a peace officer, to enter any building or other place in the day-time and to search for and seize and secure any goods liable to forfeiture; and in case of necessity to break open any doors and any chests or other packages for that purpose; and any person in whose custody or possession any such goods may be found, shall, unless he account satisfactorily for the same, be liable to a penalty of Four Hundred Dollars: and such writ of assistance, when issued, shall be deemed to be in force during the whole of the Reign in which the same shall have been granted, and for twelve months from the conclusion of such Reign.

Goods seized to be secured by officer.

81.—All Vessels, Boats, Goods and other things seized as liable to forfeiture under this Act, shall be forthwith delivered into the custody of the officer of the port where the same shall have been seized, or of such other port as the Receiver General or Assistant Collector may direct; and such officer, after condemnation of such vessels, boats and other things, shall cause them to be sold by public auction to the highest bidder: Provided always that it shall be lawful for the Board to order such vessels, boats, goods, and other things, or the proceeds of such sale, to be restored in such manner and upon such conditions as they shall think fit.

Proviso.

Jurisdiction for prosecution of seizures, and penalties.

82.—All Penalties and Forfeitures incurred under this Act shall and may be prosecuted, sued for and recovered in any Court of Record, or of Vice-Admiralty, having jurisdiction in this Island and its Dependencies.

Suits to be commenced in the name of officers, &c.

83.—No Suit shall be commenced for the recovery of any penalty or forfeiture under this Act, except in the name of the principal officer appointed under this

Act, or in the name of Her Majesty's Attorney or Solicitor General for this Island and its Dependencies.

84.—If any Goods shall be seized or detained for the non-payment of the duties payable thereon, or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid on the same, or whether the same have been lawfully imported, the proof thereof shall lie on the owner or claimant of such goods, and not on the officer by whom the same shall have been seized or detained.

Goods seized for non-payment of duties—proof on owner.

85.—No claim to anything seized under this Act, and returned into Her Majesty's Courts for adjudication, shall be admitted unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner or by his Attorney or Agent, by whom such claim shall be entered, to the best of his knowledge and belief; and any person making a false oath thereto shall be deemed guilty of a misdemeanor, and shall be liable to the pains and penalties to which such persons guilty of a misdemeanor are ordinarily liable.

No claim to anything seized admitted unless, &c.

86.—No person shall be permitted to enter a claim to anything seized in pursuance of this Act until sufficient security shall be given in the Court where such seizure is prosecuted, in a penalty not exceeding Two Hundred and Fifty Dollars, to answer and pay the costs occasioned by such claim, and in default of giving such security such things shall be adjudged to be condemned and forfeited.

No person permitted to enter claim until security for costs, &c.

87.—No writ shall be sued out against, nor a copy of any process served upon, any officer appointed under this Act, or other person as aforesaid, for anything done in the exercise of his office or employment, aforesaid, until one calendar month after notice in writing shall have been delivered to him, or left at his

A month's notice to be given to officers.

usual place of abode by the party or by the Attorney or Agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the Attorney or Agent; and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a verdict and costs.

Action to be brought within three months.

88.—Every such action shall be brought within three calendar months after the cause thereof, and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become non-suited or shall discontinue the action, or if upon verdict or demurrer judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

Treble costs.

Judge may certify probable cause of seizure.

89.—In case any information or suit shall be brought to trial on account of any seizure made under this Act, and a verdict shall be found for the claimant thereof, and the Judge or Court before whom the cause shall have been tried, shall certify on the record that there was a probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment or other suit or prosecution on account of such seizure; and if any action, indictment or other suit or prosecution shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the things seized or the value thereof, shall not be entitled to more than Five

Cents damages, nor to any costs of suit, nor shall the defendant, in such prosecution, be fined more than One Dollar.

90.—It shall be lawful for such officer, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas; and if the jury shall find the amends sufficient, they shall give a verdict for the defendant; and in such case, or in case the plaintiff shall become nonsuited, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only: Provided always that it shall be lawful for such defendant, by leave of the Court where such action shall be brought, at any time before issue joined, to pay money into Court, as in other actions.

Tender of  
amends.

Proviso.

91.—In any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than Five Cents damages nor to any costs of suit.

Judge may cer-  
tify probable  
cause of action.

92.—All fines, forfeitures and penalties recovered under this Act, shall be paid into the hands of the Receiver General, and shall be divided and paid as follows, that is to say: after deducting the charges of prosecution and sale, and the amount of duty from the produce thereof, one-third part of the net produce shall be paid by the Receiver General to the person who shall inform for the same; one other third part of such net produce shall also be paid by the Receiver General to the officer who shall seize and sue for the same; and the remaining third part of such net produce shall be paid to the said Board of Revenue: Provided always that it shall be lawful for the said Board of Revenue

Appropriation  
of Fines and  
Penalties.

Proviso.

to distribute such remaining third part of such net produce among all or any of the seizing officers or other persons aiding or assisting them, or any of them, to effect the seizure, in such proportions as the said Board may deem reasonable: And provided always that when the said officer who shall seize and sue for the same, shall be the informer, he shall be entitled to receive two-thirds of the said full net produce and proceeds: Provided further, that when the articles seized are common Brandy, common Gin, undefined Spirits and low Wines, the portion reserved by this section for the Crown, shall be in lieu of all duties thereon.

Proviso.

Proviso.

Provision for the recovery and appropriation of Fines.

93.—In all cases in which no fine, penalty or forfeiture is imposed or provided for by this Act, for a breach or violation of any of the provisions thereof, all persons offending against the same in any way shall forfeit and pay a sum not exceeding Two Hundred Dollars, to be recovered and appropriated in like manner as other fines and penalties are under this Act.

Limitation of suits.

94.—All actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act may be commenced or prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture shall be incurred, any law, usage or custom to the contrary thereof notwithstanding.

Meaning of terms in this or any other Act.

95.—Whenever the several terms or expressions following occur in this Act, or in any other Act of the General Assembly of this Island, the same shall be construed respectively in the manner hereinafter directed, that is to say: the term "ship" shall be construed to mean "ship or vessel" generally; the term "master" of any ship shall be construed to mean "the person having or taking charge of such ship;" the term "Her Majesty" shall be construed to mean "Her Majesty, Her Heirs and Successors," and the term "Warehouse" shall be construed to mean "any place, whether house, shed, yard, timber-pond, or other place

in which goods, entered to be warehoused, may be lodged, kept, and secured; the term "proper officer" shall be construed to mean "any officer authorised to do the act referred to;" the term "Collector" shall mean "the person collecting the Revenue for the port;" and the terms "Proprietor, Owner, Importer and Exporter," shall include any person acting on their behalf respectively.

96.—All goods landed at the Labrador shall be subject to the duties imposed upon the like goods imported into any part of this Island or its Dependencies, and to the same laws, rules and regulations, as though they were on board the importing ship on arrival, before such landing; and unless the owners or their agents shall duly account for all such goods to any officer of the Revenue appointed to collect duties at the Labrador, and, to his satisfaction, pass entries for the same, and pay the duties thereon, such goods shall be forfeited; and any such officer may at any time, between sunrise and sunset, enter into any building or place of any person dealing in or having in his possession dutiable goods, and take an account thereof; and if such owner or agent shall refuse to open the doors, or shall in anywise obstruct such officer, he shall forfeit the sum of Four Hundred Dollars; and such officer may, if he think fit at any time so to do, take with him a writ of assistance, and proceed therewith in manner by law in that behalf directed in similar cases: Provided that nothing in this section shall be construed to exempt from duty, under other provisions of the law, goods imported at the Labrador but not landed.

Goods landed at Labrador subject to duties.

Proviso.

97.—Every importer of any goods at the Labrador shall, within two days after importation, make due entry of such goods, and pay the duties thereon, and if required by the Collector or Sub-Collector, land the said goods; and in default of such entry and payment of duties, it shall be lawful for the Collector or Sub-Collector to seize and sell the said goods, or so much as may be necessary for the payment of all duties on

Importers at Labrador to make entry within two days and pay duties.

such importation, paying over the surplus of the proceeds, after payment of such duties and expenses of seizure and sale, to the proprietor of such goods, or to any person authorized to receive the same.

Collector's office on board ship in certain cases.

98.—For the purpose of the collection of the Revenue at the Labrador, the office of Collector or Sub-Collector, where there is no office on shore, shall be held to be in the ship or vessel in which such Collector or Sub-Collector shall be conveyed.

Goods forfeited at Labrador may be sold, &c.

99.—Goods seized as forfeited at the Labrador may be sold by the Collector or Sub-Collector, under the provisions of the laws relating to the Revenue, at any port or place such Sub-Collector may deem most expedient.

Governor may authorize importation of spirits at Labrador in casks less than 50 gallons.

100.—It shall be lawful for the Governor in Council, by instructions to be given to the Collector or Sub-Collector in that behalf, to authorize the importation and entry of, and payment of Duties upon, Spirits imported into the Labrador, in casks containing less than fifty gallons.

Every person concerned in landing goods at Labrador, duty not paid, liable to penalty.

101.—Every person who shall be concerned in landing or unshipping at the Labrador any Goods, Wares or Merchandize liable to duty, the duties on which have not been paid or secured, shall forfeit and pay a penalty of Four Hundred Dollars, to be recovered in a summary manner under the provisions of this Act.

Penalties, how recovered.

102.—All pecuniary penalties and forfeitures incurred by the breach of any law, relating to the Revenue, committed at the Labrador, may be sued for and recovered in any Court of Record in a summary manner; and in default of payment thereof, upon conviction, it shall be lawful for the Judge of the said Court to imprison the offender for any period not exceeding two calendar months.

Judge may issue warrant, &c.

103.—In order to the trial of any party charged as being liable to any such penalty or forfeiture, it shall

be competent for the Judge of the said Court, upon information upon oath being laid before him, against such party, to issue a warrant for his apprehension; and any party arrested under such warrant shall not be discharged from arrest before he shall have been acquitted of the charge, or suffered the punishment or paid the fine upon conviction therefor, unless he shall give sufficient security, to the satisfaction of the said Judge, for his appearance to answer such charge and to abide the judgment of the Court in that behalf.

104.—In any proceeding for any such penalty or forfeiture, it shall be lawful for the said Judge to compel the appearance of any witness by warrant, either in the first instance, or upon a summons to such witness being disobeyed.

And compel attendance of witnesses.

105.—All bonds hereafter taken for the payment of duties under this or any Act for the payment, regulation, or collection of any duties levied in this Island and its Dependencies, shall constitute and be a prior claim upon the estate, lands, goods, chattels, credits and effects, of the importer, consignee or other person executing such bond, from the time the person executing such bond shall be actually insolvent, though not formally declared insolvent, until the amount thereby secured shall be paid.

Bonds for duties to form prior claim in all cases.

106.—The forfeiture of a Vessel shall include all her tackle, apparel, and furniture, whatsoever, and of goods, shall include the packages containing them.

Forfeiture of vessel includes tackle, &c.



Schedule of  
Forms.

**SCHEDULE OF FORMS REFERRED TO IN  
THE FOREGOING ACT.**

**A**

*(Bond given for the removal of Goods reported for  
Importation at another port in the Colony.*

(1) Importer  
and two Sureties

KNOW ALL MEN BY THESE PRESENTS, that We [1]

Newfoundland, are held and firmly bound unto our  
Sovereign Lady VICTORIA, by the Grace of GOD, of  
the United Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith, in the sum of [2]

(2) Treble the  
amount of Dut-  
ties, to be set  
down in words,  
and not in  
figures.

to be paid to Our said Lady the Queen, Her Heirs and  
Successors; For which payment, well and truly to be  
made, we bind ourselves and every of us, jointly and  
severally, for and in the whole, our Heirs, Executors,  
and Administrators, and every of them, firmly by  
these Presents. Sealed with our Seals. Dated this  
day of \_\_\_\_\_ in the

Year of the Reign of Her said Majesty,  
and in the Year of our Lord One Thousand Eight  
Hundred and \_\_\_\_\_

Whereas, the above bounden \_\_\_\_\_ has  
given notice of his intention to convey or remove to  
\_\_\_\_\_ in the ship or vessel  
the following goods, that is to say:—

which said goods were on the \_\_\_\_\_ day of \_\_\_\_\_  
in the Year One Thousand Eight Hundred and \_\_\_\_\_  
reported inwards, at this Port of St.

John's, by the said ship or vessel from  
for importation at \_\_\_\_\_ aforesaid: Now the  
condition of this obligation is such, that if the said  
goods, and every part thereof, shall be duly cleared  
outwards and landed at \_\_\_\_\_ aforesaid; and if  
within the space of \_\_\_\_\_ days, from the date  
hereof, the above bounden \_\_\_\_\_ shall produce  
to the Receiver General, or other proper Officer, at

St. John's aforesaid, a certificate under the hand of the Sub-Collector, or other proper officer of the Customs, at \_\_\_\_\_ aforesaid, stating that the whole and every portion of the said goods have been landed at \_\_\_\_\_ aforesaid, then this obligation to be void, otherwise to be and remain in full force and virtue. (L.S.)  
 Signed, Sealed, and Delivered, } (L.S.)  
 in presence of } (L.S.)

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**B**

*(Bond given for the Clearance of Goods reported for Exportation.)*

Know all Men, &c.

Whereas the above bounden \_\_\_\_\_ has given notice of his intention to export to \_\_\_\_\_ in the ship or vessel \_\_\_\_\_ the following goods, that is to say:—

which said goods were on the \_\_\_\_\_ day of \_\_\_\_\_ in the Year One Thousand Eight Hundred and \_\_\_\_\_ reported for exportation to \_\_\_\_\_ aforesaid, by the said ship or vessel \_\_\_\_\_ from \_\_\_\_\_

Now the condition of this obligation is such, that if the said goods, and every part thereof, shall be duly exported to, and landed at \_\_\_\_\_ aforesaid; and if within the space of \_\_\_\_\_ days from the date hereof, the above bounden \_\_\_\_\_ shall produce to the

Receiver General, or other proper officer aforesaid, a certificate under the hand of \_\_\_\_\_ at \_\_\_\_\_ aforesaid, stating that the whole and every portion of the said goods have been landed at \_\_\_\_\_ aforesaid; then this obligation to be void, otherwise to be and remain in full force and virtue. (L.S.)

Signed, Sealed, and Delivered, } (L.S.)  
 in presence of } (L.S.)

Schedule of  
forms.

©

*(Bond given on Entry of Goods to be Transhipped.)*

Know all Men, &c.

Whereas the above bounden \_\_\_\_\_ has given notice of his intention to tranship on board the ship or vessel \_\_\_\_\_ bound to \_\_\_\_\_ the following goods, that is to say:—

which said goods were on the \_\_\_\_\_ day of \_\_\_\_\_ in the Year One Thousand Eight Hundred and \_\_\_\_\_ reported inwards at the port of St. John's, by \_\_\_\_\_ master, from \_\_\_\_\_ Now the condition of this obligation is such, that if the said goods, and every portion thereof, so reported inwards as aforesaid, shall be duly and faithfully transhipped from the said import ship or vessel \_\_\_\_\_ to the said ship or vessel \_\_\_\_\_ and within the space of \_\_\_\_\_ days next following the date hereof, duly entered and landed, without alteration or diminution, at the port of \_\_\_\_\_ aforesaid; and within the space of \_\_\_\_\_ days from the date hereof, the above bounden \_\_\_\_\_ shall produce to the Receiver General, or other proper Officer at \_\_\_\_\_ aforesaid, a certificate under the hand of the Sub-Collector, or other proper Officer of Customs, at \_\_\_\_\_ aforesaid, stating that the whole, and every portion of the said goods have been there duly landed; then this obligation to be void, otherwise to be and remain in full force and virtue.

(L.S.)

(L.S.)

(L.S.)

Signed, Sealed, and Delivered, }  
in presence of }

## D

Schedule of  
Forms.

*(Bond to be given by the Importer, for Duties on  
Goods Imported.)*

Know all Men, &c.

Whereas the above bounden (3)  
has lately imported into the port of \_\_\_\_\_ in a Ship (8) Importer  
or Vessel called the \_\_\_\_\_, whereof \_\_\_\_\_ is  
Master, from \_\_\_\_\_ the undermentioned Goods, namely

The Duties in respect whereof, amounting to  
\_\_\_\_\_ have not been paid, and the payment of which  
duties he is desirous of securing, pursuant to law.

Now the Condition of this Obligation is such, that if  
the full Duties as aforesaid due and payable on the Im-  
portation of such Goods, be paid to the Receiver Ge- (4) Number of  
neral or other proper officer at the said Port of \_\_\_\_\_, days as per cer-  
within Four Months [4] from the date of the first Entry tent month.  
thereof, then this Obligation to be void, otherwise to  
be and remain in full force and virtue.

Signed, Sealed, and Delivered, } (L.S.)  
in presence of } (L.S.)  
(L.S.)

Schedule of  
Forms.

## E

*(Bond to be given for Goods landed and Ware-  
housed from Steamers.)*

Know all Men, &c.

Whereas the above bounden  
expects to arrive at the Port of St. John's, within the  
space of one year from the date hereof, certain  
Steamships belonging to \_\_\_\_\_ Company,  
each having on board certain Goods, such as may  
be reported at the Custom House by the masters of the  
respective ships on the arrival of each ship respectively;  
the Duties in respect whereof have not been paid,  
and which Goods he is desirous of depositing in a  
Warehouse on arrival at \_\_\_\_\_ pursuant  
to Law.

Now the condition of this obligation is such that if  
all the Goods so imported shall be safely deposited in  
such Warehouse situate as aforesaid, and shall be  
either duly exported, or the full Duties due and paya-  
ble on the importation of such Goods, or on such part  
thereof as shall not have been exported as aforesaid, be  
paid to the Receiver General or other proper Officer at  
the said Port of St. John's according to the first account  
taken of such Goods upon the landing of the same, and  
if no part thereof shall be taken out of such Ware-  
house until cleared from thence upon due entry and  
payment of Duty (if intended for home consumption),  
or upon due entry if intended for exportation, and if  
the whole of the said Goods shall be so cleared from  
such Warehouse, and the Duties upon any deficiency  
of quantity according to such first account, shall be  
paid within two years from the date of the first entry  
thereof; then this obligation to be void, otherwise to be  
and remain in full force and effect.

Signed, Sealed, and delivered, }  
in presence of }

(L.S.)

(L.S.)

(L.S.)

## F

Schedule of  
Forms.*(Bond to be given of Goods for Warehouse.)*

Know all Men, &amp;c.

Whereas the above bounden (3) (3) Importer  
 has lately imported into the Port of \_\_\_\_\_ in a  
 Ship or Vessel called the \_\_\_\_\_ Master, from  
 the undermentioned Goods, namely,

the duties in respect whereof have not been paid, and  
 which Goods he is desirous of depositing in a Ware-  
 house situate at \_\_\_\_\_, pursuant to law.

Now the condition of this Obligation is such, that  
 if all the Goods so imported shall be safely deposited  
 in such Warehouse situate as aforesaid, and shall be  
 either duly exported or the full duties due and paya-  
 ble on the importation of such Goods, or on such part  
 thereof as shall not have been exported as aforesaid,  
 be paid to the Receiver General or other proper Offi-  
 cer at the said Port of \_\_\_\_\_

according to the first account taken of such Goods  
 upon the landing of the same, and if no part thereof  
 shall be taken out of such Warehouse, until cleared  
 from thence, upon due entry and payment of duty, if  
 intended for Home Consumption, or upon due Entry  
 if intended for Exportation; and if the whole of such  
 Goods shall be so cleared from such Warehouse, and the  
 duties upon any deficiency of quantity, according to  
 such first account, shall be paid within two years from  
 the date of the first entry thereof, then this obligation  
 to be void, otherwise to be and remain in full force  
 and virtue.

Signed, Sealed, and Delivered, } (L.S.)  
 in presence of } (L.S.)  
 } (L.S.)

Schedule of Forms.

G

(Bond to be given by the Purchaser of Goods Imported and Warehoused.)

Know all men, &c.,

Date of the importation.  
(3) Importer's name and residence.

Whereas on or about the \_\_\_\_\_ day of \_\_\_\_\_ in the Year of our Lord One Thousand Eight Hundred and \_\_\_\_\_

(3) imported into the Port of \_\_\_\_\_ the undermentioned Goods, namely,

(4) One, two, or more as the case may be.

which are now deposited in (4) \_\_\_\_\_ Warehouse, situate at \_\_\_\_\_ in the said Port of \_\_\_\_\_ pursuant to Law.

(5) Importer  
[6] The description and quantity of goods sold. If the whole, the words "the said goods" must be inserted, "a part of the goods so imported by the said as aforesaid" must be struck through.

And whereas the said (5) \_\_\_\_\_ has lately sold and disposed of (6) \_\_\_\_\_

[7] The purchaser.

a part of the Goods so imported by the said \_\_\_\_\_ as aforesaid, unto the above bounden (7) \_\_\_\_\_

Now the condition of this obligation is such, that if all the Goods so imported shall be either duly exported or the full Duties due and payable on the importation of such Goods or on such part thereof as shall not have been exported as aforesaid, be paid to the Receiver General or other proper Officer at the said Port of \_\_\_\_\_ according to the first Account taken of such Goods upon the landing of the same, and

if no part thereof shall be taken out of such Warehouse until cleared from thence, upon due entry and payment of duty (if intended for home consumption); and if the whole of such Goods shall be so cleared from such Warehouse, and the duties upon any deficiency of quantity, according to such first account, shall be paid within two years from the date of the first entry thereof, then this obligation to be void, otherwise to be and remain in full force and virtue.

Schedule of  
Forms.

Signed, Sealed, and Delivered, }  
in presence of }

(L.S.)

(L.S.)

(L.S.)

### II

*(Bond to be given upon the removal of Warehoused Goods from a Warehousing Port to any Port of Entry within this Colony.)*

Know all Men, &c.

Whereas the above bounden  
has given notice of his intention to remove to the  
Port of                      the following Goods, that is to say:—

which said Goods are now lodged and deposited in a  
Warehouse situate at

Now the condition of this obligation is such, that  
if the said Goods, and every part thereof, shall be  
duly delivered, without alteration or diminution, into  
the custody and possession of the Sub-Collector, or  
other proper officer at                      aforesaid; and if the  
same Goods, and every part thereof, shall be duly re-





shipped on board the said ship or vessel, and within the space of \_\_\_\_\_ next following the date hereof, shall be duly landed at \_\_\_\_\_ aforesaid ; and if within the space of \_\_\_\_\_ from the date hereof, the above bounden \_\_\_\_\_ shall produce to the \_\_\_\_\_ or other proper Officer at \_\_\_\_\_ a Certificate under the hand of the \_\_\_\_\_ stating that the whole and every portion of the said Goods have been landed at \_\_\_\_\_ aforesaid ; then this obligation to be void, otherwise to be and remain in full force and virtue.

Schedule of Forms.

Signed, Sealed, and delivered, } (L.S.)  
 in presence of } (L.S.)  
 (L.S.)

CAP. III.

*An Act for Granting to Her Majesty a Sum of Money for Constructing and Repairing Roads, Streets and Bridges within this Colony.*

[Passed April 13, 1864.]

WHEREAS it is expedient to provide for the internal improvement of this Colony, by Constructing Repairing and Improving Main and other Roads, Streets and Bridges, therein :—

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows :—

I.—From and out of such Moneys as may, from time to time, remain in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the Sum of Ten Thousand Two Hundred and Twenty-seven Pounds Six Shillings and Eleven Pence, to be expended under this Act in the Constructing, Repairing and Improving of Main and other Roads, Streets and Bridges in this Colony, and for defraying all expenses attendant

£10 227 6s. 11d. granted for purposes of this Act.

thereon ; which sum shall be distributed and appropriated as follows, that is to say :—

**Main Lines—** On the Great Northern Mail Route from Head of Northern Mail Route towards White Bay, Five Hundred and Fifty-two Pounds Eighteen Shillings and Six Pence.

**Holy Road to Placentia. £225.** On the Main Line of Road from Holyrood to Placentia, Two Hundred and Twenty-five Pounds ; out of which the sum of Thirteen Pounds Thirteen Shillings shall be appropriated for labour performed on Road between Colinet and Placentia, and Six Pounds Ten Shillings for labour performed on the Salmonier Main Road.

**Burin to Garnish £100.** On the Main Line of Road from Burin to Garnish, One Hundred Pounds.

**Hermitage Bay to Fortune Bay, £50** On the Main Line of Road from Hermitage Bay to Fortune Bay, Fifty Pounds.

**District of St. John's, £2,517 8s. 11d.** The sum of Two Thousand Five Hundred and Seventeen Pounds Eight Shillings and Eleven Pence for the Road Service of the District of St. John's, as follows :

In payment of one-half the amount due on Debentures issued under Act 25 Victoria, Cap. 3, Two Hundred and Eighty-three Pounds Eight Shillings and Seven Pence, the remaining moiety to be provided for in the next Road Grant.

For cleansing the St. John's Streets, Two Hundred Pounds.

In payment of one-half the balance due on the Black Head Road, One Hundred and Twenty Pounds Six Shillings and Ten Pence.

In payment of amount due Savings' Bank, on account of Custom House Drain, Ninety-three Pounds Seven Shillings and Nine Pence.

In payment of one-half salary to Road Inspector Maher, for the years 1861, 1862, 1863, One Hundred

and Eighty-seven Pounds Ten Shillings, the remainder to be paid out of the next Road Grant.

District of St. John's (continued.)

In payment of one-half salary to Road Inspector Coady, for the years 1861, 1862, 1863, One Hundred and Eighty Pounds, the remainder to be paid out of the next Road Grant.

To the Chairman of the Board of Works for advances on account of Road Contracts in 1862, viz.

For the District of St. John's East, Two Hundred and Ninety-nine Pounds Seventeen Shillings and Six Pence.

For the District of St. John's West, One Hundred and Twenty-seven Pounds Fifteen Shillings and Nine Pence.

On the Road leading from Middle Cove to join Torbay Road, Fifteen Pounds.

To complete the Road between Gallis Cove Pond and Waterman's Pond, One Hundred Pounds.

To complete the Road from School House, past Wesleyan Chapel, Portugal Cove, Fifteen Pounds.

To Blast a Rock at Logy Bay, Twenty Pounds.

To repair Road leading from Long Pond Road to Newtown, Fifteen Pounds.

To repair Road leading from Rennie's Bridge, by O'Brien's Bridge, and Branch Road leading to Quigley's and Wilson's, Ten Pounds.

To repair Main Road from Bally Haly to Outer Cove and Middle Cove Bridge, Ninety Pounds.

To repair Main Road from St. John's to Torbay and Flat Rock, Ninety Pounds.

To repair Major's Path Road, Ten Pounds.

To complete the Road from Outer Cove Road to Torbay Road, through Gleeson's Bog, Twenty Pounds.

District of St.  
John's (con-  
tinued.)

To repair the Road leading by the Roman Catholic Cemetery towards the Sand Pits, Twenty Pounds.

On Road to Williams' Pound, Ten Pounds.

To William Viccars, for balance due him for making Gleeson's Bog Road, 1860, Eighteen Pounds.

To Charles and James Hudson, for balance due them for making Road between Pouch Cove and Biscayan Cove, 1862, Forty-four Pounds.

To build a Bridge over Pine River, at Middle Cove, Ten Pounds.

To repair Main Road from St. John's to Beachy Cove Bridge, One Hundred Pounds.

To repair Road from White Hills to Logy Bay Road, leading to the Fishing Rooms, Ten Pounds.

To repair Road through Fresh Water, from Moses Neil's Bridge to St. John's, Twenty Pounds.

To make Road from Pouch Cove New Line to Seals Cove, Twenty Pounds.

To make Hanlon's Road, Quidi Vidi, Fifty-three Pounds Eleven Shillings and Two Pence.

To repair Road from Outer Cove Beach to Middle Cove Road, Ten Pounds.

To repair Road from White Hills Road, by Harding's, to join Logy Bay Road, Ten Pounds.

To repair Road from Logy Bay Road by Wm. Dyer, Jr's. to Fishing Rooms, Ten Pounds.

To repair Road from Logy Bay Road by Laughlan's to meet Road by Patrick Ryan's to Fishing Rooms, Ten Pounds.

To making a Road leading from the Fishing Rooms at Fresh Water to the Main Road to Torbay and Middle Cove, Ten Pounds.

To open a Branch Road to the Westward of Logy Bay, Fifteen Pounds. District of St. John's, (continued.)

Towards repairing the Petty Harbour Road, from its junction with the Bay Bulls Road, beyond Waterford Bridge, to Petty Harbour, where most required, Thirty Pounds.

On Forrest Pond Road, leading from Petty Harbour to the Goolds, Twenty Pounds.

On Maddox Cove Road, Twenty Pounds.

On Road in Fresh Water Bay, Ten Pounds.

On Road down the Hill leading to Broad Cove, Fifteen Pounds.

On Main Line of Road from O'Brien's Bridge, near Broad Cove, towards the Topsail Road, Thirty Pounds.

On Topsail Road, from Palk's Hill to the Boundary Line of the Western District of St. John's, where most required, Thirty Pounds.

On Bay Bulls Road beyond Waterford Bridge, Southwardly, within the Boundary Line of the Western District of St. John's, where most required, Thirty Pounds.

Towards making the Road on the South Side of River Head, commencing beyond Vail's Bridge, and thence towards Renouf's Bridge, Thirty-five Pounds.

On South Side Road Eastward of Ewen Stabb's, Twenty Pounds.

On the Freshwater Road, between its junction with the Pennywell Road and Moses Neil's, to be expended where most necessary, Thirty Pounds, and the Sum of Seven Pounds and Ten Shillings to be expended beyond Moses Neil's and towards Maccassy's and Dillon's farms.

On Lazy Bank Road from Apple Tree Well, Westwardly, Ten Pounds.

District of St.  
John's, (con-  
tinued.)

On Road on South Side of Monday's Pond, from Brazil's farm towards Merrigan's, where most required, Ten Pounds.

From Merrigan's towards Clement Carew's and other farms, Ten Pounds.

To make the Black Marsh Road towards Topsail Road, near Branscombe's Pond, Twenty Pounds.

To repair the Western portion of Pokeham Path Road, Ten Pounds.

Towards making a Road Eastward of Peter Neville's upper farm, towards the Black Marsh, Fifteen Pounds.

To open the Road bounded by Wills's and Connell's farms to the Pennywell Road; Provided an arrangement can be made with the Proprietor of the land Northward of Wills's and Connells; and provided the cost of the same shall not exceed Ten Pounds.

To open and make the Branch Road from the Bay Bulls Road, Northwardly, leading from James Toole's farm, thence towards Land belonging to Ruby and others, Eighteen Pounds.

To repair the Old Placentia Road beyond Dunscombe's Bridge, where most required, Twenty Pounds.

To repair Heavy Tree Road, Ten Pounds.

On the Road from Heavy Tree Road towards Peter Short's, Seven Pounds Ten Shillings.

On Road leading through the Deers' Marsh towards John Whiteway's, Seven Pounds Ten Shillings.

On Road leading by Pascoe Carter's towards the South River, Seven Pounds Ten Shillings.

On Dreelan's Well Road to Penny Well Road, Fifteen Pounds.

On Road leading South West of George Barter's by Patrick Devan's, Fifteen Pounds.

On Road from St. John's to Black Head, Eighty Pounds. District of St. John's, (continued.)

Towards making LeMarchant Road, commencing where it intersects the top of Carter's Hill, and thence Southwardly, Eighty Pounds.

Towards repairing Penny Well Road, Fifteen Pounds.

Towards repairing the Road through Pearl Town by the farms of John Eales and others, Ten Pounds.

To repair the Ken Mount Road, from Walsh's farm Westward, Fifteen Pounds.

To repair the Old Bay Bulls Road leading by William Sinnot's, where most required, Fifteen Pounds.

Towards making the Road from Broad Cove towards Goat Cove, Five Pounds.

To repair the Road up the Hill towards Brennan's, beyond Waterford Bridge, Five Pounds.

To make a Bye Path from the Main Road on the South Side to the Floating Dock, Seven Pounds Ten Shillings.

The balance of Grant, Ten Pounds Seventeen Shillings and Three Pence, to be expended on such Roads and Bridges in Petty Harbour as shall be approved of and recommended by the Members of the House of Assembly for the District.

The Sum of Four Hundred and Nine Pounds Eleven Shillings and Two Pence for the Road Service of the District of Harbor Main, as follows, namely: District of Harbor Main, £409 11s. 2d.

In payment of one-half the amount due on debentures issued under Act 25 Vic., Cap. 3, One Hundred and Ninety-seven Pounds Nineteen Shillings and Four Pence, the remaining moiety to be provided for in the next Road Grant.



District of Har-  
bor Main,  
(Continued.)

To the Chairman of Board of Works to reimburse him for payment on account of Roads under Contract in 1862, Thirty-eight Pounds Seventeen Shillings and Nine Pence.

Salmon Cove to Gasters, Eight Pounds.

Salmon Cove to Lee's Pond, Eight Pounds.

Northern Path Road, Cat's Cove, Twelve Pounds.

Saint John's Town Road, Four Pounds.

Cat's Cove Harbour Road, Fifteen Pounds.

Upper Bacon Cove Road, Nine Pounds.

Lower Bacon Cove Road, Eight Pounds.

Cat's Cove Street to Pond, Five Pounds.

Colliers Harbor Road, Fourteen Pounds.

Colliers, North Side, Five Pounds.

Turk's Gut and English Cove, Six Pounds One Shilling and Eleven Pence.

Thomas Keefe, Superintending Road Work in 1862, Seven Pounds Ten Shillings.

David Kenny, for Work on Roads in 1860, Three Pounds Ten Shillings.

John St. John, for Work on Roads in 1860, Four Pounds Two Shillings.

Richard Hearn and William Burke, for Road Work in 1860, Two Pounds Ten Shillings.

David Ryan, Turk's Gut, for Road Work 1863, One Pound Ten Shillings.

Making Topsail Quarry Road, Ten Pounds.

Making Road to Long Pond Narrows, Three Pounds.

Making Fox Trap Church Road and neighbourhood, Twelve Pounds.

Making Lower Gulley Road, Three Pounds.

Making Seal's Cove Road, Ten Pounds Fourteen Shillings and Eight Pence.

William Mercer and others, of Chamberlain, compensation, Fourteen Pounds Fifteen Shillings and Six Pence.

Joseph Kelly and William Douden, labour, Lance Cove, Six Pounds; Provided the Owners of Property through which any New Line of Road may pass give the Land free of cost.

The Sum of Three Hundred and Ninety-seven Pounds Eleven Shillings and Three Pence for the Road Service of the District of Ferryland, as follows, namely :

District of  
Ferryland  
£337 11s. 3d.

To the Chairman of Board of Works, to reimburse him for payments on account of Roads under Contract for 1862 and 1863, Seventy-one Pounds Eighteen Shillings and Eight Pence.

The Sum of One Hundred and Sixty-two Pounds Sixteen Shillings and Four Pence to be expended between Bay Bulls and LaManche under control of the Board of Works.

From Brigus Cross Roads to Bridge at Cape Broyle, Forty Pounds.

Repairs Main Line from Ferryland to Aquaforte, towards finishing New Line around River Head Aquaforte, and thence to Fermeuse and Renewes, Seventy-seven Pounds Sixteen Shillings and Three Pence.

Repairs of Road from Fermeuse River Head to Renewes, Thirty Pounds.

Repairs of Arch of Embankment at Renewes, Five Pounds.

Repairs of Roads and Bridges in Renewes Harbor, North and South, Ten Pounds.

The Sum of Four Hundred and Six Pounds Seven Shillings and Four Pence, for the Road Service of the District of Burin, as follows, namely :

District of Burin  
£406 7s. 4d.

Rock Harbor Bridge, Fifteen Pounds.

On Roads and Bridges East of Burin, to be expended as the Road Commissioners may deem most expedient, Thirty-five Pounds.

Roads in Flat Islands, Ten Pounds.

District of Burin  
(Continued.)

**Burin Proper—**

- Bull's Cove to George's Point, Fifteen Pounds.
- Path End Westward to Koley's, Fifteen Pounds.
- O'Neill's Point to Ship Cove Cross Road, Fifteen Pounds.
- Ship Cove Cross Road to Streets Point, Burin Bay, Fifteen Pounds.
- Whale Cove Road to Burin Bay Road, Fifteen Pounds.
- Kelly's Beach to Great Burin, Twelve Pounds Ten Shillings.
- Great Burin School House to Light House Road, Seven Pounds Ten Shillings.
- Roads in Mud Cove, Seven Pounds Ten Shillings.
- Roads in Spoon Cove, Seven Pounds Ten Shillings.
- Ship Cove to Collins Cove, Fifteen Pounds.
- Kerby's Cove to Collins Cove, Twelve Pounds Ten Shillings.
- Roads in Corbin, Seven Pounds Ten Shillings.
- Road in St. Lawrence, Pike's to Herring Cove, Fifteen Pounds.
- Road in Lawn, Ten Pounds.
- Roads and Bridge in Lamaline, Thirty Pounds.
- Ferry at Salmonier, Lamaline, Seven Pounds Ten Shillings.
- Roads in Fortune, Twenty-five Pounds.
- Roads in Grand Bank, Twenty-five Pounds.
- Road between Grand Bank and Fortune, Fifty Pounds.
- For part advance for Lamaline Break Water, Ten Pounds.
- Collins Cove to Burin Bay, Fifteen Pounds.
- Ferry at Grand Bank, Five Pounds.
- To be expended by Grand Bank Board, Eight Pounds Seventeen Shillings and Four Pence.

