

STATUTES

RELATING TO THE DUTIES

OF

JUSTICES OF THE PEACE

IN

LOWER CANADA.



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C A P. L X V I.

*Con. Stat. Can.
page 748.*

An Act respecting Railways.

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

EXTRACTS.

25. PENAL CLAUSES.

152. If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railroad, or breaks down, rips up, injures or destroys any Railroad track or Railroad bridge or fence of any Railroad, or any portion thereof, or places any obstruction whatsoever on any such rail or Railroad track, or bridge, with intent thereby to injure any person or property passing over or along such Railroad, or to endanger human life, such person shall be guilty of misdemeanor, and shall be punished by imprisonment with hard labor in the Common Gaol of the Territorial Division in which such offence is committed or tried, for any period not exceeding one year from conviction thereof; and if in consequence of such act done with the intent aforesaid, any person so passing over and along such Railroad, actually suffers any bodily harm, or if any property passing over and along such Railroad be injured, such suffering or injury shall be an aggravation of the offence, and shall render the offence a felony, and shall subject the offender to punishment by imprisonment in the Penitentiary for two years or in any other prison or place of confinement for any period exceeding one year and less than two years.
16 V. c. 169, s. 1.

Punishment of persons doing any thing to Railway with intent to injure persons or property.

And if such damage be actually done.

153. If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railroad, or breaks down, rips up, injures or destroys any Railroad track or Railroad bridge or fence of any Railroad or any portion thereof, or

And if any person be killed or his life be lost, the offence to be manslaughter.

Punishment.

places any obstruction whatever on any such rail or Railroad track or bridge, or does or causes to be done any act whatever whereby any engine, machine or structure, or any matter or thing appertaining thereto is stopped, obstructed, impaired, weakened, injured or destroyed, with intent thereby to injure any person or property passing over or along such Railroad, and if in consequence thereof any person be killed or his life be lost, such person so offending shall be guilty of manslaughter, and being found guilty, shall be punished by imprisonment in the Penitentiary for any period not more than ten nor less than four years. 16 V. c. 169, s. 2.

Committing any injury, stoppage, &c., to be a misdemeanor.

154. If any person wilfully and maliciously does or causes to be done, any act whatever whereby any building, fence, construction or work of any Railroad, or any engine, machine or structure of any Railroad, or any matter or thing appertaining to the same is stopped, obstructed, impaired, weakened, injured or destroyed, the person so offending shall be guilty of a misdemeanor, and be punished by imprisonment with hard labor not exceeding one year, in the Common Gaol of the Territorial Division in which the offence was committed or has been tried. 16 V. c. 169, s. 3.

Punishment of persons obstructing Inspectors in the execution of their duty.

155. Every person wilfully obstructing any Railway Inspector in the execution of his duty shall, on conviction before a Justice of the Peace having jurisdiction in the place where the offence has been committed, forfeit and pay for every such offence any sum not exceeding forty dollars, and in default of payment of any penalty so adjudged, immediately, or within such time as the said Justice of the Peace appoints, the same Justice, or any other Justice having jurisdiction in the place where the offender resides, may commit the offender to prison for any period not exceeding three months; but such commitment shall be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual manner. 20 V. c. 12, s. 3.

Can. Stat. Con.
page 197.

C A P. L X V I I.

An Act respecting Electric Telegraph Companies.

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

E X T R A C T S.

Associations may be formed.

1. Any number of persons, not less than three, may associate for the purpose of constructing a line or lines of Electric Telegraph, with branches leading to and from the same, from and to any point in this Province, upon the terms and conditions,

and subject to the liabilities prescribed in this Act. 16 V. c. 10, s. 1.

2. Such persons, under their hands and seals, shall make a Certificate which shall specify :

Certificate to be made and contents.

1. The name assumed to distinguish the Association, and to be used in its dealings, and by which it may sue and be sued, and a designation of the line or lines of Telegraph to be constructed by such association, and the route or routes by which such lines are to pass ;

2. The capital stock of such Association, and the number of shares into which the stock is divided, and any provision made for increasing the same, the names of the Shareholders, and the amount of stock held by each ;

3. The period at which the Association is to commence and terminate ;

4. A copy of the Articles of Association. 16 V. c. 10, s. 2.

3. The certificate shall be acknowledged before a Notary, and the original or a copy thereof, certified by such Notary, shall be filed in the office of the Provincial Secretary. *Ibid.*

To be acknowledged before a Notary, and filed.

C A P . L X X X I I .

Con. Stat. Can. page 899.

An Act respecting the calling and orderly holding of Public Meetings.

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

It being the undoubted right of Her Majesty's subjects to meet together in a peaceable and orderly manner, not only when required to do so in compliance with the express direction of law, but at such other times as they may deem it expedient so to meet for the consideration and discussion of matters of public interest, or for making known to their Gracious Sovereign or Her Representative in this Province, or to both or either Houses of Her Imperial or Provincial Parliaments, their views respecting the same, whether such be in approbation or con-

Preamble.

denmation of the conduct of public affairs; and it being expedient to make Legislative provision for the calling and orderly holding thereof, and the better preservation of the public peace at the same: Therefore

Meetings with-
in the protec-
tion of this Act.

1. All Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish in this Province, which are required by law, and summoned or called in the manner hereinafter by the Fourth section of this Act prescribed, shall be and be deemed to be Public Meetings, within the meaning of this Act. 7 V. c. 7, s. 1.

Meetings called
by Sheriffs or
two magistrates
to be within
protection of
this Act.

2. All Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish in this Province, called by the High Sheriff of any such District or County, or by the Mayor or other Chief Municipal Officer of any such City or Town respectively, in the manner hereinafter by the Fifth section of this Act prescribed, upon the requisition of any twelve or more of the Freeholders, Citizens or Burgesses of such District, County, Riding, Town, Township, Ward or Parish, having a right to vote for Members to serve in the Provincial Parliament in respect of the property held by them within such District, County, Riding, City, Town, Township, Ward or Parish respectively, and all such Meetings called by any two or more Justices of the Peace, resident in any such District, County, Riding, City, Town, Township, Ward or Parish respectively, upon a like requisition from twelve or more of such Freeholders, Citizens or Burgesses, shall be and be deemed to be Public Meetings, within the meaning of this Act. 7 V. c. 7, s. 2.

Meetings de-
clared by two
magistrates to
be within the
protection of
the Act to be so.

3. All Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish in this Province, declared to be Public Meetings within the meaning of this Act, by any two Justices of the Peace resident in such District, County, Riding, City, Town, Township, Ward or Parish, in the manner hereinafter by the Sixth section of this Act prescribed, shall be and be deemed to be Public Meetings, within the meaning of this Act. 7 V. c. 7, s. 3.

