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ACTS

OF THE

GENERAL ASSEMBLY

OF

PRINCE EDWARD ISLAND;

COMPRISING

PARTS FIRST AND SECOND,

From the First Establishment of the Legislature to the Fifty-Seventh
Year of the Reign of King George the Third.

WITH AN INDEX.



Charlotte-Town,

PRINTED BY JAMES BAGNALL,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY.

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Rec. May 21, 1903.

THE ACTS
OF THE
GENERAL ASSEMBLY,

&c.

Anno Decimo Tertio Regis GEORGII III.

1773.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of St. JOHN begun and holden at CHARLOTTE-TOWN, on the seventh day of JULY, ANNO DOMINI, one thousand seven hundred and seventy-three, and in the thirteenth Year of the Reign of our Sovereign Lord GEORGE the THIRD, of Great Britain, France, and Ireland KING, Defender of the Faith, &c. being the first General Assembly convened in the said Island.

WALTER PATTERSON,
Governor.

JOHN DUPONT, Prési-
dent of Council.

ROBERT STEWART,
Speaker.

C A P. I.

AN ACT for confirming the past PROCEEDINGS of his Majesty's GOVERNOR and COUNCIL, antecedent to the calling of a GENERAL ASSEMBLY.

WHEREAS it has been found absolutely necessary and expedient, by his Majesty's Governor and Council of this Island, to make several Resolutions, Rules, Ordinances, and Regulations, for the good Government of said Island:

I. Be it therefore enacted by the Governor, Council, and Assembly, That all the Resolutions, Rules, Ordinances, and Regulations made by his Majesty's Governor and Council, antecedent to the calling of a General Assembly, within this Island, are hereby repealed and made void; saving always, to all and every Person or Persons whatsoever, what was and is his, her, or their Rights and Benefits, which he, she, or they had by the said Resolutions, Rules, Ordinances, and Regulations; and also saving harmless and indemnified all and every Person or Persons, who hath, or have acted, or done any thing in con-
sequence

Preamble.

All Resolutions, Rules, Ordinances &c. by Governor & Council antecedent to calling of this present Assembly repealed saving to all persons any right which they may have by any of said Ordinances, &c.

Indemnification to all persons who have

done any thing in consequence of said Ordinances, &c.

sequence of or pursuance to any of them. And all Proceedings heretofore had and done in pursuance of such Resolutions, Rules, Ordinances, and Regulations, and every of them, shall be, and the same are hereby ratified and confirmed to all intents and purposes whatsoever.

C A P. II.

AN ACT, to confirm and make valid in LAW all Manner of PROCESS and PROCEEDINGS in the several COURTS of JUDICATURE within this ISLAND, from the first day of May, one Thousand Seven Hundred and Sixty-nine, to this present SESSION OF ASSEMBLY.

Preamble.

WHEREAS this Island has been without a complete Legislature from the commencement of the Government thereof, which took place on the First day of May one Thousand Seven Hundred and Sixty Nine, unto this present Session of Assembly; during which time many and various Proceedings have been had at the several Courts of Judicature in this Island:

All Writs, Pleas, &c.

Be it therefore enacted by the Governor, Council and Assembly, That all Writs, Pleas, Process, Actions, Bills, Suits, Indictments, Informations, Judgments and Decrees, of or concerning any matter or thing whatsoever, which have been heretofore sued out and prosecuted to Judgment in any of the said several Courts within this Island, from and after the said First day of May one Thousand Seven Hundred and Sixty Nine, to the end of this present Session of Assembly, shall be good and valid in the Law: Provided always, that this act shall not be construed to extend to take away or rectify errors in the misusing of Process, Mispleadings, and erroneous rendering of Judgment in point of Law: But in all such cases, the Parties aggrieved may have their Writ or Writs of Error upon such erroneous Judgment, in such manner as they might have done before the making of this act.

in any Court within this Island from the first of May 1769 to the end of this present Session, confirmed,

saving to parties Writ of Error.

C A P. III.

AN ACT, for establishing the TIMES and PLACES of holding the SUPREME COURTS of JUDICATURE.

Acts which amend or alter this act 26th Geo. 3, c. 11, 35 Geo. 3, c. 7.

BE it enacted by the Governor, Council, and Assembly, That his Majesty's Supreme Court of Judicature shall be holden at two Terms in every year; that is to say, on the third *Tuesday* in the month of *February*, and on the last *Tuesday* in the month of *June*, at *Charlotte-Town*.

Supreme Court of Judicature to sit at Charlotte-Town two Terms in each year.

And that all Suits, Pleas, Declarations, Bills, Indictments, Informations, Judgments and Decrees, which shall hereafter be sued out, prosecuted

All Writs, Pleas, &c. to be valid.

prosecuted, rendered or given, in the said *Supreme Court of Judicature* shall be good and valid in the Law to all Intents and Purposes whatsoever. *Provided always*, that this Act shall not be construed to extend to take away or rectify errors in the misusing of Process, Mispleadings and erroneous rendering of Judgments in point of Law. But in all such cases the parties aggrieved shall and may have their Writ or Writs of error upon such erroneous Judgments.

Saving clause to Sultors.

New Term added by 26th Geo. III, c. 11, s. 1.

C A P. IV.

AN ACT for the Publication of all the LAWS within this ISLAND, and for recording the same in the SECRETARY'S OFFICE; as also for transmitting the JOURNALS of the COUNCIL and HOUSE of ASSEMBLY into the said Office, to the end that no person be ignorant of the LAWS of this ISLAND.

Repealed by 35th Geo. 3d, c. 6.

C A P. V.

AN ACT for ascertaining DAMAGES on protested BILLS of EXCHANGE.

BE it enacted by the Governor, Council, and Assembly, That from and after the first day of August, in the Year of our Lord one thousand seven hundred and seventy three, all Bills of Exchange drawn from and after said time, by any Person or Persons residing within this Island, upon any Person or Persons in Europe, and which shall be protested and returned to this Island under Protest, each and every such protested Bills of Exchange shall be subject to Ten Pounds per cent, Damages, and Six Pounds per cent, per annum Interest, over and above all charges of Protest, Postage, and other attendant Expences; the same to be calculated on such Bill or Bills from the day of the date of the Protest, up to the time of Payment.

Foreign Bills of Exchange returned protested, subject to £10 per cent. damages.

II. *And be it further enacted*, That all Bills of Exchange drawn by any person or persons residing within this Island from and after the expiration of said time, on any person or persons in other Colonies, and sent back protested, shall be subject to Five Pounds per cent Damages, and to Six Pounds per cent, per annum interest, to be calculated from the day of the date of the Protest, up to the time of payment.

Colony Bills of Exchange, subject to £5 per cent.

III. *And be it further enacted*, That all Bills and Orders which shall or may be drawn from and after the said first day of August, by any Person or Persons living or residing within this Island, on any Person or Persons also living or residing in the same, and which may be duly protested, shall be subject to Six Pounds per cent, interest

Island Bills of Exchange £6 per cent.

to be calculated from the day of the Protest up to the time of payment.

C A P. VI.

AN ACT to prevent the throwing of BALLAST into RIVERS and CREEKS on this ISLAND.

Repealed by 49th
Geo. 3d c. 3.

C A P. VII.

AN ACT for indemnifying persons who shall Burn small Bushes, rotten Wind-falls, decayed Leaves, and all other Brush and Rubbish upon the LANDS and in the WOODS on this ISLAND.

Repealed by 39th
Geo. 3d, c. 2.

C A P. VIII.

AN ACT, for the more easy and effectual Trial of CRIMINAL OFFENDERS, also trials of PROPERTY, or any other Suit or Suits of what nature or kind soever; and for the ascertaining the qualifications of JURORS in Trials of such Offenders, as also in trials of PROPERTY or any other Suit or Suits of what nature or kind soever.

Preamble.

WHEREAS it is apprehended, that the Trial of Criminal Offenders in the different Counties within this Island, where such offences shall or may be committed, perpetrated or done, will be, at present, attended with much inconvenience and delay, there not being in each County a sufficient number of inhabitants to compose a qualified Jury for the Trial of such Offenders, nor for the Trials of Property or any other Suit or Suits. Wherefore, for the more speedy and effectual Trial of such Offenders, as also Trials of Property, or any other Suit or Suits of what nature or kind soever.

I. *Be it enacted by the Governor, Council, and Assembly,* That from and after the Publication hereof, all and every Treason, Felony, Breach of the Peace, or other Criminal Offence, which shall or may be committed, perpetrated or done within this Island, or the Territories thereunto adjacent, shall and may be enquired of, heard and determined, and Execution awarded thereon, according to the Laws of that part of *Great Britain*, called *England*, and of this Island, not repugnant thereto, in his Majesty's Supreme Court of Judicature, at *Charlotte-Town*, in the *Queen's County*, in the like manner as if the Island consisted of one County only, by good and lawful men of the *Queen's County*, aforesaid, or from any other County within this Island, jointly and separately, in like manner and form, to all intents and purposes, as if the said Treasons, Felonies, Breaches of the

All Trials for criminal Offences to be enquired of and determined in the *Queens County*,

by a jury of the *Queens county* separately or jointly from the several counties.

the Peace, or other Criminal Offences, had been committed, perpetrated, or done in the *Queen's County* aforesaid, where they shall be so enquired of, heard, tried and determined as aforesaid, or within any other County in this Island; and also in like manner all and every Trial of Property, local and transitory action, or any other Suit or Suits of what nature or kind soever shall be conducted and had.

Trials of Property
in the same manner.

And Whereas difficulties may occur in Trials of Treason, Felony, Breaches of the Peace, or other Criminal Offences; as also of all local as well as transitory Actions, with respect to the qualifications of Jurors summoned and returned on such Trials; for remedy, Whereof,

Recital.

II. Be it enacted by the Governor Council, and Assembly, That from and after the Publication hereof, all persons, except such as by their respective Professions, Trades or Occupations, are exempted from serving on Juries by the Laws and customs of that part of *Great-Britain*, called *England*, shall be, and they are hereby made liable to be summoned, and returned Jurymen on all Trials of Treason, Felonies, Breaches of the Peace, or other Criminal Offences of what nature or kind soever they may be; as also on all Trials of Property, whether local or transitory. Provided such Person or Persons at the time of being summoned, and at the time of such Trial or Trials, shall or may be liege subjects of his Majesty, and inhabitants or Owners of Land within this Island; and all and every such Person or Persons so qualified, as aforesaid, shall not be subject to be challenged on account of the County or Shire where he or they may respectively inhabit or reside, nor for want of Freehold or other Property; but shall nevertheless, for any other Lawful cause shewn, be subject to be challenged; and, if the cause of challenge be adjudged sufficient, rejected, according to the Laws of that part of *Great-Britain* called *England*, in like cases.

Description of Persons
that may be summoned as Jurymen

their Qualifications.

Not to be challenged
on account of their
County, nor for want
of Freehold.

C A P. IX.

AN ACT empowering His Excellency the GOVERNOR, or other COMMANDER in CHIEF for the time being, to direct the making of PUBLIC ROADS, and to appoint Persons to carry the same into Execution.

Repealed by 21st
Geo. 3d. c. 5. s. 10.

C A P. X.

AN ACT prohibiting all MASTERS of SHIPS or VESSELS, or any other Person, from transporting or conveying away any person or persons out of this ISLAND, or the Territories adjacent thereto, without a LICENCE or PASS, except only such as are thereinafter excepted.

Repealed by 25th
Geo. 3. c. 9. s. 1.

C A P. XI.

AN ACT for the more easy and speedy recovery of SMALL DEBTS.

Amended by 16, Geo. 3. c. 2, by 31 Geo. 3. c. 5, also by 31, Geo. 3. c. 5, by 41 Geo. 3. c. 6, and by 46 Geo. 3. c. 1.

Preamble.

WHEREAS many inconveniencies have arisen to his Majesty's Subjects of this Island through the want of an expeditious and easy method for the Recovery of small Debts: For remedy whereof,

Creditors may sue for any Debt not exceeding 40s.

Description of persons that may be sued.

Method of proceeding before a Justice of Peace.

Justice of Peace required to grant Summons

requiring Debtor to appear before him.

Manner of serving Summons.

I. Be it enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, it shall and may be lawful for any person or persons whatsoever, who now have, or hereafter shall have, any Debt or Debts, not exceeding the sum of Forty Shillings, due or owing unto him, her, or them, in his, her, or their own Right, or as Executor, Administrator, Guardian, or Trustee to any other person or persons, by or from any other Person or Persons whatsoever residing, or in any manner, or by any ways or means whatsoever seeking a livelihood or sojourning within this Government, to apply to any one of his Majesty's Justices of the Peace, for this Island appointed for the County wherein such Person or Persons, so indebted as aforesaid, respectively resideth, seeketh a livelihood, or sojourneth; and every such Justice is hereby required, immediately on every such application, to grant a Summons, under his Hand, to the party so applying, directed to such Debtor or Debtors, and requiring him, her, or them to appear before him in six days next after the day of the service of such Summons, at a certain time and place to be mentioned in the same, to answer such complaint, and the complainant may forthwith cause such Summons to be served on his said Debtor or Debtors, by delivering a true copy of the same to him or them in person, or to the wife, child, or other Person belonging to such Debtor or Debtors at his, her, or their known place of abode: Provided such child or other person be sixteen years old, or upwards, and at the time of delivering the said copy, the person or persons so delivering the same shall inform him, her, or them, to whom the same shall be delivered, of the meaning or purport thereof: and if such Debtor or Debtors be an inmate, the service of said Summons shall be valid by delivering a copy thereof to any person or persons of discretion as aforesaid, at the House or place where such Debtor or Debtors do lodge, or reside, and at the same time telling him, her, or them the meaning or purport thereof.

II. And be it further enacted, That such Summons, so to be granted, shall be in the following Form, and in no other.

COUNTY.

Form of Summons.

C. D. Plt. } By A. B. Esquire, one of His Majesty's Justices
E. F. Dft. } of the Peace for said County.

YOU are hereby required personally to be and appear before me, at
at the House of on the day of next, at the
hour

hour of Forenoon, of the same day to answer the Plaintiff in an action for the sum of £. [mention on what account due] or in Default of your appearance, you will be proceeded against as to Justice shall appertain.

Given under my Hand and Seal, the day of 17 A. B. To the Defendant E. F.

III. *And be it further enacted*, That upon the appearance of the said Debtor or Debtors, in compliance with such Summons, before the Justice who shall have granted the same; or in default of appearance, upon proof made that the same hath been duly served in manner as herein before directed, by the Oath of the Complainant, or any other person; that then the Justice so issuing such Summons is hereby authorised and required to make due enquiry concerning such demands, and to make such order and give such Judgment touching such Debts, not exceeding the sum of *Forty Shillings*, (exclusive of costs) as to him shall seem most agreeable to Law, Equity and good Conscience.

And if such Debtor or Debtors, against whom any order or Judgment may be made or given as aforesaid, shall appear to the Justice who shall have made or given the same, to be deserving of indulgence, that then and in every such case, the said Justice is hereby empowered to grant such time to the Debtor or Debtors, for the payment of the sum or sums which shall or may be so ordered, or adjudged against him, or them respectively, as shall seem reasonable: *Provided* the time so granted shall not exceed one month, to be computed from the day of hearing and determining such plaint or or plaints; as also, that such Debtor or Debtors, so indulged as aforesaid, shall immediately thereupon give sufficient security to pay such adjudged sums or sums at, or within the time limited therefor.

IV. *And be it further enacted*, That for the better discovery of the truth, and for the more solemn determination of all matters and causes which shall or may be depending before such Justice, it shall and may be lawful for him, and he is hereby empowered to administer, or cause to be administered, an Oath to either of the said Parties touching the matters then in question, as also to such Witness or Witnesses as shall or may be produced by either party; and also to any other person or persons whose evidence shall seem necessary on the hearing, to the just determination of such cause or causes, or to the making any order or Judgment therein, or for any other purpose requisite to the Execution of this Act.

V. *And be it further enacted*, That if such Debtor or Debtors, who shall have been duly summoned as aforesaid, do not appear before such Justice, at the time and place required in and by the said Summons, without some just cause, to be allowed by such Justice: then it

Power and Business of a Justice

on proof of serving the Summons.

Justice to enquire into demand and pass judgment thereupon.

Power to Justice to grant to Debtor any time, not exceeding one month, for the payment of what shall be decreed against Debtor.

Debtor to give security to pay within the time granted.

Justice to administer an oath to the parties and their Witnesses, &c.

Debtor not appearing, Justice (after Proof of service of summons) may hear the cause on the part of the Plaintiff, and pass judgment thereon

it shall and may be lawful to and for the said Justice, after due proof made upon Oath of the service of the said Summons, in manner aforesaid, to hear the cause on the part of the Plaintiff or Plaintiffs only, and to make such Order or Judgment, (so as that the same shall not exceed the Sum of *Forty Shillings*) exclusive of Costs, as to him shall or may seem most agreeable to Law, Equity, and good Conscience; and also to order and oblige the Defendant or Defendants to pay the same, by such ways and means as are herein before and after provided and directed.

Plaintiff not appearing, or being nonsuited,

VI. *And be it further enacted*, That if upon the day of the return of such Summons the Plaintiff or Plaintiffs shall not appear, (without some just cause to be allowed by such Justice,) or upon appearing, shall not make proof of his, her, or their Demand, to the satisfaction of the said Justice before whom the hearing of such Summons shall be, but become nonsuited, it shall and may be lawful to and for such Justice to award to the Defendant or Defendants reasonable costs and travelling expences, and to order and oblige the Plaintiff or Plaintiffs to pay the same, by such ways and means as are herein provided for the Recovery of Debts ordered and adjudged by any one of his Majesty's Justices of the Peace for this Island.

Justice to award costs and travelling expences to Defendant.

Witness duly summoned refusing to appear and give evidence.

VII. *And be it further enacted*, That in case any person or persons, residing within this Government, shall be duly served with a Subpœna or Summons issued by any such Justices of the Peace requiring him, her, or them, at a certain time and place therein mentioned, to give evidence on behalf of any Plaintiff or Defendant; and at the same time being informed that his, her, or their expences and loss of time shall be duly satisfied, agreeable to the order of the Justice so issuing such Subpœna or Summons; and such Person or Persons neglecting or refusing to appear, as therein required and due proof having been made of the Service thereof, and of the truth of such information, and no cause of absence having been shewn to the satisfaction of the said Justice, and Oath having been made before him by the party or parties at whose instance, or on whose behalf such Subpœna or Summons issued, that the person or persons served therewith was, or were, a material Witness or Witnesses for the Party or Parties; that then it shall and may be lawful for such Justice to impose a Fine on such delinquent Party, not exceeding *Fifty Shillings*, nor less than *Five Shillings*, together with costs, to be levied by distress and sale, as is herein before and after directed; ordering at the same time the overplus (if any) to be paid to such delinquent party, the charges of such distress and sale being first deducted. Which Fine, when paid or levied, shall be paid over to the party or parties at whose instance, or on whose behalf, such Subpœna or Summons issued.

may be fined not exceeding 50s. nor less than 5s.

to be levied by Distress and sale of Delinquent Party's Goods

VIII. And be it further enacted, That the Form of the said Subpoena shall be in the words following, viz.

Mr. JOHN DOE.

County.

BY A. B. Esquire, one of his Majesty's Justices of the Peace for said County.

YOU are hereby required personally to be and appear before me at the House of on the day of next, at the hour of Forenoon, of the same day, to testify the truth according to your knowledge in this cause on the part of the Plaintiff Defendant. And hereof you are not to fail, on the pain of being fined as the Law directs.

Given under my Hand and Seal, &c.

IX. And be it further enacted, That if any person or persons shall find him, her, or themselves aggrieved by any order or judgment of the said Justice or Justices, in any of the cases herein before mentioned the said person or persons shall have liberty to appeal to the then next sitting of his Majesty's Supreme Court of Judicature: Provided always, That such appeal shall be applied for and duly entered within two days next after the said order or judgment of such Justice or Justices; and the said Justice or Justices on application therefor, is and are hereby required to enter such appeal, so applied for; but such Justice or Justices may nevertheless disallow such appeal, unless the party applying for the same shall immediately, on being required thereto, enter into recognizance, with sufficient surety, to abide the determination or judgment of the Chief Justice or other Justices of the said Supreme Court of Judicature, which recognizance shall be in the Form following: viz.

County. } the day of 17
to wit. } and in the Year of KING GEORGE the

Third.

J. M. in Error, Plt. } I. M. is delivered on Bail to prosecute his
N. W. in Error, Deft. } appeal, at the next sitting of his Majesty's Supreme Court of Judicature, which will be on the day of next coming.

To

P. R. of in County, } his occupation.

Q. O. of in County, }

Taken and acknowledged before me A. B. Esquire, one of his Majesty's Justices of the Peace for said County. } I. M.
} P. R.

And before the Execution of the said Recognizance, the said Justice or Justices before whom the same shall be taken, is and are hereby required to repeat, distinctly to the parties thereto, the following condition:

You do jointly [and as the case may be] severally undertake, That if the Appellant be condemned to pay the Appellee what has been ordered or adjudged to be due from the Appellant to the Appellee, for damages and Costs that then you, or one of you (as the case may be) shall pay the same

Form of Subpoena:

Party aggrieved may appeal to the Supreme Court of Judicature—Appeal to be applied for within 2 days after Decree.

Justice immediately to enter Appeal.

Justice not to allow Appeal unless Security be given.

Form of Recognizance.

Condition of Recognizance.

same, together with Costs and condemnation Money, if adjudged by the said Supreme Court of Judicature. This you severally acknowledge.

In case of no appeal
or if appeal, Security
not given,

3^d Sec.

Justice to award Ex-
ecution against the
Goods of the party;
in case no Goods, a-
gainst the body.

X. And be it further enacted, That in case there be no such application for an Appeal, as aforesaid, or that the party applying for, or prosecuting such Appeal, shall not enter into the said Recognizance within the time aforesaid, or that there be no indulgence granted as aforesaid; that then it shall and may be lawful for such Justice or Justices to award Execution against the Goods and Chattels of the party; and in case there shall not be any Goods and Chattels found, then against the body of the party against whom such order or judgment shall have been made or given as aforesaid. And thereupon it shall and may be lawful for such Justice or Justices to issue a Writ of Execution, in due form of Law, according to the Provisions of this Act, directed to the *Provost Marshal* of this Island, who, by virtue of such Execution, is hereby authorised and directed, within six days inclusive from the day of executing such Writ of Execution, to levy, by distress and public sale of the Goods and Chattels of such party, the sum of money mentioned in such Writ of Execution, and costs, in the same manner as the Sheriffs in *England* levy money by Writs of *feri facias* issuing out of any of his Majesty's Courts of Record at *Westminster*. And in case the party against whom any such Writ of Execution is issued, has not any Goods or Chattels, so that such sum or sums of money, and costs, cannot be levied in manner aforesaid; that then, and in such case only, the said *Provost Marshal* is hereby empowered to take the body of such party, and to carry him, her, or them to the next common Goal or Prison in this Government, there to remain till he, she, or they shall perform and pay such order or judgment; so as that he, she, or they shall not remain in confinement upon any such Writ of Execution for a longer space than three calendar months, (if committed by virtue of said Writ of Execution between the months of *April* and *October*, in the Summer Season;) or if between the months of *October* and *April*, (in the Winter Season) four calendar months. After which said confinement he, she, or they shall be freed and discharged from the same, together with the Debt which he, she, or they shall be so committed for.

Provost Marshal in
case of no Goods to
take Defendant's bo-
dy.

Confinement on Ex-
ecution not to exceed
three months in the
Summer Season, or
four Months in the
Winter Season.

XI. And be it further enacted, That all such Writs of Execution shall be made returnable within fourteen days from the test, or date thereof: also, in the body therein, there shall be mentioned the sum or sums, and costs so ordered and adjudged; and that all such Writs of Execution shall be in the form following, viz.

COUNTY, to wit :

Plaintiff. } BY A. B. Esquire, one of his Majesty's
Defendant. } Justices of the peace for said County.

UPON opening the Plaintiff's Bill this day preferred to me, it appeared the Defendant was duly served with a Summons to appear before

Form of Execution.

before me on this day, and to answer the allegations of the Plaintiff's Bill; and that the Defendant was indebted to the Plaintiff in the sum of £. together with £. costs of obtaining this Judgment.

And the Provost Marshal, is hereby commanded to attach the Defendant's Goods and Chattels; and thereof to dispose according to Law; and thereout to satisfy and pay the Plaintiff, or his assigns, his said debt, and costs; and in case the said Defendant hath no Goods and Chattels within his precinct to satisfy the Plaintiff's debt and costs, then the said Provost Marshal is hereby commanded to attach the Defendant's body, and him to keep in safe Custody, until he shall pay the Plaintiff his said debt and costs, or be otherways lawfully discharged. And the said Provost Marshal is hereby further commanded, to certify and make due return to the said A. B. Esquire, of what he shall do in the Execution of this Writ, within fourteen days next after the Test hereof.

Given under my hand and Seal, at the day of
17 and in the Year of the Reign of King
George the Third.

XII. And be it further enacted, That if the party against whose Goods and Chattels, or against whose body, any such Writ of Execution shall be awarded as aforesaid, shall, by secreting or removing his, her, or their goods, or by absconding, or by any other means prevent or evade the service or effect of any such Writ of Execution it shall and may then be lawful for the Justice who shall have awarded and issued such Writ of Execution, upon such matter being returned thereon, and upon proof made to him by the Oath of one or more credible Witness or Witnesses, that the whole, or a certain part of the said Judgment still remains due and unsatisfied, to award and issue an *alias* Execution for the sum so proved to be due with additional costs; and in the like case, and on such proof made, to issue other and further Executions, until the whole of the said Judgment shall have been satisfied.

XIII. And be it further enacted, That if the Provost Marshal, or any other Officer by him appointed to execute any of the said Writs of Execution, shall, by wilful and notorious Neglect, or by connivance, cause or suffer the Goods and Chattels of such party to be carried away, or secreted, or suffer the party against whom such Writ of Execution shall be awarded and issued, to escape or abscond, so that, in either of such cases the said Writ of Executions shall not have its due effect; then it shall and may be lawful for the said Justice who may have awarded and issued such Writ of Execution, upon complaint made, and due proof thereof, upon the Oath of one or more credible Witness or Witnesses, to order the party, so offending, to pay the sum or sums of money, and costs, for which the said Writ of Execution was awarded and issued, to the party complaining; and

If Writ of Execution be prevented or evaded,

Justice may issue another.

Provost Marshal, or other Person, guilty of notorious misbehaviour,

Justice may enquire into the same, and award satisfaction to the Party injured.

and also to enforce the payment thereof by the same method and means as are herein provided for the recovery of small debts: such Justice, in all like cases, directing said Writs of Execution to the Coroner or Coroners of this Island.

XIV. *And be it further enacted,* That any Person or Persons who now have, or hereafter shall have, any debt or debts, not exceeding the sum of *Forty Shillings* due to him, her, or them, as herein before mentioned, by or from any person or persons whatsoever, as herein also before mentioned such person or persons discovering that the debtor or debtors is, or are intending to leave, or about leaving this Government, so that their departure will take place before the expiration of the time herein before limited for the Return of a Justice's Summons; that then it shall and may be lawful for any one of His Majesty's Justices of the Peace for the County wherein such debtor or debtors may reside, seek a livelihood, or sojourn, immediately upon application, on Oath, of any Complainant or Creditor before mentioned, or other person, that such Complainant, Creditor or other person does know, or has been credibly informed and verily believes, such Debtor or Debtors to be intending to leave this Government, within the time above mentioned, to issue a Summons as herein before directed, requiring such debtor or debtors immediately, or at such convenient time as the said Justice shall or may judge reasonable, to appear before him at a certain time and place, to be by him limited; after which the Justice issuing such Summons shall, in every respect and particular, (except where the necessity of the Case shall or may require an immediate order or Execution) proceed as herein before is directed and provided for the recovery of debts not exceeding *Forty Shillings*.

Justice, where Debtor is absconding, empowered to issue an immediate Summons and to proceed thereon.

No Person exempted by reason of any Privilege.

No Attorney or Advocate to speak in any cause before a Justice unless he be a party or Witness, on penalty of £5.

Allowance to the Justices and Provost Marshal,

XV. *And be it further enacted,* That no privilege, or pretended privilege, shall be allowed to exempt any person whatsoever from being proceeded against by Virtue of this Act; nor shall any Lawyer, Attorney, or other person be admitted to appear before any Justice, as Attorney, or Advocate in behalf of any Plaintiff or Defendant, or be admitted to speak in any cause or matter before any Justice of the Peace who shall, at any time, sit to hear and determine Causes by virtue of this Act, in which such Lawyer, Attorney, or other Person, is not himself a Party, or Witness, under a Penalty of *Five Pounds*; one Moiety thereof to the Use of the Informer, and the other Moiety, to be paid to the *Treasurer*, to and for the Use of his Majesty's Government in this Island; the same to be recovered by Action, Suit, Bill, Plaint or Information, in *His Majesty's Supreme Court of Judicature*, wherein no Essoin, Protection or Wager at Law shall be allowed, nor any more than one Impar lance.

XVI. *And be it further enacted,* That the several FEES herein after specified and expressed, and no other Fee or Fees shall or may be taken by any Justice of the Peace, Provost Marshal, Coroner, or other Officer or Goalor: That is to say,

The

THE JUSTICES FEES.

For every Summons,	£. 2 6
Subpœna ad Testificandum for every Witness,	6
Entering Appeal, and sending up Papers to the <i>Supreme Court</i> ,	2
Taking Recognizance to Prosecute Appeal,	1
Every Execution,	1 4

PROVOST MARSHAL and CORONER's FEES.

For the Service of every Execution and Return thereon,	2 6
For Travelling Expences, to be computed from the place of Residence of the Justice who issues the Execution, at the Rate of <i>Three Pence</i> per. Mile.	}
Levyng and paying Monies on Execution, at the Rate of <i>One Shilling</i> in the <i>Pound</i> .	

GOALER'S FEES.

(If not discharged as herein before mentioned) for the Commitment of every Prisoner	}	2 6
Lodging <i>One Penny</i> per. Night.		

A Table of which Fees shall be posted up in a conspicuous part of the Office, or most public Room belonging to the Justice of the Peace, Provost Marshal, Coroner or other Officer, and at every Goal which now is, or hereafter shall be, on this Island.

Table of Fees to be posted up in each Justice Office, &c.

XVII. *And be it further enacted*, That if any Justice of the Peace, the Provost Marshal, or other Officer, Goaler or any other Officer, Person or Persons to be employed by virtue of this Act, shall take or demand any greater or other Fee, or Fees, than as above mentioned, or in any other Manner act contrary to the true intent and Meaning of this Act, each and every of them, so offending, shall forfeit, for each and every Offence the Sum of *Five Pounds, Sterling*; the one Moiety to the Use of the Informer, and the other Moity thereof to be paid to the said *Treasurer*, for the Uses herein before mentioned, the same to be recovered in manner as herein before directed.

Penalty of demanding greater or other Fees not exceeding 5*l*;

XVIII. *And be it further enacted*, That each and every of his Majesty's Justices of the Peace shall, and they are hereby required, to keep a Book for the sole Use and Purpose of entering and registering the Name of the Parties Plaintiffs and Defendants, upon issuing any Summons as herein before directed; as also the several Orders and Judgments that they shall or may make on all Plaints which may come before them, in Pursuance of this Act. And furthermore, that each and every Justice before whom Recognizance for prosecuting any Appeal, as herein before directed, shall be entered into, shall, without delay, return the same into the *Clerk's Office of His Majesty's Supreme Court of Judicature*, at least two Days before the Sitting of said Court, so as that the same may be proceeded upon at the Sitting thereof next after the Date of such Recognizance; and all his Majesty's *Justices of the Peace* neglecting to keep such Book,

Each Justice to keep a Book for registering the several Plaints.

Justice to return without delay, Recognizance for prosecuting Appeals, to the Clerk of the Supreme Court.

on any Neglects to forfeit *£5*.

or to return such Recognizance in due time, shall, upon each and every such Neglect, forfeit the Sum of *Five Pounds, Sterling*, to the Person or Persons who shall be thereby aggrieved; the same to be recovered by Action, Suit, Bill, or Plaint, in *His Majesty's Supreme Court of Judicature*.

Chief Justice, or other Justice of his Majesty's Supreme Court of Judicature to proceed on Appeal, and pass final Judgment,

If Judgment be confirmed against original Defendant, treble interest to be decreed against him.

If against original Plaintiff, double costs.

Persons guilty of Perjury how to be punished.

XIX. *And be it further enacted*, That the *Chief Justice*, or other Justice for the time being, of *His Majesty's Supreme Court of Judicature*, be, and is hereby impowered and required, upon all Appeals made as aforesaid to the said Court, to cause all defects of Form that may appear in any original Order or Judgment of the said Justices, to be rectified and amended without Costs or Expence to the Parties concerned; and that, after such Amendment shall have been made, the said Court shall proceed to hear, examine, and consider the Truth and Merits of all Matters concerning such Appeals and the original Orders, or Judgments appealed from; and likewise to examine Witnesses, upon Oath, and to hear all other Proofs relating thereto, and to make such final Determination thereupon, as to the said Court shall appear Just and Reasonable. And if by the Consideration of the said Court, the original order or Judgment of the Justice or Justices shall be affirmed, and the Appeal or Appeals therefrom be dismissed, (if against the original Defendant;) that then the said Court shall adjudge the Sum or Sums so recovered by the original Plaintiff or Plaintiffs, to be paid to him, her, or them, respectively, together with the Costs allowed by such Justice or Justices; as also the full Costs of defending against the said Appeal or Appeals, together with triple Interest for the whole Sum, the same to be computed at the Rate of the lawful Interest of this Island at the Time of such Order or Judgment. And in case the said Court shall affirm the Order or Judgment of the Justice or Justices, (if against the original Plaintiff or Plaintiffs) and dismiss his, her, or their Appeals; then the Sum or Sums adjudged to the original Defendant or Defendants, by such Justice or Justices, for his, her, or their Costs and Travelling Expences, together with full double Costs for defending against such Appeal or Appeals, shall be adjudged to him or them respectively in the said *Supreme Court of Judicature*. And if the said *Chief Justice*, or other Justice upon a full hearing of such Appeal or Appeals, shall, set aside the order or Judgment of such Justice or Justices, then upon each and every such determination, it shall and may be lawful for said *Chief Justice*, or other Justice to adjudge and order Costs to the Appellant or Appellants. And upon all final Determinations or Judgments, Execution is hereby directed to issue, in due Form of Law, for the respective Sums therein recovered, on application made by the Party who shall have recovered the same,

XX. *And be it further enacted*, That all Persons giving Evidence on Oath in any Cause or Matter depending before any Justice, pursuant

suant to this Act, and who shall or may commit wilful and corrupt Perjury in giving their Evidence, shall, having been first duly convicted thereof, according to Law, incur and suffer such Penalties and Pains as Persons convicted of wilful and corrupt Perjury is or are liable to by the Laws of *England*, or of this Island, not being repugnant thereto.

XXI. *And be it further enacted*, That the affirmation or affirmations of the People called *Quakers*, shall be allowed of and taken in all Cases where any Oath or Oaths is or are directed to be taken by this Act, instead of such Oath or Oaths, and shall be administered by the same Persons as are hereby authorised to administer such Oath or Oaths; and every Person making such affirmation, who shall be convicted according to Law of wilful and false affirming, shall incur and suffer the same Penalties and Forfeitures as are inflicted and imposed by any of the Laws of *England*, or of this Island, not repugnant thereto, upon Persons convicted of wilful and corrupt Perjury.

Quakers' Affirmation to be taken.

False Affirming to be punished.

XXII. *And be it further enacted*, That no action or suit for any Debt, not amounting to the value of *Forty Shillings*, and being recoverable by Virtue of this Act before a Justice of the Peace, as aforesaid, shall be commenced in any Court of Record whatsoever within this Government; and if any Suit or Action shall have been brought there, and concerning which any Orders or Judgment shall have been made, or given therein by such Justice; then such Order or Judgment, on being pleaded to such Suit or Action, or given in Evidence on the General Issue therein, shall as to the Matter contained therein, be an effectual and perpetual Bar to the said Suit or Action, so erroneously brought; and the Books of Entry and Registry of the Justice of the Peace, (or if, there has been an Appeal) then the Book of Entry of the Clerk of his *Majesty's Supreme Court of Judicature*, or true Copies thereof attested, under the hand of such Justice, or Clerk of the said Supreme Court for the Time being, and proved by the Oath or Oaths of One or more credible Witness or Witnesses, shall be deemed legal Evidence of the proceedings such Justice, and of the said Supreme Court respectively.

Debts recoverable before a Justice not to be brought in any Court of Record.

XXIII. *Provided always and be it enacted*, That where the Plaintiff or Plaintiff's shall, upon any Action or Suit brought in any Court of Record within this Island, obtain a Verdict there for less than *Forty Shillings*; then, if the Chief Justice, or other Justice before whom the said Cause may have been tried, shall certify a probable or reasonable Cause of Action for *Forty-one Shillings*, or more, in every such Case the Plaintiff shall not, in any such Cause be liable to pay Costs, but may recover his Costs of Suit in such manner as if this Act had not been made.

Though Verdict doth not exceed 40s. an Judges certificate of a probable cause for Action, Plaintiff to have his Costs.

XXIV. *And be it further enacted*, That this Act, or any thing herein contained, shall not extend to Actions brought for the recovery

Specification of Debts not suable before a Justice.

very of Rents, in case or upon any Contract where the Title of Lands, Tenements or Hereditaments can or may come in Question; nor to any Debt, Matter, or Thing, that shall or may arise upon, or in any Wise relate to or concern any Cause of Testament or Matrimony, or any thing concerning or properly belonging to the Ecclesiastical Courts; nor to any Debt for Money or other thing won at or by means of any Horse-race, Cock-match, wager or any kind of Gaming or Play; nor to any Penalty incurred by any Act of this Island; nor to any Debt whereof there has not been a Contract, Acknowledgment, Undertaking or Promise to pay within six Years before the taking out the Summons, herein before mentioned.

Limitation of Actions.

General Issue.

Treble Costs.

XXV. *And be it further enacted*, That if any Action or Suit shall be commenced against any Person or Persons, for any Matter or Thing done in Pursuance of this Act, such Action or Suit shall be brought or commenced within six Calender Months next after the Cause of Action shall have arisen, and not afterwards; and the same shall be laid and brought in *His Majesty's Supreme Court of Judicature*, and not elsewhere; and the Defendant or Defendants in such Action or Suit may plead the General Issue thereto, and give this Act and the special Matter in Evidence at the Trial thereof. And if the Matter or Thing for which such Suit or Action may be brought shall appear to have been done in Pursuance of this Act; or if such Action or Suit shall be brought in any other County or Place than as is herein before expressed; then the Jury shall find for the Defendant or Defendants therein; and upon such Verdict, or if the Plaintiff or Plaintiffs shall become non-suited, or discontinue his, her, or their Action or Suit; or if, upon Verdict or Demurrer, Judgment shall be given against the Plaintiff or Plaintiffs; then, and in either of said Cases, the Defendant or Defendants shall and may recover treble such Costs as are usually taxed and allowed between Party and Party, and have such Remedy for the same as any Defendant or Defendants hath or have in any other cases by Law.

C A P. XII.

Amended by 25th
Geo. 3, c. 5.

Preamble.

An ACT prohibiting the Sale (by Retail) of RUM, or other distilled Spirituous LIQUORS, without first having a LICENCE for that Purpose, and for the due Regulation of such as shall be licensed.

WHEREAS the practice of drinking Rum, or other distilled spirituous Liquors, has become very prevalent and common, especially among Artificers, Servants, Labourers, Soldiers and Sailors, sojourning in, and belonging to, this Island; the constant and excessive use whereof tends greatly to the prejudice of their health, renders them incapable of discharging the duties of their respective occupations, debauches their Morals, and incites them to the practice of various other vices: For remedy whereof,

I. *Be*

I. *Be it enacted by the Governor, Council, and Assembly,* That from and after fourteen days next from the Publication hereof, no Person or Persons whatsoever, shall or may, by him, her, or themselves, or by any other Person or Persons whatsoever, employed to and for his, her, or their benefit, retail or sell, either directly or indirectly, Rum, or other distilled spirituous Liquors, whether mixed or unmix'd, within this Island, or the Territories thereunto belonging, in less quantity than *Twenty Gallons*, without Licence first had and obtained for that purpose, under the sign manual of the *Governor or Commander in Chief* for the time being, or under the sign manual of such other Person or Persons, as he shall or may appoint for that purpose; and if any Person or Persons whatsoever shall, contrary to the true intent and meaning of this Act, sell or retail any of the said Liquors in less quantity than *Twenty Gallons* as aforesaid, without first obtaining such Licence for the same, he, she, or they, so retailing or selling the same, shall respectively forfeit, for the first offence, the sum of *Forty Shillings*, Sterling money of the Kingdom of *Great Britain*; and for the second and every other succeeding offence, the sum of *Five Pounds*, of like money.

And for the more easy, and expeditious Recovery of such Fines and Forfeitures, *Be it further enacted,* That it shall and may be lawful for any one of his Majesty's Justices of the Peace in this Island, on his own view, or on the confession of the party, or by Proof on the Oath of one credible witness, thereupon to award the immediate payment of such Fines or Forfeitures; and if the offender or offenders, neglect or refuse to make such payment, then the said Justice so convicting him, or them, is hereby authorised and directed to issue a Warrant of Distress for the sale of his or their Goods and Chattels, to the amount of such Fines or Forfeitures, and the costs accruing thereon; and in case Goods and Chattels, sufficient to satisfy the same, cannot be found, then against the body of such offender or offenders: and the said Justice, on receiving such Fines and Forfeitures, so as aforesaid levied or paid, shall, if required thereto, immediately pay one half thereof to the person or persons, who shall have given said information upon oath; and the other half, within six months next after the conviction, and receipt as aforesaid, to the *Treasurer* of this Island, to and for the use of his Majesty's Government therein. And in case there be no informer, then the whole of said Fines and Forfeitures, so as aforesaid received by the said Justice, shall be by him paid to the said *Treasurer*, to and for the use aforesaid. And if such offender or offenders, being so convicted, and against whom such Warrant shall or may be issued, has no Goods and Chattels to be found, whereon to levy said Fines and Forfeitures, together with costs; then, and in such case only, such offender or offenders shall or may be carried to the next common Goal

E

or

Fourteen Days from Publication no person directly or indirectly, shall retail Rum, &c. in less quantity than twenty Gallons,

without Licence from Governor, &c.

Penalty on unlicensed retailer for first, second, and every after Offence.

How to be recovered.

Application of Forfeiture.

In case of no goods, offender to be confined one Month for first Offence, and Six months for every other succeeding one.

or Prison in this Island, there to remain until he, she, or they shall pay such Fine or Forfeiture, with the costs accruing thereon. *Provided nevertheless*, That such offender or offenders shall not remain so confined, for the first offence, more than one calendar month; and for the second, and every other succeeding offence, not more than six calendar months; and the said offender or offenders, after the expiration of such limited period of confinement, shall be immediately delivered therefrom, and be fully discharged of and from the said Fine, or Fines, for which he, she, or they may have been so committed.

II. *And be it enacted*, That all persons within this Island, or the territories thereunto belonging, who shall, from and after the publication hereof, agree or contract with any Artificer, Journeyman, Servant, Labourer, or other person employed by them, to pay such Artificer, Journeyman, Servant, Labourer, or other person, any part of his, her, or their wages in Rum, or other distilled spirituous Liquors; or shall set off or deduct all or any part of the wages so due to them respectively, for any or either of those articles so paid or delivered; shall be deemed unlicensed Retailers within the true intent and meaning of this Act; and shall for the First, Second, and every other succeeding offence, be subject to all and singular the Penalties, Forfeitures, and Punishments, that are inflicted on certain persons herein before expressed; to be in the same manner recovered and applied: and all such Artificers, Journeymen, Servants, Labourers, or other persons, shall be entitled to his, her, or their whole Wages, notwithstanding any such agreement, set-off, or deduction; and shall have the like remedy in Law, for the recovery of the same, as if all, or any part of such Wages, were not paid or in any manner satisfied: *Provided nevertheless*, that nothing in this Act contained shall extend, or be construed to extend, to prevent persons from supplying the Fishermen who are, or may be actually employed by them in the fishing business, with such quantities of Rum or other Liquors, during the fishing Seasons, as may really and truly be necessary thereto.

III. *And be it further enacted*, That from and after the Publication hereof, no person or persons obtaining Licences as aforesaid, shall or may sell, upon trust or credit, any Rum or other distilled spirituous Liquors, to any person or persons whatsoever, to a greater amount than the sum of *Five Shillings*, nor shall he or they, giving such credit, be entitled to, or maintain any Action, Bill, or Suit, for the recovery of the same, either at Law, or in Equity, against persons so credited or trusted, their Executors, or Administrators. And in all cases where persons licenced as aforesaid, or others in trust for or under them, shall or may take, or receive from persons so trusted, any obligation, or other security, for the securing the payment of sums exceeding the said sum of *Five Shillings*; the same are hereby rendered null and void.

Persons paying, deducting, or setting off all or any part of the wages of Artificers, Servants, &c, in strong Liquors.

or be deemed unlicensed Retailers, and to be proceeded against as such.

Artificers, Servants, &c. so aggrieved, to be entitled to the Recovery of the whole of their Hire.

Not to extend to Fishermen actually employed in fishing Seasons.

No debts to be recovered by Retailers, &c. for Liquors above Five Shillings.

Obligations, &c. for any Sum exceeding Five Shillings, to be void.

IV. *And be it enacted,* That all persons having Licences as aforesaid, who shall take or receive any pawn or pledge whatsoever, by way of security for the payment of any sum or sums of money, owing for Rum or other distilled spirituous Liquors, shall, upon complaint on Oath, before any of the said Justices of Peace, and in virtue of his direction and order thereupon, be compelled to restore the said Pawn or Pledge to the Pawnee thereof, freely and absolutely exonerated from the sum for which the said Pawn was at first made: and if the said Pawnee shall have destroyed, or otherwise disposed of the said Pawn or Pledge; that then, and in such case, the said Justice to whom such complaint may have been made, shall order the full value thereof, at the time of making the same, to be paid to the Pawnee; and which value may be ascertained and established on his Oath only. And if such Pawnee should refuse or neglect to obey said order, the said Justice may thereupon issue a Warrant of Distress to levy, by sale of the said Pawnee's Goods and Chattels, to the value so as aforesaid proved, together with all the costs attending the same: *Provided nevertheless,* that such complaint be exhibited and made within six months next after the time of making such Pawn or Pledge.

Pledges for Payment of any Sum to be restored.

If disposed of, the Value thereof to be paid.

Complaint to be exhibited within six Months.

V. *And be it further enacted,* That no person or persons, licenced as aforesaid, shall supply any person or persons, or knowingly suffer him or them to be supplied with Liquors of any kind, in such quantity as to effect intoxication; nor shall they supply any person or persons in their own respective Houses, nor in any other House or Houses, nor even out of doors, with Rum or other distilled spirituous Liquors on the *Lord's Day*, commonly called *Sunday*, (except to people actually travelling, or to Lodgers in such licensed Retailers House) on pain of Forfeiture of his or their Licence or Licences; which Licence or Licences any of the said Justices are hereby authorised, on view, or on due proof of such offence, immediately to suspend the force and operation of, and also to report the whole proceeding to the *Governor or Commander in Chief*, for the time being, for his confirmation or disapprobation.

Persons licenced permitting Guests to intoxicate themselves, or selling in or out of Doors any Liquor on the Lords Day, subject to forfeit their Licence.

VI. *And be it enacted,* That all persons, being duly summoned (except the party or his children) to give evidence relative to the breach of this Act, or of any part or clause thereof, and who shall or may refuse to attend and declare on Oath, when thereto required, his or their knowledge of the Premises, shall forfeit the sum of *Five Pounds, Sterling* money aforesaid; the same to be paid to the said *Treasurer*, and to and for the use aforesaid.

Penalty for refusing to give Evidence. Application of Forfeiture.

VII. *And be it further enacted,* That if any of the said Justices, or other qualified person, shall wilfully and wittingly omit the performance of his duty in the Execution of any part or clause of this Act, he or they, so offending, shall forfeit the sum of *Ten Pounds, Sterling* money aforesaid; one moiety thereof to the use of the former

Penalty of Justices, &c. omitting their duty:

Application of Forfeiture.

former, and the other moiety to be paid to the said *Treasurer* to, and for the use aforesaid :

Manner of recovering both Fines.

VIII. *And be it enacted*, That the said two last mentioned Fines, shall be recovered by Bill, Plaint, or Information, in *His Majesty's Supreme Court of Judicature*; wherein no *Essoin*, Protection, or *Wager of Law* shall be allowed, nor any more than one *imparlance*.

Appeal from Sentence of Justice of Peace.

IX. *And be it enacted*, That all Persons deeming themselves aggrieved at the sentence or determination of any of the said *Justices*, relative to any of the offences before mentioned, may appeal therefrom to *his Majesty's Supreme Court*, or next *General Sessions of the Peace* within the same County: *Provided* such Appeal be prayed in due time, and security given in manner as the Law, in such case, directs.

Limitation of Actions,

X. *And be it further enacted*, That if any *Action* or *Suit* shall be commenced or brought against any of the said *Justices*, or other *Officer* or *Person*, for doing, or causing to be done, any thing in pursuance of this Act, concerning any of said offences, the *Defendant* in such actions may plead the *General Issue*, and give the special matter in evidence: and if upon the trial of such *Action*, a *Verdict* be given for the *Defendant*; or if the *Plaintiff* become non-suited, or discontinue his *Suit*; then the *Defendant* shall be awarded treble costs. And all *Officers*, as well as his Majesty's *Justices* of the *Peace*, as the *Provost Marshal*, *Constables*, and all other his Majesty's liege *Subjects* within this *Island*, are hereby required to be aiding and assisting, in causing a due observance of this Act.

General Issue.

Treble Costs.

All Officers, &c. commanded to be aiding.

C A P. XIII.

An ACT for the effectual Recovery of certain of his Majesty's *QUIT RENTS* in the *ISLAND* of *SAINT JOHN*.

Repealed by 43d
Geo. 3, c. 2.

At

1774
Anno Decimo Quarto Regis GEORGII III.

1774.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the fourth Day of October, ANNO DOMINI, one thousand seven hundred and seventy-four, and in the fourteenth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. being the first Session of the second General Assembly, convened in the said Island.

WALTER PATTERSON,
Governor.

PHILIPS CALLECK,
President of Council.

ROBERT STEWART,
Speaker.

C A P I.

An ACT for Licensing and Regulating FERRIES.

Made perpetual by
21 Geo. III. C. 11.

WHEREAS it hath been represented, that the establishment of Ferries in many parts of this Island, would be of great Utility, and render the Communication to several Places more easy and expeditious:

Preamble.

I. Be it therefore enacted by the Governor, Council and Assembly, That from and after the Publication hereof, it shall and may be lawful to and for his Excellency the Governor or other Commander in Chief of this Island, from time to time, to nominate, license, and appoint, such and so many Persons as he shall or may judge proper and sufficient, to act as Ferry-Men, for the several and respective places hereafter mentioned, and under such Rules and Regulations as are also hereafter mentioned; and as he shall, from time to time, think proper to make for the Benefit and Advantage of the Public:

After Publication
Governor, &c. to ap-
point Persons to act
as Ferry-Men.

II. And be it further enacted, That the Rates of Ferry-Men shall be as follows: viz.

For passing Grenville-Bay, a single Man, Six-Pence; for Two Men, Four Pence each; for Three men, Three Pence Half-penny each; for all above Three, at the rate of Three Pence each Person; for One Horse and One Man, One Shilling; for Two Men and Two Horses, Nine Pence each; for three Horses and three Men, Eight Pence each.

Rates of Ferries.

Grenville Bay.

F For

Harris's Bay, or
Grand Rustico.

For passing *Harris's Bay* or *Grand Rustico*; a single man Six-Pence; for Two Men, Four Pence each; for Three Men, Three Pence Half-penny each; for all above Three Men, at the rate of Three Pence each: for One Horse and One Man, One Shilling; for two Horses and Two Men, Nine Pence each; for Three Men and Three Horses, Eight Pence each.

Stanhope-Cove-Bay
or Little Rustico.

For passing *Stanhope-Cove-Bay*, or *Little Rustico*; a single Man, Six pence; for Two Men, Four Pence each; for Three Men, Three Pence, Half-penny each; for all above Three Men, at the rate of Three Pence, each: for One Horse and One Man, One Shilling; for Two Men, and Two Horses Nine Pence each; for Three Horses and Three Men, Eight Pence each.

Bedford or Tracadie-Bay.

For passing *Bedford*, or *Tracadie-Bay*: A single Man, Six-Pence; for Two Men, Four-Pence each; for Three Men, Three-Pence Half Penny each: for all above Three Men, at the rate of Three-Pence each: For One Horse and One Man, One Shilling; for Two Horses and Two Men, Nine-Pence each; for Three Men and Three Horses, Eight-Pence each.

Savage Harbour.

For passing *Savage Harbour*: a single Man, Six Pence; for Two Men, Four Pence, each; for Three Men, Three Pence Halfpenny each; and for all above Three Men, at the rate of Three Pence each: for one Horse and One Man, One Shilling; for two Men and Two Horses, Nine Pence, each; for Three Horses and Three Men, Eight Pence each.

Persons accepting
of a License,

within three Months
after date thereof, to
keep One good Flat-
bottomed boat,

capable of carrying
Two Horses at least;
also to comply with
Rules, &c.

In case of Default
to forfeit 5l. for every
offence.

Application of For-
feiture.

To be recovered in
Supreme Court.

III. *And be enacted*, That all and every Person or Persons who shall or may receive or obtain a License to become a Ferry-Man at any of the above Places, shall, within Three Months next after the Date hereof, keep, at least, One Good Flat-bottomed Boat, suitable to the place where he or they shall have been appointed, for the Purpose aforesaid; which Boats are to be kept constantly in good Repair, and to be capable of carrying, at least Two Horses at one time, with safety and Ease; and if any Person or Person so licensed as aforesaid, shall neglect to have such Boats at the time, and at the respective places aforesaid, or, after so having the same, shall neglect to keep them in good Repair as aforesaid, or shall not comply with and observe the several Rules and Regulations, to be made as aforesaid, according to the true intent and meaning hereof, he or they, so offending, shall, for each and every such offence, forfeit the sum of *Five Pounds*; the one Half thereof to be applied to and for the Use of His Majesty's Government in this Island, and the other Half to be paid to him or them who shall or may inform or sue for the same, (besides satisfying, in Damages, all Persons who may sustain Loss by means of such neglect;) the same to be recovered in *His Majesty's Supreme Court of Judicature*, by Bill, Plaint, or Information.

IV. *And be it further enacted*, That no Person or Persons, so to be licensed in pursuance of this Act, nor his or their Servant or servants,

vants, nor any other Person or Persons acting for, or under him, or them, respectively, shall take or receive, as a Reward for his or their Ferriage, any greater Sum or Sums of Money than is, or are herein before limited and expressed; and if any such Person or Persons shall use unnecessary delay therein, or give abusive language to, or treat with other rude Behaviour, any Person or Persons whatsoever applying to be ferried over, or during the time he, she or they may be actually ferrying over, any of the Places or Bays herein before mentioned; then the Person or Persons, so licensed as aforesaid, shall, upon proof made of such offence, by the Oath of One or more credible Witness or Witnesses, before any One of His Majesty's Justices of the Peace, forfeit a Sum not exceeding *Twenty Shillings*; and shall be also ordered to satisfy, in Damages, all those who shall or may sustain Loss by Means of such unnecessary Delay; the said Forfeiture, and Damages, to be levied by Warrant of Distress, and Sale made of the Offender's Goods and Chattels; the one Half of such Forfeiture to be applied to and for the Use of His Majesty's said Government, and the other Half to him or them, who shall or may inform or sue for the same.

V. *And be it further enacted*, That it shall and may be lawful, to and for the Person or Persons, so to be licensed as aforesaid, or his or their Servant or Servants, to demand and receive Pay of all Passengers, before he, she, or they shall have entered on Board such Boat or Boats; and in default of such payment, to accept of a Pawn or Pledge for the same; nor shall such Person or Persons be required or obliged to exchange a greater sum than One Shilling, when the Fare amounts only to Six-pence; nor to exchange a greater Sum than Five Shillings, when the Fare amounts only to one Shilling.

VI. *And be it further enacted*, That it shall and may be lawful for the Governor, or other Commander, in Chief, from Time to Time, to establish such, and so many other Ferries, over any and such other Rivers, Bays or Creeks, not herein before mentioned, with fixed Rates for the same, as he may judge expedient and necessary; and also to grant Licenses to such, and so many Persons, under the Rules and Regulations herein before mentioned, as he shall from Time to Time, think most conducive to the Public Good.

VII. *And be it further enacted*, That where any Ferry shall have been established over any or all the Places herein before mentioned; or over any other River, Bay, or Creek, within this Island, no Person or Persons whatsoever shall carry or Ferry over the same, either Man or Beast, except by the Desire or Consent of the Person or Persons, so licensed as aforesaid, or except the same be done *gratis*.

VIII. *And be it further enacted by the authority aforesaid*, That this Act shall continue and be in full Force for Three Years, and no longer.

Persons licensed not to take more than the sums annexed to each Fare:

nor to suffer delay, or give abusive Language,

on pain of forfeiting Twenty Shillings.

Application of forfeiture.

Persons licensed may receive Pay from Passengers before they go on Board; and in case of their not being able to pay, a Pawn may be accepted.

Governor, &c. to establish Ferries over any other Rivers or Creeks not mentioned in this Act.

None but Ferry-men to carry Persons over after the establishment of Ferries.

Act to be continued three Years.

C A P. II.

Expired.

AN ACT to prevent the Non-attendance of Members to serve in
GENERAL ASSEMBLY.

C A P. III.

AN ACT for regulating the Measure of BOARDS, and all other Kind
of LUMBER; and for appointing Officers to Survey the same.

After one Month from
Publication, Boards,
&c. imported, brought
for Sale, or exported,
to be viewed, &c.

Officers appointed for
measuring Boards, &c.
to mark anew the just
Contents, allowing for
Rots, &c.

Officers Fees.

Boards, &c. delivered
or shipped for expor-
tation before they are
marked by Officer, to
be forfeited, or the
value thereof.

Dimensions and qua-
lity of Shingles and
Clapboards ascertain-
ed.

Shingles and Clap-
boards, deficient in
number, to be forfeit-
ed.

BE it enacted, by the Governor, Council, and Assembly, That from
and after one Month next ensuing the Publication hereof,
all Boards, Plank, Timber, Slit-Work, Shingles or Clapboards,
which may be imported or brought for sale within this Island, or ex-
ported from thence to any foreign Market, shall, before their respect-
ive delivery on Sale, be viewed, surveyed, and measured, by one of
the Officers to be appointed for that purpose, as herein after directed:
And such Officer or Officers, so appointed as aforesaid, upon every
admeasurement of such Boards, Planks, Timber and Slit-work, are
hereby respectively required to mark anew the just contents thereof,
making an allowance for Rots, Splits, and Waines; all boards to be, at
least, one inch thick; the seller to pay to the Officer for viewing and
measuring the first thousand Feet, or any lesser quantity, *One Shilling*;
and for every thousand Feet above, *Six Pence*; besides *Two Pence*
per mile for his travel, to be computed from the Place of his Residence
to the place where he shall or may be so employed, and from thence
back again. And no Boards, Plank, Timber or Slit-work, shall
be delivered upon Sale, imported, or shipped for Exportation, before
they shall have been viewed and surveyed by such Officer, and
by him found answerable to the Description prescribed in and by
this Act, and also measured and marked anew, upon pain of being
forfeited; or the value thereof, by the seller or shipper of the same.

II. *And be it further enacted*, That all Shingles which may here-
after be exposed to Sale, (being pine Shingles) shall be Eighteen or
or Fifteen Inches in length (according to which of these lengths they
are or may be sold for) and shall be free from Sap, Shakes, and
Worm-holes, at least four inches broad upon an Average, half an
inch thick at the But-end, and to be and continue four inches broad
from thence to three quarters of the Way towards the thin End
thereof, and the same to be well shaved. And all pine Clapboards,
hereafter to be exposed to sale within this Island, shall be made of
sound Timber, clear of Sap, Shakes, and Worm-Holes, and of the
following dimensions, to wit; four feet and four inches long, at least;
five inches broad, and half an inch thick on the back, or thickest
part thereof.

III. *And be it further enacted*, That all Shingles and Clapboards,
hereafter to be exposed to Sale in Bundles (each Bundle containing

Two

Two Hundred and Fifty, and which shall be Five short in the Tale, and so in proportion for a greater or smaller Number in each Bundle) shall, upon Report duly made thereof by such Officer, be forfeited; and all the unmerchantable Shingles, so found in such forfeited Bundles, shall be burnt, and the residue thereof be thereupon sold; and the Money arising from such Sale shall be applied as hereafter directed, first deducting therefrom the Charge of culling, surveying, and telling.