District of  
Harbor Grace,  
£862 7s. 3d.

The Sum of Eight Hundred and Sixty-two Pounds Seven Shillings and Three Pence for the Road Service of the District of Harbour Grace, as follows, namely :  
In payment of one-half the amount due on Deben-

tures issued under Act 25 Victoria, Cap. 3, One Hundred and Three Pounds and Eight Pence, the remaining moiety to be provided for in the next Road Grant.

District of Harbour Grace,  
(Continued.)

In payment of the amount advanced for Kitchen's Hill and Bannerman Road, One Hundred and Twenty-one Pounds Thirteen Shillings and Nine Pence.

In and about the town of Harbour Grace, Bear's Cove, South Side, and River Head, the sum of Two Hundred and Twenty-seven Pounds Ten Shillings and Nine Pence, besides the amount required for part payment of damages at Election Riots, and the amounts expended upon Bannerman Road and Kitchen's Hill, as above enumerated.

In and about the town of Bay Roberts, including the Country Path and the Roads to French's Cove and Juggler's Cove, the sum of One Hundred and Forty-two Pounds.

In and about Cooley's Point, the sum of Forty Pounds Ten Shillings.

In and about Spaniards' Bay, the sum of Seventy Pounds.

In and about Upper Island Cove, the sum of Seventy-five Pounds.

In and about Bishop's Cove, the sum of Thirty-one Pounds.

In and about Bryant's Cove, the sum of Twenty-four Pounds Five Shillings and Two Pence.

Israel Gosse, for amount due him for Labour on Roads in the Fall of 1863, Twenty-seven Pounds Six Shillings and Eleven Pence.

The Sum of Four Hundred and Sixty-seven Pounds Eight Shillings and Seven Pence for the Road Service of the District of Carbonear, as follows, namely :

District of Carbonear £467 8s. 7d.

In payment of one-half the amount due on Debentures, issued under Act 25 Victoria, Cap. 3, One Hundred and Seventy-Six Pounds Five Shillings and Two Pence, the remaining moiety to be provided for in the next Road Grant.

District of Car-  
bonear,  
[Continued]

The Sum of Two Hundred and Fifty-one Pounds Three Shillings and Five Pence for the town of Carbonear, North and South Sides, also including Crocker's Cove to Fresh Water, and the Main Road leading to Heart's Content.

The Sum of Fifteen Pounds for New Road to connect Victoria Village with Carbonear and Heart's Content Main Road.

The Sum of Twenty-five Pounds in and about Mosquito, and thence on the Road leading to Saddle Hill.

District of Bri-  
gus £476 17s.  
2d.

The Sum of Four Hundred and Seventy-six Pounds Seventeen Shillings and Two Pence for the Road Service of the District of Brigus, as follows, namely:—

Board of Works for amount advanced in Port de Grave, Sixteen Pounds Sixteen Shillings and Seven Pence.

Building Bridge at Black Duck Pond, Eighteen Pounds.

Making and repairing Roads and Bridges in and about Blowmedown, Eighteen Pounds.

Making and repairing Roads and Bridges in and about Hibb's Hole, Eighteen Pounds

Making and repairing Roads and Bridges from Hall's Town, Head of Northern Gut, to Port de Grave, both places inclusive, Eighty-two Pounds Eleven Shillings and Two Pence.

For erecting a Landing Place at Northern Gut, agreeably with petition, Thirty Pounds.

For making and repairing Roads and Bridges, Clark's Beach, Eighteen Pounds.

For making and repairing Roads and Bridges at Salmon Cove, Eighteen Pounds.

For making and repairing Roads and Bridges from Caplin Cove and Rip Raps, through Foley's Farm, leading to woods, Eighteen Pounds.

Making and repairing Road leading to Springfield, Ten Pounds.

For making and repairing Goulds Road from Cross Road, Ten Pounds.

Making and repairing Roads and Bridges in and about Cupids, Sixty-five Pounds.

Making and repairing Roads and Bridges in and about Burnt Head, Twenty Pounds.

Making and repairing Roads and Bridges in and about Bull Cove, Eighteen Pounds.

Making and Repairing Roads and Bridges in Turks Gut, Five Pounds Seventeen Shillings and One Penny.

Compensation to John Percey, George Bartlett and John Cavanagh, Ten Pounds.

For Making and Repairing Roads and Bridges in and about Brigus, viz., William Medcalf, late John Willcocks, towards Bull Cove, Old Main Road towards Patrick Habberline, William Whelan towards James Burke's, English Town, South Side, leading to Frog Marsh, Nathan Percey's, and other Roads and Bridges, One Hundred Pounds Twelve Shillings and Four Pence.

The Sum of Four Hundred and Fifty-seven Pounds Four Shillings and Four Pence for the Road Service of the District of Bay-de-Verds, as follows, namely :—

District of Bay-de-Verds, £457 4s. 4d.

Freshwater, from Broad Cove Brook to Salmon Cove Head, Forty-eight Pounds.

From Clown's Cove Bridge to Perry's Cove Bridge, Thirty-four Pounds.

From Perry's Cove Bridge to Spout Cove Bridge, (inside), Twenty-nine Pounds.

From Spout Cove Bridge to Black Head Bridge, including Settlements of Small Point, Mully's Cove, Broad Cove, and Black Head, Thirty-eight Pounds Ten Shillings.

Gussett's Cove, Ten Pounds.

Adam's Cove, including Road to the Gardens of Matthew Hudson and others, Fourteen Pounds Ten Shillings.

Bradley's Cove, from Bishop's House to Main Road, Ten Pounds.

Western Bay South, including Road leading by Milley's to the Woods, Nineteen Pounds.

District of Bay-  
de-Verds,  
[Continued.]

Ochre Pit Cove, including Roads leading to Gardens of Tuff and Parsons, Five Pounds each, Nineteen Pounds.

On Main Line from Black Head Bridge to half way between Ochre Pit Cove and Northern Bay, Forty-one Pounds.

From Half way between Ochre Pit Cove and Northern Bay, to Job's Cove Bridge, Forty-three Pounds Ten Shillings.

Job's Cove, on Droke's Bridge, if approved of by Commissioners, Sixteen Pounds Ten Shillings.

From Job's Cove Bridge to Caplin Cove Bridge, including Lower Island Cove, Fifty Pounds, and Five Pounds towards Hauling Place there, provided the inhabitants contribute an equal amount.

From Caplin Cove Bridge to Low Point, including Roads to both Settlements, Thirty Pounds.

Bay-de-Verds, including Settlement and Roads leading from thence to Old Perlican and Grates Cove, Forty-nine Pounds Four Shillings and Four Pence.

District of Trin-  
ity, £788 10s.  
11d.

The sum of Seven Hundred and Eighty-eight Pounds Nineteen Shillings and Eleven Pence for the Road service of the District of Trinity, as follows, namely:—

Twelve Pounds on Road from Bird Island Cove to Bonavista.

Twenty Pounds in, about, and from Bird Island Cove.

Sixty-two Pounds in and about Great Catalina, and, at option of Commissioners, on Road to Bonavista.

Five Pounds Ten Shillings in and from Little Catalina.

Eight Pounds in Ragged Harbour and vicinity.

Eight Pounds in and about Salmon Cove.

Thirteen Pounds for Pathway from Main Line of Road at English Harbour to Green Bay.

Forty Pounds on the Road from Ferry Wharf to North West Bridge.

Five Pounds on Robin Hood's Bridge, Trinity.

Thirteen Pounds on Road from British Harbor by Careless Harbor, towards New Bonaventure. District of Trinity.  
[Continued.]

Thirteen Pounds on Road from Fox Harbor to the Clay Pits on South Side of South West Random.

Eighty Pounds on Road from Trinity towards Catalina.

Ninety Pounds on Trinity's half of Road from Trinity towards King's Cove.

Twenty-five Pounds on Road from Trinity to Bonaventure, including settlements of Cuckolds Cove, North East and South West Trouty, Spaniards Bay, and both Bonaventures.

On Roads and Bridges Trinity Bay South—

In and about Chance Cove, Seven Pounds Nine Shillings and Ten Pence Halfpenny.

In and about New Harbor and Dildo Cove, Twenty Pounds.

New Harbor towards Spaniards' Bay, Twelve Pounds.

New Harbor towards Green's Harbor, Fifteen Pounds.

(To be expended under New Harbor and Chance Cove Commissioners.)

In and about Hearts Content, Ten Pounds.

Hearts Content towards Hearts Delight, Twenty-five Pounds.

Heart's Content towards New Perlican, Ten Pounds.

In and around Hearts Delight towards Green's Harbor, Fifteen Pounds.

New Perlican to Scilly Cove, Fifteen Pounds.

(To be expended under Hearts Content Commissioners.)

In and around Hants Harbour and Brook Cove, including Bridges, Twenty Pounds.

Hants Harbour to Scilly Cove, including Bridges, Forty Pounds.

Hants Harbour to Seal Cove, Ten Pounds.

In and around Seal Cove, Ten Pounds.

Seal Cove to Lance Cove, by the New Line, Forty Pounds.



District of Trinity,  
[Continued.]

Indian Point to the Main Line, Ten Pounds.  
(To be expended under the Hants Harbor Commissioners.)

Old Perlican Harbor, Roads and Bridges, Twenty Pounds.

Old Perlican towards Bay de Verds, Ten Pounds.

Old Perlican towards Caplin Cove, Ten Pounds.

Old Perlican towards Lance Cove, Twenty Pounds.

Grates Cove Harbor, Twenty Pounds.

Grates Cove towards Bay-de-Verds, Fifteen Pounds.

Grates Cove towards Old Perlican, Forty Pounds.

(To be expended under Old Perlican and Grates Cove Commissioners.)

District of Bonavista, £650 8s.  
2d.

The Sum of Six Hundred and Fifty Pounds Eight Shillings and Two Pence for the Road Service of the District of Bonavista, as follows, namely:—

For Roads and Bridges in and about Keels and Tickle Cove District, the Sum of Seventy-five Pounds to be expended under the Keels and Tickle Cove Board, as follows:—

On Main Road from Tickle Cove to Keels, Thirty-two Pounds Ten Shillings.

On Roads and Bridges in and about Keels and Castle Cove, or to connect the same, Ten Pounds.

On Roads and Bridges in and about Tickle Cove, or towards Open Hall, or Main Road to Keels, Ten Pounds.

On Roads and Bridges in and about Open Hall, and repairs of Bridges at Plate Cove, Fifteen Pounds.

On Roads and Bridges in and about Indian Arm, or to connect the same with Plate Cove, Seven Pounds Ten Shillings.

For Roads and Bridges in and about Salvage District, the Sum of Forty-Seven Pounds Ten Shillings, to be expended under the Road Board of that District, as follows:—

On Roads and Bridges in and about Salvage, and on Road to Barrow Harbor, Thirty-five Pounds.

On Roads and Bridges in and about Flat Islands,  
Twelve Pounds Ten Shillings.

District of Bonavista.

(Continued)

For Roads and Bridges in and about Bonavista, the sum of One Hundred and Eighty-two Pounds Thirteen Shillings and Four Pence, to be expended under the Bonavista Board, as follows:—

On Catalina Road, from Bonavista to Powell's Tilt, or half way to Catalina, or on such other Roads as may be deemed most necessary, the sum of One Hundred Pounds.

On Road from Bonavista to Upper Amherst Cove, Thirty Pounds Thirteen Shillings and Four Pence.

On Road over Lance Cove Bank, Five Pounds.

On Roads and Bridges in and about Bonavista, or for arrears due on repairs of Roads and Bridges, or for the further repairs of Black Head Road, Thirty-five Pounds.

On Road from Bonavista to Bird Island Cove, Twelve Pounds.

For Roads and Bridges in the King's Cove District, the sum One Hundred and Fifty-one Pounds Nine Shillings and Ten Pence, to be expended under a Board to be appointed for that District, as follows:—

For Repairs of Roads and Bridges on the King's Cove and Trinity Road, say from King's Cove to Winter Tilt, or midway to Trinity, One Hundred Pounds.

On Roads and Bridges in and about King's Cove, or towards Plate Cove, commencing at Curtis's Dwelling House, Fifty-one Pounds Nine Shillings and Ten Pence.

For Roads and Bridges in and about Greenspond District, the sum of One Hundred and Ninety-three Pounds Fifteen Shillings, to be expended under the Greenspond Road Board, as follows:—

On Roads and Bridges in and about Greenspond, Ship's, Newell's, and Groat's Island, One Hundred and Four Pounds Fifteen Shillings.

On Roads and Bridges at Gooseberry Island, Twelve Pounds.

On Roads and Bridges at Fair Island, Ten Pounds.

On Roads and Bridges at Pool's Island, Twenty Pounds.

On Roads and Bridges at Swain's Island, Fifteen Pounds.

On Roads and Bridges at Pinchard and Cobbler's Island, Twenty Pounds.

On Roads and Bridges at Cape Freels, Middle Bill Cove, and Cape Island, Twelve Pounds.

District of  
Twillingate and  
Fogo, £714 2s.  
1d.

The sum of Seven Hundred and Fourteen Pounds Two Shillings and One Penny, for the Road Service of the District of Twillingate and Fogo, as follows, namely :—

Cat Harbour, Eleven Pounds.

Dead Man's Bay, Five Pounds.

Muddy Hole, Eleven Pounds.

Doting Cove, Eight Pounds.

Ragged Harbour and Apsey Cove, Six Pounds.

Indian Islands, Ten Pounds.

Seldom-Come-Bye, Ten Pounds.

Tilton Harbour, Nineteen Pounds.

Joe Batt's Arm, Fourteen Pounds.

Bard Islands, Fourteen Pounds.

Bard Islands to Joe Batt's Arm, Ten Pounds.

Fogo to Lion's Den, Ten Pounds.

Fogo, (if the Board of Road Commissioners shall deem it expedient, part of this amount may be expended on the Road to Seldom-Come-Bye, or elsewhere, on Fogo Island,) Seventy-six Pounds.

Change Islands, Twenty-four Pounds.

Herring Neck, (part may be expended on the Public Wharf, if deemed expedient), Twenty-four Pounds.

Twillingate, North and South, One Hundred and Thirty Pounds Two Shillings and One Penny.

Twillingate to Bluff Head, Thirty-five Pounds.

Morton's Harbor, Fourteen Pounds.

Morton's Harbor to Western Head, Ten Pounds.  
 Morton's Harbor to Tizzard's Harbor, Fifteen Pounds.

District of  
 Twillingate and  
 Fogo,  
 [Continued.]

Tizzard's Harbor, Fourteen Pounds.  
 Black Island, Ten Pounds.  
 Exploits Burnt Island, North and South, Thirty-one Pounds.  
 Exploits to Sergeant's Cove, Eight Pounds.  
 Shoe Cove to La Scie, Fifteen Pounds.  
 Shoe Cove, Twelve Pounds.  
 Waldron's Cove to Fortune Harbor, Nine Pounds.  
 Webber's Bight to Fortune Harbor, Seven Pounds.  
 Fortune Harbor to Fleury's Bight, Eight Pounds.  
 Fortune Harbor, Ten Pounds.  
 Indian Cove to Webber's Bight, Six Pounds.  
 New Bay, Seven Pounds.  
 Leading Ticks, Fifteen Pounds.  
 Troytown to Nimrood, Seven Pounds.  
 Ward's Harbour to Cutman's Arm, Twelve Pounds.  
 Hall's Bay, Fifteen Pounds.  
 South Brook to Pond, Fourteen Pounds.  
 Little Bay Islands, Twelve Pounds.  
 Three Arm Islands, Seven Pounds.  
 Jackson's Harbour, Ten Pounds.  
 Jackson's Harbour to King's Cove, Ten Pounds.  
 Indian Burying Place, Seven Pounds.  
 Nipper's Harbour, Six Pounds.  
 Round Harbour, Six Pounds.

The sum of Six Hundred and Thirty-three Pounds  
 Fourteen Shillings and Seven Pence for the Road  
 Service of the District of Placentia and St. Mary's,  
 namely:—

District of Pla-  
 centia and St  
 Mary's, £688  
 14s 7d.

Expended on account of able-bodied poor in St.  
 Mary's, Fifty Pounds Sixteen Shillings and Four  
 Pence.

On account of able-bodied poor in Trepassey,  
 Fifty-two Pounds.

On account of able-bodied poor in Great and Little

District of Placentia and St. Mary's,  
[Continued.]

Placentia, Twenty-three Pounds Seven Shillings and Six Pence.

On the Road on the South Side of Salmonier, Forty-three Pounds Six Shillings and Eight Pence.

On the Road on North Side of Salmonier, One Pound Eight Shillings and Three Pence.

On the Bridge on the South Side of Salmonier, Ten Pounds Eight Shillings.

On the Gut at Little Placentia, Sixty Pounds.

On the Road at Red Island, Four Pounds Six Shillings and Eight Pence.

On the Road from Bickford's to Bona, Eight Pounds Thirteen Shillings and Four Pence.

To be expended on the Main Road between Salmonier Bridge and Saint Mary's, Sixty Pounds.

To be expended in making and repairing Roads in St. Mary's, and on the Road leading to Point La Haye, under the direction of the Local Board of Road Commissioners at St. Mary's, Fifty-nine Pounds Seven Shillings and Ten Pence.

On Roads on the South Side of Oderin, Seventeen Pounds.

On Roads from St. Kyran's to Paradise, Seventeen Pounds.

In Merasheen, Thirteen Pounds.

In Sound Island, Fifteen Pounds.

In Harbor Buffett, Twenty Pounds.

In Fox Harbor, (South Side), Twenty-five Pounds.

On Ram's Island, Twelve Pounds.

On North East Arm of Great Placentia, Fifteen Pounds.

From LaManche to Southern Harbor, Three Pounds.

On the Roads between Great and Little Placentia, Fifteen Pounds.

On Roads in Little Placentia, from Virgin Brook to Pond Head, Twenty-five Pounds.

Repairing Road from Main Line to Point Mall, Eight Pounds.

Cape St. Mary's Shore Road, or in such other places as the Local Board may determine, Seventy-five Pounds.

The sum of Two Hundred and Fifty-six Pounds Sixteen Shillings and One Penny for the Road Service of the District of Fortune Bay, as follows, namely:—

District of Fortune Bay, £256 16s. 1d.

Under the Harbor Breton Board—

On Roads in Harbor Breton, and towards Ferry on East Side of Connaigre Bay, Thirty Pounds.

On Road on North Side of Harbor Breton, Ten Pounds.

Jersey Harbor and towards Little Bay, Fifteen Pounds.

Little Bay and towards Miller's Passage, Fifteen Pounds.

Brunette Island Roads, Ten Pounds.

Roads in Sagona Island, Fifteen Pounds.

Garnish, Five Pounds Fifteen Shillings and One Penny.

To be expended under the English Harbor Board—

On Main Line from Coomb's Cove towards English Harbor, Ten Pounds.

On Main Line from English Harbor to Coomb's Cove, Forty Pounds.

To be expended under Belloram Board—

On Main Lines, where required, Forty Pounds.

To be expended under Gaultois Board—

On Road in Gaultois, and towards Picarre, Hermitage Cove, &c., Forty Pounds.

Pushthrough, &c., Ten Pounds.

Grole, Seven Pounds Sixteen Shillings.

Pass Island, Eight Pounds Five Shillings.

The sum of Two Hundred and Sixty Pounds Eleven Shillings and Seven Pence, for the Road Ser-

District of Burgeo and LaPoile, £260 11s. 7d.

vice of the District of Burgeo and LaPoile, as follows, namely:—

On making and repairing Roads, Streets and Bridges in and about Burgeo, One Hundred Pounds.

On making and repairing Roads, Streets and Bridges in and about LaPoile, Sixty-five Pounds.

On making and repairing Roads, Streets and Bridges in and about Harbour Letou and Rose Blanche, Forty-seven Pounds Eleven Shillings and Seven Pence.

On making and repairing Roads, Streets and Bridges in and about Channel, Forty-eight Pounds.

All which said sums are to be at the disposal of the Road Boards for the said District of Burgeo and LaPoile.

Monies unexpended under last Road Act, for St. John's, East and West, hereby appropriated.

The sum of Three Hundred and Nineteen Pounds Six Shillings and Three Pence, unexpended under Road Act 25 Vic., Cap. 3, for the District of St. John's East, and the sum of One Hundred and Seventeen Pounds Nine Shillings and Eight Pence, unexpended under said Act for the District of St. John's West, to be expended under this Act.

Road appropriations—how to be expended.

II.—The sums of money hereby appropriated to and for the several Outport Electoral Districts of this Island, shall be applied and expended, for the purposes of this Act, by the respective Boards of Road Commissioners appointed, or to be appointed, under the Act of the Legislature of this Colony passed in the Nineteenth year of the Reign of Her Majesty, entitled “An Act for the Establishment of a Board of Works,” (except in all such cases as are otherwise provided for by this Act); and the sums of money hereby appropriated to and for the Electoral District of Saint John's, shall be applied and expended therein for the purposes of this Act, by the said Board of Works: Provided always, that it shall be lawful for the Governor in Council to authorize the expenditure of any Road appropriation in the employment of daily or time labour, and by a Commissioner or Commissioners, if the same should be deemed advisable.

III.—It shall not be lawful for the said respective Boards to proceed in the construction, repair or improvement of any Roads, Streets or Bridges, otherwise than by tender or contract, or by auction, to the lowest bidder, in such allotments as may be marked off, after a careful examination by the respective Boards, or under their Inspectors; and in all such cases of letting by Auction, such Boards respectively are hereby required to put up a sufficient number of Notices, not less than ten days previous to such sale, in three or more of the public places in the neighbourhood where the work is to be done, which notice shall specify and describe the work to be performed, and also the place, day and time, when and where the same will be let by auction, as aforesaid; And it shall be the duty of the Inspectors of the respective Boards to attend at the time and place so appointed, and then to let out, to the lowest bidder, such allotments; and the purchaser shall immediately thereafter enter into written contracts, with sufficient sureties for the faithful performance of the work, in time and manner set forth in such contracts.

Road work to be done by tender.

Public notice of tenders to be given.

IV.—It shall be lawful for the respective Boards to divide and apportion the work to be performed on any Road, Street or Bridge aforesaid, into small contracts or allotments, to meet the exigencies of the people of the several Districts.

Work may be given out in small lots.

V.—The said respective Boards, before entering into any such contracts, shall take security, as is hereinbefore provided, for the due performance of the same; and that upon the production of a certificate, from the Board, of one-half of the amount of work contracted for being completed, such contractor shall be entitled to receive a half part of the amount of his contract, and such Boards shall so frame their contracts that the same be finished within a limited time, and payment of one-third of the full amount thereof, respectively, shall always be withheld until the work contracted for shall appear, by the solemn declaration in writing of the

Security to be given for the due performance of contracts.



Inspector or Surveyor of such Boards respectively, specifying the particulars and measurement of such work to have been fully completed, examined and passed, agreeably to contract; and every such Inspector or Surveyor, who shall knowingly make a false declaration as aforesaid, shall be subject to the same punishment in Law as in case of wilful perjury.

New lines of  
road to be sur-  
veyed.

VI.—Previously to any sum of money being expended in opening or making of any new road, the proposed line of road shall be first surveyed by, or under, the direction of the respective Boards, and approved by them.

Compensation  
for land taken  
for roads—new  
to be made.

VII.—Whenever it shall become necessary, for the opening, making or widening any road, street or other work, to appropriate any piece or parcel of land, being private property, it shall and may be lawful for the Board of Works, or any other Board, to pay out of such moneys as shall be at their disposal for the purpose of making such respective roads, streets or other work, a fair and reasonable compensation to every person having any interest in the land so intended to be appropriated, and also to compensate any person for any damage which may be occasioned to his property, by the making, opening or widening such roads, streets or other works; and if the said Board and the owner of such property cannot agree upon the amount of compensation to be paid, such amount shall be ascertained by the Chairman of such Board, and two other Assessors—one of whom shall be nominated by the said Board, and the other by the owner of the land, and who shall assess and award the amount of compensation (if any) that shall be paid for the value of the said land, and for damage occasioned, together with all reasonable costs incurred by the attendance of witnesses, which award shall be final; and if the owner of the land shall neglect to nominate an Assessor, within five days after being thereto required, the Chairman of such Board shall nominate an Assessor on behalf of the owner; and the Chairman and the two

Assessors shall be paid a sum of Ten Shillings each for their services in that behalf: Provided that every such award shall be made in writing, within ten days after any day that may be appointed for the hearing of the case; but before payment, or tender to the parties interested, of the sum awarded for compensation, it shall be lawful for the said Boards respectively, or any person authorised by them, to enter in and upon, and take possession of any land so to be appropriated for any road, street or lane, as aforesaid.

VIII.—In all cases where any sums of money appropriated in, and by, this Act, to any road, street or bridge, shall be found to be more than sufficient for making, constructing or repairing the same, as the case may be, it shall be lawful for the said Boards respectively, to appropriate and apply such surplus money to the making, constructing or repairing any other road, street or bridge within the district for which such moneys shall have been granted: Provided always, that when any sum of money granted for any particular part of any main road shall be found more than sufficient for the purpose of such grant, the surplus thereof shall be expended on such other parts of the same line of Road, within the district, as may require the same.

Surplus of road appropriations to be applied to other roads, &c., in the district.

IX.—No road, to be hereafter opened or made, shall be gravelled to a greater width than seven feet, or shall have a base of less width, from drain to drain, than fourteen feet, when such road shall be situate more than five miles from Saint John's, or four miles from Harbor Grace, Carbonear or Brigus respectively; and that when any land within thirty feet of the centre of any Road now laid out remains unappropriated, and where any land within thirty feet of the centre of any Road hereafter to be laid out, shall, at the time of any such Road being laid out, be unappropriated, such shall not be granted, conveyed or appropriated, to any private purpose.

Width of road to be gravelled.

Chairman of  
Board of Works  
to be Supervisor  
General of roads,  
&c.

X.—The Chairman of the Board of Works of this Island shall be Supervisor General of all Roads, Streets, and Bridges therein ; that all orders for the payment of moneys from the said respective Boards shall be certified by the Financial Secretary of this Colony, before payment, so as to confine the expenditure within the respective appropriations. The Chairman of the Board of Works, or his officers, shall inspect Outport Road work, as far as practicable, and make a yearly report thereon, and estimate the probable amount yet required ; and that the Chairman of each Board, within the respective districts, shall, on or before the first day of December, and oftener if required, transmit to the Supervisor General, correct statements of all works done, and moneys paid, on such Roads, Streets and Bridges, as may be within his said district, together with an estimate of the probable amount which may be necessary to complete the same ; and such returns shall be digested and reduced into order by the said Supervisor General, and a consolidated printed report thereof be laid before the Governor in Council, to be laid before the Legislature within ten days after the opening of the Session.

Limits of Dis-  
tricts.

XI.—For the purposes of this Act, the district of St. John's shall comprehend all Roads, Streets and Bridges within the Electoral District of St. John's, and also the Main Road between St. John's and the Goulds ; That the district of Conception Bay shall comprehend all Roads, Streets and Bridges within the Electoral District of Conception Bay, including Holy-wood ; That the district of Trinity Bay South shall comprehend all Roads, Streets and Bridges within the Electoral District of Trinity Bay, from Dildo Cove to Split Point ; That the district of Trinity Bay North shall comprehend all Roads, Streets and Bridges from Bonaventure to Catalina ; That the district of Bonavista shall comprehend all Roads, Streets and Bridges within the Electoral District of Bonavista ; That the district of Fogo shall comprehend all Roads, Streets

and Bridges within the Electoral District of Fogo ; That the district of Burin shall comprehend all Roads, Streets and Bridges within the Electoral District of Burin ; that the district of Fortune Bay shall comprehend all Roads, Streets and Bridges within the Electoral district of Fortune Bay ; That the district of Burgeo and LaPoile shall comprehend all Roads, Streets and Bridges within the Electoral district of Burgeo and LaPoile ; That the district of Placentia and St. Mary's shall comprehend all Roads, Streets and Bridges within the Electoral district of Placentia and St. Mary's ; And that the district of Ferryland shall comprehend all Roads, Streets and Bridges within the Electoral district of Ferryland, South of the Goulds and inclusive thereof.

XII.—Out of the amount of Ten Thousand Two Hundred and Twenty-seven Pounds Six Shillings and Eleven Pence hereinbefore granted, the sum of One Thousand and Twenty-two Pounds Fourteen Shillings and Six Pence, being ten per cent thereon, shall be appropriated to the defrayment of all charges and expenses attendant upon the expenditure of the moneys aforesaid, in the constructing, repairing and improving of all Roads, Streets and Bridges within the several Districts aforesaid, including all expenses of surveying, inspecting, overseeing, the remuneration of Chairmen, Secretaries, and all other necessary Officers, Printing, Stationery and Postage.

Ten per cent of grant to defray expenses.

XIII.—No action shall be commenced against any Board, Commissioners, Surveyors, Contractors, or other person, for anything done by them or him, in pursuance of the provisions of this Act, until one calendar month next after notice in writing shall have been delivered to them or him, or left at their or his usual place of abode, by the party who intends to institute such action, his Attorney or Agent, in which notice shall be clearly and explicitly contained, the cause of action, the name, place of abode of the person who is

Limitation of time to bring action.

to bring the same, and the name and place of abode of his Attorney or Agent.

Tender  
amends. of

XIV.—It shall be lawful for any such Board, Commissioners, Surveyors, Contractors, or other persons, at any time within one calendar month after such notice shall have been given, to tender amends to the party complaining, or to his Agent or Attorney; and in case such amends be not accepted, or in case no tender has been made, to plead the general issue to any action to be hereafter brought, and to give such tender, if any, or any other special matter, in evidence; and if the plaintiff in any such action shall not, at the trial thereof, recover a verdict for more than the amount of such tender, if any, the defendant in such action shall be entitled to his costs of suit, and to the like remedy for the recovery thereof as though a verdict had passed against the plaintiff.

Party omitting  
to make tender  
to pay money  
into Court after  
action.

XV.—If in any case such Board, Commissioners, Surveyors, Contractors, or other persons, shall neglect to tender any amends, or shall have tendered insufficient amends before action brought, it shall be lawful for them or him respectively, by the leave of the Court wherein such action shall be brought, at any time before the trial thereof, to pay into Court such money as he shall see fit, whereupon such proceedings, orders and judgments, shall be had, made or given in and by such Court as in other actions where the defendant is allowed to pay money into Court.

After contract  
performed certi-  
ficate thereof to  
be given

XVI.—Within Six Days after any Contractor for any Road, Street or Bridge, shall have given notice to any Road Surveyor or Inspector, in the District where such Road, Street or Bridge may be situated, of the completion of his contract therein, it shall be the duty of such Surveyor or Inspector to inspect such Road, Street or Bridge, and if the contract be completed, forthwith to grant a negotiable certificate accordingly, and it shall be lawful for the Chairman of the said respective Boards, on receiving such certificate, to grant a

negotiable order, under his hand, to the Contractor, to receive payment, by warrant of the Governor on the Receiver General.

XVII.—It shall be lawful for the Governor in Council to increase the number of the said Boards, and the Members thereof, where necessary.

Governor may increase Members on Road Board.

XVIII.—The Governor in Council shall be at liberty to sub-divide the several Districts of the Island, for the purpose of the appointment of Road Boards therein, and for expenditure of moneys hereinbefore granted within their respective limits.

Sub-division of Road Districts.

XIX.—It may be lawful for the Governor in Council to enter into any arrangements for the construction of suitable Dwellings on such parts of Main lines of Roads as may be found most suitable for location, and for letting out the said Roads by annual contract for the repairs thereof: Provided always, that the cost of the erection of such dwellings shall be deducted from the sum appropriated for the said Main Roads.

Government may erect dwellings on part of main lines suitable for location, &c.

#### CAP. IV.

*An Act for the Amendment of the General Water Company Acts, and also of the Act for the Incorporation of the Harbor Grace Water Company.*

[Passed 13th April, 1864.]

**W**HEREAS doubts have arisen as to the true construction of the Acts relating to the Incorporation and Management of the General Water Company; and it is therefore expedient to declare the meaning of the said Acts in certain particulars, and further to amend the same:

Preamble.

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

I.—The Twenty-first, Twenty-second, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-seventh, and Twenty-eighth sections of the Act 22d Victoria, Chapter 7, entitled “An Act to Incor-

Sections of 22 vic., cap. 7, and 26 vic., cap. 4, repealed.

Validity of proceedings had thereunder not affected.

porate the General Water Company," and the First and Fifth Sections of the Twenty-sixth Victoria, Chapter 4, in amendment thereof, are hereby Repealed; without, however, in anywise affecting the validity of any proceedings had thereunder, and except also in so far as the same may be necessary to sustain the imposition, establishment, collection, and recovery, of Water Rates and Assessments for the present Year.

Water Assessments and Rates — on

II.—For the purpose of providing Funds for the payment of Interest on the Capital Stock of the said Company, and for defraying its working and other expenses, there shall be paid by the Owners and Occupants, respectively, of all Houses and other Buildings along which the Pipes of the Company shall or may have been laid, and within Three Hundred Yards of such Pipes, certain Annual Rates and Assessments of so much per Cent. to be fixed, established, and imposed, by the authority hereinafter mentioned, upon, First, the Ground Rents and Profit Rents of all Houses and Buildings aforesaid, to be paid by the Owners of such Rents: Secondly, upon all Insurable Interests in such Houses and Buildings, to be paid by the Owners of such Interest, whether Landlords, Tenants, or occupying Owners of such Houses and Buildings, such Interests (to become subject to Assessment) to be beyond and besides any interest such Owner may have in any Rent aforesaid; and, in the case of an occupying Owner, to be computed so as to include therein a fair allowance for Rent of Ground: Thirdly, upon the Rent Values of all such Houses and Buildings into which Pipes shall have been introduced from the Company's Mains, and which shall be of the annual value of Forty Dollars, to be paid by the Occupants of such Houses and Buildings respectively, whether using the Water or not. Provided that the payment of either of the said Rates or Assessments shall not exempt the party so paying from liability also for one or both of the said other Rates or Assessments, if in other respects liable for the same.

Ground Rents, &c.

Insurable interests.

Values of Houses, &c.

Proviso.

III.—For the purpose of providing a basis and means by which to fix, establish and impose such Rates and Assessments, it shall be lawful for the Governor in Council to appoint one or more Appraisers, who shall be sworn before a Justice of the Peace faithfully to discharge the duties of their office, and a Collector, who shall give sufficient security to the like effect; and such Appraisers shall appraise, determine and return, before the last day of October in this present, and also in every third Year after the present Year, the amount and value of all such Rents and Insurable Interests aforesaid, and the Rent Value of all such Houses and Buildings into which Pipes shall have been introduced as aforesaid; and they shall deposit the Books of such Appraisalment, when complete, with the Clerk of the Peace for the Central District.

Appraisers to be appointed — their duties.

IV.—Such Books shall be open to the examination of all persons desirous of inspecting the same; and any such person may, within one month after such deposit, by a notice in writing to be filed with the Clerk of the Peace and served upon the Appraisers, object to any Appraisalment therein in which he may be, or may expect to be, interested.

Books open to examination.

Notice of objection.

V.—Upon the expiration of One Calendar Month after such Books shall have been so deposited, the Court of Sessions of the Central District shall, for One Calendar Month then next following, at such hours as they may notify by advertisement in the *Royal Gazette* and two other Newspapers, hold a Court for the Revision of such Appraisalment, and shall hear and finally determine all such objections as aforesaid, and amend or confirm said Appraisalment accordingly; and after the expiration of the period fixed for holding such Court, the said Appraisalment shall, for the purposes thereof, be final and binding upon all persons whomsoever for the Three Years next following the making and revision thereof.

Court of Revision.

VI.—It shall be lawful for the Directors of the



Directors may  
fix and establish  
Rates, &c.

said Company, from time to time as they may find necessary, but subject to the approval of the Governor in Council, to fix, establish and impose Annual Rates and Assessments, of so much per Cent., upon all such Rents, Interests, and Rent Values aforesaid, to be paid by the parties hereinbefore made liable in that behalf; and in addition to any general Rates and Assessments, but subject as aforesaid, to fix, establish, and impose further and additional Rates upon such Occupants as aforesaid where an unusual quantity of Water may be taken by them for Trading, Manufacturing, or other especial purposes; Provided that the Minute of Council confirming such Rates and Assessments shall be published in the *Royal Gazette*, and laid before the Legislature at its then next sitting.