Manner of
bringing meet-
ings required by
law within pro-
tection of this
Act.

4. In every notice or summons for calling together any such Public Meeting, as in the First section of this Act is mentioned, there shall be contained a notice that such Meeting, and all persons attending the same, will be within the protection of this Act, and requiring all persons to take notice thereof and govern themselves accordingly, and which part of such notice or summons may be in the form or to the effect following:

And be it known, that the Meeting to be held, in pursuance hereof, is called in conformity with the provisions of the Act

respecting the calling and orderly holding of Public Meetings; and that the said Meeting, and all persons attending the same will therefore be within the protection of the said Act, of all which premises, all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly. 7 V. c. 7, s. 4.

5. The notice to be issued by the High Sheriff of any District, or County, or by the Mayor or other Chief Municipal Officer of any City or Town, or by two or more Justices of the Peace, for calling any such Public Meeting, as in the Second section of this Act is mentioned ;

Manner of bringing meetings called by Sheriffs, &c., within the protection of this Act.

1. Shall be issued at least three days previous to the day upon which such Meeting is appointed to be held ;
2. Shall set forth the names of the requisitionists, or of a competent number of them ;
3. That such Meeting is called in conformity with the provisions of this Act ; and
4. That such Meeting, and all persons attending the same, will be within the protection of this Act, and that all persons are required to take notice thereof and govern themselves accordingly ; and
5. Such notice may be in the form or to the effect following :

To the Inhabitants of the District of A, (or as the case may be) and all others Her Majesty's subjects whom it doth or may in any wise concern :

Whereas I, A. B., High Sheriff of &c. (or We, C. D. and E. F.) two (or whatever the number may be) of Her Majesty's Justices of the Peace, for the District of A, resident within the said District (or resident within the said County of B, or as the case may be) having received a requisition, signed by I. J. K. L. &c. &c. (inserting the names of at least twelve of the requisitionists and as many more as conveniently may be, and mentioning the number of the others thus) and fifty-six (or as the case may be) others, who (or twelve of whom) are freeholders of the said District, (or Citizens of the said City) having a right to vote for members to serve in the Provincial Parliament, in respect of the property held by them within the said District, (or City &c., as the case may be) requesting me (or us) to call a Public Meeting of (here recite the requisition.) And whereas I, (or we) have determined to comply with the said requisition; now therefore, I (or we) do hereby appoint the said Meeting to be held at _____ (here state the place) on _____ the _____ day of _____ next (or instant) at _____

of the clock in the noon, of which all persons are hereby required to take notice. And whereas the said Meeting hath been so called by me (or us) in conformity with the provisions of the Act respecting the calling and orderly holding of Public Meetings, the said Meeting, and all persons who may attend the same, will therefore be within the protection of the said Act, of all which premises all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness, my hand (or our hands,) at
the District of , this day of , in
18 .

A. B. Sheriff,

or

C. D., J. P.

E. F., J. P.

7 V. c. 7, s. 5.

By private
persons within
the protection
of this Act.

6. Upon information on oath, before any Justice of the Peace, that any Public Meeting of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish, not being a Public Meeting of the description mentioned in the First section of this Act, or a Public Meeting called in the manner referred to in the Second section of this Act, is appointed to be held at any place within the Jurisdiction of such Justice, and that there is reason to believe that great numbers of persons will be present at such meeting: Any two Justices of the Peace, having jurisdiction within the District, County, City or Town, within which such Meeting is appointed to be held, may give notice of such Meeting, and may declare the same, and declare all persons attending the same, within the protection of this Act, and require all persons to take notice thereof and govern themselves accordingly, and such notice or declaration may be in the form or to the effect following:

To the Inhabitants of the District of A, (or as the case may be,) and all others Her Majesty's subjects whom it doth or may in any wise concern:

Whereas by Information on oath, taken before D. E., Esquire, one of Her Majesty's Justices of the Peace for the District of C, (or City, or as the case may be,) within which the Meeting hereinafter mentioned is appointed to be held, it appears that a Public Meeting of the Inhabitants (or householders, &c. as the case may be,) of the District of G, (or, as the case may be,) is appointed to be held at , in the said district, (or, as the case may be,) on , the day of next (or instant,) at of the clock in the noon, (or at some other hour on the same day;) and that there is reason to believe that great numbers of persons

will be present at such Meeting; and whereas it appears expedient to us C. D. and E. F. two (or whatever the number may be) of Her Majesty's Justices of the Peace, having Jurisdiction within the said District (or as the case may be) that, with a view to the more orderly holding of the said Meeting, and the better preservation of the public peace at the same, the said Meeting, and all persons who may attend the same, should be declared within the protection of *An Act respecting the calling and orderly holding of Public Meetings*; Now therefore, in pursuance of the provisions of the said Act and the authority in us vested by virtue of the same, We, the said Justices, do hereby give notice of the holding of the said Meeting, and do hereby declare the said Public Meeting, and all persons who may attend the same, to be within the protection of the said Act of Parliament; Of all which premises all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness, at our hands, at _____, in the District of _____,
 this _____ day of _____, 18____.

• C. D., J. P.
 E. F., J. P.
 &c.

7 V. c. 7, s. 6.

7. Every Sheriff, Mayor, Justice of the Peace, or other person who calls any such Public Meeting as is mentioned in the Second section of this Act, shall give public notice thereof, as extensively as he reasonably may, by causing to be posted and distributed throughout the District, County, Riding, City, Town, Township, Ward or Parish, for which the same is called, a sufficient number of printed or written copies of the notice calling the same. 7 V. c. 7, s. 7.

Sheriffs or Justices, &c., calling meetings on requisition to give certain notices.

8. The Justices of the Peace who declare any Public Meeting, about to be held, to be a Public Meeting within the protection of this Act, as in the Third section of this Act mentioned, shall give public notice of its having been so declared, by causing to be posted and distributed throughout the District, County, Riding, City, Town, Township, Ward or Parish, for which the same is so called, as many printed or written copies of the notice or declaration issued by them in that behalf, as may be reasonably necessary for that purpose, and as the time appointed for the holding such Meeting reasonably admits. 7 V. c. 7, s. 8.

Justices declaring meetings to be within protection of Act to give certain notices.

9. Every Sheriff, Mayor, Justice of the Peace, or other person who either calls any Public Meeting under the provisions of the Second Section of this Act, or declares any Meeting called by others, to be a Public Meeting within the protection of this Act, under the provisions of the Third Section hereof,

Sheriffs and Justices calling and declaring meeting under this Act to attend the same.

shall attend such Meeting and whether such Sheriff, Mayor, Justice of the Peace, or other person is appointed by such Public Meeting to take the Chair and preside over the same, or not, every such Sheriff, Mayor, Justice of the Peace, and other person, shall continue at or near the place appointed for holding such Public Meeting, until the same has dispersed, and shall afford all such assistance as may be in his power, in preserving the public peace thereat. 7 V. c. 7, s. 9.