IV. *And be it further enacted*, That all Shingles in Bundles, which according to the Judgment of such Officer, shall appear to be eighteen inches long, four inches broad upon an Average, and half an inch thick on the But, and all Clapboards in Bundles, which shall appear or be found to be four Feet four Inches long, five Inches broad, and half an Inch thick on the But, the same shall respectively be accounted merchantable; and all such as may appear or be found otherwise, are hereby directed to be culled out and burnt, till the Residue of such Bundles shall be conformable to the before mentioned Admeasurement; the said Officer to be paid for such his Services for surveying and telling, at the rate of *Three Pence* per Thousand; and for every Thousand he shall cull and bind up, at the rate of *Six Pence* per Thousand; the same to be paid over and above travelling Expences, as herein before mentioned; the said Fees to be paid by the Person exposing said Articles to Sale, in case any of them appear or be found deficient, as aforesaid, but if not deficient, then by the Purchaser.

V. *And be it further enacted*, That all Shingles or Clapboards which shall or may be exposed to Sale, or shipped for Exportation, without being first surveyed and culled as herein before directed, the whole of such, or the value thereof, are hereby declared forfeited by the Seller or Shipper thereof.

VI. *And be it further enacted*, That all Wood designed for Fuel, commonly called Cord-Wood, which may hereafter be exposed for Sale in this Island, shall be full four Feet long each Stick, accounting half the Scarf; the Pile thereof to be solid four feet high, or an Allowance to be made for want of the full length of eight Feet, each Cord to be hard and sound Wood. And when any such Wood shall be so exposed to Sale, it shall be optionable with the Buyer, either to employ such Officer or not; and the Officer shall receive and be paid for such his Service, *Two Pence* per Cord, besides his travelling Expences as before mentioned. And all Cords of such Wood in the Pile which shall be found deficient, and not answerable to the Admeasurement and Directions in this Act contained and required, are hereby declared forfeited.

VII. *And be it further enacted*, That all Persons refusing to pay or satisfy such Officer or Officers, his or their respective Fees, for his or their Services as aforesaid, shall be subject to have so much of the Commodity or Article retained

Shingles and Clapboards, deficient in Number, to be forfeited.

Quality of Merchantable Shingles and Clapboards.

If deficient in Quality, to be burnt.

Officer's Fees.

Shingles or Clapboards exposed to Sale, or shipped for Exportation, &c. without being culled &c. to be forfeited, or the value thereof.

Measurement and Quality of Cord-Wood.

Officer's Fees.

Officers may, on refusal of Payment, detain as much of any Commodity as will pay his Fees, if under 35s. if

above, to be levied by
Warrant of Distress
by a Justice.

and withheld by him or them, as shall or may amount to the full Value of his or their travelling, and other Fees: *Provided the same do not exceed the sum of Thirty-five Shillings.* And in case they shall appear or be found to exceed that Sum, then they may be, by Warrant of Distress, under the Hand and Seal of one of his Majesty's Justices of the Peace, levied of the Goods and Chattels of the delinquent Party, and the Surplus, if any be, after Payment of such Officers Fees, together with the Charges and Expences attending said Distress and Sale, to be returned to the Owner of the said Goods and Chattels. And the said Justice is hereby directed and required to proceed in the Premises, in such Manner as is specified and enjoined by an Act of the *General Assembly* of this Island, passed in the thirteenth Year of his present Majesty's Reign, intituled, "*An Act for the more easy and speedy Recovery of Small Debts.*"

Officers to be ap-
pointed by Governor
&c.

VIII. *And be it further enacted,* That there shall be one or more Officers resident in such Districts or Places in this Island, for carrying into Execution the Provisions of this Act, as the *Governor*, or other *Commander in Chief*, for the Time being, shall at any Time judge expedient and necessary, and shall be pleased to appoint for that purpose; and all Officers, so appointed, are hereby authorised and required to fulfil and execute the Objects of their several Appointments, after having first taken the following Oath, viz.

Officers to be sworn,

Their Oath.

"**YOU** do swear, that you will, from Time to Time, diligently and faithfully discharge and execute the Office of Surveyor, within the Limits whereto you are appointed, for the whole Time you shall or may continue in your said Office; and that, in and by all the Particulars mentioned in the Law whereto your Office hath Relation, and that you will do therein impartially, according to Law, without Fear or Favour:

So help you God."

Penalty on Officers
in case of Fraud.

IX. *And be it further enacted,* That all Officers appointed or to be appointed for the purposes aforesaid, who shall or may connive at, allow of, or countenance the Breach of this Act, or shall be guilty of any Fraud or Deceit in surveying Boards, Plank, Timber or Slit-work; or in culling, telling, or surveying any Shingles or Clapboards, shall forfeit and pay the sum of *Ten Pounds* for each Offence: And all Officers who shall refuse to attend any of the before mentioned Services, when thereto requested, shall forfeit and pay the sum of *Twenty Shillings*; the Forfeitures and Penalties, in such cases, to be recovered and disposed of as is herein after directed.

Penalties, &c, how
to be applied.

X. *And be it further enacted,* That all Fines, Penalties and Forfeitures, arising by Force and Virtue of this Act, shall be one Half to his Majesty, for and towards the support of his Government in this Island, and the other half to him, her, or them, who shall or may inform or sue for the same,

XI. *And be it also further enacted*, That all such Fines, Penalties, and Forfeitures, shall and may be recovered in manner following; that is to say, where the Forfeiture, or Value thereof shall not exceed the sum of *Forty Shillings*, the same to be recovered as herein before directed, before any one of his Majesty's Justices of the Peace, by Oath of One credible Witness, to be levied by Warrant of Distress, and Sale made of the Offenders Goods and Chattels, under the Hand and Seal of such Justice; and for want of sufficient Distress, such delinquent party to suffer *Twenty Days Imprisonment*: And where the Forfeiture, or Value, shall amount to above *Forty Shillings*; but shall not exceed the sum of *Five Pounds*; then the same to be recovered as herein before directed, before any two of his Majesty's said Justices of the Peace, upon the like Proof as aforesaid, and to be levied by like Warrant under the Hands and Seals of such Justices; and for Want of sufficient Distress, the said delinquent Party shall suffer *Sixty Days Imprisonment*: And in case such Forfeiture, or the value thereof, shall exceed *Five Pounds*, then the same shall and may be recoverable by him, her, or them, who shall or may inform, or sue for the same, by Bill, Plaint, or Information, in *His Majesty's Supreme Court of Judicature*, wherein no Essoin, Protection or Wager of Law. shall be allowed, nor more than one Impar lance.

Manner of Recovery.

XII. *And be it further enacted*, That this Act shall be read and published once in every Year, at the opening of his Majesty's said *Supreme Court of Judicature*, and at every Election of Members to serve in the *General Assembly* of this Island.

Act to be read once a Year at Supreme Court and Election of Members to serve in General Assembly.
Made perpetual by 25th Geo. 3, c. 11.

C A P. IV.

AN ACT empowering his Excellency the *Governor*, or other *Commander in Chief*, for the time being, to direct the making of *Public Roads*, and to appoint Persons to carry the same into Execution.

Repealed.

For further Acts respecting Highways, see 21st Geo. 3, c. 5, 25th Geo. 3, c. 3, 26th Geo. 3, c. 6, 28th Geo. 3, c. 1, 35th Geo. 3, c. 3, and every matter and thing to be done relative to the Highways, &c. comprised in this latter Act.

C A P. V.

AN ACT laying an Imposition upon *Retailers of Rum* and other *Distilled Spirituous Liquors*.

Repealed and re-enacted by 25 Geo. 3, c. 4, s. 1.

CAP.

C A P. VI.

Expired the 23d of
February 1788.

AN ACT for the purpose of making the whole of this *Island* One
County.

C A P. VII.

Expired the 23d of
February 1788.

AN ACT for the better Regulation of the Proceedings of his Ma-
jesty's Supreme Court in *Civil Suits*, and concerning *Bail*.

C A P. VIII.

AN ACT entitling People called Quakers to certain *Privileges*.

The Execution of this Act was suspended until approved of by his Majesty ; and no such Appro-
bation being had, it is not printed.

Anno Decimo Sexto GEORGII III.

1776.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Fourth Day of October, ANNO DOMINI, one thousand seven hundred and seventy-four, and in the fourteenth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and continued by Prorogation until the twenty-sixth day of June, one thousand seven hundred and seventy-six, and in the Sixteenth Year of His said Majesty's Reign ; being the second session of the second General Assembly, convened in the said Island.

PHILLIPS CALBECK,
President and Com-
mander in Chief.

JOHN RUSSELL SPENCE,
President of Council.

JOHN BUDD,
Speaker.



C A P I.

AN ACT for regulating FEES.

BE it enacted by the Commander in Chief, Council, and Assembly, That no Officer, Clerk, or other Person whatsoever, who is or are respectively in any manner whatsoever, entitled to receive or take any Fee or Fees, by Virtue of this Act, nor any Person or Persons whatsoever, acting by or under him or them, shall from and after fourteen days next ensuing the publication hereof, either directly or indirectly, receive or take, of any Person or Persons whatsoever any greater or other Fee or Fees for his or their respective Services than is or are herein after expressed and allowed ; that is to say,

No Officer or his Deputy to take greater Fees after 14 Days from Publication than are by this Act allowed.

His Excellency the Governor or Commander in Chief's Fees.

Sterling.

FOR a Writ of Appeal to him in Council,	£0	10	0
For the Great Seal to every Grant, not exceeding one Thousand Acres,	0	10	0
			For

Fees of his Excellency the Governor or Commander in Chief.

For all Grants exceeding one Thousand Acres, for every Thousand Acres,	0	5	0
For a Licence of Marriage, and all other Licences,	0	5	0
For a Certificate under his Hand and Seal,	0	10	0
For his Seal to a Register of a Vessel or any other Matter,	0	5	0

Provincial Secretary's Fees.

Provincial Secretary's Fees.

FOR every Warrant, appointing any Person to an Employment,	0	5	0
Instructions of Office,	0	5	0
For every Grant passing the Seal of the Island under one Hundred Acres,	0	9	0
Ditto, Ditto, above a Hundred Acres, until it comes up to Five Hundred Acres at the rate of <i>Three Shillings</i> per Hundred Acres.			
Ditto, Ditto, from Five Hundred Acres to one Thousand at <i>One Shilling</i> per Hundred,			
From One Thousand to Two Thousand, at <i>Sixpence</i> per Hundred; and so to continue for a greater Number, Entering a Certificate for Land,	0	1	0
Warrant of Survey,	0	2	6
Recording Acts, for the first side <i>Three Shillings</i> and for every after, <i>One Shilling</i> , Eight Words to a Line, and and Twenty Eight Lines to a Side.			
Commission of Oyer and Terminer,	0	5	0
Every Commission for a Military Office, to be paid from the Public Revenue,	0	2	6
Every Writ for electing of Assembly Men,	0	6	9
For every Commission passing the Great Seal,	0	9	0

Private Secretary's Fees.

Private Secretary's Fees.

FOR drawing and presenting a Petition for a Town and Pasture Lot,	0	2	3
All Licenses under the Private Seal,	0	5	0

Clerk of the Council's Fees.

Clerk of the Council's Fees.

FOR every Petition in Council,	0	2	3
For every Order in Council relating to a private Person,	0	3	4½
For reading every Matter in Council per side, relating to any private Person,	0	1	0
For Copy of any Matter from Council Records, per side,	0	1	0
For all Searches,	0	1	0

Speaker of the House of Assembly's Fees.

Fees of the Speaker of the House of Assembly.

FOR every private Bill,	0	5	0
For every private Enacting Clause,	0	2	0

If the Bill concerns a County, or Counties,	0	10	0
For every Warrant of Commitment, or Discharge, or Witness to attend, signed by the <i>Speaker</i> ,	0	1	0

Clerk of the Assembly's Fees.

F OR entering every Petition,	0	2	0
For every Order,	0	2	0
For every Copy of Ditto,	0	2	0
For every private Bill, the several Readings,	0	3	0
For breviating Amendments, interlocutory Orders, and other Proceedings,	0	1	3
For every private Enacting Clause,	0	1	0
For every Copy of a Motion in Committees appointed in private Matters, or of Committees in public Mat- ters, taken out by any private Person,	0	1	0
For every Order of Commitment, or Discharge of any Person,	0	1	0
For Copies of all Petitions or other Matters out of the Journals, at the rate of <i>One Penny</i> for every Fifteen Words,			
For every Search in the Journals,	0	1	0
For engrossing Bills, at the Rate of <i>One Penny</i> for every ten Words,			
For every Hearing at the Bar, from each side,	0	1	0
For attending Committees of the whole House, or Grand Committees on private concern,	0	2	6
For preparing the Report and transcribing,	0	2	6
For reading at the Table, and interlining in the Journals,	0	1	0
A Report in private Matters, if long,	0	1	0
For swearing every Member,	0	1	0
N. B. The <i>Clerk</i> to find Stationary for the above Purposes.			

Clerk of the As-
sembly's Fees.*The Provost Marshal, or Sheriff's Fees, when acting as Serjeant to
the House of Assembly.*

F OR taking a Member in Custody,	0	4	6
For travelling Charges, when ordered by the House, per Mile,	0	0	4

Provost Marshal or
Sheriff's Fees, when
acting as Serjeant at
Arms*In the Court of Chancery.—Subpœna Office.*

F OR every common Subpœna,	0	1	0
For every special Subpœna,	0	1	6
Injunctions and all other Writs,	0	1	6
Oath taken in Court,	0	1	0
Filing any Proceedings,	0	1	0

Fees of the Subpœna
Office, in the Court of
Chancery.

For

Entering an Appearance,	0	1	0
A Docket,	0	1	0
A Caveat,	0	1	6
A Commission of Rebellion,	0	4	6
All other Writs out of Chancery,	0	2	3

Register, or Clerk of the Court's Fees.

Register or Clerk's Fees.	F OR filing every Bill and Answer,	0	1	0
	Copy of Papers from the Office, at the rate of <i>One Penny</i> for every Fifteen Words,			
	Attachments, &c. each,	0	2	3
	Writ of Inquisition, Bond and Attendance,	0	2	3
	A Commission,	0	2	3
	Decree,	0	2	3
	Copy, <i>One Penny</i> for every Fifteen Words,			
	For a Dedimus,	0	2	3
	A Justicias,	0	2	3
	Money lodged in Court, per Pound,	0	0	6
	Entering an Order,	0	1	0
	Copy of Minutes of one Cause, one Day,	0	1	0

In the Supreme Court.—Chief Justices Fees.

Chief Justices Fees.	F OR taking Bail out of Court,	0	4	6
	For Allowance of Writ of Error,	0	9	0
	Taxing every Bill of Cost, every Page,	0	2	0
	For acknowledging Satisfaction of a Judgment,	0	1	0

Clerk of the Crown's Fees.

Clerk of the Crown's Fees.	F OR drawing Indictment if found,	0	2	3
	Every Submission,	0	2	3
	Every Cause continued by Traverse or otherwise,	0	1	0
	Every Recognizance,	0	2	0
	Discharging ditto,	0	1	0

Clerk of the Crown's Fees on other matters.

Clerk of the Crown's Fees on other matters.	E VERY Presentment proceeded on, to be paid by the Delinquent,	0	3	4
	Crown Capias,	0	1	0
	Certificate of administering State Oaths,	0	2	0

Clerk of the Court's Fees.

Clerk of the Court's Fees.	F OR every Writ and Seal,	0	1	0
	An Affidavit for Bail, if drawn by him,	0	1	0
	Filing every Precept, Warrant of Attorney, Appearance, Declaration, Plea, &c. for each,	0	1	0
	For every Rule of Court,	0	1	0

For

Entering up Judgment,	0	2	6
Enrolling the same,	0	2	6
Every Execution,	0	2	0
Every Subpœna,	0	1	0
A Writ of Error, and entering thereon,	0	2	3
Continuing a cause to another Court,	0	1	0
Copies of all Papers, at the rate of <i>One Penny</i> for every Fifteen Words,			
Taking Special Bail at Bar,	0	2	3
Receiving and filing Returns of Execution,	0	1	0
Searching the Records,	0	1	0
Certifying the Judgment, and the Seal of the Court,	0	2	3
If above Two Hundred Words, at the Rate of <i>One Pen-</i> <i>ny</i> for every Fifteen Words, over and above the Two Hundred,			
For every Commitment from the Court, for Contempt or otherwise.	0	1	0
For every Warrant to levy Fines, to be levied with the Fine,	0	1	0
Minuting a Motion,	0	1	0
For all Money lodged in Court, <i>Six-pence</i> per Pound.			
Drawing and taking Recognizance,	0	2	3
Entering a Bond of Arbitration and Award, and enter- ing upon Judgment thereon, <i>a Penny</i> for every Fifteen Words.			
For entry of every Verdict or Non-Suit,	0	1	0
For making up a Record, for the Trial of an Issue, <i>One</i> <i>Penny</i> for every Fifteen Words.			
Every Writ of <i>Habere Facias Possessionem</i> ,	0	2	0

Attorney's Fees.

ISSUING of Writs for Ten Pounds or under,	0	1	0
Between Ten and Twenty Pounds,	0	1	6
From Twenty Pounds upwards,	0	2	3
Drawing Affidavits of Debts,	0	1	6
Drawing Declaration,	0	4	6
Special Declarations, that are of necessity long, from the Nature of the Cause, to be taxed by the Direction of the Court.			
Attending the Court on Trial, and arguing the Cause,	0	9	0
On Default,	0	4	6
Special Pleas in Abatement, Bar, Demurrers, Replica- tion and Rejoinder, each,	0	2	3
Entering an Appearance,	0	1	0
Plea to the Issue,	0	1	0
Warrant of Attorney,	0	1	0

Attorney's Fees.

In real Action in Ejectment, or <i>Scire Facias</i> , filing the Writ, or Summons, Declaration and Copy,	0	6	0
Service to the Tenant in Possession,	0	1	0
Preparing the Rule,	0	3	0
Affidavit of Service for the first Person,	0	1	0
If any more in the same Cause, for each ditto,	0	0	6
Motion and Rule for Judgment,	0	2	3
The <i>Habere</i> ,	0	2	3

Provost Marshal or Sheriff's Fees.

Provost Marshal or Sheriff's Fees.	SERVICE of a <i>Capias</i> or marked Writ,	0	2	3
	Service of Execution,	0	2	3
	For levying, paying and receiving all Monies upon Execution to <i>Twenty Pounds, One Shilling</i> in the Pound; from <i>Twenty Pounds</i> to <i>Fifty, Six-pence</i> ; from <i>Fifty Pounds</i> to <i>One Hundred, Three-pence</i> , and all above at <i>Two Pence</i> ,			
	For summoning a Jury, for every Trial where the Crown is not a Party,	0	2	3
	Drawing and executing a Bail Bond for every sum under <i>Twelve Pounds, One Shilling</i> ; between <i>Twelve Pounds</i> and <i>Twenty, One Shilling</i> and <i>Three-pence</i> ; between <i>Twenty Pounds</i> and <i>Forty, One Shilling</i> and <i>Six-pence</i> ; and all above, <i>Two Shillings</i> ,			
	<i>Habere Facias</i> , or Writ of Possession,	0	9	0
	Speeding a Writ of Enquiry, and all Proceedings thereon,	0	4	6
	Executing a Writ of Replevin,	0	2	3
	Travelling per Mile, to be computed from the Place of Service, to the Court to which the Writ of Execution shall be returned, at the most; but in no case no more Miles to be paid for than he can actually make appear that he has travelled,	0	0	4

Provost Marshal, or Sheriff's Fees for Prisoners, until there is a Gaol Built.

Provost Marshal or Sheriff's Fees for Prisoners until there is a Gaol Built.	EVERY Prisoner arrested upon a Civil Action, to pay for the first Night's Lodging,	0	1	6
	For every other Night, while in Custody,	0	0	8

Coroner's Fees.

Coroner's Fees.

FOR serving a Writ, Summons, Execution, and travelling Charges; the same as is allowed the *Provost Marshal or Sheriff*.

Taking

Taking an Inquest, to be paid out of the Estate of the Deceased,	0	9	0	
And if no Estate, to be paid by the <i>Treasurer</i> of the Island,				
To the Foreman of the Jury,	0	2	3	Juror's Fees on an Inquest.
To every other Juror,	0	2	0	
To be paid by the Coroner to them, which he is to receive in the same Manner as he does his own Fees.				

Petty Jurors Fees, in Civil Causes.

TO each Juror in every Cause,	0	1	0	Juror's Fees in Civil Causes.
To Jurors on Writs of Enquiry, in every Cause,	0	1	0	
Jurors on Special Juries, their Travelling Expences, &c. to be paid at the Discretion of the Court.				

Witnesses Charges.

ATTENDANCE for each Cause,	0	1	6	Witnesses Charges.
If more than one Day, to be paid at the rate of <i>One Shilling and Six-pence</i> per Day,				
For travelling Charges, <i>Three Pence</i> per Mile, to be computed from the Place of his or her Residence, to the place of Trial and back again; upon his, or her, making it appear that he, or she, attended upon that Business only.				

Cryer's Fees.

FOR calling a Jury in a Private Suit,	0	1	0	Cryer's Fees.
A Verdict,	0	0	6	
For every Oath sworn in Court,	0	0	4	
Every Bill brought into Court, or Exhibit,	0	0	4	
Every Bail taken in Court,	0	0	6	
Every Person who takes the Oath of Allegiance in Court,	0	1	0	

Constables Fees.

ATTENDING a Jury, for each Cause,	0	1	0	Constable's Fees.
Service of a Warrant,	0	1	0	
Travelling Expences, to be computed from the Place where the Warrant is issued, to the Place of Service and back again; and in no Case to be paid more Miles than he proves to have travelled, per Mile,	0	0	3	

Goaler's Fees.

FOR turning the Key for every Prisoner confined on all Civil Actions,	0	1	0	Goaler's Fees.
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For

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For Discharge of every Prisoner,	0	1	0
For turning the Key for all Prisoners committed for Breaches of the Peace,	0	2	3
For Discharge of every such Prisoner,	0	2	3
Prisoners lying in the best Lodgings, to pay per Night, if found with Sheets and other Bedding, the Bed to be sheeted with clean Sheets once a Fortnight,	0	0	4
In case the Prisoner finds his own Bedding, per Night,	0	0	2
Prisoners lying in the worst Lodging, if found Bedding, and the Bed to be sheeted with clean Sheets once per month, to be paid per Night,	0	0	2
In case the Prisoner finds his own Bedding, per Night,	0	0	1
In case the Prisoner chooses to have a Bed to himself in the best Lodging, to pay per Night, if found Bedding,	0	0	6
If the Prisoner finds his own Bedding, per Night,	0	0	3
Every Prisoner that goeth abroad with the Keeper, to pay per Day,	0	1	0
If the Keeper finds his own provisions, per day,	0	1	8

*Court of the Probates of Wills.—Judge's Fees.*Judge of Probate's
Fees.

FOR granting Administration and Bonds for every Sum under Ten Pounds,	0	3	0
For every Probate, Ten Pounds, or under,	0	2	3
For granting Administration and Bond, from Ten to Twenty Pounds,	0	4	6
For every Probate from Ten to Twenty Pounds,	0	3	6
For granting Administration and Bond, from Twenty to Thirty Pounds,	0	5	6
For every Probate from Twenty to Thirty Pounds,	0	4	6
For granting Administration and Bond, from Thirty to Fifty Pounds,	0	6	0
For every Probate from Thirty to Fifty Pounds,	0	5	0
For granting Administration and Bond, from Fifty Pounds and upwards,	0	7	0
For every Probate for Fifty Pounds and upwards,	0	6	0
For every Citation,	0	2	3
For every Caveat,	0	1	0
For every Oath,	0	1	0
Every Warrant of Appraisement,	0	2	0
Examining every Exhibit,	0	1	0
Letters <i>ad Colligendum</i> ,	0	9	0
Definitive Decrees upon Estates under Fifty Pounds,	0	4	6
Attendance upon the same, if above one Day, for every Day exceeding, at per Day,	0	4	6
For allowing of Appeals, and transmitting of Papers relative to them, and for all Expences attending the same,	0	4	6

Register's

Register's Fees.

FOR registering Letters of Administration, for every Sum under Ten Pounds,	0	2	6	Register's Fees.
For registering a Will of the same Sum, and Copy of ditto, at the Rate of <i>One Penny</i> for every Twenty Words,				
For registering all Probates Ten Pounds, or under,	0	1	6	
For registering Letters of Administration for every Sum between Ten and Twenty Pounds,	0	3	0	
For registering a Will, the same Sum and Copy of ditto, at the Rate of <i>One Penny</i> for every seventeen Words.				
For registering all Probates for the same Sum,	0	2	0	
Letters of Administration from Twenty to Thirty Pounds,	0	3	6	
A Will for the same Sum and Copy of Ditto, at the Rate of <i>One Penny</i> for every Sixteen Words.				
A Probate for the same Sum,	0	2	6	
Letters of Administration from Thirty to Fifty Pounds,	0	4	0	
A Will for the same Sum, and Copy of ditto, at the rate of <i>One Penny</i> for every Fourteen Words.				
A Probate of the same Sum,	0	3	0	
Letters of Administration from Fifty Pounds and upwards,	0	5	0	
A Will from Fifty Pounds and upwards, and Copy of ditto, at the Rate of <i>One Penny</i> for every Twelve Words,				
A Probate from Fifty Pounds and upwards,	0	4	0	
Definitive and interlocutory Decrees upon Estates under Fifty Pounds,	0	1	0	
Ditto, for all above,	0	2	0	
For his Attendance in Court, per Day,	0	2	3	
For his Attendance with Records, per Day,	0	2	3	
For every Search,	0	1	0	
Copies of all Writings, at the Rate of <i>One Penny</i> for every Fifteen Words.				

Apparitor's or Marshal's Fees:

FOR serving every Citation in Town,	0	1	0	Apparitor's and Marshal's Fees.
For serving every Decree, or Citation whatsoever, in the Country, <i>Two Pence</i> per Mile, for travelling Expences, reckoning from the Court to the Place of Service, and back again.				
For every Sentence,	0	1	0	
If his Attendance for the same be more than one Day, per Day,	0	2	6	

Appraiser's Fees.

TO be paid when employed, at the Rate of *Four Shillings* and *Six-pence* per Day, but not to be obliged to meet on any Business under *One Shilling* each.

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Travelling

Travelling Expences, *Three-pence* per Mile, to be computed from the Place of their Residence to where they are employed, and back again.

Justice of the Peace's Fees.

Justice of Peace's Fees.	F OR taking an Affidavit or Examination,	0	1	0
	Warrants,	0	1	0
	Recognizance,	0	1	0

Notary Public's Fees.

Notary Public's Fees.	F OR noting Bills for Non-acceptance,	0	1	0
	For every Protest,	0	3	6
	For every Certificate under Seal of his Office,	0	2	3
	For registering Protests, and other Writings, at the Rate of <i>One Penny</i> for every Fifteen Words.			

Surveyor General's Fees.

Surveyor General's Fees.	F OR the Survey of each Town and Pasture Lot, together,	0	9	0
	For surveying of Lands, for himself, per Day, to be computed from the day he leaves his own House, to the Day of his Return, no unnecessary Time to be allowed,	0	10	6
	One Chainman to be allowed the Surveyor, if found Provisions, to have, per Day,	0	2	0
	In case he finds himself, to have, per Day,	0	3	0
	The Employer to Find the other Attendants,			
	Every search in his Office,	0	1	0
	Every Certificate,	0	1	0
	Except for the Town and Pasture Lots, for which there is to be no Charge of Certificate.			
	For a Plan of every Survey under one Hundred Acres,	0	2	6
	Every Plan between one Hundred, and one Thousand Acres, at the Rate of <i>Three Pence</i> per Hundred, and all above at the Rate of <i>One Penny</i> per Hundred Acres,			
	The Person employing him to choose the Scale he will have the Plan drawn upon, he paying for Paper.			
	For drawing every Plan of a Township, copied from the original Survey,	0	4	6
	If done upon a larger Scale than the original Survey, for each,	0	9	0
	Persons who employ to pay for Paper.			

Particular Officers to hang up in their Office a List of their Fees.

II. *And be it further enacted*, That each and every of the Officers, Clerks, and other Persons before mentioned, as also all others acting by, or under him or them, who from the nature of their respective

pective Appointments do keep, or ought to keep, a Public Office for the purpose of executing their several Trusts, shall cause to be posted up, in some conspicuous part thereof, a List drawn out in words at full length, of the several Fees appertaining to his or their Office or Offices; there to remain and to be resorted to, by all Persons interested therein, or who shall or may be desirous to inspect the same.

III. *And be it further enacted*, That all and every the Officers Clerks, and Persons before mentioned, and others acting by or under him or them, except his Excellency the Governor, or other Commander in Chief, who shall or may in any manner enjoy any of the aforesaid Offices or Trusts, are hereby required upon Application made therefor, to give to the Person so applying, as soon as the same may be conveniently done, an Account of such Fee or Fees as shall or may be charged for the aforesaid respective Services; the said Account to be in words at full length, and signed by such Officer, Clerk, or other Person, or by the Person or Persons employed by, or under him or them, if the same shall be demanded, by the person so applying.

IV. *And be it further enacted*, That all and every the said Officers, Clerk's, or other Persons, and all Persons acting by, or under him or them, who shall refuse to give and deliver to the Person applying therefor, such Account as is herein before directed, shall, for each and every Offence, forfeit and pay to the party aggrieved, the Sum of Five Pounds,

V. *And be it further enacted*, That if any Officer, Clerk, or other Persons whatsoever, or any Person or Persons employed by or under him or them respectively, shall charge, demand, or take any other or greater Fee or Fees, than is herein before mentioned and allowed, he or they, so offending, shall, for each and every such Offence, forfeit and pay to the Party or Parties from whom he, or they, shall have so charged, demanded, or received the same, the sum of Five Pounds, over and above the amount of the Fees which shall have been so as aforesaid illegally charged, demanded, or taken.

VI. *And be it further enacted*, by the authority aforesaid, That each and every the Person or Persons before mentioned, who shall offend against this Act, or any part thereof, shall, for each and every such Offence, forfeit and pay to the Party thereby aggrieved, the Sum of Five Pounds; to be recovered with treble Costs of Suit, in His Majesty's Supreme Court of Judicature; where no Essoin, Protection or Wager of Law, nor more than one Imparance, shall be allowed.

Provided Nevertheless, such Action or Suit shall be commenced within Six Months next from the Time when such Offence shall or may have been committed.

Particular Officers, if required, to give an Account of the Charges made against any Person applying for the same.

Officers refusing to give such Account, to forfeit the sum of Five Pounds.

No Officer to take larger Fees than herein limited.

see words in section III

For every Offence, to forfeit the Fees demanded or received, and Five Pounds.

to be recovered in the Supreme Court with treble Costs.

Action to be commenced within Six Months after Offence.

C A P. II.

See former Act 13th Geo. 3, c. 11, Amended by 31st Geo. 3, c. 5, also by 41st Geo. 3, c. 6, 46th Geo. 3, c. 1.

AN ACT, in addition to, and amendment of an ACT, made and passed in the Thirteenth year of his present Majesty's Reign, intituled "An Act for the more easy and speedy recovery of Small Debts.

WHEREAS it is apprehended that the Imprisonment of Debtors as directed by said Act, is too long for such small Debts, as are therein mentioned,

After Publication Imprisonment of Debtors, between the Months of April and October not to exceed six weeks, instead of three Months; and between the Months of October and April not to exceed two Months, instead of four Months

I. *Be it therefore enacted, by the Commander in Chief, Council, and Assembly,* That from and after the Publication hereof, any Person or Persons, who shall be committed to any Prison by Virtue, or in pursuance of the said Act, between the Months of *April* and *October*, in each and every Year, his, her, or their Imprisonment shall be only for the space of six Weeks, instead of three Months, as by the said Act is authorised. And all Persons who shall be committed as aforesaid, between the months of *October* and *April*, in each and every Year, shall remain imprisoned for the space of two Months only, instead of four Months, as by said Act is also authorised.

Preamble.

And Whereas the Trial of Causes in a summary Way has been found useful, and the Means of determining many Suits with little Costs.

After Publication, two Justices to proceed in a Summary Way, and to determine Actions not exceeding £5.

II. *Be it therefore enacted, by the Commander in Chief, Council, and Assembly,* That from and after the Publication hereof, any two of his Majesty's Justices of the Peace in this Island be, and they are hereby empowered to hear and determine all Causes of Action brought before them, whereof the Sum total shall not exceed *Five Pounds*, in the same Manner, in every Respect, as any one Justice is authorised and required to do, in and by an Act made and passed in the Thirteenth Year of his present Majesty's Reign, intituled, "*An Act for the more easy and speedy recovery of Small Debts,*" And the *Provoost Marshal*, and all other Officers and Persons mentioned in said Act, are hereby authorised and required to proceed, and to do in all the causes above mentioned, as he or they are required and directed in and by the said Act herein before in Part recited.

Provoost Marshal and other Officers to proceed as directed by Act for the Recovery of Small Debts.

Imprisonment of Debtors for Sums between Two and Three Pounds, not to exceed Three Months; and between Three and Five not to exceed five Months.

III. *And be it further enacted,* That the Imprisonment of any Person or Persons for any sum above *Forty Shillings*, and not exceeding *Three Pounds*, shall be only for the space of Three Months at any time or Season of the Year, and for any sum above *Three Pounds*, and not exceeding *Five Pounds*, the said Imprisonment shall be only for the Space of five Months, at any time or Season of the Year: And after any of which said Imprisonments, he, she, or they shall be freed and discharged therefrom, and also from the Debt for which such Imprisonment had taken Place, so far as to prevent any further or other Imprisonment for or by Reason of the same Debt.

Preamble.

And Whereas, in and by the said in part recited Act, the Justice or Justices before whom Debts, as directed by said Act, are to be recovered

covered, are obliged to direct the Writ of Execution, or Judgment by them rendered, to the *Provost Marshal*; which Practice, by his distant Residence, has been found inconvenient, and attended with the loss of several Creditor's Demand: For Remedy whereof,

IV. *Be it further enacted*, by the authority aforesaid, That from and after the Publication hereof, each and every of the said Justices, before whom Judgment for any Debt shall or may be recovered, by Virtue of the Powers vested in him or them, by the said in part recited Act, or by this present Act, shall be authorised, and they are hereby respectively authorised and directed to award Execution on such Judgments, and to direct the same to the next residing sworn Constable, who, upon receiving such Writ or Writs of Execution, is hereby required to execute the same, in such Manner as the said *Provost Marshal* is empowered and directed in like Cases, by the said in part recited Act; and all Constables, in executing such Writs of Execution, are hereby vested with, and entitled to, all and singular the Powers, Authorities, and Perquisites given to the said *Provost Marshal*, in and by the said in part recited Act, or by any of the Clauses or Provisions of this present Act; and all Constables in executing such Writs of Execution, are liable for misconduct therein, to all such Fines, Penalties, and other remedies, as are provided in and by the said before in part recited Act, and thereby authorised to be instituted or prosecuted against the said *Provost Marshal*, in Cases of Misbehaviour, or neglect of Duty, as specified in said herein before in part recited Act.

Justices of Peace to direct their Warrants to the Constable next adjoining to the residence of Debtor in Place of Provost Marshal.

Constables invested with some Powers as Provost Marshal in Execution of Warrant and to have the same Perquisites.

Constable liable to same Fines and Punishments as provided against Provost Marshal.

C A P. III.

AN ACT to prevent TRESPASSES upon CROWN LANDS.

WHEREAS sundry Persons have presumed to enter upon, and take Possession of, certain ungranted Lands in this Island, without Licence first duly had and obtained therefor, or being otherwise lawfully authorised thereto; which Practice is highly prejudicial to the Honour, Dignity, and Interests of the Crown.

I. *Be it therefore enacted*, by the *Commander in Chief, Council, and Assembly*, That from and after the Publication hereof, all persons whatsoever, who shall or may locate, settle, or place any Person or Persons whatsoever on such ungranted Lands, or who shall or may occupy any such Lands in any Manner whatever, without having first obtained a Grant therefor, or obtained Licence or Leave in Writing for that purpose, from the *Governor* or other *Commander in Chief*, for the time being shall or may be prosecuted for the same by Bill, Plaint, or Information, in *His Majesty's Supreme Court of Judicature*, of this Island, and upon due conviction thereof, by the Oath of One credible Witness, shall forfeit and pay the Sum of

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Twenty

Preamble.

After Publication, Persons in any manner possessing themselves of ungranted Lands,

without having a Grant, &c. in writing from Governor, &c. may be prosecuted in Supreme Court;

and upon Conviction, by Oath of one Witness,

to forfeit £20.

Manner of Recovery
and application.

Twenty Pounds; the same to be sued for and recovered in manner as other Debts are sued for and recovered in *His Majesty's Supreme Court*, and to be applied to and for the use of his Majesty's Government in this Island.

Preamble.

And Whereas several Persons have seated or settled themselves on his Majesty's ungranted Lands at *Prince Town*, and on other Parts of this Island, without having obtained any Grant, Licence, or Leave for so doing:

The several Persons that are in possession of ungranted Lands, to apply for, and obtain Grants of the same; or not obtaining Grants, and shall not relinquish Possession before 1st October, shall forfeit £20.

II. *Be it therefore enacted*, by the authority aforesaid, That all Persons whatsoever, now in Possession of any of his Majesty's ungranted Lands, at *Prince Town*, or elsewhere on this Island, and who shall neglect to apply for and obtain Grants for the same, or not obtaining Grants therefor, and shall not relinquish the Possession thereof shall, from and after the first day of *October* next, (the *Governor*, or other *Commander in Chief* having first published his Proclamation for that Purpose) be subject to the aforesaid Penalty; the same to be recovered and applied in Manner as herein before directed.

to be recovered and applied as above. Governor, &c. first Publishing Proclamation.

C A P. IV.

AN ACT to confirm, and make valid in Law all manner of PROCESS and PROCEEDINGS in His Majesty's Supreme Court of Judicature of this Island, from the *Twenty-Fifth day of July*, in the Year of our Lord one Thousand Seven Hundred and *Seventy-Five*, to this present Session of Assembly.

Preamble.

WHEREAS the said *Supreme Court of Judicature* has, from Time to Time, agreeable to, and by Virtue of, an Act made and passed in the Thirteenth Year of his present Majesty's Reign, intituled "AN ACT for establishing the times and places of holding *the said Supreme Court of Judicature*," sat and adjourned for the Purposes therein mentioned.

And Whereas the said Court, on the said twenty-fifth Day of *July*, was continued from that Time, by Adjournment, to the third *Tuesday* in *February* then next following, as prescribed by the said herein before recited Act.

And Whereas in the month of *November* last, the Capital of this Island was invaded by two Provincial Privateers, who, among other wanton Depredations, made Prisoners of, and carried away the then and present *Commander in Chief*, the *Surveyor General* of the Island and most of the Effects belonging to the former; as also several of the public, as well as his private Papers, together with many of the Records of the said *Supreme Court of Judicature*, the Public Seal of this Island, his Majesty's Commission, and divers other necessary and valuable Papers and Effects belonging to this Colony: by reason

son whereof, and more especially as, at or about that time, a *Chief Justice*, appointed by his Majesty to this Island, arrived therein; who, on account of the distracted state of it, occasioned as aforesaid, could not procure his Commission as directed by his Majesty's Royal Order; by Means of which unfortunate events, the said *Supreme Court of Judicature* did not sit on the said third *Tuesday* in *February*, for the Dispatch of the Business thereof, agreeable to the Adjournment as prescribed in and by the said herein before recited Act.

And Whereas, notwithstanding there have been many and various Proceedings had in said Court; and in order to expedite Justice, the said Court, agreeable to said Act, did sit on the last *Tuesday* (being the twenty-fifth Day) of *June* last, and proceed upon such Business as was then ready, and adjourn to the third *Tuesday* in *February* next, according to the Requisition of said Act.

And Whereas Doubts have since arisen as to the Legality of such Proceedings, on account of the said Court not having been continued over from last *February*:

I. *Be it therefore enacted by the Commander in Chief, Council and Assembly*, That all Writs, Pleas, Process, Actions, Bills, Suits, Indictments, Informations, Judgments, Orders, and Sentences; given or awarded, of and concerning any Matter or Thing whatsoever, which was sued or prosecuted to Judgment, or otherwise, in the said *Supreme Court of Judicature*, at any Time or Times from and after the said twenty-fifth day of *July*, to the End of this present Session of Assembly; and the present Adjournment of said Court, shall be deemed, construed, and taken, to be good and effectual in the Law, to all intents and purposes whatsoever: *Provided Always*, that Nothing herein contained, shall extend, or be construed to extend, to take away such Errors in Law, as shall or may have arisen upon the misusing of Process, Misleadings, and erroneous rendering of Judgments in the said *Supreme Court*; but that in all such Cases, the Parties aggrieved may have their Writ of Error upon such erroneous Judgments, any Thing herein contained to the contrary in any wise, notwithstanding.

All Writs Pleas, &c. &c. saved and held good and effectual in Law.

Proviso that this Act does not extend to take away Errors in Law, arising from misusing of Process, &c.

The parties aggrieved thereby, may have Writ of Error.

C A P. V.

AN ACT in addition to, and amendment of two Acts made and passed in the Thirteenth and Fourteenth Years of his present Majesty's Reign, severally entitled "An Act empowering his Excellency the Governor, or other Commander in Chief for the Time being, to direct the making of *Public Roads*, and to appoint Persons to carry the same into Execution.

Repealed.
For Acts relative to Highways, see Note on 21st Geo. 3, c. 4.

C A P. VI.

AN ACT for continuing sundry Laws that are near expiring.

Expired

Anno

1779.

Anno Decimo Nono Regis GEORGE III.

THOMAS DESBRINAY,
Lieutenant Governor.

PETER STEWART,
President of Council.

DAVID HIGGINS,
Speaker.

At the GENERAL ASSEMBLY of His Majesty's Island of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Eighth Day of October, ANNO DOMINI, one thousand seven hundred and Seventy-nine, and in the Nineteenth Year of the Reign of our Sovereign Lord GEORGE the THIRD, of Great Britain, France and Ireland, KING, Defender of the Faith, &c. being the First Session of the Third General Assembly, convened in the said Island.

C A P. I.

Expired.

AN ACT for continuing sundry *Laws* that are near expiring.

C A P. II.

Continued for four Years, and until the End of the then next General Assembly 21st Geo. 3, c. 2, s. 4.
Repealed and re-enacted by 25 Geo. 3, c. 4, s. 1, and by 25 Geo. 3, c. 5.

AN ACT intituled An Act for imposing a Duty of Four Pence per Gallon on *Rum*, and other Spirituous Liquors, &c. for regulating the Conduct of *Tavern-Keepers*, and for altering and amending an Act, made and passed in the Thirteenth Year of his present Majesty's Reign, imposing a Duty on *Retailers* of *Rum*, and other distilled *Spirituous Liquors*.

C A P. III.

Expired the 26th of April 1785.

AN ACT for regulating *Weights* and *Measures*, and the Conduct of *Store-Keepers*.

Anno

Anno Vicefimo Regis GEORGII III.

1780.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Eighth Day of October, ANNO DOMINI, one thousand seven hundred and feventy-nine, and in the nineteenth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and thence continued by Prorogation until the thirteenth day of March, one thouland seven hundred and Eighty, and in the Twentieth Year of His faid Majesty's Reign ; being the fecond feffion of the third General Affembly, convened in the faid Island.

WALTER PATTERSON,
Governor.

THOMAS DESBRISAY,
President of Council.

WALTER BERRY,
Speaker.

C A P. I.

AN ACT to prevent *forestalling* the *Market*.

Continued by 21st Geo. 3, c. 9, s. 1, until the 1st of July, 1784, and from thence to the End of the then next General Assembly.

Expired the 26th of April 1785.

C A P. II.

AN ACT, to explain and amend an Act of the fourteenth Year of his present Majesty's Reign, intituled, " An Act laying an Imposition on *Retailers* of *Rum* and other distilled *Spirituous Liquors*."

Expired the 26th of April, 1785.
See 25th Geo. 3, c. 2.

C A P. III.

AN ACT empowering the Justices of the Peace for this Island to enquire into, and regulate the Prices of all Sorts of *Provisions*, and the Rates of *Entertainment* in Public Houses, or Inns.

Expired the 26th of April, 1785.

C A P. IV.

Made perpetual by
21st Geo. 3, c. 11.
Disallowed by his
Majesty in Council,
29th of June 1781.

AN ACT ascertaining the *Privileges* of the Members of the General Assembly, their Servants, and the Mode of General and partial Elections, &c.

C A P. V.

Amended and made
perpetual by 21st Geo.
3, c. 11.

AN ACT for preventing the running at large of STONE-HORSES or STALLIONS, and for the killing of PARTRIDGES at improper Seasons.

Preamble.

WHEREAS the improving the Breed of Horses is of great Importance to this Island; and as the same has been degenerating for some time past, occasioned by the general and uninterrupted Custom of allowing Stone-Horses or Stallions, exceeding one Year old, to roam about at large: For remedy whereof,

After Publication, all Stone-Horses above 1 Year old, found running at large between 15th March, and 1st of November yearly, Owners subject to a Penalty of Twenty Shillings.

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly,* That from and after the Publication hereof, no Stone-Horses or Stallions, exceeding one Year old, shall be allowed to roam at large between the fifteenth day of *March*, and the first Day of *November* in each and every Year, under the Penalty of *Twenty Shillings*, for each Offence.

Any Inhabitant authorized to seize and impound, &c. all Stone Horses roaming at large within the Time above.

II. *And be it further enacted,* That it shall and may be lawful for any Inhabitant of this Island, who may find any Stone-Horse or Stone Horses, Stallion or Stallions, exceeding one Year old, roaming at large, within the Time above limited, to impound or confine the same: And as soon as the Proprietor or Proprietors of such Stone Horse or Stone Horses, Stallion or Stallions, can be conveniently notified of such Impounding or Confinement, the Person or Persons, so impounding or confining, is or are hereby required to give such Notice to him or them respectively: And if the said Proprietor or Proprietors do not thereupon, as soon as may be, take away all such Horses or Stallions; that then, and in such case, the Person or Persons who shall or may impound or confine the same, shall have full Remedy, by applying to any one of his Majesty's *Justices of the Peace* in this Island, who is hereby empowered, upon Proof being made to his Satisfaction of the said Offence, to grant a Warrant to levy by Distress and Sale made of the Goods and Chattles of the Proprietor of such Horse or Stallion, to the amount, in Money, of the above mentioned Penalty, and also such Damages as may have been sustained, with Costs of Suit; one Half of the said Penalty to be paid to the Informer or Prosecutor, and the other Half to be applied to the use of his Majesty's Government in this Island.

Persons impounding, &c. to give Notice thereof.

Proprietor of Horse neglecting, after Notice, to take him away,

any Justice of Peace, upon due Proof, to grant Warrant, and levy, by Distress, Penalty; as also Damages with Costs.

Application of Penalty.

Made perpetual by
21st Geo. 3, c. 11.

And

And Whereas the Killing of Partridges in the pairing and hatching Season, and before they can fly, has greatly reduced the Breed of that useful Bird, and endangers a total Loss of the same : to prevent which

III. *Be it enacted, by the authority aforesaid,* That from and after, the Publication hereof, no Person or Persons whatever, shall presume to shoot, kill, or destroy any Partridge or Partridges, between the first Day of *April*, and the first Day of *August* in each and every Year, under the Penalty of forfeiting the Sum of *Ten Shillings* for each Partridge so shot or killed.

IV. *And be it further enacted,* That any One of his Majesty's *Justices of the Peace*, is hereby empowered and required, upon Proof being made to his or their Satisfaction, of such shooting or killing any Partridge or Partridges, to issue his or their Warrant, or Warrants, for the levying, by Distress and Sale of the Goods of such Offender or Offenders, to the amount of said Penalties, with Costs of Suit ; one Half of which Penalties to be paid to the Informer, and the other Half to be applied to and for the Use of his Majesty's said Government.

And it is hereby declared, That this Act shall continue and be in Force for the space of Three Years next after the Publication hereof, and to the End of the then next Session of the *General Assembly* of the Island, and no longer.

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C A P. VI.

AN ACT for preventing Trespasses by unruly HORSES, CATTLE, and SHEEP, and for preventing the Running of HOGS at large through the Town of CHARLOTTE-TOWN.

BE it enacted, by the Lieutenant Governor, Council, and Assembly, That if any Horses, Mares, Neat-Cattle, Hogs or Sheep, shall break or get into any Grounds, being enclosed with a Fence four Feet and a Half high (which is to be deemed a lawful Fence) and so close, that none of the before mentioned Beasts, breaking into such Grounds, could creep through the same, the Owner or Owners of the said Horses, Mares, Neat-Cattle, Hogs and Sheep, shall for every such Trespass, make Reparation to the party injured, to the full amount of the Damages they shall or may sustain, with Costs of Suit : And in order to ascertain, as exactly as may be, the real Amount of such Damages,

II. *Be it further enacted,* That as often as any of the before mentioned Beasts shall or may trespass as aforesaid, the Party injured thereby, may apply to the next *Justice of the Peace*, who is hereby empowered and required, to grant a Warrant, under his Hand and Seal, to Two or Three (as he shall or may see Cause) of the nearest Neighbours

Preamble.

After Publication, no person to kill, &c. Partridges between 1st April and 1st August yearly, under penalty of 10s. Extended to 1st September by 21st Geo. 3, c. 11.

Any Justice of Peace, upon due proof, to issue his Warrant of Distress for levying penalty, with Costs.

Application of penalty.

Limitation.

Acts which amend or alter this Act, July Session, 20th Geo. 3, c. 4, Nov. Session, 31st Geo. 3, c. 7, 35th Geo. 3, c. 9, 36th Geo. 3, c. 2.

Any Horses, &c. breaking into any grounds fenced four Feet and a half high

the Owner, of such Horses, &c. shall make Reparation to the party injured.

Upon application of Party injured, Justice of Peace to issue Warrant directed to two or three Neighbours, thereby empowering any Two of them to view and appraise, up-

on Oath, the amount of Damages sustained.

Justice of Peace to allow Appraisers satisfaction for their Trouble, which is to be included with Damages :

and if not paid, within a reasonable time to be levied by Execution

If Owner of Horses, &c. alleges that Fence was insufficient, burthen of proof to lie on him.

In Case he proves Fence to have been insufficient, he shall not be liable to any Damages.

Further provisions relating to Fences March Session, 20th Geo. 3, c. 4, s. 2.

Preamble.

From 1st May, 1780, no Hog or Pig to be allowed to roam in or about Charlotte-Town under penalty of Forfeiture thereof.

Persons finding any Hog, &c. at large within the above Limits, authorised to seize the same; and any Justice of Peace, upon due proof thereof, to order the same to be sold at public Auction,

and out of the money that such Hog, &c. shall be sold for, to allow the person, so seizing, &c. as follows; for every Hog, &c. under six Months old, six Shillings, and for all above ten Shillings; the Remainder to be given to the poor.

Limitation.
The whole of this Act made perpetual by 21st Geo. 3, c. 11.

Neighbours, empowering them; or any Two of them, to go to the Grounds, so trespassed upon, and to view and appraise the said Damages, and to cause the said Appraisers to return a Certificate to him, upon Oath, of the real amount of the Damages, according to the best of their Judgment and Belief.

III. *And be it further enacted*, That the said *Justice of the Peace* shall have Power, and he is hereby authorised and required, to direct and order a reasonable Satisfaction to the said Appraisers for their Trouble, according to the Distance they shall have travelled, and other circumstances; and which satisfaction to the said Appraisers, it is hereby declared, shall be considered as Part and Parcel of the Damages so done to the injured Party; and which the Owner of the trespassing Beasts herein before mentioned shall be obliged to pay, and if not paid within a reasonable Time, the same, with the assessed Damages as aforesaid, and Costs, to be levied by the said *Justice's* Execution on the Person or Goods of the said Owner. And in order that the condition of the Fence, at the time of the Trespass committed as aforesaid, may be ascertained (in Case the Owner of the trespassing Beasts, herein before mentioned, should allege the same to have been insufficient) the Proof thereof shall lie upon such Owner: And in case of such Owner's proving the Fence to be insufficient, then, and in such case, he shall not be liable to any Damages whatsoever.

And Whereas the allowing of Hogs and Pigs to run at large through *Charlotte-Town*, is justly deemed a Nuisance:

IV. *Be it therefore enacted by the authority aforesaid*, That from and after the first day of *May* next, no Hog or Pig shall be allowed to roam or run at large in or about the Town of *Charlotte-Town*, under the Penalty of the same being forfeited.

V. *And be it further enacted*, That it shall and may be lawful for any Person whatever, who shall or may find any Hog or Pig at large within the limits of said Town, to apprehend and seize such Hog or Pig; and after securing the same, to make Oath before One or more of his Majesty's *Justices of the Peace*, that he or they found the said Hog or Pig at large as aforesaid; and the said *Justice* or *Justices* shall thereupon order the said Hog or Pig, within a convenient Time, to be disposed of at Public Auction; and out of the Price for which every such Hog or Pig shall or may sell, he shall cause to be paid to the Person or Persons who shall find, apprehend, and seize the same, as follows, viz. For every Hog or Pig, under six Months old, the sum of *Five Shillings*; and for every Hog or Pig, upwards of six Months old, the sum of *Ten Shillings*; and the remainder to be given to the Poor of the Island, Which Sums are to be paid and disposed of by the *Justice* or *Justices* who shall have given the said Order for the Sale of such Hog or Pig.

And it is hereby declared, That this Act shall continue and be in full Force, from and after the Publication hereof, for the space of three Years, and to the end of the then next Session of the *General Assembly* of the Island, and no longer.

Anno

Anno Vicefimo Regis GEORGII III.

1780.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Eighth Day of October, ANNO DOMINI, one thousand seven hundred and feventy-nine, and in the nineteenth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and thence continued by Prorogation until the Third day of July, One thousand Seven hundred and Eighty, and in the Twentieth Year of His faid Majesty's Reign; being the third Seflion of the third General Affembly, convened in the faid Island.

WALTER PATTERSON,
Governor.

THOMAS DESBRISAY,
President of Council.

WALTER BERRY,
Speaker.

C A P. I.

AN ACT for the establishing and regulating a MILITIA.

WHEREAS the Security and Preservation of this Island at all Times, and especially during the Continuance of the present War and unhappy Rebellion, greatly depends upon a Militia being established and embodied, as soon as possible, under such Regulations as may make the same most useful for the Support and Defence thereof, and that the Inhabitants should be well armed, and properly trained up in the Art Military, as well for the Honor and Service of his most Sacred Majesty, and the security of this his Island, against any hostile Attack or Invasion whatsoever, as for the Preservation of their own Lives and Fortunes; and that every Person may know his Duty herein, and be obliged to perform the same;

Preamble.

I. Be it enacted by the Governor, Council, and Assembly, That from and after one Month next from the Publication hereof, all male Persons, Planters, and Inhabitants, and their Servants, between the Ages of Sixteen and Sixty, residing in, and belonging to this Island, shall

From one Month after Publication, all male Subjects between 16 and 60, to bear arms and attend military

Musters, &c. of Companies in which they are enrolled.

Clerk of each Company to take quarterly, a List of all Persons within the Precincts of such Company.

Such List to be presented to the Captain on pain of forfeiting 20s. &c.

Mode of Recovery.

Persons enrolled in Company, to do duty therein, until orderly, dismissed, &c. on Penalty by Law provided.

In case of removal into the Precinct of another Company to produce Certificate.

Persons liable to be enrolled, who attempt to evade Service, to be fined 10s.

Mode of Recovery.

Proviso.

Each Militia Man to provide for himself Fire Arms, etc. on Penalty of 10s. for want of such Arms, and 5s. for want of each other defective appurtenant.

The like Sum for every four Weeks he shall therewith be unprovided.

Manner of Recovery.

Regimental Musters to be made once in six Months.

shall bear Arms, and duly attend all Musters and military Exercises of the respective Companies, in which they shall or may be enrolled or belong.

II. And the Clerk of each Company, once a Quarter, yearly, shall take an exact List of all Persons living within the Precincts of such Company, and present the same to the Captain or Chief Officer on Pain of forfeiting *Twenty Shillings* for each Default, to be paid to the Captain or Chief Officer for the Use of the Company; and in case of Non-payment, the same to be levied by Distress and Sale of the Offender's Goods; by Virtue of a Warrant from any Justice of the Peace in this Island, who is hereby impowered to grant the same.

III. That every Person enrolled in any Company, shall so continue and attend all Duty therein, or suffer the Penalty by Law provided, until orderly dismissed or removed out of the Town or Precinct of such Company; and in case of removal into the Precinct of another Company, to produce a Certificate under the Hand of the Captain, or Chief Officer of the Precinct, whereunto he is removed, that he is enrolled there.

IV. If any Person, liable to be enrolled as aforesaid, do attempt to exempt himself from such service, by shifting from House to House, or Place to Place, with Intent to avoid his being so enrolled, he shall pay, as a Fine for every such Offence, to the use of the Company to which he properly belongs, *Ten Shillings*, on being thereof convicted before any of his Majesty's *Justices of the Peace* for this Island.

V. *Provided*, That every enrolled Militia-man, and other House-Holder residing as aforesaid, shall be always provided with proper and sufficient Fire-arms; consisting of a Musket, Gun, or Fuzee, the same to be not less than three Feet long in the Barrel; two spare Flints, and twelve Charges of Powder and Ball suitable to their respective Fire-arms, and to the satisfaction of the Commissioned Officers of the Company to which he belongs; on Penalty of forfeiting *Ten Shillings* for want of such Arms as are hereby required and *Five Shillings* for each other defective Appurtenant, and the like Sum for every four Weeks he shall so remain unprovided or deficient; the Fine to be paid by Parents for their Sons under Age, and under their command; and by Masters or Heads of Families, for their Domestic or Servants, (other than Servants upon Wages) the same to be levied on the Goods and Chattels of the Offender or Offenders, their Parents or Masters, by Warrant under the Hand and Seal of one or more of his Majesty's *Justices of the Peace* for the said Island.

VI. That all regimental Musters shall be made once in every six Months, if required by the *Governor* or *Commander in Chief* of this Island, for the Time being; and every Captain or Chief Officer of

of any Company or Regiment shall be obliged, on Penalty of forfeiting *Fifty Shillings*, to draw forth his Company, or cause the same to be drawn forth, at least once in every six Months, or as often as he shall receive Orders for that purpose from the Officer commanding any Regiment of Militia, or any other Corps or Body of Militia, who are required to give Orders accordingly, and to appoint the different Times that will best suit with the conveniency of the People, and give the least Interruption to their Labour and Industry; and upon their being so drawn forth, they are to be exercised in Motions, the Use of Arms, and shooting at Marks, or other military Exercises, which every Person, liable to be trained, and having six Days Notice thereof, and not appearing and attending the same, shall, for each Day's Neglect, forfeit and pay a Fine of *Five Shillings*.

VII. That the commissioned Officers of any Company, or the major part of them, may order the correcting and punishing Disorders and Contempt committed while on Duty; the said Punishment not being greater than Commitment for a time not exceeding *Forty-eight Hours*, or the Payment of *Five Shillings* as a Fine.

VIII. That there be military Watches appointed and kept at such Times, in such Places, in such Numbers, and under such Regulations, as the *Governor* or *Commander in Chief* of this Island, for the Time being, shall appoint; and that all Persons, able of Body, and who are of Age, shall themselves, or by some proper Person in their stead, to the Satisfaction of the commanding Officer of the Watch, attend the same, on Penalty of forfeiting *Five Shillings* for each Neglect, there having been due Warning previously given.

IX. Every enrolled Militia-man, or other Person liable by Law, refusing or neglecting to attend military Exercises, on training Days, or to perform military Watches, and who shall not pay, or have any Estate to be found, whereon to levy the aforesaid Fine, shall and may be subject to the Power of the Captain or Chief Officer of such Company, and he is hereby impowered, on the next training Day after such Neglect, (he not having satisfied the Clerk) to punish him for such Offence, by Commitment not exceed *Five Days*: And if such Delinquent shall absent himself the second Day, without making sufficient Excuse to the Chief Officer for such his Absence, the Captain or Chief Officer of the Company may thereupon direct a Warrant to any of the Constables of this Island, requiring him to apprehend such Delinquent, and to bring him to the Field, there to be punished as by this Act is permitted and directed. And all Constables are hereby required to execute such Warrants accordingly.

X. That the Persons, hereafter named, be exempted from all Trainings (except such as shall voluntarily receive Commissions in the Militia) viz. the Members of his Majesty's Council, the Members of the Assembly, the Chief Justice, and other Justices of Courts,
Justices

Every Chief Officer of a Company to draw forth his Company once in six Months, on Penalty of 5*l*.

Militia to be exercised, &c.

On Non-attendance, after six day's Notice, to forfeit 5*s*. for each Day's Neglect.

Commissioned Officers of Company to punish Disorders, by Commitment for a Time, not exceeding 48 hours, or a Fine of 5*s*.

Military Watches appointed by the Governor, &c.

All persons of age to attend the same, on penalty of 5*s*.

Persons neglecting to attend Military Exercises, &c. and who shall not pay the above Fine, or have any Estate whereon the same may be levied liable to

Commitment for Five Days.

Persons absenting the second Day, a Warrant for his apprehension to be issued by the Captain, and directed to any Constable, who is required to execute the same.

Specification of persons exempted from serving in the Militia.

Justices of the Peace, Attorney-General, Treasurer of the Province, Register of the Province, Chief Surveyor of Lands, Naval Officer, the Secretary, Ministers, Provost Marshal, Field Officers, the Collector and Surveyor of his Majesty's Customs, and the Waiter, constant Ferryman, one Miller to each Grist-Mill, constant Herdsmen, and lame Persons, otherwise disabled in Body, producing Certificates thereof from one or two neighbouring Justices of the Peace, or from Two able Physicians, or Surgeons.