Minute of Council  
published  
and laid before  
Legislature.

Rates payable  
half-yearly in  
advance.

VII.—All such Rates and Assessments shall be payable Half-yearly in advance, and shall become due on the First days of January and July, in each and every Year, and shall be collected by the Collector, to be appointed as aforesaid, from the parties respectively liable for the same.

Proceedings for  
the recovery of  
Rates.

VIII.—Should any Person so liable as aforesaid neglect or refuse to pay any Rate or Assessment, the same may be recovered with costs in an action to be brought, heard and determined in a summary manner in the said Court of Sessions, in the name of the said Collector; in which Action, service of the Summons at the Office or Dwelling-House, or upon the Agent of a non-resident or absent Defendant, shall be deemed good service; and the said Court shall have exclusive jurisdiction to hear and determine all Actions for the recovery of such Rates and Assessments, and, for the purpose of such Actions, all matters incidentally arising in the same; and no such Action, and no Writ, Order or Judgment, or proceeding therein, shall be removable by *certiorari* or otherwise; Provided that in any action for a Rate or Assessment above Forty Dollars, it shall be competent for the Court of Sessions, upon the application of either

Not removable  
by certiorari.  
Provide as to  
special case for  
the opinion of  
Supreme Court.

party, to be made at the hearing, to state a case for the opinion of the Supreme Court upon any question of law arising upon the trial, and the opinion of the Supreme Court shall govern the determination of the Court of Sessions.

IX.—For the purposes of this and the said recited Acts, the introduction of One Service Pipe from the Company's Mains into any one Building of two or more Buildings held in one and the same occupancy, and whether one or more of such Buildings shall be joined or disconnected, (provided no holding of a second occupant intervene between such disconnected Buildings) shall be sufficient to render the Occupier liable for the Occupier's Rate upon all such Buildings; and this Enactment shall apply to past as well as to future Rates.

Service Pipe  
into one of two  
or more build-  
ings sufficient.

X.—Government Buildings, Churches, Public School Houses, and Buildings belonging to Charitable Bodies, shall not be subject to Rate or Assessment; but Government Buildings shall pay such reasonable sum for Protection and Water, as the Governor in Council, subject to the approval of the Legislature, may determine. The Insurable Interest in property under mortgage shall be appraised as if such property were unincumbered, and the Assessment thereon shall be paid by the Mortgagor. In estimating the Rent Value of any Houses or Buildings, the situation and other conditions thereof, as, for example, the fact of such House or Building being Water-side or eligible as a place of Business, and such like, and also the quantity and value of Trade Stock from time to time contained therein, and protected by the Water, shall be taken into account by the Appraisers.

Exemptions  
from operation  
of Act.

Respecting Mort-  
gage Property.

Directions in es-  
timating values.

XI.—The Assessment to be raised under the Act 26 Victoria, Cap. 6, to provide for the Sewerage of the Town of Saint John's, shall, after the present year, be imposed and recovered in conformity with

Sewerage Asses-  
ment to be rais-  
ed in conform-  
ity with this Act.

the provisions of this and of the last-mentioned Act ; and in fixing on Ground Rents a Rate towards the support of the Water Company, the Directors shall make a fair allowance for the Rate for Sewerage.

Appraisements heretofore made, confirmed.

Rates and Assessments declared valid.

Resolution of Directors Minute of Council, 11th April, 1863.

Judgments for payments of rates confirmed.

XII.—The Appraisements heretofore made by or under the said Water Company, and the revisions thereof, are hereby confirmed, and shall be held and determined, and are hereby declared to be legal, valid, sufficient and obligatory, as well as Appraisements and Revisions for the fixing, establishment, and recovery of Occupiers' or Consumers' Rates as of Owners' Assessments. The Rates and Assessments fixed and declared by the Directors of the said Company, and mentioned and approved in the Minutes of the Governor in Council made on the 11th day of April, A.D., 1863, and published in the *Royal Gazette*, shall be paid by the Owners and Consumers therein mentioned, and the same, together with the Resolution of the Directors, declaring the said Rates and Assessments, and the Minute of Council aforesaid, shall be held and determined, and are hereby declared, to be legal, valid, sufficient, and obligatory, for the fixing, establishment, payment, and recovery of the said Rates and Assessments upon, by, and from, all such Owners, Consumers, and Occupiers. All Judgments, Orders and proceedings of the Court of Sessions for the Central District, heretofore made for the recovery of alleged Water Rates and Assessments, shall be held and determined, and are hereby declared, to be legal, valid, and obligatory upon the parties to such judgments. All payments made to the said Company, their Collector, or any of their Agents or Servants, or to the Clerk of the Peace for the Central District, of any alleged Water Rates, Assessments or Costs, shall be held and determined, and are hereby declared to be, legal, valid and obligatory upon the parties making the same, and no action, suit, or other proceeding whatsoever, shall be maintainable against the said Company or the said Col-

lector, or the said Clerk of the Peace, or any of their Servants or Agents, or against any Magistrate or other person, for the recovery back of any Moneys paid to or received by them, or any of them, as or for such Water Rates or Assessments, or for or on account of any claim for the same.

The Company and others not liable to actions on account of former proceedings.

XIII.—The Appraisement made for the said Company for this present Year, and the Revision thereof, shall be held and determined, and are hereby declared, to be legal, valid, sufficient and obligatory, as well for the fixing, establishment and recovery of Water Rates of Occupiers or Consumers as of Owners' Assessments. The Resolution of the Directors of the said Company, and the Minute of Council hereinbefore mentioned, shall be held and determined, and are hereby declared, to be legal, valid, sufficient and obligatory for the fixing, establishment, payment and recovery of the Rates and Assessments therein mentioned or referred to, for this present year; and until such Rates and Assessments are altered or repealed in the manner prescribed in this or the said first mentioned Acts, the said Rates and Assessments shall be payable by all Owners, Occupiers and Consumers, whose Rent Interests or Rent Values are therein referred to; and the provisions of this and the said first mentioned Acts shall be available and operative for the collection and recovery of the same. The said Court of Sessions shall have exclusive jurisdiction to hear and determine all actions for the recovery of such Rates and Assessments, and, for the purposes of such Actions, all matters incidentally arising in the same; and no Writ, Judgment, Order or Proceeding of the said Court of Sessions, made or had in any Suit or Action for the recovery of such Rates or Assessments, shall be removable by *certiorari* or otherwise; Provided that in any Action for a Rate or Assessment above Forty Dollars, it shall be competent for the Court of Sessions, upon the application of either party, to be made at the hearing, to state a

Appraisement the present year confirmed:

Jurisdiction of Court of Sessions.

Proviso—  
Special cases.

case for the opinion of the Supreme Court upon any question of law arising upon the trial, and the opinion of the Supreme Court shall govern the determination of the Court of Sessions.

Provision for special Appraisalment.

XIV.—It shall be lawful for the said Directors, in the interval between the said Tri-Yearly Appraisements, to cause Special Appraisements and Returns to be made of any Rent, Insurable Interest, or Rent Value, of or in any House or Building newly erected within the limits aforesaid, or then recently supplied with Service Pipes, or then recently arising by expiry of Lease or otherwise; and such Appraisements and Return shall, after Revision by the Court of Sessions to be made upon hearing, or after notice to all parties interested, be binding on such parties until the next general Appraisalment.

Appropriation of Duty on Coal imported into St. John's.

XV.—It shall be lawful for the Governor in Council to direct the appropriation to the purposes of the said Company of the proceeds of any Duty that may be laid upon Coal imported into St. John's.

Rates to be paid on all Vessels entering & clearing at Port of St. John's.

XVI.—The following Rates shall be paid by all Vessels entering and clearing at the Custom House, at the port of St. John's, and the proceeds applied to the support of the Company—namely:—

- 1.—By all Vessels Entering or Clearing at the Custom House upon, or from, Foreign Voyages, a Rate of Five Cents per Ton, of their Register Tonnage, to be paid at the time of their first Entry or Clearance.
- 2.—By all Vessels Clearing at the Custom House for the Sealing Voyage, a Rate of Five Cents per Ton, of their Register Tonnage, to be paid at the time of such Clearance.
- 3.—By all Vessels engaged in Coasting Voyage, or Voyages to the Labrador, a Rate of Five Cents per Ton, of their Registered Tonnage, to be paid at their first Entry or Clearance at the said Custom House, in each year.

XVII.—Such Rates shall be paid at the times aforesaid by the Masters or Owners of such Vessels, and shall be collected and recovered in the same manner and by the like means as Light Dues are now collected and recovered in the said Port; Provided that no Vessel shall be compelled to pay Water-Rate oftener than once in one year, nor to a greater amount, whatever their Tonnage may be, than Twenty Dollars.

Rates to be collected in same manner as Light dues.

XVIII.—In consideration of the payment of such Rates, the Vessels paying the same shall be entitled to receive from the hose of the Company, at any wharf, within reach from the Hydrant at which such Vessel may lie, a full supply of Water, upon each occasion of such payment, without further charge; and the Master shall also be at liberty, upon all other occasions, to take water from any of the Public Fountains.

Vessels paying rates to receive water.

And whereas it is also necessary to alter and amend certain portions of the Act 26 Victoria, Cap. 5, entitled "An Act to incorporate the Harbor Grace Water Company."

26 Vic. Cap. 5, amended.

XIX.—Be it therefore further enacted, that the Twelfth, Twenty-first, Twenty-second, Twenty-third, and Twenty-fourth Sections of the said Act are hereby repealed, without, however, in anywise affecting the validity of any matters done, or proceedings had, thereunder, and except so far as the same may be necessary to sustain the imposition, collection, and recovery of Water Rates, and Assessments, under this and the said Act, or either of them.

Sections repealed—

without affecting former proceedings.

XX.—For the purpose of ascertaining the amount of Water Rates and Assessments under the said last mentioned Act, it shall be lawful for the Governor in Council, from time to time as may be necessary, to appoint one or more Appraisers, who shall be sworn, before a Justice of the Peace, faithfully to discharge the duties of their office; and it shall be the duty of

Appraisers to be appointed.

Their Duties.

Appraisement,  
&c.

such Appraisers to Appraise the Ground Rents of all Houses and other Buildings along which the Pipes of the said Company shall have been laid, and within Two Hundred Yards of such Pipes; also the Profit Rent of such Houses and Buildings, and also the rent value of the same, at such time and times, as may be deemed necessary, by the Governor in Council, during the continuance of the said Act; and when such Appraisement shall be completed, they shall deposit the Book or Books of such Appraisement with the Clerk of the Peace for Harbor Grace.

Books open to  
examination.

XXI.—Such Book or Books of Appraisement shall be open to the examination of all parties interested therein; and after the expiration of Fourteen Days after it, or they, shall have been so deposited, the Court of Sessions at Harbor Grace shall, at certain times within Fourteen Days thence following, to be notified in a Public Newspaper in St. John's or Harbor Grace, hold a Court for the Revision of such Appraisement; and it shall be competent for any person therein interested, by a notice in writing to be filed in the Office of the said Court, and served on the said Appraisers, or two of them, within the Fourteen Days first mentioned, to object to the amount for which his or her property or interest therein may have been Appraised, which objection the said Court shall hear and determine, and amend or confirm the Appraisement accordingly; and after the expiration of the times fixed for holding such Court, the said Appraisement shall be final and binding on all parties until a new Appraisement and Revision shall have been made.

Court of Revision.

Duties of Secretary and Collector.

XXII.—The Secretary of the said Company shall be Collector, and shall give sufficient security faithfully to discharge the duties of his office as such Collector, and shall, after the completion of such Appraisement, and as soon as the Directors of the said Company shall have ascertained the amounts to which the several parties mentioned or interested therein shall be liable to pay towards the said Water Rates and Assess-

Collection of Rates.

ments, which they are hereby authorised to do, collect from the parties respectively liable in that behalf their contributions towards such Water Rates and Assessments; and in case any person so liable shall neglect or refuse to pay such contribution, the same may be recovered, with Costs, in a summary manner, by a Suit in the Court of Sessions at Harbor Grace, to be brought in the name of the said Collector; Provided that service of Process upon the Agent of any absent or non-resident defendant shall be service upon the principal, and also that in any action it shall be deemed good service of Process upon the defendant if the same be left at the residence of the defendant.

Proceedings for  
Collection of  
Rates.  
Proviso.

Service of Pro-  
cess.

XXIII.—The Appraisement already made for the said Harbor Grace Water Company, and the Revision thereof, are hereby confirmed, and shall be held and determined, and are hereby declared, to be legal, valid, and obligatory, as well for the ascertaining, fixing, establishing and recovering of Water Rates of Occupiers of such Houses and Buildings, as of Owners' Assessments; and the said Rates and Assessments shall be payable by all Owners and Occupiers referred to in the said Appraisement; and the provisions of this and the said Act, 26 Victoria, Cap 5, shall be available and operative for the collection and recovery of the said Water Rates and Assessments from the persons named or interested in the said Appraisement; and the Collector of the said Company may take the like proceedings for the recovery of all Water Rates and Assessments due by any person named or interested in the said first Appraisement, and shall recover the same in like manner as is prescribed by the Twenty-second Section of this Act.

Appraisements  
made and other  
proceedings con-  
firmed.

XXIV.—All Judgments, Orders, or Proceedings in the said Court of Sessions hereafter to be made, or had, in any suit or action for the recovery of such Water Rates or Assessments, or either of them, and whether imposed by this or the said last mentioned Act, shall

Judgments for  
and Collection  
of Rates con-  
firmed.



Not removable  
by certiorari  
Proviso in spe-  
cial cases.

be final and binding upon the parties thereto ; and no such suit, action, judgment, order, or proceeding, shall be removable from such Court by *certiorari* or otherwise ; Provided that in any Action for a Rate or Assessment above Forty Dollars, it shall be competent for the Court of Sessions, upon the application of either party, to be made at the hearing, to state a case for the opinion of the Supreme Court, upon any question of law arising upon the trial, and the opinion of the Supreme Court shall govern the determination of the Court of Sessions.

### CAP. V.

#### *An Act to make further Provision for the Sewerage of the Town of St. John's.*

[Passed 12th April, 1864.]

Preamble.

**W**HEREAS it is expedient to make further provision for the Sewerage of the Town of Saint John's :

Be it therefore enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows :—

Drains from  
Dwelling Houses  
to be construct-  
ed by Owners.

I.—It shall not be lawful for any person to build, or erect, or finish, within the limits of the Town of St. John's, as defined by the 15th Victoria, Cap. 4, entitled "An Act to consolidate and amend the Saint John's Rebuilding Acts," any House or Building designed for a Dwelling House, unless such Person shall, during the building or erection or finishing of such House or Building, or immediately thereafter, and before it shall be used as a Dwelling House, make and construct one or more sufficient Covered Drains or Sewers of Imperishable Materials, and not less than Eighteen Inches square, leading from such House or Building, or from the Yard, (if any,) belonging to the same, to and into some Public Drain or Sewer within the said Town, or to and into some place of deposit to be approved of by the Chairman of the Board of Works, or into the centre of the Street in or nearest to which such House shall be built.

II.—Should any Person build or erect or finish any House or Building designed and within the limits aforesaid, without making and constructing, within the time aforesaid, one or more Covered Drains or Sewers leading and constructed as aforesaid, such Person shall be subject to a Penalty not exceeding Twenty Dollars; and it shall be lawful for the Chairman of the Board of Works, after Ten Days' notice, in writing, to such Offender, to enter into and upon the said House, Building or Yard, as the case may be, and there to make and construct one or more sufficient Covered Drains or Sewers leading as aforesaid, and the Costs of such Drains or Sewers shall be paid by such Offender.

In default of Owners making drains, Chairman of Board of Works after two days notice may construct drains, &c., and recover costs and penalty from owner.

III.—Such Penalty, as aforesaid, and the Costs of such Drains or Sewers, when made or constructed by the Chairman of the Board of Works, shall be recovered by an Action or Actions to be brought, tried and determined, in a summary manner, in the name of the Chairman of the Board of Works, for the time being, before the Court of Sessions for the District of Saint John's, and shall, with Costs, be levied upon the Offender's property, by Warrant of Distress; and the proceeds of such Fine shall be applied to the Cost of the General Sewerage of the Town of St. John's.

Mode of recovery.

IV.—Every Proprietor of every such House or Building as aforesaid, who shall himself make and construct any such Drain or Sewer aforesaid, shall, before proceeding with the same, give Two Days' notice to the Chairman of the Board of Works, of his intention in that behalf; and such construction shall be subject to the supervision and control of the said Chairman, in order that it may be effectual for the purpose for which it is designed, and may not in any way damage or interfere with the construction or flow of Main Drains.

Notice to be given Chairman of Board of Works of opening drains;

To be done under supervision.

## CAP. VI.

*An Act for the Establishment of a Public Park  
in Saint John's.*

Preamble.

[Passed April 13, 1864.]

**W**HEREAS the appropriation of a Tract of Land in the neighbourhood of the Town of Saint John's, for the purpose of a Public Park, would tend to promote the health and comfort of the Inhabitants; by providing for them means of recreation and exercise: And whereas the only suitable Land at the disposal of the Government, namely, a lot of Land recently surrendered by the Natives' Society for the purposes of this Act, and a lot of Land heretofore used as a Botanical Garden, are insufficient for this object; and His Excellency Sir Alexander Bannerman has consented to add thereto a parcel of Land, the private property of the Governor for the time being, situate on the South side of the Circular Road, adjoining the lots above mentioned, and containing about Ten Acres, upon condition of the estimated annual value of the said parcel of Land being secured to the use of the Officer administering the Government for the time being.

Be it therefore Enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

Description and  
dedication of  
land.

1 — All that parcel of Land, containing about Twelve Acres, shewn and described in a Plan thereof deposited in the Office of the Surveyor General, and situate in the rear of the Town of St. John's, bounded South by the Military Road, Three Hundred and Sixty-one Feet, more or less; and by the grounds of the Colonial Building, One Hundred and Ninety Feet, more or less; East, by the said grounds of the Colonial Building, Three Hundred and Seventeen Feet, more or less, and by Bannerman Road, Seven Hundred and Thirteen Feet, more or less; North, by the Circular Road, Four Hundred and Fifty-eight Feet, more or less; and West by the property of Calver and others, Thirteen

Hundred and Two Feet, more or less: And all such other adjoining lands as may at anytime be procured by the Government for that purpose, shall be, and the same are hereby vested in Her Majesty, Her Heirs and Successors, and shall be, and are hereby set apart, dedicated and appropriated, as and for the sole use and purpose of a Public Park, for the use and accommodation of the Inhabitants of Saint John's, and of all others resorting to the same.

II.—The said Park, when opened and established, shall be named and known as “Bannerman Park,” and shall be under the control and supervision of the Surveyor General, in whose possession the same shall be held to be; and such moneys as may, from time to time, be granted by the Legislature for that service, shall be applied as the Governor in Council may direct, in protecting, improving, and ornamenting the said Park.

III.—It shall be lawful for the Governor in Council, from time to time, to make and ordain rules and orders for the regulation, use and management of the said Park, for the preservation of the Fences, and other public property appertaining to the same, and for the maintenance of order and propriety therein; and such rules shall be published, by being printed and hung up in the said Park; and a violation of any of such rules or orders shall subject the offender to expulsion and removal from the said Park by the Surveyor General, or any one acting under his authority, or by a Peace Officer, and to a fine, not exceeding Five Dollars, in addition to the cost of repairing any damage or injury caused to the said Park by such offender, to be recovered, with costs, in a summary manner, before any Stipendiary Justice of the Peace, by a suit to be brought in the name of the Surveyor General; and every such offender who shall not, upon adjudication, pay such fine, may be imprisoned for any time not exceeding fourteen days.

IV.—A sum of Eighty Dollars shall be payable annually, on the first day of January in each year, to the Governor for the time being, after the termination of office of the present Governor, in lieu of the ten acres aforesaid, such annual payments to be and form a charge on the rents of Crown Lands.

Name of Park.

Supervision of Park, &c.

Governor in Council to make rules, &c.

Punishment of offenders.

The sum of \$80. per annum payable to Governor from Crown Lands Rents.

## CAP. VII.

*An Act to Amend an Act passed in the Twenty-first Year of the Reign of Her present Majesty, entitled "An Act to provide for the Appointment of Surveyors of Shipping in this Island, and for other purposes connected therewith."*

[Passed April 13, 1864.]

Preamble.

**W**HEREAS it is expedient to amend an Act passed in the Twenty-first Year of the Reign of Her present Majesty, entitled "An Act to provide for the appointment of Surveyors of Shipping in this Island, and for other purposes connected therewith."

Be it therefore Enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

21 Vic., cap. 20,  
sec. 4, Repealed.

I.—The Fourth Section of the hereinbefore recited Act shall be, and the same is hereby repealed.

Fees to Surveyors.

II.—The Surveyors already appointed, or that may hereafter be appointed, in pursuance of the Second Section of the hereinbefore recited Act, shall be entitled to Fees for the Measurement of every Vessel about to be Registered for the first time, or requiring Measurement for the purposes of Registry, which Fees shall be paid by the Owner, as follows:—One Dollar and Eighty Cents for Vessels under Fifty Tons, and measured in Three Sections; Three Dollars for Vessels under Fifty Tons, and measured in Five Sections; Three Dollars for Vessels from Fifty Tons to One Hundred Tons; Six Dollars for Vessels over One Hundred Tons; and reasonable travelling expenses, not exceeding Twenty-five Cents per Mile travelled.

Suspending  
Clause.

III.—This Act shall not come into operation until the same shall have been confirmed by Her Majesty in Council, nor until such approval shall be proclaimed in the *Royal Gazette* of this Island.

## CAP. VIII.

*An Act to provide for the more easy Recovery of certain Claims against the Government of this Colony.*

[Passed 13th April, 1864.]

**W**HEREAS it is expedient to provide for the more easy recovery of Claims, arising *ex contractu*, preferred by Private Individuals against the Government of this Colony : Preamble.]

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows :

I.—It shall be lawful for any Person who may have any Claim arising *ex contractu* against the Government of this Colony, or against any Department thereof, to prefer a Petition to the Supreme Court, setting forth, as briefly as possible, the circumstances of his Claim, and praying such relief, whether Legal or Equitable, as he may consider himself entitled to ; and such Petition shall be verified by Affidavit, and a copy thereof shall be served upon the Attorney General, or, in his absence, the Solicitor General, for the time being. Parties having claims against Government Departments to proceed by petition ;

II.—It shall be lawful for the Attorney General, or, in his absence, the Solicitor General, and he is hereby required, within Ten Days after such service, to file an Appearance and answer to the said Petition in the said Court, and to serve a copy of his answer on the Petitioner or his Attorney ; and it shall be lawful for the Petitioner, should he dispute the allegations therein contained, to file a general Replication to the same within Four Days after such answer shall have been served upon him ; and should either party fail within the times aforesaid to take such steps as may be incumbent upon him to bring the case to a hearing, Judgment that the matter of the Petition be taken as Confessed, or that the same be dismissed for want of Prosecution, as the case may require, may be entered by Rule Absolute, in the first instance, by the opposite Party. To be verified by affidavit and copy served on Attorney General.

III.—Upon any Petition being taken as confessed for the cause aforesaid, it shall be lawful for the Court to pronounce Judgment therein, or to refer to the consideration and report of the Master any matter upon Appearance and answer within ten days.

General replication in four days.

Judgment in the event of either party failing to proceed.

Proceedings on petition being taken as confessed.

which they may deem inquiry to be necessary. The Defendants in such suit shall be at liberty to attend before the Master, and within Four Days after the Master's Report shall have been filed, to file and serve exceptions to the same; and after all exceptions (if any) shall have been heard and determined, or upon such Report, if no exceptions have been taken, the Court shall give Judgment in the cause according to the principles hereinafter declared with reference to contested suits.

When answer admitted,

IV.—When the Petitioner shall admit the matter set forth in the answer of the Attorney General, or of the Solicitor General, he shall, within Four Days after such answer shall have been served and filed as aforesaid, set the cause down for hearing upon Petition and Answer.

Evidence may be taken

V.—When a Replication shall have been filed, any evidence that may be required shall be taken in manner now practised on the Equity side of the said Court; and when all the Evidence shall have been taken, the cause may be set down for hearing by either party upon Petition, Answer and Evidence.

Judgment to be certified to the Colonial Secretary and carried into effect by Government.

VI.—At or after the hearing of the cause, Judgment, either Legal or Equitable, according to the character of the relief sought, shall be given therein; and upon such Judgment being certified to the Colonial Secretary by the Clerk of the Court, the same shall be carried into effect by the Government, either by payment of the amount thereof out of the general Revenue of the Colony, or by the performance of any other act that may be therein directed, should such Judgment be to any effect other than the payment of Money; or Judgment for the payment of Money may be enforced by process of Execution against the Moneys, Lands, and Effects of the Local Government, as in ordinary cases between Party and Party.

Court may order re-hearing, &c.

VII.—It shall be lawful for the said Court, if it shall think fit, upon the Petition of either Party, to be filed within Four Days after Judgment shall have been given, to order that the said cause be re-heard; and at or after such re-hearing, it shall be lawful for the

said Court to confirm, alter, amend or reverse, its former Judgment, as the merits of the case may require.

VIII.—When any such Petition shall be dismissed or Judgment in the matter thereof be given against the Petitioner, the Attorney of the Defendants shall tax, and be entitled to from the Petitioner, the same Costs as are allowed in an Equity Suit between Private Parties, and shall have the like remedy for the recovery thereof; and where Judgment shall be given for the Petitioner, he shall be entitled to tax and recover Costs after the same scale from the Government, in manner provided with respect to Judgments for the payment of Money; Provided, that nothing herein contained shall control the discretion of the Court in giving or withholding Costs according to the ordinary rules of Equity, where the relief sought is of an equitable character.

Provisions as to costs.

Proviso.

IX.—It shall be lawful for either Party in any such Suit to Appeal to the Queen in Council, in the same manner as in ordinary cases, between Party and Party, under the Royal Charter.

Appeal to Queen in Council.

### CAP. IX.

*An Act to improve and simplify the Practice on the Common Law side of the Supreme and Central Circuit Courts, and to Consolidate the Laws relating to the same.*

[Passed April 13, 1864.]

WHEREAS it is expedient to improve and simplify the Practice on the Common Law side of the Supreme and Central Circuit Courts, and to Consolidate the Laws relating to the same:

Preamble.

Be it therefore enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

I.—All Personal Actions in the said Courts shall be commenced by Writs either of Summons, Attachment, or Capias, in one or other of the forms contained in the Schedule to this Act, and such Writs shall be issued under the Seal of the Court and be signed by the

PERSONAL ACTIONS commenced by Summons, Attachment or Capias.



Clerk or a Commissioner thereof, and shall bear date on the day of the issuing of the same, and be tested in the name of the Chief Justice, or Senior Judge if there be no Chief Justice of the Court out of which such Writ shall have issued.

Writs to contain  
ENDORSEMENTS.

II.—Every such Writ shall contain the Endorsements mentioned in the Schedule, numbers 1 and 2 ; and where the action shall be for a specific debt, such Writ shall also contain an endorsement as in form number 3, of the amount and particulars of such debt, and of the costs claimed thereon, with a notice that on payment of such debt and costs within four days after service of the Writ, proceedings in such action will be stayed ; but the Defendant shall be at liberty upon such payment to have the costs taxed by the proper officer.

CONCURRENT  
WRITS may be  
issued.

III.—In actions brought in the Supreme Court the Plaintiff shall be at liberty, at any time during six months from the issuing of the original Writ, to issue one or more concurrent Writs into other Districts than that into which such original Writ issued ; but such Writs shall be marked “ Concurrent ” by the Officer of the Court, and shall be in force only during such time as the original Writ shall be in force.

No original  
Writ in force  
beyond six  
months, &c.

IV.—No original Writ shall be in force for a longer period than six months ; but if not completely executed within that time, Alias and Pluries Writs of the like force and duration, marked “ Alias and Pluries ” by the Officer of the Court, may be issued, as may be necessary, and shall be available to prevent the operation of any Statute limiting the commencement of the action, and for all other purposes.

Writs against  
CORPORATION to  
be served on  
Chief Officer.

V.—Writs issued against a Corporation aggregate may be served upon the Chief Officer, Secretary, or Treasurer of such Corporation.

Service to be  
personal on  
Agent, if De-  
fendant absent.

VI.—The service of every such Writ shall be personal on every Defendant within the jurisdiction of the Court, and upon the Partner or recognized Agent, if

any such within the jurisdiction, of any Defendant being or residing out of such jurisdiction ; but it shall be lawful for the Court or a Judge of the Supreme Court to order substituted service upon the Clerk of the Court for any Defendant within the jurisdiction, upon it being made to appear to such Court or Judge that such Writ has come to the knowledge of such Defendant, and that he evades service thereof, and substituted service shall be as valid and effectual as personal service upon such Defendant.

SUBSTITUTED SERVICE.

VII.—In case any Defendant shall reside out of this Colony, having no partner or recognized Agent therein, the Writ may be served upon such Defendant, and the same shall, in addition to all other endorsements required by the previous Sections of this Act, contain the endorsement number 4, in the Schedule annexed, and the time for appearance by the Defendant to such Writ shall be regulated by the distance of the place where the Defendant is residing ; and it shall be lawful for the Court or Judge, upon being satisfied by affidavit that there is a cause of action which arose 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 and 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 the Court or Judge may seem fit, having regard to the time allowed for the Defendant to appear being reasonable, and to the other circumstances of the case. Provided always that the Plaintiff shall and he is hereby required to prove the amount of the debt or damages claimed by him in such action, either before a Jury or before one of the Masters of the said Superior Courts in the manner hereinafter provided, according to the nature of the

Service on Defendant residing out of Colony, and having no Agent herein, &c.

case, as such Court or Judge may direct; and the making such proof shall be a condition precedent to his obtaining Judgment.

OMISSIONS of endorsement shall not render Writ void, &c.

VIII.—The omission to insert or endorse on any Writ any matter required by this Act, shall not render the Writ void, but shall be an irregularity for which it may be set aside or amended, on such terms as the Court or Judge of the said Court may think proper.

A Writ for service within jurisdiction may be marked concurrent with one without.

IX.—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.

AFFIDAVITS for the purpose of proceedings against absent Defendants may be sworn before Consul General, &c.

X.—Any Affidavit for the purpose of enabling the Court or Judge to direct proceedings to be taken against a Defendant residing out of the jurisdiction of the said Courts, may be sworn before a Judge of a Superior Court, a Mayor or Chief Magistrate, a Commissioner of Affidavits, or before any Consul General, Consul, Vice-Consul, or Consular Agent for the time being, at any port or place; and every affidavit so sworn by virtue of this Act may be used and shall be admitted in evidence, saving all just exceptions, provided it purport to be signed by such Judge, Mayor, Chief Magistrate, Commissioner, Consul General, Consul, Vice-Consul or Consular Agent, upon proof by Affidavit before some competent authority within the jurisdiction of this Court, of the official character and signature of the person appearing to have signed the same; or by such official character and signature being verified by Certificate purporting to be under the hand and seal of a Consular authority or of a Notary Public; Provided always that if any person shall forge the signature of any such Affidavit or Certificate, or shall use or tender in evidence any such Affidavit or Certificate with a false or counterfeit signature thereto, knowing the same to be false or counterfeit, he shall be

Proviso respecting forged signatures, &c.

guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not exceeding three years nor less than one year, with hard labour; 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 District or place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offense, may be dealt with, indicted, tried, and, if convicted, sentenced, and his offense may be laid and charged to have been committed in any district 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 Judge, Mayor, Chief Magistrate, Commissioner, Consul General, Consul, Vice Consul, or Consular Agent, every person so offending shall be deemed and taken to be guilty of perjury, in like manner as if such false Affidavit had been made in this Colony before competent authority, and shall and may be dealt with, indicted, tried, and, if convicted, sentenced, and his offense may be laid, and charged to have been committed in any district or place in which he shall be apprehended or be in custody, as if his offense had been actually committed in that district or place.

Penalty.

Respecting accessories.

Proviso—person making false affidavit.

XI.—In all Actions *ex contractu*, where the amount sought to be recovered shall exceed One Hundred Dollars, and in all Actions *ex delicto*, a Declaration, in such form as shall be by Law prescribed, shall be annexed to the original Writ at the issuing thereof, and true copies of such Declaration shall be annexed at the time of service to the copies of the Writ served upon the Defendant.

DECLARATIONS to be annexed to Writ.

XII.—No original Writ of Capias shall issue out of the said Courts except upon the filing of a sufficient Affidavit to be made by the Plaintiff, or some one on his behalf, before a Judge, Commissioner of Affidavits,

ARREST. No CAPIAS shall issue unless on affidavit, &amp;c.

or a Clerk of the said Courts respectively, or where made out of this Colony, before one or other of the authorities mentioned in the tenth section and verified in the same way, showing the Defendant to be justly and truly indebted to the Plaintiff in a liquidated amount of Fifty Dollars, or upwards, in a legal cause of action to be therein set forth, but it shall be lawful for either Court or for a Judge of the Supreme Court to authorize the issuing of a Writ of Capias, where the debt or damages are unliquidated, upon sufficient cause to be shown in that behalf.

**EXEMPTIONS  
FROM ARREST ON  
original process.**

**XIII.**—The following Persons shall be exempt from Arrest on original process, namely, the Judges of the Supreme Court, the Members and Officers of the Legislature while in Session and for ten days before and after such Session, Practising Barristers and Attorneys, except when about to leave this Colony, Jurors, Parties and Witnesses to a suit going to, remaining and returning from Court, and Clergymen during the performance of any religious service, and Females shall be exempt from arrest in both original and final process.

**No second arrest  
for same cause.**

**XIV.**—No person shall be arrested a second time on original process for the same cause of action without the order of a Judge.

**No person ar-  
rested to be dis-  
charged unless  
by termination  
of suit or bail.**

**XV.**—No person regularly arrested on an original Alias or Pluries Writ of Capias shall be discharged from custody, except by the termination of the suit in his favour, or otherwise by operation of Law, until he shall have given Bond with two sufficient Sureties to the Sheriff in double the sum sworn to, conditioned as in the form in the Schedule annexed, or until he shall have deposited with the Sheriff, to abide the order of the Court in the cause, an amount equal to the sum sworn to and a further sum of Sixty Dollars for Costs.

**BAIL above not  
necessary.**

**XVI.**—It shall not be necessary for any Defendant to put in bail above in any suit in which he may have

been arrested, but the bail bond or deposit aforesaid shall be and stand as security to the Plaintiff to abide the final judgment in the cause. **Provided** that it shall be incumbent on every Defendant who shall have given bail as aforesaid within fourteen days thereafter to obtain the Plaintiff's assent in writing, or a Judge's order to be made, upon sufficient proof, after hearing the parties, declaring the sufficiency of such bail, and upon such assent or order being duly made and filed, the liability of the Sheriff with respect to such Bond shall cease. **Provided further** that in default of such assent or order, it shall be lawful for the Sheriff to proceed forthwith upon the Bond for the recovery of the sum sworn to, and such further sum aforesaid, and to hold the same as an indemnity against any claim that may be preferred against him as hereinafter mentioned: **Provided also** that it shall be lawful for such bail at any time before a *Capias ad Satisfaciendum* shall have issued in the cause, or within four days thereafter upon obtaining a Judge's order in that behalf, to be made as of course upon a sufficient Affidavit of the conditions here imposed having been complied with, and upon payment of the costs, (if any,) incurred by the Sheriff in any action aforesaid, to render the Defendant to the custody of the Sheriff in discharge of their Bond, and where such render shall be before execution as aforesaid, such Defendant shall not again be discharged but by operation of Law until he shall have given sufficient security, to the satisfaction of a Judge, to pay the amount of any judgment that may be, or may have been, obtained against him, or to render himself to the Sheriff within four days after a *Capias ad Satisfaciendum* shall have issued against him thereon.

XVII.—Upon a breach occurring in the condition of such Bond after judgment, the same shall be assigned by the Sheriff to the Plaintiff, who may sue thereon in his own name; and if by reason of the insufficiency of such Bond, or of the Sureties therein,

Bond to be assigned to Plaintiff in case of breach.

where no such order or assent aforesaid has been had, the Plaintiff shall fail to recover the amount of the sum sworn to, and such further sum for costs as aforesaid, he may recover any deficiency in such amounts in an action on the case against the Sheriff.

**ARREST.**

One or more defendants in a *ca' res.* may be arrested.

**XVIII.**—It shall be competent to the Plaintiff in any action commenced by *Capias* to direct the Sheriff to arrest only one or more of the Defendants, and to serve the other Defendants with copies of the Writ or Declaration, and a copy of such Writ and Declaration shall always be served upon a Defendant arrested, at the time of the arrest being made.

**ATTACHMENT.**

No ATTACHMENT for less than £5 on affidavit, &c.