Chairman to read requisition and make proclamation for the preservation of order.

10. Every person required by Law, or who has, in the usual way, been appointed at such Public Meeting, to preside over the same, shall commence the proceedings of the Meeting by causing the Summons or notice calling the Meeting, or the Declaration whereby the same is declared to be a Public Meeting, under the protection of this Act, to be publicly read. 7 V. c. 7, s. 10.

Chairman to remove disorderly persons and convict on view of disturbance.

11. Any person required by law, or who has been appointed at such Meeting in the usual way to preside over the same, shall cause order to be kept at such Meetings, and for that purpose may, by oral direction, or otherwise, cause any person, who attempts to interrupt or disturb such Meeting, to be removed to such a distance from the same as may effectually prevent such interruption or disturbance, and by an instrument in writing under his hand, on his own view, may adjudge any person who so attempts to interrupt or disturb such Meeting, guilty of such attempted interruption or disturbance, upon which conviction any Justice of the Peace may by Warrant under his hand, forthwith commit such person to the Common Gaol of the County or District, or to any other place of temporary confinement that such Justice may appoint for any period not exceeding forty-eight hours from the time of commitment signed, and until the lawful costs of the Constable and Gaoler for the arrest, transmission and detention of such person be paid or satisfied. 7 V. c. 7, s. 11.

To call on Justices of the Peace for assistance.

12. For the purpose of keeping the peace and preserving good order to every such Public Meeting, the person required, or appointed to preside at any such Meeting as aforesaid, may command the assistance of all Justices of the Peace, Constables, and other persons to aid and assist him in so doing. 7 V. c. 7, s. 12.

Justices to swear in Special Constables on requisition of Chairman.

13. Any Justice of the Peace, present at any such Meeting, upon the written application of the person so required or appointed to preside at the same, shall swear in such a number of Special Constables, as such Justice may deem necessary for the preservation of the public peace at such Meeting. 7 V. c. 7, s. 13.

Persons of certain ages refusing to be

14. If any person between the ages of eighteen and sixty, upon being required to be sworn in as a Special Constable, by

any Justice of the Peace, upon any such occasion, omits or refuses to be sworn, unless for some cause to be allowed by such Justice at the time, such person shall be guilty of a Misdemeanor, and such Justice may thereupon record the refusal of such person so to be sworn, and adjudge him to pay a fine of not more than eight dollars, which fine shall be levied and made by the like process as other fines imposed by summary proceedings before Justices of the Peace, or such person may be proceeded against by Indictment or Information, as in other cases of Misdemeanor. 7 V. c. 7, s. 14.

sworn in guilty of misdemeanor.

15. Any Justice of the Peace, within whose Jurisdiction any such Meeting is appointed to be holden, may demand, have and take of and from any person attending such Meeting, or on his way to attend the same, any offensive weapon, such as fire-arms, swords, staves, bludgeons, or the like, with which any such person is so armed, or which any such person has in his hands or possession, and every such person who, upon such demand, declines or refuses to deliver up, peaceably and quietly, to such Justice of the Peace, any such offensive weapon as aforesaid, shall be deemed guilty of a Misdemeanor, and such Justice may thereupon record the refusal of such person to deliver up such weapon, and adjudge him to pay a fine of not more than eight dollars, which fine shall be levied and made by the like process as other fines imposed by summary proceedings before Justices of the Peace, or such person may be proceeded against by Indictment or Information, as in other cases of Misdemeanor; But such conviction shall not interfere with the power of such Justice or any other Justice, to take such weapon, or cause the same to be taken from such person without his consent and against his will, by such force as may be necessary for that purpose. 7 V. c. 7, s. 15.

Justices of the Peace may disarm persons.

16. Upon reasonable request to any Justice of the Peace, to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the Meeting has finally dispersed and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such Justice of the Peace to the person from whom the same was received. 7 V. c. 7, s. 16.

Weapons to be returned to parties in certain cases.

17. No such Justice of the Peace shall be held liable to return any such weapon, or make good the value thereof, in case the same by unavoidable accident, has been actually destroyed or lost out of the possession of such Justice without his wilful default. 7 V. c. 7, s. 17.

If accidentally lost, &c.

18. Any person convicted of a battery, committed within the distance of two miles of the place appointed for the holding of such Public Meeting and during any part of the day whereon any such Meeting has been appointed to be held, shall be punishable by a fine of not more than one hundred dollars, and imprisonment.

Persons guilty of battery within two miles of the meeting to be punished by certain penalties.

ment for not more than three months, or either, in the discretion of the Court, whose duty it may be to pass the sentence of the law upon such person. 7 V. c. 7, s. 17.

No one to approach armed within two miles of meeting.

19. Except the High Sheriff, under Sheriff, and Justices of the Peace for the District or County, or the Mayor and High Bailiff, and Justices of the Peace for the City or Town respectively, in which any such Meeting is to be held, and the Constables and Special Constables employed by them, or any of them, for the preservation of the public peace at such Meeting, no person shall during any part of the day upon which such Meeting is appointed to be held, come within two miles of the place appointed for such Meeting, armed with any offensive weapon of any kind, as fire-arms, swords, staves, bludgeons, or the like, and any person who offends against the provisions in this section contained, shall be guilty of a Misdemeanor, punishable by fine not exceeding one hundred dollars, and imprisonment not exceeding three months, or both, at the discretion of the Court, whose duty it may be to pass the sentence of the law upon such person. 7 V. c. 7, s. 18.

Persons guilty of lying in wait how to be punished.

20. Any person who lies in wait for any person returning, or expected to return, from any such Public Meeting, with intent to commit an assault upon such person, or with intent by abusive language, opprobrious epithets or other offensive demeanor directed to, at or against such person, to provoke such person, or those who may accompany him, to a breach of the Peace, shall be guilty of a Misdemeanor, punishable by fine not exceeding two hundred dollars, and imprisonment not exceeding six months, or both at the discretion of the Court. 7 V. c. 7, s. 19.

Actions to be brought within 12 months.

21. Every action to be brought against any person for any thing by him done under authority of this Act, must be brought within twelve months next after the cause of such action accrued. 7 V. c. 7, s. 20.

Can. Stat. Can. page 946.

C A/P. X C.

An Act respecting offences against the State.

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

I. HIGH TREASON.

1. Nothing contained in the Criminal Acts of the Province of Canada, shall affect or alter any Act, so far as it relates to the crime of High Treason, or to any branch of the Public Revenue.

The Criminal Acts of Canada are not to affect the law of High Treason or the law relating to the Revenue.

4, 5 V. c. 27, s. 43.