Members of Council exempted from Watchings and Wardings.

XI. That the Members of his Majesty's Council be, and they hereby are exempted from military Watches and Wardings.

Commissioned Officers empowered to appoint and displace Sergeants and Corporals.

XII. That the Captain and commissioned Officers of each Company shall, and they are hereby fully impowered to nominate and appoint proper Persons to serve as Serjeants and Corporals in their respective Companies, and to displace them and appoint others in their room, as they shall or may see occasion.

Sergeants and Corporals appointed as above, and who refuse to serve, shall be subject to a Fine of 40s.

XIII. That all Persons who shall or may be so nominated and appointed to serve as Serjeants, or Corporals, and who shall refuse to serve in such capacity, shall be subject to pay a Fine of *Two Pounds*; and thereupon others shall be chosen or appointed in their Room, and so on, until proper Persons are nominated who shall accept of their Appointment.

Sergeants and Corporals appointed as above, and who neglect their duty, &c. shall forfeit for each offence 10s. or be committed for 24 hours.

XIV. *And be it further enacted*, That if any Serjeant or Corporal appointed as aforesaid, shall be guilty of any Neglect of Duty, or be Drunk, or disorderly while on Duty, he shall forfeit and pay, for each and every Offence, the sum of *Ten Shillings*, or be committed for *Twenty-Four Hours*: Which Fines shall or may be recovered and applied in the same Manner as is herein after directed for a Person refusing to serve as Clerk.

Manner of recovery and application.

XV. That twice every Year, if thereto required, each Captain or Chief Officer of a Company, shall give Order for a diligent Enquiry into the State and Condition thereof, and for taking an exact List of all the Names of his Soldiers, and other Inhabitants within the Limits or Districts of his Company, and of the Defects of Arms and Ammunition to be furnished as herein after mentioned, together with the Names of the delinquent Persons, to the End that they may be prosecuted according to Law; and that such Measures may be taken as are adequate to the Remedy of the Evil.

An Enquiry to be made twice in a Year into the state of each Company, also for taking exact Lists of Soldiers belonging thereto, and of Inhabitants within the District thereof.

XVI. *And be it further enacted*, That all Persons who shall attend at Places of Muster, in order to be trained and instructed in Military Discipline, shall be, and they are hereby declared to be, exempted and freed from all Arrests in civil Causes, as well while going to such Place of Muster, as while they may be there, or coming from thence, during the Space of *Twenty-four Hours*, the same to be allowed for the Time and Continuance of such Muster.

All Persons attending their Duty at places of Muster, shall be exempted from all Arrests in civil Causes during the time of their going to or coming from the Place of Muster.

XVII.

XVII. That such Person as by the Commissioned Officers of any Company, may be appointed Clerk, and refuse to serve in that Capacity, shall pay *Forty Shillings* Fine, and another be chosen in his Room, and so on, till one do accept or consent to execute that Duty; And which Person, so accepting or consenting, shall be under Oath for the faithful Discharge of his Duty in said Office, the same to be administered unto him by a Justice of the Peace of the County, in Words following, viz.

“YOU do swear truly to perform the Office of Clerk of the Militia Company, under the command of A. B. Captain, to the utmost of your Skill and Power, in all things appertaining to your Office according to Law. So help you God.”

And for every Distress made for any Fine not exceeding *Forty Shillings*, the said Clerk shall have one quarter part thereof for his Pains and Trouble; and for the levying and recovering such Fines, he may make Distress for, *ex Officio*: The said Distress to be made subject to such rules as the Law hath provided in other Cases; and after ten Day's Notice for that Purpose, he shall pay the Captain or Chief Officer all such Fines as he shall or may have received, his own part being deducted therefrom.

XVIII. The Chief Officer of the Regiment, as often as he may see Cause so to do, shall require the Captain or Chief Officer of each Company, in his Regiment, to meet at such time and place as he shall or may appoint, and there to confer with them, and to give in Charge such orders, as shall by them, or the major part of them, be judged meet, for the better ordering and settling their several Companies, and for the more effectually promoting military Discipline amongst them. And the said Chief Officer is hereby empowered, by virtue of his Warrant, directed to any Clerk or Officer of his Regiment, to summon, or cause to be brought before him, any Offender against this Act, and according to Law, to hear and determine all Matters proper for their cognizance, and to give Sentence, and to award Mittimus, or Warrant of Distress, to the Clerk of the Company where the Offence shall or may be committed: For executing which Warrant, if for levying above *Forty Shillings*, he shall have *Ten Shillings* out of the same, for his pains and trouble therein and no more.

XIX. That no Clerk, *ex Officio*, make Distress for any Fine until Six Days next after the Offence shall have been committed, in Order that the Party may have Opportunity to make Excuse, if any he hath, why he should not pay the Fine. And all such Clerks neglecting or refusing to account, or make payment, as by this Act is required, shall be subject to Distress to the full amount of what they ought to have collected, by Virtue of a Warrant from the Chief Officer of the Company, directed to any Constable.

XX. That all Officers do yield Obedience to the Warrant or Command

Person appointed Clerk of any Company, and who refuses to serve, shall pay 40s. Fine.

Persons serving shall be sworn to faithfulness in Office, by Oath to be administered by a Justice of the Peace.

Form of Oath.

Clerk's Allowance for levying Fines.

After ten Days Notice shall pay Overplus of all such Fines (received by him) to the Captain, &c.

Chief Officer of Regiments shall require Captain, &c. of each Company in his Regiment to meet and confer, and give in charge such Orders, as may be judged necessary by a Majority of them present.

Chief Officer empowered to summon, or cause to be brought before him, any Offender against this Act and after hearing, to determine according to Law, or award Mittimus, or Warrant of Distress, directed to the Clerk of the Company where Offence shall be committed, & for levying, if above 40s. is to receive thereout 10s.

No Clerk to make Distress, *ex Officio*, for any Fines until 6 Days after Offence committed.

Clerk neglecting &c. to pay Fines, as by this Act is required, shall be subject to Distress by Warrant, of Chief Officer of Company to which he belongs, the same to be directed to any Constable.

Penalty of £5 on
Officers disobeying
their superior Officers

Mode of Recovery
and Application of
Fine.

Alarm how to be
made at Charlotten-
Town.

Penalty of £5 or
suffering 3 Months im-
prisonment for not ap-
pearing upon Alarm.

Members of Council
&c. to attend the Gov-
ernor, &c.

Penalty of £50 or
suffering 12 Months
Imprisonment for mak-
ing false Alarm.

Alarm how to be
made at other Parts
of the Island.

mand of his or their superior Officers, on Penalty of forfeiting the Sum of *Five Pounds*, the matter to be heard and determined at the next meeting of the Chief Officers and Captains of the Regiment; and the Fine to be levied by Distress and Sale of the Offender's Goods (returning the Overpluss if any there be) by Virtue of a Warrant from the Chief Officer of the Regiment, directed to the Clerk of the Company to which such offending Officer belongs, and to be applied to the Use and Benefit of such Company as the Majority of the Officers, so met shall direct, their expences being first deducted out of the same, the whole whereof are not to exceed *Twenty Shillings*.

XXI. That any Alarm which may be given or made at *Patterson's Battery*, in *Charlotte-Town*, upon such Occasions as are agreeable to Instructions to be given by the *Governor* or *Commander in Chief*, for the Time being, to the Officer commanding at the said Battery, shall be by setting on Fire or lighting a Beacon at the Summit of the Hill of *Queen's Street*, or at such other Place as the *Governor* or *Commander in Chief*, for the Time being, shall or may hereafter appoint for that Purpose, and by firing two Guns distinctly at the said Battery, or at such other Place or Places as the *Governor*, or *Commander in Chief* for the time being, shall or may appoint for the aforesaid purpose as also by firing two Guns in like manner at the *Tartar's Wharf*, the same to be so fired at the space of five Minutes after the firing the aforesaid Guns at the Battery, or at such other Place as may be appointed as aforesaid; and thereupon all the Trained Officers, Soldiers, and other Persons able to bear Arms, who shall or may be then resident in the said Town, or the Suburbs thereof, (in Case of such Alarm) shall forthwith appear complete with their Arms and Ammunition, according to the directions of this Act, at such Place or Places of Rendezvous as may, from Time to Time, be appointed by the *Governor* or *Commander in Chief*, for the Time being; there to attend such Commands and Orders as shall or may be given for His Majesty's Service, on Penalty of forfeiting the Sum of *Five Pounds*, or suffering *Three Months* Imprisonment. And the *Members of His Majesty's Council*, *Justices of Peace* and, *Provost Marshal*, are hereby required to attend upon the *Governor* or *Commander in Chief*, if he or they should be then at *Charlotte-Town*; but if he or they should happen, in case of such Emergency, to be at any other Place or Places in this Island; then to appear there, and advise with the Chief Military Officers of such Place or Places where such alarm may be made, and to be assisting in His Majesty's Service, according to their Quality and Rank.— And all Persons wilfully making false Alarms, shall be fined to His Majesty in the Sum of *Fifty Pounds*, for the Support of His Government, or suffer *Twelve Months* Imprisonment. And all alarms which shall or may be made in other parts of this Island, shall be made according to the Instructions given by the *Governor* or *Commander in Chief*, for the Time being, to the Officers commanding there.

XXII. *And be it further enacted,* That every Person who shall, in pursuance of this Act, adventure himself as a Militia Man, in the Defence of this Island, upon any invasion, and shall, while in such Service, happen to be maimed, or receive any Hurt, so as to be rendered incapable of getting a Livelihood; that then such Person or Persons shall, according to the Degree of his or their Disability, receive a yearly Pension or Allowance, the same to be paid out of the Public Moneys of this Island; and if slain, then his or their Widow or Widows, during the Time of her or their Widowhood, and his and their Children, shall have a competent Allowance, to be paid yearly out of the said Public Moneys; each and every such Pension or Allowance to be estimated and fixed by the *Governor or Commander in Chief*, by and with the Consent and advice of *His Majesty's Council*.

Relief for Persons adventuring themselves Militia Men, in case of the Island upon any Invasion.

And for the better preventing false Alarms,

XXIII. *Be it further enacted by the authority aforesaid,* That no Captain, Master or Commander of any Ship or Vessel, riding at Anchor, or being within the Harbour of Charlotte-Town, or any other Person or Persons whatsoever, either afloat or on Shore, within the Town or Suburbs of Charlotte-Town, &c. or at Places within twenty Miles therefrom, shall presume to fire any Guns or small Arms, or beat any Drum after Sun-set, unless on some lawful occasion, under the Penalty of forfeiting *Forty Shillings* for every Gun or small Arm so fired or Drum so beaten, the same to be levied by Warrant of Distress from any of His Majesty's *Justices of the Peace* in this Island, and Sale of the Offender's Goods; and for want of sufficient Distress, then to commit such Offender or Offenders to Goal, there to remain until Payment shall have been made of such Fine or Fines.

Captains &c. of Ships &c. or other Persons; afloat within the Harbour of Charlotte-Town, or on Shore within the Town or Suburbs thereof, or within 20 miles therefrom, who shall fire any Guns or small Arms or beat any Drum after Sunset, shall be subject to a Penalty of 40s.

Mode of Recovery of Fine.

XXIV. *Provided always,* That this last mentioned Clause shall not be construed to extend to any Captain or other Officer of any of his Majesty's Ships of War, for their firing at setting the Watch, nor to any of his Majesty's Troops on Shore or on board, in the due Execution of their duty.

Proviso, not to extend to Officers of His Majesty's Ships or Troops in the due Execution of their duty.

XXV. That all Persons exempted by this Act from Training, shall, notwithstanding such Exemption, be provided with Arms and Ammunition, complete, or suffer the same penalty as those that are obliged to train.

Persons exempted from training notwithstanding to be provided with Arms, &c.

XXVI. *Provided* That no Person or Persons whatsoever shall be sued, prosecuted, nor his Goods and Chattels be liable to Seizure, by Virtue of any preceding Clause in this Act, except within the Space of *Three Months* next after the committing the respective Offences therein mentioned.

Limitation for Recovery of Penalties.

And whereas the situation of many of the Settlers of this Place cannot bear the Expence of purchasing Fire Arms and Ammunition:

XXVII. *Be it therefore further enacted,* That notwithstanding the Regulations relative thereto, as contained in the preceding Part of this Act, no Person shall be subject to any Penalty or Forfeiture on that Account

Person who cannot bear the expence of Purchasing Arms, &c.

shall not be liable to any Penalty for want thereof;

but as soon as the Governor, &c. shall have provided Arms, &c. for such Persons, they are to be subject to the Regulations contained in this Act.

Manner of recovering Fines which are not otherwise directed

Application of Fines not otherwise disposed of.

Account; but that, as soon as the *Governor or Commander in Chief*, for the Time being, shall have provided the Fire Arms and Ammunition, the several enrolled Militia Men, also those who shall or may receive the same, shall thereupon be, and they are hereby declared to be, subject to the Regulations above mentioned with respect to their keeping their Arms, &c. in good order, and always fit for Service.

XXVIII. All Fines, Penalties, and Forfeitures, arising by operation of this Act, or in any breach thereof, (not otherwise directed, as to the recovery thereof, or thereby disposed of,) shall be applied to and for the Use of the respective Companies wherein the same doth or may arise (that is to say) for the procuring and repairing Drums, Colours, Banners, and for the paying of Drummers, or other Charges of the said Company; and the Overplus (if any) to be laid out in Arms and Ammunition for a Town Stock, and to be recoverable by Action, Bill, Plaint, or Information, in any of His Majesty's Courts of Record.

C A P. II.

Amended by 36 Geo. 3, c. 4.

AN ACT to enable PROPRIETORS to divide their LANDS held in common, and for ascertaining the Mode of carrying such Division into Execution.

Preamble.

WHEREAS many of the Proprietors of certain Half, Third, and Fourth Parts of Lots or Townships of Land, belonging to this Government, have never been in the Island, nor appointed Agents or Attorneys to manage their respective Affairs there; whereby the Settlement and Improvement of the Parts or Shares of such Proprietors as do reside and live in the Island, or in their occasional Absence, have committed the management of their Affairs to Attorneys or Agents, have been delayed and impeded, to the general Prejudice and Injury of the Island: for remedy whereof,

Any Proprietor, &c. residing on this Island and being desirous of having his Share of Lands held in common with any other Proprietor, &c. who has not been nor is resident thereon; then Proprietor, &c. present may apply to the Governor and Council, who are empowered to appoint an Agent for the absent Proprietor, and after having administered an Oath for the due discharge of his Duty

I. *Be it enacted, by the Governor, Council, and Assembly, That* when and so often as any of the Proprietors of such Land shall be desirous of having a Division or Partition of the same, in order that such Proprietors may know their own Lands with certainty, and thereby be enabled to proceed with Effect in the Settlement and Cultivation thereof, any of the said Proprietors, or their Attorneys, may apply to the *Governor or Commander in Chief*, for the Time being, and to *His Majesty's Council*, who are hereby empowered and required to appoint some fit Person to act as Agent or Attorney for the absent Proprietor or Proprietors, and, after administering to such Agent or Attorney an Oath for the faithful Discharge of the Trust reposed in him by the said Appointment, shall thereupon appoint

appoint the *Surveyor General*, or some other well qualified Person, to make an exact Survey of such Lands or Lots, and by and with the Advice of three judicious Landholders or Farmers (One of whom to be elected by each of the Parties, and the other to be appointed by the *Governor* and *His Majesty's Council*) to divide and lay out the said Lands in equal Parts, and ascertain, by distinct and permanent Marks, Metes, or Boundaries, the Line or Lines of Divison of the different Shares; and that, as soon as the same shall or may be done, the Person or Persons claiming or suing for such Division, and the Attorney or Agent appointed in manner aforesaid, are to report a Draft or Survey of said Division, and to draw Lots in the presence of the *Governor* or *Commander in Chief*, and *His Majesty's Council*, for the said Division: And the respective Shares or Divisions, to which each of the Parties may have Right in consequence of such Draft, shall be attested by the said *Governor* and *Council*, in writing; and the written Certificate thereof shall be immediately recorded in the *Register's Office* in a Book to be kept by him for that purpose, and shall be held as authentic and unalterable, and received and allowed in Evidence on any Trial against the Party interested in the said Lands for ever thereafter.

II. *And be it further enacted*, That the Proprietor, or his Agent claiming a Division in Manner aforesaid, shall be obliged to defray all Expences incurred thereby; but at the conclusion thereof he may, and he is hereby empowered, to lay an account of the Expence incurred by him before the *Governor* and *Council*: And upon their examining and certifying their approbation thereof, the said Party shall be considered as a real Creditor upon the Estate or Property of the absent Proprietor or Proprietors, to the amount of one half of said Account; which Moiety shall bear Interest in his Favour from and after the Date of the said Attestation, at the Rate of Six per Cent per Annum, till paid. And unless the same shall have been paid within the Space of three Years; that then, upon Application to the *Supreme Court*, the *Chief Justice* thereof is hereby empowered and required to grant a Warrant to the *Provost Marshal*, or to his Deputy, to expose to Public Sale (Advertisements being duly posted up for thirty Days previous thereto, in all the usual places, notifying the time and place thereof) so much of the Lands of the absent Proprietor or Proprietors, as will satisfy and pay the one Half of the said Account of the Expences, so as aforesaid incurred and approved of, as well in obtaining the said Division, as for the Expences and Charges incurred in the Application hereby appointed to be made to the *Supreme Court*, and the Sale in Consequence thereof.

III. *And it is hereby enacted, by the authority aforesaid*, That all Persons holding their Lands in Common, and who either reside themselves, or have Attornies in this Island, may be compelled, by

P

Writ

they are to direct the Surveyor General, &c, who with the Assistance of three Landholders, &c. shall make an equal Division.

Draft of Division to be reported and Lots drawn for, in Presence of the Governor and Council, who are to sign each Share so drawn for;

the written Certificate thereof to be registered.

Division made as above, shall be held unalterable against the Party interested.

Proprietor making Claim to such Division, to defray all Expences incurred thereby; an Account whereof is to be laid before Governor and Council, who are to certify the whole or what Part they approve of; after which one Half thereof is to become a Debt, bearing Interest on the Estate or Property of the absent Proprietor.

If not discharged within three Years, so much of the Lands of absent Proprietor as will satisfy what is due (being certified as above) with Costs &c. to be sold

Made of enforcing the Sale &c.

All Persons who reside, or have resident Agents, & hold Lands in common, may be compelled by Writ of

Partition to divide the same.
Mode directed for effecting it

Writ of Partition, to divide the same in the Manner directed by Statute 8th and 9th WILLIAM the Third, Chapter the Thirty-first.

C A P. III.

AN ACT for the due observance of the LORD'S DAY.

Preamble.

WHEREAS the due Observance of the LORD'S Day in this Island, has been hitherto much neglected, and many abuses of the same have been committed, to the manifest Prejudice and Dishonour of Religion, and the shameful Violation of public Decorum and good Order :

I. *Be it therefore enacted by the Governor, Council, and Assembly,* in Order that all Persons may be restrained from such indecent and irregular Conduct in Future, and may be prompted to apply themselves to the rational Duties of Religion and true Piety, both publicly and privately, no Tradesman, Storekeeper, or any other Person or Persons whatsoever, shall hereafter open, or cause, or suffer to be opened his, her, or their shop or Store-House, or either by himself or herself, or by his or her Servant or Servants, Child or Children, sell, expose, or offer to Sale, upon any Bulk, Stall, or Shed, or send or carry out any manner of Goods or Mercandize on the LORD'S Day, or any part thereof.

No Tradesman shall open shop, &c. nor sell or send out any Goods on the Lord's Day.

This Act not to prohibit the selling Milk and fresh Fish, before 9 o'clock, A. M. and 5 o'clock, P. M. of the Lords Day.

No Truckman shall perform any Labour or Busines (Works of

necessity or Charity only excepted) nor practice any Sports or Pastime, on the Lord's Day, on Penalty of 30s.

Fines and Penalties how to be recovered and applied.

Justices of the Peace before whom Offender is convicted, is to keep a Record of Fines levied and how disposed of

Provided Nevertheless, that this Act shall not extend to prohibit any Persons from selling, or exposing to Sale Milk and fresh Fish, before the Hour of Nine o'clock in the Morning, and after Five of the Clock in the afternoon of the said Day.

II. *And be it further enacted by the Authority aforesaid,* That no Truckman, Driver of Carts, Labourer, or other Person whatsoever, shall hereafter do or perform any Labour, Work, or Business appertaining to his or their respective ordinary callings or Professions, or other worldly Labour, or suffer the same to be done by his, her, or their Child or Children, Servant or Servants, either by Land or by Water (Works of necessity and charity only excepted) or practice, or suffer to be practiced, any Sport, Fowling, Fishing, Game, Play, or Pastime, whatsoever, in any of the County Towns, or other Parts or Places wheresoever within this Island, on the LORD'S Day or any part thereof, upon Pain that every Person so offending, upon Conviction thereof by the Oath of one credible Witness, before any of his Majesty's *Justices of the Peace* in this Island, or upon view of such *Justice*, shall for every such Offence, forfeit and pay the Sum of *Ten Shillings*; the same to be levied, in Case of Non-payment, by Warrant of Distress and sale made of the Offender's Goods. All Fines and Penalties incurred by this Act to be applied to the Use of the Poor, and disposed of at the Discretion of the *Justice* or *Justices* before whom the Offenders shall or may be convicted the said *Justice* or *Justices* to keep a Record of the Fines levied and disposed of by them.

C A P. IV.

AN ACT to prevent the cutting of PINE or other TREES without Permission of the PROPRIETOR, and to prevent the cutting down and destroying of FENCES.

For other Provisions relative to Fences see Note on March Session 20th Geo. 3d, C. 6.

WHEREAS there has been great Waste committed of Pine and other valuable Timber Trees in this Island; to prevent which in future,

Preamble.

I. Be it enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, no Person or Persons whatsoever shall cut down or fell any Trees, or Timber, nor bark or box any Pine or other Trees, standing or growing upon any Lands on this Island, nor carry away the same therefrom, without first obtaining a written Licence from the Owner or Owners thereof, or from their Agent or Attorney, on pain of forfeiting and paying the Sum of Ten Shillings for every Tree, if the same shall measure twelve Inches through, or under, and for every Tree above that Size so cut, removed, barked, or boxed, the Sum of Thirty Shillings; one Moiety thereof to be paid to the respective Proprietors of said Lands and Trees, and the other Moiety to any Person or Persons who shall or may inform or sue for the same, before any of His Majesty's Justices of the Peace in this Island: Provided the Forfeiture shall not exceed the sum of Five Pounds; but if the same should exceed that Sum, then to be recovered by due course of Law, in the Supreme Court of Judicature.

After Publication no Person to cut down or bark Trees growing upon Lands on this Island, nor to carry away the same without written Licence from the owner,

on Pain of forfeiting 10s. for every Tree of 12 inches through, or under; and for every Tree above, 30s.

Application of Forfeiture.

II. And be it further enacted, That from and after the Publication hereof, all Persons who shall cut or break down, carry away, or in any other Manner destroy any Fence or Fences, or any Part thereof, which now are, or may hereafter be erected, or made, on any Lands or Gardens in this Island, by the Proprietor or Proprietors thereof, or by others employed under him, her, or them respectively, shall, on being duly convicted thereof, forfeit and pay to such Proprietor or Proprietors, or to his, her, or their Tenants, treble the Value of the Damages so done; the same to be appraised by such Fence Viewers, as shall or may be appointed for that Purpose, by the Justice of Peace to whom complaint may be made of said Trespass, and shall also thereupon be committed to Prison, there to remain, on their own Expence and Charges, for the Space of Fourteen Days from the Time of Commitment, without Bail or Mainprize.

All Persons who shall cut or destroy Fences that are or may hereafter be erected in this Island,

on being duly convicted before any Justice of Peace, to forfeit treble the value of the Damages;

also to be committed to Prison for 14 days.

III. And be it further enacted, That no Person shall be liable to any Prosecution under this Act, unless the same be commenced within six Months next after such Trespasses shall or may have been committed.

Prosecution to be commenced within six Months after Trespass committed.

AN

Amended by 21 Geo. 3, C. 1. Time altered as to killing Eels, to any Time after 15th Nov. None to be killed between 1st October and 15th Nov. on Penalty of £5.

Preamble.

After Publication, no Person between 1st of October and 15th of January, to kill or take Salmon, or Salmon Trout, nor to kill or take Eels by Lights in the Night Season, between 1st of August and 1st December, nor in the Day time upon the Flats or elsewhere, between 1st of October and 1st of December, on Penalty of 5*l.* for every Offence.

Manner of Recovery.

Application of Forfeiture.

The Execution of this Act was suspended until approved of by His Majesty; and no such approbation being had, it is not printed.

Disallowed by His Majesty in Council, the 29th of June, 1781.

C A P. V.

AN ACT to regulate the SALMON, SALMON-TROUT, and EEL-FISHERY.

WHEREAS the great Quantity of Salmon, Salmon-Trout, and Eels, which has hitherto been taken by the Inhabitants of this Island, has been of the greatest Service to them, and as the Quantities taken and brought to Market, has of late been much reduced by their being killed and taken at improper Seasons of the Year: To remedy which in future,

I. BE it enacted, by the Governor, Council, and Assembly, That from and after the Publication hereof, no Person or Persons whatsoever, shall kill or take any Salmon, or Salmon Trout, between the first Day of *October* and the fifteenth Day of *January*, nor kill or take any Eels between the first Day of *August* and the first Day of *December*, by any kind of Lights in the Night Season, nor kill or take any Eels in the day time upon the Flats, or elsewhere, between the first Day of *October* and the first Day of *December*, on Penalty of forfeiting *Five Pounds* for every Offence: And when and so often as any Person or Persons shall or may give Information to one or more of His Majesty's *Justices of the Peace* in this Island, of any Breach or Breaches against the Provisions of this Act, the said *Justice* or *Justices* is or are hereby authorized and required to summon the Offender or Offenders, to appear before him or them, and upon due Proof made of the Truth of the Information or Complaint, to grant a Warrant, under his Hand and Seal, for making Distress upon the Goods and Chattels of such Offender or Offenders, to the Amount of the said Penalty; one Half whereof to be applied to the Use of His Majesty's Government in this Island, and the other Half to be paid to the Informer or Prosecutor.

C A P. VI.

AN ACT for altering the Name of this Island from SAINT JOHN to that of NEW-IRELAND.

C A P. VII.

AN ACT directing the Proceedings against Forcible Entry and Detainer.

C A P.

C A P. VIII.

AN ACT appointing the recording of all DEEDS OF SALE, CONVEYANCES and MORTGAGES.

Acts which amend or alter this Act: 25th Geo. 3d, C. 1—41st Geo. 3d, C. 5—49th Geo. 3d, C. 4.

FOR the prevention of clandestine and uncertain Sales of Houses, Lands and Tenements, within this Island, and to the Intent that it may be the better known what Right or Title Persons really and truly have in or to such Estates as they may offer for Sale:

Preamble.

I. *Be it enacted by the Governor, Council, and Assembly*, That from and after the Publication hereof, all Deeds, Conveyances, or Mortgages of Houses, Lands and Tenements within this Island, shall be recorded at full length in the *Register's Office* within forty Days next after their respective Dates; if executed on this Island between the first Day of *May* and the first Day of *November*, and within eighty Days if there executed between the first Day of *November* and the first Day of *May*; and if executed in *Great Britain*, or *Ireland*, then the said original Deeds, Conveyances, or Mortgages, or duly attested Copies thereof, shall or may be recorded as aforesaid, within the Space of Two Years from their respective Dates.

After Publication all Deeds, &c. executed on this Island, between the first of *May* and first of *November*, to be recorded in the *Register's Office* within 40 Days after their respective Dates; and within 80 Days between the first of *November* and the first of *May*; if executed in *Great Britain*, or *Ireland*, within two Years from their Dates.

II. *And be it further enacted*, That from and after the Expiration of the said forty Days, eighty Days, or two Years, in the respective Events above mentioned of such Grants Deeds Conveyances, or Mortgages being executed on the Island, or in *Great Britain*, or *Ireland*, the same if not recorded as aforesaid, shall be of no Force or Effect in Law against any *bona fide* Purchaser who shall have complied with the Terms of this Act, or against any other Person or Persons whatsoever, except the Grantor or Grantees, and his or their Heirs.

After expiration of the said 40 Days, 80 Days, or two Years, all Deeds, &c. if not recorded as above directed, shall be of no force against any *bona fide* Purchaser, who shall comply with this Act.

C A P. IX.

AN ACT to enable CREDITORS to recover their just Debts out of the EFFECTS of their absent or absconding DEBTORS.

BE it enacted, by the Governor, Council and Assembly, That it shall and may be lawful for any Person entitled to any Action for any Debts, Dues or Demands whatsoever against any Person absconding or being absent out of this Island, to cause the Goods and Estate of such absent or absconding Person to be attached, in whose Hands or Possession, or under whose Management soever the same are or may be found; and the attaching any Part thereof, shall secure and make the whole, that is in such Person's Hands, or under his Management, liable in Law, to the Judgment to be recovered upon such Process, and shall be subject to be taken in execution for satisfaction thereof, or so far as the Value thereof may extend; and the Person in whose

Goods and Estate of absconding Debtors may be attached, and

subject to Execution.

Hands

Hands they are, shall expose and discover them accordingly, upon request made for that Purpose.

Agent, &c. of an
absconding Debtor to
be summoned to Court.

Process and Trial
thereupon.

II. *And be it further enacted*, That where no Goods, Lands, Houses, or Effects of such absent or absconding Person, in the Hands or under the Management of his Agent, Factor, Attorney, or Trustee, shall be exposed to view, or can be come at, so as to be attached, it shall and may be lawful to and for any Person entitled to any such Action as aforesaid, to file a Declaration against such absent or absconding Person in the Office of the Clerk of the *Supreme Court of Judicature*, therein setting forth, particularly, his Debt and Damage, and how they may have arisen; and also to cause the Attorney, Factor, Agent, or Trustee of such absent or absconding Person, to be served with a Summons out of the said Clerk's Office, being annexed to the Declaration fourteen Days previous to the Sitting of the said *Supreme Court*; which being duly served, and Return duly made thereof under the Hand of the *Provost Marshal*, or any of his Deputies, shall be sufficient in Law to bring forward a Trial, without other or further Summons, unless the Principal be an Inhabitant, or hath for some Time had his Residence within this Island; in which Case, a like Summons with an attested Copy of the Declaration thereto annexed, shall also be left at his Dwelling House, Lodging, or Place of his last and usual Abode, fourteen Days before the Sitting of the Court. And such Attorney, Factor, Agent or Trustee, upon his Desire, shall be admitted to defend the Suit, on behalf of his Principal, throughout the Course of the Law, and an Imparance shall be granted two Terms successively, that he may have an Opportunity to notify his Principal thereof; and at the third Term, without special Matter alledged and allowed in Bar, Abatement, or further Continuance, the Cause shall peremptorily come to Trial; and if Judgment shall have been rendered for the Plaintiff, then all the Goods, Effects, Credits, and Estate of any kind whatsoever of such absent or absconding Person, in the Hands of such Attorney Factor, Agent, or Trustee, or under his Care or Management, which were in his Hands, or under his Management and Direction, at the Time of his being served with the Summons and Declaration aforesaid, to the Amount of the Sums contained in the said Judgment (if so much there be) shall be liable and subject to the Execution granted upon such Judgment, for or towards satisfying the same; and from the time of serving the Summons as aforesaid, shall be liable and secured in Law in his Hands to answer the same, and may not be otherwise disposed of or converted.

Goods, &c. in Agent's
Hands, subject to Ex-
ecution.

Plaintiff to be non-
sued where no Effects
are in Agent's Hands.

Provided nevertheless, and be it enacted by the Authority aforesaid, That if upon Summons being served as above mentioned, the supposed Attorney, Factor, Agent, or Trustee shall come into Court at the first Term thereof, and declare that he had not in his Hands, nor under his Care or Management, at the Time of the Service of such Summons, any Lands, Goods, Effects, or Credits whatsoever of the absent or absconding

absconding Person, and shall submit to an Examination, upon Oath, respecting the same; and if upon Examination it shall appear, to the Satisfaction of the Court, that he had not any Lands, Goods, Effects, or Credits whatsoever of the absent or absconding Person in his Hands, or under his Management, at the time of his being summoned as aforesaid; then, and in every such Case, the Plaintiff shall become nonsuited, and shall pay to him, who may have been so summoned as Attorney, Agent, Factor, or Trustee, his reasonable Costs, to be taxed in common Form by the Court.

and to pay Costs.

IV. *And be it therefore further enacted,* That if any Attorney, Factor, Agent, or Trustee, who being duly served with Summons and Declaration as aforesaid, shall not appear at the first Term, and then either acknowledge himself to have had in his Hands, or under his Management, some Lands, Goods, Effects, or Credits of the absent or absconding Person, at the Time of the Service aforesaid, and thereupon pray that he may be admitted to defend the Action, or otherwise submit himself to an Examination upon Oath as aforesaid, he shall be liable to pay to the Plaintiff all such Costs as shall or may arise upon his Suit, the same to be taxed by the Court in common Form.

Agents &c. not appearing, liable to pay Costs.

V. *And be it further enacted,* That in Case any Attorney, Factor, Agent, or Trustee, from and after the Times of his being served with Summons and Declaration as aforesaid against his Principal, (being an absent or absconding Person) shall transfer, remit, dispose of, or convert any of the Lands, Goods, Effects, or Credits of such absent or absconding Person in his Hands, or under his Management, at the Time of such Service, so that there shall not be sufficient to satisfy the Judgment, (the Debt being afterwards ascertained by Judgment of Court) or that shall not discover, expose, and subject the Lands, Goods, Effects, and Credits of such absent or absconding Person in his Hands, or under his Management, to be taken in Execution, towards the Satisfaction of the said Judgment, so far as the same will extend, shall be liable to satisfy the same out of his own proper Goods and Estate, as of his own proper Debt; and a Writ of *Scire-facias* may be sued out of the said *Supreme Court of Judicature*, and served on him as the Law directs, to appear and shew Cause (if any he hath) to the contrary; and where, upon Default of Appearance, or refusal to disclose upon his Oath, (which Oath the *Chief Justice* is hereby empowered and required to administer) what Lands, Houses, Goods, Effects, or Credits of the absent or absconding Person are in his Hands, or under his Management, and to what value Judgment shall be entered up against him of his own proper Goods, and Execution be awarded accordingly.

Execution to be levied on the Agent's proper Goods, &c. if he transfer the Effects of his Principal.

Agent to discover upon Oath the Goods, &c. of his Principal: on Failure, Judgment to be entered against him of his own proper Estate, &c.

VI. *Provided nevertheless, and be it further enacted,* That if it shall appear that the Attorney, Factor, Agent, or Trustee, so summoned as aforesaid, and having in his Hands, or under his Management, at the Time of such Summons, any Lands, Houses, Goods, Effects, or Credits of the absent or absconding Person, hath not remitted, disposed of,

Agent to be allowed his Costs upon discovering the Effects, &c. of his Principal, and subjecting them to satisfy the Judgment.

or in any manner converted the same, after the Summons being served on him as aforesaid; but that he hath discovered, and subjected them to be taken in Execution, to satisfy the Judgment recovered against the absent or absconding Person as aforesaid; then, and in such Case, the Party who may have commenced the Suit, shall pay such Attorney, Factor, Agent, or Trustee, his reasonable Costs, the same to be taxed in common Form by the Court.

Agent to be acquitted and discharged from any Action of his Principal.

VII. *And be it further enacted,* That the Lands, Houses, Goods, Effects, and Credits of any absent or absconding Person, so taken as aforesaid by Process and Judgment of Law, out of the Hands of his Attorney, Agent, Factor, or Trustee, by any of his Creditors, shall fully acquit and for ever discharge such Attorney, Agent, Factor, or Trustee, his Executors, or Administrators, of, from, and against all Actions, Suits, Damages, Payments, and Demands whatsoever, to be asked, commenced, had, claimed, or brought by his Principal, his Heirs, Executors, or Administrators, of and for the same: And if any Attorney, Agent, Factor, or Trustee shall be molested or sued by his Principal, for any thing done by him in pursuance of this Act, he may plead the General Issue, and give this Act in Evidence.

Principal entitled to rehearing within three Years.

Provided nevertheless, And be it further enacted, That any absent or absconding Person, against whom Judgment shall or may be recovered as aforesaid, shall be entitled to a re-hearing of such Cause at any Time within three Years next after such Judgment: and the Plaintiff in such Action, before any Execution shall issue on such Judgment shall give sufficient Security, to the Satisfaction of the Court, for Re-payment of all such Monies as may be levied by said Execution, in Case the said Judgment be reversed on such Re-hearing as aforesaid.

CAP. X.

Repealed by 49th Geo. 3d, C. 7,

AN ACT to enable the Governor or other Commander in Chief, to lease out certain Parts of the Common of Charlotte-Town, Rent free for the Space of Ten Years.

Anno Viceſimo Primo Regis GEORGE III,

1781.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Eighth Day of October, ANNO DOMINI, One thousand Seven hundred and ſeventy-nine, and in the nineteenth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and thence continued by Prorogation until the Thirteenth Day of February, One thousand Seven hundred and Eighty-one, and in the Twenty-ſiſt Year of His ſaid Majesty's Reign; being the Fourth Seſſion of the third General Aſſembly, convened in the ſaid Iſland.

WALTER PATTERSON,
Governor.

THOMAS DEERIEAV,
President of Council.

WALTER BERRY,
Speaker.

C A P. I.

AN ACT to explain and amend an Act, paſſed in the Twentieth Year of his preſent Majesty's Reign, intituled, "AN ACT to regulate the SALMON, SALMON-TROUT, and EEL FISHERY.

July Seſſion, 20th
Geo. 3d, C. 5.

WHEREAS the Limitations contained in ſaid Act for killing or taking Eels, have been found by Experience not to answer the End thereby propoſed:

Preamble.

I. *Be it enacted by the Governor, Council, and Aſſembly,* That it ſhall and may be lawful for any Perſon or Perſons to kill or take Eels upon the Flats, or elſewhere, within this Iſland, at any Time after the fifteenth Day of *November* in each Year, any Thing in the ſaid herein before recited Act to the contrary notwithstanding.

Any Perſon may kill or take Eels upon the Flats, or elſewhere, at any Time after the 15th of Nov. yearly.

II. *And be it further enacted,* That if any Perſon or Perſons whatſoever ſhall be found killing or taking Eels on the Flats, or elſewhere, between the firſt Day of *October* and the fifteenth Day of *November*, in each Year, ſuch Perſon or Perſons ſhall be ſubject to a Penalty of

Any Perſon found killing or taking Eels on the Flats, or elſewhere, between firſt of October and 15th of

R

Five

November shall forfeit £5.

Mode of Recovery.

Application of Forfeiture.

Five Pounds for every such Offence; the same to be recovered by Information, on Oath, of one or more credible Witness or Witnesses before any one of his Majesty's *Justices of the Peace* for said Island, who is hereby impowered and required to grant a Summons, thereby directing such Person or Persons so offending, to appear before him, and upon due Proof of the Complaint or Information, to grant a Warrant under his Hand and Seal for making Distress upon the Goods and Chattels of such Offender or Offenders to the Amount of the same Penalty: One Half whereof to be applied to the Use of his Majesty's Government in this Island, and the other Half to be paid to the Informer or Prosecutor.

C A P. II.

AN ACT relating to WILLS, LEGACIES, and EXECUTORS, and for the Settlement and Distribution of the ESTATES of INTESTATES.

Any Person may, by last Will and Testament, devise Lands, &c.

BE it enacted by the Governor, Council and Assembly, That every Person in this Government shall have Power to give and devise, by his or her last Will and Testament, in Writing, and subscribed by the Party so giving and devising, or by some other Person in his or her Presence, and by his or her express Directions and Authority, and attested and subscribed, in the Presence of the Devisor, by Three or more credible Witnesses, any Lands, Tenements, or Hereditaments, whereof he or she shall, at the Time of his or her so giving or devising the same by such Will, be lawfully seized either of a sole Estate in fee simple, or of any Estate in Coparcenary, or in common in Fee Simple, in Possession, Reversion, or Remainder, as much as in him, or her of right is to the said Lands, Tenements, and Hereditaments, or in like Manner to devise any Rents or Profits out of the same at his or her Pleasure.

Feme Coverts, &c. excepted.

Provided Nevertheless, That Wills made for any Lands, Tenements, or Hereditaments, or of any Rents or Profits out of the same, by any *feme Covert*, or Person within the Age of Twenty-one Years, Idiot, or of unsound Mind, shall not be good in Law.

No Devise in Writing to be recoverable, except by another Will or Codicil, in Writing.

III. *And be it further enacted*, That no Devise in Writing of any Lands, Tenements, or Hereditaments, shall be revocable otherwise than by some other Will or Codicil, also in Writing, subscribed in the Presence of Three or more Witnesses.

No nuncupative Will to be deemed valid, except proved by the Oath of three Witnesses, &c.

IV. *Be it further enacted by the authority aforesaid*, That from and after the Publication hereof, no *nuncupative* Will shall be good, where the Estate thereby bequeathed may exceed the Value of *Thirty Pounds*, except the same be proved by the Oath of Three Witnesses, who were present at the making thereof, and unless it be proved that the Testator, at the time of pronouncing the same, desired the Persons

Persons present to bear Witness, that such was his Will, or Words to that Effect; and unless also such *nuncupative* Will, shall have been made during the Time of the last Sickness of the Deceased.

V. *And be it further enacted*, That after the Expiration of Six Months from the Pronouncing the testamentary Words, no Testimony shall be received to prove any *nuncupative* Will, except the said Testimony shall have been committed to Writing within Six Days next after making the said Will.

VI *And be it further enacted*, That no Letters testamentary or probate of any *nuncupative* Will shall pass the Seal of any Court, till the Expiration of *Fourteen Days*, at least, next after the Death of the Testator; nor shall any *nuncupative* Will be at any Time received to be proved, unless Process hath first issued to cite or call in the Relict, or next of Kin to the Deceased, to the End they may contest the same if they see Cause. And all such Witnesses as ought to be deemed to be good and competent Witnesses in Trials at Law, shall be deemed good Witnesses to prove any *nuncupative* Will or any Thing relative thereto.

VII. *And be it further enacted*, That no Will in Writing, concerning any personal Estate, shall be repealed or revoked, nor shall any Clause, Devise, or Bequest therein be altered or changed by Words or Will (by Word of Mouth only) except the same be in the Life of the Testator, committed to Writing and after the Writing thereof read unto the Testator, and allowed by him and proved to have been so done by three Witnesses.

VIII. *And be further enacted by the Authority aforesaid*, That if any Executor of Executors of the Will of any Person deceased, knowing of their being so named and appointed, shall not, within *Thirty Days* next after the Death of the Testator, or his, her, or their Appointment being made known to him, her, or them respectively, cause such Will to be proved and recorded in the *Register's Office*, or present the Will and give in a written Declaration of his, her, or their refusal of the Executorship; every Executor so neglecting his or her Duty in that Behalf, (without just Excuse made and accepted for such Delay,) shall forfeit the Sum of *Five Pounds* every Month from and after the Expiration of the said *Thirty Days*, until he, she, or they shall have caused probate of such Will to be made, or have presented the same in the Manner above appointed: Each and every such Forfeiture to be had and recovered by Action of Debt in the *Supreme Court of Judicature* of this Island, at the Suit of any of the Heirs or Creditors who shall or may prove, to the Satisfaction of said Court, that any Injury has accrued to him, her, or them respectively by the said Delay, and to and for the proper Use of him, her, or them who shall inform and sue for the same. And upon any such refusal of the said Executor or Executors, the Judge shall order and commit Administration of the Estate of the deceased, with the Will annexed, unto the Widow, or next of Kin to the Deceased, and in Case of their refusal, to One or more of the principal Creditors, as he shall or may think fit. IX.

No Testimony to be received to prove such Will, except, &c.

Letters Testamentary, &c. not to pass any Court till 14 days after Testator's decease, &c.

No Will in Writing concerning personal Estate to be altered by Word of Mouth only, unless committed to Writing in the Life-Time of the Testator.

Executors knowing of their being appointed, to prove Will within 30 Days, &c.

on Penalty of £5. for every Months delay.

Mode of Recovery.

Application of Forfeiture.

Penalty of suppressing Wills.

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

Legacies ascertained, recoverable at Common Law.

X. *And be further enacted*, That where any certain Legacy is or shall be bequeathed and given by any Person in his or her last Will and Testament, as also where any Residuary or uncertain Legacy is, or shall by the Account of any Executor, be reduced to a Certainty; in those Cases every such Legacy and Legacies may be sued for and recovered at Common Law; any Law, Custom, or Usage to the contrary, notwithstanding.

Executors to exhibit an Inventory of the Deceased, within 3 Months after Probate, on pain of £5. for each Month's Neglect.

XI. *And be it further enacted*, That henceforth every Executor named in any Will and taking upon himself that Charge by proving such Will, within the Space of three Months, next after the Probate thereof, (or at such further or longer Time as the Judge of Probate shall think proper to allow, or the Circumstances of the Estate may require,) shall exhibit in the Register's Office, upon Oath, a full and true Inventory of the whole Estate of the Deceased, so far as the same has then come to his Hands and Knowledge on Pain of forfeiting his Office of Executorship, together with the Sum of Five Pounds for every Month's Neglect thereof, as is by Law provided for not presenting a Will, and to be recovered in like Manner. *Provided nevertheless*, that in Wills where after the payment of Debts and of any certain particular Legacy or Legacies, the Residue or Remainder of the Estate, is bequeathed generally to any one or more Persons, other than the Executors themselves: in every such Case an Inventory of the Estate is hereby required to be presented on Oath as aforesaid, and the Executors shall be liable to account as Administrators are by Law obliged to do. And any Executor, being a residuary Legatee, may bring his Action of Account against his Co-executor or Executors of the Estate of the Testator in their Hands, and may also sue for, and recover his equal and rateable Part thereof. And any residuary Legatee may have the like Remedy against the Executors.

Proviso.

and liable to account in like manner as Administrators.

Residuary Legatee may bring Action of Account against Executors.

Administration.

XII. *And be it further enacted*, That when and so often as it shall happen that any Person dies Intestate, upon the application of the Widow, or next of Kin, within *Thirty Days* after the Death of such Intestate, the said Judge of the Probate shall grant Letters of Administration to such Widow or next of Kin: and in Case they neglect applying within the said *Thirty Days*, upon first citing such Widow, or next of Kin, and their refusing to accept the same, such Judge of Probate shall grant Administration to such Person or Persons as he shall or may Judge fit; Creditors being always considered as having a preferable Right to Persons in no Wise interested in the Affairs of the Deceased: And to whomsoever the said Judge shall grant Administration,

ministration, according to the Regulations and Directions contained in this Act, he shall oblige him, her, or them to give Bond, with sufficient Sureties, in the Manner as is directed by the Statute of the twenty second and twenty third Years of the Reign of Charles the Second Chapter the Tenth, intituled, "An Act for the better settling Intestate's Estates," and shall and may proceed to call such Administrators to Account for and touching the Goods of the Intestates. And upon due Hearing and Consideration thereof (all just Debts and Funeral Expences being first allowed) the said Judge shall, and he is hereby fully empowered to order and make a just Distribution of the Surplusage, or remaining Goods and Estate, as well real as personal, in Manner following: That is to say, One third Part of the personal Estate to belong to and vest in the Wife of the Intestate forever, besides her Dower in the Houses and Lands during Life, where such Wife shall not be otherwise endowed before Marriage. And the said Judge having appointed Guardians in Manner as hereafter shall or may be by Law directed, shall then, out of all the Residue of such real and personal Estate, distribute two Shares or a double Portion to the eldest Son then surviving; (where there is no issue of the first born, or of any other elder Son,) and the Remainder of such Residue equally to and among his other Children, and such as shall or may legally represent them. *Provided* that Children advanced by Settlement or Portions, not equal to the other Shares, shall have so much of the Surplusage as may make the Estate of all to be equal, except the eldest Son then surviving (where there is no Issue of the First born, or of any other elder Son) who shall have two Shares, or a double Portion of the whole.

XIII. *And be it further enacted*, That each Estate wherewith such Child or Children shall have been advanced in the Life-time of the Intestate, shall be accounted for upon the Oath of such Child or Children before such Judge of Probate of Wills, and for granting Letters of Administration, or by other Evidence to the Satisfaction of the Judge; and in Case of Refusal to account upon Oath, such Child or Children, so refusing, shall be debarred of any Share in the Estate of the Intestate.

XIV. *And be it further enacted*, That the Division of such Lands or Tenements shall be made by Five capable Freeholders upon Oath, or by any Three of them, to be for that purpose appointed and sworn by the Judge. *Provided always*, that if all the Parties interested in such Lands or Tenements, being of lawful age, shall by Deed agree to a Division, such Agreement, the same being acknowledged by the Parties thereto before the Judge, and being entered on Record in the Probate Office, shall be deemed a legal and valid Partition and Settlement of such Estate, as effectually to all Intents and Purposes whatsoever, as if the same had been divided and settled by Writ of Partition, and shall be received and allowed in Evidence on any Trial

and Distribution of Estates of Intestates.

Proviso.

Children advanced in the Life-time of the Intestate.

Division of Lands;

Proviso.

Of Estates in Houses and Lands which cannot be divided without Prejudice to the whole.

Of Portions of Children dying under Age, or unmarried.

Widow's Dower, after her Death, to be divided in like Manner.

Persons aggrieved may appeal to the Governor and Council.

Estates not comprised in any last Will to be distributed as Intestates' Estates.

against the Parties so interested in the said Lands and Tenements.

XV. *Provided nevertheless*, That where any Estate in Houses and Lands cannot be divided among all the Children, without great Prejudice to the whole, the said Judge may, on sufficient Evidence of the same, order the whole to the oldest Son, or, upon his Refusal, to any other of the Sons successively; he paying unto the other Children of the Deceased their equal and proportionable Parts or Shares of the real Value of such Houses and Lands, upon a just Appraisement thereof to be made by Three sufficient unexceptionable Freeholders upon Oath, to be appointed and sworn as aforesaid, or giving good Security to pay the same in such convenient Time as the said Judge shall or may limit, making reasonable Allowance in the mean Time, at the Rate of *Six Pounds* on the Hundred in the Year. And if any of the Children should happen to die under Age, or before Marriage; then the Portion of such deceased Child shall be equally divided among the Survivors. And in Case there be no Children, nor any legal Representatives of them; then One Moiety of the Personal Estate shall be allotted to the Wife of the Intestate for ever, as also one third of the real Estate for her Term of Life: And the Residue both of the real and personal Estate shall be allotted equally to every of the next of Kin of the Intestate in equal Degree, and those who shall or may legally represent them. No Representatives to be admitted among Collaterals, after Brothers and Sisters Children. And if there be no Wife, then the whole shall be distributed among the Children; and in Case of no Child, then to the next of Kin to the Intestate in equal Degree, and their legal Representatives as aforesaid, and in no other Manner whatsoever. And every One to whom any Share shall be allotted, shall give Bond with sufficient Sureties, to the Satisfaction of the said Judge of Probate (if Debts afterwards be made to appear) conditioned to refund and pay back to the Administrator his or her rateable Part thereof, and of the Administrator's Charges.

XVI. *And it is hereby enacted*, That the Lands and Tenements wherewith any Widow shall be endowed as aforesaid, shall, after the decease of such Widow, be divided in like Manner as by this Act is directed. *Saving* to any Person aggrieved at any Order, Sentence, or Decree made for the Settlement and Distribution of the Estate of any Intestate, their Right of appeal to the *Governor and Council*; every Person, so appealing, giving Security to prosecute such Appeal with Effect. *Provided*, that such Appeal be made within *Forty Days* after Sentence of the said Judge.

XVII. *And be it further enacted*, That all such Estate, whether real or Personal, which shall or may not be comprised in any last Will and Testament, or which shall or may not be devised or given by the same, shall be distributed in the same Manner as the Estates of Intestates are directed to be distributed by this Act.

XVIII.

XVIII. *And be it further enacted*, That in Case personal Assets shall be deficient for the payment of any Debts or Legacies, and it shall be found necessary by any Executor or Administrator to make sale of any Part of the real Estate of the Deceased, for the payment of any Debts or Legacies; then such Executor or Administrator shall apply to the *Governor* or other *Commander in Chief* for the Time being, and to His *Majesty's Council*, to give Order and Direction for the sale of such Part of such real Estate, as may be most convenient for the Payment of such Debts or Legacies: and before any sale be made of any real Estate, the Executor or Administrator shall give *Thirty Days* public Notice by posting up Notifications in the most public Places in *Charlotte-Town*, *George-Town* and *Prince-Town*; and whoever will give most, or appear to be the highest Bidder, shall have the preference at such Sale. And in Case the Estate of such Intestate shall be insolvent, then the Executor or Administrator shall make like Application to the *Governor* or other *Commander in Chief*, for the Time being, and to His *Majesty's Council*, for an Enquiry, and for the Appointment of Commissioners to enquire into such Insolvency, and examine and settle the Claims of all the Creditors, and into the Amount of the Estate of such Insolvent, and to authorise such Executor or Administrator to sell the Lands and Tenements of such Insolvent, and to divide the Produce of the whole of such Estate, in due Proportions to and amongst the Creditors.

XIX. *And be it further enacted*, That if any Person shall in future presume to act as Executor, or otherwise, by intermeddling with the Goods of the Deceased, without being duly authorised thereto as is directed in and by this Act; such Person shall forfeit the Sum of *Twenty Pounds* for every such officious intermeddling; the same to be recovered in any of His *Majesty's Courts of Record*, by the Executor, Administrator, or other Person interested in the Estate of the Deceased; one half of which Penalty shall be paid to the Person suing for the same, and the other half to and for the use of His *Majesty's* Government. And such Person so intermeddling, shall be further obliged to account for and pay into the Hands of the Executor or Administrator, whatever Effects he may have got possession of in such an irregular Manner, with full Costs of Suit.

C A P. III.

AN ACT making LANDS and TENEMENTS liable for the Payment of DEBTS.

BE it enacted by the *Governor, Council, and Assembly*, and by the Authority of the same it is hereby enacted, That from and after the Publication hereof, when any Person or Persons shall have recovered Judgment

Where Personal Assets shall appear upon Application to Governor and Council to be insufficient, real Estate may be sold for the payment of Debts and Legacies.

In case of Insolvent Estates, Application to be made to the Governor and Council to appoint Commissioners to settle Claims of Creditors, and to sell real Estate to pay them.

Any Person without being authorised intermeddling with Goods of any deceased Person shall forfeit £20.

Mode of Recovery.

Application of Forfeiture.

This Act is repealed by 26th G. c. 30, c. 2, 1786 1787.

Execution upon Judgment to be levied upon personal Estate, & if sufficient cannot be found then on real Estate of the Debtor.

Appraisers to be appointed by the Creditor, Debtor and Provost Marshal,

and to be sworn to appraise such real Estate as shall be shewn him.

Execution to be extended on Rents only, if sufficient to satisfy Debts and Costs, &c.

Provost Marshal to cause the Person in Possession to attorn to Creditor.

Such Person made subject to be turned out of Possession on Non-payment of Rent.

Judgment in any of His Majesty's *Courts of Record* in this Island, for any Sum or Sums of Money, or for Costs of Suit; and the Person or Persons against whom Judgment may have been recovered, shall be either unable or unwilling to satisfy such Judgment by Money or otherwise, or sufficient personal Estate, whereon to levy Execution on such Judgment, shall not or cannot be found; then, and in such Case, Execution shall and may be extended on the real Estate of such Debtor or Debtors. And the *Provost Marshal*, or his Deputy, upon request to either of them, made by the Creditor or Creditors, or by his, her, or their Attorney or Agent, shall give Notice in Writing, to the Debtor or Debtors, or in his, her, or their Absence, to his, her, or their Attorney or Agent, to nominate an Appraiser; and the Creditor or Creditors shall have like Notice to nominate another on his or their Behalf; And the said *Provost Marshal*, or his Deputy, shall name a third Appraiser, being all discreet indifferent Men and Freeholders. And in Case such Debtor or Creditor, or either of their Agents or Attornies, shall, for the Space of *Three Days* next after such Notice, refuse or neglect to nominate an Appraiser on their respective behalfs; or in case such Debtor or Creditor shall be absent from the Island, or have no known Attorney or Agent; then, and in such Case, some One of His Majesty's *Justices of the Peace*, on Application from the *Provost Marshal*, or his Deputy, shall and may nominate an Appraiser for such Debtor or Creditor respectively. And the *Provost Marshal*, or his Deputy, shall thereupon cause the said Appraisers so nominated, to be sworn before such or other *Justices* faithfully and impartially, to the best of their Skill and Knowledge, to appraise such real Estate as shall or may be shewn to them. And the said *Provost Marshal*, or his Deputy, together with the said Appraisers, shall forthwith repair to the Lands or Tenements, of such Debtor, and view and examine the State thereof; and, if upon such View and Examination, the said Appraisers, or any two of them, shall judge that the annual Rents of such Lands or Tenements will be sufficient for to pay such Debt, Costs, and lawful Interest of the same, together with the necessary Repairs, within the Space of three Years next following; then the *Provost Marshal*, or his Deputy, shall thereupon extend the same Execution on the Rents only, and cause the Person or Persons in Possession, whether Debtor or Debtors, or their Tenant or Tenants, to attorn and become Tenants of such Creditor or Creditors, who may distrain for the same, if in Arrear, according to the Laws of that Part of *Great Britain* called *England*. And the Person or Persons in Possession who shall or may refuse or neglect to pay such Rent, when due, may be removed from such Lands or Tenements by the *Provost Marshal*, or his Deputy: and the Creditor or Creditors being duly put into Possession of such Lands and Tenements, shall and may hold the same and receive the Rents and Profits thereof, until such Judgment, together with Costs and Interest shall have been fully satisfied and paid.

II. *And be it further enacted*, That if upon such View and Examination as aforesaid, the said Appraisers, or the major Part of them, shall be of Opinion that the yearly Rents of the Lands and Tenements of such Debtor or Debtors, are not sufficient to satisfy the Debt, with Costs and Interest, as also with the Charge of needful Repairs, within the Space of three Years, then the said Executions shall and may be levied on Part of such Estate (provided the same, in the Judgment of the said three Appraisers, can advantageously be done :) But if the same cannot be so done, then the said Execution shall or may be levied on the whole of the Lands and Tenements of the said Debtor or Debtors. And the said *Provost Marshal*, or his Deputy, shall immediately thereupon deliver Seizin and Possession thereof to such Creditor or Creditors, and cause the Person or Persons in Possession or Improvement thereof, to attorn and become Tenant or Tenants to such Creditor or Creditors in Manner aforesaid, and to pay their respective Rents to him, her or them accordingly. And such Person or Persons so in Possession shall be subject to be removed, and be under such Rules and Regulations as are herein before mentioned.

Execution may be levied on the whole real Estate of Debtor in Case.

III. *And be it further enacted*, That in all Cases where an Appraisement, as herein before directed, shall have been made, whether the same be of Lands or Tenements, in Part or in whole, or of the Rents thereof only, the said Appraisers shall and they are hereby required to make and subscribe a true and impartial Appraisement thereof; which said Appraisement, being annexed to the Execution, and duly returned by the *Provost Marshal*, or his Deputy, shall be filed and recorded therewith by the *Clerk of the Court* from whence the same had issued, in a Book to be kept by him for that Purpose. And the said *Provost Marshal*, or other Officer serving or levying such Writ of Execution, shall immediately thereupon execute a Deed of Sale of such Lands or Tenements to such Creditor or Creditors, in Consideration of the Value found by said Appraisers, to be therein mentioned and expressed, who, by Virtue thereof, or of said Return, shall convey and make a good Title to such Creditor or Creditors, his, her, or their Heirs or Assigns, in Fee: Subject nevertheless to an Equity of Redemption, as is herein after prescribed: And any Clerk refusing or neglecting his Duty herein, shall forfeit the Sum of *Five Pounds*, the same to be recovered by Action of Debt by the Party aggrieved.

Appraisers to make and subscribe an Appraisement which is to be annexed to the Execution, and returned to, and filed by, the the Clerk of the Court.

Provost Marshal thereupon to execute a Deed of the Premises to Creditor.

Lands so conveyed subject to Redemption in two Years.
Clerk neglecting his Duty to forfeit £5.

Proviso.

IV. *Provided always, and it is hereby further enacted*, That it shall and may be lawful for any Debtor or Debtors, whose Estate or Estates may have been taken in Execution in virtue of this Act, or their Heirs, Executors, Administrators, or Assigns, at any Time within the Space of two Years next following the levying such Execution thereon, to redeem his, her, or their Lands or Tenements, so as aforesaid extended, and to bring his, her, or their Action or Actions of Account against the Creditor or Creditors, or his, her, or their Assigns, in Manner as is provided by Law. And upon Payment being duly made of the original

Debtor, on such Redemption, may have Action of Account against Creditor.

ginal Debt with the Cost and Interest, and the Charges of such necessary Repairs as the Creditor or Creditors, or his, her, or their Assigns shall have been obliged to expend or make (provided such Repairs do not exceed one Half of the Rents, which the Creditor or Creditors, or his, her, or their Assigns if he, she, or they see Cause, are hereby allowed to expend and lay out, and as much more as the said Debtor or Debtors shall or may consent to, who is or are hereby obliged to accept the same) such Creditor or Creditors, his, her, or their respective Assigns, shall immediately thereupon surrender all such Estate to the Debtor or Debtors, his, her, or their Heirs, Executors, Administrators, or Assigns, and surrender and deliver up the quiet and peaceable Possession thereof.