**XIX.**—No original Writ of Attachment shall issue out of the said Courts except upon the filing of a sufficient affidavit to be made by the Plaintiff or some one on his behalf, before a Judge, Commissioner of Affidavits, or a Clerk of the said Courts respectively, or, where made out of this Colony, before some one or other of the Authorities mentioned in the Tenth Section, and verified in the same way, shewing the Defendant to be justly and truly indebted to the Plaintiff in a liquidated amount of Twenty Dollars or upwards, in a legal cause of action to be therein set forth; but it shall be lawful for either Court, or a Judge of the Supreme Court, to authorize the issuing of a Writ of Attachment where the debt or damages are unliquidated, upon sufficient cause to be shewn in that behalf.

Property attached to be released only on termination of suit in favour of defendant on bond, &c.

**XX.**—No property, debts, or effects, regularly attached under original Alias or Pluries Writs of Attachment, shall be released except by the termination of the suit in favour of the Defendant, or otherwise by operation of Law, until the Defendant, or some one on his behalf shall have given Bond with two sufficient Sureties to the Sheriff in double the sum sworn to, conditioned as in the form in the Schedule annexed, or until he shall have deposited with the Sheriff, to abide the order of the Court in the cause,

an amount equal to the sum sworn to, and such amount as is provided in cases of Attachment by the Twenty-eighth Section of this Act for Costs.

XXI.—Such Bail-bond shall stand and be security to the Plaintiff, to abide the Final Judgment in the cause, and upon a breach occurring in the condition thereof, the same shall be assigned by the Sheriff to the Plaintiff, who may sue thereon in his own name; and if by reason of the insufficiency of such Bond, or of the Sureties therein, the Plaintiff shall fail to recover the amount of the sum sworn to and such further sum for costs as aforesaid, he may recover any deficiency in such amounts in an action on the case against the Sheriff.

Bail-bond to abide final judgment.

XXII.—When the goods or effects attached under any process of either of the said Courts shall be of a perishable nature, or be such as either from the expense of holding the same, or from other circumstances may considerably deteriorate in value before Judgment can be obtained in the action or suit in which [such goods or effects may have been attached, and good and sufficient Bail to satisfy the Judgment, Order, or Decree of the said Court, shall not have been put in by the Defendant or Defendants, it shall and may be lawful for such Court respectively, or for any Judge of the Supreme Court in vacation, on the application of any Plaintiff or Defendant, to order the immediate appraisement and sale of such goods or effects, or of a sufficiency thereof to satisfy the debt and costs, and to direct the proceeds thereof to be paid into Court, to abide the further Order, Judgment, or Decree of the Court in such action or suit.

Perishable goods may be sold, &c.

XXIII.—So often as any goods, debts, or effects of any Defendant or Defendants in any action or suit now depending or hereafter to be brought in either of the said Courts, have been or shall be attached in the hands of any third person, such goods, debts, or effects, shall be paid into Court or delivered to the

Moneys or goods in hands of third persons attached, to be paid into Court or delivered to the Sheriff.



Sheriff, as the case may be, to abide the Order, Judgment, or Decree of the said Court; and for the purpose of ascertaining the nature and amount of such goods, debts, and effects, it shall be lawful for such Courts respectively, or for a Judge of the Supreme Court in vacation, to summon such third person, or in the event of his or her absence from the Colony, his or her Agent, to appear before such Court or Judge respectively to be examined upon oath, and thereupon to make order for the payment into Court, or delivery to the Sheriff, as the case may be, of such goods, debts or effects, and for the realization by the Master, by action or suit (if necessary), in his own name or otherwise, of such effects as may consist of Choses in action, and to enforce such order by process of contempt; Provided always that no such attachment as aforesaid shall be deemed to operate on or to affect any Contract executory, upon which at any day after the service of the Warrant of Attachment any sum of money shall or may accrue or become payable to any Defendant for or on account of any work, labour, or service to be executed, performed, or completed by such Defendant at any time after the service of such Warrant of Attachment upon the Bailee; nor upon any moneys, goods, debts, or effects, in and over which such Defendant shall not have, at the time of the service of any such Warrant of Attachment, a then present interest and disposing power.

Proviso as to executing contract and accruing interest.

Debts payable in goods. Plaintiff to specify goods in certain cases.

**XXIV.**—When any debt which has been or shall be so attached as aforesaid shall be payable in goods to be specified by the Defendant or Defendants, to whom such debt shall be owing, and such Defendant or Defendants shall neglect or refuse to specify the same previously to, or at the time of such examination as aforesaid, such goods to the amount of the debt so attached shall be delivered to the Sheriff as the Plaintiff or Plaintiffs in any such action or suit shall direct and prescribe.

XXV.—In all cases where any lands or tenements, or the interest of any person or persons in any lands or tenements, shall be attached by virtue of any process of the said Courts respectively, the Sheriff, his Deputy or Bailiff, shall serve notice of such attachment on the tenants, occupiers, or owners of such lands or tenements; and thereafter the rents, profits, or annuities to which such person or persons may be entitled from such lands or tenements, whether then in arrear or thereafter to grow due until final Judgment, or so much thereof as shall be sufficient to satisfy the Plaintiff's demand with reasonable costs, shall, (after deducting thereout ground rents if any) be paid to the Sheriff, to abide the Order, Judgment, or Decree of the said Court; and the like proceedings may be had for ascertaining the nature and amount of such rents, profits, or annuities, and for enforcing payment of the same according to the orders of the Court, as are hereinbefore prescribed with respect to goods, debts, or effects, attached in the hands of a third person.

Where lands, &c., attached, notice to be served on tenants.

And like proceedings as in cases of debts attached.

XXVI.—It shall and may be lawful for any party or parties having obtained Judgment against a Defendant or Defendants, to issue a Writ of "*Fieri Facias*," thereupon, and to cause Warrants under such Writs of "*Fieri Facias*" to be placed in the hands of any party or parties having the custody or control of any moneys, goods, debts, or effects of the said Defendant or Defendants; and the like proceedings shall be had to examine persons holding the said moneys, goods, debts, or effects, and to cause the said money to be paid into Court, or the said goods to be sold, and where such effects shall consist of Choses in action, to cause the same to be realized, and the proceeds paid into Court, under such Warrants as are had under Warrants laid in virtue of mesne process.

Moneys may be levied under writ of execution.

XXVII.—Property, debts, and effects, attached under original or final process, shall abide the Judg-

Property attached to abide final Judgment.

ment, Order or Decree of the Court, in the cause in which they have been attached.

Sheriff may attach for costs, &c.

**XXVIII.**—It shall be lawful for the Sheriff, in all cases of attachment by original process, in addition to the amount sworn to, to attach for Costs, as follows : where the sum sworn to do not exceed Fifty Dollars, the sum of Fifteen Dollars; where it exceeds Fifty Dollars and does not exceed Two Hundred Dollars, the sum of Twenty-five Dollars; where it exceeds Two Hundred Dollars, and does not exceed Four Hundred Dollars, the sum of Thirty Dollars; and where it exceeds Four Hundred Dollars, the sum of Fifty Dollars; and in cases of attachment under execution, in addition to the amount of the Judgment, to attach for the costs of execution.

Actions commenced by Capias.—Plaintiff bound to proceed to trial first term.

**XXIX.**—In all actions commenced by Capias or Attachment, it shall be incumbent on the Plaintiff to proceed to trial, in the term first after the issuing of the Writ, and to Judgment and execution within ten days after trial, unless prevented by the action of the Defendant; and in default of his so doing, it shall be lawful for the Court or a Judge of the Supreme Court, as the case may require, to cause the Defendant or the Property attached to be released, or the Bail-bond to be cancelled; Provided that the Court or a Judge may upon sufficient cause extend the time for either proceeding.

Proviso.

In case of non-appearance, where defendant resides out of Colony, Plaintiff may sign Judgment.

**XXX.**—In case of the Defendant not appearing and pleading, where the Writ contains the special endorsement, number 3, it shall be lawful for the Plaintiff, on filing an affidavit of service of the Writ and Declaration, and of the order of the Court or Judge under the provisions of this Act, where the Defendant resides out of the Colony, at once to sign final Judgment in the form prescribed in the Schedule number 5, for any sum not exceeding the amount so endorsed, and to issue execution thereon; Provided that the Court or a Judge may, within a

Proviso.

reasonable time after Judgment, let in the Defendant to defend, upon satisfactory affidavits accounting for non-appearance, and disclosing a defence upon the merits.

**XXXI.**—In case of such Defendant not appearing and pleading where the Writ has not been endorsed in the special form before provided, it shall be lawful for the Plaintiff, on filing an affidavit of service of the Writ and Declaration, and the order of the Court or Judge under the provisions of this Act, where the Defendant resides out of the Colony, to sign interlocutory Judgment by default, and to proceed to final Judgment and execution as follows: First,—No rule to compute shall be necessary, but where it shall appear to the Court, or a Judge, that the amount sought to be recovered is substantially a matter of calculation, such Court or Judge may direct that the amount for which final Judgment is to be signed shall be ascertained by the Clerk or Master of the Court, and the attendance of witnesses and the production of documents before him shall be enforced by subpoena, as in ordinary cases, and the Clerk or Master shall endorse upon the rule referring the matter to him the amount found by him, and file the same in the Clerk's Office, and such and the like proceedings may be thereafter had as to taxation of costs, signing Judgment, and otherwise, as in ordinary cases. Second,—In all other cases the amount sought to be recovered shall be assessed before the Court by the Jury in attendance for the trial of issues, or in summary cases by the Court or a Judge thereof.

Proceeding in case of non-appearance where the Writ has not been endorsed in special form.

**XXXII.**—The Defendant may appear and plead at any time before Judgment signed against him. Every Defendant appearing in person must give an address in St. John's, at which it shall be sufficient to leave all pleadings and other proceedings for him; and in default whereof his appearance shall be a nullity. The mode of appearance shall be by filing in

Defendant may appear at any time before Judgment.—Defendant appearing in person to give address.

the office of the Clerk of the Court a Memorandum in the following form :—

“ Court Term 18  
 “ Appearance for C. D. at the suit of A. B. to a  
 writ of issued on the  
 (Signed) E. F.  
 Attorney (or in person).”

DEFAULT.  
 Proceedings in  
 case of default.

**XXXIII.**—All such proceedings as are mentioned in any Writ or Notice issued under this Act shall and may be had and taken in default of a Defendant's appearing and pleading, and without further notice to the Defendant; provided the required service of the original Writ, and of the declaration where required, be first duly verified by Affidavit to be filed therewith.

Proceedings  
 against several  
 defendants if  
 one or more only  
 shall appear.

**XXXIV.**—In any action brought against two or more Defendants, where the Writ is endorsed in the special form hereinbefore provided, if one or more of such Defendants only shall appear and plead, and another or others of them shall not appear and plead, it shall and may be lawful for the Plaintiff to sign Judgment against such Defendant or Defendants only as shall not have appeared and pleaded, and 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 and pleaded; or the Plaintiff may, before issuing such execution, proceed against such Defendant or Defendants as shall have appeared and pleaded, stating by way of suggestion on the Roll the Judgment obtained against the other Defendant or Defendants who shall not have appeared and pleaded, in which case the Judgment so obtained against the Defendant or Defendants who shall not have appeared and pleaded, shall operate and take effect in like manner as a Judgment by default obtained against one or more of the several Defendants in an action of debt before the commencement of this Act.

XXXV.—It shall and may 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 by such amendment, and that the person or persons to be added as aforesaid consent, either in person or by his Attorney, 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 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 in such cause.

Joinder of parties.

XXXVI.—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 or Judge holding plea in civil actions, in like manner as to the mode of amendment and the proceedings consequent thereon, or as near thereto as the circumstances of the case will admit, as in case of amendments of variances under an Act of the Imperial Parliament passed in the Session of Parliament held in the

Non-joinder and mis-joinder of Plaintiffs may be amended.

third and fourth years of the Reign of His late Majesty King William the Fourth, entitled "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 his or their Attorney, 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.

Upon notice of plea of non-joinder of plaintiffs proceedings may be amended

XXXVII.—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, (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 may be amended before trial.

XXXVIII.—It shall and may be lawful for the Court or a Judge, in 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.

XXXIX.—In any action or 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 and 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 in abatement and the Plaintiff, be considered for all purposes as the commencement of the action.

Upon plea in abatement for non-joinder of defendants proceeding may be amended.

XL.—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

Provision in the case of subsequent proceedings against the persons named in a plea in abatement for non-joinder of defendants.



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; 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 of 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; Provided, also, that no plea in abatement for non-joinder of a Defendant shall be good unless it state that such Defendant resides at a place shown by the said plea to be within the jurisdiction of the Court, and unless it be accompanied by an affidavit of verification.

Proviso.

Joinder of claims by husband and wife with claims in right of husband.

**XLI.**—In any action brought by a man and his wife for an injury done to the wife, in respect of which she is necessarily joined as co-plaintiff, 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 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.

Proviso.

Different causes of action may be joined.

**XLII.**—Causes of action, of whatever kind, provided they be by and against the same parties, and in the same right, 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 Districts, the venue may be laid in either of such Districts, but the Court or a Judge shall have power to prevent the trial of different causes of action together, if such trial would be inex-

Exceptions

pedient, and in such case such Court or Judge may order separate records to be made up, and separate trials to be had.

XLIII.—Where the parties to an action are agreed as to any question of law or fact to be decided between them, they may, after Writ issued and before Judgment, by consent, and by order of the Court or a Judge, proceed to the trial and determination of such question of law or fact, without formal pleading; and such question may be stated in the form in the Schedule annexed;—and such question, if of fact, may be tried and determined by the Court or a Jury as may be agreed upon; and if of law, may be heard and determined by the Court; and such hearing, trial, and determination shall be attended by and subject to the like incidents, in all respects, as to judgment, costs, execution, and other proceedings, as if had and conducted upon formal pleadings.

XLIV.—It shall be lawful for the Defendant in all actions except actions for false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation, or debauching of the Plaintiff's daughter or servant, but including actions on bonds with a penalty conditioned for the payment of a less sum, and actions for detaining the goods of the Plaintiff, and by leave of the Court or a Judge, and 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.

XLV.—When money is paid into Court, such payment shall be pleaded in all cases, as nearly as may be, in the following form, *mutatis mutandis* :—

“The Defendant by \_\_\_\_\_ 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 that the  
said sum is enough to satisfy the claim of the  
Plaintiff in respect of the matter herein plead-  
ed to.”

Questions of fact may, after writ issued, by consent and leave of a Judge, be raised without pleadings.

#### PAYMENT OF MONEY.

Defendant may pay money into Court in certain cases.

Payment to be pleaded.

No rule or Judge's order necessary.

**XLVI.**—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 each Court, who shall give a receipt for the amount in the margin of the plea, and the said sum shall be paid out to the Plaintiff or his Attorney.

Plaintiff may reply by accepting, &c.

**XLVII** —The Plaintiff, after the delivery 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.

NOTICE OF TRIAL.  
Eight days' notice of trial in continued causes.

**XLVIII.**—Eight days' notice of trial shall be given in continued causes, and twenty-four hours' notice shall be given in causes tried in the term in which issue is joined.

NOTICE BY PRO-  
VISO.

**XLIX.**—When any cause shall not have been tried in the term in which issue was joined, it shall be competent for the Defendant to give eight days' notice of trial for the ensuing term; and unless such cause shall be tried during that term, it shall be lawful for the Defendant to sign judgment of nonsuit therein against the Plaintiff; Provided that the Court or a Judge, for a sufficient cause, may extend the time for such trial.

PROVISO,

SPECIAL JURY.

**L.**—A Special Jury may be had for the trial of a cause as of course, within twenty-four hours after the same shall have been entered upon the Docket for a

trial; and within any time after that period by leave of the Court or a Judge, upon cause shewn; and by the like leave, a Special Jury may be had for an assessment of damages.

LI.—A Plaintiff or Defendant having obtained a verdict in a defended cause, and a Plaintiff having obtained a verdict in an undefended cause, shall be entitled to sign judgment and issue execution after four days thereafter; but the Court or a Judge, for a sufficient cause, may shorten or extend the time for such judgment and execution, with or without terms.

Judgment may be signed after four days after verdict unless otherwise ordered.

LII.—Writs of Execution may be issued from the Circuit Courts, upon judgment obtained therein, to the other Judicial Districts of this Colony, directed to the Sheriff of such other Districts, who shall, under the authority of the said Writs, levy under the same as if issued from the Supreme Court.

WRITS OF EXECUTION.

LIII.—A Writ of Execution, if unexecuted, shall continue in force for one year, but *alias* and *pluries* Writs of the like duration may be issued as long as the judgment remains unsatisfied, or such Writ of Execution may at any time before its expiration be renewed by the party issuing it for one year from the date of such renewal; and so on, from time to time, during the continuance of the renewed Writ, by having the same re-sealed with the Seal of the Court out of which the same shall have issued, such re-sealing being marked with the initials of the Chief Clerk or a Commissioner, together with the date of re-sealing; and a Writ of Execution, so renewed, shall have effect and be entitled to priority according to the time of the original delivery thereof.

Execution.

LIV.—Execution may be levied, as well as attachment laid, upon money, choses in action, equitable interests in property, real or personal, and all other property and effects whatsoever; and for the purpose of ascertaining the nature and amount of goods, debts,

Execution.

and effects, upon which Warrants under Executions may be laid in the hands of third persons, and for realizing the same, and also for realizing choses in action, seized under execution, the like proceedings shall be had as are prescribed in cases of attachment under the 23rd Section of this Act.

Execution in six  
years without  
revival.

LV.—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 six years from the recovery of the judgment, execution may issue without a revival of the judgment.

Revivor.

Judgment to be  
revived by writ,  
or with leave of  
Court or Judge,  
by suggestion.

LVI.—In cases where it shall become necessary to revive a judgment by reason either 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 on 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 or a Judge upon a rule to shew cause, or a Summons to be served according to the present practise, 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 to this Act annexed, or to the like effect.

Proceedings up-  
on application  
for suggestion  
to revive Judg-  
ment.

LVII.—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 to this Act annexed, 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.

LVIII.—The Writ of Revivor shall be directed to the party called upon to show cause why execution should not be awarded, and shall bear test 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 four 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 to this Act annexed, or to the like effect, and may be served in any district, 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 any District, and the pleadings and proceedings thereupon, and the rights of the parties respectively to costs, shall be the same as in an ordinary action.

Writ of revivor and proceedings thereon.

LIX.—All Writs of *scire facias*, issued out of any of the superior Courts, 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; upon a suggestion after judgment for any penal sum pursuant to the Statute passed in the Imperial Parliament in the Session holden in the Eighth and Ninth Years of the Reign of King William the Third, entitled "An Act for the better preventing frivolous and

Writs of *scire facias* in other cases to be tested, directed, and proceeded upon in like manner.

vexatious Suits," shall be tested, directed, and proceeded upon in like manner as Writs of Revivor.

Appearance to writ of revivor.

LX.—Notice in writing to the Plaintiff, his Attorney or Agent, shall be sufficient appearance to Writ of Revivor.

As to issue of writ of revivor upon judgment more than ten years old.

LXI.—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 a Judge's order; nor if more than fifteen years, without a rule to shew cause.

Death of plaintiff or defendant not cause suit to abate.

LXII.—The death of a Plaintiff or Defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

Proceedings in case of death of one or more of several plaintiffs or defendants.

LXIII.—If there be two or more Plaintiffs or Defendants, and one or more of them should die, if the cause of such action shall 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 upon the Record, the action shall proceed at the suit of the surviving Plaintiff or Plaintiffs against the surviving Defendant or Defendants.

Proceedings in case of sole plaintiff.

LXIV.—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 trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased Plaintiff; but such judgment shall follow upon the verdict in favour of, or against the person making such suggestion, as if such person were originally the Plaintiff.

Proceedings on death of sole surviving defendant.

LXV.—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 have not arrived at issue, or in a copy of the issue if it have so arrived, of the death; and that a person named therein 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 with a notice signed by the Plaintiff or his Attorney, requiring such Executor or Administrator to appear within eight 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 the action was brought; 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; and in case the Defendant shall have pleaded before the death, the new Defendant shall be at liberty to plead to the suggestion, only by way of denial, or such plea as may be appropriate to, and rendered necessary by his character of Executor or 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, 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 on 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, he shall be entitled to the like Judgment as in action originally commenced against the Executor or Administrator.



Death between  
verdict and  
judgment.

LXVI.—The death of either party between the verdict and the judgment shall not hereafter be alleged for error, so as such judgment be entered within two terms after such verdict.

Proceedings in  
case of death  
after interlocu-  
tory and before  
final judgment.

LXVII.—If the Plaintiff in any action happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said 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 said 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 Executors or Administrators shall and may have a Writ of Revivor in the form contained in the Schedule to this Act annexed, 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 shew cause why damages in such action should not be assessed and recovered by him or them; and if such Defendant, his Executors or Administrators shall appear at the return of such Writ, and not shew or allege any matter sufficient to arrest the final judgment, or shall make default, assessment of damages shall be thereupon had, or the amount for which final judgment is to be signed shall be referred to one of the Masters as hereinbefore provided; and thereafter final judgment shall be given for the said Plaintiff, his Executors or Administrators prosecuting such Writ of Revivor, against such Defendant, his Executors or Administrators respectively.

Marriage not to  
abate action.

LXVIII.—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 hus-

band 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 or defend by Attorney appointed by her when sole, such Attorney shall have authority to continue the action or defense, unless such authority be countermanded by the husband, and the Attorney changed, according to the practice of the Court.

**LXIX.**—The insolvency of the Plaintiff in any action which he might maintain for the benefit of the creditors, shall not be pleaded in bar to such action, unless his trustees shall decline to continue, and give security for the costs thereof, upon a Judge's order to be obtained for that purpose, within such reasonable time as the Judge may order; but the proceedings may be stayed until such election is made; and in case the trustees neglect or refuse to continue the action and give such security within the time limited by the order, the Defendant may, within eight days after such neglect or refusal, plead the Insolvency.

Insolvency of plaintiff, when not to abate action.

**LXX.**—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 under this Act, the Defendant or person against whom the action may be so continued may apply by Summons to compel the Plaintiff 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 and suggestion against the Plaintiff or against the person entitled to proceed in

To compel continuance or abandonment of action in case of death.

his room, as the case may be, and in the latter case to be levied of the goods of the Testator or Intestee.

**ARREST OF JUDGMENT.**

On motion in arrest of judgment, omitted facts may by leave be suggested.

**LXXI.**—Upon any motion made in arrest of judgment, or to enter an arrest of judgment, or for judgment *non obstante veredicto* by reason of the non-averment of some alleged 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 an ordinary action.

Judgment to follow result of suggestion.

**LXXII.**—If the fact or facts suggested be admitted, or found to be true, the party suggesting shall be entitled to such judgment, as he would be 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.

Costs of a abortiv issues.

**LXXIII.**—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 of 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.**

Ejectment to be brought by writ.

**LXXIV.**—Instead of the present proceeding by Ejectment, a Writ shall be issued directed to the per-

son 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.

LXXV.—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 four days after service thereof, in the Court from which it 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 test of the day on which it is issued, and shall be in force for six months, and shall be in the form contained in the Schedule to this Act annexed, 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 endorsed thereon, in like manner as hereinbefore enacted, with reference to the endorsements on a Writ of Summons in a personal action.

Form and duration of writ of ejectment.

LXXVI.—The Writ shall be served in the same manner as an Ejectment has heretofore been 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 of ejectment.

LXXVII.—The persons named as Defendants in such Writ, or either of them, shall be allowed to appear within the time appointed.

Appearance of persons named in the writ.

LXXVIII.—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.

Appearance of persons not named.

LXXIX.—Any person appearing to defend as landlord, in respect of property whereof he is in posses-

Appearance and defence by landlord.

sion only by his tenant, shall state in his appearance that he appears as landlord; and such person shall be at liberty to set up any defense which a landlord appearing in an action of ejection has heretofore been allowed to set up, and no other.

Notice to defend for part only.

**LXXX.**—Any person appearing to such Writ shall be at liberty to limit his defense to a part only of the property mentioned in the Writ, describing that part with reasonable certainty in a notice intituled in the Court and cause, and signed by the party appearing, or his Attorney, such notice to be served at the time of appearance upon the Attorney whose name is endorsed on the Writ, if any, and if none, then to be filed in the Master's Office; and an appearance, without such notice confining the defense to part, shall be deemed an appearance to defend for the whole.

Defence by persons not in possession.

**LXXXI.**—The Court or a Judge shall have power to strike out or confine appearances and defenses set up by persons not in possession by themselves or their tenants.

Judgment for default of appearance, &c.

**LXXXII.**—In case no appearance shall be entered into within the time appointed, or if an appearance be entered, but the defense be limited to part only, the Plaintiffs 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 defense does not apply; which judgment, if for all, may be in the form contained in the Schedule to this Act annexed, or to the like effect, and if for part, may be in the form contained in the Schedule to this Act annexed, or to the like effect.

Issue how made up.

**LXXXIII.**—In case an appearance shall be entered, an issue may at once 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 defense, if any, of each of the persons appearing, so that it may

appear for what defense is made, and directing the Sheriff to summon a Jury; and such issue, in case defense is made whether for the whole or for part, may be in the form contained in the Schedule to this Act annexed, or to the like effect.

**LXXXIV.**—By consent of the parties and by leave of a Judge, a special case may be stated according to the practice heretofore used, or herein prescribed.

Special case may be stated.

**LXXXV.**—The claimants may, if no special case be agreed to, proceed to trial upon the issue, in the same manner as in other actions; and the question at the trial shall, except in cases hereinafter mentioned, be, whether the statement in the Writ of the title of the claimants be 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 to this Act annexed, or to the like effect, with such modifications as may be necessary to meet the facts.

Time of issue.

**LXXXVI.**—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 the trial, the claimant shall, notwithstanding, be entitled to a verdict according to the fact that he was so entitled at the time of bringing the action and serving the Writ, and to a judgment for his costs of suit.

Verdict when title appears to have expired before trial.

**LXXXVII.**—If the defendant appear, and the claimant do not appear at the trial, the claimant shall be nonsuited and the defendant shall recover his costs of suit; and if the claimant appear and the defendant do not appear, the claimant shall be entitled to recover judgment as heretofore, with his costs of suit, without any proof of his title; if the Plaintiff

Non-appearance at trial.

be non-suited for any other cause than non-appearance, the Defendant shall have judgment for his costs of suit.

Judgment upon finding for claimant.

**LXXXVIII.**—Upon a finding for the claimant, judgment may be signed and execution issue for the recovery of possession of the property, or such part thereof as the Jury shall find the claimant entitled to, and for costs as in ordinary cases under this Act; and upon a finding for the defendants, or any of them, judgment may be signed and execution for costs issued for him or them in like manner.

Execution for recovery of possession and costs, may be joint or separate.

**LXXXIX.**—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.

Defence by joint tenants, tenants in common or coparceners.

**XC.**—In case of such an action being brought by some or one of several persons entitled as joint-tenants, tenants in common, or coparceners, any joint-tenant, tenant in common, or coparcener in possession, may, at the time of appearance, give notice in the same form as in the notice of a limited defense, that he or she defends as such, and admits the right of the claimant to an undivided share of the property, and may within the same time file an affidavit, stating, with reasonable certainty, that he or she is such 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 defense; and upon the trial of such an issue, the additional question of whether an actual ouster has taken place shall be tried.

Trial and judgment against joint-tenants, &c.

**XCI.**—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 judgment for the recovery of possession and costs.

XCII.—The death of the claimant or defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

Action not to abate by death.

XCIII.—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 claimant shall have a verdict and recover judgment as aforesaid, upon its appearing that he was entitled to bring the action either separately or jointly with the deceased claimant.

Proceedings upon death before trial where right survives.

XCIV.—In case of the death before trial of one of several claimants whose right does not survive to another or others of the claimants, where 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.

Proceedings upon death before time where right does not survive.

XCV.—In case of a verdict for two or more claimants, if one or more of such claimants die before execution executed, the surviving 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 recovery of possession of the entirety of the property and costs; but

Upon death of one of several claimants having obtained a verdict.



nothing herein 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 as 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.

Proceedings in case of death of claimant, where right does not survive

**XCVI.**—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 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 favour of 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 judgment as aforesaid for costs.

Proceedings upon death of one of several joint defendants.

**XCVII.**—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.

**XCVIII.**—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 claimant shall be at liberty to sign judgment within such time as the Court or Judge may think fit, unless the person then in possession, by himself or his tenant, or the 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 defense made, then the claimant shall be at liberty to sign judgment pursuant to the order.

Upon death of all the defendants in ejectment before trial.

**XCIX.**—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 hath taken place, and to proceed by execution for recovery of possession without suggestion or revivor, and to proceed for the recovery of costs, in like manner as upon any other judgment for money against the legal representatives of the deceased defendant or defendants.

Upon death of all defendants in ejectment after verdict.

Upon death of defendant defending separately.

C.—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 the death of a sole defendant, or the claimants may proceed against the surviving defendants in respect of the portion of the property for which they defend.

In case of death of one of several defendants.

CI.—In case of the death before trial of one of several defendants in ejectment, who defends separately in respect of property for which surviving defendants also defend, it shall be lawful for the Court or a Judge at any time before the trial to allow the person at the time of the death in possession 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 defendant or defendants to judgment and execution.

Claimant may discontinue by notice.

CII.—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 to this Act annexed, or to the like effect.

Discontinuance of action by one of several claimants.

CIII.—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 thereupon upon such terms as to the Court or Judge may seem fit, and the action shall thereupon proceed at the suit of the other claimants.

CIV.—In every action of ejectment the plaintiff may be compelled to proceed to trial, or be subjected to judgment of nonsuit by the same means and subject to the same conditions as are prescribed by this Act in ordinary cases.

Trial by proviso.

CV.—One or more defendants in ejectment shall be at liberty to confess judgment in whole or in part for the land claimed in the action, in like manner as judgment may be confessed in other suits.

Defendants may confess judgment.

CVI.—The effect of a judgment in an action of ejectment under this Act shall be the same as that of a judgment in an action of ejectment heretofore used.

Effect of judgment.

CVII.—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 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.

Tenants to give notice of ejectment to landlord.

CVIII.—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 of ejectment for the recovery of the demised premises, or in case the same cannot be legally 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 and hereditaments comprised in such writ of ejectment, and such affixing shall be deemed legal service thereof, which service or affixing such writ in

Proceedings in ejectment by landlord for non-payment of rent.

ejectment shall stand in the place and stead 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 where the said action is depending, by affidavit, or be proved upon the trial in case the defendant appears, that a half-year's rent was due before the 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 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 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 such case the said lessee, 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, such said landlord or lessor shall from thenceforth hold the said 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 can 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 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 the covenants and agreements which, on the part and behalf of the first lessee, are or ought to be performed.

Proviso as to mortgagees.

CIX.—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 ejection, unless he does or shall, within ten days next after a full and perfect answer shall be made by the claimant in such ejection, bring into Court and lodge with the proper Officer, such sum and sums 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 till 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 for so much and no more as he shall really and *bona 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.

CX.—If the tenant or his assignee do or shall at any time before the trial in such ejection pay or tender to the lessor or landlord, his executors or administrators, or his or their attorney in that cause, or pay into Court where the same cause is depending all the rent and arrears, together with the costs, then and in such case all further proceedings on the ejection shall cease and be discontinued; and if such lessee, his executors, administrators, or assigns, shall, upon such proceedings as aforesaid, be relieved in equity, he and they shall have, hold, and enjoy the demised lands ac-

Lessee proceeding in equity not to have injunction and relief without payment of rent and costs.

Tenant paying all rent with costs, proceedings to cease.

ording to the lease thereof made, without any new lease.

Saving of former remedies.

**CXI.**—Nothing herein contained shall be construed to prejudice or affect any other right of action or remedy which landlords may possess in any of the cases hereinbefore provided for, otherwise than hereinbefore expressly enacted.

In ejectment by mortgagee the mortgagor rendering principal interest and costs in Court shall be deemed full satisfaction, and Court may compel mortgagee to re-convey.

**CXII.**—Where an action of ejectment shall be brought by any mortgagee, his executors, administrators, or assigns, for the recovery of the possession of any mortgaged lands, tenements, or hereditaments, and no suit shall be then depending 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 to receive the same, shall bring into 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 moneys for principal, interest and cost, to be ascertained and computed by the Court where such action is or shall be depending, 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, at the costs and charges of such mortgagor, to assign, surrender, or re-convey such mortgaged lands, tenements, and hereditaments, and such estate and interest as such mortgagee has therein, and 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 Court, his executors or administrators, or to such other person or persons as he or they shall for that purpose nominate and appoint.

CXIII.—Nothing herein contained shall extend to any case where 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 has not a right to redeem, or that the premises are chargeable with other and different 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 to redemption to the mortgage lands and premises in question in any cause or suit, shall be controverted or questioned by or between different defendants in the same cause or suit; or shall be any prejudice to any subsequent mortgage or any subsequent incumbrance, anything herein contained to the contrary thereof in anywise notwithstanding.

Not to extend to cases where the right of redemption is controverted, or the money due not adjusted;

or to prejudice any subsequent mortgage.

CXIV.—The several Courts and the Judges thereof respectively shall and may exercise over the proceedings the like jurisdiction as heretofore exercised in the action of ejectment, so as to insure a trial of the title, and of actual ouster, when necessary only, and for all other purposes for which such jurisdiction may at present be exercised; and the provisions of all Statutes not inconsistent with the provisions of this Act, and which may be applicable to the altered mode of proceeding, shall remain in force and be applied thereto.

Jurisdiction of Court and Judges.

CXV.—The Sheriffs of the several Districts of this Island, as well as their sworn Bailiffs to be appointed by them at convenient places within their respective districts, and for whom and for whose acts the Sheriffs shall be respectively responsible, shall be and they are

REPLEVIN.  
Replevin—Sheriffs and their sworn Bailiffs to be appointed by them to grant replevin.



hereby authorized to make replevies and deliverances of distress in manner hereinafter directed ; and the said Sheriffs shall from time to time respectively notify and publish in the Newfoundland *Royal Gazette* the names and places of residence of all such sworn Bailiffs, who shall have authority to make such replevies and deliverances as aforesaid in the Sheriff's name, and in the same manner as the Sheriff may and ought to do.

Replevin—Sheriff to take bond from parties replevying.

CXVI.—In all cases of distresses for rent and otherwise, the person or persons whose goods shall be distrained, and who shall be desirous of replevying the same or any part thereof, shall enter into a bond with the Sheriff of the district, with one or more sufficient sureties, to the satisfaction of the Sheriff or the Bailiff by whom the said bond shall be taken; which bond shall be in the form set forth in the Schedule to this Act annexed, and the penalty of such bond shall be a sum sufficient to cover the value of the cattle or goods distrained, if taken for any other cause than for rent, and if taken for rent then in a sum double the value of the cattle or goods distrained; and upon the execution of such bond the said Sheriff, or such Bailiff as aforesaid in the name of the Sheriff, shall forthwith issue his warrant to replevy the cattle or goods so distrained as aforesaid, which warrant shall be in the form in the schedule to this Act annexed; and it shall be lawful to execute such warrant at any time before the sale of any such cattle or goods so distrained, as may by law be sold in pursuance of any such distress.

Bond may be assigned by Sheriff and avowant may sue thereon if forfeited.

CXVII.—The Sheriff or Bailiff taking any replevin bond shall, at the request and costs of the avowant or person making cognizance, assign such bond to the avowant or person aforesaid, by endorsing the same and attesting it under his hand and seal, in the presence of two or more credible witnesses, in the form set forth in the schedule to this Act annexed; and if the bond so taken and assigned be forfeited, the avowant or person making cognizance may bring an action, and recover

thereon in his own name, and the Court wherein such action shall be brought may, by a rule of the same Court, give such relief to the parties upon such bond as may be agreeable to justice and reason; and such rule shall have the nature and effect of a defeazance of such bond.

**CXVIII.**—The party obtaining a replevy of cattle or other goods so to be distrained as aforesaid, shall, on or before the first day of the then next term or sittings of the Court, to be mentioned in such warrant of replevin, or if such Court be sitting, then within four days after the execution of such warrant of replevin, file in Court, and also serve or cause to be served upon the person avowing or making cognizance, or upon his agent or attorney, a declaration in the usual form in such cases, to which declaration the defendant shall enter an appearance, and shall also plead, avow, or make cognizance thereto, without any demand of plea or rule to plead, within the first four days of the term or sittings of the Court aforesaid, or if such declaration be served in term time, then within four days after service of a copy thereof as aforesaid; and the plaintiff shall, to every such plea, avowry or cognizance, plead or demur within two days after service of a copy thereof, without any demand of plea or rule to plead, unless the Court or a Judge thereof shall in any such case otherwise order, and thereupon subject to the provisions hereinbefore contained, such further and other proceedings shall be had as are now used and practised in cases of replevin; Provided that it shall not be necessary in any case to execute a writ of enquiry of damages before the Sheriff, but all such damages shall be assessed in the usual manner before the Court, or a Judge of the Court in which any such action may be pending.