2. LAND AND NAVAL FORCES.

2. Nothing therein contained shall alter or affect any of the laws relating to the Government of Her Majesty's Land or Naval Forces. 4, 5 V. c. 7, s. 38. Nor the Mutiny Act.

3. THE COUNTERFEITING OF CURRENT COIN.

3. If any person falsely makes or counterfeits, or causes to be made or counterfeited, any coin resembling, or apparently intended to resemble, or pass for any of the Queen's current gold or silver coin, or any of the gold or silver coin made or declared to be lawfully current in this Province, such person shall be guilty of a misdemeanor, and shall be imprisoned in the Provincial Penitentiary for not more than four years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 12 V. c. 20, s. 1. Punishment for counterfeiting current coin. First offence.

4. If such person afterwards offends in like manner, he shall, for such second or for any subsequent offence, be deemed guilty of felony, and shall be liable to the punishment by law provided for felony. 12 V. c. 20, s. 1. Second or subsequent offence.

5. Upon the trial of any person accused of any offence alleged to have been committed against the form of the Consolidated Statute of Canada respecting the currency, or against the provisions of this Act, no difference in the date or year marked upon the lawfully current coin described in the indictment, and the date or year marked upon the false coin counterfeited to resemble or pass for such lawfully current coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed, for the purpose of counterfeiting or imitating any such lawfully current coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence or accusation. 12 V. c. 20, s. 2. Variance in description not to be a valid objection to an indictment.

6. If any person colours or gilds, or cases over with gold or silver, or with any wash or materials producing the colour of gold or silver, any coin of coarse gold or of coarse silver, or of base metal, resembling any coin made or declared to be current in this Province, or makes or causes to be made, or buys, sells or procures for himself or for another, or knowingly brings and imports, or causes to be brought and imported into this Province, any forged, false or counterfeit gold, silver or copper coin, like to any of the gold, silver or copper coin made or declared lawfully current in Canada, or any coin of coarse gold or of coarse silver, or of base metal colored, gilded or cased over with gold or silver, or with any wash or materials producing the colour of gold or silver, and resembling any such coin, or any piece of gilded silver resembling any such coin, or utters or attempts to utter, or tender in payment to any person or persons as being Punishment for false colouring or uttering counterfeit coin;

any of the gold, silver or copper coins made or declared to be current money as aforesaid, any false or counterfeit piece, counterfeited to any of the gold, silver or copper coins, so made or declared to be current, or to any of the higher or lower denominations thereof, knowing the same to be false or counterfeit, such person shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary for not less than three nor more than fourteen years. 16 V. c. 158, s. 13.

First offence.

Second offence.

7. If such person afterwards offends in like manner, he shall for such second and for any subsequent offence, be deemed guilty of felony, and shall be imprisoned in the Penitentiary for life, or for any term not less than fourteen years. 16 V. c. 158, s. 13.

Making or possessing stamps or dies for counterfeiting.

8. If any person forms, makes, cuts, sinks, stamps, engraves, repairs, or mends, or assists in forming, making, cutting, sinking, stamping, engraving, repairing or mending, or has in his possession, except for some known and lawful purpose, any false or counterfeit coin, counterfeit to any coin lawfully current as aforesaid, or any die, press, tool or instrument, or metal or material of any kind, used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any Coin lawfully current as aforesaid, such person shall be guilty of a misdemeanor, and shall be punished accordingly. 16 V. c. 158, s. 14.

Onus probandi to be upon the person in possession.

9. The proof that such false or counterfeit coin, or such die, press, tool or instrument, metal or material was formed, made, cut, sunk, stamped, engraved, repaired or mended by, or was in the possession of such person for some lawful purpose, shall lie upon him. 16 V. c. 158, s. 14.

Search warrant to issue for discovery of counterfeit coin.

10. Any Justice of the Peace on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any person is or has been concerned in making, counterfeiting or imitating any such Coin as aforesaid, shall by warrant under the hand and seal of such Justice, cause the dwelling house, room, work-shop, out-house or other building, yard, garden, ground or other place belonging to such suspected person or where such suspected person is suspected to carry on any such making, counterfeiting or imitating, to be searched for such counterfeit Coin. 16 V. c. 158, s. 15.

Any person may seize counterfeit coin or coining tools, and how to proceed.

11. If any such Coin or any such die, press, tool or instrument, metal or material as aforesaid be found in the possession or custody of any person, not having the same for some lawful purpose, any other person discovering the same, may seize, and he is hereby required to seize and carry the same forthwith before a Justice of the Peace having jurisdiction within the locality in which the same has been seized, and such Justice, shall cause the same to be secured and produced in evi-

dence against the person prosecuted for any such offence in any Court of competent jurisdiction, and the same after being so produced in evidence, shall by order of the Court be defaced or destroyed, or otherwise disposed of as the Court directs. 16 V. c. 158, s. 15.

12. Any person to whom there is tendered in payment, any pretended Gold, Silver or Copper Coin which by the Stamp, Impression, Colour or Weight thereof, affords reason to suspect that the same is false or counterfeit, may cut or break such Coin, and if the same be counterfeit, the person who tendered it shall bear the loss, otherwise the person who cut or broke it shall receive it for a sum proportionate to its weight; and if a question arises whether such Coin be counterfeit, a Justice of the Peace, shall determine the same, and if he entertains any doubt in that behalf, he may summon three skilful persons, the decision of a majority of whom shall be final. 16 V. c. 158, s. 16.

Counterfeited coin tendered in payment may be destroyed, &c.

13. If any false or counterfeit Coin be produced in any Court of Law, the Court shall order the same to be cut in pieces in open Court or in the presence of a Justice of the Peace, and then delivered to or for the lawful owner thereof, if such owner claims the same. 16 V. c. 158, s. 17.

Counterfeit coin produced in Court to be destroyed.

14. Any person who knowingly utters, or attempts to utter or offers in payment, as being lawfully current, any Gold Coin of less than its lawful weight, or who diminishes the weight of any such Coin with intent to utter or offer it in payment as lawfully current, shall be guilty of a misdemeanor, and be punished accordingly. 16 V. c. 158, s. 18.

When tender of light gold coin to be a misdemeanor

15. On the trial of any person for an offence under this Act, it shall not be necessary to call an Officer of the Mint or other person employed in producing the lawful Coin, to prove any counterfeit to be such, but the fact may be proved by any evidence which is satisfactory to the Jury trying the case. 16 V. c. 158, s. 19.

Officers of the Mint need not be called to prove counterfeits.