Estates appraised at a greater value than the Debt and Costs, to be sold at public Auction after thirty Days from the expiration of the two Years if not sooner redeemed.

V. *And be it further enacted*, That when any Estate shall or may be found by the said Appraisers to be of greater Value than the said Debt and Costs, the Creditor or Creditors shall be obliged, and he or they are hereby required at the Expiration of *Thirty Days* next after the End of the said Two Years, (if such Estate shall not have been sooner redeemed) to give public Notice, by Advertisements, that the Lands or Tenements, so extended are to be sold at public Auction by the *Provost Marshal*, or his Deputy, who are hereby respectively impowered to sell the same, and to execute to the Person or Persons purchasing the same, a Deed of Conveyance thereof, as of a *Fee Simple*: Which Deed, being recorded or registered as by Law is required, shall be good and valid in the Law. But in the mean Time, and until, such Sale shall have been duly made, the Equity of Redemption of such Lands or Tenements shall be open in favour of such Debtor or Debtors, his, her, or their Heirs, Executors, Administrators, or Assigns, for the Recovery of the same. And if, upon such Sale, the said Lands or Tenements do sell for more than the original Debt, Costs, Charges, and Interest; then the Creditor or Creditors, his, her, or their Attorney, Agent, or Assigns, shall thereupon pay the Overplus into the Hands of the Debtor or Debtors, or of his, her, or their Heirs, Executors, Administrators, or Assigns; the said Creditor or Creditors accounting to such Debtor or Debtors for all Rents and Profits, first deducting therefrom the Amount of all necessary Repairs. But if the said Lands or Tenements do sell for less than such Debt, Cost, and Interest; then, and in such Case, the said Creditor or Creditors, his, her, or their Heirs, or Assigns, shall or may have an *alias Execution* against such Debtor or Debtors for the Residue.

If sold for more than Debt and Costs, Creditor to pay Debtor the Surplus, and to account for the Rents and Profits,

VI. *And be it further enacted*, That when the real Estate of the Debtor or Debtors upon Appraisalment, or when the yearly Rent of the Lands or Tenements extended upon, shall at the End of the said two Years, be found insufficient to satisfy the Judgment with the said Costs, Charges, Interest, and needful Repairs; that then, and in either Case, an *alias Execution* may issue on the said Judgment for the Remainder, and be levied on such other Effects or Estate as can be found

If sold for less Creditor to have an alias execution.

of the said Debtor or Debtors; or, (if the said Creditor or Creditors shall so elect) his, her, or their Body or Bodies may be taken and detained, until Satisfaction shall have been made of such Judgment, together with the said Costs, Charges, and Interests: Any Law, Usage, or Custom to the contrary, notwithstanding.

Provided nevertheless, That nothing herein contained shall extend or be construed to extend, to the detaining in Prison any poor insolvent Debtor contrary to the Law in that Case made and provided.

C A P. IV.

AN ACT, for determining DIFFERENCES by ARBITRATION or UMPIRAGE.

WHEREAS references made by Rule of Court may contribute much to the Ease of the Subject, in determining Controversies, (especially in Matters of Account, and other mercantile Transactions of a complicated nature, which are often difficult to be accurately adjusted on Trials at Law;) as thereby the Parties become obliged to submit to the Award of the Arbitrators, or Umpire, under Penalty of Imprisonment for their Contempt, in Case they refuse Submission;

I. Be it therefore enacted by the Governor, Council, and Assembly, That it shall and may be lawful for all Merchants, Traders, and others, or their respective Agents or Attornies, who shall or may be desirous of ending any Controversies, Suits, or Quarrels (for which there is no other Remedy but by personal Action, or Suit in Equity) by Arbitration, to agree that the Submission of all such Controversies, Suits or Quarrels, to the Award or Umpirage of any Person or Persons, shall be made a Rule of His Majesty's Supreme Court of this Island, and to insert such their Agreement in their Submission or in the Condition of the Bond whereby they had obliged themselves respectively to submit to such Award or Umpirage: Which Agreement, being so made and inserted in the Submission or Condition of their respective Bonds shall or may, upon producing an Affidavit made by the Witnesses thereto, or any One of them in the said Court, of the due Execution thereof, and upon reading and filing the same, such Submission shall be there entered of Record. And a Rule thereupon made by the said Court for the respective Parties to submit thereto, and be finally concluded by the Award and Determination of such Arbitrators or Umpire therein severally named, the same being made in Pursuance of said Submission or Bond. And in Case of Disobedience to the Award and Determination of such Arbitrators or Umpire, the Party neglecting or refusing to obey the same, or any Part thereof, shall incur and be subject to all the Penalties of contemning a Rule or Order of Court: and the said Court on Motion, shall issue Process accordingly, unless such Award be

Preamble. *Wade 9 410 H. B. C. 18 Aug. Stat.*

Merchants, &c. desirous of ending controversies by Arbitration, may agree by Submission, to be made a Rule of Court, that the same shall be finally concluded by such Arbitration.

In Case of Disobedience Parties subject to Penalty, &c.

unless Arbitrators
have misbehaved
themselves, &c.

be set aside for Contempt or other Misbehaviour in the Arbitrators or Umpire on satisfactory Proof made thereof by Oath to the said Court within one Term after the Award or Determination shall have been so made. In which Event, the same shall be judged Void and of no Effect, any Thing in this Act contained to the contrary notwithstanding.

C A P. V.

Repealed.—For Acts
relating to Highways
&c. See Note on 14th
Geo. III. C. 4.

AN ACT to explain, amend, and render into one ACT, all the LAWS now in being for the purpose of making and repairing HIGH-WAYS in this Island.

C A P. VI.

Expired the 16th of
April, 1785.

AN ACT giving a Reward for the KILLING of BEARS.

C A P. VII.

Repealed and re-
enacted by 25th Geo.
III. C. 4, S. 1.

An ACT for granting to His Majesty an additional Duty on all RUM, BRANDY, and other distilled spirituous LIQUORS; and a Duty on all WINES imported into this ISLAND.

C A P. VIII.

Repealed and re-
enacted by 25th Geo.
III. C. 4, S. 12.

An ACT for allowing a Drawback on all RUM, BRANDY, and other distilled spirituous LIQUORS, and all WINES exported from this Island; as likewise for exempting all spirituous LIQUORS and WINES from paying any Duty, that may be imported into this Island, on purpose to be re-exported.

C A P. IX.

Expired.

An ACT for continuing sundry LAWS near expiring.

C A P. X.

AN ACT appointing VESTRIES.

Preamble.

WHEREAS it will tend much to the orderly managing of the Affairs of the Parish of *Charlotte-Town*, that there shall be a Vestry appointed for making and proportioning the necessary Levies and Assessments: I.

I. *Be it therefore enacted, by the Governor, Council and Assembly, That Six of the fittest and best qualified Men, in the said Parish, for the said Office, shall be annually chosen by the Inhabitants thereof to be a Vestry; out of which Number, the Minister and Vestry shall make choice of two Church-Wardens yearly.*

II. *And be it further enacted, That the first Meeting of the Inhabitants of the said Parish, for the Purpose of carrying this Act into Execution, shall be held on Tuesday in the next Easter Week, and that all subsequent Elections of Vestry-Men and Church Wardens shall be on the Tuesday in Easter Week, yearly.*

Six qualified Men to be chosen by the Inhabitants annually to serve as Vestrymen; out of them Minister and Vestry to elect annually, 2 Church-Wardens.
First Meeting to be on Tuesday in ensuing Easter Week.
All subsequent Elections of Vestry-men, &c., to be annually on the Tuesday in Easter Week.

C A P. XI.

AN ACT for amending, and rendering perpetual, several LAWS near expiring.

WHEREAS the several Acts herein after mentioned, which are near expiring, have been found to be variously useful and beneficial, viz.

An Act made and passed in the fourteenth Year of His Majesty's Reign, intituled, "*An Act for licencing and regulating Ferries.*"

An Act made and passed in the said fourteenth Year of His Majesty's Reign, intituled, "*An Act for the regulating the Measure of Boards, and all other Lumber, and for appointing Officers to survey the same.*"

An Act made and passed in the twentieth Year of His Majesty's Reign, intituled, "*An Act to ascertain the Privileges of the Members of the Assembly, &c.*"

☞ This Act was disallowed by His Majesty in Council, the 29th of June, 1781.

An Act made and passed in the said twentieth Year of His Majesty's Reign, intituled, "*An Act to prevent SWINE running at large in Charlotte-Town.*"

And an Act made and passed in the said twentieth Year of His Majesty's Reign, intituled, "*An Act to prevent the running at large of Stone-Horses, and killing of Partridges in the pairing and hatching Season.*"

And whereas it is found that the first Friday of August is too early for killing of Partridges:

I. *Be it therefore it enacted by the Governor, Council and Assembly, That from and after the Publication hereof, it shall not be lawful for any Person or Persons whatsoever, to shoot, kill, or otherwise destroy or to have in his, her, or their Possession any Partridge or Partridges between the first Day of April and the first Day of September, annually; and all Persons offending herein, shall be subject to the same Penalties*

Preamble.

Act for licencing and regulating Ferries.

Act for regulating the Measure of Boards &c, and for appointing Officers to survey the same.

Act ascertaining the Privileges of the Members of the Assembly.

Act for preventing the running of Hogs at large in Charlotte-Town.

Act for preventing the running at large of Stone-Horses, and the killing of Partridges, &c.

Preamble.

After Publication, no Person to kill, &c. or have in Possession, Partridges, between 1st of April and 1st of September, under the same Penalty inflicted by 30th Geo. III. d. March Session, C. 5, S. 3.

Recovery and application of Penalty.

Acts before mentioned made perpetual.

alties, as mentioned in the said last recited Act: which Penalties are to be recovered and applied in the same Manner as is directed by the said Act.

H. *And be it further enacted*, That the several Acts herein before mentioned, and every Clause Matter and Thing therein contained, together with the foregoing Clause, altering, amending, and enlarging the said Act, intituled, "*An Act to prevent the running at large of Stone Horses, and killing of Partridges,*" from hence forth BE, and the same are HEREBY DECLARED TO BE, *in full Force and Effect Forever.*

C A P. XII.

Repealed and re-enacted by 26th Geo. III. C. 1. which Act has expired.

AN ACT for raising a FUND to make and keep in Repair, the STREETS and WELLS of CHARLOTTE-TOWN.

C A P. XIII.

This Act having passed with a suspending Clause, and not having received His Majesty's Approbation, is not published.

An ACT for enforcing the Payment of His Majesty's QUIT-RENTS due, or which may become due within this Government; and to authorise the Receiver General, to recover the same by Sale of the Lands, or otherwise.

C A P. XIV.

AN ACT to prevent disorderly riding of HORSES, and driving of CARTS, TRUCKS, and SLEDS, or any other CARRIAGE whatsoever, within CHARLOTTE-TOWN.

Preamble.

IN Order to prevent the Inconveniencies and Misfortunes which may arise from the Disorder of riding of Horses and negligently driving of Carts, or other Carriages of Burthen of any Kind whatsoever within *Charlotte-Town*:

After Publication, Persons galloping on Horse-back or riding any Horse, drawing any Carts, &c. within the Streets or Highways, of *Charlotte-Town*;

also during the Time of driving such Cart, &c. suffering Horses to go faster than a Foot-pace, or omitting to lead the shaft or Thill-Horse, shall forfeit for every Offence 10s.

I. *Be it therefore enacted by the Governor, Council, and Assembly*, That from and after the Publication hereof, no Person or Persons whatsoever shall, on any Pretence whatsoever, gallop on Horseback, or, having the Charge of driving any Horse or Horses whatsoever, in any Cart, or other Carriage of Burthen of any Kind, shall ride upon such Horse or Horses, or remain placed in or upon any Part of such Cart or other Carriage within any of the Streets or High-Ways of the said Town. And no such Driver or Drivers shall omit, during such Time to lead the Shaft or Thill-Horse by a Halter not exceeding four Feet in Length; nor shall he or they drive any such Horse or Horses faster than a Foot-pace, upon Pain of forfeiting *Ten Shillings* for every such Offence.

Offence; the same to be paid upon Conviction by the Testimony of One credible Witness, before any One of his Majesty's Justices of the Peace, within *Twenty-four Hours* after such Offence shall have been committed. And in Case any such Offenders shall thereupon refuse to pay the same; then the said Offender shall be put to Labour for the Space of *Four Days* in repairing the Streets of the said Town, or the High-Ways adjoining thereto, under the Direction of any One of the Overseers of the District of *Charlotte Township*. And in Case of Refusal or Neglect to perform such Service, it shall and may be lawful for any *Justice of the Peace*, upon Complaint of the Overseer or Overseers aforesaid, to cause such Offender to be committed to Prison for the Space of *Six Days*, there to remain at his or her own proper Costs and Charges.

II. *And be it further enacted*, That all Parents are hereby made liable for the Offences of their Children, under the Age of fourteen Years not being Servants.

III. *And it is hereby further enacted*, That all Fines and Penalties incurred by this Act, shall be paid into Hands of the Overseers of the High-ways within the said District, to be by them applied towards repairing the said Streets or High-Ways.

Mode of Recovery.

On refusal to pay Fine, to be put to Labour for 4 Days in repairing the Streets or High ways of Charlotte-Town.

On refusal to perform Labour, to be committed to Prison for six Days.

Parents of Children under 14 Years liable for Offences.

Application of Forfeiture.

C A P. XV.

AN ACT, declaring that BAPTISM of SLAVES shall not exempt them from BONDAGE.

WHEREAS some Doubts have arisen whether Slaves by becoming Christians, or being admitted to Baptism, should, by Virtue thereof, be made free:

I. *Be it therefore enacted by the Governor, Council, and Assembly* That all Slaves, whether Negroes or Mulattos, residing at present on this Island, or that may hereafter be imported or brought therein, shall be deemed Slaves notwithstanding his, her, or their Conversion to Christianity; nor shall the Act of Baptism performed on any such Negro or Mulatto alter his, her, or their Condition.

II. *And be it further enacted*, That all Negro and Mulatto Servants, who now are on this Island, or may hereafter be imported or brought therein (being Slaves) shall continue such, unless freed by his, her, or their respective Owners.

III. *And be it further enacted by the Authority aforesaid*, That all Children born of Women Slaves, shall belong to, and be the property of, the Masters or Mistresses of such Slaves.

Preamble.

Conversion to Christianity, or Baptism of Slaves, not to exempt them from Bondage.

Who shall be deemed Slaves.

Children of Women Slaves to belong to the Owner of them.

C A P. XVI.

AN ACT for the Preservation of HIGH-WAYS.

Repealed by 36th Geo. III. C. 6.

C A P.

C A P. XVII.

AN ACT for the LIMITATION of ACTIONS, and for avoiding LAW-SUITS.

Actions for the Recovery of Lands, &c. to be sued within 20 Years next after present Session of Assembly.

BE it enacted, by the Governor, Council, and Assembly, That all Actions or Suits either in Law or Equity at any Time hereafter to be sued or brought, of or for any Lands, Tenements, or Hereditaments, within this Island, whereunto any Person or Persons now hath or have any Title, or cause to have or pursue any such Actions or Suits, shall be sued and taken within *Twenty Years* next after the End of this present Session of the *General Assembly*; and after the said *Twenty Years* shall have expired, no Person or Persons or any of his, her, or their Heirs, shall have or maintain any such Action or Suit, of or for any of the said Lands, Tenements, or Hereditaments; and that all Actions or Suits, either in Law or Equity, of or for any Lands, Tenements, or other Hereditaments whatsoever, at any Time hereafter to be sued or brought, by Occasion or Means of any Title or Cause hereafter happening, shall be sued and taken within *Twenty Years* next after the Title and Cause of Action first descended or fallen, and at no other Time after the said *Twenty Years*; and that no Person or Persons who now hath or have any Right or Title of Entry into any Lands, Tenements, or Hereditaments, now held from him, her, or them, shall thereinto enter, but within *Twenty Years* next after the End of this present Session of the *General Assembly*, or within *Twenty Years* next after any other Title of Entry shall or may have accrued.

Entry into Lands, &c. to be made within 20 Years.

II. *And be it further enacted*, That no Person or Persons whatsoever, shall at any Time hereafter, make any entry into any Lands, Tenements or Hereditaments, but within *Twenty Years* next after his, her, or their Right or Title which shall or may hereafter first descend or accrue to the same; and in Default thereof, such Person or Persons not entering in Manner aforesaid, and their Heirs shall be utterly excluded and disabled from such Entry thereafter.

Persons not entering into Lands, &c. within 20 Years, to be excluded.

III. *Provided Nevertheless*, That if any Person or Persons who now are, or shall or may hereafter be entitled to such Actions or Suits, or who hath, or shall, or may have such Right or Title of Entry be, or shall be at the Time the said Right or Title first descended, accrued, or fallen, within the Age of *Twenty-one Years*, *Feme Covert*, *Non-compos Mentis*, imprisoned, or beyond the Seas; that then, and in such Case, such Person or Persons, and his, her, or their Heirs shall or may, notwithstanding the said *Twenty Years* be expired, bring his, her, or their Action or Suit, or make his, her, or their Entry in like Manner, as he, she, or they might have done before this Act; so as such Person or Persons, or his, her, or their Heirs, shall, within *Ten Years* next after his, her, or their full Age, Discoverure, coming of sound Mind, Enlargement out of Prison, or coming into this Island, or Death, take the Benefit of, and sue for the same, and at no Time after the said *Ten Years*,

Saving Clause to Infants, &c.

IV.

IV. *And be it further enacted*, That all Actions of Trespass, *Quare Clausum fregit*, all Actions of Trespass, Detinue, Action of Trover, and Replevin for taking away of Goods and Cattle; all Actions of Account, and upon the Case, (other than such Accounts as concern the Trade of Merchandize between Merchant and Merchant, their Factors, and Servants;) all Actions of Debt grounded upon any Lending or Contract without Specialty; all Actions of Debt for arrearages of Rent, and all Actions of Assault, Menace, Battery, Wounding, and Imprisonment, or any of them, which shall or may be sued or brought at any Time after the End of this present Session of the General Assembly, shall be commenced and sued within the Time and Limitation hereafter expressed, and not after; that is to say, the said Actions upon the Case (other than for Slander) and the said Actions for Account, and the said Actions for Trespass, Debt, Detinue, and Replevin for Goods or Cattle, and the said Action of Trespass *Quare Clausum fregit*; within *Three Years* next after the End of this present Session of the General Assembly, or within *Six Years* next after the Cause of such Actions or Suits, and not after; and the said Actions of Trespass, Assault, Battery, Wounding, Imprisonment, or any of them, within *Six Months* next after the End of the present Session of the General Assembly, or within *One Year* next after the Cause of such Actions or Suits, and not after; and the said Action on the Case for Words, within *Three Months* after the End of the present Session of the General Assembly, or within *Six Months* next after the Words spoken, and not after.

The limitation of certain personal Actions.

V. *And be it further enacted*, That if any of the said Actions or Suits, Judgment be given for the Plaintiff, and the same be reversed by Writ of Error, or if a Verdict pass for the Plaintiff, and upon Matter alledged in Arrest of Judgment, the Judgment be thereupon given against the Plaintiff, that he or she take Nothing by his or her Plaintiff, Writ or Bill; or if any of the said Actions be brought by Original, and the Defendant therein be outlawed, and shall afterwards reverse the Outlawry; that in any or all such Cases the Party Plaintiff, his Heirs, Executors or Administrators, (as the Case may require) may commence a new Action or Suit, from Time to Time, within *One Year* after such Judgment reversed, or such Judgment given against the Plaintiff, or Outlawry reversed, and not after.

Their Limitation after Judgment or Outlawry reversed.

VI. *And be it further enacted*, That in all Actions of Trespass *Quare clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his, her, or their Plea, to make any Title or Claim to the Land in which the Trespass is, by the Declaration supposed to be done, and the Trespass be by Negligence or involuntarily done, the Defendant or Defendants shall be admitted to plead a Disclaimer, and that the Trespass was by Negligence or involuntarily done, and a Tender or Offer of sufficient Amends for such Trespass before the Action brought; whereupon or upon some of them, the Plaintiff or Plaintiffs shall be enforced to join Issue. And if the said

After Judgment or Non-suit in Quare Clausum fregit, the Plaintiff barred to renew the Suit.

Issue be found for the Defendant or Defendants, or if the Plaintiff or Plaintiffs be non-suited; the Plaintiff or Plaintiffs shall be clearly barred from the said Action or Actions, and from all other Suits concerning the same.

In Actions of Trespass, Assault and Slander; no more Costs than Damages to be given,

VII. *And be it further enacted*, That in all Actions of Trespass, Actions for Assault and Battery, and in all Actions for slanderous Words, to be sued or prosecuted by any Person or Persons whatsoever, after the End of the present Session of the General Assembly, if the Jury upon the Trial of the Issue in such Action or the Jury that shall inquire of the Damages, do find or assess the Damages, under *Forty Shillings*; that then the Plaintiff or Plaintiffs in such Action, shall have and recover only so much Costs as the Damages, so given or assessed, amount unto, without any further Increase of the same. *Provided* the Judge, at the Trial of any Action of Assault and Battery, or Action of Trespass, shall, and do certify, under his Hand, upon the Back of the Record, that the Assault was sufficiently proved; or that the Freehold and Title of the Land, mentioned in the Plaintiff's Declaration, was chiefly in Question; or that the Trespass was voluntary and malicious; that then the Plaintiff, in such Case, shall recover his full Costs, though the Jury should find Damages to be under *Forty Shillings*.

unless the Judge certify, &c.

VIII. *Provided nevertheless*, That if any Person or Persons that is or are, or that shall or may be entitled to any such Action of Trespass, Detinue, Action of Trover, Replevin, Action of Account, Debt, Trespass for Assault, Menace, Battery, Wounding or Imprisonment, Actions on the Case for Words, be, at the Time of any such Cause of Action, given or accrued, within the Age of *Twenty-one Years*, *Feme Covert*, *non compos Mentis*, imprisoned or beyond the Seas; in any or either of which Cases, such Person or Persons shall or may be at Liberty to bring the same Actions, so as the same be done within such Times as are herein before limited after their coming to or being of full Age, Discover, of sane Memory, at large, and returned from beyond the Seas, as by other Persons having no such Impediment should or might be done.

Proviso, in Case of Non-age, Feme Covert, non compos Mentis, &c.

Actions against Persons beyond the Seas, may be brought after their return.

IX. *And be it further enacted*, That if any Person or Persons against whom there is, shall or may be any Cause of Suit, or Action of Trespass, Detinue, Trover, or Replevin, for taking away any Goods or Cattle, or of Action of Account, or upon the Case, or of Debt grounded upon any Lending or Contract without Specialty, of Debt for Arreages of Rent, or Assault, Menace, Battery, Wounding and Imprisonment, or any of them, be, at the Time of such Cause of Suit or Action given or accrued, beyond the Seas; that then such Person or Persons who are or may be intitled to any such Suit or Action, shall be at Liberty to bring the said Actions against such Person and Persons, after their Return from beyond the Seas, so as they commence the same within such Time after their Return, as are respectively limited for the bringing of the same by this Act.

At

Anno Vicefimo Quinto Regis GEORGH III.

1785.

At the GENERAL ASSEMBLY of His Majesty's Island of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Twenty-first Day of March, ANNO DOMINI, One thousand, Seven hundred and Eighty-five, and in the Twenty-fifth Year of the Reign of our Sovereign Lord GEORGE the THIRD, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. being the First Seflion of the Fourth General Assembly, convened in the said Island.

WALTER PATTERSON,
Lieutenant Governor.

PETER STEWART,
President of Council.

ALEXR. FLETCHER,
Speaker.

C A P I.

AN ACT to explain, alter and amend an ACT made and passed in the twentieth Year of His Present Majesty's Reign, intituled "AN ACT appointing the recording all DEEDS of SALE, CONVEYANCES and MORTGAGES."

For Acts in amend-
ment or addition to
this Act, see Note on
July Session, 20th Geo.
11th, C. 8.

WHEREAS some Doubts have arisen with Respect to that Part of the above-mentioned Act, appointing all Deeds of Sale, Conveyances and Mortgages, (there not having been a Time specified therein, when such Deeds executed any where, except in Great Britain, Ireland and this Island, should be recorded,) and it being thought necessary to enlarge the Purview and Operation of said Act:

Preamble.

I. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, That all Deeds of Sale, Conveyances, Mortgages, Deeds Poll, and Leases (such Leases being of longer Duration than Twenty Years) of any Lands in this Island, and not executed within the same, be, and they are hereby directed and required, wheresoever they may have been executed, to be recorded in Manner as is directed in and by this Act and by the said other Act made and passed in the twentieth Year of his present Majesty's Reign, intituled, "An ACT appointing the recording all Deeds of Sale, Conveyances and Mortgages," within the Space of two Years from and after their respective Dates; and

Deeds, &c. of longer
duration than 20 Years
not executed within
this Island, to be re-
gistered within two
Years after their res-
pective Dates;
otherwise not to have
any Force against bo-
na fide Purchasers.

and all such Deeds of Sale, Conveyances, and Mortgages as shall not have been recorded within the said two Years shall be Null and Void against Purchasers who shall have complied with the Directions contained in this Act, and the said herein before in Part-recited Act.

All Deeds, &c. executed in Great Britain, &c. to be registered.

II. *And be it further enacted*, That the *Register* of this Island, or his Deputy, shall and may duly register all such Deeds of Sale, Conveyances, Mortgages, Deeds Poll, and Leases (being of longer Duration than *Twenty Years*) of any Lands in this Island, as shall have been made and executed in *Great Britain*, or *Ireland*, or in any of his Majesty's Colonies or Plantations, or other his Dominions distant from this *Island*, although none of the Witnesses thereto should come before the *Register*, or his said Deputy, to prove the same.

On Proof of the Execution thereof, &c.

III. *Provided* the Execution thereof shall appear to such *Register*, or his Deputy, either to have been acknowledged, in due Form of Law, by the Grantor himself named in such Deeds of Sale, Conveyances, Mortgages, Deeds Poll, and Leases, or to have been proved by the Oath of one of the subscribing Witnesses thereto, before some or one of his Majesty's *Justices of the Peace* where such Deeds of Sale, Conveyances, Mortgages, Deeds Poll, and Leases shall have been executed, and to be duly attested by such Justice: and such Attestation, being also authenticated, (if in the Plantations) under the Hand and Seal of the *Governor*, *Lieutenant Governor* or *Commander in Chief* of the Province or Government where the same shall or may be made, or of a *Public Notary* there residing; and, if in *Great Britain*, *Ireland*, or elsewhere under the Dominions of His Majesty, then under the *Public Seal* of some Corporation there, or by the Attestation and Certificate of some *Notary Public* lawfully constituted and resident there, certifying that such Person, so subscribing as a *Justice of the Peace*, is really and truly so, and that Faith and Credit is and ought to be given to all such his Attestations.

Preamble.

And whereas, There is no Provision made in the before-mentioned Act, relative to the recording of Leases of a longer Duration than *Ten Years*, as also all other Writings, (except Deeds of Sale, Conveyances and Mortgages;) and in as much as by said Act it is directed and required, that all the Instruments last mentioned shall be recorded at full Length in the *Register's Office*; wherefore for the further enlargement of said Time, and for giving a right of choice to the Parties concerned:

All Deeds Poll, Leases, &c. of longer duration than Ten Years, executed on this Island.

IV. *Be it further enacted*, That all Deeds of Sale, Conveyances, and Mortgages, as also all Mesne or subsequent Deeds of Settlement or Conveyances, of what nature or kind soever, Deeds Poll, Leases or Agreements, (being of longer duration than *Ten Years*) of or concerning any Lands, Tenements, or Hereditaments in this Island, which have been, or which hereafter may be executed therein, shall, from and after the Publication hereof, from time to time, be produced to, and left

left with, the *Register* of the Island, or his sworn Deputy for the Time being, by the Possessor thereof, or his, her or their Attorney, or Attornies, or a Memorial thereof duly executed in Order to their being registered, after their or any of their respective Dates within the Times limited and appointed for Deeds executed on this Island, in and by said herein before in Part recited Act, and the same shall be accordingly registered in the said *Register's Office* in such Manner as is directed by this and said herein before in Part recited Act.

V. *And be it further enacted*, That the *Register*, or his Deputy, shall constantly keep, for the Purpose of registering all Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or other Conveyances of what nature soever, Deeds Poll, Leases or agreements (being of longer Duration than *Ten Years*) of or concerning any Lands, Tenements or Hereditaments in this Island, a FOLIO Book containing, at least, five Quires of Imperial Paper, neatly bound in Calf, and lettered, with an Index and Alphabet to each.

VI. *And be it further enacted*, That the Execution of all Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyances of what Nature or kind soever, Deeds Poll, Leases or Agreements (being of longer duration than *Ten Years*) which have been, or hereafter shall be made of, or concerning, any Lands, Tenements, or Hereditaments within this Island, or a Memorial thereof, shall be proved before the said *Register*, or his Deputy as aforesaid, either by personal Acknowledgment of the Grantor, Vendor, Mortgagor, or Lessor respectively named in such Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement or Conveyance of what Nature or Kind soever, Deeds Poll, Leases or Agreements of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments in this Island, or by Oath, which the said *Register*, or his Deputy, are hereby severally empowered to administer to one or more of the subscribing Witnesses to the same, or the Memorials thereof; which Acknowledgment, or Proof of the due Execution thereof, shall be endorsed on the Back of each and every of them so produced and proved, as also signed by the *Register*, or his Deputy, as aforesaid: which Endorsement shall be allowed as Evidence of the due Execution of any Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyance of what Nature or Kind soever, Deeds Poll, Leases, or Agreements of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments within this Island, in any of his Majesty's Courts of Record that now are, or which hereafter shall or may be established in this Island. And all Deeds of Sale Conveyances, Mortgages, Deeds of Settlement, or Conveyance of what Kind or Nature soever, Deeds Poll, or Leases or Agreements, of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments, in this Island, or a Memorial thereof, shall, within the Time limited in and by said herein before in Part recited Act, next after the

shall be left with the *Register*, &c. or a Memorial thereof within the Time limited by former Act "appointing the recording all Deeds, &c."

Register constantly to keep, for the Purpose of registering all Deeds, &c. a Particular folio Book, &c.

All Deeds, &c. executed within this Island, or a Memorial thereof, to be registered on Proof, &c. as directed.

Register, &c. empowered to administer Oath to subscribing Witnesses, &c. of due Execution--registry of which to be endorsed on the Back of Deeds, &c. so produced and proved, also signed by the *Register*, &c. shall be allowed as Evidence, &c. in any of his Majesty's Courts of Record.

All Deeds, &c. or a Memorial thereof, executed on this Island, shall be registered within the time limited by former Act.

All Deeds, &c. or a Memorial thereof, to be registered in Words at full length.

All Deeds, &c. for Want of such Registry within the Time limited aforesaid, shall

be adjudged fraudulent and of no Effect.

All Deeds, &c. or a

Memorial thereof, to be registered as aforesaid, shall be certified on the back by the Register, &c. in the Presence of the Person presenting the same—the said endorsement to contain the Year, &c. when such Deeds, &c. or Memorial thereof were respectively registered—

which certificate, with a fair Copy of whatever has been registered as aforesaid, and duly authenticated by Register, &c.

to be admitted as legal Evidence in any Court of Record where the same may be produced.

Pages of Registry Books shall be numbered, and the Year, &c. when such Deed, or Memorial thereof, were registered, shall be entered in the Margin of the said Book by the Register, &c. who is duly to register every Deed as aforesaid in the same Order they respectively come to his Hands,

Minors, &c. may sue within two Years after Impediment removed.

the respective Dates thereof, be registered in said Office in Words at full Length, either by recording the whole or a Memorial thereof; the same to be at the Option of the Parties concerned: and for Want of such Registry, all such Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyances of what Nature or Kind soever, Deeds Poll, Leases, or Agreements, of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments in this Island, shall be adjudged fraudulent and of no Force or Effect, as is directed in and by said herein before in Part recited Act.

VII. *And be it further enacted*, That all Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyances of what Nature or Kind soever, Deeds Poll, Leases or Agreements of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments in this Island, or a Memorial thereof, which are to be registered as aforesaid, shall be certified on the Back thereof by the Register or Deputy Register, and signed by him in the Presence of the Person presenting the same, containing the Year, Month, Day of the Month, and Hour of the Day when such Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyance of what Kind or Nature soever, Deeds Poll, Leases or Agreements of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments within this Island, or a Memorial thereof, were respectively registered: Which Certificates, with a fair Copy of whatever may be registered as aforesaid in Pursuance of this Act, and extracted from the said Book of Registry, and duly authenticated by said Register or his Deputy, (which Certificate, in Case of the Original of such Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyances of what Kind or Nature soever; Deeds Poll, Leases, or Agreements of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments in this Island, being lost) shall be admitted and allowed as legal Evidence in any of said Courts of Record in this Island where the same shall or may be produced; and every Page of such registry Book shall be numbered, and the Year, Month, Day of the Month, and Hour of the Day, when such Deeds of Sale, Conveyances, Mortgages, Deeds of Settlement, or Conveyances of what Kind or Nature soever; Deeds Poll, Leases or Agreements of longer Duration than *Ten Years*, of or concerning any Lands, Tenements, or Hereditaments in this Island, or a Memorial thereof, were registered, shall be entered in the Margin of the said Book by the said Register or his Deputy; and who shall duly register every Deed as aforesaid, in the same Order they respectively come to his Hands.

VIII. *And be it further enacted*, That Nothing in this Act, nor any Thing herein contained, shall extend, or be construed to extend, to bar the Title of any Minor, *Feme Covert*, or Person *Non compos Mentis*, imprisoned, or absent from the Island: But they shall or may be entitled to sue for and recover any Lands, or Tenements, within this Island

Island, to which they are respectively entitled, within *Two Years* next after such Impediment shall have been removed; any Thing in the said Act to the contrary in any wise notwithstanding.

IX. *And be it further enacted*, That if any Person shall forge or counterfeit any such Certificate as is herein before directed, and shall be thereof convicted in due Course of Law; such Person shall be liable to the same Penalties as are imposed upon such Offenders in that Part of *Great Britain*, called *England*, for forging of any false Deed, or Writing sealed. And if any Person or Persons shall forswear him or herself before the said *Register*, or his Deputy, and be thereof duly convicted; such Person or Persons shall be liable to the same Penalties, as if the same Oath had been voluntarily and corruptly made in a Cause depending in any of the *Courts of Record* that now are or hereafter shall or may be established in this Island.

X. *And be it further enacted*, That this Act, and the said herein before in Part recited Act, shall be taken and allowed in all Courts that now are or hereafter shall or may be within this Island, as public Acts: and all Judges, Justices, and other Persons herein concerned, are hereby required to take Notice thereof, without special Pleading the same.

Persons forging Certificates, &c. liable to the punishments inflicted upon such Offenders in England.

Perjury before Register or Deputy, how to be punished.

Public Act.

C A P. II.

An ACT to explain, alter, amend and reduce into one Act, an ACT made and passed in the twentieth Year of His present Majesty's Reign, intituled "An Act to enable Creditors to recover their just Debts out of the Effects of their absent or absconding Debtors."

This Act did not receive His Majesty's Approbation.

C A P. III.

An ACT to alter and amend so much of an ACT made and passed in the twenty-first Year of his present Majesty's Reign, intituled, "An ACT to explain, amend, and render into one Act, all the Laws now in Being for the Purpose of making and repairing HIGHWAYS in this Island," as relates to the Time appointed by said Act for performing STATUTE LABOUR, and some further Regulations as to the Payment and Duty of Overseers of the High-Ways.

See Note on 14th Geo. 3d, C. 4.

C A P. IV.

For Acts respecting the Revenue of the Island see 35th Geo. 11th, C. 10.

AN ACT to amend, render more effectual, and to reduce into one Act, the several Laws made by the GENERAL ASSEMBLY of this Island, relative to the Duties of Impost on Wines, Rum, Brandy and other distilled Spirituous Liquors; and for allowing a DRAWBACK upon all WINES, RUM, BRANDY, and other distilled SPIRITUOUS LIQUORS exported from this Island.

After Publication, there shall be paid to His Majesty, his Heirs and Successors, for the public Uses of this Island by Importers of Wine, Rum, &c.

Wine 6d per Gallon, Rum, Brandy, & other distilled spirituous Liquors, 6d. per Gallon.

To be paid at landing if under £10.

if above £10. and not exceeding £50. Credit to be given to pay in Three Months.

If above £50. and not exceeding £100. Credit for Payment in six Months.

If above £100. security to be given to pay in Nine Months.

Sufficient security to be given for payment of Duties within the limited Times.

Masters of Vessels to report their Cargoes to the Collectors before breaking Bulk, and to take the following Oath.

BE it enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, there shall be raised, levied, collected, and paid unto His Majesty, his Heirs, and Successors, to and for the public uses of this Island, and towards the support of his Government therein, by the Importers of all Wines, Rum, Brandy, and other distilled Spirituous Liquors which shall or may be imported, or by any Ways or Means brought into this Island, the several Rates and Duties as follows, viz. For every Gallon of Wine, the Sum of Six-pence, as also for every Gallon of Rum, Brandy, or other distilled Spirituous Liquors, in Lieu of all former Duties, the said Sum of Six pence.

II. *And be it further enacted*, That all the Rates, Duties and Imposts before mentioned, shall be paid in lawful Money of this Island (being at the Rate of Five Shillings per Spanish milled Dollar) by the Importer or Importers of any such Wine, Rum, Brandy, or other distilled Spirituous Liquors unto the Collector and Receiver, or Collectors and Receivers for the Time being, appointed for entering and receiving the same, at or before the landing thereof: *Provided nevertheless*, that when the Duty to be paid by any Importer or Importers of such Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall amount to a Sum exceeding Ten Pounds, and not more than Fifty Pounds, the said Collector and Receiver, or Collectors and Receivers of the said Duties, is or are hereby authorised to give Credit for the Payment thereof for the Space of Three Months. And in like Manner, if the said Duties shall exceed the Sum of Fifty Pounds, and not amount to more than the Sum of One Hundred Pounds, the said Collector and Receiver, or Collectors and Receivers, is or are hereby authorised to give Credit for Payment thereof for the Space of Six Months: And if the said Duties shall exceed the Sum of One Hundred Pounds, then he or they are hereby further authorised to give Credit for the payment thereof for the Space of Nine Months.

III. *Provided always*, That sufficient Security be given for the Payment of the said Duties within the said several Times so as aforesaid limited for the Payment thereof.

IV. *And be it further enacted*, That all Masters of Ships, coasting, fishing, and all other Vessels whatever, coming into any Harbour, Port, River, Creek, or on any Part of the Coasts of this Island, and its Dependencies, shall before breaking Bulk, and within Twenty-four Hours after

after his or their Arrival, make Report, in Writing, and upon Oath to the Collector and Receiver, or Collectors and Receivers of the Duties for the Time being, of all Wine, Rum, Brandy, or other distilled Spirituous Liquors, on Board the said Ship or Vessel, specifying therein the Kinds of Casks or other Vessels in which the same shall be contained, together with the Marks and Numbers thereof, and that they have not landed or suffered to be landed, sold, bartered, or exchanged, any Wine, Rum, Brandy, or other distilled Spirituous Liquors, at any Port or Place within this Island, or on the Coasts thereof, since their sailing from the Port or Place where the same were laden on Board the said Ship or Vessel for Exportation: Which Oath the said Collector and Receiver, or Collectors and Receivers, is or are hereby empowered to administer in the Form following, *viz.*

YOU A. B. do swear, that the Report which You have now made, read, and subscribed, contains a just and true Account of all the Wine, Rum, Brandy, and other distilled Spirituous Liquors, laden on Board the at _____ and that You have not landed, nor suffered to be landed, sold or delivered, bartered or exchanged, any Wine, Rum, Brandy or other distilled Spirituous Liquors, at any Port or Place within this Island, or on the Coasts thereof, since your sailing from

Form of Oath.

V. *And be it further enacted,* That if any Wine, Rum, Brandy or other distilled Spirituous Liquors (not being duly entered) be found on Board any such Ship or Vessel, after such Entry made, the same is hereby declared forfeited and lost, and shall or may be seized by the Collector and Receiver, or Collectors and Receivers, or either of them, or by any of the Land-Waiters, or Gaugers, as forfeited Property.

All Wine, &c. not duly entered and found on board any Vessel after entry made, shall be forfeited.

VI. *And be it further enacted,* That no post Entry of any Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be permitted to be made by such Collector and Receiver, or Collectors and Receivers of the said Duties, by any Person whatever, except by the Master of such Ship or Vessel, and that within *Twenty-four Hours* after the same shall have arrived.

No post Entry shall be made but by the Master of the Vessel.

VII. *And be it further enacted,* That upon Information made to the said Collector and Receiver, or Collectors and Receivers, or to any or either of them, that any Wine, Rum, Brandy, or other distilled Spirituous Liquors, do still remain on Board any Ship or Vessel (the same not having been duly entered) it shall and may be lawful for the said Collector and Receiver, or Collectors and Receivers, or any or either of them, or for any or either of the said Land-Waiters, or Gaugers by their Orders, to enter on Board such Ships or Vessels, and there to search for, and seize as forfeit, all such Wine, Rum, Brandy, and other distilled Spirituous Liquors, so remaining on Board the same, and not being duly entered as aforesaid.

Upon Information, the Collectors, &c. to search for and seize Wine, &c. remaining on board not duly entered.

All Wine, &c. landed after Entry, and not contained in Master's Report, forfeited or the Value thereof;

and if concealed or stave to prevent seizure, the Master of the Vessel, &c. shall pay the Value.

Masters of Vessels refusing Obedience to this Act,

shall forfeit 100l.

All Wines, &c. landed contrary to this Act, and found in the Custody of any Person on Shore, (not having a Permit) shall be forfeited,

and such Person shall forfeit 50l.

Persons, &c. assisting in clandestine landing any Wine, &c.

shall forfeit 50l. or suffer six Month's imprisonment.

Wine, &c. not to be landed but in the Day

VIII. *And be it further enacted*, That if any Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be landed from on Board such Ship or Vessel, after Report shall have been made, other than such as shall have been specified and contained in such Report or Manifest as aforesaid directed by this Act to be made; then, and in such Case, all such Wine, Rum, Brandy, or other distilled Spirituous Liquors, or the Value thereof (the same to be estimated at the highest Price such Commodities shall or may respectively then bear) shall be, and the same are hereby declared to be forfeited, and shall and may be seized by any or either of the said Collectors and Receivers of the Duties for the Time being, or by any or either of the said Land-Waiters or Guagers. And if such Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be concealed or stave, so as that Seizure cannot be made of the same, then the Master of such Ship or Vessel, or the Owner or Owners thereof, or the Receiver or Receivers of such Articles so concealed stave, shall, on being duly convicted therefore, pay the Value thereof according to the aforesaid Estimate.

IX. *And be it further enacted*, That if any Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be found on Board any Ship or Vessel, which shall not have been duly entered, or which shall be proved to have been landed, sold, delivered, bartered, or exchanged, contrary to the true Intent and Meaning of this Act; or if any Master of such Ship or Vessel shall refuse or neglect to conform strictly to the Directions prescribed in and by this Act; in either of such Cases he shall, on Conviction thereof by the Oath of one credible Witness forfeit and pay a Fine not exceeding *One Hundred Pounds*.

X. *And be it further enacted*, That if any Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be landed from on Board any Ship or Vessel, contrary to the Rules prescribed in and by this Act, and found in the Custody, Possession, Care or Keeping, of any Person or Persons whatever on shore, (not having a Permit therefore) the same shall be forfeited; and the Person or Persons with whom the same shall or may be found, shall forfeit the Sum of *Fifty Pounds*, unless he, she, or they shall be able to prove the same to have been legally entered and landed.

XI. *And be it further enacted*, That if any Person or Persons whatsoever shall knowingly be aiding or assisting in the clandestine landing or concealing any Wine, Rum Brandy, or other distilled Spirituous Liquors, in Order to avoid Payment of the Duties to which the same are made liable by this Act, he, she, or they, shall, upon Conviction thereof, by the Oath of one or more credible Witness, forfeit and pay the Sum of *Fifty Pounds*, or suffer *Six Months* Imprisonment, without Bail or Mainprize.

XII. *And be it further enacted*, That no Wine, Rum, Brandy, or other distilled Spirituous Liquors, which by this Act are made liable

to a Duty, shall be landed or delivered from on Board any Ship or Vessel, or afterwards put into any Ware-house, or other Place, (except in the Day-time, that is to say, after Sun-rise and before Sun-set of the same Day) unless the same be done in the Presence and with the Consent of the said Collector and Receiver, or Collectors and Receivers, for the Time being, on Pain of forfeiting all such Liquors, and all and singular the Lighters, Boats, or other Vessels which shall or may be employed in landing the same, together with the Trucks, Carts, and Horses which may be employed in conveying the same away.

XIII. *And be it further enacted*, That the Master of any Ship or Vessel importing any Wine, Rum, Brandy, or other distilled Spirituous Liquors as aforesaid, shall be, and he is hereby made liable to pay the Duties for so much thereof as may be contained in his said Report, not being duly entered, nor the said Duties paid by the Person or Persons to whom such Wine, Rum, Brandy, or other distilled Spirituous Liquors are or shall be consigned. And it shall and may be lawful to and for the Master of any Ship or Vessel to detain in his Hands and Possession, or to deliver to the said Collector and Receiver, or Collectors and Receivers, for the Security of such Duties, all such Wine, Rum, Brandy, or other distilled Spirituous Liquors, as shall not have been duly entered. Which said Collector and Receiver, or Collectors and Receivers, or any or either of them, is or are hereby impowered and directed to receive and keep the same, at the Owner's Risque, until the Duties due thereon, with the Charges, have been paid. And if the Duties due and payable on such Wine, Rum, Brandy, or other distilled Spirituous, Liquors, shall not be paid, or secured to be paid, by the Owner or Owners thereof, within the Space of *Three Months*, then, and in such Case, the said Collector and Receiver, or Collectors and Receivers, is or are hereby impowered to sell and dispose of so much thereof, as shall be sufficient to pay the Duties due thereon, and also the Freight, Charge of Custody, and Sale thereof.

XIV. *And be it further enacted*, That in Case any Master of any Ship or Vessel shall be prosecuted for a Violation of this Act, such Ship or Vessel in which the said Wine, Rum, Brandy, or other distilled Spirituous Liquors may have been imported, shall be subject and liable to be attached to answer the final Judgment which shall or may be given in Consequence of such Prosecution, unless the said Master shall and do enter into Recognizance, with sufficient Sureties, to answer such final Judgment.

And whereas Doubts have arisen, whether Wine, Rum, Brandy, or other distilled Spirituous Liquors, brought into this Island by Persons for the Consumption of the Inhabitants thereof, and not for Sale, are or ought of Right to be liable to the Rates, Duties, and Impost, which are by Law payable on other Wine, Rum, Brandy, or other distilled Spirituous Liquors imported or brought into this Island:

Time, unless by Consent of the Collectors, on Penalty of being forfeited, with the Vessels, Trucks, &c. employed therein.

Masters of Vessels liable to the Duty for Wine, &c. not duly entered nor the Duties paid for;

and may detain such Wine, &c. or deliver the same to the Collectors to secure the Duties.

Vessels may be attached unless the Master give Security to abide the Judgment.

Preamble relating to Persons importing for their own Use.

All Persons bringing in, or causing to be brought in, any Wine, &c. for their own Consumption, to render an Account thereof, and pay the Duties.

XV. *Be it therefore further enacted*, That all and every Person or Persons bringing, or causing to be brought into this Island any Wine, Rum, Brandy, or other distilled Spirituous Liquors, for their own Consumption, shall, from and after the Publication hereof, render a just and true Account or Manifest of the same to the said Collector and Receiver, or Collectors and Receivers, in such Manner, and within such Time, as are prescribed by this Act on Entries made in other Cases; and also pay or secure to be paid, the same Rates, Duties and Impost, imposed or laid by this Act on other Wine, Rum, Brandy, and other distilled Spirituous Liquors; and on Failure thereof, they are hereby subjected to the like Penalties and Forfeitures as are inflicted on other Breaches or Violations of this Act.

Governor, with Advice of His Majesty's Council, to appoint Collectors.

XVI. *And be it further enacted*, That it shall or may be in the Power of the Governor, Lieutenant Governor or Commander in Chief for the Time being, with the Advice of his Majesty's Council, to appoint a proper Person to be Collector and Receiver of the several Rates, Duties, and the Impost herein before mentioned, for the port of *Charlotte-Town*, and for every other Port in this Island where he and they shall or may think expedient and necessary for the effectually carrying into Execution this Act: Each and every of which Person or Persons, appointed as aforesaid, is or are to give approved Security payable to his Majesty, his Heirs and Successors, in such Amount as he and they shall, from Time to Time, judge sufficient to effect the faithful discharge of the Trust reposed in such Persons: also in like Manner to appoint Surveyors or Land Waiters for the said Port of *Charlotte-Town*, and such other Ports as may by him and them be judged necessary for the Purposes aforesaid: And in the Presence of some one of them or in the Presence of the Collector and Receiver, or Collectors and Receivers aforesaid, or any or either of them, all Wine, Rum, Brandy, or other distilled Spirituous Liquors shall be landed at the said several Ports and be duly gauged at the Time the same shall have been so landed in Manner as is herein before prescribed. And all Wine, Rum, Brandy, or other distilled Spirituous Liquors, which shall or may be landed in this Island, contrary to the Intent and Meaning of this Act shall be forfeited, and shall and may be seized and prosecuted by such Collector and Receiver, or Collectors and Receivers, or any or either of them, as by any or either of the said Surveyors or Land-Waiters.

Persons so appointed to give approved Security.

Governor, in like Manner, to appoint Surveyors and Land-Waiters.

Their Duty.

Wine, &c. landed contrary to this Act, shall be forfeited.

Wine, &c. landed without being regularly entered and Duties paid, and the Importers of the same having quitted the Island before Collectors, &c. had Notice thereof; the Purchaser of such Wine, &c. shall be liable to the Pay-

XVII. *And be it further enacted*, That in Case any Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be landed in any Port or other Parts of this Island, without being regularly entered, and the Duties paid thereon as above directed, and the Importer or Importers of the same shall have quitted the Island before the Collector and Receiver of the said Rates, Duties, and Impost, shall have had Notice thereof; then, and in such Case, the Purchaser or Purchasers thereof shall be liable to the Payment of the Duties due and payable

payable thereon, and of a further Sum (being equal to the Amount of the said Duties) as a Penalty for purchasing the same before Entry, with an Intent to elude the Payment of the said Duties.

XVIII. *And be it further enacted,* That all Agents, or other Persons concerned for Vessels taken as Prizes, or for Vessels seized for illegal Importation, shall immediately, on their Arrival, deliver to the said Collectors and Receivers respectively, a true Account, upon Oath, of the Contents of the Cargo so taken or seized, (the same being liable to the Duties imposed by Law in this Island) and delivered into their Care: And if the true Contents of the said Cargo shall or may be then unknown to such Agent or Agents, or other Persons or Persons concerned as aforesaid, then, and in such Case, he or they shall respectively make Oath to render a true and faithful Account of the said Cargo when the same shall have come to his or their Knowledge, so that the Duties due thereon may be accurately ascertained, under the Penalty of forfeiting *One Hundred Pounds* for each and every Offence.

XIX. *And be it further enacted,* That all Wine, Rum, Brandy, and other distilled Spirituous Liquors, which shall or may be brought into any Port or Place in or belonging to this Island, as Prize, or which shall or may be condemned therein as such, at any Time from and after the Publication hereof, shall be subject to all and singular the several Rates, Duties, and the Impost imposed or laid by this Act. And the *Marshal of the Court of Vice Admiralty*, or his Deputies, as well as all Auctioneers or Vendue Masters in this Island, is and are hereby directed not to deliver any such Wine, Rum, Brandy, or other distilled Spirituous Liquors, which may have been sold by him, or them respectively, at Public Auction, or otherwise, to the Purchaser or Purchasers thereof, without a Permit first had and obtained therefrom from the said Collector and Receiver, or Collectors and Receivers, and before he or they shall have rendered a true and perfect Account to such Officer or Officers, or some One of them upon Oath, of the Quantity of all such Wine, Rum, Brandy, or other distilled Spirituous Liquors, which he, or they shall or may have so sold, and of the Names of the Persons to whom the same were so sold, under the Penalty of forfeiting the Sum of *Two Hundred Pounds* for each and every Offence.

XX. *And be it further enacted,* That from and after the Publication hereof, there shall be allowed on all Wine, Rum, Brandy, or other distilled Spirituous Liquors, which shall have been already imported, or which shall or may in future be imported into this Island, on Exportation of the same therefrom, a Draw-back of *Four pence per Gallon* out of the whole Duty paid, or secured to be paid thereon, on Importation thereof.

XXI. *And be it further enacted,* That the Drawback on all such Wines, Rum, Brandy, or other distilled Spirituous Liquors so exported

ment of the Duties of the same—also a Penalty equal to Amount of Duties.

Agents for Vessels taken as Prizes, or seized, to render to Collectors, &c. a true Account of the Contents of the Cargo liable to Duty,

on Penalty of £100.

Prize Rum, &c. subject to Duties.

Marshal of Vice Admiralty, Auctioneers, &c. shall not deliver Wine, &c. without Permit, and shall render, upon Oath, an Account thereof.

on Penalty of £200.

Drawback of 4d. per Gallon on Wine, &c. exported.

Drawback to be paid within one Month after Exportation of Wines, &c.

that is, if Duties have been paid prior to Exportation; otherwise Security to be returned or Credit given on the back thereof for the quantity exported.

Bond with one Security, to produce Certificate of landing.

Oath prescribed to be taken by Exporter.

Collector empowered to administer Oath.

Form of Oath.

Wine, &c. Fraudulently re-landed, to be forfeited,

with the Vessel.

Naval Officer shall not clear out any Vessel till certified that the Master has complied with this Act.

ported, shall be paid to the Exporters thereof, within one Month next after the same shall have been exported: That is to say, if the said Duties have been, prior thereto *bona fide* paid; but if not, then the Security given for the same shall be returned, or Credit given on the Back thereof for the Quantity so exported. And the said Exporters are also severally to give Bond, with one sufficient Surety, to the Treasurer of this Island, in double the Amount of the Drawback so claimed, conditioned to deliver, within *Eighteen Months* after the Time of such Exportation, (the Dangers of the Seas and Enemies only excepted) a Certificate from the principal Officer of his Majesty's Customs of the Port to which the same shall or may be carried, or from some other Officer there duly authorised thereto, expressing such Goods to have been actually landed, together with a further Certificate from the said Collector and Receiver, or Collectors and Receivers, or either of them; that the Duties due and payable thereon have been truly paid, or secured to be paid, before such Exportation agreeable to the Rates prescribed and charged in and by this Act. And the said Collector and Receiver, or Collectors and Receivers, or either of them, are hereby permitted to take such Certificates in Payment of any Duties to be paid by the Importers of any of the said Liquors. And for the better and more effectually preventing Frauds herein, the following Oath shall be taken for the future, by all Exporters of such Liquors (and which Oath the said Collector and Receiver, or Collectors and Receivers, are hereby respectively required to administer) in the Presence of the Master of the Ship or Vessel on Board of which the same shall or may be taken to the End that such Master may not pretend to be ignorant of any Part of his Duty, as directed and prescribed in and by this Act, *viz.*

YOU A. B. do swear, that the Quantity of _____ **by you shipped for**
Exportation on board the _____ *Master, bound for* _____ *was bona*
fide imported in the _____ *Master, since the* _____ *Day of* _____,
and that the Duties for the same have been paid, or secured to be paid,
as by Law is required, and that the same is not intended to be fraudulently
re-landed in or at any Port or Place within this Island, or any of the
Territories thereunto belonging.

XXII. And be it further enacted, That if any Wine, Rum, Brandy, or other distilled Spirituous Liquors, shall be fraudulently re-landed in or at any Port or Place in this Island, after the same shall have been shipped for Exportation, the same shall be forfeited, together with the Ship or Vessel out of which such Liquors shall have been so fraudulently re-landed.

XXIII. And be it further enacted, That no Naval Officer at any of the Ports in this Island, shall give Clearances or Papers to the Master of any Ship or Vessel outward bound, until he shall be certified by the said Collector and Receiver, or Collectors and Receivers, or either

of them, that the said Master has complied with the Directions contained in this Act.

XXIV. *And be it further enacted*, That all Wine, Rum, Brandy, or other distilled Spirituous Liquors, which shall have been or may be imported into this Island and which shall have paid, or on which Security has been given for the Payment of, the Duties hereby imposed, and which shall or may be issued for the Use of his Majesty's Navy, shall be deemed, considered, and taken as exportable Effects within the true Intent and Meaning of this Act, and shall also be entitled to a Drawback of the Duty so paid, or secured to be paid: And the said Collector and Receiver, or Collectors and Receivers, shall pay the same in Manner as is herein before directed, or give and surrender up the Security which may have been given for the said Duties, or give Credit for the same as aforesaid.

XXV. *Provided always, and be it further enacted*, That no Wine, Rum, Brandy, or other distilled Spirituous Liquours, shall be so issued or delivered for the Use aforesaid, unless the same be done by or under the Authority of a Permit from the Governor, Lieutenant Governor, or Commander in Chief for the Time being, of this Island, or the proper Officer by him appointed for that Purpose, to be by him granted upon the Ground of a Certificate signed by the Captain or Commanding Officer of the Ship or Vessel for whose Use such Liquors may be required; and which said Certificate shall express, that such Liquors are necessary for the Use of such Ship or Vessel. And before such Drawback shall be paid, allowed, or credited as aforesaid, a Certificate shall be produced from the Treasurer of this Island, certifying that Proof had been made to him, by a Receipt from the Purser, and a Certificate of the Captain and other signing Officers of his Majesty's said Ship or Vessel that the said Wine, Rum, Brandy, or other distilled Spirituous Liquors, mentioned in the Governor's said Permit, had been actually received on Board the same for the Use aforesaid, and for no other Use or Purpose whatever.

XXVI. *And be it further enacted*, That if any Wine, Rum, Brandy, or other distilled Spirituous Liquors, for which the above mentioned Drawback shall have been claimed and allowed, shall after the same have been issued, or pretended to be issued as aforesaid, be landed, or converted to the Use of any Person or Persons whatever on Shore, or for any other Use than that of His Majesty's Navy, the same is hereby rendered forfeit: and the Person or Persons who shall or may be found guilty of committing such Fraud, shall forfeit and pay the Sum of *Fifty Pounds*.

XXVII. *Provided nevertheless*, That nothing herein contained shall entitle any Exporter, or Exporters, in any respect whatsoever, to any Drawback on a less quantity of such Wine, Rum, Brandy, or other distilled Spirituous Liquors than *Thirty Gallons*.

XXVIII. *And be it further enacted*, That the said Collector and Receiver or Collectors and Receivers, for the Time being, shall render

Drawback on Wine,
&c. issued for the

Use of His Majesty's
Navy.

Manner of proceed-
ing for obtaining the
Drawback.

Wine, &c. landed
after Drawback re-
ceived or claimed, for-
feited.

And the Person found
guilty of the Fraud
fined £50.

Proviso, that Ex-
porter shall not be en-
titled to any Draw-
back for a less Quan-
tity than 30 Gallons
of Wine, &c. &c.

Collectors, &c. to
account quarterly.

a just and true Account of, and pay into the Hands of the Treasurer of this Island, all such Monies as shall or may be by him or them respectively received in Virtue of this Act, within *Thirty Days* next after the End of each Quarter, on Penalty of forfeiting *Fifty Pounds* for such his or their Neglect.

on Penalty of £50.

Forfeitures, &c. shall be sued for in any Court of Record.

Special Juries, if applied for, to be allowed.

Persons claiming, shall pay Costs if the Verdict be given against them.

Application of Penalties, &c.

Depositions of Witnesses, *de bene esse*, taken before a Justice shall be admitted as Evidence on the Trial.

Application of the Monies received in Pursuance of this Act.

Sums appropriated, to be issued according to His Majesty's Instructions by Warrant

XXIX. *And be it further enacted*, That all Causes or Trials for Forfeitures and Penalties inflicted on Breaches of this Act, shall and may be commenced and prosecuted in any of His Majesty's Courts of Record which now are, or which hereafter may be established, in this Island. And upon Motion duly and regularly made, a special Jury shall be awarded and summoned to try the Matter in Question, agreeable to the Form and Manner of awarding and summoning special Juries in the Courts of *Westminster* in *Great Britain*. And the Defendant or Defendants in such Suit shall be subject to pay all Cost, if the Verdict therein given be against him or them.

XXX. *And be it further enacted, by the Authority aforesaid*, That all and singular the Monies arising from such Penalties and Forfeitures after deducting all expences of Prosecution taxed against the Defendant or Defendants, shall be one Half to His Majesty, to and for the Uses for which the said Duties are granted, and the other Half to him or them who shall seize, inform, and sue for the same; and that all Prosecutions in Pursuance of this Act, shall be commenced within the Space of *Twelve Months* from the Time of the Offence Committed.