Declaration when and how to be filed and served, and proceedings thereon

No writ of inquiry to be executed—damages to be assessed before the Court.

**CXIX.**—In all cases of distresses for rent, the person making any such distress shall deliver to the person in possession of the premises, for the rent of which such

Particulars of rent distrained for, to be furnished.

distress shall be made, or in case there shall not be any person found in possession, shall affix upon some conspicuous part of such premises a particular in writing of the rent demanded, specifying the amount thereof, the time or times when the same accrued, and the person by whom or by whose authority such distress is made.

Plaintiff in replevin may pay money into Court.

CXX.—The Plaintiff in replevin may, in answer to an avowry, pay money into Court in like manner and subject to the like conditions as to costs and otherwise as upon a payment into Court by a defendant in other actions, and such payment shall not, nor shall any acceptance thereof work a forfeiture of the Replevin bond.

Act to extend to all cases of replevy.

CXXI.—This Act shall extend to all cases in which replevin will lie.

ARBITRATION.  
Power of Court—Judge to direct arbitration before trial.

CXXII.—If it be made 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 matter in dispute consists 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 one or more arbitrators appointed by the parties, or, if the parties cannot agree in the choice of arbitrators, to an Officer of the Court, or some other person or persons, 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 or referees, shall be enforceable by the same process as the finding of a Jury upon the matter referred.

Special case may be stated and question of fact tried.

CXXIII.—If it shall appear to the Court or 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, or by a Judge

upon the consent of both parties hereinbefore provided, 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 or Judge upon such issue or issues, shall be taken and acted upon by the arbitrator or officer as conclusive.

**CXXIV.**—It shall be lawful for the arbitrator or officer, 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 either of the said Courts, if he shall think fit, and if it be 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

**CXXV.**—If upon the trial of any issue of fact by a Judge under this Act, it shall appear to the Judge that the questions arising thereon involve matter of account which cannot conveniently be tried before him, it shall be lawful for him, at his discretion, to order that such matter of account be referred to an arbitrator or arbitrators appointed by the parties, or in the event of their disagreement as aforesaid, to an Officer of the Court, or some other person or persons, upon such terms as to costs and otherwise as such Judge shall think reasonable, and the award or certificate of such referee shall have the same effect as hereinbefore provided as to the award or certificate of a referee before trial, and it shall be competent for the Judges to proceed to try and dispose of any other matter in question not referred in like manner as if no reference had been made.

Power of Judge to direct arbitration at time of trial when issues of fact left to his decision.

**CXXVI.**—The proceedings upon any such arbitration as aforesaid shall, except otherwise directed hereby, or by the submission or document authorising the reference, be conducted in like manner and subject to the same rules and enactments, as to the power of the arbitrator

Proceedings before and power of arbitrator.

and of the Court, the attendance of witnesses, the production of documents, enforcing or setting aside the award, and otherwise as upon a reference made by consent under a rule of Court or Judge's order.

Power to send  
back to arbitra-  
tor.

**CXXVII.**—In any case where reference shall be made to arbitration as aforesaid, the Court or a Judge shall have power at any time, and from time to time, to remit the matters referred, or any or either of them, to re-consideration and re-determination of the said arbitrator, upon such terms as to costs and otherwise as to the said Court or Judge may seem proper.

Application to  
set aside award.

**CXXVIII.**—All applications to set aside any award made on a compulsory reference under this Act, shall and may be made within seven days after 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.

If action com-  
menced by one  
party after all  
have agreed to  
arbitration,  
Court or Judge  
may stay pro-  
ceeding.

**CXXIX.**—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 an action at law or suit in equity against the other party or parties, or any of them, or against any person claiming through or under him or them, 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, 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 bringing 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 directing a reference as hereinbefore provided, as to such Court or Judge may seem fit; Provided always that any rule or order may at any time afterwards be discharged or varied as justice may require.

**CXXX.**—If in any case of arbitration the document authorizing the reference, provide 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 show 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 arbitrator refuse to act or become incapable of acting, or die, and the terms of the document authorizing the reference do not show 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 a Judge of either of the said Courts, 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

On failure of parties or arbitrators, Judge may appoint single arbitrator or umpire.

reference and make an award as if he had been appointed by consent of all parties.

When reference is to two arbitrators, and one party fail to appoint, other party may appoint arbitrator to act alone.

**CXXXI.**—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 him, to substitute a new arbitrator, unless the document authorizing the reference show 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 to appoint, with notice in writing to make the appointment, the party who has appointed an arbitrator may appoint such arbitrator to act as sole arbitrator 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 deem just.

Proviso.

Two arbitrators may appoint umpire.

**CXXXII.**—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.

Court or Judge may extend time for making award.

**CXXXIII.**—It shall be lawful for the Court or a Judge, upon sufficient cause, and from time to time, to extend the time for making any award under this Act; and notwithstanding that the time originally fixed may have elapsed.

**CXXXIV.**—When any award made on any such submission, document or order of reference as afore-

said, 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 made a rule or order, to order any party to the reference who shall be 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.

Arbitration  
ejectment rule  
to deliver pos-  
session of land  
pursuant to  
award enforced  
as a judgment  
in ejectment.

CXXXV.—Every agreement or submission to arbitration by consent, whether by deed or instrument in writing not under seal, may be made a rule of either of the said Courts on the application of any party 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 Courts, it may be made a rule of that Court only; and if when there is no such provision a case be stated in the award for the opinion of one of the said 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 one of such Courts, the other of such Courts shall not have any jurisdiction to entertain any motion respecting the arbitration or award.

Agreement or  
submission in  
writing may be  
made rule of  
Court unless a  
contrary inten-  
tion appear.



## ADJOURNMENT.

Power to adjourn trial.

**CXXXVI.**—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.

Affidavits on new matter.

**CXXXVII.**—Upon motions founded upon affidavit 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.

## MANDAMUS.

Action for mandamus to enforce the performance of duties.

**CXXXVIII.**—The plaintiff in any action in either of the said Courts, except replevin and ejectment, may endorse 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.

Declaration in action for mandamus.

**CXXXIX.**—The declaration in such action shall set forth sufficient grounds upon which such claim is founded, and shall set forth that the plaintiff is personally interested therein, and that he sustains damage by the non performance of such duty, and that the performance thereof has been demanded by him and refused or neglected.

Proceedings upon claim for mandamus.

**CXL.**—The pleadings and other proceedings in any action in which a writ of mandamus is claimed, shall be the 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.

Judgment and execution.

**CXLI.**—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 is 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.

**CXLII.**—The 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 grounds, be allowed by the Court or Judge, either with or without terms.

Form of peremptory Writ.

**CXLIII.**—The writ of mandamus so issued as aforesaid shall have the same force and effect as a peremptory writ of mandamus issued out of either of the said Courts, and in case of disobedience may be enforced by attachment, by the Court, or, when such Court shall not be sitting, by a Judge.

Effect of mandamus and proceedings to enforce it.

**CXLIV.**—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, by reference to a master; and the Court may order payment of the amount of such expense and costs, and enforce payment thereof by execution.

The Court may order the Act to be done at the expense of the defendant.

**CXLV.**—Nothing herein contained shall take away the jurisdiction of either of the said Courts to grant writs of mandamus; nor shall any writ of mandamus issued out of either of the said Courts be invalid by reason of the right of the prosecutor to proceed by action for mandamus under this Act.

Prerogative writ of mandamus preserved.

Proceedings for prerogative writ of mandamus accelerated.

**CXLVI.**—Upon the application by motion for any writ of mandamus in either of the said Courts, the rule may in all cases be absolute in the first instance, if the Court shall think fit; and the writ may bear test 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.

SPECIFIC DELIVERY OF CHATTELS.

**CXLVII.**—The Court or a Judge shall have power, if they or he see fit so to do, upon the application of the plaintiff in any 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 if the said chattel cannot be found, and 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 assessed value of such chattel; Provided that the Plaintiff shall, either by the same or a separate writ of execution, be entitled to have made of the defendant's goods the damages and costs in such action.

INJUNCTION.  
Claim of writ of injunction.

**CXLVIII.**—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 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.

Form of summons and endorsement thereon.

**CXLIX.**—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 endorsed 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.

CL.—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; or, when such Court shall not be sitting, by a Judge.

Form of proceedings and of judgment.

CLI.—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.

Writ of injunction may be applied for at any stage of cause.

CLII.—In case any action, suit or proceeding, in any Court of Law or Equity, shall be commenced,

Injunctions and orders to stay proceedings to have a specific effect.

sued or prosecuted, in disobedience of, and contrary to, any writ of injunction, rule or order of either of the said Courts, or of any Judge thereof, in any other Court than that by or in which such injunction may have been issued, or rule or order made, upon the production of such writ of injunction, rule or order, the said other Court, (in which such action, suit or proceeding may be commenced, prosecuted or taken), or any Judge thereof, shall stay all further proceedings contrary to any such injunction, rule or order; and thenceforth all further and subsequent proceedings shall be utterly null and void to all intents and purposes; Provided always that nothing herein contained shall be held to diminish, alter, abridge or vary the liability of any person or persons commencing, suing or prosecuting any such action, suit, or proceeding, contrary to any injunction, rule or order of either of the Courts aforesaid, to any attachment, punishment, or other proceeding to which any such person or persons are, may or shall be liable in cases of contempt of either of the Courts aforesaid, in regard to the commencing, suing, or prosecuting such action, suit, or proceeding.

Mandamus.

CLIII.—Writs of mandamus and injunction shall, in addition to other matter inserted therein, and unless otherwise ordered by the Court or a Judge, command the defendant to pay the plaintiff the cost thereof, and such payment may be enforced in the same manner as the payment of costs under rule of Court are now enforced.

Loss of note, &c., not to be set up as defence.

CLIV.—In case of any action founded upon 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 is given, to the satisfaction of the Court or a Judge, or a Master, against the claims of any other person upon such negotiable instrument.

Indemnity.

SCIRE FACIAS.

CLV.—Proceedings against executors upon a judgment of assets *in futuro* may be had and taken by

revivor in the manner hereinbefore provided by this Act.

*Scire facias* on judgment of assets *in futuro*.

CLVI.—No judgment shall be signed upon a cognovit or warrant of attorney, signed by the defendant himself, and not by his attorney, unless an affidavit by the subscribing witness to such cognovit or warrant of attorney, of the due execution thereof, be previously filed.

CLVII.—Where property is held in joint-tenancy, coparcenary or common, any party wishing a partition thereof may sue out a writ in the form in the Schedule to this Act annexed, against all persons who have a joint possession with them of such property, and refuse to make a fair partition of it.

PARTITION.  
Joint tenants, &c., may claim partition.

CLVIII.—Upon the said writ being duly returned and filed, with an affidavit of the service thereof, upon default of the appearance of the parties to whom it shall be addressed, the Court shall proceed to examine into the demandant's title, and the quantity or proportion of the property to which he is entitled, and accordingly as they shall find the demandant's right and proportion to be, they will for so much give judgment by default, and award a writ to make a partition whereby such part and proportion shall be set out severally, and which writ shall be in the form in the Schedule to this Act annexed.

Upon default of appearance, Court will examine title and give judgment, &c.

CLIX.—When this writ shall have been executed, after eight days' notice given to the occupier or tenant of the premises, and returned, final judgment will be entered; and the same shall be good and conclude all persons whatsoever, after notice as aforesaid, whatever right or title they have, or may at any time claim to have, in any of the property mentioned in the said judgment and writ of partition; unless such tenant or person concerned, or either of them, against whom, or their right and title, such judgment, by default is given, shall, within the next term of the Court,

Final judgment to be entered after execution of writ and eight days' notice to tenant.

Infants *femes*  
*covertes*, non  
sane persons,  
and absentees,  
to apply to set  
aside proceed-  
ings in one year  
after removal of  
restriction.

or in case of infancy, *non sanæ memoriæ*, or absence out of this Island, within one year after his, her or their return, or the determination of such inability, apply to the Court by motion, and shew a good and probable matter in bar to such partition; in which case the Court will set aside such judgment, and the cause shall proceed as if no judgment had been given. But if the Court, upon hearing thereof, shall adjudge for the first demandant, then the said first judgment shall stand confirmed, and shall be good against all persons whatsoever, except such other persons as shall be absent or disabled as aforesaid, and the person or persons so appealing shall be awarded thereupon to pay costs.

Proceedings in  
case of inequa-  
lity of partition.

CLX.—Should any person described in the last section, and within the time or times as there stated, come into Court, and, admitting the demandant's title, shew an inequality in the partition, the Court shall award a new partition to be made in the presence of all parties concerned, (if they will appear), notwithstanding the return and filing upon the record of the former; and such second partition shall be good and firm forever, against all persons not labouring under any of the disabilities herein previously mentioned.

In case of ap-  
pearance, issue  
to be tried by a  
jury.

CLXI.—In the event of the party against whom the writ shall have been issued, appearing, he may either confess the action or plead that the demandants do not hold together with him. In the first case, a writ of partition like that before described, with such slight alterations as may be necessary to adapt it to the present purpose, will issue to the Sheriff immediately; in the second case the truth of the tenant's plea must be tried within a convenient time by a jury; and if their verdict shall be against him on that point, the demandant will then be entitled to a writ of partition.

Amendments.

CLXII.—It shall be lawful for either of the said Courts, and every Judge thereof, at all times to amend

all defects and errors in any proceedings under the provisions of this Act, whether there is anything 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 a 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 if duly applied for.

CLXIII.—It shall be lawful for the Judges of the Supreme Court to make all such general rules and orders, and to frame such writs and forms of proceeding for the effectual execution of this Act, and of the intention and object thereof, as in their judgment shall be necessary and proper; and all such rules, orders, writs and proceedings, shall be acted upon and enforced, in the same manner as rules, orders, writs and proceedings of the said Courts or either of them are now acted upon and enforced, or as near thereto as circumstances will permit; and in cases not provided for in this Act, or by the rules made thereunder, the practice of the Queen's Bench shall, so far as the same is applicable, be the practice of the Supreme and Central Circuit Courts.

General rules  
may be made by  
Judges.

CLXIV.—All actions, *ex contractu*, where the amount sought to be recovered shall not exceed one hundred dollars, shall be heard and determined in the said Courts in a summary manner; the writ shall be in the form in the Schedule to this Act annexed, and concurrent alias and pluries writs may issue, and the like security on *capias* and attachment may be given, as in ordinary cases. In pleading it shall be sufficient for the party pleading to file a notice of his pleading by the usual and known title thereof in practice, or by a short statement of its effect, with a copy of offset, if any; it shall not be necessary to file any roll, but the trial shall be had upon the papers filed in Court; judg-

SUMMARY AC-  
TIONS.

Actions under  
§20 summary.



ment by default, where the demand is for a specific debt, shall be final as in other cases, and where a trial or an assessment is had, it shall be sufficient to enter a memorandum of the judgment in the Record Book; Provided that in cases where the amount sought to be recovered shall exceed Fifty Dollars, it shall be lawful for either party to have a Jury for the trial of the cause; but in such case he shall not be entitled to the cost thereof unless the Court shall so order.

Suits now pending to be continued under present practice

CLXV.—All suits now depending in the said Courts shall be continued to final judgment in accordance with the present practice.

Computation of time.

CLXVI.—In the computation of time under this Act, the period within which any act is to be done, is to be calculated one day exclusive and the other inclusive, unless the first or last day shall be Sunday, Good Friday, Christmas Day, New Year's Day, or the Queen's Birth day, which are to be in such cases excluded from the computation.

Chief Justice may appoint commissioners of writs, &c.

CLXVII.—It shall be lawful for the Chief Justice, or in his absence for the Senior Judge of the Supreme Court, by warrant under his hand and seal of the said Court, to appoint, at any place within the colony, Commissioners for taking affidavits in the Supreme and Circuit Courts, or any of them, and for issuing writs returnable into any or either of the said Courts; Provided that it shall not be necessary to the validity of any writ issued by a Commissioner out of St. John's, that such writ should be under Seal.

Writs issued out of St. John's, need not be necessary.

Court may assess damages in certain cases.

CLXVIII.—Where both parties agree, or where the defendant not appearing at the trial, the plaintiff is willing, and the Court shall not otherwise order, it shall be lawful for the Court or a Judge thereof to try and to assess the damages upon any issue or default; and the finding of such Court or Judge shall have the same effect, and judgment shall be entered thereon, as in cases of trial or assessment by a Jury.

CLXIX.—So much of the third section of the Act 13th Victoria, cap. 7, entitled “An Act to fix and establish the terms of the Supreme, Central Circuit, and Sessions Courts, and to extend the jurisdiction and amend the practice of the said Courts,” as prevents the issuing of attachment for contempt, shall be and the same is hereby repealed.

3rd sec. 18 Vic., cap. 7, in part repealed.

CLXX.—This Act shall come into operation on the thirtieth day of June next.

Commencement of Act.

Schedule of Forms.

No. 1.

Writ of Summons where the defendant resides within the Colony:

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

Summons.

To C. D. of \_\_\_\_\_, Yeoman, &c.

We command you that within four days after service of this Writ and Declaration upon you, you do appear and plead in our Court 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 to judgment and execution.

Witness, &c.

E. F.,  
Plaintiff’s Attorney.

MEMORANDUM, No. 1.

This writ is to be served within six calendar months from the date thereof.

Endorsements

Service.

MEMORANDUM, No. 2.

This writ was served by X. Y. on C. D., the defendant, on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 186 \_\_\_\_\_

(Signed,)

X. Y.

**Endorsement.** SPECIAL ENDORSEMENT, No. 3.

The following are the particulars of the plaintiff's claim :

1863. June 20—Half-year's rent to date	\$30.0
CR.	
By Cash paid . . . .	10.0
Balance Due . . . .	\$20.0

**Notice.**

N.B.—Take notice, that if a defendant served with this writ do not appear and plead according to the exigency thereof, the plaintiff will be at liberty to sign final judgment for any sum not exceeding the amount above claimed, and the sum of dollars for costs, and to issue execution after the expiration of four days from the last day of appearance.

**No. 2.**

Writ of Attachment where the defendant resides within the Colony :

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To G. H., Sheriff of the District of Newfoundland :

**Attachment.**

We command you to attach C. D., of , Yeoman, by his lands and chattels, goods, debts and effects, that he do, within four days after service of this writ and declaration, appear and plead in our Court, in an action at the suit of A. B. ; and notice is hereby given that in default of the said C.D.'s so doing, the said A.B. may proceed to judgment and execution.

Witness, &c.

And in addition to the memoranda and other endorsements in form No. 1, the writ of attachment shall be endorsed as follows :

“By oath for dollars” (or, by order of Mr. Justice )” and by oath for dollars, as the case may be.

**No. 3.**

Writ of Capias where the defendant resides within the Colony :

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To G. H., Sheriff of the District of Newfoundland :

We command you that you take C. D., of Yeoman, and him safely keep, so that he do within four days after service of this writ and declaration, appear and plead in our Court in action at the suit of A. B. ; and notice is hereby given that in default of the said C. D.'s so doing, the said A. B. may proceed to judgment and execution.

Capias ad respondentum.

Witness, &c.

And in addition to the Memoranda and other endorsements in form No. 1, the writ of capias shall be endorsed as follows :

By oath for dollars, or, by order, of Mr. Justice , and by oath for dollars, as the case may be.

**No. 4.**

The form of writ where the defendant resides out of the jurisdiction may be the same as in other cases of summons, capias, or attachment respectively, but the number of days for appearance must be made with reference to the distance the defendant may be at from Newfoundland, and the words "by leave of the Court, or a Judge," must be inserted in the notice of proceeding after the word "may;" also the following notice must be endorsed on the writ, in addition to all other endorsements.

Writ when defendant out of jurisdiction.

To C. D., late of , &c., now residing at , &c.,

Take notice that A. B., of , &c., has commenced an action at law against you in Her Majesty's Supreme Court of Newfoundland by a writ, copy whereof is within written, and you are required within

Notice.

days after receipt of this notice to appear and plead to the said action, otherwise the said A. B. may, by leave of the Court, proceed thereon to judgment and execution.

(Signed,)

A. B.,  
Attorney for Plaintiff.

**No. 5.**

**FORM OF SUMMARY WRIT.**

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c., &c.

To A. B., of Greeting

Summary Writ.

We command you that within four days after the service of this writ upon you, you do appear and plead in our Court to an action at the suit of C. D., who claims from you for the matters contained in the annexed particulars; and in default of your so doing the plaintiff may proceed to judgment and execution.

Witness, &c.

Attachment.

A summary writ of attachment or capias may be framed in accordance with the preceding form. And all such writs must contain the usual endorsements.

**No. 6.**

In the Court  
on the day of 186  
(Day of signing final judgment.)

SAINT JOHN'S, }  
to wit: }

Judgment by default.

A. B., in his own person, (or by J. B., his Attorney), sued out a writ of against C. D., endorsed according to the prescribed forms, as follows :-

(Here copy Special Endorsement.)

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.

(Signed,)

M. W. W., C. C. & R.

**No. 7.**

In the \_\_\_\_\_ Court  
 the \_\_\_\_\_ day of \_\_\_\_\_ A. D., 186 .

SAINT JOHN'S, }  
 to wit: }

Whereas A. B. has sued C. D., and affirms and denies.

(Here state the question or questions of fact to be tried.)

And it has been ordered by the Honorable Mr. Justice \_\_\_\_\_ that the said question shall be tried by a Jury; therefore let the same be tried accordingly

Order that question be tried by Jury.

(Special case for the opinion of the Court)

In the \_\_\_\_\_ Court

Between { A. B., Plaintiff,  
 and  
 C. D., Defendant.

The following case is stated for the opinion of the Court, under a Rule of the Court, (or order of the Honorable Mr. Justice \_\_\_\_\_), dated the \_\_\_\_\_ day of \_\_\_\_\_ 186 .

Special case for the opinion of Court.

(Here state the material facts of the case bearing upon the question of law to be decided.)

The question or questions for the opinion of the Court is, or are,—

First, whether &c.

Second, whether &c.

“Judgment for the Plaintiff on a special case.”

Copy the special case, and then proceed thus—

Judgment on special case.

Afterwards on \_\_\_\_\_ come the parties aforesaid by their respective attorneys aforesaid, and the Court is of opinion that, &c. (state the opinion of the Court on the question or questions stated in the case.) Therefore it is considered that the plaintiff do recover against the defendant the said \$ \_\_\_\_\_, and \$ \_\_\_\_\_ for his costs of suit.

(Signed)

M. W. W., C. C. & R.

**No. 8.**

Rule where  
judgment ap-  
plies for exe-  
cution.

Form of rule or summons where a judgment creditor applies for execution against a judgment debtor.

[Formal parts as above.]

C. D. shew cause why A. B. [or as the case may be] should not be at liberty to enter a suggestion upon the roll in an action wherein the said A. B. was plaintiff, and the said C. D. was defendant; and wherein the said A. B. obtained judgment for                    dollars 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, 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 form may be modified so as to meet the case of an application by or against the representative of a party to a judgment.]

**No. 9.**

Form of sug-  
gestion.

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 C. D., 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 E. F. [or against G. H., as executor of the last will and testament of the said E. F., or as the case may be]; therefore it is considered by the Court that the said A. B., [or C. D., as such executor as aforesaid, or as the case may be,] ought to have execution of the said judgment against the said E. F. [or against G. H., as such executor as aforesaid, or as the case may be.]

**No. 10.****FORM OF WRIT OF REVIVOR.**

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To E F. of

Greeting :

We command you that within four days after the service of this writ upon you, inclusive of the day of such service, you appear in our <sup>Writ of revivor.</sup> Court, to shew cause why A. B. or C. D., 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,] on the day of in the said Court, recovered against you, [or as the case may be], dollars; and take notice that in default of your so doing, the said A. B. [or as the case may be] may proceed to execution.

Witness, &c.

**No. 11.****EJECTMENT—FORM OF WRIT.**

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To X. Y. Z., and all persons entitled to defend the possession of , [describe the property with reasonable certainty] in the District of , to the possession whereof A. B. and C., or some or one of them, claim to be [or to have been on and since the day of A. D. 186 ] enti- <sup>Writ of ejectment.</sup>



tled, and to eject all other persons therefrom ; these are to will and command you, or such of you as deny the alleged title, within four days after service hereof, to appear in our Court to defend the said property, or such part thereof as you may be advised ; and in default whereof judgment may be signed, and you turned out of possession.

Witness, &c.

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**No. 12.**

**JUDGMENT IN EJECTMENT IN CASE OF  
NON-APPEARANCE.**

In the Court  
The day of A. D. 186 .  
[Date of the Writ ]

SAINT JOHN'S }  
to wit :

Judgment on  
non-appearance.

On the day and year above written a writ of our Lady the Queen issued forth of this Court in these words,—that is to say,—

Victoria, by the Grace of God, [here copy the writ]; and no appearance has been entered, or defense made to the said writ ; therefore it is considered that the said [here insert the names of the persons in whom title is alleged in the said writ] do recover possession of the land in the said writ mentioned, with the appurtenances.

---

**No. 13.**

In the Court  
on the day of A. D. 186 .

SAINT JOHN'S }  
to wit :

On the day and year above written a writ of our Lady the Queen issued forth of this Court in these words,—that is to say,—

Victoria, by the Grace of God, [here copy the writ]; and C. D. has on the                      day of                      appeared by his attorney (or in person) to the said writ, and has defended for a part of the land in the said writ mentioned,—that is to say, [here state the part]; and no appearance has been entered or defense made to the writ, except as to the said part; therefore it is considered that the said A. B. (the claimant) do recover possession of the land in the said writ mentioned, except the said part, with the appurtenances, and that he have execution thereof forthwith; and as to the rest let the jury come, &c.

Judgment where  
appearance is  
confined to part.

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**No 14.**

In the                      Court  
on the                      day of                      A. D. 186 .  
SAINT JOHN's, }  
to wit:                      }

On the day and year above written a writ of our Lady the Queen, issued forth of this Court in these words,—that is to say,—

Issue.

Victoria, by the Grace of God, [here copy the writ]; and C. D. has on the                      day of                      appeared by                      his attorney (or in person) to the said writ, and defended for the whole of the land therein mentioned: therefore let a Jury come, &c.

---

**No. 15.**

Afterwards on the                      day of                      A. D. 186 , before the Justices of our                      Court come the parties within mentioned, and a Jury of the said district being sworn to try the matter in question between the said parties, upon their oath say, that A. B. (the claimant within mentioned), on the day of                      A. D.                      , was and still is entitled to the possession of the land within mentioned, as in the writ alleged; therefore, &c.

Postea.

**No. 16.**

In the Court  
on the day of A. D., 186 .  
(Date of writ.)

SAINT JOHN'S, }  
to wit: }

Discontinuance. On the day and year above written, a writ of our Lady the Queen issued forth of this Court, in these words,—that is to say,—

Victoria, by the Grace of God, [here copy the writ]; and C. D. has on the day of A. D., 186 , 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. dollars, for his costs of defense.

**No. 17.**

In the Court  
on the day of A. D. 186 .  
(Date of Writ.)

SAINT JOHN'S }  
to wit: }

Nonsuit. On the day and year above written, a writ of our Lady the Queen issued forth of this Court, in these words,—that is to say,—

Victoria, by the Grace of God, (here copy the writ); and C. D. has on the day of A. D. 186 , 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 recover against the said A. B. dollars, for his costs of defense.

**No. 18.**

In the Court the day of A.D., 186 .  
(Date of writ.)

SAINT JOHN'S, }  
to wit :

On the day and year above written, a writ of our Lady the Queen issued forth of this Court, in these words,—that is to say,—

Victoria, by the Grace of God, (here copy the writ); and C. D. has on the day of A.D., 186 , 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,—here state the part) ; therefore it is considered that the said A. B. do recover possession of the said land in the said writ mentioned (or of the said part of the said land) with the appurtenances, and dollars, for costs. Judgment for part.

**WRITS OF EXECUTION.****No. 19.****FIERI FACIAS ON JUDGMENT.**

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. Fieri Facias.

To the Sheriff of the District of Newfoundland, Greeting :

We command you that of the goods and chattels, lands and tenements of C.D., in your bailiwick, you cause to be made, which A. B., lately in our Court, recovered against him, whereof the said C. D. is convicted, and have that money before us in our said Court immediately after the execution of this writ, to be rendered to the said A. B., and have you then there this writ.

Witness, &c.

**No. 20.****WRIT OF "CAPIAS AD SATISFACIENDUM."**

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the District of Newfoundland, Greeting :

*Capias ad satisfaciendum.*

We command you that you take C. D., if to be found within your bailiwick, and him safely keep, so that you have his body before us, in our said Court, immediately after the execution hereof, to satisfy A. B., which the said A. B. lately in our said Court, recovered against the said C. D., whereof the said C. D. is convicted; and have you then there this writ.

Witness, &c.

**No. 21.****WRIT OF "HABERE FACIAS" POSSESSIONEM.**

*Habere facias.*

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the District of Newfoundland, Greeting :

Whereas A. B., lately in our Court, by judgment of the said Court, recovered possession of [here describe the property as in the writ of ejectment, or, if part only of the land has been recovered, describe such part as in the judgment] with the appurtenances, in your bailiwick ; therefore we command you that you enter the same, and without delay you cause the said A. B. to have possession of the said land and premises with the appurtenances ; and in what manner you shall have executed this our writ, make appear to our said Court immediately after the execution hereof, and have you then there this writ.

Witness, &c.

## No. 22.

WRIT OF "HABERE FACIAS" AND "FIERI FACIAS" for costs upon a judgment for plaintiff in ejection, where defendant has appeared. Habere facias  
and fieri facias.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the District of Newfoundland, Greeting :

Whereas A. B., lately in our Court, recovered possession of [here describe the property as in the writ of ejection, or if part only of the land has been recovered, describe such part as in the judgment]; with the appurtenances, in your bailiwick, in an action of ejection at the suit of the said A. B. against C. D.; therefore we command you that without delay you cause the said A. B. to have possession of the said land and premises with the appurtenances; and we also command you that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made dollars, which the said A. B., lately in our said Court, recovered against the said C. D. for the said A. B.'s costs of the said suit, whereof the said C. D. is convicted, and have that money in our said Court immediately after the execution hereof, to be rendered to the said A. B.; and in what manner you shall have executed this our writ, make appear to our said Court immediately after the execution hereof, and have you then there this writ.

Witness, &c.

**No. 23.****WRIT OF FIERI FACIAS FOR COSTS IN  
EJECTMENT.**

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the District of  
Newfoundland, Greeting :

Fieri facias for  
costs.

We command you that of the goods and chattels of C. D. in your bailiwick, you cause to be made dollars, which A. B., lately in our Court, recovered against him for the said A. B.'s costs of suit in an action of ejectment brought by the said A. B. against the said C. D. in that Court, whereof the said C. D. is convicted; and have that money in our said Court immediately after the execution hereof, to be rendered to the said A. B., and have you then there this writ.

Witness, &c.

[Other writs of execution may be prepared according to the above forms, with the necessary variations.]

**No. 24.****FORM OF BOND TO THE SHERIFF IN CASES  
OF ATTACHMENT.**

Bond on attach-  
ment.

Know all Men by these Presents, that we, A. B., of  
, C. D., of , and E. F., of ,  
are severally held and firmly bound unto the Sheriff of  
the District of Newfoundland, in the penal sum  
of (double the amount sworn to) each, to be paid to the  
said Sheriff, his successors, and assigns; and for which  
payment well and truly to be made, we severally bind  
ourselves, our executors and administrators, by these  
presents. Sealed with our Seals, and dated at ,  
this day of A. D.

Whereas the said A. B. has been attached at the suit  
of G. H., for the sum of (the amount sworn to), and  
is desirous of giving security, pursuant to the Statute  
for release from such attachment.

Now, the condition of this obligation is such, that if the said A. B., his executors or administrators, do and shall well and truly pay, or cause to be paid, to the said G. H., his executors, administrators, or assigns, upon demand, the said sum of \_\_\_\_\_, or the amount of any judgment, if it be less than the said sum, that may be recovered by the said G. H. against the said A. B., in the said suit, and in default thereof, restore to the said Sheriff the property mentioned in the Schedule annexed, and attached in this suit, in the like order and condition in which the same now is; then this obligation to be void, otherwise to be and remain in full force and virtue.

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**No. 25.**

**FORM OF BOND TO THE SHERIFF IN CASES  
OF CAPIAS.**

Know all Men by these Presents, that we, A. B., of \_\_\_\_\_, C. D., of \_\_\_\_\_, and E. F., of \_\_\_\_\_, Bond in cases of  
capias.  
are severally held and firmly bound unto the Sheriff of the \_\_\_\_\_ District of Newfoundland, in the penal sum of (double the amount sworn to) each, to be paid to the said Sheriff, his successors, and assigns, and for which payment well and truly to be made, we severally bind ourselves, our executors, and administrators, by these presents. Sealed with our seals, and dated at this \_\_\_\_\_ day of \_\_\_\_\_ A.D.

Whereas the said A. B. has been arrested at the suit of G. H., for the sum of (the amount sworn to) and is desirous of giving security, pursuant to the statute for release of such ar-



rest. Now, the condition of this obligation is such, that if the said sureties do and shall, within fourteen days hereafter, justify themselves as sufficient bail in this cause, pursuant to the statute in such case provided, or render the said A. B. to the custody of the said Sheriff, to abide the judgment of the Court in this cause, and if, within four days after a *capias ad satisfaciendum* shall have issued against the said A. B., in this cause, the said A. B. shall render himself to the Sheriff thereon, or shall pay the amount of the judgment therein, with costs of execution, then this obligation to be void, but otherwise to be and remain in full force and virtue.

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No. 26.

WRIT OF EXECUTION IN DETINUE

For the return of a chattel detained, and for a *distringas* until returned, separate from a writ of damages or costs.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the

District of Newfound-

land, Greeting :

Execution in  
detinue.

We command you that without delay you cause the following chattels,—that is to say, [here enumerate the chattels recovered by the judgment, for the return of which execution has been ordered to issue], to be returned to A. B., which the said A. B., lately in our Court, recovered against C. D. in an ac-

tion for the detention of the same, whereof the said C. D. is convicted; \* and we further command you that if the said chattels cannot be found in your bailiwick, you distrain the said C. D. by all his lands and chattels in your bailiwick, so that neither the said C. D. nor any one for him, do lay hands on the same until the said C. D. render to the said A. B. the said chattels; and in what manner you shall have executed this our writ make appear to our said Court immediately after the execution thereof, and have you then there this writ.

Witness, &c.

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**No: 27.**

The like; but instead of a distress until the chattel is returned, commanding the Sheriff to levy on the defendant's goods the assessed value of it. <sup>† The like, with levy.</sup>

[Proceed as in the preceding form until the \* and then thus].—And we further command you that if the said chattels cannot be found in your bailiwick, of the goods and chattels of the said C. D., in your bailiwick, you cause to be made \_\_\_\_\_ dollars, [the assessed value of the chattels] whereof the said C. D. is also convicted, and have that money in our said Court to be rendered to the said A. B. immediately after the execution hereof; and in what manner, &c.

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**No. 28.**

Endorsement on  
summons of  
claim for in-  
junction.

Endorsement on writ of summons of claim for a writ of injunction.

The plaintiff intends to claim a writ of injunction to restrain the defendant from [herestate concisely for what the writ of injunction is required,—as, for example, thus,—felling or cutting down any timber], in and upon the said land and premises; and take notice that in default of the defendant's entering an appearance and plea, as within commanded, the plaintiff may, besides proceeding to judgment and execution for damages and costs, apply for and obtain such writ.

**No. 29.**

Judgment that  
mandamus do  
issue.

Judgment for plaintiff after verdict that a mandamus do issue.

[The same as in the ordinary form of an entry of a judgment to the end of the postea, and then thus]—  
Therefore it is considered that a writ of mandamus do issue commanding the defendant to—[here state the duty to be performed, or the thing to be done, as claimed by the declaration]; and it is also considered that the plaintiff do recover of the defendant the said moneys by the Jury aforesaid, in form aforesaid, above assessed, and also                      dollars for his costs of suit in this behalf.

## No. 30.

## REPLEVIN BOND.

Know all Men by these presents, that we, A. B., of Replevin bond.  
 , G. A. of , and T. R. of  
 , are jointly and severally held and  
 firmly bound to G. H. Esquire, Sheriff of the  
 District, in the sum of            dollars, (a sufficient  
 sum to cover the value of the cattle or goods distrained,  
 if taken damage feasant, or if for rent then double the  
 value of the cattle or goods taken), to be paid to the  
 said Sheriff or his certain attorney, executors, adminis-  
 trators or assigns; for which payment to be well and  
 truly made, we bind ourselves and each and every of  
 us, and our and each and every of our executors  
 and administrators, firmly by these presents. Sealed  
 with our seals. Dated this            day of  
 18

The condition of this obligation is such, that if the  
 above bounden A. B. do appear at the next term or  
 sittings of the            Court which shall next sit within  
 the district            ; to be holden at            , for the  
 said district (or if it be in term time, then say, "in this  
 present term of the Court at            ,")—and do then  
 and there prosecute his suit with effect and without  
 delay against C. D. for the taking and unjustly  
 detaining of his cattle, goods, and chattels—to wit,  
 (state the cattle or goods distrained) and do make re-  
 turn of the said cattle, goods and chattels, if a return  
 thereof shall be adjudged; then this present obligation  
 shall be void and of none effect, or else to be and re-  
 main in full force and virtue.