4. THE MAKING OR UTTERING OF SPURIOUS FOREIGN COIN.

16. In case any person colors, gilds or cases over with gold or silver, or with any wash or materials producing the color of gold or silver, any coin of coarse gold or silver or of base metal, resembling any coin made, coined, or struck by or under the authority of any foreign prince or state, and then actually current in the dominions or country of such prince or state, although not current by law in this Province, or in case any person makes or causes to be made, or buys, sells or procures or knowingly brings or imports into this Province any forged, false or counterfeit coin resembling any such foreign gold or silver coin as aforesaid, or any coin of coarse gold or silver, or base metal colored or cased over with gold or silver, or with any wash or

Punishment for counterfeiting or uttering foreign coin although not current.

materials producing the color of gold or silver, and resembling any such foreign gold or silver coin as aforesaid, or offers, utters, tenders, or puts off as being any such foreign gold or silver coin, any forged, false, or counterfeit piece or coin counterfeited to, and resembling any such foreign gold or silver coin knowing the same to be forged, false or counterfeit, such offender shall for the first offence be guilty of a misdemeanor, and for the second and any subsequent offence, shall be guilty of felony. 20 V. c. 30, s. 1.

The first offence, a misdemeanor, a second offence felony.

The offence of making tools for counterfeiting foreign coin.

17. If any person forms, casts, makes, cuts, sinks, stamps or engraves, repairs or mends any die, press, mould, matrix, tool, instrument or machine, metal, or material of any kind, used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any foreign gold or silver coin described in the last preceding section of this Act, such offender shall, for the first offence, be guilty of a misdemeanor, and for the second or any subsequent offence shall be guilty of felony. 20 V. c. 30, s. 2.

The offence of knowingly possessing such tools except for a lawful purpose.

18. If any person knowingly, and except for some known and lawful purpose, has in his possession or custody, any forged, false, or counterfeited piece or coin, counterfeited to resemble any foreign gold or silver coin described in the sixteenth section of this Act, or any die, press, mould, matrix, tool or instrument or machine, metal or material of any kind used, constructed, devised, adapted or designed for the purpose of imitating any foreign gold or silver coin described in the said section, such offender shall for the first offence be guilty of a misdemeanor, and for the second or any subsequent offence, shall be guilty of felony. 20 V. c. 30, s. 3.

Punishment or offending against the three previous sections.

19. Any person convicted of having committed any misdemeanor under the three last sections of this Act, shall be imprisoned in any Common Gaol, with or without hard labour, for any term under two years, or shall be imprisoned in the Penitentiary for any term not less than two nor more than seven years, and upon conviction for a second or any subsequent offence as aforesaid, such person shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two nor more than fourteen years, in the discretion of the Court before which the conviction may be had. 20 V. c. 30, s. 4.

5. SPURIOUS COPPER AND BRASS COIN.

Manufacture of copper coin prohibited unless authorized by the Governor.

20. Except the lawful Copper Coin of the United Kingdom of Great Britain and Ireland, no person, body politic or corporate, shall, without authority under the hand of the Governor, import into this Province, or manufacture herein any Copper or Brass Coin or Tokens of any description. 4, 5 V. c. 17, s. 1.

21. The Governor may grant such permission by and with the advice and consent of the Executive Council, and such permission shall contain the name of some certain person, body politic or corporate authorized to import or manufacture any such Coin or Tokens, a description of the Coin or Tokens to which it extends, the quantity thereof to be imported or manufactured, and the time during which such permission shall be in force. 4, 5 V. c. 17, s. 1.

The Governor in Council may grant such permission.

22. Such permission shall be announced in the Official Gazette. 4, 5 V. c. 17, s. 1.

To be published in the Gazette.

23. All Coins imported or manufactured as aforesaid, shall in purity, weight and quality, be equal to five sixths at the least, of the lawfully current British penny or half-penny. 4, 5 V. c. 17, s. 1.

Purity, weight, and quality of such coin.

24. No such permission shall be granted by the Governor, for the importation or manufacture of any Copper or Brass Coin or Tokens, under the provisions of this Act, by any person, body politic or corporate, unless such Coin or Tokens be stamped with the nominal value thereof, and with the name of such person or persons, body politic or corporate. 4, 5 V. c. 17, s. 2.

Such coin to be stamped with the value and name of maker, &c.

25. Such person, body corporate or politic, shall on demand pay or redeem such Coins and Tokens at the nominal value thereof, as in payment of a debt equal to such nominal value, and shall so pay or redeem the same in lawful current Coin being a legal tender in this Province. 4, 5 V. c. 17, s. 2.

To be redeemable on demand at nominal value.

26. All such Coin or Tokens as aforesaid, imported or manufactured in contravention of the twentieth and five next following sections of this Act, shall be forfeited to Her Majesty, for the public uses of this Province; and the person who manufactures or imports the same, shall thereby incur a penalty not exceeding twenty dollars, for every pound troy of the weight thereof. 4, 5 V. c. 17, s. 3.

Coins imported or made without authority to be forfeited, and incur a penalty of \$20.

27. Any two or more Justices of the Peace, on the oath of a credible person, that any such Coin or Tokens have been unlawfully manufactured or imported as aforesaid, shall cause the same to be seized and detained, and shall summon the person in whose possession the same has been found, to appear before them, and if it appears to their satisfaction, on the oath of a credible witness, other than the informer, that such Coin or Tokens have been manufactured or imported in contravention of this Act, such Justices shall declare the same forfeited, and shall place them in safe keeping to await the disposal of the Governor, for the public uses of this Province. 4, 5 V. c. 17, s. 3.

Two Justices of the Peace may take cognizance of such offences.



Who may convict and impose penalties and commit offenders.

28. If it in like manner, appears to the satisfaction of such Justices, that the person in whose possession such Coin or Tokens were found, knew the same to have been so illegally manufactured or imported, they may condemn the offender to pay the penalty aforesaid with costs, and may commit him to the Common Gaol of the District, County or place for a period not exceeding two months, if such penalty and costs are not forthwith paid, or until the same be paid. 4, 5 V. c. 17, s. 3.

When the owner and not the possessor incurs the penalty.

29. If it appears to the satisfaction of such Justices of the Peace, that the person in whose possession such Coins or Tokens were found, was not aware of their having been so illegally manufactured or imported, the penalty may, on the oath of any one credible witness other than the plaintiff, be recovered, from the owner thereof, by any person who sues for the same in any Court of competent Jurisdiction. 4, 5 V. c. 17, s. 4.

Officers of customs may seize, &c.

30. Any Officer of Her Majesty's Customs may seize any Coin or Tokens, imported or attempted to be imported, into this Province in contravention of this Act, and may detain the same as forfeited, to await the disposal of the Governor, for the public uses of the province. 4, 5 V. c. 17, s. 5.

The tender, &c., of foreign copper coin except American cents prohibited.