XXXI. *And be it further enacted*, That in Case it shall happen that any of the Witnesses for supporting any Information or Suit which shall or may be so brought, are obliged to leave this Island before the Day appointed for the Trial of the Cause; that then, and in such Case, it shall and may be lawful for any one of the *Justices* of the said Courts, upon Notice given to the above Party to be present, to take the Depositions of the said Witnesses, *de bene esse*, in Writing; which Depositions, being so taken, and also subscribed by the said Justice or *Justices*, and by the said Witnesses, may be admitted as Evidence to the Jury, upon Trial of such Cause or Suit.

XXXII. *And be it further enacted*, That the Monies arising from the Duties imposed by this Act, shall be applied and laid out in making and repairing public Roads and the further establishing Ferries within this Island, and such other Uses to and for His Majesty's Government, as the *Governor*, *Lieutenant Governor*, or *Commander in Chief*, for the Time being, with the advice of His Majesty's Council, shall, from Time to Time, order and direct, (the said Sums, so to be appropriated, to be issued according to His Majesty's Instructions; by Warrant from the *Governor*, *Lieutenant Governor* or *Commander in Chief* for the Time being, by and with the Advice aforesaid, for the Purposes of the said Approbation.) And if the Treasurer of this Island shall issue or pay any of the said Monies for other Purposes than are herein

herein declared and expressed, he shall forfeit and pay treble the Sum so issued or paid, and be rendered incapable of holding the said Office of Treasurer; the said Forfeiture to be applied to and for the public Uses herein before expressed, and to be recovered in any of His Majesty's said Courts of Record, in this Island.

Application of Forfeiture.

XXXIII. *And be it further enacted,* That all the Penalties and Forfeitures arising by operation of this Act, shall and may be recovered by Bill, Plaint, or Information, in any of His Majesty's said Courts of Record in this Island. And the Monies arising from such Penalties and Forfeitures, after deducting all Expences of Prosecution, together with all incident Charges thereupon, shall be one Half to His Majesty, to and for the Uses for which the said Duties are granted, and the other Half to him or them who shall inform, seize, or sue for the same.

Manner of Recovery of Penalties, &c.

Application thereof.

XXXIV. *And be it further enacted,* That either of the Parties to such Suits, who shall or may be dissatisfied with the Judgment of any Inferior Court in this Island, may appeal thereupon to the said Supreme Court of Judicature; he or they first giving sufficient Security to prosecute such Appeal with Effect, and without Delay, and to abide the Judgment of the Court above.

Appeal from any Inferior Court to Supreme Court.

XXXV. *And be it further enacted,* That the Provisions, Directions, and Regulations in this Act contained, shall be the Rule and Guide of the Collector and Receiver or Collectors and Receivers of the said Rates, Duties and Impost, in all Matters incident to their respective Offices, and of the Officers employed by or under them, in collecting and receiving the same. And also that this Act may be pleaded by the Parties to any suit instituted for Breaches or Violations thereof, according to their several and respective Cases; and whereof the Justices of His Majesty's said Supreme Court of Judicature, are hereby required to take Notice, and govern themselves accordingly; any former Law, Usage, or Custom to the contrary Notwithstanding.

This Act to be the Rule and Guide of Collectors, &c.

And on Prosecutions for Fines and Forfeitures.

XXXVI. *And be it further enacted,* That all and singular the Monies arising by operation of this Act, shall be accounted for unto His Majesty, in the Kingdom of Great Britain, and to the Commissioners of His Majesty's Treasury, or High Treasurer for the Time being, and audited by the Auditor General of His Majesty's Plantations, or his Deputy.

Monies arising by this Act to be accounted for to the Commissioners of the Treasury of Great Britain, and audited by the Auditor General, or his Deputy.

C A P. V.

AN ACT in addition to, and amendment of an ACT made and passed in the Thirteenth Year of His present Majesty's Reign, intituled "An ACT prohibiting the sale (by Retail) of Rum, or other distilled Spirituous Liquors, without first having a Licence for that Purpose, and for the due regulation of such as shall be licenced."

13th Geo. 111, C. 12.

WHEREAS the several Acts which have been heretofore made in Aid and Amendment of the above mentioned Act, and particularly

Preamble,

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ticularly that of laying a Duty or Imposition upon Retailers of Rum; and other distilled Spirituous Liquors, have been found, by Means of the uncertain and fluctuating State of Business on this Island, and from the increased resort of Strangers to the different Parts and Districts thereof, to be so ineffectual, as to render the former Method of taxing or ascertaining the Amount of Taxes therein laid at each different Place, to be no less inconvenient to particular Settlements in this Island, than prejudicial to divers of the licenced Retailers therein, and to the manifest Injury of the Public Revenue, as well as private Loss: To remedy all which for the Future

Persons selling, &c. any Rum, &c. by themselves, &c. in any House, &c. without Licence.

13th Geo. 111, C. 12.

shall be liable to the same Forfeiture, to be recovered and applied as directed by Act, 13th Geo. 111, C. 12.

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly,* That from and after the Publication hereof, all Persons whatsoever within this Island, who shall themselves, or by their Wives, or by any of their Children, or known or reputed Servant or Servants, or Substitutes under him or them respectively, either directly or indirectly, in any House, Shop, Warehouse, or other Place whatsoever unto them respectively belonging, sell, barter, exchange, or deliver upon Credit, any Wine, Rum, Brandy, or other distilled Spirituous Liquors; Porter, Ale, Cyder, Perry, or other strong fermented Liquors whether mixed or unmixed, or by whatsoever Name or Names they severally are or may be called or distinguished, without Licence first had and obtained for that Purpose, in Manner as is directed in and by an Act made and passed in the thirteenth Year of his present Majesty's Reign, intituled, "*An Act prohibiting the Sale (by Retail) of Rum, or other distilled Spirituous Liquors, without first having a Licence for that Purpose; and for the due Regulation of such as shall be licenced;*" whether such Wife, Child or Children, Servant or Servants, Substitute or Substitutes, shall have so sold, bartered, exchanged, or delivered the same of their own free Will and Accord, or by the Command, Direction or Order of their respective Fathers, Mothers, Masters, or Mistresses; or if he, she, or they shall hawk, sell, or expose to sale, barter, exchange, or deliver upon Credit any such Liquors mixed or unmixed by whatsoever Name or Names they are or may be called or distinguished, about or in the Streets, or elsewhere in or about the Town of *Charlotte-Town*, or in the Streets, or elsewhere in or about any other Town or Place within this Island, or in any Place or Manner whatsoever, whether upon the Land or upon the Water, within the Arms of any of the Counties thereof; that then, and in any or either of such Cases, the Person or Persons, so offending, shall, for the first, second, and every succeeding Offence, be subject and liable to the same Fines and Forfeitures, that unlicenced Retailers are made subject and liable to in and by said last mentioned Act; and all and singular the said Fines and Forfeitures shall or may be recovered and applied in such Manner, and to such Uses, as therein is directed and required.

And

And whereas it is directed in and by the said last mentioned Act, that when and so often as sufficient Distress should or might happen not to be found, whereon to levy and recover said Fines and Forfeitures, it should and might then be lawful to commit the Body or Bodies of the delinquent Party or Parties to close Confinement, there to remain, for the first Offence, *One Month*; and for the second and every succeeding Offence, *Six Months*; which Confinements are thought to be of too long Duration, and to constitute a Punishment disproportioned to the Nature of the Offence: by which Consideration certain Persons might be induced, from Motives of Compassion, to assist such Offenders in making their Escapes:

II. *Be it therefore enacted*, That instead of the said close Confinement for the Space of *One Month*, for the first Offence, as is directed in and by the said last mentioned Act, the same shall, in Future be for the Space of *Twenty Days* only; and for the second and every succeeding Offence, for the Space of *Sixty Days* only, instead of the said *Six Months*, any Thing contained in the said last mentioned Act to the contrary notwithstanding.

III. *And be it further enacted*, That all Persons who either themselves, or by their Wives, or any of their Children, or known or reputed Servants, or Substitutes under them, shall directly or indirectly, sell any Wine, Rum, Brandy, or other distilled Spirituous Liquors; Porter, Ale, Cider, Perry, or other strong fermented Liquors whether mixed or unmixed; or by whatsoever Name or Names they are or may be called or distinguished, by Virtue or under Pretence of any Licence obtained as in this Act is directed, in any other Place what, soever than at the House or Place where such Person or Persons themselves shall, *bona Fide*, actually and constantly reside and dwell, upon Pain, that on Conviction thereof he, she, or they shall be subject and liable to the like Pains and Penalties, as Persons convicted of selling Spirituous Liquors, without Licence, are by Law made subject and liable to; and the same shall and may be prosecuted for, recovered, paid, levied, and disposed of in like Manner as is directed by this Act.

IV. *Provided always*, That Nothing in this Act contained shall extend, or be construed to extend, to prevent any Merchant, Shop-keeper, or other Person not licenced to retail Wine, Rum, Brandy, or other distilled Spirituous Liquors, from selling or disposing of any Quantity thereof, so as that the same shall not be in less Quantity than *Two Gallons*, and be delivered at one Time.

V. *And be it further enacted*, That the following Persons (that is to say the *Justices of his Majesty's Supreme Court of Judicature* of this Island, and the *Speaker of the House of Assembly* thereof, and also the senior *Justice of the Peace* therein, who shall or may be attending the said *Court*, or residing in *Charlotte-Town* at the sitting thereof, together with the Foreman of the Grand Jury to be then and there impannelled

Preamble respecting
Act 13. Geo. 3d, C. 12.

Instead of 1 Month's
close Confinement, 20
Days for first Offence,

and for the second and
every succeeding Of-
fence 60 Days, instead
of Six months.

All Persons selling
Rum, &c. by virtue of
one Licence in more
than one House shall
be liable to the same
Penalties as Persons
selling without a Li-
cence.

Not to extend to Per-
sons selling in any
quantity more than
two Gallons.

Justices of Supreme
Court, Speaker of the
House of Assembly,
senior Justice of the
Peace, at the Time at-
tending, and Foremar

of Grand Jury sworn,
appointed Commis-
sioners of Assessments.

Any Three to meet
annually in the first
Week of Trinity Term
for the Purpose of tak-
ing into consideration
the Business and Resort
of the different Parts
of this Island;

and after having deli-
berated thereon by
Resolution to be en-
tered into a Book to
be kept for the Pur-
pose,
to assess the Sum to be
paid as licence Money
at the different Places.

Assessment to com-
mence yearly, every
first July, and to con-
tinue until first July
next following.

Assessment signed by
Commissioners present
to be valid and binding
on all Persons.

Licences may be
granted, gratis, to
Persons on public
Roads, and to Persons
keeping Ferries.

Witnesses refusing to
attend, &c.

pannelled and sworn, are hereby appointed Commissioners of Assessments on licenced Retailers of Wine, Rum, Brandy, and other distilled Spirituous Liquors, as also Porter, Ale, Cider and Perry, or other strong fermented Liquors. And the said Commissioners, or any Three of them, are hereby impowered and directed to meet annually on some convenient Day, in the first Week of Trinity Term of the said Court, then and there, from Instances of their own Knowledge, or from the best Information they can get or obtain from others, to take into Consideration the Business and Resort which may then appear to be, or which may reasonably be expected in future, at the different Parts of this Island, where Licences are or may be granted by the Governor, Lieutenant Governor or Commander in Chief for the Time being, in Pursuance of the said last mentioned Act; and after having so deliberated thereon, and the Proceedings being duly entered in a Book to be kept for that Purpose by the public Treasurer, it shall and may be lawful for the said Commissioners to assess and appoint such Sum or Sums of Money as may appear to them sufficient and reasonable for licenced Retailers to pay, at the different Places within this Island; which Assessments and Appointments are yearly, and every Year, to commence as follows; that is to say, the first Day of July next after the same shall have been made, and to continue until the first Day of July then next following. And the said Assessments and Appointments, so often as they shall or may be made as aforesaid, and signed by such of the said Commissioners as are or may be present thereat, are hereby declared to be valid, conclusive and binding to all Intents and Purposes, on all Persons whatsoever who shall or may be concerned, in any Respect therein; the same to be recovered and applied as herein after is directed.

VI. *And be it further enacted,* That it shall and may be lawful for the Governor, Lieutenant Governor, or Commander in Chief for the Time being, to grant Licences, gratis, as an Encouragement to Persons keeping Houses of Entertainment on such of the public Roads, as are or may be distant from any Town, for the Accommodation of Travellers; as also to such Persons as shall or may keep Ferries for the Use and apparent Benefit of the Public; any Thing herein contained to the contrary notwithstanding.

VII. *And be it further enacted,* That when any Person or Persons shall or may be summoned, on Information brought for Offences against this Act, to give Evidence relative thereto, and shall neglect or refuse to attend at the Time and Place mentioned in the Summons (not having any just or reasonable Cause for such Non-attendance, the same to be considered of by the Justices before whom such Information shall be made,) or shall wilfully withdraw himself, or herself, after attending; and before being sworn; or shall wilfully refuse to be sworn, when required thereto; or shall refuse to give his or her Evidence

Evidence after being sworn; that then, and in every such Case, the Party so offending shall forfeit and pay the Sum of *Five Pounds*, to be levied by Warrant of Distress sued forth by the said Justices against the Goods and Chattels of such Offender or Offenders; and if sufficient Distress cannot be found, then it shall and may be lawful for the said Justices to commit the Party, so offending, to Goal; there to remain for the Space of *One Month*, or until the said Sum of *Five Pounds* shall have been paid.

shall forfeit £5.

VIII. *Provided nevertheless*, That no Person shall be obliged to give Evidence on any Information before he or she shall have been paid his or her reasonable Charges for Attendance, the same to be taxed and allowed of at the Discretion of the said Justices.

Witnesses to be paid their Charges.

IX. *And be it further enacted*, That if any Person or Persons now having, or who hereafter may obtain Licences as aforesaid, shall neglect or refuse to pay to the Treasurer of this Island the Money due by him or them, so as aforesaid assessed and appointed, the same may be recovered (if not exceeding *Forty Shillings*) upon Complaint made by the Treasurer to any one of his *Majesty's Justices of the Peace*, who is hereby empowered and directed to proceed thereon in a summary Way, without giving any return Day to the Process, and after Judgment, on sufficient Proof, to sue out Execution to levy the Amount thereof, with full Costs, by Distress and Sale of the Defendant's Goods and Chattels, or, if the said Treasurer shall so elect, against the Defendant's Body; and if above *Forty Shillings*, then upon Complaint made to any two of his *Majesty's Justices of the Peace* by the said Treasurer, it shall and may be lawful for them to proceed, in every Respect, as is directed by this Act in Cases where the Sum amounts to no more than *Forty Shillings*.

In what manner Licence Money may be recovered.

If not exceeding 40s. to be recovered before any one Justice of Peace.

if above, before any two Justices of the Peace.

X. *And be it further enacted*, That when and so often as it may happen, that any or either of the Parties shall or may be dissatisfied with the Judgment so as aforesaid given by any one or two *Justices of the Peace*, (as the Case may be,) it shall and may be lawful for him, her, or them respectively, to appeal to his *Majesty's Supreme Court of Judicature*, he, she, or they so appealing, first giving sufficient Security to prosecute such Appeal with Effect, and without Delay, and to abide the final Judgment of said Court.

Persons dissatisfied with Judgment of Justices of the Peace to appeal to His Majesty's Supreme Court.

XI. *And be it further enacted*, That the Money arising from the Duties payable by Retailers of Wine, Rum, Brandy, or other distilled Spirituous Liquors; Porter, Cider, Perry, or other strong fermented Liquors, by Virtue of this Act, shall be paid into the Hands of the said Treasurer to be appropriated and applied towards the Support of his *Majesty's Government* of this Island, and in such Manner as the Governor, Lieutenant Governor, or Commander in Chief, for the Time being with the Advice of his *Majesty's Council*, shall or may from Time to Time direct and appoint.

Licence Money to be paid to the Treasurer for such public Uses as the Governor, with the advice of his Majesty's Council shall direct.

XII. *And be it also further enacted*, That one Half of the Monies arising from the several Fines and Forfeitures inflicted by this Act, shall be appropriated and applied in such Manner as is directed in

Money arising from Fines, one half to the Uses of His Majesty's Government, to be appropriated as directed in foregoing section.

the next foregoing Section; and the other Half shall belong and be paid to him, her, or them who shall inform and sue for the same.

Prosecutions for Fines to be commenced within Six Months after Offence Committed.

XIII. *And be it further enacted*, That all Prosecutions in Pursuance of this Act, for Fines, Penalties, and Forfeitures, shall be commenced within *Six Months* after the same shall have been incurred.

Monies to be accounted for in the Treasury of Great Britain, and audited by the Auditor General of the Plantations or his Deputy.

XIV. *And be it also further enacted*, That the Monies which may arise by Operation of this and the said herein before last mentioned Act, shall be accounted for unto his *Majesty* in the Kingdom of *Great Britain*, and to the Commissioners of his *Majesty's Treasury*, or High Treasurer, for the Time being, and audited by the Auditor General of his *Majesty's* Plantations, or his Deputy.

Licensed Retailer not to be deprived of Licence, except by judgment of two or more Justices of the Peace.

XV. *And be it further enacted*, That no licenced Retailer shall be deprived of his Licence, except by Judgment rendered by two or more of his *Majesty's Justices of the Peace*, upon Complaint to them made of the Irregularity or improper Behaviour of such licenced Retailer, (the said Judgment being grounded upon a Summons duly issued by the said *Justices* requiring such Retailer before them, and upon Proof made of the Charge therein contained,) and thereupon it shall and may be lawful for the said *Justices* to suspend the Licence of such licenced Retailer, or wholly to vacate and make void the same, as they shall or may, in Equity and good Conscience see cause.

XVI. *Provided always* That if either of the Parties think himself, herself, or themselves aggrieved by the Judgment of the said *Justices*, he, she, or they may appeal to his *Majesty's Supreme Court of Judicature*, at the next Term thereof; and if either of the Parties think himself, herself, or themselves aggrieved by the Judgment on such Appeal, he, she, or they may appeal therefrom to the *Governor, Lieutenant Governor, or Commander in Chief* for the Time being and his *Majesty's Council*, whose Sentence or Decision thereupon shall be final and conclusive to all Parties.

C A P. VI.

AN ACT for establishing the Rate of INTEREST:

No greater Interest than Six per Cent. per Annum to be taken.

BE it enacted, by the *Lieutenant Governor, Council, and Assembly*, That no Person or Persons whatsoever, upon any Contract hereafter to be made, shall take, directly or indirectly, for loan of any Monies, Wares, Merchandizes, or other commodities whatsoever, above the value of *Six Pounds*, for the forbearance of Interest of *One Hundred Pounds* for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time.

If more is taken Bonds, Contracts, &c. to be void.

Persons who shall take more on any other Contract for Goods,

II. *And be it further enacted*, That all Bonds, Contracts, and Assurances whatsoever, for Payment of any Principal or Money to be lent, or covenanted to be performed, upon or for any Usury, whereupon or whereby there shall be reserved or taken above the Rate of *Six Pounds* in the Hundred as aforesaid, shall be utterly void, and that all and every Person or Persons whatsoever who shall, upon any Contract to be made, take, accept and receive, by Way or Means

of any corrupt Bargain, Loan, Exchange, Chevizance, Shift, or Interest of any Wares, Merchandize, or other Thing or Things whatsoever, or by any deceitful Ways or Means, or by any Covin, Engine, or Deceitful Conveyance, for the forbearing or giving Day of Payment for one whole Year, of and for their Money or other Thing or Things, above the sum of *Six Pounds* for the forbearing of *One Hundred Pounds* for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time, shall forfeit and lose, for every such Offence, the Monies, Wares, Merchandize, and other Things so lent, bargained, exchanged, or shifted; one Moiety thereof to be to the King's Most Excellent Majesty, his Heirs and Successors, for the public Use and Support of his Government on this Island, and the other Moiety to him or them who shall or may sue for the same in his Majesty's Supreme Court of Judicature, or in any other of his Majesty's Courts of Record that now are, or which may hereafter be established within this Island, by Action of Debt, Bill, Plaint, or Information; in which no Essoin, Wager of Law, or Protection shall be allowed.

to forfeit the whole value.

Application of Forfeiture.

Manner of Recovery.

III. *Provided always*, That Nothing in this Act shall extend, or be construed to extend, to prevent any Person or Persons from contracting and agreeing with each other for the Loan or Hire of any Quantity of Grain of any Kind, or for any Number of Cows, Horses, Oxen, Heifers, Sheep, Swine, or any other Kind of Cattle, nor for Poultry of any Kind, upon Halves or otherwise, as the Lender and Hirer may agree; and that no such Dealings shall be accounted Usury; any Thing herein contained to the contrary notwithstanding.

Exceptions as to hire of Grain, Cattle, &c.

IV. *Provided also*, That Nothing in this Act shall extend, or be construed to extend, to any Speciality, Hypothecation, Instrument, or Agreement whatever, in Writing, which shall or may be made, entered into, or executed for any Money lent or advanced upon the Bottom of any Ship or Vessel, any Thing herein contained to the contrary notwithstanding.

Further Exceptions as to Hypothecation, Bottomry, &c. &c.

V. *Provided also*, That all Contracts and Agreements upon Loan at Interest, upon any other Rate heretofore made than is prescribed by this Act, shall be good, valid, and effectual to all Intents and Purposes whatsoever, in the same Manner as if this Act had not been made.

Provide that all Contracts, &c. upon Loan at Interest heretofore made shall be good.

VI. *and be it further enacted*, That all Prosecutions which may be brought for any Offence hereafter done or committed against this Act, shall be brought by the Person or Persons aggrieved, or by any Person or Persons who shall or may sue for the same, within *Twelve Months* from the Time the Offence was committed; and it shall and may be lawful for any Person or Persons who shall think themselves aggrieved by any Judgment of any inferior Court in this Island, to bring his Writ of Error, returnable in his Majesty's Supreme Court of Judicature.

Prosecutions to be brought within twelve Months.

Persons aggrieved at any Judgment of inferior Court to bring Writ of Error.

VII. *And be it further enacted*, That the Monies which may arise by Operation of this Act, shall be accounted for unto his Majesty in the Kingdom of *Great Britain*, and to the Commissioners of his Majesty's Treasury, or *High-Treasurer*, for the Time being, and audited by the *Auditor General* of his Majesty's Plantations, or his Deputy.

Monies arising from Forfeitures to be accounted for to his Majesty, &c.

C A P. VII.

Repealed by 36th
Geo. 3d. C. 6.

AN ACT, intituled, "An Act to explain and amend an Act made and passed in the Twenty-First Year of his present Majesty's Reign, intituled "An act for the Preservation of Highways."

C A P. VIII.

AN ACT for admitting Depositions, de bene esse, of Witnesses, aged, infirm, or otherwise unable to travel, and of Witnesses departing from this Island.

Witnesses in a Cause who are infirm, &c.

Any Justice of Supreme Court, after due Notice to adverse Party, or Attorney, may take the deposition of such Witnesses.

which shall be sealed up and directed to the Court where Cause is to be tried.

Oath to be made of due Notice to adverse Party or Attorney.

If such Witnesses are in the Province, or able to travel, Testimony, viva Voce, required,

saving Benefit of Exceptions to the Credit of such Witnesses.

Quakers allowed to make Affirmation.

BE it enacted by the Lieutenant Governor, Council and Assembly, That when it shall so happen that any of the Witnesses who may be judged necessary to be produced on the Trial of any Cause between Party and Party, shall be infirm, aged, or otherwise unable to travel, or when any such Witness is obliged to leave this Island, it shall and may be lawful for any one of the Justices of his Majesty's Supreme Court of Judicature of this Island, or for any one of the Justices of any other of his Majesty's Courts of Record, that now are, or which hereafter shall or may be established therein, where such Cause is to be tried, after Due Notice, in Writing, hath been given to the adverse Party or Parties, or to his, her, or their Attorney or Attornies, to be present (if he, she, they, or any of them see fit) to take the Deposition of such infirm or aged Person or Persons, so unable to travel, or who is or are obliged to leave this Island as aforesaid. And such Depositions, so taken and certified under the Hand and Seal of the Justices of said Courts respectively (before whom such Deposition has been taken) and sealed up and directed to the Court where such Suit or Action may be depending, shall be received as legal Evidence in such Cause.

II. *Provided*, Proof shall be first made on Oath, that due Written Notice was given to the adverse Party or Parties, or to his, her, or their Attorney or Attornies, of the Time and Place of taking such Depositions. And each and every such written Notices shall be duly served, at least, *Six Days* previous to the Day appointed for taking such Evidence, if the same should be between the first Day of *May*, and the first Day of *November*, in each Year; and if between the first Day of *November*, and the first Day of *May*, then the same to be served *Ten Days* before such Caption; each of said stated Days to be exclusive of the day of Service. *And provided nevertheless*, That if such Witnesses shall, at the Time of the Trial of the Cause, be on this Island, or able to travel, they shall be required to give their Testimony, *Viva Voce*, at such Trial, in the same Manner, as if such Depositions had not been taken.

III. *Provided also*, That all Benefit of Exceptions to the Credit of such Deponents shall be reserved in the same Manner as on producing Witnesses for Examinations, *Viva Voce*, at the Trial.

IV. *And be it further enacted*, That every Person of the Profession of the People called Quakers who shall be required to take an Oath

as aforesaid, shall, instead of an Oath, be permitted to make his or her solemn Affirmation.

V. *And be it further enacted*, That every Person who shall have made such Oath, or solemn Affirmation, and shall be convicted of having willfully, falsely, and corruptly sworn or affirmed, he, she, or they shall incur the same Penalties as Persons convicted of wilful and corrupt Perjury.

Persons convicted of swearing or affirming falsely, to incur Penalties as for Perjury.

C A P. IX.

AN ACT to repeal an ACT made and passed in the thirteenth Year of his present Majesty's Reign, intituled, "An ACT prohibiting all Masters of Ships or Vessels, or any other Persons, from transporting or conveying away any Person or Persons out of this Island, or the Territories adjacent thereto, without a LICENCE or PASS, except only such as are therein after excepted."

WHEREAS the Operation of the abovementioned Act, has been found from Experience not to answer the Purposes thereby intended, the same having been frequently eluded by Persons (particularly circumstanced) running away in Canoes, and other small Craft; by Means whereof their Lives have been endangered, and several other Inconveniencies and Difficulties have arisen to the honest and industrious Inhabitants of this Island by being obliged to comply with the Provisions thereof; whereby they have been put to unnecessary Expence, and have suffered various losses. *And whereas also* the said Act has, by Means of Misconstruction, operated to the Prejudice of the Settlement of this Island, by the Insinuations of its Enemies to People who were coming to settle thereon, that after their Arrival they would never be able to leave the same: For Remedy whereof,

Preamble

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly*, That from and after the Publication hereof, the said Act, intituled "An Act for the prohibiting all Masters of Ships or Vessels, or any other Persons, from transporting or conveying away any Person or Persons out of this Island, or the Territories adjacent thereto, without a Licence or Pass, except only such as are therein after excepted," and every Clause, Matter, and Thing therein contained be, and the same is and are hereby repealed.

From and after Publication, Act 15th G. 3d, C. 9 repealed.

II. *Provided always, and be it enacted*, That Nothing herein contained shall extend or be construed to affect any Action or Suit now depending; but the same may be prosecuted without Delay.

Proviso not to effect any Action now depending.

III. *Provided also*, That nothing herein contained shall have any Force or Effect, until his Majesty's Pleasure shall be known.

Suspending Clause until His Majesty's Pleasure be known.

This Act is reputed to have been approved of by his Majesty: But the regular official Notice of such the Royal Pleasure, is not, at present to be found.

C A P. X.

AN ACT for permitting Persons of the Profession of the People called QUAKERS to make an AFFIRMATION instead of taking an OATH.

BE it enacted by the Lieutenant Governor, Council and Assembly, That all Persons of the Religious Profession of the People called Quakers, who shall or may be required upon any lawful Occasion to take an Oath,

Quakers may make solemn Affirmation instead of taking an Oath.

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may

Form of Affirmation.

may, instead of an Oath in the usual Form, be permitted to make his, her, or their solemn Declaration or Affirmation in the following Words, to Wit: *I A. B. do solemnly, sincerely, and truly declare and affirm:*" Which solemn Affirmation, being duly administered, shall be adjudged and taken to be of the same Force and Effect, in all Cases where by Law an Oath shall or may be required, as if such Quakers had taken an Oath in the usual Form.

Persons falsely affirming to suffer as if guilty of Perjury.

II. *And be it further enacted*, That all Persons who shall or may have made such solemn Affirmation, and who shall or may have been duly convicted of having wilfully, falsely, and corruptly affirmed any Thing, which, if the same had been sworn in the usual Form of an Oath, would have amounted to wilful and corrupt Perjury, are hereby made to incur the same Penalties as other Persons convicted of wilful and corrupt Perjury.

Criminal Prosecutions excepted.

III. *Provided nevertheless*, That no Quaker, or reputed Quaker, shall, by Virtue of this Act, be admitted to give Evidence in any Criminal Prosecution whatever, under the Sanction of such solemn Declaration or Affirmation.

Quakers to affirm they have been so for one Year.

IV. *Provided also*, That no Person or Persons whatever shall be deemed or construed to be Quakers, within the true Intent and Meaning of this Act, except such as shall affirm, in the Form before directed, that he, she, or they is or are of the said Profession of People called Quakers, and have been so for one Year next before such Affirmation made.

To be deemed a public Act.

V. *And be it further enacted*, That this Act shall be deemed to be a public Act, and be judicially taken Notice of as such.

C A P. XI.

Disallowed by His Majesty in Council, 20th Jan. 1786.

AN ACT to repeal an Act made and passed in the Sixteenth Year of his present Majesty's Reign, intituled "An Act for regulating of Fees."

C A P. XII.

Disallowed by His Majesty in Council, 30th Jan. 1786.

AN ACT directing the Register of this Island to procure new and sufficient bound Books for the Purpose of properly Recording all the Grants, Deeds of Sale, Conveyances, Leases, and other Writings belonging or relating to this Island, which are now entered or Recorded in several small unbound Books hereafter mentioned: also empowering the Governor, Lieutenant Governor or Commander in Chief for the Time being, and his Majesty's Council, to destroy the said several small unbound Books, after having been fairly extracted and copied as herein after is prescribed.

C A P. XIII.

Expired.

AN ACT for continuing sundry Laws that are near Expiring.

C A P. XIV.

This Act has been executed.

AN ACT for granting the sum of One Hundred and Sixty-One Pounds, Two Shillings, and Eleven Pence, for the Support of his Majesty's Government.

Anno

Anno Vicefimo Sexto Regis GEORGII III.

1786.

At the GENERAL ASSEMBLY of His Majesty's Island of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Twenty-first Day of March, ANNO DOMINI, One thousand, Seven hundred and Eighty-five, and in the Twenty-fifth Year of the Reign of our Sovereign Lord GEORGE the THIRD, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. and thence continued by several Prorogations unto the Fifteenth Day of March, One thousand Seven hundred and Eighty-six, and in the Twenty-sixth Year of His said Majesty's Reign ; being the second Session of the Fourth General Assembly, convened in the said Island:

WALTER PATTERSON,
Lieutenant Governor.

PHILLIPS CALLBECK,
President of Council.

ALEXR. FLETCHER,
Speaker.

C A P. I.

AN ACT to alter, amend, and reduce into one Act, an Act made and passed in the Twenty-First Year of his present Majesty's Reign, intituled " An Act for raising a Fund to make and keep in repair the Streets and Wells of Charlotte-Town."

Expired.

C A P. II.

AN ACT for the Relief of Insolvent DEBTORS.

BE it enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication hereof, if any Person or Persons now charged, or who shall or may hereafter be charged in Execution, or confined upon any Writ or other Process in any of the Goals or Prisons which now do, or which hereafter shall belong to this Island, for any Sum or Sums of Money, and shall be minded to deliver up to his her, or their Creditors, all his, her, or their Effects, towards the satisfaction of the Debt or Debts wherewith he, she, or they stand charged, it shall and may be lawful to and for such Prisoner to exhibit a Petition to any of the Courts of Law within the said Island, or, during the Intervals of the Sitting of such Courts, to any Two of the Justices of any such Courts from whence the Process issued, upon which he, she, or they was or were taken or charged in Execution

After Publication, Persons charged in Execution, or confined upon any Writ, &c. may apply by Petition to the Court from whence the Process issued, or to two Justices in Vacation Time, to be discharged,

tion

on giving an Account of their real and personal Estate.

The Court or Justices to make an Order to call the Creditors before them.

If Creditors fail to appear, the Court or Justices may examine into the matter of the Petition,

and tender an Oath to the Person.

Form of Oath.

cution or confined upon any Writ, or other Process as aforesaid, certifying the Cause or Causes of his, her, or their Imprisonment, and an Account of his, her, or their whole real and personal Estate, with the Dates of the Securities wherein any Part of it consists, and the Deeds or Notes relating thereto, and the names of the Witnesses thereto as far as his, her, or their Knowledge extends therein; and upon such Petition the said Court, or the said two *Justices*, may, and they are hereby required, by Order or Rule of the said Court, or by Order under their Hands and Seals to direct the several Creditors at whose Suit he, she, or they stand charged, as aforesaid, to be summoned to appear personally, or by their Attorney, in the said Court, or before them the said two *Justices*, at a Day to be appointed for that Purpose: And upon the Day of such Appearance, if any of the Creditors so summoned, refuse or neglect to appear, upon Affidavit of the due Service of such Rule or Order of the said two *Justices*, the said Court, or the said two *Justices*, shall and may, in a summary Way, examine into the Matter of such Petition, and hear what can or shall be alledged on either Side for or against the Discharge of such Prisoner. And upon such Examination, the said Court, or the said two *Justices*, may, and they are hereby required to administer or tender to such Prisoner, an Oath to the Effect following; which Oath the said Court, or the said two *Justices*, are hereby empowered to administer.

I A. B. do solemnly swear, in the presence of Almighty God, that the Account by me delivered into _____ in my Petition to doth contain a true and full Account of all my real and personal Estate, Debts, Credits, and Effects whatsoever, which I, or any in trust for me, have, or at the Time of my said Petition, had or am, or was in any Respect entitled to, in Possession, Remainder, or Reversion, (except the wearing Apparel and Bedding for me or my family, and the Tools or Instruments of my Trade or Calling, not exceeding Ten Pounds in the whole) and that I have not at any Time since my Imprisonment, or before, directly, or indirectly, sold, leased, assigned, or otherwise disposed of, or made over in Trust for myself, or otherwise, other than as mentioned in such Account, any Part of my Lands, Estate, Goods, Stock, Money, Debts, or other real or personal Estate, whereby to have or expect any Benefit or Profit to myself, or to defraud any of my Creditors to whom I am indebted. *So help me God.*"

If the Creditors are satisfied of the truth of the Prisoners Oath, the Court or Justices may order the Land, &c. to be assigned to the Creditors.

II. *And be it further enacted,* That in Case the said Prisoner shall, in open Court, or before the said two *Justices*, take the said Oath, and upon such Examination, and his or her taking the said Oath, the Creditors shall be satisfied with the Truth thereof, the said Court, or the said two *Justices*, may immediately thereupon order the Lands, Goods, or Effects, contained in such Account, or so much thereof as may be sufficient to satisfy the Debts wherewith he or she is or shall be charged, and the Fees due to the Sheriff of the said Island, and the Keeper of the Goal or Prison from which the Prisoner was brought, to be by a short Indorsement on the Back of the said Petition, signed by the Prisoner, assigned to the said Creditors, or to one or more of them in Trust for the Rest of the said Creditors

ditors; and by such Assignment the Estate, Interest and Property of the Lands, Goods, Debts, and Effects so assigned, shall be vested in the Person or Persons to whom such Assignment is or shall be made, who may take Possession of, or sue for the same in his, her, or their own Name or Names, in like Manner as Assignees of Commissioners of Bankrupts, to which Suit no Release of the Prisoner, his or her Executors or Administrators, or any Trustees for him or her, subsequent to such Assignment, shall be any Bar. And immediately upon such Assignment executed, the said Prisoner shall be discharged out of Custody, by Order of the said Court, or of the said two Justices: And such Order shall be a sufficient Warrant to the Sheriff, Goaler, or Keeper of such Prison, to discharge the said Prisoner, if detained for the Causes mentioned in such Petition, and no other: And he is hereby required to discharge and set him or her at Liberty forthwith, without Fee from such Debtor, but nevertheless to be paid out of his Effects by the Creditor or Creditors, who shall receive such Assignment. Nor shall such Sheriff or Goaler be liable to any Action for Escape, or other Suit or Information upon that Account: And the Person or Persons to whom the said Effects shall be assigned paying the Fees to the said Sheriff, Goaler, or Keeper of the Prison as aforesaid in whose Custody the Party discharged was, shall, and they are hereby severally required, to divide the Effects so assigned, among themselves, and all the Persons for whom they shall be intrusted, in Proportion to their respective Debts. But in Case the Person or Persons at whose Suit such Prisoner was charged in Execution, or confined upon any Writ or other Process as aforesaid, shall not be satisfied with the Truth of the Oath of such Prisoner, so taken before the two Justices aforesaid, but shall desire further Time to inform himself or herself of the Matters contained therein, and shall insist upon his or her being detained longer in Prison, at his or their Suit; then the said Justices shall and may remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear at another Day before them or before the Court from whence the Process issued as aforesaid, at a certain Day during the Sitting of the said Court, then next following the Time of such first or any after Examination as aforesaid, for the further Examination of the Matters contained in the said Oath; *Provided* the said Person or Persons so dissatisfied, do agree, by Writing, under his, her, or their Hands, to supply and allow, weekly, the full Quantity of *Eight Pounds* of good and wholesome Biscuit or Bread *per* Week unto the said Prisoner, to be so supplied and allowed the first day of every Week from and after the Time of such Prisoners being so remanded, until the said Day or Days so appointed for the further Examination of the Truth of the Matters contained in the aforesaid Oath before the said Justices, or the said Court as aforesaid; and on Failure of the supplying of the said weekly Allowance at any Time, the said Prisoner shall forthwith, upon Application to the said Court, or to the said two Justices, be immediately discharged by the Order of the said Court, or the said two Justices. But in Case the said Prisoner shall refuse to take the said Oath before the said two Justices, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded, and further punished therefore in due Course of Law.

and the Prisoner to be discharged.

Prisoner's Lands, &c. to be divided among Creditors.

If Creditors are not satisfied of the truth of Prisoner's Oath before the two Justices, the Prisoner to be remanded and the matter further enquired of before them or the Court,

And such Creditor to allow the Prisoner

Eight Pounds of Biscuit per Week in the mean Time:

on Failure thereof the Prisoner to be discharged.

Prisoner refusing to take Oath, on being detected of Falsity, to be remanded and further punished.

Proceedings of the two Justices to be effectual—and a Record thereof to be made, and returned to the Court.

III. *And be it also enacted*, That such Judgment, Relief, and Directions by the said two *Justices*, so to be given as aforesaid, shall be as good and effectual, to all Intents and Purposes, as if the same had been made in the Court out of which the Process issued on which such Prisoner was taken in Execution or confined; and the like Proceedings shall be had thereupon, and a Record of such Judgment shall be made up in the same Form, and returned, and certified under the Hands of such two *Justices* before whom it shall be made, unto the Court from whence the Process issued on which such Prisoner was taken and confined as aforesaid, the same to be a Record of the said Court, and kept as such amongst the Records thereof.

If upon the Prisoners appealing before the two Justices or Court, and Creditors shall not appear, or shew a probability that the Prisoner is forsworn, &c.

IV. *And be it further enacted*, That if on the Appearance of such Prisoner or Prisoners before the said two *Justices* on any after Day by them appointed as aforesaid, or before the said Court as aforesaid, the Creditor or Creditors of such Prisoner or Prisoners, being dissatisfied with the Truth of such Oath before the said two *Justices*, shall make Default in appearing; or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner omitted in such his or her Petition, or to shew any sufficient Probability of his or her having been forsworn in the said Oath; then the said two *Justices*, or the said Court, shall immediately cause the said Prisoner to be discharged upon such Assignment of his or her Effects in manner as aforesaid, unless such Creditor or Creditors do insist upon his or her being detained longer in Prison at their Suit, and do agree as aforesaid, by Writing, under his, her, or their Hands, to supply and allow, weekly, the full Quantity of *Eight Pounds* of good wholesome Biscuit, or Bread, per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he or she shall continue in Prison at his, her, or their Suit or Suits as aforesaid. And on Failure of the Supply of the said Weekly allowance at any Time, the Prisoner shall forthwith, upon Application to the said two *Justices*, or to the said Court, or during the Interval of, such Courts sitting, to the said two *Justices*, be discharged by such Order as aforesaid.

The Prisoner shall be discharged, unless Creditors insist on his being longer detained, &c. and agree to the weekly allowance of Bread.

On failure whereof Prisoner to be discharged.

V. *And be it further enacted*, That in Case on the Appearance of any Prisoner, who now is or hereafter shall be charged or confined as aforesaid, before any of the Courts of Law which now are, or hereafter shall be established on this Island, on his Petition to them at any Time during their Sitting, preferred as aforesaid, the Person or Persons at whose Suit such Prisoner was charged in Execution, or confined, upon any Writ or other Process as aforesaid, shall not be satisfied with the Truth of the said Prisoner's Oath at that Time made, but shall desire further Time to inform himself or herself of the Matters contained therein, the said Court may, and shall remand the said Prisoner, and direct him, together with the Person or Persons dissatisfied with such Oath, to appear at another Day to be appointed by the said Court, some Time within and during their then present Term or Sessions, for that purpose; subject nevertheless in the mean Time, and until such second Day, to the same Allowance to the said Prisoner, by such Person or Persons so dissatisfied with the said Prisoner's Oath, and liable to the like Discharge in Case of Default of such Allowance, as is herein before directed, upon Application to the said two *Justices* as aforesaid. And if at such second Day, so to be appointed, the

Proceedings when the Prisoner Petitions during the Sitting of the Court.

Creditor

Creditor or Creditors dissatisfied with such Oath, shall make Default in appearing ; or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner, omitted in such his or her Petition, or to shew any sufficient Probability of his or her having been forsworn in the said Oath ; then the said Court shall immediately cause the said Prisoner to be discharged, upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his or her being longer detained in Prison at their Suit, and do agree by Writing, under his, her, or their Hands to supply and allow, weekly, the said Quantity of *Eight Pounds* of good and wholesome Biscuit, or Bread, unto the said Prisoner, to be supplied and allowed the first day of every Week, so long as he or she shall or may continue in Goal at his, her, or their Suit : And on failure of supplying the said Weekly Allowance at any Time, the said Prisoner shall forthwith, upon Application to the said Court, or during the Intervals of such Court's Sittings, to any two *Justices* of the said Court, be immediately thereupon discharged by such Order as aforesaid. But in Case the said Prisoner shall refuse to take the said Oath, or, having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded, and be further punished therefore in due Course of Law.

And to prevent Persons who may be charged in Execution, or confined upon any Writ or other Process as aforesaid, from lying in Prison until they have spent their Substance wherewith they should satisfy their Creditors, and afterwards taking the benefit of this Act, where they have Nothing left to deliver up to their Creditors :

VI. *It is hereby further enacted*, That no Person charged, or to be charged in Execution, or confined upon any Writ or other Process as aforesaid, excepting those already in Goal or Prison, shall be allowed or permitted to exhibit a Petition to any of the Courts of Law which now are, or hereafter shall or may be established in this Island, or to either of the said two *Justices* of such Courts, from whence the Process issued, as is before provided, unless such Petition be exhibited, if before the Court, within *Ten Days* next after the first Meeting of the said Court which shall be next after such Person shall be discharged in Execution or confined upon any Writ or other Process as aforesaid, and if before the said two *Justices*, within one Month next after such Person shall be so charged in Execution or confined.

VII. *Provided always, and be it further enacted*, That though the Persons of the Debtor or Debtors, so discharged, shall never after be arrested for the same Debt or Debts ; yet, notwithstanding such Discharge, the Judgment or Debt due as aforesaid against him or her shall stand, and remain in Force, and Execution may thereupon be taken out against his or her Lands, Tenements, or Hereditaments, Goods and Chattels (his or her Wearing Apparel, Bedding for him or herself, and Family, and necessary Tools for the Use of his or her Trade or Occupation, excepted,) in the same Manner as if he or she had never been taken in Execution or upon any Writ or other Process for the said Debts.

VIII. *Provided also, and be it further enacted*, That if any such Person who shall take such Oaths as aforesaid before the said two *Justices*, or before the said Court as aforesaid, and shall, upon any Indictment for Perjury

Preamble.

Time limited for Prisoners to present Petition.

Though Prisoner's Person be discharged, &c. to be always liable.

If Prisoner afterwards be convicted of Perjury, is taking

Oath, he shall suffer all the pains of wilful Perjury.

And may be taken up de novo and charged again in execution for the said Debt.

Quakers Affirmation to be taken instead of an Oath.

Mutual Debts to beset one against the other

Sheriff, &c. offending against this Act, to forfeit £50. with treble Costs.

Manner of Recovery.

No Debtor to be discharged whose Debts exceed £100.

jury in any Matter or Particular contained in the said Oath, be convicted by his or her own Confession, or by Verdict of Twelve Men, (as he, she, or they may be, by force of this Act) the Person so convicted shall suffer all the Pains and Forfeitures which by Law may be inflicted on any Person convicted of Wilful Perjury, and shall be liable to be taken upon any Process *de novo* and charged in Execution, or otherwise, for the said Debt, in the same Manner as if he or she had never been discharged, or taken in Execution, or confined upon any Writ or other Process as aforesaid before, and shall never afterwards have the Benefit of this Act.

IX. *And be it further enacted*, That in Cases wherein by this Act an Oath is required, the solemn Affirmation of any Person, being a Quaker, shall and may be accepted and taken in Lieu thereof; and every Person making such Affirmation, who shall be convicted of wilful and false Affirming, shall incur and suffer such and the same Pains, Penalties, and Forfeitures, as are inflicted and imposed by the Laws and Statutes now in Force against Persons convicted of wilful and corrupt Perjury.

X. *And be it further enacted*, That where there are mutual Debts between the Plaintiff and Defendant; or if either Party sue or be sued as Executor or Administrator, where there are mutual Debts between the Testator or Intestate, and either Party; one Debt may be set off against the other. And such Matter may be given in Evidence upon the General Issue, or pleaded in Bar, as the nature of the Case shall require; *Provided*, That in all Cases where the General Issue shall be pleaded, the Party shall immediately thereupon give regular Notice to the Plaintiff in the Suit, of the particular Sum or Debt so intended to be insisted on, and upon what Account the same became due: Otherwise such Matter shall not be allowed in Evidence upon such General Issue.

XI. *And be it further enacted*, That every Sheriff, or his Deputy, Bailiff, or other Officer, or Minister aforesaid, offending against this Act, shall (over and above such Penalties or Punishments as he shall be liable unto by the Laws now in Force) for every Offence against this present Act, forfeit and pay to the Party thereby aggrieved, the Sum of *Fifty Pounds*, to be recovered with treble Costs of Suit, by Action of Debt, Bill, Complaint, or Information, in any of the Courts of Law which now are, or which hereafter shall or may be established within this Island, wherein no Essoin, Protection, or Wager of Law, or more than one Imparance shall be allowed.

XII. *Provided nevertheless*, That Nothing in this Act contained shall extend, or be construed to extend, to discharge any Debtor imprisoned as aforesaid, the whole Amount of whose Debts shall exceed the Sum of *One Hundred Pounds*.

C A P. III.

AN ACT for preventing ABATEMENT and DISCONTINUANCE of SUITS.

After Publication.

BE it enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, in all Actions to be commenced in his Majesty's Supreme Court of Judicature, or in any other Courts of Record

Record which now are, or which hereafter shall or may be established within this Island, if any Plaintiff happen to die after interlocutory Judgment, and before a final Judgment shall have been obtained therein, the said Action shall not abate by Reason thereof, provided such Action might be originally prosecuted or maintained by the Executors, or Administrators 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 Executors, or Administrators of such Defendant. And such Court is hereby empowered to try the said Action, and to determine and give Judgment thereon in the same Manner as if the said Suit had been commenced by or against such Executor or Administrators, as in Right of their Testators or Intestates.

Plaintiff or Defendant dying before final Judgment Action not to abate.

II. *And be it further enacted*, That 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 Writ or 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.

Action may be proceeded upon notwithstanding the death of one of the Parties.

III. *and be it further enacted*, That in all Actions, personal, real, or mixt, the Death of either Party between the Verdict and the Judgment thereupon, shall not be alledged for Error, so as that such Judgment be entered within two Terms after such Verdict.

Death of either Party between Verdict and Judgment, shall not be alledged for Error.

IV. *And be it further enacted*, That where any Judgment, after Verdict, shall have been had by or in the name of any Executor or Administrator; in such Case, an Administrator *de bonis non* may sue forth a *Scire Facias*, and take Execution upon such Judgment:

Judgment obtained by an Executor or Administrator, may sue forth a *Scire Facias*.

V. *And be it further enacted*, That no Process or Suit before any of the Justices of his Majesty's Supreme Court of Judicature, Justices of Assize, Goal Delivery, Oyer and Terminer, Justices of the Peace, Commissioners or other Courts of Record, which now are, or which hereafter shall or may be established within this Island, shall be discontinued by the making and publishing of any new Commission or Association, or by altering the Names of the Justices of his Majesty's Supreme Court of Judicature, Justices of Assize, Goal Delivery, Oyer and Terminer, Justices of the Peace, Commissioners, or other Courts of Record, as aforesaid; but that such new Justices of his Majesty's said Supreme Court of Judicature, Justices of Assize, Goal Delivery, and of the Peace, Commissioners, or other Courts of Record as aforesaid, may proceed in Manner as if the former Commissioners, Justices or other Commissioners, had remained and continued without Alteration.

No Process or Suit before Justices or Judges shall be discontinued by a new Commission.

C A P. IV.

AN ACT for amending DEFECTS in Pleas, Processes, and Records.

BE it enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication hereof, that for Error in any Record, Process or Warrant of Attorney, original Writ, or judicial Panel, or Return,

No Judgment &c. to be reversed for any Writ razed or interlined.

The Justices of Courts may amend all defects which are misprison of their Clerk.

Except appeals, &c.

Writ of Error varying from the Record may be amended.

After Verdict no Judgment shall be stayed, &c. for any defect in any Bill, &c.

Not to extend to appeal of Felony, &c.

turn, in any Places of the same razed or interlined, or in any Addition, Subtraction, or Diminution of Words, Letters, Syllables, or Titles found therein, no Judgment or Record shall be reversed or annulled; but the Justices of the Courts before whom such Records and Process may be depending, shall have Power to examine such Records and Process, Words, Pleas, Warrants of Attorney, Writs, Panels, or Returns, and to reform and amend, in Affirmance of the Judgments of such Records and Processes, all that which to them seemeth to be the Misprison of the Clerk (except Appeals, Indictments of Treason, Felonies and Outlawries for the same) and the Substance of the proper Names, Surnames, and Additions left out in original Writs, and Writ of Exigent, and any other Writs containing Proclamation.

II. *And be it further enacted, by the Authority aforesaid,* That all Writs of Error, Appeals from judgments in any Action, real, personal, or mixt, according to the Course of Proceedings in this Island, wherein there shall be any Variance from the original Record, or other Defect, may, and the same shall be amended and made agreeable to such Record by the Courts where such Writ or Writs of Error, or such Appeals, shall be returnable; and that where any Verdict shall be given in any Action, Suit, Bill, Plaint, or Demand, in any of his Majesty's Courts of Record, which now are, or which hereafter shall or may be established within this Island, the Judgment thereupon shall not be stayed or reversed, for any Defect or Fault, either in Form or Substance, in any Bill, Writ original or judicial, or for any Variance in such Writs from the Declaration or other Proceedings.

III. *Provided nevertheless,* That Nothing in this Act contained, shall extend, or be construed to extend, to any Appeal of Felony or Murder, or to any Process upon any Indictment, Presentment, or Information of or for any Offence or Misdemeanor whatsoever.

C A P. V.

AN ACT to render good and valid in Law, all and every of the Proceedings in the Years One Thousand Seven Hundred and Eighty, and One Thousand Seven Hundred and Eighty-One, which in any Respect related to, or concerned the Suing, Seizing, Condemning, or Selling of the Lots or Townships herein after mentioned, or any part thereof.

C A P. VI.

AN ACT for altering, amending, and reducing into one Act, an Act made and passed in the Twenty-Fifth Year of his present Majesty's Reign, intituled, "An Act to alter and amend so much of an Act made and passed in the Twenty-First Year of his present Majesty's Reign, intituled, "An Act to explain amend and render into one Act, all the Laws now in Being for the Purpose of making and repairing *Highways* in this Island, as relates to the Time appointed by said Act for performing Statute Labour, and some further Regulations as to the Payment and Duty of Overseers of the High-ways.

CAP.

Disallowed by His Majesty in Council, the 8th of August 1789.

Repealed, see Note on 14th Geo. 3. C. 4.

C A P. VII.

AN ACT for Reformation of Jeofails, and Mispleadings, and to prevent Arrests, and Reversals of Judgments, and for the better Advancement of Justice.

BE it enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication hereof, if any Issue be tried by the Oath of Twelve or more indifferent Men for the Party Plaintiff or Demandant, or for the Party Tenant or Defendant, in his Majesty's Supreme Court of Judicature within this Island, or in any other Courts of Record which now are, or which shall or may be established therein, the Justice or Justices by whom Judgment thereupon ought to be given, shall proceed and give Judgment in the same, any Mispleading, want of Colour, insufficient Pleading or Jeofail, and Miscontinuance or Discontinuance, or misconveying of Process, misjoining of the Issue, Want of Warrant of Attorney for the Party against whom the same Issue shall or may be tried, or other Default or Negligence of the Parties, their Counsellors or Attornies, had or made to the contrary notwithstanding; and the said Judgment shall stand according to the said Verdict, without Reversal by Writ of Error, or false Judgment; *Provided* that, in avoiding of Errors through the Negligence of Attornies, every Person named as Attorney in Actions and Suits, prosecuted and pleaded to issue, shall from Time to Time deliver, or cause to be delivered, his or their sufficient and lawful Warrant of Attorney, to be entered of Record for each and every of the said Actions or Suits wherein they shall or may be named as Attornies, to the Clerk of the Court: That is to say, the Attorney for the Plaintiff or Demandant shall file his Warrant of Attorney as aforesaid the same Term he shall have declared, and the Attorney for the Defendant or Tenant shall file his Warrant the same Term he shall have appeared, upon Pain of Forfeiting, unto our Sovereign Lord the King, the sum of *Five Pounds*, for not so delivering the said Warrant of Attorney, the same to be recovered by Action of Debt, Bill, Plaint or Information.

After an issue tried there shall be Judgment given notwithstanding any mispleading, &c.

When Warrants of Attorney shall be filed.

II. *And be it further enacted*, That after Verdict as aforesaid, the Judgment thereupon shall not be stayed or reversed, for any Defect in Form, in any Writ original or judicial, Count, Declaration, Bill, Plaint, Suit, or Demand, or for any Variance in Form only between the original or Bill, and the Declaration or Plaint, or for Want of any Writ original or judicial, or for any imperfect or insufficient Return of any Sheriff or other Officer.

After Verdict, Judgment shall not be stayed, &c. for want of Form, &c.

III. *And be it further enacted*, That after Verdict, Judgment thereupon shall not be stayed or reversed for Want of an Averment of any Life or Lives, so as the said Person be proved to be alive, or for awarding the *Venire Facias* to a wrong Officer upon any insufficient Suggestion, or because the *Visne* is in some part misawarded, or sued out of more or fewer Places than ought to be, so as some one Place be right named, or for misnaming any of the Jurors in Sirname or Addition in any of the Writs, or the Returns thereof, so as it be proved to be the same Man that was meant to be returned, or by Reason that there is no Return upon any of the said Writs, so as a Panel of the names of Jurors be returned and annexed to

Divers Jeofails in suits of Law prevented and reformed.

the

the said Writ; or for that the Sheriff's or other Officer's Name, having the Return thereof, is not set to the Return of any such Writ, so as it be proved that the said Writ was returned by such Officer; or by Reason that the Plaintiff in any *Ejectione firmæ*, or in any personal Action or Suit, being an Infant under the Age of twenty-one Years, did appear by Attorney therein, and the Verdict passed for him.

IV. *And be it further enacted*, That Judgment shall not be stayed or reversed, after Verdict, for want of Form or Pledges, returned upon the original Writ, or because the Name of the Sheriff is not returned on the original Writ, or for Want of entering Pledges upon any Bill or Declaration, or for not alledging the bringing into Court any Bond, Bill, Indenture, or other Deed mentioned in the Declaration or other Pleading, or for Want of Allegation of bringing into Court any Letters Testamentary, or Letters of Administration, or for Omision of *by Force of Arms, and against the Peace*, or for mistaking the Christian Name or Sirname of the Plaintiff or Defendant, Demandant or Tenant, Sum or Sums of Money, Day, Month, or Year, by the Clerk, in any Bill, Declaration, or Pleading, where the right Name, Sirname, Sum, Day, Month, or Year in any Writ, Plaint, Roll, or Record preceding, or in the same Roll or Record, where the Mistake is committed, is or are once truly and rightly alledged, whereunto the Plaintiff might have demurred and shewn the same for Cause, nor for Want of Averment of, *This he is ready to verify*, or for *this he is ready to verify by Record*, or for not alledging as it appears by Record, or for that there is no right *Venire*, so as the Cause were tried by a Jury of the proper Country or Place where the Action is laid, nor for that the Increase of Costs after a Verdict in the Action, or upon a Non-Suit in Replevin, are not entered to be at the request of the Party for whom the Judgment is given, nor by Reason that the Costs in any Judgment whatsoever are not entered to be by Consent of the Plaintiff; but that all such Omissions, Variances, Defects, and all other Matters of the like Nature, not being against the Right of the Matter of the Suit, nor whereby the Issue or Trial are altered, shall be amended by the Justice or Justices of his Majesty's said *Supreme Court of Judicature*, or of any other of the *Courts of Record* aforesaid where such Judgments are or shall be given, or whereunto the Record is or shall be removed by Writ of Error or by Appeal, in any Action, real, personal or mixt, according to the Usage and Course of Proceedings in this Island.

V. *And be it further enacted*, That where any Demurrer shall be joined in and entered in any Action or Suit in his Majesty's *Supreme Court of Judicature* aforesaid, or in any other of the *Courts of Record* which now are, or which hereafter shall or may be established within this Island, the Justice or Justices thereof shall proceed and give Judgment according to the very Right of the Cause and Matter in Law shall appear unto them, without regarding any Imperfection, Omision, or Defect, in any Writ, Return, Plaint, Declaration or other Pleading, Process, or Course of Proceedings whatsoever, except those only which the Party demurring shall especially and particularly set down and express, together with his Demurrer, as Causes of the same, although such Imperfections, Omision

In what case Judgment, after Verdict shall not be stayed for want of Form in pleading.

Justices shall give Judgment on Demurrer, &c. without regarding any defect in Writ, &c.

Omission or Defect be Matter of Substance, so as sufficient Matter appear in the said Pleadings, upon which his Majesty's said Supreme Court of Judicature, or any other Court of Record aforesaid, may give Judgment according to the very Right of the Cause; and therefore no Advantage or Exception shall be taken of or for any immaterial Traverse, or of, or for, the Default of entering Pledges upon any Bill or Declaration, or of or for the Default of alledging the bringing into Court any Bond, Bill, Indenture, or other Deed whatsoever mentioned in the Declaration, or other Pleading, or of or for the Default of alledging the bringing into Court Letters Testamentary, or Letters of Administration, or of or for the Omission of by Force and Arms and against the Peace, or either of them; or of, or for the Want of Averment of, *This he is ready to verify*, or of *This he is ready to verify by Record*, or of or for not alledging as it appears by the Record; but any of the said Courts shall give Judgment according to the very Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, or any other Matter of the like Nature, except the same shall be specially and particularly set down and shewn for Cause of Demurrer.

Exceptions.

VI. *And be it further enacted*, That no Judgment entered upon Confession, *Nihil dicit* or *Non sum Informatus*, in his Majesty's said Supreme Court of Judicature, or in any other Court of Record aforesaid, shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages, executed thereon, be stayed or reversed for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which by Force of this Act, would have been aided or cured as *Jeofails*, in Case a Verdict of Twelve Men had been given in the said Action or Suit, so as there be an original Writ or Bill, and Warrants of Attorney duly filed, as by this Act is directed.

Judgments entered upon Confession, &c. not to be reversed for any imperfection, &c.

VII. *And be it further enacted*, That this Act shall extend in all *Jeofails* as aforesaid, to all Suits in his Majesty's said Supreme Court of Judicature, or in any Court of Record that now is, or which hereafter may be established for Recovery of any Debt immediately owing, or any Revenue belonging to his Majesty, his Heirs or Successors.

Act to extend to all Suits for the King's Debts, &c.

VIII. *Provided always, and be it enacted by the authority aforesaid*, That Nothing in this Act before contained, shall extend to any Writ, Declaration, or Suit of Appeal of Felony or Murder, or to any Indictment or Presentment of Treason, Felony or Murder, or other Matter; or to any Process upon any of them, or to any Writ, Bill, Action or Information, upon any Penal Statute.