A. B.—(L. S.)

G. A.—(L. S.)

T. R.—(L. S.)

“Assignment of Replevin Bond” to be endorsed on the Bond.

Assignment of Bond.

Know all men by these presents, that I, G. H., Esquire, Sheriff of the District of Newfoundland, have, at the request of the above-named C. D., the avowant (or person making cognizance), assigned over to him, the said C. D., this replevin bond, according to the statute in such case made and provided.

Dated, &c.

G. H.

### WARRANT OF REPLEVIN.

District, }  
to wit: }

Warrant.

G. H., Esquire, Sheriff of the District of Newfoundland, to and and to every of them, jointly and severally, Greeting:

Whereas A. B. hath found me sufficient security, as well for prosecuting his suit with effect against C. D. for taking and unjustly detaining his cattle, goods and chattels—to wit, [set out the cattle or goods] which the said C. D. hath taken and unjustly detains, as it is said; therefore, on behalf of the said A. B., I command you, jointly and severally, that without delay you replevy and cause to be delivered to the said A. B. his said cattle, goods, and chattels, and that you immediately summon the said C. D. to appear at the next term of the Supreme Court, (or Central, Northern, or Southern Circuit, to be holden at , in and for the said district, or as the case may be) to answer the said A. B. in

the plea aforesaid; and in what manner you shall have executed this precept certify to me at the time and place aforesaid, under the peril attending the neglect thereof.

Given under my Seal this }  
day of A. D. 186 . }

G. H., Sheriff, [L. S.]

(Or if granted by a Bailiff, say L. H., one of the Bailiffs of the said Sheriff, according to the form of the Statute.

### FORM OF WRIT OF PARTITION.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. Writ of Partit-  
tion.

To the Sheriff of \_\_\_\_\_ and his Deputy and Deputies, Greeting:

Whereas E. F., late of \_\_\_\_\_ was commanded to be in our \_\_\_\_\_ Court to answer A. B. and C. D., of a plea, whereupon the said A. B. and C. D., and the said E. F., held together and undivided (state the property in the same manner as in the original writ), and the said E. F. denieth partition thereof to be made between them, and permitted not the same to be done, as they said; and the said E. F. not appearing in our said Court according to the command of our said writ, our said Court did proceed to examine the title of the said A. B. and C. D., whereupon it was considered in our said Court that partition should be made between them of the messuages, lands and tenements aforesaid, with the appurte-

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nances; therefore we command you, that taking with you twelve free and lawful men of the neighbourhood of \_\_\_\_\_ aforesaid, by whom the truth of these matters may be better known, in your proper person you go to the messuages, lands and tenements aforesaid, with the appurtenances, and there, in the presence of the parties aforesaid, by you to be forewarned, if they shall be willing to be present, the same messuages, lands, and tenements aforesaid, with the appurtenances, by the oath of the said twelve free and lawful men, respect being had to the true value of the messuages, lands, and tenements aforesaid, with the appurtenances, you cause to be divided into \_\_\_\_\_ equal parts, and \_\_\_\_\_ parts of these to be delivered and assigned to the said A. B. and C. D., and the other part thereof to the said E. F., to be holden to them and their assigns in severalty, so that neither the said A. B. and C. D. and the said E. F. may have more of the messuages, lands, and tenements aforesaid, with the appurtenances, than it belongs to them to have, and that the said A. B. and C. D. of their part to them belonging, and the said E. F. of his part to him belonging, may severally apportion themselves; and that that partition by you so distinctly and openly made, you have here on \_\_\_\_\_ under your Seal, and the Seals of those by whose oath you shall have made that partition; and have you then the names of those by whose oath you shall have made the same partition, and this writ.

Witness, &c.

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## FORM OF SUMMONS IN CASES OF PARTITION.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. Partition Summons.

To the Sheriff of \_\_\_\_\_ and his deputy and deputies, Greeting:

Command E. F. to appear in our \_\_\_\_\_ Court on the \_\_\_\_\_ day of \_\_\_\_\_ to shew wherefore he denieth partition to be made between him and A. B. and C. D. of \_\_\_\_\_ [here state the nature of the property, with such a description of it as would be necessary in a conveyance] which he holds together with the said A. B. and C. D., as they say; and you are commanded to make return of what you shall do upon this writ at the time and place above mentioned.

Witness, &c.

### CAP. X.

*An Act to shorten and simplify the forms of Pleading in the Supreme and Central Circuit Courts, and to render them more adapted than at present to the discovery and determination of the real points in dispute between the parties to a suit.*

[Passed 13th April, 1864.]

**WHEREAS** it is expedient to shorten and simplify the forms of Pleading in the Supreme and Central Circuit Courts, and to render them more adapted than at present to the discovery and determination of the real points in dispute between the parties to a suit: Preamble.

Be it therefore enacted by the Governor, Legisla-



tive Council, and Assembly, in Legislative Session convened, as follows :—

Statements which need not be proved, to be omitted.

I.—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, or their value, the statement 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.

Judgment upon demurrer to be given to the very right of the cause.

II.—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, defense, 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 to 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.

Objections by way of special demurrer taken away.

III.—No pleading shall be deemed insufficient for any defect which could heretofore only be objected to by special demurrer.

Pleadings framed to embarrass may be struck out or amended.

IV.—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 a Judge shall make such order respecting the same, and also respecting the costs of the application, as such Court or Judge shall see fit.

Pleadings to be dated and entered as of time of pleading, unless ordered to the contrary.

V.—Every declaration and other pleading shall be entitled of the proper Court, and of the day of the month and year when the same was pleaded, and shall bear no other time or date ; and every declaration and

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.

VI.—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.

*Profert* and  
*oyer* abolished.

VII.—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 such part thereof as may be material, and the matter so set out shall be deemed and taken to be a part of the pleading in which it is set out.

Document may  
be set forth, and  
be considered  
part of the  
pleading.

VIII.—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.

Declaration for  
libel or slander.

IX.—The commencements and conclusions of declarations shall be as in the Schedule annexed.

Commencement  
of declarations.

X.—Except as herein provided, several counts on the same cause of action shall not be allowed, and any count or counts used in violation of this rule may, on the application of the party objecting, within a reasonable time, or before an order made for time to plead, be struck out or amended by the Court or a Judge on such terms, as to costs or otherwise, as such Court or Judge may think fit.

Several counts  
on the same  
cause of action  
not allowed.

Several pleas, replications, &c., not allowed;

XI.—Several pleas, replications, or subsequent pleadings, or several avowries or cognizances founded on the same ground of answer or defense, shall not be allowed, provided that on an application to the Court or a Judge to strike out any count, or upon an objection taken before the Judge on a summons to plead several matters, to the allowance of several pleas, replications or subsequent pleadings, avowries or cognizances, on the ground of such counts or other pleadings being in violation of this or the preceding section, the Court or a Judge may allow such counts on the same cause of action, or such pleas, replications or subsequent pleadings, or such avowries or cognizances founded on the same ground of answer or defense, as may appear to such Court or Judge to be proper for the determining the real question in controversy between the parties on its merits, subject to such terms as to costs and otherwise as the Court or a Judge may think fit.

unless by order of Court or a Judge.

District to be named in margin, no venue in body of declaration, &c.

XII.—The name of a District shall in all cases be stated in the margin of a declaration, and shall be taken to be the venue intended by the plaintiff; and no venue shall be stated in the body of the declaration, or in any subsequent pleading.

Character in which plaintiff or defendant, whether assignee or executor, &c., appear by record, not in issue unless denied.

XIII.—In all actions by and against the assignees of an insolvent, or executors or administrators, or persons authorized by Act of Parliament to sue or be sued as nominal parties, the character in which the plaintiff or defendant is stated on the record to sue or be sued, shall not in any case be considered as in issue unless specially denied.

Initials and contractions of names sufficient in certain cases.

XIV.—In all actions upon bills of exchange or promissory notes, or other written instruments, any of the parties to which are designated by the initial letter or letters, or some contraction of the Christian or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declaration, to designate such person by the same initial letter or letters, or contraction of the Christian or first

name or names, instead of stating the Christian or first name or names in full.

XV.—In actions for trespass to land, the close or place in which, &c., must be designated in the declaration, by name or abuttals, or other description; in failure whereof the plaintiff may be ordered to amend, with costs, or give such particulars as the Court or a Judge may think reasonable.

In trespass *locus in quo* must be named, &c.

XVI.—No rule for or demand of plea or subsequent pleading shall be necessary, but the defendant shall plead within the time mentioned on the writ, and every subsequent pleading shall be filed and served within two days after the filing and service of the preceding pleading; unless the time be extended by the Court or a Judge.

No rule to plead necessary.

XVII.—Express colour shall not longer be necessary in any pleading.

Express colour abolished.

XVIII.—Special traverses shall not be necessary in any pleading.

Special traverses abolished.

XIX.—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.

Formal commencement and prayer of judgment unnecessary.

XX.—No formal defense shall be required in a plea or avowry or cognizance, and it shall commence as follows, or to the like effect:—

Commencement of plea, &c.

“The defendant by his Attorney (or in person, as the case may be) says that (here state first defense.)”

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, the defendant says that (here state second, &c. defense), or if pleaded to part only, then 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.

Defense arising after action to shew when, &c., and verified by affidavit.

**XXI.**—Any defense arising after the commencement of the action, and before trial, shall show when the cause of defense arose, and shall be accompanied by an affidavit of verification.

Pleas to actions partaking both of breach of contract and wrong.

**XXII.**—Whereas 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 therefrom; 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.

Payment set off, and other pleadings which can be construed distributively, shall be so construed.

**XXIII.**—Pleas of payment and set-off, and all other pleadings capable of being construed distributively, shall be taken thereon; and if issue be taken thereon, and so much thereof as shall be sufficient answer to part of the causes of action proved, shall be found true by a 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.

Special Traverse of declaration.

**XXIV.**—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.

**XXV.**—A plaintiff shall be at liberty to traverse the whole of any plea or subsequent pleading of the defendant by a general denial, or, admitting some part or parts thereof, to deny all the rest, or to deny any one or more allegations.

Traverse of plea or subsequent pleading of the defendant.

**XXVI.**—A defendant shall be at liberty, in like manner, to deny the whole or part of a replication or subsequent pleading of the plaintiff.

Traverse of Ra. plication.

**XXVII.**—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 :—

Joinder of Issue

“The plaintiff joins issue upon the defendant’s first (&c., specifying what or what part) plea: The defendant joins issue upon the plaintiff’s replication to the first (&c. specifying what) 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.

**XXVIII.**—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 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 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.

As to pleading and demurring together.

Several matters may be pleaded at any stage of the proceedings.

**XXIX.**—The plaintiff in any action may, by leave of the Court or a Judge, plead in answer to the plea, or the 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 defense, 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 in fact or law, shall follow the finding or judgment upon such issue, and be adjudged to the successful party, whatever may be the result of the other issue or issues.

Proviso.

Objections to pleadings to be heard on summons to plead several matters.

**XXX.**—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 action or defense, shall be heard upon the summons to plead several matters.

Certain pleas may be pleaded together without leave.

**XXXI.**—The following pleas, or any two or more of them, may be pleaded together as of course, without the leave of the Court or a Judge,—that is to say; a plea denying any contract or debt alleged in the declaration; a plea of tender as to part; a plea of the Statute of Limitations; set-off; bankruptcy of the defendant; discharge under an Insolvent Act; *plene administravit*, *plene administravit praeter*, 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, *son assault demesne*, *molliter manus imposuit*, in defense of possession; and any other pleas which

the Judges of the said Courts shall, by any rule or order, to be from time to time by them made, in term or vacation, order or direct.

XXXII.—Except in 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.

For pleading several matters without leave.

Proviso.

XXXIII.—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 pleas profess to justify, or for an excess over and above what all the defenses set up in such pleas justify, or both.

One new assignment only allowed in respect of the same cause of action.

XXXIV.—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 the Court or a Judge; and such leave shall only be granted upon satisfactory proof that the repetition of such plea is essential to a trial on the merits.

Pleas not to be repeated.

XXXV.—The form of a demurrer, except in the cases herein specially provided for, shall be as follows, or to the like effect:—

Form of demurrer and joinder of demurrer.

“The defendant by his attorney, (or in person, &c., or plaintiff) says, that the declaration (or plea, &c) is bad in substance.”

And in 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 in demurrer shall be as follows, or to the like effect :—

“The plaintiff (or defendant) says that the declaration (or plea, &c.) is good in substance,” and the same shall be filed and delivered within two days after the filing of a demurrer.

No rule for concilium necessary

XXXVI.—No motion or rule for a *concilium* shall be necessary, but the demurrer may be set down for argument by either party upon two days' notice.

Two days notice of argument.

XXXVII.—Two clear days before the day appointed for argument, copies of the demurrer-book, duly noted with the points for argument, shall be delivered to the Courtwhere, of one shall be delivered by the plaintiff to the Chief Justice, and one each to the Puisne Judges by the defendant, and either party not delivering his books at the time appointed shall not be heard on the argument.

Effect of non assumpsit.

XXXVIII.—In all actions on simple contract, except as hereinafter excepted, the plea of *non assumpsit*, or a plea traversing the contract or agreement alleged in the declaration, shall operate only as a denial in fact of the express contract, promise or agreement alleged, or of the matters of fact from which the contract, promise or agreement alleged, may be implied by law.

Non assumpsit on bills of exchange.

XXXIX.—In all actions upon bills of exchange and promissory notes, the plea of *non assumpsit* “and never indebted,” shall be inadmissible. In such actions, therefore, a plea in denial must traverse some matter of fact; *exempli gratia*, the drawing or making, or endorsing, or accepting, or presenting, or notice of dishonour, of the bill or note.

Matters in confession and avoidance to be specially pleaded.

XL.—In every species of action on contract, all matters in confession and avoidance, including not only those by way of discharge, but those which shew the transaction to be either void or voidable, in point of

law, on the ground of fraud or otherwise, shall be specially pleaded; *exempli gratia*, infancy, coverture, release, payment, performance, illegality of consideration either by statute or common law, drawing, endorsing, accepting, &c. bills or notes by way of accommodation, set off, mutual credit, unseaworthiness, misrepresentation, concealment, deviation, and various other defenses must be pleaded.

XLI.—In actions on policies of insurance, the interest of the assured may be averred thus:—

In actions on policies of insurance.

“That A. B. C. and D., (or some or one of them), were or was interested, &c.; and it may also be averred that the insurance was made for the use and benefit and on the account of the person or persons so interested.

XLII.—In actions on specialities and covenants, the plea of *non est factum* shall operate as a denial of the execution of the deed in point of law only; and all other defenses shall be specially pleaded, including matters which make the deed absolutely void, as well as those which make it voidable.

On specialities

*Non est factum*

XLIII.—The plea of *nil debet* shall not be allowed in any action.

Plea *nil debet* not allowed.

XLIV.—All matters in confession and avoidance shall be pleaded specially, as above directed in actions on simple contracts.

Matters in confession and avoidance to be pleaded.

XLV.—In any case in which the plaintiff shall have given credit in the particulars of his demand for any sum or sums of money therein admitted to have been paid to the plaintiff, or which the plaintiff admits the defendant is entitled to set off, it shall not be necessary for the defendant to plead the payment or set-off of such sum or sums of money. But this rule is not to apply to cases where the plaintiff, after stating the amount of his demand, states that he seeks to recover a certain balance, without giving credit for any parti-

Sums credited need not be pleaded.

Exceptions.

cular sum or sums, or to cases of set-off where the plaintiff does not state the particulars of such set-off.

Payment to be pleaded in bar.

XLVI.—Payment shall not in any case be allowed to be given in evidence in reduction of damages or debt, but shall be pleaded in bar.

In actions for detaining goods, &c.

XLVII.—In actions for detaining goods, the plea of *non detinet* shall operate as a denial of the detention of the goods by the defendant, but not of the plaintiff's property therein; and no other defense than such denial shall be admissible under that plea.

Plea not guilty in actions for torts.

XLVIII.—In actions for torts the plea of not guilty shall operate as a denial only of the breach of duty or wrongful act alleged to have been committed by the defendant, and not of the facts stated in the inducement, and no other defense than such denial shall be admissible under that plea; all other pleas in denial shall take issue on some particular matter of fact alleged in the declaration.

Matters in confession &c., to be pleaded.

XLIX.—All matters in confession and avoidance shall be pleaded specially, as in actions on contracts.

In trespass, close to be designated.

L.—In actions for trespass to lands, the plea of not guilty shall operate as a denial that the defendant committed the trespass as alleged in the place mentioned, but not as a denial of the plaintiff's possession or right of possession of that place, which, if intended to be denied, must be specially traversed.

Effect of not guilty in trespass to lands.

LI.—In actions for taking, damaging, or converting the plaintiff's goods, the plea of not guilty shall operate as a denial of the defendant having committed the wrong alleged by taking, damaging, or converting the goods mentioned, but not of the plaintiff's property therein.

LII.—In every case in which the defendant shall plead the general issue, intending to give special matter in evidence by virtue of an Act of Parliament,

or of the Legislature, he shall insert in the margin of the plea the words "by Statute," together with the year or years of the reign in which the Act or Acts of Parliament, or of the Legislature, upon which he relies for that purpose, were passed, and also the chapter and section of each of such Acts, and shall specify whether such Acts are public or otherwise; otherwise such plea shall be taken not to have been pleaded by virtue of any Act of Parliament; and such memorandum shall be inserted in the margin of the issue and of the *nisi prius* record.

Special matter under general issue—Statute authorizing to be noted.

LIII.—No entry or continuance by way of *imparlance curia advisari vult, vice-comes, non misit breve*, or otherwise, shall be made upon any record or roll whatever, or in the pleadings.

Entry of continuance not necessary.

LIV.—All judgments, whether interlocutory or final, shall be entered of record of the day of the month and year, whether in term or vacation, when signed, and shall not have relation to any other day; Provided that it shall be competent for the Court or a Judge to order judgment to be entered *nunc pro tunc*.

Judgments to be entered of the day when signed.

LV.—And whereas it is desirable that examples should be given of the statements of causes of action and of forms of pleading; be it enacted as follows:

LVI.—The forms contained in the Schedule 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.

Forms in schedule may be adopted.

LVII.—It shall be lawful for the defendant, or plaintiff, in replevin, in any cause in either of the said Courts, 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 defense; and the said Courts are hereby empowered to receive such defense, by way

Equitable defense may be pleaded.

Proviso.

of plea ; Provided that such plea shall begin with the words "for defense on equitable grounds," or words to the like effect.

Equitable defense after time of pleading.

LVIII.—Any such matter which, if it arose before or during the time of 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 *audita querela*.

Equitable replication.

LIX.—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.

Court or Judge may strike out equitable plea or replication.

LX.—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.

Actions on lost instruments.

LXI.—In case of any action founded upon 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 is given, to the satisfaction of the Court or Judge, or a Master, against the claims of any other person upon such negotiable instrument.

Court or Judge may amend errors in proceedings.

LXII.—It shall be lawful for the said Courts, and every Judge thereof, at all times to amend all defects and errors in any proceedings under the provisions of this Act, whether there is anything 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 if duly applied for.

LXIII.—It shall be lawful for the Judges of the Supreme Court to make all such general rules and orders, and to frame and direct all such forms of proceedings, for the effective execution of this Act, and of the intention and object thereof, as in their judgment shall be necessary and proper; and all such rules, orders and proceedings, shall be acted upon and enforced in the same manner as other rules, orders and proceedings of the said Courts, or either of them, are now acted upon and enforced, or as near thereto as circumstances will permit.

Judges of the Supreme Court may make rules and orders for the effectual execution of this Act.

LXIV.—All suits now pending in the said Courts shall be continued to final judgment in accordance with the course of proceeding now used therein.

Act not to affect suits pending.

LXV.—In the computation of time under this Act, the period with in which any act is to be done is to be calculated one day exclusive and the other inclusive, unless the first or last of such days should be Sunday, Good Friday, Christmas Day, New Year's Day, or the Queen's Birth-day, which are to be in such cases excluded from the computation.

Computation of time, &c.

LXVI.—Nothing in this Act shall avoid or lessen the right given to any defendant by statute to plead the general issue, and give the special matter in evidence.

Not to effect right to plead general issue and give special matter in evidence.

LXVII.—This Act shall come into operation on the Thirtieth day of June next.

Commencement of Act.

## Schedule.

### COMMENCEMENT OF DECLARATION.

Venue.—A. B. by C. D. his Attorney complains of G. H. for that, &c. [here state the cause of action, and conclude as follows] and the Plaintiff claims dollars, or a return of the said goods or their value, and dollars for their detention.

[Where the non-joinder of a co-defendant has been pleaded, and the plaintiff has thereupon either commenced another action or amended, insert after G. H. and J. K, which said G. H. has heretofore pleaded in abatement, the non-joinder of the said J. K.]

- |                                  |  |
|----------------------------------|--|
| Goods sold.                      | Money payable by the defendant to the plaintiff for [these words, money payable, &c., should precede money counts, but need only be inserted in the first] goods bargained and sold by the plaintiff to the defendant. |
| Work and materials.              | Work done and materials provided by the plaintiff for the defendant at his request.  |
| Money lent.                      | Money lent by the plaintiff to the defendant.  |
| Money received.                  | Money received by the defendant for the use of the plaintiff.  |
| Account stated.                  | Money found to be due from the defendant to the plaintiff on accounts stated between them.   |
| For an estate sold               | A message and lands sold and conveyed by the plaintiff to the defendant.   |
| For good will.                   | The good-will of a business of the plaintiff sold and given up by the plaintiff to the defendant.  |
| For the use of a house and lands | The defendant's use, by the plaintiff's permission, of messages and lands of the plaintiff.  |
| For freight.                     | Freight for the conveyance, by the plaintiff, for the defendant, at his request, of goods in ships.  |
| For demurrage                    | The demurrage of a ship of the plaintiff kept on demurrage by the defendant.   |

That the defendant, on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. by his promissory note, now overdue, promised to pay to the plaintiff \_\_\_\_\_ dollars [two] months after date, but did not pay the same. Payee against  
maker of note.

That one A. on &c. [date] by his promissory note, now overdue, promised to pay to the defendant or order \_\_\_\_\_ dollars [two] months after date; and the said defendant endorsed the same to the plaintiff, and the said note was duly presented for payment and was dishonoured, whereof the defendant had due notice, but did not pay the same. Endorsee against  
endorser of note.

That the plaintiff, on &c. [date] by his bill of exchange, now over due, directed to the defendant, required the defendant to pay to the plaintiff \_\_\_\_\_ dollars [two] months after date; and the defendant accepted the said bill, but did not pay the same. Drawee against  
acceptor on bill.

That the defendant on, &c. [date] by his bill of exchange directed to A. required A. to pay to the plaintiff \_\_\_\_\_ dollars [two] months after date, and the said bill was duly presented for acceptance and was dishonoured, of which the defendant had due notice, but did not pay the same. Payee against  
drawer.

That the defendant, by warranting a horse to be then sound and quiet to ride, sold the said horse to the said plaintiff, yet the said horse was not then sound and quiet to ride. Warranty of a  
horse.

That the plaintiff let to the defendant a house. No. 200, Duckworth-street, for seven years, to hold from the \_\_\_\_\_ day of \_\_\_\_\_ A. D. at \_\_\_\_\_ dollars a year, payable half-yearly, of which rent one-half year's rent is now due and unpaid. Upon a lease for  
rent.

That the plaintiff, by deed, let to the defendant a house, No. 200, Duckworth street, to hold for seven years from the \_\_\_\_\_ day of \_\_\_\_\_ A. D. and the said defendant, by the said deed, covenanted with the plaintiff well and substantially to repair the said Upon covenant  
to repair.



house during the said term [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.**

- Trespass to land.** That the defendant broke and entered certain land of the plaintiff called \_\_\_\_\_, and depastured the same with cattle.
- Assault, battery and false imprisonment.** That the defendant assaulted and beat the plaintiff, gave him into custody to a police-man, and caused him to be imprisoned in a police office.
- Wrongful detention of property.** That the defendant converted to his own use or wrongfully deprived the plaintiff of the use and possession of the plaintiff's goods—that is to say, [household furniture, or as the case may be.]
- Ditto.** The defendant detains from the plaintiff his title deeds of land called \_\_\_\_\_ in the \_\_\_\_\_ district of \_\_\_\_\_ that is to say, [describe the deeds.]

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**DEFAMATION OF CHARACTER.**

- Libel.** 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, for instance]—whereby the plaintiff lost his situation as game-keeper.

### COMMENCEMENT OF PLEA.

The defendant by \_\_\_\_\_ his Attorney [or in person] says,—[here state the substance of the plea.]

And, for a second plea, the defendant says, [here state the second plea].

### PLEAS IN ACTIONS ON CONTRACTS.

That he never was indebted as alleged. [This plea is applicable to declarations like those numbered 1 to 14.] Denial of debt.

That he did not promise, &c., as alleged. [This plea is applicable to other declarations, not on bills and notes.] Denial of contract.

That the alleged deed is not his deed. Denial of deed.

That the alleged cause of action did not accrue within six years [state the period of limitation applicable to the case] before the suit. Statute of limitations

That before action he satisfied and discharged the plaintiff's claim for payment. Payment.

That the plaintiff at the commencement of this suit Set-off.

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was. and still is, indebted to the defendant in an amount equal to the plaintiff's claim for [here state the cause of set-off as in a declaration—see forms *ante*] which amount the defendant is willing to set off against the plaintiff's claim.

**Release.** That after the alleged claim accrued, and before this suit, the plaintiff, by deed, released the defendant therefrom.

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### PLEAS IN ACTIONS FOR WRONGS INDEPENDENT OF CONTRACTS.

**Not guilty.** That he is not guilty.

**Leave & license.** That he did what is complained of by the plaintiff's leave.

**Self-defense.** That the plaintiff first assaulted the defendant, who thereupon necessarily committed the alleged assault in his own defense.

**Right of way.** That the defendant at the time of the alleged trespass 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 land of the defendant; and that the alleged trespass was a use by the defendant of the said way.

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### REPLICATIONS.

The plaintiff takes issue upon the defendant's first, second, &c., pleas. *Joinder of issue.*

The plaintiff, as to the second plea, says [here state the answer to the plea as in the following forms.] *Replications to pleas containing new matter.*

That the alleged release is not the plaintiff's deed. *To plea of release.*

That the alleged release was procured by the fraud of the defendant. *Ditto.*

That the alleged set-off did not accrue within six years before this suit. *To plea of set-off*

That the plaintiff was possessed of land whereon the defendant was trespassing and doing damage, whereupon the plaintiff requested the said defendant to leave the said land, which the defendant refused to do; and thereupon the plaintiff gently laid his hands on the defendant in order to remove him, doing no more than was necessary for that purpose, which is the alleged first assault of the plaintiff. *To self-defense.*

*Molliter manus imposuit.*

That the occupiers of the said land did not, for twenty years before this suit, enjoy, as of right, and without interruption, the alleged way. *To right of way.*

### NEW ASSIGNMENT.

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. *To the pleas of right of way, &c.*

[If the plaintiff replies and new assigns, the new assignment may be as follows.]

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.

[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.]

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.

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### FORM OF AN ISSUE ROLL IN GENERAL.

In the                      Court                      the  
day of                      in the year of our Lord 18                      [date  
of declaration.]

Issue Roll.

**THE VENUE.**—A. B. by P. A., his Attorney, (or in person, as the case may be, as in the declaration,) sues C. D., who has been summoned to answer the said A. B. by virtue of a writ issued on the                      day of                      in the year of our Lord                      (the date of the writ,) out of Her Majesty's                      Court (as the case may be) for, &c. (copy the declaration from these words to the end, and all the pleadings with their dates, writing each plea or pleading in a separate paragraph, and numbering the same as in the pleading delivered, and conclude thus),—Therefore let a jury come, &c.

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**POSTEA.**

Afterwards, on the (first day of sittings) *Postea.*  
 at St. John's aforesaid, before the said Court, come  
 the parties, by their attorneys aforesaid, and a jury  
 duly empannelled also come, who being sworn, say,  
 upon their oath, that, &c. (according to the finding)—  
 Therefore, &c.

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**JUDGMENT.**

Therefore it is considered that the plaintiff do recover *Judgment.*  
 against the defendant [his damages aforesaid or his said  
 debt, &c., as the case may be,] and also           dollars  
 for his costs of suit by the Court adjudged to the  
 plaintiff, and which [moneys or debt or damages] and  
 costs, amount in the whole to           dollars.

(Judgment signed, &c.)

A. B.,

*Clerk, &c.*

Judgment for the defendant to be framed according  
 to the principle of the preceding form.

*Judgment for  
 defendant.*

Form of Issue, &c., where trial is by a Judge in-  
 stead of a Jury.

*Form of Issue  
 tried by Judge.*

As in ordinary cases to issue joined, and then thus,  
 —“and the said parties having, by consent in writing,  
 duly signed, left the decision of the said issues to the  
 Court, let the same be tried accordingly. After-  
 wards, on, &c. at, &c. before the said Court come the  
 parties by their attorneys aforesaid, and the issues  
 being tried, and the said Court having considered the  
 allegations and proofs offered, herein do find, as to the

*Proceedings in  
 cases tried by  
 the Judges.*

first issue, that the defendant did promise as the plaintiff hath alleged, and as to the second issue, that the defendant did not, &c., and the Court assess the plaintiff's damages, &c. (if any) &c. Therefore it is considered that the plaintiff do recover, &c., or that the defendant be discharged from the plaintiff's claim, and do recover, &c., his costs of suit, &c.

As to special cases.

The same form, with the necessary variations, may be adapted to cases wherein special cases have been submitted to the Court.

## CAP. XI.

### *An Act to amend and consolidate the Statute Law of Evidence.*

[Passed 13th April, 1864.]

Preamble.

**W**HEREAS it is expedient to amend and consolidate the Statute Law of Evidence.

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

Courts or Judges may order examination of witnesses *de bene esse* or under commission, and give directions therein.

I.—It shall be lawful for the Supreme Court and each of the Circuit Courts of this Colony, and the Court of Labrador, and for the several Judges thereof, in every action depending in the said Courts, upon the application of any party to the suit, and at any stage thereof, to order the examination on oath, upon interrogatories or otherwise, before an examiner, to be named for that purpose, of any witness within the jurisdiction of the Court where the action shall be

pending, or to order a commission to issue for the examination of witnesses on oath at any place out of such jurisdiction, by interrogatories or otherwise; and by the same or any subsequent order or orders, to give all such directions touching the time, place, and manner of such examinations, as well within the jurisdiction of the Court wherein the action shall be depending, as without, and all other matters and circumstances connected with such examinations as may appear reasonable and just.

II.—When any rule or order shall be made for the examination of witnesses within the jurisdiction of the Court wherein the action shall be depending, by authority of this Act, it shall be lawful for the Court or any Judge thereof, in and by the first rule or order to be made in the matter, or any subsequent rule or order, to command the attendance of any person to be named in such rule or order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and to direct the attendance of any such person 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 deemed a contempt of Court, and proceedings may be thereupon immediately had by attachment, by order of the Court or a Judge, 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 conduct money and payment, for expenses and loss of time, as upon attendance at 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 compelled to produce at a trial of the cause.

Compelling attendance of witnesses or production of documents.

Disobedience to be deemed a contempt of court.

Payment of expenses.

Proviso as to production of documents.



Prisoners may by Judge's order be taken for examination.

III.—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 rule or order of the Court or a Judge, either contained in the rule or order for the examination of such prisoner, or made separately therefrom.

Costs of the order for examination may be made costs in the cause.

IV.—The costs of every rule or order to be made for the examination of witnesses under any commission or otherwise, by virtue of this Act, and of the proceedings thereupon, shall be costs in the cause, unless otherwise directed, either by the Judge making such rule or order, or by the Judge before whom the cause may be tried, or by the Court

Restriction as to reading examinations without consent of parties.

V.—No examination or deposition, to be taken by virtue of this Act, shall be read in evidence at any trial without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the Judge that the examinant or deponent is beyond the jurisdiction of the Court, or dead, or unable, from permanent sickness or other permanent infirmity, to attend the trial; in all or any of which cases the examinations and depositions, certified under the hand of the commissioner, examiner, or other person taking the same, shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions.

Meaning of term "beyond the jurisdiction."

VI.—For the purposes of this Act a witness shall be deemed to be beyond or proceeding beyond the jurisdiction of the Court when he shall be out of or about to proceed out of the electoral district in which the Court shall then be holden.

Parties to actions, &c. to be witnesses for and against each other.

VII.—On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding, in any Court of Justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, the parties thereto, and the persons in whose

behalf any such suit, action or other proceeding may be brought or defended, or who may have any interest in the result thereof, and the husbands and wives of the parties thereto, and of the persons in whose behalf any such suit, action, or other proceeding, may be brought or instituted, or opposed or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *viva voce* or by deposition, according to the practice of the Court, on behalf of either or any of the parties to the said suit, action, or other proceeding; Provided that the party so called to testify may be cross-examined by the opposite party under the rules applicable to the cross-examination of witnesses.

VIII.—Nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offense, or any offense punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding, or in any proceeding instituted in consequence of adultery, render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband; nor shall anything in this Act contained affect the Laws now in force relating to the estates of idiots or lunatics, or the execution or attestation of last Wills and Testaments. Provided that nothing herein contained shall preclude a defendant from becoming a witness, should he think fit, in any summary proceeding for assault and battery, or upon any charge under the Act 4 Will. 4, Cap 7, entitled “An Act to provide for the maintenance of Bastard Children.”

Parties charged with crime not competent as witnesses for themselves, &c.

No husband or wife competent witness for or against each other in certain cases.

IX.—No husband shall be compellable to disclose any communication made to him by his wife during the marriage, and no wife shall be compellable to

Husband or wife not compelled to disclose communications between them.

disclose any communication made to her by her husband during the marriage.

Not to apply to actions in respect of adultery.

X.—Nothing herein contained shall apply to any action, suit, proceeding or bill, in any Court of common law, or in any Ecclesiastical Court, instituted in consequence of adultery, or to any action for breach of promise of marriage.

Privilege of clergymen.

XI.—A clergyman or priest shall not be compellable to give evidence as to any confession made to him in his professional character.

Foreign and colonial acts of state, judgments &c. proveable by certified copies, without proof of seal or signature, or judicial character of person signing the same.

XII.—All proclamations, treaties, and other acts of state of any Foreign State or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in Great Britain or Ireland, or in any Foreign State, or in any British Colony, and all affidavits, pleadings and other legal documents, filed or deposited in any such Court, may be proved in any Court of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence either by examined copies or by copies authenticated as hereinafter mentioned; — that is to say, if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy, to be admissible in evidence, must purport to be sealed with the seal of the Foreign State or British Colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any British, Foreign or Colonial Court, or any affidavit, pleading, or other legal document, filed or deposited in any such Court, the authenticated copy, to be admissible in evidence, must purport either to be sealed with the seal of the British, Foreign or Colonial Court to which the said original document belongs, or, in the event of such Court having no seal, to be signed by the Judge, or, if there be more than one Judge, by any one of the Judges of the said Court; and such Judge shall attach to his signature a state-

ment in writing, on the said copy, that the Court whereof he is Judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the seal where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

XIII.—Every document which by any law now in force, or hereafter to be in force, is or shall be admissible in evidence of any particular in any British Court of Justice, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence, to the same extent and for the same purposes, in any Court of Justice in this Colony, or before any person having by law or by consent of parties authority to hear, receive and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

Documents admissible without proof of seal, &c. in any Court of Justice

XIV.—Every register of a vessel, kept under any of the Acts relating to the registry of British vessels, may be proved in any Court of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original; and which person is hereby required to furnish such certified copy to any person applying, at a reasonable time, for the same, upon the payment of the sum of twenty-five cents; and every such register, or

Registers of vessels admissible as prima facie evidence, &c.

such copy of a register, and also every certificate of registry granted under any of the Acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence in any Court of Justice, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence, as *prima facie* proof of all matters contained or recited in such register, when the register or such copy thereof as aforesaid is produced, and of all matters contained or recited in, or endorsed on, such certificate of registry when the said certificate is produced.

Examined or certified copies of documents admissible in evidence.