31. No person shall utter, tender or offer in payment any Copper or Brass Coin, other than the lawful Coin of the United Kingdom, or the Tokens of some one of the Chartered Banks of this Province, or of the *Banque du Peuple* at the City of Montreal, imported or manufactured before the twenty-first day of November, one thousand eight hundred and forty-one, under the sanction and authority of the Executive, or under and by virtue of the Ordinances of the late Province of Lower Canada heretofore repealed, or American cents, or such Coins or Tokens as have been lawfully imported into, or manufactured in this Province, according to the provisions of the Act 4, 5 V. c. 17, or of the Act respecting the currency, or of this Act, under a penalty of the forfeiture of double the nominal value thereof. 4, 5 V. c. 17, s. 7.—16 V. c. 158, s. 10.

How penalties may be recovered.

32. Such penalty may be recovered, with costs, in a summary manner, on the oath of one credible witness, other than the informer, before any Justice of the Peace, who, if such penalty and costs be not forthwith paid, may commit the offender to the Common Gaol of the District, County or place for a time not exceeding eight days, or until the same be paid, if sooner paid. 4, 5 V. c. 17, s. 7.

Application of penalties.

33. One moiety of all the penalties imposed by the twenty-sixth to the thirty-second sections of this Act, (but not the Coins or Tokens forfeited under the provisions thereof) shall go to the informer or person suing for the same, and the other moiety shall belong to Her Majesty, for the public uses of this Province. 4, 5 V. c. 17, s. 8. See *Gazette* 21st October, 1841.

6. RETURNING FROM TRANSPORTATION.

34. If any person sentenced or ordered to be transported or banished, or who having agreed to transport or banish himself on certain conditions, either for life or for any number of years, be afterwards at large within any part of this Province, contrary to such sentence, order or agreement, without some lawful cause, before the expiration of his term of transportation or banishment, such offender shall be guilty of felony, and shall be imprisoned for any term not exceeding four years. 4, 5 V. c. 24, s. 25.

Returning from transportation.

C A P. X C I.

Can. Stat. Can. page 952.

An Act respecting Offences against the Person.

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

1. PETIT TREASON.

1. Every offence, which on or before the first of January, 1842, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessories, shall be dealt with, indicted, tried, and punished as principals and accessories in murder. 4, 5 V. c. 27, s. 2.

Petit treason placed on the same footing as murder.

Punishment.

2. MURDER.

2. Every person guilty of murder, or of being an accessory before the fact to murder, shall suffer death as a felon; and every accessory after the fact to murder, shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 3, 6 V. c. 5, s. 2, and 14, 15 V. c. 2, s. 2.

Murder and accessories before and after the fact.

3. MANSLAUGHTER.

3. Every person guilty of manslaughter shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years, or shall pay such fine as the Court may impose. 4, 5 V. c. 27, s. 7.

Manslaughter.

Punishment.

4. CONCEALING THE BIRTH.

4. Any woman delivered of a child, who, by secret burying or otherwise disposing of the dead body of the said child, endeavours to conceal the birth thereof, shall be guilty of a misdemeanor, and shall be imprisoned for any term less than two years, and it shall not be necessary to prove whether the child died before, at, or after its birth. 4, 5 V. c. 27, s. 14.

Concealing the birth of children to be a misdemeanor.

Punishment.

5. POISONING, — STABBING, &C. WITH INTENT TO MURDER.

Poisoning,
stabbing, &c.,
with intent to
murder.

5. Any person who administers to or causes to be taken by any person, any poison or other destructive thing, or stabs, cuts or wounds, any person, or by any means whatsoever causes any bodily injury dangerous to life, to any person with intent, in any of the cases aforesaid, to commit murder, shall be guilty of felony, and shall suffer death. 4, 5 V. c. 27, s. 9.

Punishment.

6. FELONIOUS ATTEMPTS TO MURDER.

Other attempts
to murder.

6. Any person who attempts to administer to any person any poison or other destructive thing, or shoots at any person, or by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid to commit the crime of murder, shall, although no bodily injury be effected, be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 10.

How punish-
able.

7. ATTEMPTS TO STABB, MAIM OR DISFIGURE.

Maliciously
shooting or
attempting to
stab, maim or
disfigure.

7. Any person who unlawfully and maliciously shoots at any person, or by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person, or stabs, cuts or wounds any person, with intent in any of the cases aforesaid to maim, disfigure, or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 11.

How punish-
able.

8. MALICIOUSLY STABBING, &C.

Maliciously
stabbing or
inflicting other
bodily injury—
a misdemeanor.

8. Any person who unlawfully and maliciously inflicts upon any other person, either with or without any weapon or instrument, any grievous bodily harm, or unlawfully and maliciously cuts, stabs or wounds any other person, shall be guilty of a misdemeanor, and shall be imprisoned, with hard labour, in any gaol or prison for any term less than two years, or in the Penitentiary for any time not less than two nor more than five years. 18 V. c. 92, s. 30.

How punish-
able.

9. CARRYING BOWIE-KNIVES, DAGGERS, &C., ABOUT THE PERSON.

Punishment for
carrying certain
weapons.

9. Any person who carries about his person any Bowie-knife, Dagger or Dirk, or any weapons called or known as Iron

Knuckles, Skull-crackers, or Slung Shot, or other offensive weapons of a like character, or who secretly carries about the person any instrument loaded at the end, or who sells or exposes for sale publicly or privately, any such weapon, shall be subject, on conviction, to a fine of not less than ten nor more than forty dollars, and in default of payment thereof, to imprisonment for a term not exceeding thirty days, at the discretion of the Court wherein the offence is tried; But nothing in this section contained shall apply to Her Majesty's Army or Navy, or Militia, or Volunteer Force, nor to any Highland or National Society carrying arms as part of their national costume. 22 V. c. 26, s. 1, (1859).

This section not to apply to certain cases.

10. Any person charged with having committed any offence against the provisions of the last preceding section of this Act, may be tried and dealt with in pursuance of the Consolidated Statute of Canada respecting the prompt and Summary Administration of Criminal Justice in certain cases. *Ibid*, s. 2.

The offender shall be tried under cap. 105.

11. It shall be the duty of the Court or Magistrate before whom any person is convicted under the two last preceding sections of this Act, to impound the weapon for carrying which such person is convicted, and to cause the same to be destroyed. *Ibid*, s. 3.

Weapons to be impounded.

12. All prosecutions under the preceding ninth and tenth sections of this Act shall be commenced within one month from the offence charged; and from any conviction or decision under the said ninth and tenth sections, an appeal shall lie to the Court of General Quarter Sessions of the Peace for the County in Upper Canada or District in Lower Canada wherein the same takes place, subject in Upper Canada to the provisions of the Consolidated Statute for Upper Canada respecting appeals in cases of Summary Conviction, and in Lower Canada to the provisions of law regulating appeals to the Quarter Sessions generally. *Ibid*, s. 4.