To what this Act shall not extend.

IX. *And be it further enacted*, That no dilatory Plea shall be received in his Majesty's said Supreme Court, or in any other Court of Record which now is, or which shall or may be established, unless the Party offering such Plea, do by Affidavit prove the Truth thereof, or shew some probable Matter to the Court where the Suit may be depending, in Order to induce them to believe that the Fact of such dilatory Plea is true.

No dilatory Plea to be received unless on Affidavit.

C A P. VIII.

AN ACT for quieting the Minds of, and establishing certain Privileges to his Majesty's Subjects professing the Popish Religion, now residing, or who may hereafter reside on this Island.

Preamble.

WHEREAS his Majesty's Subjects professing the Popish Religion residing on this Island, have, on several Occasions, evinced their Loyalty and Affection to the King's Most Excellent Majesty; therefore,

Persons having or claiming any Lands, &c. under Titles not hitherto litigated shall hold the same as the real Proprietor thereof.

I. *Be it enacted by the Lieutenant Governour, Council and Assembly, That* all Persons having or claiming any Lands, Tenements, or Hereditaments, under Titles not hitherto litigated, though derived from any Descent, Devise, Limitation or Purchase, shall have, take, hold, and enjoy the same, as any other of his Majesty's Subjects whatsoever have heretofore and now do.

This Act not to effect any Action now depending, &c.

II. *Provided always, and be it enacted, That* nothing herein contained shall extend, or be construed to affect, any Action or Suit now depending which shall be prosecuted with Effect, and without Delay,

Nor to extend to any Person who shall not, within Six Months after passing of this Act, or disability removed take the following Oath.

III. *Provided also, That* Nothing herein contained shall extend, or be construed to extend, to any Person or Persons except such as shall, within the Space of *Six Calender Months* next after the passing of this Act, or of the accruing of his, her, or their Title, being of the Age of twenty-one Years, or, who being under the age of Twenty-one Years, shall within *Six Months* after he or she shall attain the said Age, or being of unsound Mind, or in Prison, or beyond the Seas, then within *Six Months* after Disability removed, take and subscribe an Oath in the Words following, viz.

Form of Oath.

I A. B. do sincerely promise and swear, that I will be faithful and bear true Allegiance to his Majesty King George the Third, and him will defend, to the utmost of my Power, against all conspiracies and attempts whatever, that shall be made against his Person, Crown, or Dignity; and I will do my utmost Endeavours to disclose and make known to his Majesty, his Heirs and Successors, all Treasons and Traitorous Conspiracies which may be formed against him or them: And I do faithfully promise to maintain, support and defend, to the utmost of my Power, the Succession of the Crown in his Majesty's Family, against any Person or Persons whatsoever; hereby utterly renouncing and abjuring any Obedience or Allegiance unto the Person taking upon himself the Stile and Title of Prince of Wales, in the life Time of his Father, and who since his Death, is said to have assumed the Stile and Title of King of Great Britain, by the name of Charles the Third, and to any other Person claiming or pretending a Right to the Crown of these Realms. And I do swear, that I do reject and detest, as an unchristian and impious Position, that it is lawful to murder or destroy any Person or Persons whatsoever for or under Pretence of their being Heretics, and also that unchristian and impious Principle, that no Faith is to be kept with Heretics. I further declare, that it is no article of my Faith, and that I do renounce, reject, and abjure the Opinion, that Princes excommunicated by the Pope and Council, or by any Authority of the See of Rome, or by any Authority whatsoever, may be deposed or murdered by their Subjects, or any Person whatsoever. And I do declare, that I do

not

“not believe that the Pope of Rome, or any other foreign Prince, Prelate, State, or Potentate, hath or ought to have, any temporal or civil Jurisdiction, Power, Superiority or Pre-eminence, directly or indirectly, within this Realm. And I do solemnly, in the presence of God, profess, testify and declare, that I do make this Declaration, and every Part thereof, in the plain and ordinary Sense of the Words of this Oath, without any Evasion, Equivocation, or mental Reservation whatsoever, and without any Dispensation already granted by the Pope, or any other of the See of Rome, or any Person whatsoever, or without thinking that I am, or can be acquitted before God or Man, or absolved of this Declaration, or any part thereof, although the Pope, or any other Persons or Authority whatsoever, shall dispence with or annul the same, or declare that it was Null and Void.”

Which Oath it shall be competent to any of his Majesty's Courts of Record, or to any Court of any General Sessions of the Peace, which now are, or hereafter shall or may be established in the Island, to administer; and they are hereby required to administer the same accordingly. And of the taking and subscribing of which Oaths, a Register shall be kept and preserved in each respective Court.

IV. *Provided always*, That Nothing herein contained shall have any Force or Effect, until his Majesty's Pleasure herein shall be known.

¶ This Act received his Majesty's Allowance Dated the 18th of August, 1790.

Oath to be competent in any Court.

A Register to be kept of the taking and subscribing of the same.

Suspending Clause until His Majesty's Pleasure shall be known.

C A P. IX.

AN ACT for more especially making Lands and Tenements liable for the Payment of Debts; also to enable the Holders of Mortgages, to sell the Premises mortgaged to them more speedily and at less Expence than heretofore; as also to repeal an Act made in the Twenty-First Year of his present Majesty's Reign, intituled “An Act making Lands and Tenements liable to the Payment of Debts.”

Altered and amended by Act of the 25th Geo. 3d, C. 8.

WHEREAS great inconveniencies have arisen to the Creditors, as well as Owners of real Estates within this Island, from the Manner in which Lands and Tenements have been heretofore made liable to the Payment of Debts: For remedy whereof,

Preamble.

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly*, That from and after the Publication hereof, an Act made in the twenty-first Year of his present Majesty's Reign, intituled “An Act making Lands and Tenements liable to the Payment of Debts,” shall be no longer in Force within this Island, but the same, and every part thereof, is hereby repealed.

Act 21 Geo. 3d, G. 9 repealed.

And Whereas it will tend to the great Benefit of this Island to make Lands and Tenements liable, like Goods and Chattels, to the Payment of Debts, as thereby the Value of Lands will be increased, and the Landholders more easily obtain Credit by which Means they will be enabled to extend their Cultivations and Improvements:

Preamble:

II. *Be it therefore enacted*, That from and after the Publication hereof, all Lands, Tenements, and Hereditaments within this Island, shall, and the

Lands &c. made liable for payment of Debts.

Any Person recovering Judgment, and the Person against whom the same may be recovered being unable to pay or cannot shew sufficient personal Effects to satisfy the said Judgment;

the Sheriff then may levy Execution on the Debtor's real Estate; and he may advertise the same or as much thereof as may be sufficient for discharging the Execution, &c.

Advertisements to be posted at three parts of Charlotte-Town— notifying the same to be sold at Auction at that Period.

Sheriff, &c. to execute a Deed to the Purchasers of the Premises, without any clause of Redemption.

Which Deed shall be to the Purchaser and his Heirs or Assigns a good Estate in fee Simple.

If Premises so sold shall have been leased, and Tenant's Lease shall not be expired, Sheriff to notify such Tenant to attorn and become Tenant to the Purchaser.

the same are hereby made liable to the Payment of all Debts contracted by the Owner thereof, in as full and ample a Manner as the Goods, Chattels, or Effects of Debtors were heretofore made liable for the Payment of their just Debts, subject only to the Rules and Regulations herein after mentioned and expressed, that is to say, when any Person or Persons, after the Publication hereof, shall recover Judgment in any of his Majesty's Courts of Record which now are, or hereafter shall or may be established in this Island, for any Sum or Sums of Money, or for Costs of Suit, and the Person or Persons against whom Judgment shall be so obtained, shall be either unable or unwilling to satisfy such Judgment in Money, or if he, or some Person in his Behalf, shall not produce and shew sufficient personal Estate whereon to levy Execution on such Judgment; then, and in such Case, it shall and may be lawful for the Sheriff, or his Deputy, to extend such Execution on the real Estate of such Debtor or Debtors; and after such real Estate or Estates shall be so taken in Execution, it shall and may be lawful for the said Sheriff, or his Deputy, immediately to advertise, as herein after is directed, the said Estate, so taken in Execution, or so much thereof, as shall be sufficient to discharge the Execution so extended thereon, with Costs and Charges, to be sold at the most Public Place within his Precinct, in Six Calendar Months to be computed from the Day in which such Execution shall be extended, and Advertisements so posted; which Advertisements shall be posted at Three of the most public Parts of Charlotte-Town, and shall also be posted upon the Premises so to be sold. And the said Premises so to be sold, shall be thereupon put up to fair Auction, and shall be sold to the highest Bidder, who shall be declared by the Sheriff, or his Deputy, to be the Purchaser. And it shall and may be lawful for the said Sheriff, or his Deputy, to execute immediately, to such Person or Persons as shall purchase the Premises so sold at Auction as aforesaid, an absolute Deed of Sale, without any Clause of Redemption therein contained, specifying therein the consideration paid by the Purchasers, as well as the Name or Names of the former Owner or Owners of said Lands, and the Name or Names of the Person or Persons at whose Suit such Lands have been sold; Which Deed shall be good and sufficient in Law to create to and vest in such Purchaser or Purchasers, their Heirs or Assigns, a good and absolute Estate in fee simple for ever, or otherwise as the Nature of the Estate so sold shall admit of, and in the Premises comprehended in such Deed; Provided such Premises were the absolute Estate in fee simple or otherwise as aforesaid, of the Person or Persons against whom the Execution, by Virtue whereof such Sale shall be made, was issued. And it shall and may be lawful for the Sheriff, or his Deputy, after such Deed shall have been so executed, to enter into the Premises specified in such Deed, and to put such Purchaser or Purchasers into the quiet and peaceable Possession thereof.

III. Provided nevertheless, That if the Premises so sold, or any Part thereof, shall have been leased by Instrument in Writing, to any Tenant or Tenants, before the extending Execution thereon, whose Lease or Leases shall not have expired at the Time of such Sale; that then it shall and may be lawful for the Sheriff, or his Deputy, to notify such Tenant or Tenants, that they must attorn and become Tenants to such Purchaser or Purchasers

Purchasers: And in case such Tenant or Tenants, after such Notice received as aforesaid, shall refuse to attorn and become Tenant or Tenants to such Purchaser or Purchasers, according to Law; that then the Lease or Leases of such Tenant or Tenants shall be deemed Null and Void, to all Intent and Purposes, without any Process at Law whatsoever, the same as if such Lease or Leases had never been executed. And further it shall and may be lawful for such Purchaser or Purchasers, in any *Court of Record* which now is, or which hereafter shall or may be established in this Island, to prosecute and recover against such Tenant or Tenants, Damages and Costs for such illegal Overholding; And in Case only Part of the Premises included in the Lease or Leases of such Tenant or Tenants, may be necessary to be sold by Virtue of such Execution or Executions, and it may be uncertain how much of the whole Rent reserved in the Lease or Leases of such Tenants, he or they ought to pay the Purchaser or Purchasers under such Execution or Executions, it shall and may be lawful for the Sheriff, or his Deputy, to estimate the same by the Appraisement of three reputable impartial Householders, dwelling in the Neighbourhood where such Lands shall or may lie, who shall be thereupon sworn by the Sheriff, or his Deputy, to decide impartially between the Parties; one of said Appraisers to be appointed by the Owner or Owners, Tenant or Tenants, or his or their Landlord or Landlords; the other by the Purchaser, and the third by the Sheriff. And if the said Parties, or some Person lawfully authorised thereto by them, after such Notice given, shall neglect to attend the Sheriff to appoint Appraisers as aforesaid, it shall and may be lawful for the Sheriff or his Deputy, to nominate as aforesaid for the Person so neglecting. And after such Appraisers shall have estimated the Portion of Rent such Tenant or Tenants ought to pay to the Person or Persons, so purchasing a Part of the Premises leased to him or them, such Tenant, after being properly notified, shall attorn and become Tenant to such Purchaser; and in Case of Refusal to attorn, and become Tenant to such Purchaser, he or they shall thereupon be liable to the same Penalties in every Respect; and to be prosecuted as aforesaid: And such Tenant or Tenants, upon attorning as aforesaid, shall stand discharged of and from the Claims of his or their Landlord, for so much Rent as the said Appraisement shall amount to, and shall perform all such Covenants in his or their Lease, so far as the same may relate to the Premises so sold, to the Purchaser thereof, in as full and ample Manner, as he was bound to perform the same to his or their Landlord.

IV. *And be it further enacted*, That the Sheriff or his Deputy, shall appraise the value of all real Estates taken in Execution as aforesaid, by three impartial respectable Householders, to be appointed as aforesaid, who shall be first sworn by the said Sheriff, or his Deputy, whether he knows or is acquainted with the Premises, so to be appraised, fourteen Days before he shall proceed to sell the same; and if they do know or are acquainted with the said Premises, then such Householders shall be sworn by the said Sheriff, or his Deputy, justly and truly to appraise and value such Estates. And if the appraised Value thereof shall exceed the Amount of such Execution, including the Sheriff's Fees; then it shall and may be lawful for the said Sheriff, or his Deputy, to set up at Auction, and

Tenant refusing to attorn, his lease to become void, without any Process at Law, and be subject to Action of Damages, for illegally overholding.

In Case any part of Premises included in any Tenant's Lease may be necessary to be sold by said Execution,

Sheriff, &c. to swear 3 Freeholders Appraisers to estimate the Rents, &c.

Sheriff 14 days before proceeding to sale of real Estates to have the same Appraised by 3 Freeholders to be sworn as aforesaid.

If valued for more than Amount of Execution, &c. then only such part thereof to be sold at Auction, as

shall be sufficient to discharge Execution.

In case Owner of such Estate, or some Person in his behalf, shall not attend to point out such Part as will be least inconvenient for him to be deprived of, Sheriff may then sell such Part as may be least disadvantageous to the Debtor.

Overplus arising from Sale to be paid to Debtor, and upon his not appearing, then into Court for his Use.

There not being sufficient real Estate, then Creditor to have an alias Execution.

Nothing in this Act shall affect any Suit now depending.

Actions may be prosecuted without Delay.

Preamble.

Lands, &c. Mortgaged for £200 action may be brought in Supreme Court.

Substance of Mortgage to be set forth in Declaration.

In Case Mortgagor appears and pleads, to be entitled to give in Evidence all payments he had made, &c.

Provided he shall furnish Mortgagee or Attorney, with Account thereof, 14 days before Trial. Jury to liquidate all Accounts, and allow Six Months Interest, to be calculated from the end of the Term in which Trial shall be had.

and sell only so much of said real Estate, as will be sufficient to discharge the said Execution, and Costs and Charges. And in Case the Owner of such Estate, so to be sold, or some Person on his Behalf, shall neglect to attend the Sheriff, or his Deputy, to point out which Part of such real Estate it will be least inconvenient for such Debtor to be deprived of, then it shall be lawful for the said Sheriff or his Deputy, to set up and sell that Part of the said Estate, which shall appear at the Time of such Sale, to be of the least immediate Advantage to the Debtor; and if the Proceeds of such Sale shall exceed the Amount of such Execution or Executions, and Costs and Charges, such Overplus shall be paid over to the Debtor, or to some Person lawfully authorised to receive the same: And in Case no such Person appears, then the Sheriff, or his Deputy, shall pay the Overplus into the Court out of which such Execution issues, there to be lodged for the benefit of the right Owner. And in Case there shall not be sufficient real Estate as aforesaid to satisfy such Execution, upon Return thereof, then the Party shall or may have an *alias* Execution for the Remainder. And the Sheriff, or his Deputy, shall annex to all Executions, when they return the same, the Appraisement herein before directed to be made. And the said Sheriff, or his Deputy, shall, on no Account, disturb any Person or Persons in Possession of Lands or Tenements at the Time he shall levy Execution thereon, but shall leave such Person or Persons in the peaceable Possession thereof, until final Sale shall be made as aforesaid.

V. *Provided always, and be it enacted*, That Nothing in this Act contained, shall extend, or be construed to extend, to such real Estates against which any Action or Suit at Law has been already commenced, or is now depending, in Pursuance of the said herein before recited Act, but that each and every such Actions or Suits may be prosecuted without Delay.

And Whereas the Manner in which Mortgages are now foreclosed within this Island, is found tedious and very expensive: For Remedy whereof,

VI. *Be it enacted, by the Authority aforesaid*, That from and after the Publication hereof, it shall and may be lawful for any Person or Persons whatsoever, to whom any Lands or Tenements within this Island, now are, or may hereafter be, Mortgaged for any Principal Sum, not exceeding *Two Hundred Pounds*, he, she, or they electing so to do, may bring an Action on the Case in his *Majesty's Supreme Court of Judicature*, at any of the Terms thereof, to recover the same against the Mortgagor, his Executor, or Administrators, and to set forth in his, her, or their Declaration, the Substance of such Mortgage. And in Case the Mortgagor shall appear and plead thereto, it shall and may be lawful for such Mortgagor to give in Evidence and Proof all such Payments as have been made by him, on Account of such Mortgage, *provided*, he shall have furnished the Mortgagee, or his Attorney, with such Account, fourteen Days before Trial. And it shall and may be lawful for the Jury by whom such issue shall be tried, to liquidate such Accounts, and to find a Verdict for the Amount of the principal Sum and Interest then due on such Mortgage, calculating Interest thereon for *Six Months* after the End of the Term in which such Trial shall be had: And the said *Supreme Court* shall thereupon give Judgment for the same, with full Costs. And in Case the said Mortgagor shall neglect

glect to appear, and suffer Judgment to go against him by Default, then the said original Mortgage shall be produced in open Court; and the Justices shall cause the Amount of the Principal, and Interest due thereon, to be made up in their Presence, allowing interest as aforesaid, and Judgment shall be given for the same, with full Costs; and Execution shall thereupon issue directed to the Sheriff, or his Deputy, who shall sell the mortgaged Premises, under the Restrictions, and in Manner and Form as herein before specified for the Sale of Lands taken in Execution. And in Case the Mortgaged Premises, when sold as aforesaid, shall not produce sufficient to discharge the Amount of the Execution, and the said Charges, the Party, on return thereof, may have an *alias* Execution against the Mortgagor's Body, Chattel Interest, or real Estate, for the balance unsatisfied on such Execution.

VII. *Provided always*, That Nothing herein contained shall extend, or be construed to extend, to any Mortgages wherein the principal Sum shall exceed *Two Hundred Pounds*, or where any Suit has already been brought to foreclose the same; but that such Mortgages shall be proceeded on in the usual Form, any Thing herein contained to the contrary notwithstanding.

VIII. *And be it further enacted*, That Nothing in this Act contained shall extend, or be construed to extend, to the Sale of Houses or Lands on which Execution shall have been levied, and which may sell for more than the Amount of such Execution; in which Case the Overplus shall be paid in Manner and Form as herein before is directed, respecting Sales of real Estates.

IX. *Provided also*, That Nothing in this Act contained shall have any Force or Effect, until his Majesty's Pleasure therein shall be known.

† This Act has been allowed by His Majesty, Dated 18th August 1790.

C A P. X.

AN ACT to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning Bail, and to prevent frivolous and vexatious Arrests.

BE it enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication hereof, no Person shall be held to special Bail upon any Process issuing out of the *Supreme Court of Judicature*, where the Cause of Action shall not amount to the Sum of *Five Pounds*, or upwards; and in all Causes where the Sum in demand shall exceed *Five Pounds*, the Sheriff, Coroner, or their Deputies, may arrest, imprison, or hold to Bail any Debtor or Debtors, or attach the Goods, Chattels or Estate of such Debtor or Debtors, upon the Plaintiff in such Actions, his Attorney, Agent, Clerk, Factor, or Servant, making and subscribing an Affidavit, in Writing, before any one Justice of the Court from whence such Writ shall issue, or, in the absence of such Justice, before any one of his Majesty's Justices of the Peace, that the Defendant is justly indebted to the Plaintiff in any Sum exceeding *Five Pounds*; (which Affidavit shall be filed in the Office of the Clerk of the Court from whence the Writ shall issue.) Whereupon the Sum specified in such Affidavit shall, by the Clerk of the said Court, be indorsed on the Back of the said Writ in the Form following, "by Oathfor" (in words at full length) for which Sum, so indorsed, the Sheriff, Coroner or their Deputies, shall take Bail or make Attachment as aforesaid, and

In Case Mortgagor shall neglect to appear the Justices of Supreme Court shall cause Principal and Interest to be made up in their Presence, allowing Interest as above.

On Judgment, Execution to issue, and Sheriff to sell in like Manner as herein before directed.

Mortgagee, in Case of Premises, when sold, being deficient, to pay off, to have *alias* Execution.

Not to extend where principal Sum exceeds £200 or where Suits have already been brought to foreclose.

Not to extend to Sale of Houses, on which Execution has been levied, and may sell for more than the Amount of Execution.

Overplus to be paid in Manner herein before directed.

Suspending Clause until his Majesty's Pleasure shall be known.

Amended by 30th Geo. 3, C. 4.

In all Cases where Demand shall exceed £5 Attachment may be made on Goods, &c. or the Debtor arrested, imprisoned or held to Bail.

Upon the Plaintiff or his Attorney making Affidavit before a Justice, or in absence of Justice, before a Justice of Peace,

Affidavit to be filed with the Clerk of the Court. Sum sworn to be indorsed on the Writ,

and for no more; any Law, Usage or Custom, to the contrary notwithstanding.

If Plaintiff be absent,
his Attorney may file
his Affidavit,

II. *And be it further enacted,* That if such Action shall be brought by any Agent, Factor, or Attorney, in the name of his Principal, (he being absent;) then upon producing an Affidavit of the Debt of his Principal, duly authenticated according to the Laws of that part of *Great-Britain*, called *England*, or the Usage or Practice of his *Majesty's* other *Colonies* in such Cases, and upon the Affidavit's being respectively filed as aforesaid, the Clerk of the said Court from whence any Writ in consequence thereof may issue, shall indorse the Sum so sworn to; and Bail shall be required, or an Attachment may be made accordingly, as the Case may require.

On which the like
Proceedings shall be
had.

Upon Bail given, the
Officer to let Defen-
dant go at large.

III. *And be it further enacted,* That when any Person shall be arrested by Virtue of any Writ or original Process, the Sheriff, Coroner, or either of their Deputies (as the Case may be) shall be obliged, and they are hereby respectively required, upon sufficient Bail being offered, to let such Defendant go at large, upon his first executing a Bond, with two sufficient Sureties, to the said Sheriff, or Coroner, with a Condition thereunder written for the due Appearance of the Defendant or Defendants, on the first Day of the Court to which such Writ is or may be returnable; and if such Defendant shall not appear accordingly, and give in sufficient Bail to abide the final event of the Suit, Judgment shall then be entered against him by Default. And the Sheriff, or Coroner, shall then and there, in Court, upon the Request of the Plaintiff or his Attorney therefore, assign the Bail Bond by indorsing his Name thereon for the benefit of the Plaintiff, to be put in Suit, or otherwise to recover the Penalty thereof: Which Assignment shall not prevent the Plaintiff from proceeding to final Judgment and Execution in the same Court, against the Defendant in the said Action, as in Cases wherein Default is made: But whenever it shall so happen, that the Defendant in the said Action do appear according to the Tenor of the Condition of the said Bond, and give Bail at Bar, to the Satisfaction of the Court, to abide by the final Issue and Determination of the Suit; or if the Defendant, from some Impediment, shall not appear, but nevertheless two sufficient Persons, to be approved of by the Court, shall offer to become Bail in Manner aforesaid; in such Case the Bail for Appearance only shall be discharged.

If Defendant do not
appear according to
Condition of Bond,
and give Bail to abide
the final event of the
Suit, Judgment to be
entered against him by
Default.

And Bail Bond as-
signed.

Upon Defendant's Ap-
pearance, or giving
sufficient Bail, the Bail
Bond to be discharged.

Writ or Process issued
for any Sum without
an Affidavit and In-
dorsement, the Defen-
dant's Body shall not
be liable to be arrest-
ed, but to be served
personally with a Co-
py of such Writ or
Process.

Defendant not ap-
pearing at Return,
Plaintiff may enter a
common Appearance,
&c.

IV. *And be it further enacted,* That from and after the Publication hereof, if any Writ or Process shall issue out of the said *Supreme Court of Judicature*, for the Sum of *Five Pounds*, or upwards, and no Affidavit and Indorsement shall be made as aforesaid, the Plaintiff or Plaintiffs named in such Writ or Process, shall not proceed to arrest, or cause to be arrested, the Body of the Defendant or Defendants therein, but shall serve him, her, or them, personally with a Copy of such Writ or Process; and if such Defendant or Defendants do not thereupon appear at the Return thereof, or within *Four Days* next after such Return; then and in such Case, it shall and may be lawful to and for the said Plaintiff or Plaintiffs, upon Affidavit being duly made and filed in the said *Supreme Court of Judicature*, of the personal Service of such Writ or Process as aforesaid, (which said Affidavit shall be filed *gratis*) to enter a common Appearance, or to file common Bail for the Defendant or Defendants, and to proceed thereon as if such Defendant or Defendants had actually entered his, her, or their Appearance, or filed common Bail, any Law or Usage to the contrary notwithstanding. CAP.

C A P. XI.

AN ACT in Addition to, and Amendment of, an Act, made and passed in the Thirteenth Year of his present Majesty's Reign, intituled "An Act for establishing the Times and Place of holding the Supreme Court of Judicature."

See Note on 13th Geo. 3d. C. 3.

WHEREAS it has been justly complained of, that there being only two Terms in the Year appointed for holding his Majesty's Supreme Court of Judicature, within this Island, has been productive of much Delay in obtaining Justice, and great prejudice to public Credit; For Remedy whereof,

Preamble.

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly,* That from and after the Publication hereof, a new Term shall be hereby established and added to the two former Terms of the Supreme Court of Judicature, the one directed by the said Act to be held on the third Tuesday in the Month of February, to be called *Hilary Term*, and the other thereby directed to be held on the last Tuesday in the Month of June, to be called *Trinity Term* thereof; and which said new Term shall be called *Michaelmas Term*, and commence at *Charlotte-Town*, on the last Tuesday in October, yearly and every Year, with the same Number of Return Days as belong by Law to the said two other Terms, called *Hilary Term*, and *Trinity Term*, and with all other the Powers created and given in and by the said Act made and passed in the Thirteenth Year of his present Majesty's Reign, intituled, "An Act for establishing the Times and Place of holding the Supreme Court of Judicature," or in and by any other Act in Addition to, or in Amendment of, the said Act.

A new Term to be added to the two former Terms,

to be called Michaelmas Term, and to be held annually, on the last Tuesday in October,

with the same number of return Days as the two other Terms, and to have all other rights as established to them by 13th Geo. 3d, C. 3.

II. *And be it further enacted,* That all Writs, Pleas, Processes, Actions, Bills, Suits, Indictments, Informations, Judgments, Decrees and Sentences whatsoever, which shall or may be had, given, or awarded, of or concerning any Matter or Thing whatsoever, that may be lawfully commenced, and prosecuted to final Judgment, at any Time or Times hereafter in said Term, called *Michaelmas Term*, shall be, and the same are hereby declared to be as available, good, and valid, in the Law, to all Intents and Purposes as if the same had been commenced, sued and prosecuted, in either of the said two other Terms, respectively called as aforesaid *Hilary Term* and *Trinity Term*, in Pursuance of the said herein before in Part recited Act; subject nevertheless to all the Provisions and Provisoes therein contained.

All Writs, &c. Judgments, &c. proceeded on and awarded to be as valid as if commenced and proceeded upon in either of said Terms.

Subject, &c.

III. *And be it further enacted,* That the said two Terms, so as aforesaid directed and appointed in and by the said herein before in Part recited Act, to be held in every Year, the one on the third Tuesday in February, and the other on the last Tuesday in June, shall hereafter be distinguished and known, by the respective Names of *Hilary Term*, and *Trinity Term*, and by no other; any Thing in the said herein before in part recited Act, to the contrary, in any Wise notwithstanding.

Two former Terms to be called Hilary and Trinity Terms.

C A P. XII.

AN ACT for re-investing his Majesty, for a limited Time, with certain Tracts of Land in the Island of Saint John.

This Act has not yet received his Majesty's Approbation.

C A P. XIII.

Amend by 43d of
Geo. 3d, C. 3.

Preamble.

In all Causes in Ac-
tion of Debt, &c.

the Sum Total where-
of not to exceed 20l.
Justices of Supreme
Court to proceed in a
summary Way.

*Altered to £10.

43. Geo. 3. C. 3

Defendant, on Trial
of such Actions, to
have the same Bene-
fit that he might have
if sued in ordinary
Form of common Law,
or at equity, and Jus-
tices are required so
to do.

When the Fact on
Examination of Wit-
nesses is doubtful, or
parties desire it, Jury
may be sworn to try
the same.

Any one Justice in
Term or Vacation time
in all Actions brought
before the Court, Sum
not exceeding £20.
may take Debtor's vo-
luntary Confession of
Sum demanded by Cre-
ditor.

Execution, on the
Record of such Con-
fession, to issue.

AN ACT for the Trial of ACTIONS in a summary Way.

WHEREAS the Recovery of small Sums has heretofore been tedious, and very expensive by disproportional Costs: *And Whereas* the Trial of Causes in a summary Way, so far as the same has been in Practice, has been found useful, and a Means of determining many Suits with little Costs:

I. *Be it therefore enacted by the Lieutenant Governor, Council and Assembly,* That from and after the Publication hereof, the *Justices of his Majesty's Supreme Court of Judicature*, shall be, and they are hereby impowered, in all Actions of Debt, Case, Trover, Trespass, or Detinue, (and all other Actions wherein the Title of Lands shall not be drawn in Question) and which shall or may be brought before them, and wherein the Sum or Damages demanded shall not exceed *Twenty Pounds*,* of lawful Money of this Island, to proceed in a summary Way, upon the Appearance of both Parties, or upon it being proved in open Court, upon Oath, by one competent Witness that the Defendant had been duly served with the usual Process of the said Court; After which the said Court shall proceed to examine the Merits of such Causes by Witnesses (wherein no dilatory Plea shall be allowed) and to determine either for the Plaintiff or Defendant, according to Law and Equity, and to make up Judgment accordingly.

II. *And be it further enacted,* That the Defendant or Defendants in such Actions shall, on the Trial or Hearing thereof, have the Benefit of all Matters in his, her, or their Defence, that he, she, or they might have had, if he, she, or they had been sued in the ordinary Forms of common Law, heretofore and now practiced in the said Court or in any Court of Equity in this Island: And the said Justices are hereby impowered and required so to do.

III. *Provided always,* That when, on Examination of the Witnesses, (which is hereby directed to be taken in Writing) the Matter of Fact, from a Consideration of the whole Evidence, may appear doubtful; or when either of the Parties shall desire it, and so elect, the said Court shall, in all such Cases, thereupon Order the Sheriff, or his Deputy, immediately to summon a Jury for the Trial of such Matter of Fact, or, if it be found necessary, appoint a Day for such Trial: And Judgment on the Verdict shall or may be entered up and signed for the Party in Favour of whom the same shall have been given.

IV. *And be it further enacted,* That any of the Justices of the said Court, either in Term or Vacation Time, is or are hereby impowered, in all Causes of Action brought there, where the Debt does not exceed *Twenty Pounds*, to take the voluntary Confession of the Debtor for the sum demanded by the Creditor, as agreed between the Debtor and Creditor; and upon such Confession, so made by the Debtor, and the Specialty, Contract or Account on which the said Debt arose, being left with the said Justice, and afterwards filed in the Clerk's Office of the said Court, together with the whole Proceedings, and a Record made of the same, such Justice is hereby impowered to order Execution thereon, according to such Agreement as shall appear upon the said Record to have been made between the Parties for stay of Execution, such Creditor, or his or her Attorney, Agent, or Fac-
tor,

tor, prior to such Execution being issued, making Oath, that the Debt is, at the very Time, *bona fide*, due to him or her. Which Affidavit shall be, in like Manner as aforesaid, filed; and the whole of which said last mentioned Proceedings, together with the Proceedings which shall or may be had in the said summary Actions, shall or may operate in the same Manner, in every Respect, as if the said Actions had been tried, as heretofore, in the said Court; the said Execution to be sued out against the Body or Goods of the Defendant in the Suit, at the Option of the Plaintiff, which, together with the Proceedings or *Mesne Process* in such Suit, the Sheriff, or his Deputy, shall execute in like Manner as Writs heretofore issuing out of the said *Supreme Court* have or ought to have been executed, and shall be answerable in like Manner, as in other Cases he may have been heretofore answerable for Neglect of Duty.

V. *And be it further enacted*, That the whole Costs on the said Actions, so as aforesaid proceeded upon or tried in a summary Way, shall not exceed *One Shilling* and *Six-pence* upon each Pound, so sued for and recovered: And on such Confession and Record of the same, as is herein before mentioned, together with the said Execution, and the Costs thereof, shall not exceed *One Shilling* in the Pound. And the said Costs so allowed and directed shall be exclusive of any Charge or Costs for or attendant on a Jury impannelled for the Purposes aforesaid; also the Sheriff, or his Deputy, Bailiffs, Crier, Court-keeper and Goalers's Fees.

VI. *And be it further enacted*, That for the future, no Action for any Debt, except those herein before particularly mentioned, where the whole Cause of Action does not exceed *Five Pounds*, shall be brought against any Person or Persons whatsoever in the said Court.

VII. *And be it further enacted*, That all Persons who shall or may be legally served with a Ticket, by Virtue of a Writ of Subpœna, to give Evidence in any summary Action, and shall, at the same Time, have, his, her, or their reasonable Charges tendered to him, her, or them, shall be obliged to appear as therein commanded, and give his, her, or their Testimony, or in Default thereof, be subject to be proceeded against in the said *Supreme Court of Judicature* for his, her, or their Contempt for such Neglect; as also to make good the Damages that the injured Party may have sustained in such Action, for want of the Benefit of his, her, or their said Testimony; and the Costs attending such Subpœna Ticket, and Attendance, (the same to be ascertained and taxed by any one of the said Justices,) shall be allowed over and above the several other Costs herein before mentioned.

VIII. *And be it further enacted*, That all Persons who shall or may be examined, on Oath, before the said Justices of the said *Supreme Court*, or any one of them, by Virtue of this Act, and who shall commit wilful Perjury, and be thereof duly convicted, shall be severally set in and upon the Pillory, for the space of *One Hour*, beside having his, her, or their Ears nailed thereto.

Creditor or Attorney, first making Affidavit, that the Debt is at the very Time, *bona fide*, due.

Proceedings had on such Confession, and in Actions in a summary Way, are to operate, in every Respect, as Actions tried and Judgment obtained. &c.

Execution to be against Body or Goods at the Option of the Party, &c.

Costs, on Trial and Recovery, in a summary Way, not to exceed one Shilling and Sixpence in the Pound. On Confession, one Shilling in the Pound.

Each to be exclusive of Jury, Sheriff, &c.

No Action for any Debt where the whole Dealing does not exceed £5 shall be brought against any Person in Supreme Court.

Witnesses, legally served with Subpœna, to attend and give Evidence, or be subject to be proceeded against for Contempt, and to make good Damages sustained by Party injured.

Persons examined, on Oath, who shall commit wilful Perjury to be set in Pillory for one Hour, and Ears to be nailed thereto.

C A P. XIV.

AN ACT to prevent the Multiplicity of LAW-SUITS.

BE it enacted, by the Lieutenant Governor, Council, and Assembly, That in all Actions sued on Book Accounts, the Defendants therein may file their

In Actions sued upon Book Accounts, Defendant may file

Account with the Clerk of the Court, seven Days before the sitting thereof.

Both Accounts to be Proceeded on, and inquired into, by the same Jury.

Actions commenced on Bond, &c. Receipts may be filed and proceeded on as above directed.

their respective Accounts against the Plaintiffs, with the Clerk of his Majesty's Supreme Court of Judicature, or the Clerk of any other Court of Record that now is, or which shall or may hereafter be established in this Island, wherein such Actions now are or hereafter shall or may be depending; *Provided* the same be filed, and an attested Copy thereof be served on the Plaintiff, or his Attorney, at least *Seven Days* before the first Day of the respective Terms of the said Courts. And the said Courts are hereby respectively impowered to proceed, on Issue joined, to inquire into the Merits of both Accounts, before one and the same Jury, and on the Verdict of the Jury, to award Costs as they shall find, whether for the Plaintiffs or Defendants. And where the Action shall be commenced on any Bond, Bill, Note or Agreement in Writing, the Defendant may, in like Manner, file his Receipt or Discharge for Part or the whole, according as he hath made Payment: *Provided*, such Receipt or Discharge be in Writing, and signed by the Plaintiff, or his Attorney, lawfully impowered to receive the same. And the said several Courts are hereby impowered to proceed to examine into the Merits of the same, in like Manner as in Book Accounts between Plaintiffs and Defendants, and equitably to reduce all such Bonds, Notes, Bills, and Writings obligatory, to the just Debt, with Interest, Damages, and Costs, according to the Nature of such Writing, Deed, or Instruments. And the Jury are hereby impowered to give their Verdict accordingly.

C A P. XV.

Amended by 49th Geo. 3, C. 2.

AN ACT to impower the Governor, Lieutenant Governor, or Commander in Chief for the Time being, to appoint a Sheriff or Sheriffs, for this Island, also to regulate the Office of Sheriffs, and the Manner in which they shall return and pass their Accounts of all Fines and Forfeitures levied by them, for the Use of the Crown.

Preamble.

WHEREAS the important Duties of Sheriff have been hitherto Executed, in this Government, by a *Provost Marshal*, an Officer whom his Majesty has been graciously pleased to appoint in the Infancy of his respective Colonies, before fit Persons could be had to fill and supply that Office: And although such Appointment may have been highly necessary and expedient in this Island, at the time it was made: yet, as the same is not annual, as is that of Sheriff, and the Salary allowed for such an Office not being sufficient to maintain him as a Gentleman, without having Recourse to other Means for Subsistence: *And whereas* the most probable Means for him to adopt for that purpose, are such as his Office may afford, and which a needy Man is too apt, if continued long therein, to find out, and to be induced thereby to practice Extortion, and to become variously oppressive to his Majesty's Subjects. For Remedy whereof, and to bring this Government, as near as may be, to resemble the envied and happy Constitution of our Mother Country:

The Chief Justice, or, in his Absence, the oldest Justice, on every third Monday in

I. *Be it enacted by the Lieutenant Governor, Council and Assembly*, That from and after the Publication hereof, it shall and may be lawful for the Chief Justice, or, in his Absence, for the eldest Justice of his Majesty's Supreme Court of Judicature, in this Island, once in every Year, that is to say

say on the third Monday in April annually, to nominate three proper and fit Persons to be made High Sheriff for this Island at large, (the same to be done in Writing;) and a Copy of which Nomination, being signed by the said Chief Justice, or eldest Justice, he, so signing the same, is hereby directed, immediately thereupon, to present to the Governor, Lieutenant Governor or Commander in Chief, for the Time being, who is hereby empowered immediately to prick one out of the said Number to serve the Office of High Sheriff as aforesaid, for the ensuing Year: Which Sheriff, being so appointed, shall thereupon take the usual Oaths of Office, together with the Oaths herein after prescribed. And immediately upon his receiving his Patent, and having entered good and sufficient security, to be approved of by the Governor, Lieutenant Governor or Commander in Chief, and his Majesty's Council, for the faithful Execution of his Office, in the Provincial Secretaries Office, he shall be fully invested with all the Powers and Authorities of a High Sheriff, and be subject to all such Acts, made and passed in this Island, as may in any Manner have related to the Duties and Execution of the Office of Provost Marshal, and be intitled to the same Fees, as are established by Law for the said Provost Marshal; and shall also have, possess, and enjoy, during the continuance of his Office, all and every the Powers and Authorities which his Majesty's Provost Marshal have possessed or enjoyed, either by Virtue of any Law of this Island, or in Right of any Usage or Custom thereof.

II. *And be it further enacted*, That if any Person or Persons whatsoever, who may be so appointed to execute the said Office of High Sheriff, after Eight Days Notice thereof duly served, shall refuse to accept the same, the Person or Persons so refusing, shall be subject to a Fine of Ten Pounds lawful Money of this Island, for such his Refusal; which Fine shall and may be recovered by Bill, Complaint, or Information, in his Majesty's said Supreme Court of Judicature, and when recovered, the same shall be paid to the Treasurer of this Island, to and for the Use and Service thereof.

III. *And be it further enacted*, That upon each and every such Refusal, the Chief Justice, or, in his Absence, the eldest Justice, shall make out another List of proper and fit Persons, to serve the Office of Sheriff as aforesaid, and shall deliver the same as aforesaid to the Governor, Lieutenant Governor, or Commander in Chief, who is hereby empowered to prick one nominated Person thereout, who, upon Refusal, after having received Notice as aforesaid, shall be liable to the said Fine, and so to continue by new Returns and Appointments, until a Person shall be nominated that will consent to, and actually serve the said Office of Sheriff.

IV. *And be it further enacted*, That the Sheriff, so as aforesaid appointed and sworn, shall continue in Office until another shall be appointed and sworn in his Stead.

V. *And be it further enacted*, That if any Sheriff, or his under Sheriff, shall levy or receive any Sum or Sums of Money whatsoever, by Virtue of any Execution, Writ, or Process whatsoever, and shall retain such Sum or Sums of Money in his or their Hands, for the Space of Twenty four Hours after the Person or Persons legally authorised to receive the same, or any Person lawfully by him, or them, appointed for that Purpose, shall, in the Presence of one credible Witness, demand such Sum or Sums of Money to

April, annually, to nominate three fit Persons to be made High Sheriff for this Island at large.

Copy of such Nomination, being signed, to be presented to Governor, Who is thereupon to prick out one to serve the ensuing Year.

Sheriff to take the usual Oaths of Office, &c. and upon receiving his Patent, and having given approved Security, to be fully invested with all the Powers and Authorities of a High Sheriff,

and to be subject to all Acts relative to the Duties of the Office of Provost Marshal, and to be entitled to the same Fees, &c.

Persons appointed Sheriffs, after Eight Days Notice, and refusing to accept, to pay a Fine of £10.

Mode of Recovery.

Application of Fine.

The Chief Justice or, in his Absence, the eldest Justice, upon every subsequent Refusal, to make out another List of fit Persons to serve the Office of Sheriff, and to deliver the same, as before directed, to Governor, &c.

Governor to prick one thereout as aforesaid, who after receiving Notice as before directed, and refusing to serve, to be liable to the said Fine, &c.

Sheriff to continue in Office till another is sworn.

Sheriff, &c. receiving Money, to account for the same, if required, in twenty-four Hours, or if detained, to be liable to a Fine of Five Shillings in the Pound, for every Week the same shall be detained, after Demand made.

to be paid over to him, or them; that then, and in such Case, the said Sheriff shall forfeit to the Party entitled to receive such Sum or Sums of Money, for each and every Week that he, or his under Sheriff, shall retain the same, the sum of *Five Shillings* for every Pound, of lawful Money of this Island, which he or his under Sheriff shall retain, after Demand made as aforesaid; the same to be recovered by Bill, Plaint, or Information, in the said Court,

Mode of Recovery.

Penalty for neglect of duly returning Writ, &c.

VI. *And be it further enacted*, That after any Writ, Process, or Execution, directed to any Sheriff out of any *Court of Record* that now is, or which hereafter shall or may be established in this Island, shall have been delivered to him, or to his under Sheriff; such Sheriff, or under Sheriff, so receiving and taking Delivery of any such Writ, Process, or Execution, is hereby required to return the same, with his Doings thereon endorsed, in due Time, and according to the Command thereof, into the Court where such Writ shall have been made returnable: And if the said Sheriff, or his under Sheriff, shall Neglect to make such Return on any Writ, Process, or Execution, so as aforesaid delivered, the said Sheriff shall forfeit and pay the Sum of *Twenty Pounds*, of lawful Money, of this Island, the same to be recovered by any Person or Persons whatsoever, by Bill, Plaint, or Information, in any of his *Majesty's Courts of Record* that now are, or which shall or may hereafter be established in this Island.

Mode of Recovery.

Sheriff, &c. liable to Fine, and Action for Damage, for compromising any Debt sued for by Writ, &c. without consent of the Party or his Attorney.

VII. *And be it further enacted*, That if any Sheriff, or his under Sheriff, shall, on any Pretence whatsoever, after any Summons, *Capias*, or Attachment shall have come into his Hand, or into the Hand of his under Sheriff, settle with, or receive from, the Party or Persons against whom such Writs shall have issued, any Sum or Sums of Money whatsoever, for, or on Account, or in full for such Sum or Sums of Money as such Writs may have issued for the Recovery of, or shall return any such Writs settled, or satisfied, without Leave being first had and obtained, in Writing, from the Party, or from his or her Attorney, suing out such Writs, thereby empowering him so to do; that then such Sheriff shall forfeit and pay to the Plaintiff in such Writs, for each and every Offence, whatever Sum or Sums the Court out of which such Writs may have issued, shall adjudge, beside being subject to an Action for the Recovery of Damage, or to an Attachment; the said Penalties, so adjudged, to be recovered by the said Plaintiff, by Attachment, or other Process; the same to be sued out of the Court that shall or may inflict the same.

Mode of recovering Fine, and bringing Action for Damage.

Under Sheriff to continue to act after Death or Removal of High Sheriff, until another is appointed.

VIII. *And be it further enacted*, That if any Sheriff shall happen to die before the full Year of his Appointment shall have expired, or before lawfully superseded, nevertheless the under Sheriff, so by him appointed, shall continue to execute the said Office, in the name of the deceased Sheriff, until another Sheriff shall have been appointed, and sworn into Office as herein before is directed. And the said under Sheriff is hereby made answerable for the due Execution of the said Office, in all Respects whatsoever, during such Interval of Time, in the same Manner as the High Sheriff, so deceased, or superceded, would or might have been, had he lived or continued in Office until the Expiration of the said Year. And the Security or Securities (if any) given to the High Sheriff, so deceased or superceded

Under Sheriff shall be answerable for the due Execution of Office during such Interval, the same as High Sheriff would have been had he continued in Office, and the Security of under Sheriff to High Sheriff shall stand as

ceded

ceded by the under Sheriff, as also his Pledges, shall stand as Security or Securities to the King's Most Excellent Majesty, his Heirs and Successors, and to all Persons, their Heirs, Executors, Administrators, and Assigns who may, in any Respect whatsoever, be interested or concerned for such under Sheriff's due Performance of his Office during such Interval.

Security to his Majesty, &c.

IX. *And be it further enacted*, That all Sheriffs who in future shall or may be appointed to their respective Offices in this Island, shall, on their entering upon the Performance of the same, take and subscribe the following Oath :

Oath to be taken by Sheriffs.

" I A. B. do solemnly swear, that I will truly serve the King in the Office of Sheriff of this Island, and promote his Majesty's Profit in all Things belonging to my Office, as far as I legally can or may. I will truly preserve the King's Peace, and all rights which belong to his Crown ; and where I have an Knowledge of the King's Revenue being diminished, concealed, or wasted, or of any Person or Persons concerned in collecting the same, being negligent in their Duty, I will certify and inform the King's Representative within this Island, or some of his Judges, of the same. I will do Right as well to poor, as to rich, in all Things belonging to my Office. I will do no Wrong to any Person whatsoever for any Gifts, Reward, or Promise, nor for Favour, nor hatred. I will disturb no Man's Rights. I will at the end of the Year, render to his Majesty's Supreme Court of Judicature, at Charlotte-Town, a true and faithful Account of such Debts, Duties, Fines, or Forfeitures, to the Crown, as shall be levied by me, or otherwise come to my Hands. I will do Nothing whereby the King, or any of his Subjects may lose, or whereby the Revenue of this Island may be injured, or diminished. I will, without Respite or Delay, return and truly serve all the Writs coming to my Hands, without Favour or Affection. I will take no Deputy, or Bailiff, into my Service, but such as I will answer for ; and I will cause each of them, before they enter on their Office, to take and subscribe such Oaths as I do, in what belongeth to their Business and Official Duty. I will, during my Continuance in Office, truly set and return reasonable and due Issues of them that be within Precinct, according to their Estate and Circumstances, and make due Panels for Grand and Petty Juries, to the King's Courts aforesaid, at their several Sitzings of Persons able and sufficient, as directed by the Laws of this Island. I will not during the Continuance of my Office, receive from any Person or Persons whatsoever, either directly or indirectly, any Fee, Favour, or Reward, for constituting such Person or Persons my under Sheriff, or Bailiff, but will keep a strict Eye over such Person or Persons, that they do not exact unreasonable Fees, and that they are not guilty of Extortion or Oppression in their Offices, I will not ask or demand from any Person or Persons whatsoever, any more Travel for the Service of any Writ or Process, than what I have actually and bona fide performed for the Service of the same. I will truly and diligently execute the Laws and Statutes of this Island, and in all Things will strictly behave myself in my Office for the Honour of the King, and the good of his Subjects. *So help me God.*"

Form of Oath.

X. *And*

Sheriffs, every Trinity Term next after the Expiration of their Sheriffalty, to render an Account of all Fines &c. that shall have been levied, with the Names of those from whom the same have been levied.

Twenty Pounds penalty on neglect.

Mode of Recovery, and Application of Forfeiture.

Clerk of Supreme Court to state a general Account of all Fines, &c. adjudged to the Crown,

particularising the Sums appearing by Sheriff's Accounts to have been levied; as also the Sums then due, and by whom.

Clerk to certify Account, under Seal of Court, into Treasury,

Twenty Pounds Fine for every Neglect.

Mode of Recovery.

Application.

After Appointment of Sheriff, and his entering on the Duties of his Office, the Power and Authority of Provost Marshal to cease.

Sheriff, during Time of exercising Office, not to act as Justice of Peace.

All Acts as a Justice of Peace shall be void, and he to forfeit Twenty Pounds.

X. *And be it further enacted*, That all Sheriffs appointed to and serving the said Office as aforesaid, shall, on or before the third Day's Sitting of the said *Supreme Court*, at the *Trinity Term* thereof, next after the Expiration of each and every of their Sheriffalty, render an Account, on Oath, in said Court of all such Fines, Forfeitures, Penalties, or other Debts or Dues of the *Crown*; as shall be levied by him, together with the Names of the Persons on whom the same shall have been levied; and if any such Sheriff shall neglect or Delay such Service, longer than the time limited aforesaid, he shall, for each and every such Neglect or Delay, Forfeit and pay the Sum of *Twenty Pounds*; the same to be recovered by Bill, Plaint, or Information, in his *Majesty's* said *Supreme Court of Judicature*, and when recovered, to be paid to the *Treasurer* of this Island to and for the Use and Service thereof.

XI. *And be it further enacted*, That at the End of every *Trinity Term* of said Court in every Year, the Clerk thereof shall state a general Account of all Fines, Forfeitures, and Penalties, adjudged to the Crown in the said Court, or in any other *Court of Record* that now is, or which shall or may hereafter be established on this Island, and which shall be returned or delivered to him by the Clerk or Clerks of any other Court or *Courts of Record* in this Island; such general Account particularising therein the Names of the Persons who shall or may be adjudged to pay such Fines, Forfeitures, and Penalties, together with the Sums appearing, by the Sheriffs Accounts as aforesaid, to have been levied on Account thereof; as also the Sums that shall or may be then due from the delinquent Party, and the Names of the Persons owing the same: Which said general Accounts, so stated as aforesaid, the said Clerk of the said *Supreme Court* is hereby directed to certify, under the Seal thereof, into the *Treasury* of this Island. And in Case the said Clerk shall neglect so to return such Account, within *Fourteen Days* next after the End of every *Trinity Term* of said *Supreme Court*, yearly and every Year, he shall forfeit and pay the Sum of *Twenty Pounds* for each and every such Neglect; the same to be recovered by Bill, Plaint, or Information, in the said *Supreme Court*, and when recovered, to be paid to the *Treasurer* of this Island to and for the Use and Service thereof.

XII. *And be it further enacted*, That from and after the Time of appointing a Sheriff, and his entering on the Duties and Execution of his Office, as herein before by this Act directed, all the Power and Authorities which now are, or which heretofore have been vested in the Office of *Provost Marshal* of this Island, either by Usage, Custom, or the Laws thereof, shall cease and determinate, to all Intents and Purposes, the same as if no such Officer had ever been appointed in this Government; any Thing heretofore, in any Wise, to the contrary notwithstanding.

XIII. *And be it further enacted*, That no High Sheriff, appointed as aforesaid, shall Exercise the Office of *Justice of the Peace*, in this Island, during the Time he shall Exercise the Duties of that Office: And all his Acts and Doings as a *Justice of the Peace*, during the Time he shall or may be in his said Office, shall be, and the same are declared to be, null and void. And for each and every Instance of, such his Misconduct, he shall forfeit and pay

pay the Sum of *Twenty Pounds*, one Moiety whereof to the Use of his Majesty's Government in this Island, and the other Moiety to him or them who shall or may sue for the same; the same to be sued for and recovered in any of his Majesty's Courts of Record which now are, or which hereafter shall or may be established in this Island.

XIV. *And be it further enacted*, That no Person shall be obliged to serve the said Office of High Sheriff, for more than one Year at a Time, nor to accept of the said Office in less than Seven Years after his having served the said Office as aforesaid.

XV. *And be it further enacted*, That the Monies arising by the Operation of this Act, shall be accounted for unto his Majesty, in the Kingdom of *Great Britain*, and to the Commissioners of his Majesty's Treasury, or High Treasurer for the Time being, and audited by the Auditor General of his Majesty's Plantations, or his Deputy.

Mode of Recovery,
and Application of
Fines.

No person obliged
to serve Office of High
Sheriff for more than
one Year at a Time,
nor to accept in less
than 7 Years after
having served.

Fines to be account-
ed for to his Majesty
and Commissioners of
the Treasury, and au-
dited.

C A P. XVI.

AN ACT for granting the Sum of Three Hundred and Sixty-Five Pounds, Fifteen Shillings, and Ten Pence, for the Support of his Majesty's Government.

This Act has been
executed.

1786.

Anno Vicesimo Septimo Regis GEORGI III.

At the GENERAL ASSEMBLY of His Majesty's Island of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Twenty-first Day of March, ANNO DOMINI, One thousand, Seven hundred and Eighty-five, and in the Twenty-fifth Year of the Reign of our Sovereign Lord GEORGE the THIRD, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. and thence continued by several Prorogations unto the Eighth Day of November, One thousand Seven hundred and Eighty-six, and in the Twenty-seventh Year of His said Majesty's Reign; being the third Session of the Fourth General Assembly, convened in the said Island.

WALTER PATTERSON,
Lieutenant Governor.

PHILLIPS CALLBECK,
President of Council.

ALEXR : FLETCHER,
Speaker.

C A P I.

AN ACT for setting aside and annulling, at the Request of the present Proprietors, the Sales, &c. of the herein after enumerated Lots and Shares of Lots of Land within this Island, and for repealing so much of an Act passed in the twenty-sixth Year of his present Majesty's Reign, intitled, "An Act to render good and valid in Law all and every of the Proceedings in the Years one Thousand Seven Hundred and Eighty, and One Thousand Seven Hundred and Eighty One, which in any respect related to or concerned the Suing, Seizing, Condemning, or Selling of the Lots or Townships herein after mentioned, or any of them, or any Part thereof, as relates to the said Lots or Townships, or Half Lots or Townships of Land.

Disallowed by his
Majesty in Council,
the 6th of August
1789.

Anno

Anno Viceffimo Octavo Regis GEORGII III.

1788.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of St. JOHN, begun and holden at CHARLOTTE-TOWN, on the twenty-second Day of January, ANNO DOMINI, One thousand Seven hundred and Eighty-eight, and in the twenty-eighth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. being the first Session of the Fifth General Assembly, convened in the said Island.

EDMUND FARRING,
Lieutenant Governor.

THOMAS DEERISAY,
President of Council.

PHILLIPS CALBECK,
Speaker.

C A P. I.

AN ACT, in addition to two several Acts herein after in Part recited, that is to say, an Act made and passed in the twenty-first Year of his present Majesty's Reign, intituled, "An Act to explain, amend, and render into one Act, all the Laws now in being for the purpose of making and repairing High-Ways in this Island;" also an Act made and passed in the twenty-sixth Year of his present Majesty's Reign, intituled "An Act for altering, amending, and reducing into one Act, an Act made and passed in the twenty-fifth Year of his present Majesty's Reign, intituled, "An Act to alter and amend so much of an Act, made and passed in the twenty-first Year of his present Majesty's Reign, intituled, "An Act to explain, amend, and render into one Act, all the Laws now in being for the Purpose of making and repairing High-Ways in this Island, as relates to the Time appointed by said Act for performing Statute Labour, and some further Regulations as to the Payment and Duty of Overseers of the High-Ways."

This Act is repealed
by 35th Geo. 3, C. 3.
See also Note on 14th
Geo. 3, Cap. 4.

Anno

1790.

ANNO TRICESIMO REGIS GEORGI III.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of SAINT JOHN, begun and holden at CHARLOTTE-TOWN, on the twenty-second day of March, ANNO DOMINI, one thousand seven hundred and ninety, and in the thirtieth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, France, and Ireland, KING, Defender of the Faith, &c. being the First Session of the Sixth General Assembly, convened in the said Island.

EDMUND FANNING,
Lieutenant Governor.

PETER STEWART,
President of Council.

ALEX: FLETCHER,
Speaker.

C A P I.

AN ACT *ascertaining the TOLL to be taken at the different GRIST-MILLS, in this Province.*

This Act made perpetual by 43d, Geo. 3, C. 1.

The Toll to be taken at the different Grist Mills in this Island, &c.

Penalty for taking more Toll than is allowed by this Act.

Application of Penalty.

The Grain brought first to the Mills, to be first ground, without Preference.

Millers obliged to bolt Grain after being ground, if required thereto.

Penalty.

BE it enacted, by the Lieutenant Governor, Council, and Assembly, That the Toll to be taken by any Grist Miller within this Province, in Time coming, for grinding Wheat, Rye, Barley, Oats, and Indian Corn, shall be one twelfth Part, and no more.

II. *And be it enacted*, That if any Miller shall demand, take, or receive, any greater Toll than is herein directed to be taken, he shall forfeit and pay *Forty Shillings, toties quoties*, for every such Offence; one half of which Penalty shall be paid to the Person or Persons suing for the same, and the other half to the Poor of the Township, or Parish, wherein the Offence shall be committed, and that over and above the Value of the Grain, or Meal, which shall have been taken more than the Toll herein prescribed.

III. *And be it enacted by the Authority aforesaid*, That all Millers, within this Province, shall be obliged, and they are hereby required, in all Time coming, to grind all Grain brought to their respective Mills regularly, so as that whoever brings Grain first shall be first served, without the said Millers, or any of them, giving Preference to one Man beyond another in Point of Time or Priority; under the Penalty of *Forty Shillings* for every Transgression.

IV. *And be it further enacted by the authority aforesaid*, That every Grist Miller, who keeps, or may in Time coming keep, a Bolting Mill, shall be obliged to bolt the Meal of all Wheat, Rye, or Buck-Wheat, ground at his Mill, when required; and that the Toll to be taken for the same shall not exceed one Pint of that Grain, *per Bushel*, to be taken in addition to the former Toll.

V. And every Miller refusing to comply herewith shall be subject to, and incur, a Penalty of *Forty Shillings*, for every Transgression.

VI. *And*

VI. *And be it further enacted*, That all Forfeitures and Penalties arising by Force and Virtue of this Act, shall be one Half to the Informer, and the other Half to the Use of the Poor of that Parish where the Offence shall be committed; and be recovered by Bill, Plaint, or Information, before any one or more of his Majesty's Justices of the Peace for the Island, upon Proof of one or more credible Witness or Witnesses, and be levied upon due Conviction, by Warrant of Distress and Sale of the Offenders Goods and Chattels, under the Hands and Seals of such Justice or Justices: And for want of sufficient Distress, the Offender to suffer Imprisonment for such Time, as the Justice or Justices, before whom he may be prosecuted, may, in his or their Discretion, think just and adequate to his Offence; so as the said Imprisonment shall not exceed *Thirty Days*.

Application of Penalty, and how and where to be recovered.

VII. *And be it further enacted*, That each Miller shall be provided with Steel-yards, or Scales and Weights: That each Grist, at being brought into the Mill, shall be weighed, and an entire Weight be returned, except the Deduction for Toll allowed by this Act.

Each Miller to be provided with Steel-yards, or Scales and Weights.

VIII. *And be it further enacted*, That each Miller shall be provided with a Copy of this Act, within *Two Months* after the Publication thereof, or within *Three Months* after his Mill is erected; which Copy shall be put up in some conspicuous Part of his Mill, on Pain of forfeiting *Five Shillings*, for each Offence.

Each Miller to be provided with Copy of this Act in two Months after Publication, or in three after Mill is erected, &c.

IX. *And be it further enacted*, That this Act shall continue and be in Force for and during the Space of *Three Years*, and from thence to the End of the next Session of the General Assembly; and no longer.

Act to be in Force for the space of three Years, &c.

C A P. II.

AN ACT to establish authenticated Copies of the RECORDS of his Majesty's Council of this Province as legal Evidence.

WHEREAS many Titles to Lands depend on Votes, and other Proceedings in his Majesty's Council, and become frequently necessary Evidence in Suits at Law: *And Whereas* Doubts may arise relative to the Admissibility of such Evidence, and as the producing the original Records in Court is attended with great Inconvenience, to remedy the same,

Preamble.