XV.—Whenever any book, or other document, is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no statute exists which renders its contents proveable by means of a copy, a copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice, or before any person now or hereafter having, by law or consent of parties, authority to hear, receive, and examine evidence; Provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified, as a true copy or extract, by the officer to whose custody the original is entrusted; and which officer is hereby required to furnish such certified copy or extract to any person applying, at a reasonable time, for the same, upon payment of a reasonable sum for the same, not exceeding ten cents for every folio of ninety words.

Proviso.

Certifying a false document a misdemeanor.

XVI.—If any officer or other person, authorized or required by this Act to furnish any certified copies or extracts, shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

XVII.—Every Court, Judge, Justice, Officer, Com-

missioner, Arbitrator, or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

Courts and others empowered to hear evidence, authorised to administer oath.

XVIII.—If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to banishment for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labor; and when any such document shall have been admitted in evidence by virtue of this Act, the Court or the person who shall have admitted the same may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and kept in the custody of some officer of the Court, or other proper person, for such period and subject to such conditions as to the said Court or other proper person shall seem meet; and every accessory before or after the fact to any such offense, may be dealt with, indicted, tried, and, if convicted, sentenced, and his offense laid and charged to have been committed in any district or place in which the principal offender may be tried.

Penalty for forging seal to documents, &c

XIX.—That from and after the passing of this Act, no person offered as a witness shall be excluded, by reason of incapacity from crime, from giving evidence according to the provisions of this Act or otherwise; and any person present in Court, or before a Judicial Officer, may be required to testify in the same manner as if he were in attendance upon subpoena issued by such Court or Officer.

No person to be excluded for incapacity on account of crime.

Any person in Court required to give evidence, as if subpoenaed

XX.—When any deposition, examination or evidence, under commission or by consent of parties or

Depositions may be read in any stage of proceedings or in any other action between the same parties; Provided, &c.

Proviso.

Proceedings to perpetuate testimony.

otherwise, has been once taken, it may be read in any stage of the same action, suit, or proceeding, or in any other action, suit, or proceeding, between the same parties, or the representatives of any of them, or any person claiming right or title under them (for the same cause of action), subject to all just exceptions; Provided the witness giving the evidence be dead, insane, beyond the jurisdiction of the Court, or be kept away by contrivance.

XXI.—For the purpose of perpetuating the testimony of witnesses, the applicant must produce to one of the superior Courts of this Island, or a Judge thereof, an affidavit stating such facts and circumstances as are usual and necessary to support a bill for perpetuating testimony; whereupon the Court or Judge shall grant a rule or order nisi for the examination of the witness or witnesses; and upon the appearance of the adverse party, and no sufficient cause shewn to the contrary, or upon proof of the service of the rule or order on such party, his agent or attorney, the Court or Judge shall make such rule or order absolute for such examination, subject to such terms or conditions, as to costs or otherwise, as they or he may deem expedient to prescribe.

Examinations or certified copy may be read in evidence.

XXII.—If a trial be had between the parties named in the affidavit as parties actual or expectant, or their successors in interest, upon proof of the death, insanity, or absence from the jurisdiction, of the witness, the examination or a certified copy thereof may be given in evidence by either party on the trial, subject to all just exceptions.

Examination to be subscribed by witness, and shall be *viva voce* except in certain cases.

XXIII.—The examination, when taken and completed, must be subscribed by the witness, then certified by the examiner, and filed in the office of the Clerk of the Court from which the original order shall issue, together with the said order and affidavit of service. The mode of examination of the witness shall be *viva voce*, except in case the witness, who is sought to be exam-

ined, reside at such a distance from the place of application as to render it necessary or advisable that he should be examined upon interrogatories, to accompany the order directing the examination. If the adverse party should fail in attending at the examination, or in examining the witness, or in furnishing his cross-interrogatories, within the time prescribed in the order, or such further time as the Court or Judge may allow, the applicant may proceed with such examination or examinations *ex parte*.

XXIV.—Either party may call on the other party, by notice, to admit any documents, 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 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 documents shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the master, a saving of expense.

Admission of documents.

XXV.—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 the affidavit, shall be in all cases sufficient evidence of such admissions.

Proof of admission.

XXVI.—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.

Proof of notice to produce.

XXVII.—If any person called as a witness, or required or desiring to make an affidavit or deposition, shall refuse, or be unwilling from alleged conscientious motives, to be sworn, it shall be lawful for the Court or

Affirmation instead of oath in certain cases.



Judge, or other presiding officer, or person qualified to take affidavits or depositions, upon being satisfied of the sincerity of such objection, to permit such person, instead of being sworn, to make his or her solemn affirmation or declaration, in the words following—*videlicet*:

I, A. B., do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful, and I do also solemnly, sincerely, and truly affirm and declare, &c.

Which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

Persons making a false affirmation to be subject to the same punishment as for perjury.

**XXVIII.**—If any person making such solemn affirmation or declaration shall wilfully, falsely, and maliciously affirm or declare any matter or thing, which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties as by the laws and statutes of this colony are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

How far a party may discredit his own witness.

**XXIX.**—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.

Proof of contradictory statements of adverse witness.

**XXX.**—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 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.

XXXI.—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 shown to him ; but if it be 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.

Cross-examination as to previous statements in writing.

XXXII.—A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and, upon being so questioned, if he either deny the fact or refuse 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 of such offense, purporting to be signed by the Clerk of the Court where the offender was convicted, or by the deputy of such clerk or officer, (for which certificate a fee of one dollar, and no more, shall be demanded or taken), shall, upon proof of the identity of the person, be sufficient evidence of the said conviction, without proof of the signature or official character of the person appearing to have made the same.

Proof of previous conviction of a witness may be given.

XXXIII.—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.

Proof by attesting witness not necessary.

Comparison of  
disputed writing.

XXXIV.—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 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.

Power of Court  
or Judge to direct  
oral examinations  
of witnesses.

XXXV.—Upon the hearing of any motion or summons, it shall be lawful for the Court or 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 *viva voce*, either before such Court or Judge, or before the Master, and upon hearing such evidence or reading the report of such Master, to make such rule or order as may be just.

Proceedings before  
and upon  
examinations.

XXXVI.—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 productions of any writings or other documents to be mentioned in such rule or order, and such rule or order shall be proceeded upon in the same manner, and shall have the same force and effect, as a rule of the Court under the second section of this Act; and it shall be lawful for the Court or Judge or Master to adjourn the examination from time to time, as occasion may require; and the proceedings upon such examination shall be conducted, and the depositions taken down, in the mode now in use with respect to the *viva voce* examination of witnesses.

Examination of  
persons who refuse  
to make affidavit,  
and further proceedings.

XXXVII.—Any party to any civil action, or other civil proceeding, in any of the superior Courts, requiring the affidavit 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 Master, 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 the 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.

XXXVIII.—Such order shall be proceeded upon in like manner as an order made under the second section of this Act, and the examination thereon shall be conducted, and the depositions taken down and returned, as nearly as may be in the mode now used on *viva voce* examinations.

Proceedings upon order for examination.

XXXIX.—Upon the application of either party to any cause or other 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 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 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.

Discovery of documents.

XL.—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

Power to deliver written interrogatories to opposite party.

upon such matter,) interrogatories, in writing, upon any matter as to which discovery may be sought, and require such party, or, in 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 a discovery may be sought, within the above time, or such extended time as the Court or a Judge shall allow, shall be deemed to have committed a contempt of the Court, and shall be liable to be proceeded against accordingly.

Affidavits by party proposing to interrogate, &c.

**XLI.**—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 defense 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 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.

Proviso.

Oral examinations of parties, when to be allowed.

**XLII.**—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 Master, or Examiner; and the Court or Judge may, by such rule or order, or any subsequent rule or order, command the atten-

dance 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.

XLIII.—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 second section of this Act.

Proceedings upon such rule or order.

XLIV.—Whenever, by virtue of this Act, an examination of any witness or witnesses has been taken before a Judge of one of the said superior Courts, or before a Master or Examiner, the depositions taken down by such person shall be returned to and kept in the Clerk's Office of the Court in which the proceedings are pending; and office copies of such depositions may be given out, and the depositions may be otherwise used, as the Court or Judge may direct.

Depositions to be returned to the master's office.

XLV.—It shall be lawful for every Judge, Master, or Examiner, named in any such rule or order as aforesaid, for taking examinations under this Act, and he is hereby required, to make, if 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 authorized to institute such proceedings, and make such order and orders upon such report, as justice may require, and as may be instituted and made in any case of contempt of the Court.

Examiner may make special report to the Court.

XLVI.—The costs of every application for any rule or order to be made for the examination of witnesses by virtue of this Act, and of the rule or order and all proceedings thereunder, shall be in the discretion of the Court or Judge by whom such rule or order is made.

Costs of rule and examination to be in the discretion of Court or Judge.

Registered copy  
proof in certain  
cases.

XLVII.—Where a deed or document shall have been duly registered in pursuance of the laws of this Colony, and the same shall, on the trial of any cause, suit, or proceeding, be proved to be lost, such registry, or a certified copy thereof by the Registrar, shall, without further proof, be admitted in evidence in all cases where the original, if produced, would be receivable.

19 Vic. cap. 15,  
repealed.

XLVIII.—An Act passed in the nineteenth year of the reign of Her present Majesty, entitled “An Act to amend the Law of Evidence,” shall be and the same is hereby repealed; Provided always that nothing herein contained shall be construed to revive any Acts or parts of Acts by the said recited Act repealed.

6th and 8th sec-  
tions of 12 Vic.  
cap. 8, repealed.

XLIX.—The sixth and eighth sections of an Act passed in the twelfth year of the reign of Her present Majesty, entitled “An Act for the further amendment of the Law and the better advancement of Justice,” shall be and the same are hereby repealed.

## CAP. XII.

*An Act to Amend and Consolidate the Law relating to Costs on the Common Law Side of the Supreme and Central Circuit Courts.*

[Passed 13th April, 1864.]

Preamble.

WHEREAS it is expedient to amend and consolidate the Law relating to the Costs on the Common Law Side of the Supreme Court and Central Circuit Court:

Be it therefore enacted, by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows:

Taxable costs in  
all actions.

I.—In actions at law instituted in the said Courts, taxable costs shall be paid and recovered by the parties to such suits, as follows.

II.—A plaintiff who recovers final judgment for the whole or any part of his demand, whether of money, lands or chattels, shall recover also the general costs of the cause, but subject to the restrictions hereinafter contained.

Plaintiff's costs.

III.—A defendant who recovers final judgment against the whole demand of the plaintiff, whether upon verdict, demurrer, non-suit, non pros., nolle prosequi, discontinuance or otherwise howsoever, shall recover also the general costs of the cause, but subject to the restrictions hereinafter contained.

Defendant's costs.

IV.—The costs of any issue, either in fact or in law, shall follow the finding or judgment upon such issue, and be adjudged to the successful party whatever may be the result of the other issue or issues, and may be set off against costs payable to the opposite party, or execution may issue for the same as in other cases.

Costs of issue to follow the finding.

V.—On all rules of Court and Judge's orders, the costs shall be costs in the cause unless otherwise directed by the Court or Judge in making such rules or orders.

Costs on rules to be costs in the cause unless otherwise ordered.

VI.—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 of fact arising out of the pleading for defect of which such judgment is given, and 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.

Costs in arrest of judgment, &c.

VII.—If any plaintiff, having given the usual notice of trial shall neglect to try his cause when called on, and the defendant be then ready to proceed to trial, the defendant shall be entitled to tax against the plaintiff all costs occasioned by such neglect, and may recover the same in manner prescribed in the preceding section.

If plaintiff after giving notice neglect to try—defendant entitled to costs.



Costs on appeal.

Proviso.

VIII.—Costs in a cause removed from an inferior Court, before and after removal shall follow the final event of the cause; Provided that where a cause so removed shall be sent back to the inferior Court for trial, the party removing the same shall not be entitled to the costs incident to removal, notwithstanding he shall finally succeed in the suit.

Costs in actions by executors.

IX.—In every action brought by an executor or administrator in right of the testator or intestate, he shall be liable to pay costs to the defendant in like manner as if he were suing in his own right.

On nolle prosequi.

X. --Where a *nolle prosequi* shall have been entered upon any count, or as to part of any declaration, a defendant shall be entitled to and shall recover his reasonable costs in that behalf.

On new trial.

XI.—When a new trial is granted, the costs of the former trial shall be subject to the direction of the Court, as contained in the rule granting the new trial; and where no mention of costs is contained in the rule, each party shall pay his own costs of such former trial.

When a venire de novo is awarded.

XII.—When a *venire de novo* is awarded, the costs of the former trial shall be subject to the order of the Court at the time of making such award.

When a jury shall be discharged.

XIII.—When for any reason a Jury shall be discharged without a verdict, each party shall pay his own costs of trial.

In cases of trespass or a case when less than \$8 recovered.

XIV.—If the plaintiff in any action of trespass, or on the case, other than assumpsit, shall recover less damages than eight dollars, he shall not recover any costs, unless the Judge before whom the trial shall have been had shall immediately after certify on the roll that the action was brought to try a right besides the mere right to recover damages for the trespass or grievance for which the action was brought, or that the trespass or grievance for which the same was brought

was wilful and malicious ; but nothing in this section shall be construed to deprive any plaintiff of costs in any action of trespass to lands or tenements in respect of which notice not to trespass thereon shall have been previously served or left at the last place of abode of the defendant by or on behalf of the owner or occupier.

XV.—The party applying for a Special Jury shall bear the costs thereof, and shall not be entitled to any further allowance for the same upon taxation of costs, other than he would have been entitled to had the cause been tried by a Common Jury, unless the Judge before whom the cause is tried shall, immediately after the verdict or trial, certify upon the roll that the same was a cause proper to be tried by a Special Jury, and this provision shall apply as well to cases in which the plaintiff shall be non-suited before or after verdict, as to cases in which a verdict shall pass against him.

Special Jury.

XVI.—A person admitted to sue *in forma pauperis* shall not in any case be entitled to costs from the opposite party, unless by order of the Court or a Judge.

Suits in forma pauperis.

XVII.—No set-off of damages or costs between parties shall be allowed to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought ; Provided nevertheless that interlocutory costs in the same suit awarded to the adverse party may be deducted.

No set-off of damages or costs to prejudice Attorneys.

Proviso.

XVIII.—Nothing in this Act contained shall affect the provisions of any Act relating to the Revenue, providing for the indemnification of Officers of Her Majesty's Customs from costs in certain cases.

Not to affect indemnification of Revenue officers from costs.

XIX.—Security for costs may, in the discretion of the Court or a Judge, be ordered to be given by the plaintiff or by a defendant in replevin, in the following cases, namely, where such plaintiff, or defendant, in replevin, resides beyond the jurisdiction of the Court, where a plaintiff or such defendant is an uncertified

Security for costs.

bankrupt or insolvent, or becomes a bankrupt or insolvent, during the pendency of the suit, or where he has assigned his property for the benefit of his creditors ; and in a second ejectment for the same premises against the same defendant, or one defending under the former defendant, and by the same plaintiff, or one claiming through him, where the first action shall have been unsuccessfully brought, and such security may be ordered with or without a stay of proceedings, or with such other conditions as to the said Court or Judge may seem just.

Costs payable  
under rule of  
Court.

XX.—Costs payable under rule of Court or Judge's order, may be recovered by process of contempt, the Judge's order being first made a rule of Court ; all other interlocutory costs by set off, or judgment and execution, as in ordinary cases.

Costs on writ  
execution.

XXI.—Upon a writ of execution the costs of executing such writ, and also the costs of other ineffectual writs of execution, may be levied in addition to the amount of the judgment.

Notice of taxa-  
tion.

XXII.—One day's notice of taxing costs, with copies of the bill of costs, shall be given by the Attorney of the party whose costs are to be taxed, to the other party or his attorney ; Provided that such notice shall not be necessary to a defendant who has not appeared.

Proviso.

No action by  
attorney for  
costs until after  
one month's no-  
tice.

XXIII.—No action shall be commenced by an attorney for costs incurred in any action until after the expiration of one calendar month from the time when he shall have delivered to the intended defendant, or left at his last place of abode, a fair copy of his bill of such costs, written in words at length and figures, and signed by the attorney, with the place of his office or residence.

Reference to  
Schedule.

XXIV.—The costs enumerated in the schedule annexed shall be those payable in the said Courts, in cases where such charges shall be applicable.

XXV.—The eleventh, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-sixth, twenty-seventh, thirty-second, thirty-third, thirty-sixth, and thirty-seventh, of the new rules of the Supreme Court, and the forty-first, fifty-fourth, and fifty-fifth, of the old rules of the Supreme Court, are hereby repealed; Provided that nothing in this section contained shall prevent the said rules from remaining in force, as heretofore, in the Northern and Southern Circuit Courts.

Repealing section.

XXVI.—This Act shall come into operation on the thirtieth day of June next.

### Schedule.

Fees to be taken by Attorneys in the Supreme and Central Circuit Courts:

Warrant of Attorney .. .. .	\$0.75	Cents	
Notice of Action .. .. .	0.75	"	Schedule.
Every Process—whether original, mesne or final .. .. .	0.75	"	
Copies, each .. .. .	0.25	"	
Declaration .. .. .	1.50	"	
Copies, each .. .. .	0.75	"	
Entering Appearance .. .. .	0.75	"	
Interlocutory Judgment by default .. .. .	0.75	"	
General Issue .. .. .	0.75	"	
Special Plea .. .. .	1.50	"	
Copies, each .. .. .	0.75	"	
Every subsequent Pleading .. .. .	1.50	"	
Copies, each .. .. .	0.75	"	
Affidavit of Debt .. .. .	0.75	"	
Affidavit of Service .. .. .	0.25	"	
Special Affidavit according to necessary length .. .. .	0.75 to 1.50	"	
Every necessary Notice .. .. .	0.75	"	

Every Rule of Court or Judge's order	0.75	Cents
Copies, each .. .. .	0.25	"
Issue Roll .. .. .	1.50	"
Every necessary Suggestion .. .. .	1.50	"
Postea and Judgment .. .. .	1.50	"
Demurrer Book .. .. .	1.50	"
Every additional copy for Judges .. .. .	0.75	"
Every necessary attendance on a Judge .. .. .	1.50	"
Attendance to tax costs .. .. .	1.50	"
Every necessary attendance on a reference to the Master or an Arbitrator } .. .. .	1.50	"
Cognovit .. .. .	1.50	"
Warrant of Attorney and entering up Judgment thereon—where no process has been issued .. .. .	5.00	"
Counsel fee on every necessary motion or argument—such as for a Commission, or for a postponement of trial, and such like .. .. .	2.50	"
Counsel fee with Brief, in actions <i>ex contractu</i> —		
In matters over fifty dollars .. .. .	2.50	"
In matters over one hundred dollars.. .. .	5.00	"
In matters over two hundred dollars.. .. .	10.00	"
In matters over four hundred dollars.. .. .	15.00	"
—Or such further fee, not exceeding in all twenty-five dollars, as the Master may consider reasonable, having regard to the amount sought to be recovered, and the difficulty and length of the case.		
In Actions <i>ex delicto</i> the Counsel fee may vary from five dollars to twenty-five dollars, according to the difficulty and importance of the cause.		

A Brief fee for a Junior Counsel may be taxed in cases of importance, and where the cause extends over one day it shall be competent for the Court to increase the Brief fee as it may consider reasonable.

Counsel fee on argument of special rule *nisi*, five dollars to fifteen dollars, according to the difficulty and importance of the cause.

Subpoena Tickets, each .. ..	\$0.25	Cents
Attendance to draw and strike a Special Jury .. ..	1.50	"
Attendance on examination of Witnesses <i>de bene esse</i> .. ..	2.50	"
Drafting interrogatories or cross-interrogatories on a Commission, according to their length and difficulty }	2.50 to 10.00	"
Copies, each .. ..	1.50	"
Settling a Special case .. ..	2.50 to 5.00	"
Copies, for Judges—each .. ..	1.50	"

In summary cases, *ex contractu*, where the amount *bona fide* sought to be recovered shall not exceed fifty dollars, no greater amount than four dollars in all shall be taxed as Attorney's costs between party and party.

**ALLOWANCE TO WITNESSES.**

Ordinary Witnesses, each, per diem, .. ..	\$0.75	Cents
Professional men .. ..	2.50	"
Surveyors, Architects, and skilled witnesses .. ..	1.00	"

—And reasonable expenses actually incurred and authenticated by proper accounts and vouchers.

## CLERK'S FEES.

Every process except Subpoena ..	\$0.50	Cents
Writs of Subpoena, each, ..	0.25	"
Every Verdict .. .. .	0.50	"
On Signing Final Judgment ..	0.50	"
Rule of Court .. .. .	0.25	"
Every Affidavit .. .. .	0.25	"
Every Search .. .. .	0.25	"
Every Certificate .. .. .	1.00	"

## COMMISSIONER'S FEES.

Drawing and swearing affidavit ..	\$1.00	Cents
Administering oath on affidavit previously prepared .. .. .	0.25	"
For every writ .. .. .	1.00	"
For every witness examined .. ..	2.50	"

## SHERIFF'S FEES.

Service of each copy of original writ ..	\$0.50	Cents
Every arrest .. .. .	2.50	"
Return to an attachment or <i>capias ad respondendum</i> .. .. .	0.75	"
Bail bond .. .. .	1.00	"
Drawing, summoning and returning Special Jury .. .. .	4.00	"
Necessary travelling to serve or execute process—per mile .. .. .	0.25	"
Poundage on attachment, if moveables, and on levies, if moveables, five per cent. on the first five hundred dollars, and two-and-half per cent. on all over that amount.		
Executing a Writ of Possession .. ..	\$2.50	"
Fee on every Jury sworn .. .. .	1.00	"
Service of Subpoena .. .. .	0.25	"
—And reasonable expenses necessarily incurred in the removal and safe custody of property, to be verified by proper vouchers.		

Poundage on Writs of *Capias ad satisfaciendum*, as on levies on moveables, in proportion to the amount recovered by the arrest.

Every Warrant of Attachment ..	\$0.25 Cents
Executing a Writ of Partition ..	5.00 "
No fee shall be paid to the Sheriff of the Central District on a special deputation.	

### JURORS.

Jurors on Writ of Partition, each ..	\$2.00 Cents
Special Jurors, each .. .. .	1.00 "
Petty Jurors, each .. .. .	0.50 "
Petty Jurors in Assessments under 200 dollars, each.. .. .	0.25 "

### CAP. XIII.

*An Act for the Amendment of the Law with respect to Wills in this Island.*

[Passed 13th April, 1864.]

Be enacted by the Governor, Legislative Council, and House of Assembly, in Session convened, as follows:—

Preamble.

I.—No will shall be valid unless it be made in writing, and unless it be either in the hand-writing of the testator, and signed by him, or if not so written and signed, be signed by him in the presence of at least two witnesses, who shall, in the presence of the testator, sign the same as witnesses; and in case such will shall be made by a marksman, unless the same shall

Will to be written, and how executed.



Proviso.

have been first read over to or by the testator in the presence of the said witnesses; Provided always, that any seaman or fisherman, being at sea, may dispose of his property in the same manner as he might have done before the passing of this Act.

Not valid if by person under 17.

II.—No will shall be valid if made by a person under the age of seventeen years.

Appointment by will in exercise of power, how executed.

III.—No appointment made by will, in exercise of any power, shall be valid unless the same be executed in manner hereinbefore required; and every will so executed shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

Publication not necessary.

IV.—Every will executed in manner hereinbefore required shall be valid without any publication thereof.

Will not invalid on account of incapacity of witness.

V.—That if any person who shall attest the execution of a will, shall, at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

No devise to witness void if will can be otherwise proved; if will cannot be proved without such witness, the devise to be null void.

VI.—No devise, bequest, legacy, estate, interest, gift or appointment, to any person, or to the husband or wife of any person, who shall attest the execution of any will, shall be null and void if the will can be sufficiently proved, according to the provisions hereinbefore contained, without proof by such person of the execution thereof; but where the will cannot be sufficiently proved without the evidence of such person, he or she shall be admitted as a witness to prove the execution, or the validity, or invalidity, of such will, and in such case the devise, bequest, legacy, estate, interest, gift or appointment, in his or her favor, shall be null and void.

VII.—That no person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

Executor may be witness.

VIII.—That every will made by a man or woman shall be revoked by his or her marriage, except a will made in exercise of a power of appointment, when the property thereby appointed would not, in default of such appointment, pass to his or her executor or administrator, or the person entitled as his or her next of kin, under the statute of distributions.

Will may be revoked.

IX.—That no will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

Will not to be revoked by presumption of intention, &c.

X.—That no will or codicil, or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying, the same by the testator, or by some person in his presence, and by his direction, and with the intention of revoking the same.

Revocation of will.

XI.—That no obliteration, interlineation, or other alteration, made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration shall be made and executed in manner herein before required; but such will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator, or such signature and the subscription of the witnesses, as the case may be, be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written

Alterations in will after execution.

at the end, or some other part of the will, or attached thereto.

Revoked will not  
revived other-  
wise than by  
re-execution.

XII.—That no will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will or codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shewn.

Subsequent con-  
veyance not to  
affect will un-  
less an act by  
which will is re-  
voked.

XIII.—That no conveyance or other act made or done subsequently to the re-execution of a will of, or relating to, any property therein comprised, except an act by which such will shall be revoked as aforesaid, shall prevent the operation of the will with respect to such property as the testator shall have power to dispose of by will at the time of his death.

Construction of  
will as to time.

XIV.—That every will shall be construed with reference to the property comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will.

Construction of  
general devise.

XV.—That a general devise or bequest of the property, of any kind, of the testator, or of such property in any place, or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any property to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will.

XVI.—That in any devise or bequest of any property, the words “die without issue,” or “die with-

out leaving issue," or "have no issue," or any other words which may import either a want or failure of issue of any person in his life time, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the life time, or at the time of the death, of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will, by reason of such person having a prior quasi estate tail, or of a preceding gift being without any implication arising from such words or limitation of a quasi estate tail to such person or issue, or otherwise; Provided that this Act shall not extend to cases where such words as aforesaid import, if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age, or otherwise answer the description, required for obtaining a vested estate by a preceding gift to such issue.

Construction of terms "die without issue," or "without leaving issue," or "have no issue."

Proviso.

XVII.—That where any person being a child, or other issue of the testator, to whom any property shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person shall die in the lifetime of the testator, leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

To prevent the lapsing of devises.

XVIII.—This Act shall not extend to any will made prior to or within six months after the passing of this Act.

Commencement of act.

## CAP. XIV.

*An Act for Establishing the Standard Weight of Grain and Pulse, and to Regulate the Sale of Bread, Coals, and other Articles.*

[Passed 13th April, 1864.]

Preamble.

**W**HEREAS it is expedient to Establish the Standard Weight of Grain and Pulse, and to regulate the Sale of Bread, Coal, and other Articles :

Be it therefore enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows :—

I.—From and after the time this Act shall come into operation, the Standard Weight of each Imperial Bushel of Grain exposed or offered for sale in this Colony, shall be as follows :—

Standard weights of grain, &c.

Wheat	shall weigh Sixty pounds.
Rye	shall weigh Fifty-six pounds.
Indian Corn	shall weigh Fifty-seven pounds.
Barley	shall weigh Forty-eight pounds.
Oats	shall weigh Thirty-eight pounds.
Pease	shall weigh Sixty pounds.
Beans	shall weigh Sixty pounds.

All such Grain shall be of dry, sound quality, and all such Weights shall be Avoirdupois.

Standard weights of vegetables and seeds.

II.—The following shall be the Standard Weights which in all cases shall be held to be equal to the Imperial Bushel of the articles opposite to which they are respectively set, namely,—

Potatoes, Turnips, Carrots, Pars-nips, Beets and Onions,	Sixty pounds.
Flax Seed	Fifty pounds.
Hemp Seed	Forty-four pounds.

And when any of the articles aforesaid shall be sold by the Barrel, every such Barrel shall contain at least Three Bushels of the Weight aforesaid.

All such Potatoes, Turnips, Carrots, Beets, Onions, and other articles above mentioned, shall be in sound condition, and all such Weights shall be Avoirdupois.

III.—Upon any sale and delivery of any description of Grain, Pulse or Seeds, or other articles mentioned in this Act, and in every contract for the sale or delivery of any such Grain, Pulse, Seeds or other articles, the Bushel shall be taken and intended to mean the weight of a Bushel as regulated by this Act, and not a Bushel in measure, or according to any greater or less weight.

Bushel, its meaning.

IV.—All Coals imported into this Colony for sale, shall be sold by Weight, or, at the option of the purchaser, be sold by Measures, containing, respectively, Two Hundred and Twenty-four Pounds and Five Hundred and Sixty Pounds, Avoirdupois, of dry Sydney Coal, Struck or Water Measure, such Coal Measures to be inspected, approved, and marked, by the Inspector of Weights and Measures in the several Districts, as herein provided: Such Coals, when sold by weight, shall contain Two Thousand Two Hundred and Forty Pounds Avoirdupois to the Ton.

Respecting sale of coals.

V.—The provisions of this Act shall not apply to the Sale of any Cargo of Coal, when the same may be sold wholesale by the Chaldron.

Ditto.

VI.—All Fresh Meats imported into this Colony for sale—such as Beef, Mutton, Lamb, Veal, and Pork,—shall be weighed by the party offering the same for sale, and have the respective weights marked thereon.

Fresh meats to be weighed, &c.

VII.—Any person selling or offering for sale any Grain, Seeds, Vegetables, Beef, Mutton, Lamb, Veal, Pork, or other Fresh Meat, or any Coals, in contravention of this Act, shall, for every such offence, upon conviction before any Stipendiary Justice of the Peace, forfeit and pay a fine not exceeding Twenty

Penalty for violation of 6th sec.

Dollars, and any such Meats purchased shall be reweighed by the seller thereof for the satisfaction of the purchaser (should it be so desired) at the time of taking the same away after such sale.

Hay to be weighed.

VIII.—Hay imported into this colony, and exposed for sale, in pressed or screwed packages, the said packages, and the sellers thereof, shall be also subject to the operation of the seventh section of this Act with respect to Meats, and the sellers thereof.

Weight of loaf, Bread, &c.

IX.—All Bread, not Biscuit, intended for sale, shall be made to the following weights, respectively, and no other; namely—Four Pounds, Two Pounds, One Pound, and Eight Ounces: And the seller of such Bread shall have the initials of his or her name marked thereon in Roman Letters, and also the weight; and shall also keep on his or her counter a scale and weights to weigh such Bread for the satisfaction of purchasers.

Bread not of weight to be forfeited.

X.—All Bread exposed or offered for sale, in contravention of the ninth section of this Act, shall be forfeited and disposed of by any Justice of the Peace for the benefit of the Poor, and may be seized by any purchaser or intending purchaser, or by any Peace Officer, and be delivered to any Justice of the Peace, for the benefit of the Poor.

Exceptions to 9th section.

XI.—The provisions of this Act shall not apply to Loaves made to order, and rasped by the desire of the customer, nor to Loaves or Cakes sold weighing less than Eight Ounces; prosecutions for breach of the tenth section of this Act shall be commenced within three days after the offence committed.

4 Will. 4, cap. 9, sec. 10 repealed.

XII.—The tenth section of an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, entitled "An Act to regulate the standard of Weights and Measures in this Colony, and to provide for the surveying of Lumber," shall be and the same is hereby repealed; And so much of the said

Act as vests the appointment of Assayers and Inspectors in the several Justices of the Peace, shall be and the same is hereby repealed.

XIII.—The following shall be the net weight of articles of Provisions, whether imported into or manufactured in this Colony, and offered for Sale,—namely:—

Weights of Biscuit, Flour, Pork, &c.

Biscuit—the Bag—One Hundred and Twelve Pounds.

Biscuit—the Half-Bag—Fifty-six Pounds.

Flour—the Barrel—One Hundred and Ninety-six Pounds.

Flour—the Half-Barrel—Ninety-eight Pounds.

Corn and Oatmeal—the Barrel—One Hundred and Ninety-six Pounds.

Corn and Oatmeal—the Half-barrel—Ninety-eight Pounds.

Pork, Beef, Jowls—the Barrel—Two Hundred Pounds.

Pork, Beef, Jowls—the Half Barrel—One Hundred Pounds.

The said Weights shall be Avoirdupois, and purchasers of such articles may demand that the same be weighed; and if any of the aforesaid articles be found to be of less weight than the weight herein provided, a reduction in the price, in proportion to the cost of the article, shall be made by the Vendor to the Purchaser; and all Butter imported into or made in this Colony, and offered for sale, shall be weighed by the Vendor to any Purchaser who may, at the time of purchase, desire it, and a fair allowance shall be made for the tare of packages containing such Butter: And in the event of any Vendor refusing to weigh any of the aforesaid articles of Provisions, or to make reductions in price, should they be of less Weight than the Weight herein provided, such Vendor shall be liable to a Fine not exceeding Twenty Dollars, to be recovered in a summary manner before any Stipendiary Justice of the Peace.

Regulations for Sale.



Inspectors of weights and measures—their duties.

XIV.—Inspectors shall be appointed by the Governor in Council for the following places—St. John's, Harbor Grace, Carbonear, and such other places as may be considered necessary,—whose duties shall be to search for and to inspect, not less than once in every three months, all Weights and Measures in use in any shops, stores, and all other places of sale; and the same shall be regulated according to a Standard set of Imperial Weights and Measures, and shall have the letters V. R. or the initials of the Reigning Sovereign, and the initials of the Inspector so appointed, painted or stamped thereon; and any person using Weights or Measures not inspected and marked or stamped as herein provided, shall be liable to a fine not exceeding Twenty Dollars, to be recovered in a summary manner before any Stipendiary Justice of the Peace.

Fees to Inspectors.

XV.—In addition to the salaries to the said Inspectors, they shall receive from the respective owners of Weights and Measures, and be paid, the following Fees:—

Five Cents for all Weights of One Pound, and Weights under One Pound each;

Ten Cents each for all Weights over One Pound;

Ten Cents each for all Beams, Scales and Measures;

Provided that the above fees shall be demandable, and payable, only once in every year.

Appropriation of penalties.

XVI.—All Fines payable under this Act may be recovered by any person who shall sue for the same, and one half of all fines and penalties recovered under this Act shall be paid to the party prosecuting the offender to conviction, and the other half thereof shall be paid to the Receiver General for the use of the Colony.

Commencement and duration of Act.

XVII.—This Act shall come into operation on the thirtieth day of June next, and shall continue in force for one year from that date.

## CAP. XV.

*An Act for the Prevention and Suppression of Lotteries in this Colony.*

[Passed 13th April, 1864.]

**W**HEREAS it is expedient to prevent and suppress Lotteries in this Colony. Preamble.

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

I.—If any person make, print, advertise, or publish, or procure to be made, printed, advertized, or published, any proposal, scheme, or plan, for holding a Lottery, or for advancing, lending, giving, selling, or in any way disposing of any money, or any other property, by lots, cards, tickets, dice, or any mode of chance whatever, or sell, barter, exchange, give, lend, or otherwise dispose of, or cause, or procure, or aid, or assist, in the sale, barter, exchange, gift, or loan of any money, or property, or of any lot, card, ticket, or other means or device, for advancing, lending, giving, selling, or otherwise disposing of, any money or property, by lots, tickets, or any mode of chance, whatever, such person shall, upon conviction thereof in a summary manner before any Stipendiary Justice of the Peace, forfeit a sum not exceeding Fifty Dollars for every such offence, together with costs; which forfeiture and costs shall be levied by distress and sale of the offender's goods by warrant under the hand and seal of such Justice; and such forfeiture shall be applied one-half to the person suing for the same, and the other half to the Receiver General for the use of the colony.

Penalty for publishing or holding a lottery of any kind.

How enforced and applied.

II.—Any person buying, bartering, exchanging, taking, or receiving any such money or property, or 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 the sum of Twenty Dollars for such offense, to

Penalty for buying and receiving lottery tickets.

be recovered with costs, and to be applied as aforesaid.

Sales, gifts, &c.,  
founded in lot-  
teries, to be null  
and void.

Forfeiture.

As to purcha-  
sers without no-  
tice.

Committed for  
non-payment of  
penalties

Act not to ex-  
tend to bona fide  
division of pro-  
perty held in  
common.

Limitation of  
suits.

III.—Any sale, loan, gift, barter, or exchange of any money or any 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 money or property so sold, lent, given, bartered, or exchanged, shall be forfeited to such person as will sue for the same by action or information in any Court of Record in this colony.

IV.—No such forfeiture shall affect any right or title to such property acquired by any *bona fide* purchaser for valuable consideration, without notice.

V.—If any person so convicted as aforesaid have not sufficient goods and chattels whereon to levy the penalties authorized by this Act, or do not immediately pay the said penalties, the Justice convicting such person shall commit him to the common gaol of the district in which the offense was committed, for a period not exceeding three months, unless such fine and costs be sooner paid.