Limitation of prosecutions. Appeal allowed.

10. FELONIOUSLY ADMINISTERING DRUGS.

13. Any person who unlawfully applies or administers or attempts to apply or administer to any other person, any chloroform, laudanum, or other stupifying or overpowering drug, matter or thing, with intent thereby to enable or to assist such offender or any other person to commit any felony, shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not less than two nor more than five years. 18 V. c. 92, s. 29.

Feloniously administering drugs.

How punishable.

11. EXPLOSIVE SUBSTANCES.

14. Any person who unlawfully and maliciously sends or delivers or causes to be taken, or received by any person,

Unlawful use of any explosive substance.

any explosive substance, or any other dangerous or noxious thing, or casts or throws upon or otherwise applies to any person, any corrosive fluid, or other destructive matter, with intent in any of the cases aforesaid, to burn, maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, and whereby in any of the cases aforesaid any person is burnt, maimed, disfigured or disabled, or receives some other grievous bodily harm, shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 12.

Felony.

Punishment.

Bodily injury by.

Felony.

15. Any person who unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, or disfigures, disables or does any grievous bodily harm to any person, shall be guilty of felony. 10, 11 V. c. 4, s. 3.

Attempts to inflict bodily injury by.

Felony.

Punishment.

16. Any person who unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to or causes to be taken or received by any person any explosive substance, or any other dangerous or noxious thing, or casts or throws at or upon, or otherwise applies to any person any corrosive fluid, or other destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure or disable any person, or do some grievous bodily harm to any person, shall, although no bodily injury be effected, be guilty of felony. 10, 11 V. c. 4, s. 4.

17. Any person guilty of any felony in the two last preceding sections mentioned, shall be imprisoned in the Penitentiary for any term not less than seven years, or be imprisoned in any common gaol for any term less than two years. 10, 11 V. c. 4, s. 5.

12. POSSESSING EXPLOSIVE SUBSTANCES WITH ILLEGAL INTENTS.

Possessing explosive substances with illegal intents, a misdemeanor.

Punishment.

18. Any person who knowingly makes, or manufactures, or has in his possession, any gunpowder, explosive substance or other dangerous or noxious thing, or any machine, engine, instrument or other thing with intent by means thereof to commit or for the purpose of enabling any other person to commit any offence against this Act, shall be guilty of a misdemeanor, and shall be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 4, s. 8.

13. RAPE.

Rape.

19. Every person guilty of the crime of rape, shall suffer death as a felon. 4, 5 V. c. 27, s. 16.

14. ABUSING INFANTS UNDER THE AGE OF TEN YEARS.

20. Any person who unlawfully and carnally knows and abuses any girl under the age of ten years, shall be guilty of felony, and shall suffer death as a felon. 4, 5 V. c. 27, s. 17. Abusing infants under ten years of age.

15. INFANTS ABOVE THE AGE OF TEN.

21. Any person who unlawfully and carnally knows and abuses any girl, being above the age of ten years, and under the age of twelve years, shall be guilty of a misdemeanor, and shall be imprisoned for such term as the Court may award. 4, 5 V. c. 27, s. 17. If above ten and under twelve years.

16. BESTIALITY.

22. Every person guilty of the abominable crime of Buggery, committed either with mankind or with any animal, shall suffer death as a felon. 4, 5 V. c. 27, s. 15. Bestiality.

17. ASSAULT WITH INTENT.

23. Any person who commits an assault with intent to commit rape, or an assault with intent to commit the abominable crime of buggery either with mankind or with any animal, shall be imprisoned in the Penitentiary for any term not exceeding three nor less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years. 16 V. c. 5, s. 5. Assault with intent. Punishment.

18. ATTEMPTS TO PROCURE ABORTION.

24. Any person who with intent to procure the miscarriage of any woman, unlawfully administers to her, or causes to be taken by her, any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 13. Attempts to procure abortion. Felony. Punishment.

19. ABDUCTION OF HEIRESS.

25. In case any woman has an interest, whether legal or equitable; present or future, absolute, conditional, or contingent in any real or personal estate, or be an Heiress presumptive or next of kin to any one having such interest, any person who; from motives of lucre, takes away or detains such woman against her will with intent to marry or defile her, or to cause her to be married or defiled by any other person, and every person counselling, aiding or abetting such offender, shall be Abduction of heiresses.

Felony.

guilty of felony, and shall respectively be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 19.

Punishment.

20. ABDUCTION OF FEMALES UNDER 16.

Abduction of girls under 16.

26. Any person who unlawfully takes or causes to be taken, any unmarried girl being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, shall be guilty of a misdemeanor, and shall be punished by fine or imprisonment, or by both, as the Court shall award. 4, 5 V. c. 27, s. 20.

Misdemeanor.

Punishment.

21. MALICIOUSLY DECOYING CHILDREN UNDER 10 YEARS OF AGE.

Decoying children under ten years of age with intent to steal wearing apparel--aiding or abetting.

27. Any person who maliciously, either by force or fraud, leads or takes away, or decoys, or entices away or detains, any child under the age of ten years with intent to deprive the parent or parents, or any other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child to whomsoever such article may belong; and any person who, with any such intent, receives or harbours any such child, knowing the same to have been by force or fraud, led, taken, decoyed, enticed away or detained as hereinbefore mentioned, and any person who counsels, aids or abets any such offender, shall respectively be guilty of felony, and shall be imprisoned at hard labour in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement, for any term less than two years. 4, 5 V. c. 27, s. 21.

Felony.

Punishment.

Exception.

28. No person who claims to be the father of an illegitimate child, or to have any right to the possession of such child, shall be liable to be prosecuted by virtue of the last section, on account of his getting possession of such child, or taking such child out of the possession of the mother, or any other person having the lawful charge thereof. 4, 5 V. c. 27, s. 21.

22. BIGAMY.

Bigamy.

29. Any person who, being married, marries any other person during the life of the former husband or wife, whether the second marriage takes place in this Province or elsewhere, and every person who counsels, aids, or abets such offender, shall respectively be guilty of felony; and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 22.

Felony.

Punishment.

30. Nothing in the last section contained shall extend,— *Exceptions.*

Firstly. To any second marriage contracted out of this Province by any other than a subject of Her Majesty resident in this Province, and leaving the same with intent to commit the offence ; or

Secondly. To any person marrying a second time, whose husband or wife had been continually absent from such person for the space of seven years then last past, and was not known by such person to be living within that time ; or

Thirdly. To any person, who, at the time of such second marriage, had been divorced from the bond of the first marriage ; or

Fourthly. To any person whose former marriage had been declared void by the sentence of any Court of competent jurisdiction. 4, 5 V. c. 27, s. 22.