Be it enacted by his Excellency the Lieutenant Governor, Council and Assembly, That hereafter the Transcript or Copy of any Vote or Proceedings of his Majesty's Council, relating to the Grants or Titles of Lands, attested as a true and genuine Extract from the said Records, and signed by the Clerk of the Council, shall be deemed, admitted, and received as legal Evidence in any Cause depending, or that may, at any Time hereafter, be depending in any of His Majesty's Courts within this Province. And the Clerk of the Council is hereby required and directed, upon the Application of any of the Parties to said Suits, or their Attornies, to give an exact Copy or Extract of all such Resolutions or Proceedings of Council, relative to Lands, attested and signed by him; and that there shall be paid for the same, for every Search *One Shilling*; for every authenticated Copy, *Six Shillings* (if under *one Hundred Words*;) and for every Hundred Words above the first Hundred, at the Rate of *One Shilling* for every Hundred Words.

Copy of Proceedings of his Majesty's Council, relative to Titles of Lands, and properly attested, made legal Evidence.

Duty of the Clerk of the Council, on application, to give attested Copies of such Proceedings.

C A P. III.

Expired.

AN ACT for continuing an Act, made and passed in the twenty-sixth Year of his present Majesty's Reign, intituled, "An Act to alter, amend, and reduce into one Act, an Act made ^{and} passed in the twenty-first Year of his present Majesty's Reign, intituled, "An Act for raising a Fund to make and keep in repair the Streets and Wells of Charlotte-Town."

C A P. IV.

Sec 26th Geo. 3, C. 10.

AN ACT for repealing so much of an Act, made and passed in the twenty-sixth Year of his present Majesty's Reign, intituled, "An Act to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning BAIL, and to prevent frivolous and vexatious ARRESTS," as relates to the Attachment of the Goods, Chattels, or Estate of any Debtor or Debtors.

Preamble.

WHEREAS the aforesaid Act, so far as the same extends to the Attachment of the Goods, Chattels, or Estate of any Debtor or Debtors, has, in its Operation, been found, in many Instances, injurious and oppressive to the Inhabitants of this Island :

Repealing Clause.

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, and by the authority of the same it is hereby enacted,* That from and after the Publication hereof, so much of the said Act, intituled, "AN ACT to amend, render more effectual, and reduce into one Act, all the Acts made by the General Assembly of this Island concerning Bail, and to prevent frivolous and vexatious Arrests," as extends to the Attachment of the Goods, Chattels, or Estate of any Debtor, or Debtors, be, and the same is hereby repealed.

This Act not to affect Suits now depending under the repealed Act.

II. *Provided nevertheless,* That this Act shall not extend to affect any Suits now depending under the said Act, so as the same are prosecuted without Delay.

Suspending Clause.

IX. *Provided also,* That Nothing in this Act contained shall have any Force or Effect, until his Majesty's Pleasure is known.

† This Act has been allowed by His Majesty, Dated June 22d, 1796.

C A P. V.

AN ACT to empower the Lieutenant Governor to give GRANTS of LANDS, under the Great Seal of this Island, to such Loyalists and disbanded Troops as are in the Occupation thereof, by Virtue of Locations formerly made by the GOVERNOR and COUNCIL.

Preamble.

WHEREAS in the Year one Thousand seven Hundred and Eighty-three, a Number of the Proprietors of Lands in this Island, or their Attornies for them, signed and delivered a Paper to the Right Honourable Lord North, at that Time one of his Majesty's Principal Secretaries of State of which the following is a Copy, viz.

WE the undersigned Proprietors of Lands, in the Colony of Saint John, being informed, that many of the Loyalists at New-York prefer a Settlement in that Island, to one in Nova-Scotia; and being very desirous

rous of encouraging such a Preference, and of affording an Asylum to those deserving Fellow Subjects, do engage for ourselves, or as Attornies for others, to grant, as we hold of the Crown, and in the same Proportions to each Family, as the other Loyal Emigrants receive in Nova-Scotia, one Fourth of the Quantity of Lands placed opposite to our Names, which they shall receive, upon their arrival at Charlotte-Town, by application to the Governor and Council. And that they may receive the said Lands in the fairest and most impartial Manner, we will direct that the whole be divided by the Surveyor General into Parcels, of not less than One Thousand Acres each, and drawn for by Ballot before the Governor and Council. In consideration of the preference expressed by those Loyal Emigrants, and of the conditions offered by us, we have the fullest confidence that your Lordship will give Instructions to the Commander in Chief of his Majesty's Forces at New-York, to furnish such Loyalists, as prefer a Settlement in Saint Johns, with Provisions and Transports to carry them to Charlotte-Town, and every other necessary, such as is given to those who go to Nova-Scotia. And that your Lordship will also give such Instructions to the Governor of Saint Johns, as will place such Emigrants, in every Respect, on a similar Footing with their Brethren who settle in Nova-Scotia. The undersigned are the more zealous in promoting this Measure, as they are persuaded it will greatly advance the Prosperity of an infant Colony, which, from its natural and relative Situation, is peculiarly adapted to become a permanent and valuable Possession to Great-Britain. And they confide in your Lordships Wisdom and Equity, that you will obtain for them such an Abatement of Quit-Rent, as will place them on an Equality with their Neighbouring Colonies, and, by that Means, remove a Cause which may prevent many faithful Subjects to this Country, from emigrating to that Island from the American States, and which has hitherto obstructed the Settlement and Prosperity of this Colony.

(Signed) Edward Lewis,	20,000 Acres.
John Townson,	10,000
John Stuart,	10,000
Richard Burke,	15,000
John Moteux,	20,000
Robert Macky,	20,000
Alexander Anderson,	20,000
John Patterson,	20,000
John Patterson, <i>Attorney for</i> Walter Patterson,	40,000
John Patterson, <i>Attorney for</i> Andrew Todd,	21,000
John Patterson, <i>for</i> Isaac Todd,	20,000
John Townson, <i>for</i> Charles Pearce,	10,000
Daniel Berreau, <i>for</i> Isaac Panhard,	20,000
Lawrence Sullivan,	80,000
Phillip Stephens,	20,000
Lord Townshend, <i>for Acres and gives two Thousand to a Loyalist who is to draw for it in the mode prescribed above,</i>	20,000
Lord Townshend, <i>for</i> General Honeywood,	10,000
Lord Townshend, <i>for the Lord Chief Baron Mont- gomery,</i>	60,000 And

Preamble.

And Whereas, on receipt thereof, the Governor of said Island, by the Advice of his Majesty's Council, issued a Proclamation, thereby promising all Persons of the above Description, who should choose to become Settlers in the Island of *Saint John*, certain Proportions of the Lands so signed for, in the same Manner as should be given to them in the neighbouring Provinces of *Quebec* and *Nova-Scotia*: In consequence whereof, a Number of those deserving Subjects did repair to this Island, and have had, by the Orders of the Governor and Council, Parts of the aforesaid Lands laid out and allotted to them, and have been put in Possession thereof, as also made considerable Improvements thereon, notwithstanding which, and that Years have elapsed since the said Proprietors covenanted and engaged with Government to make Conveyances of the said Proportions of Lands so allotted and laid out to the said Settlers; many of them have not yet fulfilled their said Engagement, whereby, and in consequence of which, Numbers of those who came to this Island returned to the Continent, many more have been deterred from coming, and those who remain are rendered unhappy, from the uncertainty under which they hold their Lands.

For Remedy whereof, and to promote the Settlement and Prosperity of this Colony:

Governor, &c. empowered to give Grants of certain Proportions of Lands now in the possession of Loyalists, reduced Officers and Soldiers, under Authority of the Governor and Council of this Island.

I. *Be it therefore enacted by the Lieutenant Governor, Council and Assembly, and by the Authority of the same it is hereby enacted*, That from and after the Publication hereof, it shall and may be lawful to, and for the Governor, Lieutenant-Governor or other Commander in Chief, for the Time being, to give Grants, under the Great Seal of this Island, of such Proportions of the aforementioned resigned Lands as are now in the Possession of such Loyalists and reduced Officers and Soldiers, by Virtue of, and under the Authority of the Governor and Council of this Island, as have not received Deeds or Grants from the said Proprietors.

Suspending Clause.

II. *Provided*, That Nothing herein contained shall have any Effect, until his Majesty's Pleasure shall be known.

☞ This Act received His Majesty's Allowance, July 31, 1793.

C A P. VI.

AN ACT for quieting the Minds of his Majesty's dissenting Protestant Subjects in the Island of *Saint John*.

Preamble.

WHEREAS a groundless report has prevailed of an Intention, upon the Part of Government, to subject his Majesty's dissenting Protestant Subjects to the Payment of Tythes and other Rates, and Taxes for the Support of the established Church of England.

Dissenters, &c. to have Liberty of Conscience, &c.

I. *Be it enacted by the Lieutenant Governor, Council and Assembly*, That Protestants dissenting from the Church of England, whether they be Presbyterians, Quakers or any other Denomination whatsoever, shall have free Liberty of Conscience; and may erect and build Meeting-Houses for Public Worship; and may choose and elect Ministers or Pastors for performing divine Service, and the Administration of Sacraments, according to their Opinions. And all Contracts made between such dissenting Ministers and their Congregations, for the support of the Ministry, are hereby declared

and excused from the Payment of Rates, &c.

valid

valid, and shall have their full Force and Effect, according to the Tenor and Condition of such Contracts. And all such Dissenters shall be excused and are hereby exempted and excused from the Payment of any Rates or Taxes to be made and levied for the Support of the established Church of England in this Island.

II. *Provided*, That Nothing herein contained shall be of any Force or Effect, until his Majesty's Pleasure is known.

Suspended Clause.

(This Act received His Majesty's Allowance, July 31, 1793.)

C A P. VII.

AN ACT to oblige the respective Proprietors of Lots or Townships of Land, or of Parts of Lots or Townships of Land, in this Island, and who have contributed Nothing towards the Settlement or Improvement of this Island, and whose Lands lie in a waste and uncultivated State, to pay their Proportion of the Public Charges for the making and repairing of the HIGH-WAYS, ROADS, and BRIDGES of the said Island.

WHEREAS many of the Lots or Townships of Land, or Parts of Lots or Townships of Land, in this Island, are owned by Persons not residing or living therein, and have been greatly increased in Value by the High-Ways, Roads, and Bridges, which have, at different Times, been erected and made at the Expence, and by the Labour of his Majesty's Subjects, Inhabitants of this Island, without any aid or assistance whatever from the said Proprietors: *And whereas* many of the Inhabitants of this Island have long complained, and do still complain, of this Neglect on the Part of the said Proprietors, as a Grievance that ought to be redressed, truly alledging, that the said Proprietors are benefited by their Labour, and at their Expence, without bearing any Proportion of it among themselves. To Remedy which in future,

Preamble.

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly*, That from and after the First day of August, One Thousand Seven Hundred and Ninety-one, it shall and may be lawful to and for any three of his Majesty's Justices of the Peace, (*Quorum unus*) in this Island, and they are hereby required and directed, in either of the Months of June or July, annually, to assess a certain Sum of Money to be charged on the said Lots or Townships of Land, or on the said Parts of Lots or Townships of Land, in this Island, as the true and equitable Proportion which the said Proprietor or Proprietors ought respectively to pay for the purpose herein before recited:

Any three Justices empowered to assess Lots of Land, &c. for the purposes herein recited.

II. *Provided always, and it is hereby further declared*, That the said Justices shall not be empowered to assess any Lot or Township of Land, wherein a Number of Inhabitants (liable to Statute Labour) equal in Proportion to ten for every Township, shall or may reside.

Proviso.

III. *And be it further enacted by the authority aforesaid*, That immediately after the said Assessment shall have been so made, public Notice shall be given, in Writing, by the said Justices, and posted up at *Charlotte-Town, Prince-Town, and George-Town*, and at three or more other of the most frequented Places at or near the Place where the Land, so assessed, shall or may lie, expressing therein, that unless the said Assessment shall be paid by such Proprietor or Proprietors, or by some Person or Persons

Notice to be given, and posted up at Charlotte-Town, &c. warning Proprietors to pay their Assessments within Six Months, &c.

If the Assessments are not paid within that Time, then Justices are to lease out such Lots of Land.

If the Lands cannot be leased out advantageously as to produce Rent sufficient for the purpose aforesaid; then Justices are to notify Proprietors of the Sale of such Lands.

Precept to be awarded to Sheriff, directing him to take the Chattels of delinquent Proprietors, and to sell the same, &c.

If Chattels cannot be found; then to sell so much of the Lands of such Proprietors, as may be sufficient to pay off their respective Assessments.

Sheriff, after Sale of Lands, to make Deeds of Conveyance to Purchasers.

duly authorised thereto, into the Public Treasury of this Island, within *Six Months* next after the Date thereof; that then so much of the improved or other Parts of the Lands of the delinquent Proprietor or Proprietors, shall be by such Justices leased out, as may produce a Rent sufficient to pay his, her, or their said Proportion or Assessment; and that, if the said Proportion or Assessment shall not be paid by such Proprietor or Proprietors, or by some Person or Persons duly authorised thereto, into the said Public Treasury, within the Time limited for the same to be done in the said Notice; that then, and in such Case, the said three Justices are hereby empowered and directed to proceed to Lease out the said improved or other Parts of the Lands of such delinquent Proprietor or Proprietors, in Manner as is herein before expressed in the said Notice.

IV. *And be it further enacted by the authority aforesaid,* That if the said improved or other Parts of the Lands of the said delinquent Proprietor or Proprietors, cannot be leased out by the said three Justices so advantageously, as, in their Judgment, to produce the Rent sufficient for the purpose aforesaid; that then, and in such Case, public Notice shall be by them immediately thereupon given, in Writing, and posted up in Manner aforesaid, expressing therein, that unless the said Assessment or Proportion shall be paid by the said delinquent Proprietor or Proprietors, or by some Person or Persons duly authorised thereto, into the Public Treasury of this Island, within *Six Months* next after the Date thereof; that then, and in such Case, so much of the improved or other Parts of the Lands of the said delinquent Proprietor or Proprietors, shall be sold, as shall or may produce Money sufficient to pay his, her, or their said Assessment or Proportion.

V. *And be it further enacted by the authority aforesaid,* That at the Expiration of the said *Six Months* Notice, it shall and may be lawful to and for the said three Justices, and they are hereby directed and required, to award a Precept directed to the Sheriff, commanding him to take the Goods and Chattels of such delinquent Proprietor or Proprietors wheresoever or in whosoever Hands the same may be found in this Island, and of the same to make public Sale, and the Produce of such Sale, in Money, to pay into the Hands of the said three Justices; and that, if no Goods and Chattels of such delinquent Proprietor or Proprietors, can be by him found in his aforesaid Precinct, or if enough can only be found to satisfy his, her, or their Assessment or Proportion in Part; that then, he shall proceed to make Public Sale of so much of the Lands and Tenements of such delinquent Proprietor or Proprietors, as shall or may produce Money sufficient to pay and discharge his, her, or their Assessment or Proportion, either in whole or in part, as the Case may happen to be, together with the Costs and Charges attending the same; which Precept shall be tested by the said *Quorum unus* the Day on which the same shall or may be issued, and be made returnable to the said three Justices within *Thirty Days* after such *Teste*.

VI. *And be it further enacted by the authority aforesaid,* That immediately after the said Sale or Sales shall be so as aforesaid made and perfected, the said Sheriff is hereby authorised and directed to make and execute to the Purchaser or Purchasers of the Lands of such delinquent Proprietor or Proprietors, a Deed or Deeds thereof, thereby conveying to such Purchaser or Purchasers, an absolute Estate of Inheritance, in *fee Simple*. VII. *And*

VII. *And be it further enacted by the authority aforesaid,* That all the Monies arising from the Sales of the Lands and Tenements of such Proprietors, shall be paid by the said Justices into the Public Treasury of this Island, within *Ten Days* after they shall have received the same, and be afterwards applied towards making and repairing the High-Roads and Bridges within this Island.

Application of Money arising from the Sale of Lands, &c.

VIII. *Provided,* That Nothing herein contained shall have any Force or Effect, until his Majesty's Pleasure shall be known.

Suspending Clause.

⚡ This Act received His Majesty's Allowance, July 31, 1792.

C A P. VIII.

AN ACT for taking *Special Bail* in the Country, upon Actions depending in his Majesty's Supreme Court of this Province.

FOR the greater ease and Benefit of all Persons whatsoever, in making Oaths to their Debts, and in taking the Recognizances of Special Bails, upon all Actions and Suits depending, or to be depending, in his Majesty's Supreme Court of Judicature in this Province,

Preamble.

I. *Be it enacted by his Excellency the Lieutenant Governor, Council and Assembly,* That the Chief Justice of his Majesty's said Supreme Court of Judicature for the Time being, shall or may, by one or more Commission or Commissions, under the Seal of the said Court, from Time to Time, as need shall require, empower such and so many Persons, other than common Attornies and Solicitors, as he shall think fit and necessary, in each of the Counties within this Province, to administer an Oath, in Writing, to any Person, where it shall or may be necessary to hold any Defendant to Bail upon any Writ or Process issuing out of the said Court, and to mark such Writ for Bail accordingly; and also to take and receive all and every such Recognizance or Recognizances of Bail or Bails, as any Person or Persons shall be willing or desirous to acknowledge or make before any of the Persons, so empowered, in any Action or Suit depending, or hereafter to be depending in the said Court, in such Manner and Form, and by such Recognizance or Bail Piece, as the said Justices have heretofore used to take the same. Which said Oath, in Writing, and the said Recognizance or Recognizances of Bail or Bail Piece, so taken as aforesaid, shall be transmitted to the Chief Justice; who, upon Affidavit made of the due taking of the Recognizance of such Bail or Bail Piece, by some credible Person present at the taking thereof, shall receive the same upon Payment of a Fee of *Two Shillings*, and no more. Which said Oath and Recognizance of Bail, or Bail Piece, so taken and transmitted, shall be of the like Effect, as if the same were taken *de bene esse* before any of the Justices of the said Court: And for the administering of every such Oath, and marking such Writ as aforesaid, the said Commissioners shall receive the sum of *Two Shillings*, and no more: And for the taking every such Recognizance or Recognizances of Bail, or Bail Piece, the said Commissioners shall receive only the Sum or Fee of *Three Shillings*, and no more.

Chief Justice of Supreme Court empowered to appoint Commissioners to take Bail in the Country.

And also to receive the Bail Piece, &c. upon Affidavit made of due Execution.

His Fee.

Bail below to have the same Effect, as if taken *de bene esse*.

II. *And be it further enacted,* That the Chief Justice shall make such Rules and Orders for the justifying of such Bails, and making of the same absolute, as to him shall seem meet, so as the Cognizor or Cognizors of such Bail or Bails be not compelled to appear in Person in the said Court, to

Also empowered to make Rules for the justifying of Bail.

justify

justify himself or themselves; but the same may be, and is or are hereby directed to be determined by Affidavit or Affidavits duly taken before the said Commissioners, who are hereby impowered and required to take the same, and also to examine the Sureties, upon Oath, touching the Value of their respective Estates, unless the Cognizor or Cognizors of such Bail do live within the Town of *Charlotte-Town*, or within fifteen Miles thereof.

Felony to personate
Bail.

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

C A P. IX.

AN ACT to prevent the malicious Killing, Wounding, or Maiming of Cattle.

All Persons maliciously, &c. killing, any Horses, &c. shall forfeit to the Party injured treble Damages, &c.

BE it enacted by the Lieutenant Governor, Council and Assembly, That if any Person or Persons shall maliciously, unlawfully, and willingly kill, maim, wound, or otherwise hurt any Horses, Neat Cattle, Swine, Sheep, or other Cattle; every such Offender shall, on being duly convicted thereof in the Supreme Court of Judicature of this Island, be sentenced to forfeit and pay unto the Party injured, treble the Damage which he, she, or they shall sustain, and shall, besides, be sentenced to suffer *Ten Days* Imprisonment without Bail or Mainprise, and be confined from one to two o'clock in the Afternoon in the Stocks, each Day, (Sundays only excepted.)

C A P. X.

AN ACT to prevent unnecessary Expence and Delays in certain Actions wherein Judgments have passed by Default.

The Court impowered to assess Damages on Judgments by Default in all Actions wherein they were heretofore assessed at the Sheriff's Inquest.

BE it enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, in all Actions wherein Judgment shall have passed by Default, and wherein the Damages were heretofore required by Law to be assessed at the Sheriff's Inquest, it shall be lawful for the Court in which such Judgments shall have been given, to assess the Damages in all such Actions, without the Aid or Assistance of a Jury; and which Assessment of Damages shall be, and the same is hereby declared to be, as good and effectual in the Law, as if the same had been taken at the Sheriff's Inquest.

Proviso.

II. *Provided nevertheless, and it is hereby further enacted by the authority aforesaid*, That this Act, nor any Thing therein contained, shall not extend, or be construed to extend, to deprive the Parties against whom such Judgment shall have been given, of his, or her Right of having such Damages assessed at the Sheriff's Inquest, if the said Right shall have been duly claimed by such Party, on Motion to the Court, at any Time during the Term in which such Default shall have been made.

Anno

Anno Tricesimo Primo Regis GEORGI III.

1790.

At the GENERAL ASSEMBLY of His Majesty's Island of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the Twenty-second Day of March, ANNO DOMINI, One thousand, Seven hundred and Ninety, and in Thirtieth Year of the Reign of our Sovereign Lord GEORGE the THIRD, of Great Britain, France, and Ireland, KING, Defender of the Faith, &c. and thence continued by Prorogation unto the Tenth Day of November, One thousand Seven hundred and Ninety, and in the Thirty-first Year of His said Majesty's Reign ; being the second Session of the Sixth General Assembly, convened in the said Island.

EDMUND FANNING,
Lieutenant Governor.

PETER STEWART,
President of Council.

JOSEPH ROBINSON,
Speaker.

C A P. I.

AN ACT for admitting Persons to swear to their own Accounts in certain Cases, and for amending certain practical Parts of the Law, in order to the more easy and speedy Attainment of Public Justice, in this Island.

WHEREAS there is no Law in this Island, permitting Persons to swear to their own Accounts ; by Means whereof it frequently happens, that People are defeated in the Recovery of what is justly due and owing them, for want of Proofs, other than their own Oaths, to support the various Articles of their respective Accounts. For Remedy whereof in future,

Preamble.

I. Be it enacted by the Lieutenant Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, That from and after the Publication hereof, all Persons who shall or may commence Actions in the Supreme Court of Judicature of this Island, on Book Accounts, or who shall duly file their Accounts against those of the Plaintiff, with the Clerk of the said Court, pursuant to an Act of the General Assembly of the said Island, made and passed in the twenty-sixth Year of his present Majesty's Reign, intituled "An Act to prevent the Multiplicity of Law Suits," shall be admitted by the said Court to swear to the Truth of their said Accounts respectively ; and the same (being certified by the Clerk, in open Court, on the Trial, to have been regularly sworn) may thereupon be delivered to the Jury when they retire to consider of their Verdict.

Persons commencing Actions on Book Accounts, and filing them pursuant to 26 of Geo. 3d, may be admitted to swear to them ; and the same being certified by the Clerk in open Court, on the Trial, may be delivered to the Jury when they retire to consider of their Verdict.

II. Provided nevertheless, and be it further enacted by the authority aforesaid, That the Oath of the Parties so as aforesaid filing their respective

Proviso.

Kk

Accounts

Such Oath to extend only to the Delivery of the Articles charged in the Plaintiff's Account; but not to establish the prices carried out against such Articles, nor to any Contract relative thereto.

Oath to be subscribed by the Party.

Form of Oath.

Proviso.

The Year, and the Day of the Year, wherein such Articles may be delivered, to be expressed in the Account.

The Party not admitted to swear, if more than two Years have elapsed from the Time of the charge, to the issuing of Process:

Nor if it be proved by Affidavit of the adverse Party, that the Party filing the Account, had, at the time of the Articles charged therein, a Clerk actually retained in his Service. Nor unless the Party charged with a Balance, shall have been, ten Days before issuing of Process, served with a Copy of such Account.

Party served with unbailable Process, to file common Bail on or before the Return Day:

On Failure, the Plaintiff, on Affidavit of Service of such Process may file it for him, at any time after the Return Day thereof.

Which being perfected, the Plaintiff may file his Declaration, and give a two Day Rule for the Defendant to plead in.

Proviso.

If Defendant suggest to the Court by Motion duly entered, a

Accounts, shall extend only to the Delivery of the several Articles therein contained; but shall not extend, nor be construed to extend, to the establishing or fixing the Prices charged or carried out against such Articles, nor to any Contract or Agreement between the Parties relative thereto; and which Oath, so as aforesaid to be certified by the said Clerk, being subscribed by the Party, shall be in the Words, or to the Effect following, that is to say,

"I *A—B—*, do make Oath and say, that the several Articles in the above Account charged, were really and truly delivered unto the said *C—D—*, at the Times therein mentioned, or unto some Person or Persons, being authorised to receive and take delivery of the same. "So help me God."

III. *And Provided also*, That no Person or Persons whatsoever filing his, her, or their Account as aforesaid, shall be admitted to depose to the Truth of the Articles therein charged, unless the Year of our Lord, and the Day of the Month of that Year, wherein or whereon the same Articles shall or may have been delivered, shall be expressed or set down, in such Account: Nor shall he, she, or they be admitted to swear or depose as aforesaid, to any Article or Articles charged in such Account, if more than two whole Years shall have elapsed from the Time of such Charge, to the Day when Process at Law shall have issued or been sued out for the Recovery of such Article or Articles: Nor shall any Person or Persons whatsoever be admitted to swear or depose as aforesaid, if it shall be proved by the Affidavit of the adverse Party, that he, she, or they, so filing their Accounts, at the Time such article shall appear to have been charged, had a Clerk retained in his, her, or their Service professedly for the purpose of keeping his, her, or their Accounts: Nor unless the Party charged with a Balance in such Account, shall have been, ten Days at least before the issuing of such Writ or Process, served with a true Copy of such Account.

IV. *And be it further enacted by the authority aforesaid*, That in all Cases where any Defendaht or Defendants shall have been duly served with a Copy of any unbailable Writ or Process, he, she, or they shall file common Bail in such Suit, on or before the Return Day thereof; and in Failure of his, her, or their filing such common Bail, it shall and may be lawful to and for the said Plaintiff or Plaintiffs in such Suit, upon Affidavit being duly made and filed in the said Supreme Court, of the personal Service of such Writ or Process, to file common Bail for such Defendant or Defendants therein, at any Time from and after the said Return Day of such Writ or Process. And thereupon the Plaintiff or Plaintiffs in such Suit may file his, her, or their Declaration with the Clerk of the Court wherein such Writ or Process shall or may be returnable, and give a Rule for such Defendant or Defendants to plead thereto, within two Days from the Day of filing such Declaration.

V. *Provided nevertheless, and it is hereby enacted by the authority aforesaid*, That if the Defendant or Defendants in such Suit shall, in Term Time, suggest to the Court by Motion to be duly entered with the Clerk, that it is necessary to the Defence of him, her, or them in such Action

to

to her of a certain House, &c. (as the Case may be) with the Appurtenances, situate in &c. in the possession of the said A. B. and which was in the Seizin and Possession of her said Husband, and whereof he was seized in his Demesne as of Fee. during the Coverture, and whereof she hath Nothing (as she saith) and the said C. D. complains that the said A. B. hath deforced her thereof. And unless the said A. B. shall so do, then summon the said A. B. that be before the Justices of our Supreme Court of Judicature, to be holden at Charlotte-Town, upon the Tuesday in then and there to shew Cause, why to the said C. D. her reasonable Dower as aforesaid, doth not render. And have you then there this Writ. Witness, &c. at our Supreme Court of Judicature, the Day of in the Year of our Reign, Annoque Domini L. M. Clerk.

II. And be it further enacted by the Authority aforesaid, That if the Defendant does not appear on the Return Day of said Writ, it shall and may be lawful for the Plaintiff in the Action (the said Sheriff having duly returned the said Writ with his doings thereon) thereafter to enter common Appearance for the said Defendant, and to proceed thereon as if the said Defendant had actually entered his or her Appearance; any Law or Usage to the contrary, notwithstanding. And common Bail being duly filed and entered, either by the Plaintiff or Defendant in the said Suit, (as the Case may be) the Plaintiff therein may thereupon file his Declaration in the Clerk's Office of the said Supreme Court of Judicature, as in other Cases.

III. And be it further enacted by the authority aforesaid, That in Case the Defendant in such Suit do plead to the Declaration therein, and Judgment be thereupon rendered for the Plaintiff to recover her Dower in such Houses, Lands, Tenements, or Hereditaments (whereof her Husband had been seized during the Coverture;) in that Case, as also in the Case where Judgment shall have been signed for Want of a Plea, reasonable Damages shall be assigned to her from the Time of her Demand of Dower shall be proved to have been made of the Person or Persons, so having the Freehold of such dowable Estate. And thereupon it shall and may be lawful to and for the Plaintiff in such Suit, to sue out his Majesty's Writ of Seizin, directed to the Sheriff of the said Island, in Manner following, that is to say,

“George the Third, by the Grace of God, of Great-Britain, France, and Ireland, King, Defender of the Faith, &c.

“To the Sheriff, (or Provost Marshal, as the Case may be) of our Island of Saint John, greeting.

“WHEREAS C. D. Widow, who was the Wife of E. F. late of in the Island of Saint John, deceased, before our Justices of our Supreme Court of Judicature, holden at Charlotte-Town, on the day of now last past, did recover her Seizin against A. B. of &c. of one third part of &c. with the Appurtenances, situate, &c. in the Possession of the said A. B. as of her Dower of the Endowment of the said E. F. her Husband, by our Writ of Dower, whereof she hath Nothing. Therefore we command you, that to the said C. D. full Seizin of one third Part of the aforesaid, &c. with the Appurtenances, you cause to be had without delay

If the Defendant does not appear on the return Day of the Writ the Plaintiff may file common Bail for him;

which being perfected he may file his Declaration, as in other Cases.

If Plaintiff obtains Judgment, either on the point tried, or by Default, to recover her Dower, reasonable Damages shall be assigned her from the time of its being demanded.

And she may have her Writ of Seizin for the same.

Form of the Writ.

“Delay. We command you also, that of the Goods and Chattels of the said
 “A. B. within your Precinct, you cause to be paid and satisfied unto the
 “said C. D. at the Value thereof in Money, the Sum of &c. for Damages
 “awarded her by our said Court for her being held and kept out of her
 “Dower aforesaid, and Costs expended on the Suit, with more for this
 “Writ; and thereof also to satisfy yourself your own Fees. And for want
 “of Goods and Chattels of the said A. B. to be by him shewn unto you
 “or found within your Precinct, to satisfy the same, we command you to
 “take his Body, and commit him to the Keeper of our Gaol in in our
 “County aforesaid, within the said Prison; whom we likewise command
 “to receive the said A. B. and him safely keep, until he pay unto the said
 “C. D. the full Sum abovementioned, and also satisfy your Fees. Here-
 “of fail not and make return of this Writ, and how you have execu-
 “ted the same, to our said Supreme Court of Judicature, next to be hol-
 “den at on the day of next. Witness Esquire,
 “at our said Court, the day of in the Year of our Reign,
 “Annoque Domini, 17
 A. D. Clerk.”

IV. *Provided nevertheless, and it is hereby further enacted by the authority
 aforesaid,* That in all Cases where no Damages shall be awarded to the
 Plaintiff in such Suit, for or by reason of her being held or kept out of her
 said Dower, the said Writ of Seizin shall run only for the Recovery of the
 Seizin and Possession of the third Part of the said dowable Estate, and
 Costs of Suit.

V. *And be it further enacted by the authority aforesaid,* That the Sheriff
 to whom such Writ of Seizin shall or may be directed, is hereby authorised
 and required, on Receipt thereof, to nominate and appoint five discreet
 Persons (being Freeholders living or inhabiting near unto the Place where
 such Houses, Lands, Tenements, and Hereditaments shall be) who shall
 thereupon repair to the said Premises to set off unto the Plaintiff in such
 Suit by Metes and Bounds (being previously sworn before a Justice of the
 Peace faithfully and impartially to do the same, and which Oath the said
 Justice is hereby authorised and required to administer) one third Part of
 all such Dowable Estate; and the same being duly returned by the Sheriff,
 the Court wherein the said Judgment shall have been given, shall there-
 upon give final Judgment for such Plaintiff to hold unto her the said third
 Part of the said allotted Premises, in Severalty.

VI. *And be it further enacted by the authority aforesaid,* That of Inheri-
 tances which shall or may appear to be entire, and whereof no Division
 can by Law be made, in such Manner as to enable Women to be endowed
 of their due Proportion of the Thing itself, whereof Dower may be deman-
 ded; such Women may, in Lieu of one third Part of such dowable In-
 heritance, by Metes and Bounds, be endowed of one third Part of the
 Rents, Issues, or Profits thereof, the same to be computed and ascertained
 by the said five Persons herein before directed to be nominated and appoint-
 ed by the Sheriff, for the Purpose aforesaid. And all Persons endowed as
 aforesaid of any such Houses, Lands, Tenements, and Hereditaments, in
 this Island, and who shall commit or suffer any Strip or Waste thereupon,
 are hereby made liable to such Action or Actions therefor, as Tenants in
 Dower are by Law liable to in that Part of Great Britain called England.

Proviso.

Where no Damages shall be assessed, the Writ to run only for Seizin, &c. with Costs.

Sheriff, on receipt of Writ of Seizin, to appoint five Persons; who are to repair to the Premises and (being previously sworn) to set of to the Plaintiff, by Metes and Bounds,

one third Part of such Dowable Estate; And the same being duly returned by the Sheriff, the Court may give final Judgment.

Of Inheritances not entire, Plaintiff may be endowed of one third part of the Rents, &c.

by the beforementio- ed five Persons.

Endowed Persons made liable to such Remedy for Waste, as may be had for the same in that part of Great-Britain, called England.

C A P. III.

AN ACT for providing Pounds in the several Royalties in this Province.

Preamble.

WHEREAS there never have been any common Pounds erected in this Government, whereby the Sheriffs and other Officers employed in distraining Goods and Chattels, as well as the Parties from whom and for whose Behoof Goods have been distrained, as also Persons who have taken up trespassing Cattle, have been subjected to Losses and Inconveniences: To remedy which in Time coming,

Governor empowered by advice of Council, to erect common Pounds in the respective Royalties of Charlotte-Town, Prince-Town, and George-Town.

I. *Be it enacted by his Excellency the Lieutenant Governor, Council and Assembly,* That his Excellency the Lieutenant Governor may, and he is hereby empowered, by and with the Advice of his Majesty's Council, to erect a common Pound, within each of the Royalties of Charlotte-Town, Prince-Town, and George-Town, in such Place or Part thereof, and of such Extent and Dimensions, as he shall judge necessary.

Justices at their general or special Sessions empowered to appoint Pound-keepers, and to make Rules for the Management of such Pounds;

II. *And be it further enacted,* That the Justices of the Peace may, and they are hereby empowered in their General Sessions of the Peace, or at a special Sessions, to be called by the direction of the Lieutenant Governor for that Purpose, to nominate and appoint a Pound-Keeper for each of the said Towns, and to make such Rules and Regulations for the better Ordering and Management of the said Pounds, as they shall judge proper, not being repugnant to the Laws of Great Britain or of this Province, and to set and impose a Fine, not exceeding the sum of Forty Shillings for each and every Offence against the said Rules and Regulations, or any of them; and upon due Conviction of any Offender, to levy the Fine by Warrant of Distress and Sale of the Offender's Goods; and for Want of Goods and Chattels, such Offender or Offenders shall be committed, and the said Justices are hereby empowered to commit him, her, or them to Gaol for a space of Time not exceeding ten Days.

also to set a Fine, not exceeding 40s. for Violation of their Rules; the same to be levied by Distress and Sale of the Offender's Goods and Chattels. And for want thereof, he shall be committed for the space of ten days.

III. *And be it further enacted by the authority aforesaid,* That all Fines and Forfeitures to be recovered in pursuance of this Act, shall, at the Sight of the said Justices, be applied to keeping the said Pound in Repair; and if there shall be any Overplus, the same shall be applied for the Use of the Poor of the said Towns wherein such Pounds may be erected.

Application of Fines and Forfeitures.

C A P. IV.

AN ACT to prevent the unnecessary Firing off Guns, and other Fire-Arms, in the Town and Suburbs of Charlotte-Town.

BE it enacted by the Lieutenant Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, That if any Person or Persons, of what Age or Degree soever, from and after the present Sessions of the General Assembly, shall unnecessarily fire off any Gun, Fusee, Musket, Pistol, or other Fire-Arms, in any of the Houses, Streets, Lanes, Wharves, Yards, or Gardens, in the Town or Suburbs of Charlotte-Town; every Person, so offending, upon Conviction thereof upon the Oath of one or more credible Witness or Witnesses, before any one of his Majesty's Justices of the Peace, shall forfeit the Sum of Ten Shillings, to be levied by Warrant of Distress, under the Hand and Seal of such Justice, on the Offenders

Persons convicted of firing Guns, &c.

before one Justice of the Peace, shall forfeit 10s. to be levied on the Offenders

Offender's Goods and Chattels : and for want of Goods and Chattels, such Offender shall be, and the said Justice of the Peace before whom he may be convicted, is hereby impowered and required to commit him to Gaol for the Space of Forty-eight Hours.

Goods ; and for Want thereof, to be imprisoned Forty eight Hours.

II. *And it is hereby enacted by the authority aforesaid,* That no Prosecution shall be admitted for any Offence against this Act, unless Complaint be made thereof within Twenty-four Hours after the Offence is committed. And that all Forfeitures arising by Virtue of this Act, shall be one-half to the Person who shall prosecute for the same, and the other Half to the Use of his Majesty's Government.

Complaint to be made within twenty-four Hours after Offence committed.

Application of Forfeitures.

C A P. V.

AN ACT for regulating the Fees of Magistrates and Constables in certain Cases, and for amending an Act made and passed in the sixteenth Year of his Majesty's Reign, intituled " An Act in Addition to and Amendment of, an Act made and passed in the thirteenth Year of his present Majesty's Reign, intituled " An Act for the more easy and speedy Recovery of small Debts."

See 16th Geo. 3, C. 2.

WHEREAS there is no Law for regulating the Fees of Magistrates and Constables, for issuing and serving criminal Process,

Preamble.

I. *Be it enacted, by the Lieutenant Governor, Council, and Assembly,* That from and after the Present Session of the General Assembly, it shall and may be lawful for any of his Majesty's Justices of the Peace who shall or may grant any Warrant, for the apprehending any Person or Persons against whom Complaint shall or may be made, of any Offence (except Capital Offences) for which a Warrant shall be necessary to be granted, shall take and receive the Sum of one Shilling and Sixpence, to be paid by the Persons complaining. And the said Constable shall take, for executing every such Warrant, the Sum of One Shilling, together with travelling Charges, the same as is allowed for the Service of Executions.

Justices of the Peace granting Warrants for the Apprehension of Offenders,

entitled to receive 1s. 6d. of the Complainant. The Constable to be allowed 1s. and travelling Fees.

Preamble.

And whereas in and by the above recited Act, the Justices of the Peace are required to deliver the Summonses issued by them, to be served by the complaining Party, or Creditor, upon the Debtor or Debtors. And whereas the said Practice has been found very inconvenient: To remedy which in Time coming,

Summonses to be served by Constable, who is entitled to receive 1s. for each Service, and the same travelling Charges as are by Law allowed on the Service of Executions.

II. *Be it enacted by the authority aforesaid,* That upon the issuing of any Summons by any Justice of the Peace, the same shall be delivered to, and served by, any of the Constables, who shall take and receive therefor the Sum of One Shilling, and the same travelling Charges as are allowed by the said Act, on the serving of Executions.

C A P. VI.

AN ACT to prevent the running at large of RAMS at improper Seasons.

Amended by Act of the 49d year of his present Majesty, C. 5.

WHEREAS the Custom which has hitherto prevailed in this Island, of permitting Rams to go at large at all Seasons of the Year, has been

Preamble.

been extremely prejudicial to the Breeding and Raising of Sheep (for which the Climate and Soil of this Island is particularly favourable :)

Persons permitted to take up Rams found at large, between 15th July and 20th Day of November, in each Year, and, on giving Notice to Owner, may receive 5s. for every Ram so taken up. The same to be recovered by Complaint made to one Justice of the Peace.

If Owner is unknown, such Ram to be described by Advertisements posted up in certain Places.

If not claimed in due Time,

to be sold under the Authority of a Justice of Peace.

Application of the produce of Sale.

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly,* That from and after the Publication hereof, it shall and may be lawful for any Person or Persons whatsoever, to take up any Ram or Rams which may be found running at large, between the fifteenth day of July, and the Twentieth day of November, in every Year : And the Person or Persons who shall or may take up such Ram or Rams, shall, on giving Notice thereof to the Owner or Owners, be entitled to the Sum of Five Shillings for every Ram, so taken up ; the same to be recovered of such Owner or Owners, by Complaint duly entered and made before any one of his Majesty's Justices of the Peace.

II. *And be it further enacted by the authority aforesaid,* That if the Person or Persons, so taking up said Rams, shall happen not to know who the Owner or Owners thereof is or are, in Order to give him, her, or them, the aforesaid Notice ; then it shall and may be lawful to and for such Person or Persons (who is or are hereby required so to do) immediately to describe such Ram or Rams, by an Advertisement, to be posted up at one or more of the most public Places in the Neighbourhood where the same shall have been so taken up. And if the said Ram or Rams shall not have been claimed by the Owner or Owners thereof, within four Days from the Date of such Advertisement, the same may be publicly sold in Virtue of an Order first had and obtained of the said Justice for that Purpose ; and which said Justice is hereby authorised and required, on Application to him made by the Person or Persons, so taking up such Ram or Rams, to grant and make such Order accordingly. And one Moiety of the Produce of the Sale of such Ram or Rams, shall thereupon be paid by such Justice unto the Person or Persons who shall have taken up the same ; and he shall cause the other Moiety thereof, to be paid into the Public Treasury of the Island, to and for the Benefit of the Poor.

C A P. VII.

AN ACT for compelling Persons owning Lands adjoining to each other, to make their respective Parts or Proportions of the Fence between them, and for empowering the Grand Jury to nominate Fence Viewers.

Owners of Land adjoining to each other obliged to make and maintain their respective Proportions of Fencing.

Duty and Power of Fence Viewers.

BE it enacted by the Lieutenant Governor, Council and Assembly, That the Proprietor of any Field or Lands, adjoining to the Fields or Lands of others, inclosed or improved, in this Island, shall be obliged to erect and make his or her Part or Proportion of Fencing, and to maintain the same, when so erected or made, with a good and sufficient Fence of four Feet and a Half high, on that Part of such Land as is adjoining to his or her own ; and in Case the delinquent Party shall neglect so to do within one Month after Notice shall have been given him, her, or them, of such Neglect, it shall and may be lawful to and for any one of the Fence Viewers, to be appointed as herein after is directed, and the said Fence Viewer next or near unto the said improved Fields or Lands, is hereby required to view the

the Ground so proposed to be Fenced, or the said Fence wanting repair, and grant a Certificate of the same to the complaining Party, who is hereby empowered forthwith to cause such deficient Fence to be erected or made, or otherwise to repair any Fence already made, if the same shall appear by such Certificate to be insufficient; and the Person or Persons, who of Right ought to erect and maintain such Fence, shall be held to pay double the Expences, Costs, and Charges, expended for the doing thereof; to be ascertained by the said Fence Viewers.

Delinquent Party to pay double Expences, &c.

II. *Provided nevertheless, and it is hereby further enacted,* That no Fence Viewer shall be allowed more than Three Shillings for each Day in which he shall have been employed, for his own Trouble and Time expended therein: And if any Fence Viewer shall neglect his Duty herein, when duly notified, he shall forfeit Twenty Shillings for each and every such Offence.

Proviso.

III. *And be it further enacted by the authority aforesaid,* That the Penalty inflicted by this Act, in Favour of the complaining Party, shall and may be recovered by Complaint made by him, her, or them, to any Justice of the Peace, in the ordinary Course of Law. And as to the Penalty hereby inflicted on the delinquent Fence Viewer, the same shall and may, in the same ordinary Course of Law, before some Justice, be recovered and applied to and for the Support and Maintenance of the Poor in this Island.

Penalties, how to be recovered and applied.

IV. *Provided always,* That when it shall happen that the Land shall be wood or burnt Land, and not under any Improvement, no Proprietor shall be obliged to make any Part of the Fence to the said wood or burnt Land; any Thing herein contained to the contrary, notwithstanding.

Proviso.

V. *And be it further enacted,* That the Grand Jury, at the Supreme Court of Judicature, at the Hilary Term thereof in every Year, shall nominate double the Number of Fence Viewers which they shall think necessary to be appointed in the several Towns and Settlements in this Island; out of which the said Court shall strike out one Half; and the remaining Number shall be Fence Viewers in the several Settlements in this Island.

Fence Viewers, how to be appointed.

C A P. VIII.

AN ACT for emitting certain Bills or Debentures of Public Credit, within this Island.

This Act has been executed.

1792.

Anno Triceffimo Tertio Regis. GEORGI III.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of St. JOHN, begun and holden at CHARLOTTE-TOWN, on the twenty-second Day of March, ANNO DOMINI, One thousand Seven hundred and Ninety, and in the Thirtieth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and thence continued by several Prorogations unto the Sixth day of November 1792, and in the thirty-third Year of his said Majesty's Reign, being the third Session of the Sixth General Assembly, convened in the said Island.

EDMUND FANNING,
Lieutenant Governor.

PETER STEWART,
President of Council.

JOSEPH ROBINSON,
Speaker.

C A P. I.

AN ACT relating to TREASONS and FELONIES.

BE it enacted by his Excellency the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted, That if any Person or Persons shall compass or imagine the Death of the King, or shall levy War against him, or adhere to his Enemies, or shall give them Aid or Comfort, or shall forge or counterfeit the King's Money, being Gold or Silver Coin of England, or of Great Britain, or shall counterfeit the King's Great Seal or Privy Seal, or the Seal of this Island, and shall thereof be duly convicted, the Person or Persons so offending, are hereby declared, and shall be adjudged to be Traitors, and shall suffer as in Cases of High Treason; and that all Treasons declared by the Acts of Parliament of England, or of Great Britain, shall be deemed and adjudged to be Treasons within his Majesty's Island, and none other; and that such Acts of Parliament as directed the Proceedings and Evidence against, and Trials of, such Traitors, shall have their full Force and Effect, and be observed as the Rule in all Trials for Treason in this Province.

Compassing or imagining the King's Death, levying War against him, &c. declared High Treason.

All Treasons declared by Acts of the British Parliament, to be adjudged Treasons within this Island.

II. And be it further enacted, That if any Person, with Malice Prepense, shall kill, or procure any other Persons to kill, or shall on purpose and of Malice forethought, and by lying in wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose or Lip, or cut off or disable any Limb or Member of any Person, with intention to kill, or to maim or disfigure any such Person, the Person so offending, their Counsellors, Aiders, and Abettors, privy to the Offence, shall be Felons without Benefit of Clergy. Provided that no Attainder of such Felony shall work Corruption of Blood or Forfeiture of Dower, Land or Goods of the Offender.

Murder and Maiming, Felony without benefit of Clergy.

Proviso.

III. And be it further enacted, That every Person who shall stab or thrust any Person that hath not then any Weapon drawn, or that hath not then first

Stabbing or thrusting at a Person, not

first stricken the Party who shall so stab or thrust, so as the Persons so stabbed or thrust, shall thereof die within the Space of Six Months, although it cannot be proved that the same was done of Malice forethought, yet the Party so offending, and being thereof convicted, shall be excluded from the Benefit of Clergy.

having a Weapon drawn, Felony without benefit of Clergy.

IV. *Provided*, That this Act shall not extend to any Person who shall kill any Person in his own Defence, or by Misfortune, or in any other Manner than as aforesaid, nor shall extend to any Person who in keeping the Peace shall chance to commit Manslaughter, so as the said Manslaughter be not committed wittingly and of Purpose, under Pretext and Colour of keeping the Peace; nor shall extend to any Person who in chastising or correcting his Child or Servant, shall besides his Purpose commit Manslaughter.

Proviso.

V. *And be it further enacted*, That if any Woman be delivered of any Issue of her Body, Male or Female, which being born alive, should by the Laws of the Realm of England be a Bastard, and she endeavour privately, either by drowning or secretly burying thereof, or any other Way, either by herself, or the procuring of others, so to conceal the Death thereof, as that it may not come to light whether it was born alive or not, but be concealed, the Mother so offending, shall suffer Death, as in the Case of Murder, except such Mother can make Proof by one Witness, that the Child whose Death was by her so intended to be concealed, was born dead.

Murder of Bastard Children, Felony without Clergy.

VI. *And be it further enacted*, That the detestable Sin of Buggery, committed with Mankind or Beast, shall be adjudged Felony, and such Process therein be used as in Cases of Felony at Common Law, and the Offender or Offenders being convicted by Verdict, Confession, or Outlawry, shall suffer the Pains of Death, and loss of their Goods, Lands and Tenements, as Felons, and no Person guilty of such Offence, shall be admitted to his Clergy: And Justices of the Peace shall have Power to enquire of the said Offence as in other Felonies. And if any Person or Persons shall make an Assault with an Intent to commit the Sin of Buggery, such Offender or Offenders shall, on due conviction thereof, be adjudged to stand in the Pillory, and may, for further Punishment, be fined, imprisoned, or be bound in Sureties for his or their good Behaviour, at the Discretion of the Court.

Buggery made Felony without Clergy.

VII. *And be it further enacted*, That if any Person or Persons shall, by Force, and against the consent of any Woman, or Infant above the Age of Ten Years, have carnal Knowledge of her Body, every such Offender, or Offenders, shall, on due Conviction of such Ravishment, suffer as Felons, without benefit of Clergy. *Provided always*, that if Complaint shall not be made of a Ravishment within Ten Days afterwards, before One of his Majesty's Justices of the Peace, or other Magistrate, that then such Fact shall be adjudged to have been committed by and with the Consent of such Woman, or Infant.

Assault, with intent to commit Buggery, Pillory, &c.

Rape. Felony without Clergy. Complaint to be made in 10 days.

VIII. *And be it further enacted*, That if any Person shall unlawfully have carnal Knowledge of any Female Child under the Age of Ten Years, though with her Consent, every such unlawful and carnal Knowledge shall be Felony, and the Offender being thereof duly convicted, shall suffer as a Felon, without benefit of Clergy. And every violent Assault and Battery committed on the Body of such Woman or Infant, with Intent to ravish, shall be punished by adjudging the Offender or Offenders, upon due conviction

Rape on Infants, Felony without Clergy.

Assault, with intent to Ravish, Pillory, &c.

conviction thereof, to stand in the Pillory, and the Judge or Judges of the Court, wherein he shall be so convicted, may, for further Punishment, fine and imprison and require Sureties for the good Behaviour, at his or their discretion.

What shall be deemed Burglary.

IX. *And be it further enacted*, That if any Person or Persons shall, by Night, break open, and enter any Dwelling-House, Shop, or Warehouse, or any Vessel lying so near the Land that it be adjudged within the County, with an Intent to commit any Felony, whether such Felonious intent be executed or not;

Robbery by Day:
Or

X. Or shall rob any Dwelling-House in the Day-Time, any Person being therein, or break any Dwelling-House, Shop, or Warehouse thereunto belonging, or therewith used in the Day-Time, and feloniously take away any Money or Goods of the Value of Five Shillings therein being, although no Person shall be within such Dwelling House, Shop, or Warehouse; or shall rob any other, or feloniously take away any Goods in any Dwelling-House, the Owner or any other Person being therein and put in fear;

Robbery from the Person, in the Highways, &c. by Night or by Day, or

XI. Or if any Person or Persons shall by Night or by Day, rob, or by Violence take Money, or Goods, from any Person, putting him in fear, in any Highways, or in any Streets or Lanes of a Town;

Stealing privily;

XII. Or shall feloniously take Money or Goods from the Person of any other, privily, without his Knowledge;

Such Offenders, &c. declared Felons.

XIII. Each and every of the Offenders aforesaid, their Aiders, and Abettors, shall, upon due Conviction, suffer as Felons, without benefit of Clergy.

Stealing Bills of Exchange, &c.

XIV. *And be it further enacted*, That if any Person or Persons shall steal, or take by Robbery, any Bills of Exchange, Bonds, Warrants, Bills, or Promissory Notes for the Payment of Money, being the Property of any other Person, notwithstanding any of the said Particulars are termed in Law *a chose in Action*, it shall be deemed Felony of the same Nature, and with or without the Benefit of Clergy, or of this Act, in the same Manner as it would have been if the Offender had stolen or taken by Robbery, any other Goods of the like Value with the Money due on such Bills of Exchange, Bonds, Warrants, Bills or Notes, or secured thereby, and remaining unsatisfied, and shall suffer such Punishment as if he, she, or they had stolen other Goods of the like Value.

Proviso.

XV. *Provided*, That no Attainder for any such Offence, so made Felony, shall work any Corruption of Blood, Loss of Dower, or Disherison of Heirs.

Receivers of stolen Goods made Accessories,

XVI. *And be it further enacted*, That if any Person or Persons shall buy or receive any Goods that shall be stolen, knowing the same to be stolen, he, she, or they, shall be deemed Accessories to the Felony after the Fact, and that it shall be lawful to prosecute and punish Persons buying or receiving stolen Goods, knowing the same to be stolen, or that shall be accessory to such Felony before or after the Fact, as for a Misdemeanor, to be punished by Fine and Imprisonment, although the principal Felon be not before convicted of the said Felony, which shall exempt the Offender from being punished as accessory, if the Principal shall after be convicted.

and punishable as for Misdemeanors, &c.

Robbing of Lodgings,

XVII. *And be it further enacted*, That if any Person or Persons shall take away with an Intent to steal, embezzle, or purloin any Goods, Chattels, or Furniture, which by Agreement they are to use, or shall be let to them to use in his, her, or their Lodging; such taking, embezzling, or purloining, shall be adjudged to be Larceny and Felony.

Felony.

Servants embezzling Masters Goods,

XVIII. *And be it further enacted*, That if any Servant or Servants shall go away with the Caskets, Jewels, Money, Goods, or Chattels, delivered

to his, her, or their keeping, by his his, her, or their Master or Mistress, with intent to steal the same, and defraud his, her, or their Master or Mistress thereof, contrary to the Trust and Confidence in them reposed, or being in service, without Assent or Commandment of his, or their Master or Mistress, shall embezzle or convert the same to his or her Use, with Purpose to steal the same, being of the Value of Forty Shillings or above, every such Offender or Offenders shall, upon due Conviction, suffer Death as in Cases of Felony, without Benefit of Clergy.

to suffer Death.

XIX. *Provided*, That any Apprentice or Apprentices, within the Age of Fifteen Years, shall be entitled to the Benefit of Clergy, for the first Offence only.

Proviso.

XX. *And be it further enacted*, That if any Person or Persons shall wilfully and maliciously burn, or cause to be burned, any Dwelling-House, Barn, Out-House, or Warehouse of another, or any Public Building, or any Hovel, Cock, Mow, Rick, or Stack of Corn, Straw, Hay, or Wood, of another; all and every such Person or Persons so offending, and their Aiders, Abettors, and Counsellors, shall, upon due Conviction, suffer as Felons, and be excluded from the Benefit of Clergy.

House-burning, &c.
Felony without Clergy.

XXI. *And be it further enacted*, That whosoever shall maliciously shoot at any Person or Persons in any Dwelling-House, or other Place, or shall knowingly send a Letter without any Name, or signed with a fictitious Name, demanding from any Person or Persons Money or other valuable Thing, such Offender or Offenders, being duly convicted thereof, shall suffer as Felons, without Benefit of Clergy.

Maliciously shooting at Persons, or sending anonymous Letters, punishable as Felony.

XXII. *And be it further enacted*, That whosoever shall feloniously take and carry away any Money, or Goods, in any other Manner than is hereby before declared and provided for, or shall embezzle any of his Majesty's Stores, or the Utensils, Furniture, or Cloathing, in any Storehouse or Hospital of his Majesty, if such Offender or Offenders, shall be found guilty of such felonious taking or carrying away, of such Money or Goods, or of embezzling any of His Majesty's Stores, other Utensils, Furniture, or Clothing, in any Storehouse or Hospital of his Majesty, as aforesaid, to the Value of Twenty Shillings or more, every such Offence shall be Larceny and Felony; and if the Value shall be found by Verdict or Trial to be less than Twenty Shillings, then such Offence shall be punishable as Petit Larceny, by such public Whipping as the Court, before whom such Offender shall be convicted, shall direct; and it shall and may be lawful for such Court to order the Offenders to make full Restitution, and in Default thereof to commit such Offender to the House of Correction, there to be put to hard Labour for a Term not exceeding three Months, as the Judges in their Discretion, shall think fit.

Persons stealing in any other Manner, punishable as Felons.

XXIII. *And be it further enacted by the Lieutenant Governor, Council, and Assembly*, That it shall and may be lawful for the Court, before whom any Offender shall be so convicted as of Petit Larceny, to punish such Offender by Whipping or Imprisonment; or Commitment of such Offender to the House of Correction, there to be put to hard Labour; the said Imprisonment or Commitment to the House of Correction not to exceed three Months, and within that Space, for such Time as the Judges in their Discretion shall think fit.

Punishment of Petit Larceny.

Restitution of stolen Goods.

XXIV. *And be it further enacted,* That all Monies, Chattels, Merchandize, or Stores, found in the possession of any Burglar, Housebreaker, Robber, Thief or Purloiner, shall be delivered by the Justice of the Peace who shall take the examination of such Offender, into the Custody of the Sheriff or his Deputy, where the Offence shall be committed, who shall be answerable for the same, until the Offender shall be convicted; and the Judge or Judges of the Court, wherein such Offender shall be convicted, shall order the said Money, Goods, or Stores, to be restored to the lawful Owner or Owners thereof; and where no Owner shall appear to claim the same, they shall be adjudged to be forfeited.

Allowance of Clergy not to protect Accessories against a Trial.

XXV. *And be it further enacted,* That notwithstanding the Allowance of Clergy, and burning in the Hand, of any principal Offender, the Accessories to such Offender shall be arraigned and tried in the same Manner as if such Clergy had not been allowed.

Clergy allowed but once.

XXVI. *And be it further enacted,* That every Person which once hath been admitted to the Benefit of his Clergy, being afterwards arraigned, shall not be admitted to the Benefit of his Clergy; and that every Person convicted of Manslaughter, shall be marked with an M upon the Brawn of the left Thumb, and for any other Felony, the Person convicted shall be marked with a T in the same Place; these marks shall be made by the Gaoler in open Court. And if any Person convicted of any Felony for which he ought to have the Benefit of his Clergy, shall pray to have the Benefit of this Act, he shall not be required to read, but without any Reading shall be allowed to be, and punished as, a Clerk Convict, which shall be as effectual and as advantageous to him as if he had read as a Clerk.

Offenders to be burnt in the Hand.

Clergy prayed and allowed, without reading.

Such Offenders then to be discharged,

XXVII. *And after allowance of such Clergy, and Burning in the Hand,* such Person shall be enlarged and delivered out of Prison, by the Judge or Judges of the Court, before whom such Clergy shall be granted; saving that such Judge or Judges may, for the further Correction of such Persons to whom Clergy shall be allowed, keep them in Prison, or send them to the House of Correction, for such convenient Time, as the said Judge or Judges shall think fit, so as the same do not exceed One Year's Imprisonment, or to punish them by Public Whipping.

Saving Clause.

Women admitted to the Benefit of Clergy, and punishable as Men for clergyable Offences.

XXVIII. *And when a Man, convicted of any Felony, may demand the Benefit of his Clergy, a Woman convicted of the like Offence, upon her Prayer to have the Benefit of this Act, Judgment of Death shall not be given against her upon such Conviction, or Execution awarded by an Outlawry for such Offence, but such Woman shall suffer the same Punishment as a Man that has the Benefit of his Clergy allowed him in the like Case (that is to say) shall be burned in the Hand by the Gaoler in open Court, and may, for further Punishment, be kept in Prison, or sent to the House of Correction, for such Time as the Judges shall think fit, so as the same do not exceed One Year, or be ordered to be publicly whipped, as the Judge or Judges, before whom such Woman is convicted, shall, from the Quality of the Offence, think meet.*

Clerk to certify a transcript, &c. of Allowance of Clergy.

XXIX. *And the Clerk of the Court or Assizes where such Man or Woman shall be convicted, shall, at the request of any in his Majesty's behalf, certify a Transcript containing the Tenor of every Indictment and Conviction*

Conviction of such Man or Woman, of his having the Benefit of Clergy, or her having the Benefit of this Act, and the addition of every such Person, and the certainty of the Felony and Conviction, to the Judge or Judges of the Court or Assize where such Man or Woman shall be indicted; which Certificate being produced in Court, shall be a sufficient Proof that such Man hath before had the Benefit of his Clergy, and that such Woman hath had the benefit of this Act, in the same manner as if the Record had been produced.

XXX. And if any Person or Persons indicted of any Offence for which by Virtue of this Act they are excluded from the Benefit of Clergy, or where the Benefit of Clergy shall be allowed, shall stand mute, or will not answer directly to the Felony, Judgment shall be pronounced and Execution awarded, as if such Person or Persons had been convicted of such Offence by Verdict or Confession; and if any Prisoner indicted of said Offences shall challenge peremptorily above Twenty of the Jury, such Challenge shall be overruled, and the Jurors shall be sworn for the Trial of such Prisoner, as if no such Challenge had been peremptorily made.