VI.—Nothing in this Act contained shall prevent joint-tenants, tenants in common, or persons having joint interests in any property, from dividing such property by lot or chance in the same manner as if this Act had not been passed; and it shall be lawful for the Magistrates, during any seasons of general festivity and other special occasions, to license and permit the holding of Cake, Bazaar, and other Lotteries, if of a character which they shall regard as unobjectionable, upon such conditions as they may consider necessary for the preservation of order and propriety.

VII.—The prosecution of every offense punishable under this Act shall be commenced within two months next after the commission of such offense, and not afterwards.

## CAP. XVI.

*An Act to Amend an Act passed in the Eighth Year of the Reign of Her present Majesty, entitled "An Act to Amend the Laws for the Regulation of Pilots and the Pilotage of Vessels at the Port of Saint John's; Also, to Amend an Act passed in the Nineteenth Year of the Reign of Her present Majesty, entitled "An Act to amend the Laws for the Regulation of Pilots and the Pilotage of Vessels at the Port of Saint John's."*

[Passed 13th April, 1864.]

**W**HEREAS it is expedient to amend an Act Preamble.  
 passed in the Eighth Year of the Reign of Her present Majesty, entitled "An Act to amend the Laws for the Regulation of Pilots and the Pilotage of Vessels at the Port of Saint John's;" Also, "to amend an Act passed in the Nineteenth Year of the Reign of Her present Majesty, entitled 'An Act to amend the Laws for the Regulation of Pilots and the Pilotage of Vessels at the Port of Saint John's.'"

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

I.—The Commissioners of Pilots shall not license any further or other persons to act as Pilots for the Port of Saint John's, until the number of Pilots at present licensed to act as such be reduced to Ten, and thereafter the number of licensed Pilots shall not exceed Twelve; Provided that nothing in this Act contained shall prevent the licensing of those persons who are now under articles of apprenticeship to licensed Pilots, and now entered as such on the books of the Commissioners of Pilots. No further pilots to be licensed.

II.—When the number of licensed Pilots is reduced to Eighteen, three-fourths only of the present rates of When reduced to 18 three-fourths pilotage payable

When reduced  
to 12. one-half  
pilotage payable

Pilotage to be charged and payable in each case ; and when the number of licensed Pilots is reduced to Twelve, one-half only of the present rates of Pilotage to be charged and payable in each case.

Mast-head lights  
not necessary.

III.—Instead of the Mast-head Light mentioned in the Twelfth Section of the hereinbefore first recited Act, it shall be sufficient that Vessels approaching Saint John's harbor in the night time, carry a Light at the head of the Foremast or Foretopmast.

Provision for  
retiring allow-  
ance to pilots.

IV.—If any one or more of the present number of licensed Pilots shall or do voluntarily retire from his or their said office of Pilot, and resign and surrender his or their license to the said Commissioners, the said Commissioners shall and may, and they are hereby authorised and empowered to, pay to each Pilot so retiring and surrendering as aforesaid, the sum of Two Hundred Dollars out of the Pilot Fund ; And the said Pilot or Pilots so retiring, shall not have any further or other claim upon the present or any future Pilot Fund, or upon the said Commissioners in respect thereof ; Provided that the number of Pilots so retiring shall not exceed Six.

Proviso.

## CAP. XVII.

*An Act for granting to Her Majesty a Sum of Money for Defraying the Expenses of the Civil Government of this Colony, for the Year ending the Thirty-first Day of December, One Thousand Eight Hundred and Sixty-four, and for other purposes.*

[Passed 13th April, 1864.]

MAY IT PLEASE YOUR MAJESTY :

Preamble.

**W**E, Your Majesty's dutiful and loyal subjects the Commons of Newfoundland, have freely and voluntarily resolved to give and grant unto Your Majesty a Supply to defray certain charges for the support of the Civil Government, for the Admi-

nistration of Justice, and the general improvement of this Colony, do beseech your Majesty that it may be enacted, and

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened: That from and out of such moneys as shall from time to time remain in the hands of the Receiver General, and unappropriated, there be granted to Your Majesty, Your Heirs and Successors, the sum of Forty-eight Thousand and Forty-eight Pounds Fifteen Shillings and Eight Pence, which said sum shall be applied in payment of the following charges, for the year commencing on the First day of January, One Thousand Eight Hundred and Sixty-four, and ending on the Thirty-first day of December in the same year—that is to say:

£48,048 appropriated for purposes of Act.

The Private Secretary to the Governor, two hundred pounds.

Private Secretary.

The First Clerk in the Colonial Secretary's Office, two hundred pounds.

Clerks in Colonial Secretary's Office.

The Second Clerk in the Colonial Secretary's Office, one hundred pounds.

The Clerk in the Receiver General's Office, two hundred pounds.

Clerk in the Receiver General's Office.

The Civil Engineer in the Surveyor General's Office, one hundred and fifty pounds.

Civil Engineer. Surveyor General's Office.

The Superintendent of Public Works and Buildings, one hundred and fifty pounds, including the sum of fifty pounds granted for this service by the Act 7th Victoria, cap. 1.

Superintendent of Public Buildings.

The sum of one hundred and sixty pounds to defray the salary of the Surveyor of Roads.

Surveyor of roads.

The sum of one hundred and twenty-five pounds to defray the salary of the Inspector of Roads, to be paid, in the first instance, out of the general revenue, and to be afterwards deducted out of the road grant for the district of St. John's, when any such grant shall be made.

Inspector of roads—salary to be deducted out of next road grant.

The Keeper of the Colonial Building, sixty pounds.

Keeper of Colonial Building.

Secretary's  
Office Keeper  
and Messenger.

The Office Keeper and Messenger, Colonial Secretary's Office, seventy pounds.

Keeper of Salmonier House.

The Keeper of the Half-way House, Salmonier, thirty-five pounds.

Gate Keeper  
Government House.

The Gate Keeper at Government House Lodge, and Preserver of Grounds about the same, sixty pounds.

Judge of Labrador Court.

The Judge of the Court of Labrador, two hundred pounds.

Chief Clerk and Registrar, Supreme and Central Circuit Court.

The Chief Clerk and Registrar of the Supreme Court and Central Circuit Court, three hundred and fifty pounds, and twenty pounds for the purchase of printed forms. Provided that all fees, perquisites and emoluments received, or that shall be received, by the said Chief Clerk and Registrar, in and by virtue of the said office, or in any way connected therewith, shall be accounted for and paid over to the Receiver General. Provided further, that out of the said salary of three hundred and fifty pounds, the sum of fifty pounds, or a proportion thereof, shall be paid to Charles Simms, (late Chief Clerk and Registrar) during his life, in addition to the retiring allowance given to that Officer under this Act. Provided that the Clerk of the Supreme Court and Central Circuit Court, or the Clerk in the Office of the said Chief Clerk, shall not, whilst in the occupation of the respective Offices, practise or act as Barrister, Attorney, Advocate, Solicitor, Proctor, Conveyancer, or Notary Public, or demand or receive any fee or compensation in connection with the last-mentioned Offices. Provided also that nothing herein contained shall affect the Indentures of the present Clerk in the Office of the said Chief Clerk, or in any way interfere with his admission hereafter to practise as an Attorney and Solicitor.

Clerk Supreme Court.

The Clerk in the Office of the Chief Clerk and Registrar, Supreme Court, eighty pounds.

Chief Clerk  
Northern Circuit Court.

The Chief Clerk and Registrar of the Northern Circuit Court, two hundred pounds.

Chief Clerk  
Southern Circuit Court.

The Chief Clerk and Registrar of the Southern Circuit Court, two hundred pounds.

<p>The Sheriff's Bailiff in the Central District, fifty pounds.</p>	<p>Sheriff's Bailiff, St. John's.</p>
<p>The Crier and Tip-staff of the Supreme Court at Saint John's, sixty pounds.</p>	<p>Tipstaff of Supreme Court.</p>
<p>The Crier and Tip staff of the Northern Circuit Court at Harbor Grace, twenty pounds.</p>	<p>Tipstaff Northern Circuit Court.</p>
<p>The Bailiff of the Labrador Court, forty-five pounds.</p>	<p>Bailiff Labrador Court.</p>
<p>The sum of three hundred pounds to defray the expenses of Crown Prosecutions.</p>	<p>Crown Prosecutions.</p>
<p>The sum of two hundred pounds to defray the expenses of Coroners.</p>	<p>Coroners.</p>
<p>The sum of three hundred and fifty pounds towards defraying the expenses of Judges and Officers on Circuit, and of Crown Prosecutions thereon; which sum of Money includes Table Money and Means of Conveyance, and for the payment of Rent of any Court Rooms where Court Houses may not be erected: Provided that passages shall be allowed and provided on board of each vessel engaged by the Government, proceeding on the respective Circuits, to such members of the Bar as may desire to proceed thereon; Provided further, that the amount of Table Money and Travelling Expenses hereinbefore provided for the said Judges and Officers of Court on Circuit, shall be apportioned for the said Judges and Officers respectively by the Governor in Council.</p>	<p>Circuit Courts.</p>
<p>To Two Police Magistrates at Saint John's, six hundred and fifty pounds, namely: to the Chief Magistrate, three hundred and fifty pounds; and to the Junior Magistrate, three hundred pounds.</p>	<p>Police Magistrates, St. John's.</p>
<p>To the Clerk of the Peace at St. John's, two hundred and twenty pounds.</p>	<p>Clerk of the Peace, St. John's.</p>
<p>To the General Superintendent of Police, one hundred pounds.</p>	<p>Superintendent of Police.</p>
<p>To Two Sergeants of Police, one hundred and forty pounds, namely: seventy pounds to each of them.</p>	<p>Two Sergeants:</p>
<p>To Nineteen Constables at Saint John's, nine hundred and ninety-five pounds—namely, Fourteen Constables at fifty-five pounds each, and Five Constables at forty-five pounds each.</p>	<p>Nineteen Constables.</p>



Clothing for Constables.	The sum of three hundred pounds for Clothing for Constables at Saint John's, Harbour Grace, and Carbonear.
Gaoler, St. John's.	The Gaoler at Saint John's, one hundred and fifty pounds, in lieu of all fees, which are to be accounted for and paid over to the Receiver General.
Turnkey.	The Turnkey at Saint John's, fifty pounds.
Assistants.	The Assistants, Eighty-five pounds.
Keeper of Court House, St. John's.	The Keeper of the Court House at Saint John's, fifty-five pounds.
Keeper of Court House, Harbor Grace.	The Keeper of the Court House at Harbour Grace, ten pounds.
Outport Magistrates.	The sum of two thousand one hundred and eighty pounds to defray the salaries of the undermentioned Outport Magistrates, as follows :
	A Magistrate at Brigus and Port-de-Grave, one hundred and fifty pounds.
	A Magistrate at Harbour Grace, two hundred pounds.
	A Magistrate at Carbonear, one hundred and fifty pounds.
	A Magistrate at Old Perlican, one hundred and fifty pounds.
	A Magistrate at Trinity, one hundred and fifty pounds.
	A Magistrate at Bonavista, one hundred and fifty pounds.
	A Magistrate at Twillingate and Fogo, one hundred and fifty pounds.
	A Magistrate at Bay Bulls, one hundred pounds.
	A Magistrate at Ferryland, one hundred and fifty pounds.
	A Magistrate at St. Mary's, fifty pounds.
	A Magistrate at Placentia, one hundred and thirty pounds.
	A Magistrate at Burin, one hundred and fifty pounds.
	A Magistrate at Lamaline, one hundred and fifty pounds.

A Magistrate at Grand Bank, one hundred and fifty pounds.

A Magistrate at Harbor Britain, one hundred pounds.

A Magistrate at Burgeo and LaPoile, one hundred pounds.

The sum of five hundred and ninety-five pounds towards defraying the salaries of the undermentioned Clerks of the Peace, as follows: Outport Clerks  
of the Peace.

A Clerk of the Peace for Brigus and Port-de-Grave, sixty pounds.

A Clerk of the Peace at Harbor Grace, one hundred and fifty pounds.

A Clerk of the Peace for Carbonear, one hundred and ten pounds.

A Clerk of the Peace for Trinity, sixty pounds.

A Clerk of the Peace for Bonavista, sixty pounds.

A Clerk of the Peace for Twillingate and Fogo, sixty pounds.

A Clerk of the Peace for Burin, sixty pounds.

A Clerk of the Peace for Harbor Britain, thirty-five pounds.

Provided that all fees of office received by the said Clerks of the Peace shall be accounted for and paid over, half-yearly, to the Receiver General.

The sum of two thousand and one pounds towards defraying the salaries of the Outport Constables, as follows:— Outport Consta-  
bles.

One Constable at Petty Harbor, twenty pounds.

One Constable at Torbay, twenty pounds.

One Constable at Portugal Cove, twenty pounds.

One Constable at South Shore, twelve pounds.

One Constable at Harbor Main, twenty pounds.

One Constable at Cat's Cove, twenty pounds.

Four Constables at Brigus and Port-de-Grave, one hundred and ten pounds.

Three Constables at Bay Roberts, forty-nine pounds.

Outport Constables.

Thirteen Constables at Harbor Grace, six hundred and fifty-five pounds: that is to say, one Constable at eighty pounds, eleven Constables at fifty pounds each, and one Constable at twenty-five pounds.

Eight Constables at Carbonear, three hundred and forty-five pounds.

One Constable at Bay-de-Verds, twelve pounds.

One Constable at Western Bay, twelve pounds.

One Constable at Hant's Harbour, twelve pounds.

One Constable at Old Perlican, twenty pounds.

One Constable at Heart's Content, twelve pounds.

Two Constables at Trinity, thirty-seven pounds.

One Constable at New Harbour, twelve pounds.

One Constable at Catalina, twenty-five pounds.

Two Constables at Bonavista, twenty-four pounds.

One Constable at Tickle Cove, twelve pounds.

One Constable at King's Cove, twenty pounds.

One Constable at Salvage, twelve pounds.

One Constable at Greenspond, twenty-five pounds.

Three Constables at Twillingate and Fogo, forty-nine pounds.

One Constable at Exploits, twelve pounds.

One Constable at Bay Bulls, twenty-five pounds.

One Constable at Witless Bay, twelve pounds.

One Constable at Upper Island Cove, twelve pounds.

One Constable at Lower Island Cove, twelve pounds.

One Constable at Toad's Cove, twelve pounds.

One Constable at Brigus South, twelve pounds.

One Constable at Cape Broyle, twelve pounds.

One Constable at Caplin Bay, twelve pounds.

One Constable at Ferryland, twenty-five pounds.

One Constable at Aquaforte, twelve pounds.

One Constable at Fermeuse, twelve pounds.

One Constable at Renewes, twelve pounds.

One Constable at St. Mary's, twenty-five pounds.

One Constable at Placentia, twenty-five pounds.

One Constable at Little Placentia, twenty pounds.

One Constable at Oderin, twelve pounds.

One Constable at Merasheen, twelve pounds.

One Constable at Burin, twenty-five pounds.

- One Constable at St. Lawrence, twelve pounds.  
 One Constable at Lamaline, twelve pounds.  
 One Constable at Grand Bank, twelve pounds.  
 One Constable at Jersey Harbour, twelve pounds.  
 One Constable at Harbor Briton, twenty-five pounds.  
 One Constable at Burgeo Islands, twelve pounds.  
 One Constable at Hermitage Bay, twelve pounds.  
 One Constable at Spaniard's Bay, twelve pounds.  
 One Constable at Channel, twelve pounds.  
 One Constable at Bird Island Cove, twelve pounds.  
 One Constable at Bishop's Cove, twelve pounds.

The sum of two hundred and sixty pounds towards Outport Gaolers.  
 defraying the salaries of the undermentioned Outport  
 Gaolers, as follows :

A Gaoler at Brigus and Port-de-Grave, ten pounds.

A Gaoler at Harbor Grace, ninety pounds. Pro-  
 vided that all Fees of Office received by him shall be  
 accounted for and paid over to the Receiver General.

A Gaoler at Trinity, twenty-five pounds.

A Gaoler at Bonavista, twenty-five pounds.

A Gaoler at Greenspond, fifteen pounds.

A Gaoler at Twillingate and Fogo, twenty pounds.

A Gaoler at Ferryland, twenty-five pounds.

A Gaoler at Placentia, twenty-five pounds.

A Gaoler at Burin, twenty-five pounds.

The District Surgeons for St. John's, two hundred District Sur-  
geons.

The Gaol Surgeon for St. John's, forty pounds.

Gaol Surgeon.

The District Surgeon for Conception Bay, one hun-  
 dred pounds.

District Surgeon  
Conception  
Bay.

The Gaol Surgeon for Conception Bay, thirty  
 pounds.

Gaol Surgeon.

The Physician of the Lunatic Asylum, three hun-  
 dred pounds.

Physician, Lu-  
natic Asylum.

For Medical attendance at St. John's Hospital, two  
 hundred and fifty pounds.

Medical atten-  
dance, St. John's  
Hospital.

The sum of two hundred and fifty pounds towards  
 defraying the salary of the Commissioner of the Poor.

Commissioner of  
Poor.

The sum of ninety pounds towards defraying the  
 salary of the Inspector of the Poor.

Inspector of  
Poor.

- Assistant. The sum of ninety pounds towards defraying the salary of the Assistant Inspector of the Poor.
- Keeper of the Poor Asylum. The sum of sixty pounds towards defraying the salary of the Keeper of the Poor Asylum.
- Assistant. The sum of forty-four pounds towards defraying the salary of the Assistant Keeper of the Poor Asylum.
- Permanent and Casual Poor. The sum of ten thousand pounds, towards the relief of the Permanent and Casual Poor of St. John's and the Outports.
- Lunatic Paupers. The sum of three thousand pounds towards defraying the expenses of Servants and Lunatic Paupers at the Lunatic Asylum.
- Paupers St. John's Hospital. The sum of one thousand five hundred pounds towards defraying the expenses of Paupers at the St. John's Hospital.
- Servants and Paupers, Poor Asylum. The sum of one thousand five hundred pounds towards defraying the expenses of Servants and Paupers at the Poor Asylum.
- Ferryman. The sum of three hundred and seventy-two pounds towards defraying the salaries of the undermentioned Ferryman, as follows :
- A Ferryman at Great Placentia, thirty pounds.
- A Ferryman or Ferryman at Salmonier, twenty-five pounds.
- A Ferryman at Malbay, twelve pounds.
- A Ferryman at Colinet, twenty-five pounds.
- A Ferryman at Portugal Cove, twenty-five pounds.
- A Ferryman at Trinity, thirty pounds.
- A Ferryman at Topsail, twenty-five pounds.
- A Ferryman at Harbor Grace, thirty pounds.
- A Ferryman at Little St. Lawrence, ten pounds.
- A Ferryman at Holyrood, thirty pounds.
- A Ferryman from Burin to Mud Cove, twenty-five pounds.
- A Ferryman at Aquaforte, fifteen pounds.
- A Ferryman at Mortier Bay, Twenty-five pounds.
- A Ferryman at Connaigre Bay, thirty pounds.
- A Ferryman at Fogo, or Dead Man's Bay, ten pounds.

A Ferryman from King's Cove to Upper Amherst Cove, twenty-five pounds.

The sum of four hundred and fifty pounds towards defraying the expenses of repairs on the Colonial Building. Repairs of Colonial Building.

The sum of four hundred pounds towards defraying the expenses of repairs on the Lunatic Asylum. Repairs of Lunatic Asylum.

The sum of one hundred pounds towards defraying the expenses of repairs on the St. John's Hospital. Repairs of St. John's Hospital.

The sum of one hundred pounds towards defraying the expenses of repairs on the Poor Asylum. Repairs of Poor Asylum.

The sum of three hundred pounds towards defraying the expenses of repairs on Court Houses and Gaols at St. John's and the Outports. Repairs of Court Houses and Gaols.

The sum of twenty five pounds towards defraying the expenses of repairs on the Block House. Repairs of Block House.

The sum of two hundred pounds for fuel and light at Government House. Fuel and Light, Government House.

The sum of two hundred pounds for fuel and light at the Colonial Building. Fuel and Light, Colonial Building.

The sum of one hundred and fifty pounds towards defraying the expenses of fuel and light and repairs on the Custom House at St. John's. Fuel, &c., Custom House.

The sum of one thousand one hundred pounds towards defraying the ordinary expenses of Court Houses and Gaols in this Colony. Ordinary expenses of Court Houses and Gaols.

The sum of thirty-six pounds and ten shillings towards defraying the expenses of men stationed at Fort Amherst. Fort Amherst.

The sum of eighty pounds towards defraying the expenses attending the firing of Fog Guns. Fog Guns.

The sum of two hundred and twenty-six pounds towards defraying the expenses of lighting St. John's with Gas. Provided that the Inspector of Police shall report, at the end of each quarter, that the lamps have been efficiently lighted. Gas Light, St. John's.

The sum of seventy-five pounds to the Harbour Grace Gas Light Company towards defraying the ex- Gas Light, Harbor Grace.

penses of lighting Harbour Grace with Gas : Provided that the Chief Constable at Harbour Grace shall report, at the end of each quarter, that the lamps have been efficiently lighted.

- Shipwrecked crews. The sum of two hundred pounds towards defraying the expenses of Shipwrecked Crews.
- Dorcias Society, Harbor Grace. The sum of twenty-five pounds towards the support of the Dorcias Society at Harbour Grace.
- Dorcias Society, Carbonear. The sum of twenty-five pounds towards the support of the Dorcias Society at Carbonear.
- Dorcias Society, St. John's. The sum of fifty pounds towards the support of the Dorcias Society at St. John's.
- Orphan Asylum. The sum of fifty pounds towards the support of the Industrial Department of the Orphan Asylum School at St. John's.
- Agricultural Society. The sum of two hundred and fifty pounds towards the support of the Agricultural Society of St. John's. One half for the Outports other than Conception Bay.
- Agricultural Society, Conception Bay. The sum of one hundred pounds towards the support of the Agricultural Society in Conception Bay.
- Patrick Burke. The sum of ten pounds to Patrick Burke, St. John's.
- St. John's Factory. The sum of one hundred pounds towards the employment of the Poor in the Factory, St. John's.
- Roads & bridges. The sum of three hundred and fifty pounds towards the general repairs of Roads and Bridges in this Colony.
- Conception Bay Steamer. The sum of six hundred and fifty pounds towards the support of a suitable Steamer to ply between the North and South sides of Conception Bay, from the first day of April until the thirty-first day of December ; the Steamer to ply five times per week during that time unless unavoidably prevented from so doing ; Provided that the said Steamer call once a week at Bay Roberts : Provided that officers and servants of the Government travelling on the Public Service shall be entitled to free passages in the said Steamer : Provided further that the said Steamer shall, during such service, be provided with two good boats (one of which shall be a life-boat) ; and the said Steamer shall,

during the performance of such service, sail punctually at her appointed times of sailing: Provided further, that the said Steamer shall, during such service as aforesaid, be provided with at least twenty-five life-belts or life-buoys suitable for the use and protection of passengers.

The sum of six hundred pounds towards defraying the expenses of the Protection of the Fisheries. Protection of Fisheries.

The sum of four hundred pounds towards defraying the expenses of Revenue Cruiser, Labrador. Revenue Cruiser.

The sum of forty pounds to the widow of the late Lionel T. R. Chancey. Pension to Mrs. Chancey.

The sum of twenty-five pounds to the widow of the late William Buckley, killed in the discharge of his duty as a Volunteer Fireman, and their children during her widowhood; and in the event of her death or marriage, then to the use of the said children until they respectively attain the age of sixteen years. Pension to Mrs. Buckley.

The sum of thirty pounds to the widow of the late Jeremiah Dunn, killed in the discharge of his duty as a Police Constable, and their children during her widowhood; and in the event of her death or marriage, then to the use of the said children until they respectively attain the age of sixteen years. Widow Dunn.

The sum of thirty pounds, Retiring Allowance to Patrick Kough. Retiring allowance to Patrick Kough.

The sum of two hundred pounds, Retiring Allowance to Charles Simms. Retiring allowance to Charles Simms.

The sum of seventy-five pounds, Retiring Allowance to Peter Winsor. Retiring Allowance to Peter Winsor.

The sum of seventy-five pounds towards defraying the expense of carrying the Crown Lands' Act into operation. Crown Lands Act.

The sum of one thousand pounds for Printing and Stationery. Printing and Stationery.

The sum of one hundred pounds towards defraying the expenses of Postages and other incidentals. Postages, &c.

The sum of three hundred pounds towards defraying the expenses of Insuring Public Buildings. Insurance of Public Buildings.



- Contingencies. The sum of five hundred pounds to defray Unforeseen Contingencies.
- Postal Service The sum of three thousand two hundred and eighty-one pounds sixteen shillings and eight pence, to be appropriated and expended to defray the Expenses of the Postal Service of this Colony, to be expended under and by virtue of the provisions of the Act passed in the nineteenth year of Her Majesty's Reign, entitled "An Act to Regulate the Inland Posts of this Colony." Provided always, that out of the said sum there shall be expended the sum of twenty pounds towards defraying the Expenses of conveying Newspapers and Printed Papers to and from this Colony, subject to certain Rules and Regulations made or to be adopted in relation thereto by the Governor in Council.
- Town Clock. The sum of fifteen pounds towards defraying the expenses of repairing the Town Clock.
- Steamers to the Outports. The sum of four thousand five hundred pounds towards defraying the expenses of Steamers to the Outports.
- Harbor Grace Hospital. The sum of seventy-five pounds towards defraying the cost of Land and other expenses in connection with the Fever Hospital at Harbour Grace.
- St. John's Hospital. The sum of one hundred pounds towards defraying the expenses attending the Fever Hospital at St. John's.
- Geological Survey. The sum of five hundred pounds towards defraying the expenses attending a Geological Survey of this Island.
- Expense of flood The sum of one thousand three hundred and eighty-three pounds and three shillings towards defraying the damages caused by the Flood in November last past.
- Teacher, Bay-de-Verds. The sum of one hundred and fifty pounds towards defraying the arrears of salary to the Teacher of the Roman Catholic Commercial School at Bay-de-Verds.
- Protestant Schools. The sum of one hundred and eighty pounds to be distributed amongst the several Protestant Commercial Schools now established.

The sum of fourteen pounds and six shillings towards re-imbursing Patrick Morris, of Burin, for passages and other expenses incurred in connection with workmen employed at Burin.

Patrick Morris,

The sum of twenty pounds to defray the rent of a Gymnasium for the use of the Volunteers.

Gymnasium for Volunteers.

The moneys hereinbefore granted shall be paid by the Receiver General in discharge of such warrants as may from time to time be drawn by the Governor for the purposes of this Act; and it shall not be lawful for the Receiver General to pay any moneys out of the Colonial Treasury other than such as are granted by this Act or some other Act of the Legislature: Provided that any sums of money advanced by the Government of this Colony on account of any of the foregoing appropriations, shall be deducted therefrom: Provided also, from and after the time when an Act passed in the last session of the Legislature, entitled "An Act for the Regulation of the Currency," shall come into operation, the moneys payable under this Act shall be paid in Dollars and Cents; and whenever any payment shall give or have the fraction of a Cent, a whole Cent shall be paid in lieu of such fraction to the party receiving such payment.

Moneys to be paid by warrant drawn by Governor.

### CAP. XVIII.

*An Act to Indemnify His Excellency Sir Alexander Bannerman, for Certain Sums of Money advanced by him from the Colonial Treasury for the Service of the Colony.*

[Passed 13th April, 1864.]

**W**HEREAS it is expedient to Indemnify His Excellency Governor Sir ALEXANDER BAN-  
NERMAN for Sums of Money advanced by him from the Colonial Treasury for the Public Service, as is herein-  
after detailed.

Preamble.

Be it therefore Enacted by the Governor, Legislative

Council, and Assembly, in Legislative Session convened:—

£10,347 7s. 7d.  
hereby appropriated towards  
indemnifying  
His Excellency  
Sir A. Bannerman.

That from and out of such Moneys as may, from time to time, remain in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the sum of Ten Thousand Three Hundred and Forty-seven Pounds Seven Shillings and Seven Pence, to be appropriated as follows, that is to say :

Towards Indemnifying His Excellency Governor Sir ALEXANDER BANNERMAN for the sum of Ten Thousand Three Hundred and Forty-seven Pounds Seven Shillings and Seven Pence, advanced by him out of the Colonial Revenue on his own responsibility, and expended by him for the Public Service, as follows :

Criminal prosecutions.

For Civil and Criminal Prosecutions, two hundred and seventy-one pounds fourteen shillings and five pence.

Expenses Court Houses and Gaols.

For ordinary expenses of Court Houses and Gaols, two hundred and thirty-four pounds seven shillings and one penny.

Binding Journals.

The sum of forty-six pounds and one penny, on account of Binding Legislative Journals for the Year One Thousand Eight Hundred and Sixty-two.

Fog Guns.

The sum of Eight pounds nine shillings and five pence to defray the expenses attending the firing of Fog Guns.

Poor Relief.

For the Relief of the Poor, one thousand seven hundred and seventy-five pounds thirteen shillings and four pence.

Water Company.

The sum of three hundred and fifteen pounds on account of the General Water Company.

Poor Asylum.

For Repairs and General Expenses at the Poor Asylum, three hundred and five pounds thirteen shillings and six pence.

Repairs Court Houses and Gaols.

For repairs of Court Houses and Gaols, two hundred and ninety-one pounds seventeen shillings and six pence

Rev. J. S. Peach

To the Rev. J. S. Peach, on account of Bridge at

North Shore, seventy-two pounds nine shillings and two pence.

The sum of One hundred and thirty-one pounds one shilling and eight pence on account of the International Exhibition. International Exhibition.

To John Lewis, on account of Harbor Main Riots in the year 1861, five pounds eleven shillings and ten pence. John Lewis.

To James Buck, on account of Harbor Main Riots in the year 1861, one pound three shillings and one penny. James Buck.

To John Connell, five pounds, compensation for loss of office. John Connell.

To Elizabeth Woods, compensation for loss through the Post Office, thirteen pounds. Elizabeth Woods

To John T. Burton, compensation for loss through the Post Office, two pounds thirteen shillings and one penny. J. T. Burton.

To Mary Dwyer, compensation for loss through the Post Office, thirteen pounds. Mary Dwyer.

To the Fishermen's Society, in aid of a Library, forty pounds. Fishermen's Society.

To William T. Parsons, on account of Repairs to Town Clock, fifteen pounds. Town Clock repairs.

To Patrick O'Sullivan, on account of Work performed, forty pounds nineteen shillings and ten pence. Patrick O'Sullivan.

To Patrick Ryan, for removing Overhanging Cliff at Logy Bay, twenty pounds. Patrick Ryan.

To James Saint, in aid of a Library at Bonavista, fifteen pounds. Library at Bonavista.

To the Board of Works, on account of Wharf at Portugal Cove, thirty-four pounds thirteen shillings and four pence. Portugal Cove Wharf.

To Israel Gosse, compensation for services rendered the passengers of the steamer Blue Jacket, twenty pounds. Israel Gosse.

To the Honorable Robert J. Pinsent, on account of Law-Reporting, eight pounds thirteen shillings and four pence. Law Reporting.

To the Representatives of the late William G. Flood,

- Law Reporting- on account of Law-Reporting, eight pounds thirteen shillings and four pence.
- Pump at Brigus To Thomas Wilcox, on account of Pump at Brigus, thirty pounds.
- Board of Works To the Board of Works, on account of Pumps, six for pumps. pounds and ten shillings.
- Clam Cove To the Board of Works, on account of Glam-Cove Grave Yard, twenty-seven pounds eleven shillings and eight pence.
- Wharf, Carbo- To J. & R. Maddock, on account of Public Wharf near. at Carbonear, twenty-six pounds.
- Samuel Howe, To Samuel Howe, for Services as Acting Magistrate, twenty pounds.
- Road work at The sum of ninety pounds two shillings and eight Harbor Grace. pence, on account of Road Work at Harbor Grace.
- Contingent Ex- The Clerk of the Legislative Council, three hundred penses Legisla- and fifty pounds.  
ture. The Clerk of the Legislative Council, to defray the Contingencies of his Office, eighty-three pounds six shillings and eight pence.
- The Usher of the Black-Rod, one hundred and twenty pounds.
- The Usher of the Black-Rod, to defray the Contingencies of his office, twenty-eight pounds and eight pence.
- The Reporter of the Debates, Legislative Council, one hundred and twenty-five pounds.
- The Door-Keeper, Legislative Council, fifty pounds.
- The Under Door-Keeper, Legislative Council, thirty pounds.
- The Messenger, Legislative Council, twenty-five pounds.
- J. W. McCoubrey, Publishing Debates of Legislative Council, forty pounds.
- J. W. McCoubrey, for Miscellaneous Printing, Legislative Council, eighty pounds and four pence.
- The Proprietor of the Newfoundlander, Publishing Debates, Legislative Council, thirty pounds.
- Henry Winton, Publishing Debates, Legislative Council, thirty pounds.

The Clerk of the House of Assembly, two hundred and seventy-five pounds.

Contingent expenses Legislature.

The Clerk of the House of Assembly, to defray the Contingent Expenses of his Office, one hundred and nineteen pounds eleven shillings and five pence.

The Clerk of the House of Assembly, to defray the Expenses of the Legislative Library, one hundred and twenty-five pounds five shillings and nine pence.

The Clerk Assistant of the House of Assembly, one hundred and twenty-five pounds.

The Solicitor of the House of Assembly, one hundred and fifty pounds.

The Sergeant-at-Arms, one hundred pounds.

The Sergeant-at-Arms, to defray the contingent expenses of his office, thirty-three pounds thirteen shillings and two pence.

Richard B. Holden, engrossing Bills and attending as Clerk Select Committees, one hundred and ten pounds.

The Door Keeper, House of Assembly, forty-five pounds.

The Messenger, House of Assembly, forty pounds.

The Under Door Keeper, House of Assembly, thirty-five pounds.

The Assistant Door Keeper, House of Assembly, fifteen pounds.

The Outer Door Keeper, House of Assembly, fifteen pounds.

The Fire-man, House of Assembly, thirty pounds.

The Reporters of the Debates, House of Assembly, two hundred and twenty-five pounds.

Thomas McConnan, account for Stationery, fifty-seven pounds seven shillings and eight pence.

Ada Rendell, gratuity, fifty pounds.

The Chairman of the Committee of Supply, House of Assembly, fifty pounds.

John Little, Compensation, Preparing Index of Journals, House of Assembly, twelve pounds.

The Telegraph Company, for Messages, thirteen pounds two shillings and nine pence.

Contingent ex-  
penses Legisla-  
ture.

Henry Winton, Publishing Debates, House of Assembly, seventy pounds.

Henry Winton, for Miscellaneous Printing, House of Assembly, one hundred and eighty-eight pounds six shillings and one penny.

James Seaton, Publishing Debates, House of Assembly, seventy pounds.

James Seaton, for Newspapers, eleven pounds nine shillings and four pence.

Proprietor of Newfoundlander, Publishing Debates House of Assembly, seventy pounds.

Proprietor of Newfoundlander, for Newspapers, nine pounds seventeen shillings and seven pence.

Robert Winton, Reporting and Publishing Debates, House of Assembly, ninety pounds.

Robert Winton, for Newspapers, ten pounds five shillings and ten pence.

William Squarey, Copying Debates, House of Assembly, thirty-five pounds.

To the Proprietor of the Patriot, on account of arrears for Printing, thirty-nine pounds and twelve shillings.

Francis Winton, Publishing Debates, House of Assembly, forty pounds.

Francis Winton, for Newspapers, two pounds three shillings and four pence.

Joseph Woods, publishing Debates House of Assembly, in the year 1861, twenty pounds.

Joseph Woods for Newspapers in the years 1862 and 1863, ten pounds twelve shillings and eleven pence.

John C. Withers, printing Journals, Legislative Council, two hundred and twenty-nine pounds and nine shillings.

James Seaton, printing Journals, House of Assembly, two hundred and ninety-six pounds ten shillings and seven pence.

Henry Winton, on account of Miscellaneous Printing, House of Assembly, one hundred and sixty-eight pounds ten shillings and eight pence.

Robert Dicks, binding Journals Legislative Council, twenty-two pounds ten shillings and eight pence. Contingent expenses Legislature.

Robert Dicks, binding Journals House of Assembly, twenty-one pounds thirteen shillings and four pence.

James Seaton, on account of Journals House of Assembly, one hundred and thirty pounds.

The sum of one hundred and twenty-four pounds eighteen shillings and six pence, on account of unforeseen contingencies. Unforeseen contingencies,

The sum of one thousand four hundred and twenty-one pounds one shilling and one penny, for general repairs of Roads. Repairs roads.

The sum of five hundred pounds seventeen shillings and two pence, on account of Fence at Penitentiary. Penitentiary Fence.

The sum of six pounds seven shillings and five pence for repairs of Block-House. Block House

The sum of fifty-seven pounds fourteen shillings and five pence, in aid of the Book Depository for Boards of Education. Book Depository, Boards of Education.

The sum of one hundred and eighty-seven pounds eight shillings and eleven pence on account of the Winter Mail Route to Twillingate. Winter Mail Route to Twillingate.