Persons standing mute.

XXXI. *Provided nevertheless*, That no Man who hath had the Benefit of Clergy allowed him, nor any Woman who hath had the Benefit of this Act, shall have the Benefit of Clergy or of this Act, for any Felony committed since his or her having had the Benefit of Clergy, or of this Act, more than once, but shall, for any Felony by him or her committed after being allowed the Benefit thereof, be utterly debarred from having the Benefit of the same again.

Proviso.

XXXII. *Provided also*, That if any Man admitted to his Clergy, or any Woman admitted to the Benefit of this Act, shall, before such his or her Admission, have committed any Offence, whereupon Clergy is not allowable by this Act, and not being thereof indicted and acquitted, convicted or attainted, or pardoned, shall and may be indicted or appealed for the same, and put to answer as if no such Admission to the Benefit of Clergy, or of this Act, had been.

Proviso.

XXXIII. *And be it further enacted*, That every Person who shall be produced or appear as a Witness on the behalf of the Prisoner upon any Trial for Murder or Felony, before he or she be admitted to give Evidence shall first take an Oath to depose the truth, in such Manner as the Witnesses for the King are by Law obliged to do; and if any Witness be convicted of wilful Perjury in such Evidence, he shall suffer all the Penalties, Forfeitures, and Disabilities, which, by Law, may be inflicted on Persons convicted of wilful Perjury.

Witnesses for Prisoners to be sworn, and punishable for Perjury.

XXXIV. *And be it further enacted*, That all Indictments, Process, Pleadings, and Trials, and the Rules of Evidence upon any Trials for any Felonies and Misdemeanors, either by the Common Law of England, or by Virtue of this Act, shall be according to the Usage, Practice, and Laws of England.

Indictments, &c. to be according to the Practice of England.

XXXV. And that all Convictions, Attainders, Judgments, and Executions, for any Felonies or Misdemeanors, before the making of this Act, shall be good and valid in Law, and the same are hereby ratified and confirmed.

Former Convictions confirmed.

XXXVI. *Saving* to all and every Person or Persons all such advantages in Law, upon any Judgment that may be depending in any Court of Record.

Saving Clause.

at the Time of making this Act, in the same manner as if this Act had not been made.

Women, or Servants, killing Husbands, or Masters, &c. guilty of Petit Treason.

XXXVII. *Be it enacted*, That if any Woman, with Malice prepense, shall kill, or procure any other Person or Persons to kill, her Husband; or if any Servant, with Malice prepense, shall kill, or procure any other Person or Persons to kill, his or her Master or Mistress, the Person so Offending their Counsellors, Aiders, and Abettors, privy to the Offence, shall, upon due Conviction, be adjudged guilty of Petit Treason, and suffer Death without benefit of Clergy accordingly.

Duty of Justices in the Examination and Bailment of Prisoners, &c.

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

Preamble.

XXXIX. *And whereas* a most infamous Practice has long prevailed, among certain thievish and unprincipled Persons in this Island, of some Times taking Flats, Canoes, and other Boats, from their Moorings or Fastenings, and at other Times robbing the same of their Rope, Chain, or other Thing by which the same were moored or fastened, without Licence or Leave of the Owners of such Flats or Boats first had and obtained: Wherefore, for the effectual Suppression of such infamous Practice in future,

Persons taking Boats, &c. from their Fastenings, or Moorings, to be adjudged guilty of Felony.

XL. *Be it enacted by the authority aforesaid*, That all Persons who shall, from and after the Publication of this Act, take and carry away any Flat, Canoe, or other Boat, fastened and moored as aforesaid at any Place whatever in this Island, or any Rope, Chain, or other Thing, by which they shall or may be so moored or fastened, or any of the Oars, or other Apparel or Furniture thereunto belonging, without Leave for that Purpose first had and obtained of the Owner or Owners of such Flats, Canoes, or Boats, or of some Person or Persons having lawful authority to give such License or Leave, shall be deemed and adjudged guilty of Felony, and upon Conviction thereof, in due course of Law, shall, for the first Offence, be sentenced to pay a Fine not exceeding Five Shillings, and for the second Offence Ten Shillings, and for the third and every other Offence, Fifteen Shillings.

C A P. II.

AN ACT for the rescinding, annulling, and making Void, all and every the Proceedings had in the Years One Thousand Seven Hundred and Eighty, and One Thousand Seven Hundred and Eighty-one, which in any respect related to or concerned the Suing, Seizing, Condemning, or Selling certain Lots or Townships of Land, in this Island, herein after mentioned, or any of them, or any part thereof.

Disallowed by his Majesty in Council.

C A P. III.

AN ACT in addition to, and amendment of, an Act made in the Thirteenth Year of his present Majesty's Reign, intituled "An Act for the more easy and effectual Trial of Criminal Offenders; also Trials of Property, or any other Suit or Suits of what Nature or Kind soever; and for the ascertaining the Qualifications of Jurors in Trials of such Offenders, as also Trials of Property, or any other Suit or Suits of what Nature or Kind soever."

Expired.

C A P. IV.

AN ACT for continuing sundry Laws that are near Expiring.

Expired.

1795.

Anno Tricesimo Quinto Regis GEORGII III.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the twenty-second Day of March, ANNO DOMINI, One thousand Seven hundred and Ninety, and in the Thirtieth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and thence continued by Prorogation unto the Sixteenth day of February, One thousand seven Hundred and Ninety-five, and in the thirty-fifth Year of his said Majesty's Reign, being the fourth Session of the Sixth General Assembly, convened in the said Island.

EDMUND FANNING,
Lieutenant Governor.

PETER STEWART,
President of Council.

JOHN STEWART,
Speaker.

C A P. I.

Expired.

AN ACT in addition to, and amendment of, an Act passed in the twentieth Year of the Reign of his present Majesty, intituled "An Act for the establishing and regulating a Militia."

C A P. II.

AN ACT for confirming TITLES and quieting POSSESSIONS.

Preamble.

WHEREAS it is deemed expedient, and will tend to promote the speedy Settlement and Cultivation of this Island, that all bona fide Purchasers and Lessees of Lands Tenements, and Hereditaments, who now have, or hereafter shall have been in the quiet and peaceable possession thereof for the space of Seven Years, or who have derived their Titles from such Purchasers, be confirmed in the Possession of their said Lands :

Purchasers and Lessees who have been, or who shall hereafter be, in possession of Lands for the Space of seven Years, and all Persons claiming under them, quieted in the same according to the Right, &c. intended to be conveyed.

Purchasers and Lessees under Persons in Possession for the Space of 7 Years also quieted ;

I. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, That all Persons who now have, or hereafter shall have been in the quiet and peaceable Possession of Lands in this Island, for the Space of Seven Years, by Lease or Purchase, and all Persons claiming from, by, or under them, be, and they are hereby confirmed in such Possession, according to the Right, Title, or Interest, intended to be conveyed in and by such Leases and Conveyances. And that all Persons now in Possession by Lease or Purchase from any Person or Persons who have been in the quiet and peaceable Possession thereof for the space of Seven Years, previous to such Lease or Sale, shall be, and they are hereby confirmed in the peaceable and quiet Possession of their said Land, in all Time coming ;
any

any Want of Registry thereof, in Terms of an Act intituled " An Act to explain, alter and amend an Act made and passed in the twentieth Year of his present Majesty's Reign, intituled ' An Act appointing the recording all Deeds of Sale, Conveyances, and Mortgages," in any Wise notwithstanding.

any want of Registry in terms of a former Act, notwithstanding.

II. *And be it further enacted by the authority aforesaid,* That all Deeds of Sale of any Lands or Tenements, in this Island, heretofore made by the Provost Marshal, Sheriff, or Coroner, or their Deputies, under Writs of Execution to them or any of them directed, for the Satisfaction of any Judgment, and all Purchases made in Terms of the preceding Clause of this Act, shall be, and they are hereby confirmed; any Want of legal Form in such Deeds of Sale notwithstanding.

Deeds made by Sheriff &c. under Writs of Execution, and purchases made in Terms of preceding Clause of this Act, confirmed, want of legal Form in such Deeds, notwithstanding.

And Whereas there are a Number of Grantees of Town and Pasture Lots, and other Lands from the Crown, who either from Ignorance of the Register Laws, or from Neglect of the Register Office, have not had their Deeds Registered agreeably to the Provisions of the said Act;

Preamble.

III. *Be it therefore enacted,* That all such Grants shall be, and they are hereby confirmed; any want of Registry of such Grants notwithstanding.

Confirming Clause.

IV. *Provided always, and it is hereby particularly provided and declared,* That nothing herein contained shall extend, or be construed to extend, to the confirming of Titles, or quieting Possessions, of any Persons claiming by Virtue of Deeds of Sale, or Conveyances from the Provost Marshal, or his Deputy, of certain Lands prosecuted and sold in the Year One Thousand Seven Hundred and Eighty-one, under an Act intituled " An Act for the effectual Recovery of certain of his Majesty's Quit Rents in " the Island of Saint John."

Proviso.

V. *And provided also,* That all Possessors of Lands who have been Seven Years in the quiet and peaceable Possession thereof, and whose Titles are hereby meant to be confirmed, shall have the same duly proved and Registered within *Ninety Days* from the Publication hereof.

Proviso.

VI. *And provided also,* That nothing in the preceding Clause contained shall be construed to extend to enabling any Person claiming any Lands, Tenements or Hereditaments, in this Island, and who have neglected to Register their respective Deeds according to Law, to set up any Claim against the present actual Possessor, whose Title is duly proved or acknowledged, and Registered according to Law, by now Registering the same within *Ninety Days* as aforesaid.

Proviso.

VII. *And be it also further enacted,* That Nothing herein contained shall extend, or be construed to extend, to the confirming any Error which may have taken place in fixing the Boundaries between the different Lots or Townships in this Island.

Nothing herein contained to extend to the confirming Errors in relation to Boundaries between Townships of Land.

C A P. III.

AN ACT to alter and amend the HIGH ROAD LAWS.

See Note on 14th Geo. 3d, C. 4.

WHEREAS it has been found, from many Years Experience, that allowing so long a Space of Time to the Inhabitants to perform their Statute Labour, has greatly retarded the making and repairing of High Roads in this Island; and that ever since the Wages of Seven Shillings and

Preamble.

and Six-pence per Day has been allowed to Overseers, the High Road Business has languished beyond whatever it did before, and that the very small Funds of the Island have thereby been subjected to a large and un-availing Burden : to remedy which in Time coming,

Governor, &c. empowered to appoint Persons to be Overseers of High Ways.

Persons refusing to accept of such Appointment, or who after having accepted shall neglect to do their Duty therein, to forfeit 40s.

Mode of Recovery.

Application of Penalties.

Proviso.

Persons keeping a Cart, &c. to send the same with two Oxen, &c. for 3 days yearly, to work, &c. Eight Hours allowed to compleat each Day's Work.

Dispensing Power in Overseers.

All Persons from 16 to 60 (Ferry-men and Slaves excepted) not having Carts, &c. to be provided with necessary Implements, and to work 4 Days or 32 Hours annually.

Proviso.

Persons not performing their Duty to forfeit 4s. for every Days Neglect.

Justice empowered to summon Delinquent and to hear and determine thereupon.

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly,* That from and after the Publication hereof, it shall and may be lawful for the Governor, or Commander in Chief for the Time being, with the advice of his Majesty's Council, annually to nominate and appoint such and so many Persons as they shall think proper, to be Overseers of the High Ways in the different Districts of this Island. And any Person being so nominated and appointed, and who shall refuse to accept of the said Appointment, or having accepted, shall neglect to do his Duty therein, shall forfeit for every such Refusal or Neglect, *Forty Shillings* ; the same to be recovered by Complaint or Information, before any One of His Majesty's Justices of the Peace residing within the same County : And which Penalties and Forfeitures are hereby directed to be applied towards making and repairing the High-Ways of that District where such Penalties may have been incurred.

II. *Provided always,* That no Person shall be liable to be appointed Overseer oftener than once in every five Years. And that no Overseer shall be compelled to oversee more than Twenty Men.

III. *And be it further enacted,* That every Person in this Island, keeping a Cart, Team, or Truck, shall send, if so directed by the Overseer of the District within which he resides, or a Cart, Team, or Truck, together with two Oxen, or two Horses and one able Man for three Days in every Year, to work on the High-Ways, Streets or Bridges, within the District where he resides ; Eight Hours being allowed to compleat each Day's Work.

IV. *Provided always,* That when in the Judgment of the Overseer the Labour of Men will be more useful than that of Cattle, all Persons liable to send Cart, Team, or Truck, as aforesaid, shall, instead thereof send two Men for three Days, or One Man for Six Days or Forty-Eight Hours, to labour on the Roads ; which said Labour shall complete his yearly Statute Labour.

V. And all male Persons from the age of sixteen to sixty Years of Age, Ferry-Men and Slaves only excepted, not possessing Cart, Team or Truck, shall, when appointed or required thereto, either himself or by some Person in his Place, and provided with such necessary Implement as may be directed by the Overseer of the District, work for the space of Four Days or Thirty-two Hours in every Year, on the said High-Ways, Streets or Bridges, wherein they respectively reside. *Provided,* that one Day's Work shall not be above Twelve Hours.

VI And all Persons neglecting or not attending to perform the said Duty faithfully and to the Satisfaction of the respective Overseers, shall forfeit four Shillings for every day's Neglect. And any one of His Majesty's Justices of the Peace for this Island is hereby impowered and required, on Complaint made to him by the said Overseer of the High-Ways, or any of them, to summon the Person so neglecting, to appear before him, to hear and determine the Case. And which Summons, so to be issued, shall be under the Hand and Seal of the said Justice, in the words following, to wit :

“ County

“ BY — — — County,
 Esquire, one of his Majesty's Justices of the
 Peace for the said County.
 “ YOU are hereby required personally to be and appear before me,
 “ at the Dwelling House of [as the Case may be] on
 “ the day of next, at the Hour of o'clock
 “ of the same Day, then and there to answer wherefore you did not
 “ perform your Labour on according to the Form of the Act
 “ of the General Assembly in such case lately made and provided
 “ and according to the Warning you have received in that behalf,
 “ as it is said. Given under my Hand and Seal, the Day
 “ of A. D. 17
 “ To the Defendant.”

Form of Summons.

VII. And upon Proof being made of such Person's Non-appearance, Refusal, or Neglect, the said Justice or Justices shall cause the said Forfeiture to be levied (together with expences of levying) by Warrant of Distress and Sale of the Offender's Goods and Chattels. And the Money so levied, shall immediately be paid into the Hands of such Overseer or Overseers as prosecute for the same; to be by him or them applied for and towards the Repairs of High Ways within the respective Districts, in such Manner as the Governor, with the advice of his Majesty's Council, shall direct.

Justice empowered to issue Warrants against Delinquents' Goods and Chattels.

Application of Forfeitures.

VIII. And be it further enacted, That the Justices of the Peace for this Island, shall as often as thereto required by the Governor, with the advice of his Majesty's Council, make out with the assistance of the Constables in their Neighbourhood (or any other Person or Persons whom they may judge well informed and fit to give their assistance, and whom they are hereby empowered to summon before them for that Purpose) subscribed Lists of the Names of all such Persons within their respective Districts, who are liable in Terms of this Act to perform Statute Labour on the High Ways; the same to be done between the first day of March and the first day of May annually. And the Persons whose Names are inserted in the said Lists, shall accordingly be deemed and taken to be the Persons who are or may be obliged to labour as aforesaid.

Justices, with the Assistance of Constables, to make out subscribed Lists of the Names of Persons liable to perform Statute Labour.

Persons named in such Lists to be deemed liable to labour, &c.

IX. And be it further enacted, That the said Overseers of the High-Ways shall, and they are hereby empowered and required, pursuant to the Orders they shall or may receive from Time to Time from the Governor with the advice aforesaid, to summon the Inhabitants contained in their respective Lists, giving them at least Ten Days Notice of the Time and Place when and where they mean to employ them. And they shall Oversee and Order the Persons so summoned to Labour in making or repairing the High-Roads, Streets and Bridges, in the most effectual and advantageous Manner, for and during the Number of Days appointed by this Act for such Service or Labour; they the said Overseers being hereby exempted and excused from any other Labour and Service on, or relative to the High-Ways, than the issuing the Summons, ordering and overseeing the Performance of the stated Statute Labour within their respective Districts, and making out and returning within the Time limited by the Orders they receive from the Governor, as aforesaid, exact and true Reports

Overseers required to summons such Persons and to give them at least Ten Days Notice of Time and Place when and where to be employed.

Authority of Overseers.

Exemption of Overseers from all Services, relative to the High-Ways, except, &c.

of their Doings on the High-Ways; such Reports always containing Lists of Absentees, and Accounts of the Fines levied in consequence of such Absence; but without being entitled to Wages or any other Gratuity for their said Services.

X. And be it further enacted, That if any Person or Persons whatever shall alter any High-Road, or shall stop up or obstruct, or make any Encroachments thereon, (he or they not being authorised so to do by due Course of Law) shall, upon Complaint and due Proof thereof made before any One of the said Justices of the Peace, forfeit the Sum of *Forty Shillings*, besides the Charges incurred in repairing the Injury done by them; the same to be levied by Distress and Sale of the Offenders Goods and Chattels, by Warrant from the Justice who shall or may hear the said Complaint: And all the Forfeitures incurred by this Act shall be paid into the Hands of the Overseer for the District within which the same shall have been so incurred, and shall be applied by the said Overseer for and towards the making or repairing High-Roads within the said District.

XI. And be it further enacted, That all and singular the Overseers of High-Ways in this Island shall, and they are hereby required and directed, at the expiration of the Year for which they may have been respectively appointed to serve, to account to and with the Governor or other Commander in Chief in Council, for their Conduct in the Execution of their respective Trusts as Overseers, and to report to them in Writing (and upon Oath if so required) a true State and Situation of the High-Ways and Bridges in their respective Districts; mentioning the Work and Labour really done and performed, and the Application (accompanied with the proper Vouchers of Discharge) of the Fines and Forfeitures incurred, whether levied, or if in Arrear, why the same has not been levied, how applied in promoting the Intentions of this Act, and pay whatever may remain unapplied to his or their Successor or Successors in Office, for the Purposes aforesaid, and that under the like Penalty as for any other Neglect of Duty required by this Act.

And Whereas it is deemed expedient to alter the Time of performing the Statute Labor,

XII. Be it enacted, That from and after the Publication hereof, the whole of the Statute Labor of the Island shall be performed between the first and last Days of July annually; the Overseer or Overseers to advertise the Inhabitants to perform the Statute Labor in any Six Days within the Month of July, which in his or their Discretion he or they may judge most convenient to the Inhabitants of the District; the Summons to be by Advertisement, not less than Three to be posted in the most public Places of the District; which is to be held a sufficient Warning.

And Whereas many of the Inhabitants in different Parts of the Island are from Home during all the Summer Months, pursuing Fishing Voyages, who are thereby precluded from attending in the Month of July.

XII. Be it therefore enacted, That it shall and may be in the Power of the Governor, with the Advice aforesaid, to appoint an extraordinary Overseer in every District, and which Overseers are hereby empowered and required, upon the Return of the Fishermen, to summon them to perform their Statute Labour in the Months of October or November, at the Judgment

Persons altering, obstructing or making Encroachments on the High-Ways, to forfeit 40s.

Manner of levying the same.

Forfeitures, to whom payable, and how to be applied.

Overseers at the Expiration of the Periods of their respective appointments, to account with the Governor and Council, for their conduct, &c. and to report, in Writing, the true State and Condition of the High-Ways, &c.

and pay over Monie remaining in their Hands, to their Successors in Office.

Preamble.

All the Statute Labour to be performed between the first and last Days of July, annually.

Overseers to advertise Inhabitants to perform Statute Labour in any six Days within the Month of July, at their Discretion.

Preamble.

Governor impowred to appoint an extraordinary Overseer in every District.

ment of the Overseer, in Place of the Month of July, when the other Inhabitants of the Island are required to perform their Statute Labour. And that in Case of the Absence or Neglect of any of the said Fishermen, they shall incur the said Forfeitures, and they shall be recoverable in the same Way as is directed by the former part of this Act. And for every Defaulter on the Roads the Overseer shall prosecute to Conviction; he shall be excused from Two Days Labour the ensuing Year after such Prosecution, which shall be ascertained by the Certificate of such Justice before whom such Prosecution was had.

And Whereas many Persons have eluded the Performance of Statute Labour, by running about from one part of the Island to another,

XIV. *Be it therefore enacted*, That when and as often as any Person shall remove from the Place of his Residence to a different part of the Island, he shall be obliged to produce to the Overseer of the District where he removes to, a Certificate under the Hand of the Overseer of the District from whence he is removed, of his having duly performed his Statute Labour for that Year, and in Default thereof, he shall be obliged to perform Statute Labour in the District to which he is so removed; and in Case of Refusal or Neglect, he shall be proceeded against as a Defaulter in Terms of this Act.

XV. *And be it further enacted*, That in Case any Person or Persons who shall be adjudged to be Defaulters, according to the Provisions of this Act, shall have no Goods or Chattels whereon to levy the Fine or Fines herein directed, and the Costs attending the suing for the same, that then, and in such Case only, the proper Officer, to whom a Warrant or Warrants shall be directed, is hereby empowered to take into Custody such Person or Persons, and carry him or them to the next common Jail or Prison in this Island; there to remain at his or their own proper Costs and Charges in every Respect, until he or they shall pay the amount specified in such Warrant or Warrants, together with the Costs attending the levying thereof, so as he or they shall not remain in Confinement upon any such Warrant or Warrants for a longer Space than *Fourteen Days*, when he or they shall be freed and discharged from such Confinement; and from the Amount for which he or they shall have been committed.

XVI. *And it is hereby further enacted*, That every Matter and Thing that is hereafter to be observed or done relative to the High-Roads and Bridges of this Island, shall be deemed and taken to be comprised and contained in this Act; any former Act or Acts in any wise, notwithstanding.

C A P. IV.

AN ACT for regulating SERVANTS.

WHEREAS much Inconvenience and Injury have arisen to the Hirers of Servants in this Island, from their leaving their Master's Service before the stipulated Periods of their Service had expired; and sometimes leaving their Service without giving their said Master any previous Notice of such their Intention: for the preventing whereof,

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly, and by the authority of the same it is hereby enacted*, That from and after the Publication

Such Overseer required, upon return of the Fishermen to summons them to perform Statute Labour in the Months of October or November, instead of July. Fishermen neglecting to perform their Statute Labour, subject to the same Forfeitures (and to be recovered in the same Way) as herein before directed.

Preamble.

Persons removing from one Part of the Island to another, to produce to the Overseer of the District, Certificates of their having performed Statute labour, etc. In Default thereof, to labour in the District he removes to.

On refusal, to be proceeded against as other Delinquents.

Offenders having no Goods and Chattels whereon to levy, liable to be taken by Warrant, and committed to Gaol;

there to remain till the Forfeiture be paid Provided such Delinquent do not remain confined more than 14 days, when they shall be discharged therefrom, and from their respective forfeitures.

Every Matter and Thing to be done relative to the High-Ways, &c. to be comprised in this Act.

Preamble.

Contracts relative to

Publication

Hire of Servants, &c.
to be in Writing, &c.

Preamble.

No Person hereaf-
ter to be hired with-
out Certificate, &c.

Proviso.

Penalty on Persons
making false Declara-
tion.

Mode of recovery,
&c.

Servants hired for a
Year, &c. not to quit
their Service, without
giving previous notice.

Penalty on Neglect.

Servants hired for 6
Months, &c. not to quit
their Masters,
&c. without sufficient
Warning.

Penalty on Neglect.

Masters to give like
Warning to Servants.

Publication hereof, all Contracts hereafter to be made in this Island, relative to the Hire of Servants (if for the Term of One Month, or any longer Term, and which shall be deemed and taken to be within the Purview and Operation of this Act) shall be reduced to Writing and signed by the Parties thereto, or made in the presence of two or more credible Witnesses.

And Whereas many Persons have been injured by their Servants being seduced from their Service, and employed and entertained by others :

III. *Be it therefore further enacted,* That no Person or Persons hereafter shall hire any Servant, male or female, without a Certificate from his or her last Master or Mistress in Writing, therein expressing the Discharge of such Servant from his or her Service. And all Persons discharging such Servant are hereby required and directed to give him or her such Discharge, on Pain of forfeiting, for each Offence respectively, the Sum of *Forty Shillings*, to him or them who shall or may inform and sue for the same. *Provided nevertheless,* that all Persons hereafter offering themselves as Servants, and who shall alledge that they never were at Service before in this Island, shall sign a Declaration to that Purport or Effect, the same to be witnessed by one credible Witness, or make a verbal Declaration to the like Effect before two credible Witnesses. And all Persons making such Declaration, and which afterwards shall be proved to be false, shall for such Offence forfeit the Sum of *Forty Shillings*, the same to be recovered before one or more of his Majesty's Justices of the Peace, by Warrant of Distress and Sale made of such Offenders Goods and Chattels : And for want of Goods sufficient to discharge the said Forfeiture, the said Justice or Justices are hereby empowered to commit such Offender to his Majesty's Gaol, at Charlottee-Town, in the ordinary and due Course of Law ; there to remain the Space of *Fifteen Days*, or until the said Forfeiture shall be satisfied and paid.

III. *And be it further enacted,* That no Servant hereafter to be hired for a Year, or for any longer Space of Time, shall quit or depart his Master's Service, without signifying such his Intention at least Two Months before the Expiration of such Period of Service, upon pain of losing his Wages for the whole Year, or so much thereof as shall then remain due and unpaid : and in Case none shall then remain due and unpaid, then upon Complaint and Proof thereof made before any One of his Majesty's Justices of the Peace, such Justice is hereby authorised and empowered to commit such Offender to Gaol, in Manner as is herein before directed ; there to remain for the Space of *One Month*. And all Servants who shall hereafter be hired for the Term of Six Months, or for any longer space of Time short of a Year, and shall quit or depart their Masters or Mistres' Service, without signifying such their Intention as aforesaid at least One Month before the expiration of the last mentioned Period of Service, shall, in like Manner, forfeit the whole of their Wages, or so much thereof as shall then remain due and unpaid. And if none shall remain due and unpaid, then to suffer *One Month's* Imprisonment as aforesaid. And that all Masters shall be bound to give the like Warning to their Servants.

IV. *And be it further enacted,* That all Masters or Mistresses hereafter hiring Servants, shall give the like Warning to their Servants, as their Servants are by this Act required to give their respective Masters, on Pain of forfeiting

forfeiting the Sum of *Forty Shillings*; the same to be recovered before any One of his Majesty's Justices of the Peace as aforesaid.

Penalty on Neglect.
Mode of recovery.

V. *And be it further enacted by the authority aforesaid*, That no Keepers of Taverns, nor other Persons having Licence to sell spirituous distilled Liquors, or any Liquors whatsoever, within this Island, shall harbour, or suffer to remain in their Houses, any hired and indented Servants or Slaves, belonging to any Inhabitant, later than Nine of the Clock in the Evening on Pain of forfeiting the Sum of *Forty Shillings*; the same to be recovered before any One of his Majesty's Justices of the Peace, by Warrant of Distress, and Sale made of his Goods and Chattels.

Keepers of Taverns,
&c. not to harbour
Servants after nine at
Night, on pain of for-
feiting 40s.

Mode of Recovery.

C A P. V.

AN ACT to prevent the running at large of GEESE within the Town of Charlotte-Town.

Made perpetual by
43d Geo. 3d, C. 1.

WHEREAS great Complaints have been made, and many Inconveniences have happened, from the vast Numbers of Geese being kept in the Town of Charlotte-Town:

Preamble.

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly*, That from and after the first Day of May next, no Geese shall be allowed to go or run at large in the Town of Charlotte-Town, under the Penalty of the same being forfeited.

After 1st of May, no
Geese to run at large
in Charlotte-Town, un-
der Forfeiture.

II. *And be it further enacted*, That it shall and may be lawful for any Person whatever, who shall or may find any Goose or Geese at large upon the Streets of said Town, to take up and seize such Goose or Geese, and within Twenty-Four Hours after securing the same, to make Oath before any of his Majesty's Justices of the Peace, that he or they found the said Geese at large as aforesaid. And the said Justice shall thereupon order the said Geese, within a convenient Time, to be disposed of at Public Auction: And one Half of the Price for which every such Goose or Geese shall or may sell, he shall cause to be paid to the Person or Persons who shall find, take up, and seize the same; and the other Half to be given to the Poor of the said Town: Which Sums are to be paid and disposed of by the Justice who shall have given the said Order for the Sale of such Goose or Geese.

Geese found at large
may be taken up by
any Person, and car-
ried before a Justice.
Proceedings thereon.

III. *And it is hereby declared*, That this Act shall continue and be in full Force, from and after the First Day of May next, for the space of Three Years, and to the end of the then next Session of the General Assembly of the Island; and no longer.

This Act to continue
in force 3 Years.

C A P. VI.

AN ACT to repeal an Act intituled, "*An Act for the Publication of all the LAWS within this Island, and for recording the same in the Secretary's Office; as also for transmitting the JOURNALS of the COUNCIL and HOUSE OF ASSEMBLY, into the said Office, to the end that no Person be ignorant of the Laws of this Island.*"

13th Geo. 3d, C. 4.

WHEREAS the said Act was made at an early Period of the Settlement of this Island; and before the Laws thereof could be published

Preamble.

lished by Printing the same, (there being then no Printing Office established in the said Island :) *And whereas*, since the said Laws have been regularly Printed, the Provisions of the said Act have become unnecessary, and at the same Time continue equally expensive to this Government as before:

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly and by the Authority of the same it is hereby enacted*, That from and after the Publication hereof, the said Act, and every Provision, Clause, Matter or Thing therein contained, be, and the same are hereby repealed.

From and after Publication hereof, Act 13th Geo. 3d, C. 4. repealed.

C A P. VII.

26th Geo 3d, C. 11.

AN ACT to alter and amend an Act made and passed in the Twenty-Sixth Year of His present Majesty's Reign, "intituled " *An Act in addition to, and amendment of an Act made and passed in the Thirteenth Year of His present Majesty's Reign, intituled " An Act for establishing the Times and Place of holding the SUPREME COURT of Judicature.*

Preamble:

WHEREAS the Attendance of Jurors at the Three Terms of the Supreme Court of Judicature heretofore held, hath been productive of much Inconvenience, and Loss of Time, to the Inhabitants of this Island;

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly*, That two of the said Terms, heretofore established, called Hilary any Trinity Terms, shall hereafter be holden to be the only issuable Terms of the said Supreme Court; any Thing in the said Act contained to the contrary, notwithstanding.

Trinity and Hilary Terms to be the only issuable Terms in Supreme Court of Judicature.

II. *Provided always*, That this Act shall not extend, or be construed to extend, to prevent the Trial of Actions in a Summary Way, agreeable to the Provisions of an Act made and passed in the twenty-sixth Year. of his Majesty's Reign, intituled " *An Act for the Trial of Actions in a summary Way.*"

Proviso.

C A P. VIII.

AN ACT to alter and amend an Act, made and passed in the Twenty-Sixth Year of His Majesty's Reign, intituled, " *An Act for more especially making LANDS and TENEMENTS liable to the PAYMENT of DEBTS, and also to enable the Holders of MORTGAGES to sell the Premises mortgaged to them more speedily and at less Expence than heretofore; as also to repeal an Act made in the Twenty-First Year of His present Majesty's Reign, intituled " An Act making LANDS and TENEMENTS liable to the PAYMENT of DEBTS.*"

WHEREAS in and by the said Act, Lands and Tenements are made liable to be sold within Six Calendar Months after they shall have been taken in Execution; *And whereas* this Provision of the said Act has been found to operate with great Severity against Debtors: For Remedy whereof,

Preamble.

I. *Be it enacted by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted*, That from and after the Publication hereof, no Lands and Tenements hereafter to be taken in Execution, within this Island, by Virtue of the said Act, shall be exposed to sale within

Lands. &c. hereafter taken in Execution,

within less than Two Years after they shall have been taken in Execution; any Thing in the said Act to the contrary, notwithstanding.

not to be sold in less than two Years.

C A P. IX.

AN ACT to amend an Act made and passed in the Twentieth Year of His present Majesty's Reign, intituled "An ACT to prevent TRESPASSES by unruly CATTLE and SHEEP, and for preventing the running of HOGS at large through the Town of CHARLOTTE-TOWN."

20th Geo. 3d, G. 6, March Session.

WHEREAS the before mentioned Act, in as far as the same extends to the running at large of Hogs in the different Parts of this Island, has been found defective; for that great Mischief and Inconvenience has happened by Hogs going at large without being yoked.

Preamble.

I. Be it therefore enacted, That any Hog or Pig which shall be found trespassing in any Grounds in this Island, without a good and sufficient Yoke, the Party injured thereby may apply to the next Justice of the Peace, who is hereby empowered and required to authorise, under his Hand and Seal, Two or Three of the nearest Neighbours, as he shall or may see Cause, empowering them, or any Two of them, to go to the Grounds so trespassed upon, and to view and appraise the said Damages, and to cause the said Appraisers to return a Certificate to him, upon Oath, of the real Amount of the Damages, according to the best of their Judgment and Belief.

Hogs found trespassing in Grounds, without good Yokes, Party injured may apply to a Justice of the Peace who is empowered to proceed thereon,

II. And be it further enacted, That the said Justices of the Peace shall proceed to award Satisfaction to the injured Party, in every Respect agreeable to the Provisions of the said Act before recited.

and award Satisfaction.

III. Provided always that nothing herein contained shall be construed to authorize the keeping of Hogs or Pigs within the limits of Charlotte Town,

Proviso.

C A P. X.

AN ACT for raising a DUTY on WINE, RUM, and other distilled spirituous LIQUORS, and for imposing a Duty on PORTER, ALE and strong BEER.

25th Geo. 3d, C. 4.

WHEREAS the Duties heretofore collected within this Island, have been found insufficient to pay off the Debts, and support the Expences, of this Government: For Remedy whereof,

Preamble.

I. Be it enacted by the Lieutenant Governor, Council and Assembly, That from and after the Tenth Day of April next, in this current Year, the following Duties shall be paid on the several Articles herein after enumerated:

After 10th April, Duties herein prescribed to be paid on Importation of Rum, &c.

On all Rum and other distilled Spirituous Liquors Four Pence per Gallon, over and above the present Six Pence per Gallon, payable on the said Liquors imported into this Island;

On all Wines of every Denomination, the like additional Duty of Four Pence per Gallon, over and above the present Duty payable on the same;

On all Porter, Ale, and Strong Beer, Two Pence per Gallon:

Which said several Duties shall be paid and collected in Manner, and under the Rules and Regulations, mentioned and expressed in the Act of the twenty-fifth Year of his present Majesty's Reign, intituled "An Act to amend, render more effectual, and to reduce into one Act, the several

Collection to be made under Act, of 25th Geo. 3d, C. 4.

"Laws

“ Laws made in the General Assembly of this Island relative to the Duties of Impost on Wines, Rum, Brandy, and other distilled Spirituous Liquors, &c.”

II. *And be it further enacted,* That the Monies arising by Virtue of this Act, shall be accounted for unto his Majesty in the Kingdom of Great-Britain, and to the Commissioners of his Majesty's Treasury, or High Treasurer, for the Time being, and audited by the Auditor General of his Majesty's Plantations, or his Deputy.

Monies arising by virtue of this Act, how to be accounted for.

C A P. XI.

This Act has been executed.

AN ACT for granting the Sum of Four Hundred Pounds for supporting His Majesty's Government in this Island.

C A P. XII.

AN ACT for ascertaining the STANDARD of WEIGHTS and MEASURES in this Island.

Preamble.

WHEREAS great Frauds are daily committed in this Island, because no Standards for Weights and Measures have been hitherto established ;

After Publication, Weights and Measures to be according to the Standard of England, &c.

I. *Be it therefore enacted, by the Lieutenant Governor, Council, and Assembly,* That from and after the Publication hereof, all Weights and Measures, used in this Island, shall be according to the Standard of the Exchequer of England. And that the Public Treasurer of this Island, as soon as may be, procure a Set of Measures, long, liquid, and dry, and a Set of Weights and Scales : and that until such Weights and Measures arrive, the Weights and Measures now used at Charlotte-Town shall be the Standard.

Treasurer to procure Standards, &c.

II. *And be it further enacted,* That every Inhabitant of this Island, making use of Weights and Measures in the Sale of any Commodity, shall, before the Sitting of his Majesty's Supreme Court of Judicature in June next, bring or cause to be brought, their Weights and Measures to the nearest Justice of the Peace, to be by him assayed in the best Manner he can in the mean Time, till the Weights and Measures to be commissioned by the said Treasurer do arrive. And the said Justice of the Peace may and is hereby impowered and required to prove the same, by any other the best Weights and Measures he may have access to : And upon his being satisfied the Weights and Measures, so brought to him to be proved, are just, to grant his Certificate of their being so, and to brand or otherwise mark the same, so as he may be able to know and distinguish the same again. And whosoever shall thenceforward sell or retail any Commodity by Weights or Measures not so certified, marked, or branded, shall forfeit, for every such Offence, *Forty Shillings*, on due Conviction thereof before any One of his Majesty's Justices of the Peace ; to be levied by Warrant of Distress, and Sale of the Offender's Goods.

Inhabitants selling by Weights and Measures, to have them assayed, &c.

Justice of the Peace how to assay and mark the same.

Persons selling by Weights and Measures not marked, to forfeit 40s.

When Standards arrive, public Notice thereof to be given,

III. *And be it further enacted,* That as soon as the Weights and Measures so to be commissioned by the said Treasurer do arrive, that the said Treasurer shall give Public Notice thereof, by posting up Advertisements

in all such Places in the County of Queen's County where Advertisements are usually put up in, notifying the Arrival of the said Standards. And within *One Month* thereafter, all Retailers by Weights and Measures are hereby required to bring, or cause to be brought, their Weights and Measures to such Person as may be, by his Excellency the Lieutenant Governor, or other Commander in Chief, duly appointed, for the Purpose to be assayed; and the Person so authorised, shall cause such Weights and Measures to be branded or stamped with the Letters G. R. and on granting a Certificate thereof, said Person shall be paid by the Owner of such Weights and Measures as follows, that is to say, For every Measure branded *Six Pence*, and for every Weight that is marked *Six Pence*.

IV. *And it is further enacted*, That as soon as the Weights and Measures do arrive, that the said Treasurer shall cause to be made Two complete Sets of Weights and Measures agreeable thereto. And that one Set of each be deposited with such Person in King's County and Prince County respectively, as shall be nominated by his Excellency the Lieutenant Governor, or Commander in Chief for the Time being, who shall proceed in like Manner as is herein before directed for such Person as shall be appointed for Queen's County. And whoever, after the Time elapsed that is to be given by the aforesaid Notice, shall sell or vend any Commodity by Weights or Measures not so branded and marked, except such as shall have the English Standard marked as aforesaid, shall, on every such Offence, forfeit the sum of *Forty Shillings*, on due Conviction thereof before any One of his Majesty's Justices of the Peace, to be levied by Warrant of Distress, and Sale of the Offender's Goods.

And for the better and more effectual carrying the above Regulations into due Execution; and preventing any Frauds in Time coming;

V. *Be it further enacted*, That the said Person or Persons, so authorised in the different Counties, shall, and are hereby impowered to, inspect all Weights and Measures, and for that Purpose once in Three Months, or oftener if they shall see cause, visit every Inhabitant selling Commodities by Weight or Measure, and shall have full Power and Authority to seize all such as are not stamped or branded as aforesaid; and upon Proof, before any One Justice of the Peace, of their being short of the Standard, such Person using them shall forfeit the Sum of Ten Pounds, to be recovered by Bill, Plaint, or Information, in any of his Majesty's Courts of Record that now are, or hereafter shall be, on this Island.

VI. *And be it further enacted*, That if any Person, selling by Weights and Measures, shall refuse admittance to the said Persons, so authorised for the Time being, declaring the Intent of his or their coming to discharge the Duty of his or their Office, the Person or Persons so refusing, shall for every such Refusal, to be ascertained by the Oath of the said Person or Persons, forfeit the Sum of *Forty Shillings*; to be recovered before any of his Majesty's Justices of the Peace, to be levied by Warrant of Distress, and Sale of the Offender's Goods.

VII. *And be it further enacted*, That the Money arising by Virtue of this Act, from the several Penalties and Forfeitures, shall be one Half to his Majesty, his Heirs, and Successors, for the Public Uses of this Island, and the Support of his Majesty's Government thereof, and the other Half to him or them who shall inform and sue for the same.

Anno

R r

and Retailers to have Weights, &c. assayed within a Month.

Assayer how to be appointed.

His Duty and allowance.

Standards of Weights and Measures to be deposited in King's County and Prince County,

Selling by Weights and Measures not marked, except, &c. Penalty, 40s.

Preamble.

Weights and Measures to be inspected every three Months, &c.

Penalty on selling by Weights, &c. short of the Standard.

Persons refusing Admittance to Inspectors to forfeit 40s.

Application of Fines.

1796.

Anno Tricesimo Sexto Regis GEORGI II.

At the GENERAL ASSEMBLY of His Majesty's ISLAND of ST. JOHN, begun and holden at CHARLOTTE-TOWN, on the twenty-second Day of March, ANNO DOMINI, One thousand Seven hundred and Ninety, and in the Thirtieth Year of the Reign of our Sovereign Lord GEORGE the Third, of GREAT BRITAIN, FRANCE and IRELAND, KING, Defender of the Faith, &c. and thence continued by several Prorogations unto the Second day of February, One Thousand seven Hundred and Ninety-Six, and in the thirty-sixth Year of His said Majesty's Reign, being the Fifth Session of the Sixth General Assembly, convened in the said Island.

EDMUND FANNING,
Lieutenant Governor.

PETER STEWART,
President of Council.

JOHN STEWART,
Speaker.

C A P. I.

Expired.

AN ACT for the Preservation of SHEEP, throughout the Island.

C A P. II.

20th Geo. 3, C. 6.

AN ACT to prevent the Robbing of GARDENS and ORCHARDS, POTATOE, and TURNIP FIELDS, and throwing down of FENCES, and for amending an Act made and passed in the Twentieth Year of his present Majesty's Reign, intituled, "An Act for preventing Trespässes by unruly HORSES, CATTLE, and SHEEP, and for preventing the running of HOGS at large through the Town of CHARLOTTE-TOWN."

Preamble.

WHEREAS the Climate and Soil of this Island have been found by Experience to be particularly favourable to the Growth and Production of various Fruits: And whereas it is become necessary, in Order to encourage the planting of Orchards and Gardens, to enact some Regulations for the Protection of Fruit and Fruit-Trees, Roots, and other Vegetables, against the Depredations of lawless and disorderly Persons:

I. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, That from and after the Tenth Day of March in the present Year, all and every Person and Persons whatsoever, who shall enter into any Garden or Orchards of any other Person or Persons in this Island, and take and carry away from thence any kind of Fruit or Fruits, Plants, Pulse, Roots, or Vegetables growing or being

Persons taking from
Orchards or Gardens,
Fruit, Plants, Roots,
&c. or being found

ing therein; or shall be discovered pulling or gathering any such *Fruit, Plants, Pulse, Roots, or Vegetables*; or digging any *Roots* therein, although none be from thence removed; or shall be found therein in the Night Time; or shall take away from any Field or Inclosure, lawfully fenced any *Fruits, Roots, or Vegetables*, growing or being therein; or shall be discovered pulling or gathering any *Fruit, Plants, Roots or Pulse*, or digging or taking any *Roots* therein, although none be from thence removed, without the Consent of the Proprietor or Occupier of such Grounds; or shall break down, destroy, injure or carry away any *Fruit Tree or Trees* being therein, without such Consent as aforesaid, together with the Aiders or Abettors, Receivers and Buyers of such *Fruits, Fruit-Trees, Roots or Vegetables*, knowing the same to be stolen, shall be deemed guilty of Felony, and for the first Offence, after Conviction thereof in due form of Law, be sentenced to suffer *One Month's* Imprisonment, and pay a Fine of *Forty Shillings*; or in Default thereof shall suffer *One Month's* further Imprisonment; and on Conviction for the second and all succeeding Offences shall suffer *two Month's* Imprisonment and pay a Fine of *Four Pounds*; or in Default thereof, shall suffer *two Month's* further Imprisonment. And if any of the said Offences shall be committed in the Night Time, the Offender or Offenders, upon due conviction thereof, shall receive for the first Offence not less than *Fifty* nor more than *One Hundred Lashes*, and for the Second and all succeeding Offences, not less than *one Hundred* nor more than *One Hundred and Fifty Lashes*, over and above the Punishment hereby inflicted for the like Offences committed in the Day-Time.

And whereas a wanton and pernicious Practice has lately prevailed of throwing down *Fences*, to the great Injury of the Proprietors or Occupiers of the Lands thereby enclosed: in order to prevent a repetition thereof in future,

II. Be it further enacted by the authority aforesaid, That from and after the Tenth Day of March in this present Year, all and every Person and Persons whatsoever, who shall throw or pull down the Fence or Fences of any other Person or Persons whatsoever in this Island, or any Part of such Fence or Fences, and thereof being duly convicted before any Two of his Majesty's Justices of the Peace for this Island, shall for the first Offence, forfeit and pay a Sum not less than Forty Shillings, nor more than Five Pounds; or in Default thereof, shall suffer One Month's Imprisonment, and for the second and all succeeding Offences, on due Conviction thereof in Manner aforesaid, shall forfeit and pay a Sum not less than Five Pounds; or in Default thereof suffer Two Months Imprisonment, besides being subject to make good to the injured Party, all such Damages as he, she, or they may have sustained.

And Whereas by an Act made and passed in the twentieth Year of his present Majesty's Reign, intituled "An Act for preventing Trespasses by unruly Horses, Cattle, and Sheep, and for preventing the Running of Hogs at large through the Town of Charlotte-Town," no Provision is made for the Protection of Pasture, Grass or Meadow Ground, unless specific Damages can be appraised, which from the Nature of the Thing must be very often impracticable.

III. Be it therefore enacted, That from and after the Tenth Day of March in this present Year, that if any *Horses, Neat Cattle, or Sheep*, shall break

therein, if in the night, or taking such Produce from other enclosed Grounds, &c. without the Consent of the Owners;

or taking or injuring Fruit Trees therein, without such Consent, together with the Aiders and Abettors, &c. declared guilty of Felony.

Penalty.

Punishment inflicted for Offences committed in the Night Time.

Preamble.

Persons throwing down Fences, upon conviction before two Justices, to forfeit not less than 10s. nor more than £5.

In Default to suffer one Month's Imprisonment.

Penalty on the second and all succeeding Offences.

Preamble.

Cattle breaking into any Grounds lawfully

or

fenced, Owners to pay Persons injured there- by 2s. per Head for Horses, 1s. for Neat Cattle, and for Sheep 6d. over and above making good damages.

How to be recovered.

Proviso.

Application of For- feitures.

or get into any Grounds, the same being lawfully fenced, the Owner or Owners of such *Horses, Neat Cattle, or Sheep* so trespassing, shall pay to the Proprietor or Occupier of the Grounds so trespassed upon, for every *Horse* the Sum of *Two Shillings*; for every Head of *Neat Cattle* the sum of *One Shilling*; and for every *Sheep or Lamb* the sum of *Six Pence*; the said several Penalties to be over and above any Damages which the injured Party can or may prove, and to be recoverable before any one Justice of the Peace for this Island. *Provided always*, That the amount of the Penalties to be recovered under this Clause, shall not, at any one Time, exceed the sum of *Forty Shillings* to be paid by any one Person.

IV. *And be it further enacted by the authority aforesaid*, That all Fines and Forfeitures to be levied by Virtue of this Act, and not herein before applied, shall be one Half to the Informer or Prosecutor who shall sue for the same, and the other Half thereof to the Treasurer of this Island for the Time being, to and for the support of his Majesty's Government therein.

C A P. III.

AN ACT to render valid CONVEYANCES of real ESTATES of married WOMEN, by them made, or to be made, during their COVERTURE.

Preamble.

WHEREAS it hath been heretofore usual for married Women entitled to Dower in and to Lands and Tenements in this Island, to convey the same jointly with their Husbands during Coverture, and no Inconvenience hath been found to result therefrom; nevertheless, without a Law to render such Conveyances valid, Purchasers are liable to Claims of Dower by such Women:

Deeds heretofore made by Baron and Feme, of Lands, &c. as valid to bar Right of Dower as if made when sole, or by joining in levying Fine.

I. *Be it therefore enacted by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted*, That all Grants and Deeds, and Conveyances heretofore made and executed by any married Woman, jointly with her Husband, of any Lands, Houses, or Tenements within this Island, whereof such married Woman is dowable, shall be as good and valid in Law, as if the same had been made by a *feme sole*, or as if such married Woman had joined in levying a Fine according to the Law and Practice in that behalf made and used in that part of *Great Britain* called *England*.

Deeds hereafter to be made by Baron and Feme, of Lands, &c. as valid to bar Dower, as if made when sole, &c.

II. *And be it further enacted by the Authority aforesaid*, That all Grants and Conveyances, which shall hereafter be made by any married Woman, jointly with her Husband, of Lands, Houses, and Tenements, whereof she is by Law dowable, or in or to which she may have any present or future Interest, either in her own Right, or in or by any other Way or Means whatsoever, shall be as good and valid in Law, and of the same Force and Effect, as if the same Grants and Conveyances had been made by a *feme sole*, or as if such married Woman had joined in levying a Fine in Manner herein before mentioned; any Law, Usage, or Custom to the contrary thereof, notwithstanding.

Provided such Deeds be acknowledged before a Judge or Justice of the Peace.

III. *Provided such Deed or Deeds, so sealed and executed by such married Woman, shall have been acknowledged in the Presence of a Judge of the Supreme Court of Judicature of this Island, or any Justice of the Peace thereof*

thereof, by such married Woman, as her free and voluntary Act and Deed, and to have been executed for the Purposes in the said Deed or Deeds mentioned, and that the same was done without any Force or Compulsion from her Husband; and that a Certificate of such Acknowledgment, in the Words following, *mutatis mutandis*,—

“**B**E it remembered, that on the day of in the Year of our Lord one Thousand seven Hundred and the within named
 “ (Wife of the within named) personally appeared before
 “ me one of the Justices of and being by me solely and
 “ separately examined apart from her said Husband, did acknowledge
 “ that the within written Indenture of was by her duly signed,
 “ sealed, and delivered, and executed, as and for her free and voluntary
 “ Act and Deed, and that she executed the same without the Compulsion
 “ or Force of her said Husband, and that at the Time of the Execution
 “ thereof she knew the same to be a Conveyance of the Estates and
 “ Premises within mentioned unto the within named his Heirs and
 “ Assigns, free and clear of all Estate, Right, Title, Interest, Claim, and
 “ Demand, of her the said in respect of her Dower or otherwise”—
 under the Hand of the said Judge of the Supreme Court, or Justice of the Peace, before whom the same shall be made, be underwritten or endorsed on each and every such Grant, or Deed of Conveyance.

Form of Certificate
of acknowledgment.

C A P. IV.

AN ACT to explain and amend an Act made and passed in the twentieth Year of his present Majesty's Reign, intituled “ An Act to enable Proprietors to divide their Lands held in common, and for ascertaining the Mode of carrying such Division into Execution.”

20th Geo. 3d, C. 2.

WHEREAS by the Provisions of the above recited Act, no Person holding less than one fourth Part of a Lot or Township is entitled to apply for a Division of the Lot or Township in which his Land lies. And whereas since the Date of the said Act, many Persons have made Purchases of smaller Parts of undivided Lots, and are without any legal Remedy to procure Possession thereof, to the great Hindrance of the Settlement of the Island, and the manifest Injury of such Proprietors: To remedy which in Time coming,

Preamble.

I. *Be it enacted by the Lieutenant Governor, Council and Assembly, and by the authority of the same it is hereby enacted and declared,* That from and after the passing hereof, as often as any Person holding not less than One Thousand Acres in a Township, nor less than Five Hundred Acres in a Half Township, being desirous to have his or their Share or Right set off and divided, such Person or Persons may and they are hereby empowered to apply to the Governor in Council, praying a Division of such Township or Half Township, as the Case may be; and the Governor and Council is hereby authorised and required to grant the necessary Orders to the Surveyor General for dividing the said undivided Township or Half Township,

Upon Application of
Persons owning Lands
in undivided Town-
ships, &c. Governor
and Council authoris-
ed to direct Surveyor
General to proceed to
final Division.

and shall proceed to the final Division thereof, agreeable to the Mode prescribed by the before in Part recited Act.

Such Division to be completed in 40 Days.

Penalty on Neglect.

II. *And be it further enacted*, That the Surveyor General shall, as far as the same depends on him, be bound to complete the said Division within Forty Days from the Date of the Governor's Order to him for that Purpose, on Pain of forfeiting to the Proprietor petitioning for such Division the Sum of *Ten Pounds*; to be recovered in the Supreme Court, by Bill, Plaint or Information.

C A P. V.

AN ACT to prevent disorderly PERSONS from taking and riding or using the HORSES of others, without their leave or Permission.

Preamble

WHEREAS an unjustifiable Practice has lately taken Place of riding and using Horses without the Consent or Knowledge of the Owners thereof: For Remedy whereof,

Penalty on Persons riding or using the Horses of others without their Permission.

Mode of recovery.

I. *Be it therefore enacted by the Lieutenant Governor, Council, and Assembly and by the Authority of the same it is hereby enacted*, That from and after the Tenth Day of March in the present Year, all and every Person and Persons whatsoever, who shall ride or use any Horse or Horses belonging to any other Person or Persons, without their consent first had and obtained, shall, on Conviction thereof before any One Justice of the Peace, forfeit to the Party injured the Sum of *Twenty Shillings*, or suffer Fourteen Days Imprisonment; the said Penalty to be over and above what may be adjudged to be the Hire of such Horse, during such Time as the Owner or Owners shall be deprived the Use thereof; or any Damages the injured Party may prove to have been sustained thereby.

C A P. VI.

21st Geo. 3d, C. 16,
25th Geo. 3d, C. 7.

AN ACT for repealing two several Acts herein after mentioned, that is to say, an Act made and passed in the *Twenty-first Year of His Majesty's Reign*, intituled "*An Act for the preservation of HIGHWAYS*," also *An Act made and passed in the Twenty-fifth Year of His present Majesty's Regn*, intituled "*An Act to explain and amend an Act made and passed in the Twenty-First Year of His present Majesty's Reign*," intituled "*An Act for the preservation of HIGHWAYS*."

Preamble.

WHEREAS the Operation of the above mentioned Acts has been found from experience not to answer the purposes thereby intended, and several Inconveniences and Difficulties have arisen to the honest and industrious Inhabitants of this Island, by their being obliged to comply with the Provisions thereof, whereby they have been put to unnecessary Trouble and great Expence: For Remedy whereof,

Be it enacted by the Lieutenant Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, That from and after the first day of March next, the said two several Acts, that is to say an Act made and

and passed in the twenty-first Year of his present Majesty's Reign, intituled "An Act for the preservation of High-Ways," also an Act made and passed in the twenty-fifth Year of his present Majesty's Reign, intituled "An Act to explain and amend an Act made and passed in the twenty-first Year of his present Majesty's Reign, intituled 'An Act for the preservation of High-Ways,' and every Clause, Matter, and Thing, therein contained, be, and the same is and are hereby repealed.

After 10th March, Acts 21st Geo. 3d, C. 16, and 25th Geo. 3d, C. 8th, repealed.

C A P. VII.

AN ACT for appointing COMMISSIONERS of SEWERS.

BE it enacted by the Lieutenant Governor, Council, and Assembly, That upon each and every Application of any of the Proprietors of any Marsh, low Lands or Meadow, the Lieutenant Governor, or Commander in Chief, with the Advice of his Majesty's Council, may and is hereby authorised by Commission to appoint such able and discreet Persons, as to him shall seem meet, to be Commissioners of Sewers; In which Commission such Commissioners shall be authorised and empowered to convene and meet together from Time to Time, as Occasion may require, to consult, consider and devise Means and Methods for building, erecting or repairing such Dams, Dykes, and Wares, as are or may be necessary to prevent Inundations, and for the draining or drowning of Marshes, Swamps and other unprofitable Lands, and to employ Labourers and Workmen, for such reasonable Wages as may be agreed on for that purpose, and to tax and assess all such Persons from Time to Time, as shall or may be Owners of such Marshes, Meadows, Swamps, or unprofitable Lands as aforesaid, for defraying the Expence thereof; having Regard to the Quantity of Land of each Person, and Benefits thereby to be received, as equally as they can, according to their best Judgment; and also to appoint and swear a Collector or Collectors for collecting such Assessments, and paying the same to such Persons as by said Commissioners shall be appointed, with Powers to distrain all such Persons as shall neglect or refuse to make Payment of his, her, or their Proportions assessed as aforesaid, in like Manner as is usually done in other Cases by Distress, and to call before them such Collector or Collectors, to account for his or their Trusts in Regard to the Premises, and likewise to value such Repairs as may have been made to such Dykes and Wares by the Proprietors before the Date of their said Commissions, and to apportion an Assessment for the payment thereof by those who have been, or may be, benefited thereby, in the same Manner as if such Repairs had been made by their own Orders; which said Commissioners shall be sworn to a faithful Discharge of their Duty, and may receive out of such Assessment a reasonable Compensation for their Trouble, to be allowed by the Governor and Council, to whom such Commissioners shall be accountable.

Upon Application of Proprietors of any Marsh Lands, &c. Governor and Council authorised to appoint Commissioners.

Their Power and Authority.

Commissioners to be sworn and paid for their Trouble.
To whom accountable.

II. And be it further enacted, That if no Person shall appear to pay the Quota or Proportion of any delinquent Proprietor, in any Assessment made as aforesaid, for the dyking or draining such Lands, and no sufficient Distress

If no Person appear to pay delinquent Proprietor's Assessment.

Commissioners may advertise Land to let.

If no Person appear to hire, Commissioner empowered to order Sheriff to sell so much thereof as will pay such Assessment, &c.

Owner, &c. of Marsh being duly notified, shall attend himself, or send a sufficient Labourer to work in raising Dykes, &c.

Oxen and Carts may be employed instead of Labourers, at Discretion of Commissioners.

Penalty on Neglect.

How to be recovered and applied.

In Case of any sudden Breach in any Dyke, &c. Owners, &c. of Lands therein to repair thither, and endeavour to mend such Breach.

Penalty on Neglect. How to be recovered and applied.

Persons aggrieved may appeal to Governor and Council.

ness shall be found to answer such Assessment, the Commissioners of Sewers, or major Part of them, shall, by Advertisement to be posted up on the Lands of such delinquent Proprietors, give Public Notice for letting the same; and if no Person shall appear to hire the same, it shall and may be lawful for the said Commissioners, or the major Part of them, by Warrant under their Hands and Seals, to order the Sheriff to sell at Public Auction, giving Six Months previous Notice by Advertisement, to the highest Bidder, so much of such Delinquent's Lands so dyked in and drained, as may be sufficient to pay such Proportion or Quota due as aforesaid, with the Charges of such Sale; and such Sheriff is hereby authorised and directed to execute a good and authentic Deed to the Purchaser or Purchasers thereof, their Heirs and Assigns.

III. *And be it further enacted*, That in all ordinary Cases, either in raising or repairing Dykes, or draining Lands, each and every Owner or Possessor of Marsh or Low-Lands in this Island, where such Commissioners are appointed, shall, upon receiving Six Days Notice from the Commissioners, attend either himself, or provide a sufficient Labourer with proper Tools, to work at such Time and Place as by them shall be appointed, agreeable to the Rules and Regulations made for that Purpose, and according to the Quantity or Proportion of Land belonging to such Owner or Proprietor. And where it may be necessary to employ Oxen and Carts, each and every Owner or Possessor of such Lands who have them, shall in like Manner be obliged to attend with such Oxen and Carts for such Work, according to the Discretion of said Commissioners, or shall forfeit and pay over and above his Tax or Assessment the Sum of Five Shillings for every Day's Neglect, and so in Proportion for Oxen and Carts, to be recovered in any Court proper to try the same; and the Monies arising from such Fines, to be paid into the Hands of the Commissioners to be appropriated for Repairs of such Dykes.

IV. *And be it also further enacted*, That in Cases of any sudden Breach in any Dyke, or where the same is likely to be made, or Inundation occasioned by high Tides, Storms, or otherwise, each and every Owner or Possessor of Land within such Dykes, shall immediately, on Notice given by one or more of the Commissioners, repair to the Place directed with proper Tools or Teams, to labour and use their utmost Endeavours to repair or prevent such Breach, and shall continue to work from Day to Day, so long as the Commissioners of Sewers shall judge necessary, or shall forfeit and pay over and above their Tax or Assessment the Sum of Ten Shillings for each Day's neglect, and so in Proportion for Oxen and Carts; to be recovered in Manner and applied to the Uses aforesaid.

V. *Provided always*, That any Person aggrieved by any Procedure of such Commissioners, may prefer his or their Complaint, by Way of Appeal, to the Governor in Council for Relief, at any Time within Six Months, who are hereby authorised to grant Redress, and on any groundless Complaint, to tax Single Costs in Favour of such Commissioners.