23. IMPEDING SHIPWRECKED PERSONS.

31. Any person who by force prevents or impedes any person endeavouring to save his life from any ship or vessel in distress, or wrecked, stranded, or cast on shore, (whether he be on board of or has quitted the same) shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 10. *Impeding the saving of shipwrecked persons. Felony. Punishment.*

24. ASSAULTS ON PERSONS AIDING VESSELS IN DISTRESS OR WRECKED.

32. Any person who assaults and strikes or wounds any Magistrate, Officer, or other person, lawfully authorized, on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of felony, and be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 27, s. 24.—6 V. c. 5. *Assaulting Magistrates aiding vessels in distress or in saving goods stranded, &c. Punishment.*

25. HINDERING SEAMEN, &c.

33. Any person who unlawfully and with force,—

1. Hinders any seaman from working at or exercising his lawful trade, business or occupation, or beats, wounds, or uses any other violence to him with intent to deter or hinder him from working at or exercising the same ; *Hindering seamen from serving, &c.*

2. Beats, wounds, or uses any other violence to any person, with intent to deter or hinder him from selling or buying any wheat or other grain, flour, meal or malt, in any market or other place ; *Obstructing the sale of provisions.*

Assaulting persons on their way to market, &c., with grain.

3. Beats, wounds, or uses any other violence to any person having the care or charge of any wheat or other grain, flour, meal, or malt, whilst on its way to or from any City, market-town, or other place with intent to stop the conveyance of the same, may be convicted thereof before two Justices of the Peace, and imprisoned and kept to hard labour in the Common Gaol or House of Correction for any term not exceeding three months. 4, 5 V. c. 27, s. 26.

Punishment.

Offenders not to be twice punished.

34. No person having been punished for any such offence by virtue of the foregoing provision, shall be punished for the same offence by virtue of any other law whatsoever. 4, 5 V. c. 27, s. 26.

26. ARREST OF CLERGYMEN.

Arrest of Clergymen performing Divine Service, *evendo morando et redeundo.*

35. Any person who upon any civil process arrests any Clergyman or Minister of the Gospel while he is performing divine service, or who so arrests him while he is going to perform the same, or while he is returning from the performance thereof, knowing that he is so going or returning, shall be guilty of a misdemeanor, and shall suffer such punishment by fine or imprisonment, or by both, as the Court shall award. 4, 5 V. c. 27, s. 23.

27. ASSAULTING PERSONS APPREHENDING OFFENDERS IN THE NIGHT.

Assaulting persons arresting offenders caught in the act at night.

36. If any person found committing an indictable offence in the night and apprehended thereon, assaults or offers any violence to any person, by law authorized to apprehend or detain him, or to any person acting in the aid or assistance of the person so authorized, such offender shall be guilty of a misdemeanor, and shall be imprisoned with or without hard labour for any term not exceeding two years. 18 V. c. 92, ss. 40, 41.

28. SUMMARY PROCEEDINGS.

Common assaults may be tried and disposed of.

37. If any person unlawfully assaults or beats any other person, any Justice of the Peace, upon complaint of the party aggrieved praying him to proceed summarily under this Act, may hear and determine such offence. 4, 5 V. c. 27, s. 27.

Punishment by fine, &c.

38. The offender, upon conviction before such Justice, shall forfeit and pay such fine as may to him appear meet, not exceeding (together with costs, if ordered), the sum of twenty dollars.

How fines to be disposed of.

39. Such fine shall be paid to the Treasurer of the Municipality in which the offence was committed, and shall make part of the funds thereof, or if the conviction be had in a place

not within any Municipality, the fine shall be paid over to such Officer, and be applicable to such purposes as other fines and penalties not specially appropriated.

40. The evidence of any inhabitant of the Municipality or Competency of place interested as aforesaid, shall be admitted in proof of the offence. witnesses.

41. If the fine awarded by the said Justice together with the costs (if ordered) be not paid, either immediately after the conviction, or within such period as the said Justice at the time of the conviction appoints, he may commit the offender to the Common Gaol or House of Correction, there to be imprisoned for any term not exceeding two months, unless such fine and costs be sooner paid. If fine not paid, offender may be committed.

42. If the Justice, upon the hearing of any such case, deems the offence not proved, or finds the assault or battery justified, or so trifling as not to merit any punishment, he shall dismiss the complaint with or without costs in his discretion, and shall forthwith make out a certificate under his hand, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint has been preferred. When the Justice may dismiss the case.

43. If costs be ordered upon such dismissal, and such costs be not paid immediately or within such period as such Justice, at the time of the dismissal appoints, he shall issue his warrant to levy the amount thereof within a certain time to be in the said warrant expressed, and in case no distress sufficient to satisfy the amount of such warrant can be found, he shall commit the party ordered to pay the costs to the Common Gaol of the District, County or Division, where the offence was alleged to have been committed, there to be imprisoned for any term not exceeding ten days, unless such costs be sooner paid. Costs. How enforced. 4, 5 V. c. 27, s. 27.

44. If the person against whom such a complaint has been preferred for a common assault or battery, obtains such certificate as aforesaid, or having been convicted, pays the whole amount adjudged to be paid under such conviction, or suffers the imprisonment awarded for non-payment thereof, he shall be released from all further or other proceedings, civil or criminal, for the same cause. After being punished and acquitted no second prosecution to take place. 4, 5 V. c. 27, s. 28.

45. In case the Justice finds the assault or battery complained of to have been accompanied by any attempt to commit felony, or is of opinion that the same is, from any other circumstance, a fit subject for a prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as he would have done, had no such summary jurisdiction been conferred upon him. The Justice may deal with aggravated assaults as if no summary jurisdiction had been conferred. 4, 5 V. c. 27, s. 30.

Such jurisdiction not to be exercised when a question of title to land arises, &c.

46. Nothing in the last section contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery in which any question arises as to the title to any lands, tenements or hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or as to any execution under the process of any Court of Justice. 4, 5 V. c. 27, s. 30.

J. P. and Recorders not to try for certain offences.

47. Neither of the Justices of the Peace acting in and for any District, County, Division, or City, nor the Recorder of any City, shall, at any Session of the Peace, or at any adjournment thereof, try any person for any offence under the 15th, 16th and 18th Sections of this Act. 10, 11 V. c. 4, s. 16.

Con. Stat. Can. page 961.

C A P . X C I I .

An Act respecting Offences against Person and Property.

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

OFFENCES AGAINST THE PERSON.

1. Robbery.

Robbery, when a capital offence.

1. Any person who robs any other person, and at the time of or immediately before or immediately after such robbery, stabs, cuts or wounds any person, shall be guilty of felony, and shall suffer death. 4, 5 V. c. 25, s. 6.

When not capital—And how punishable:

2. Any person who robs any other person, or steals any chattel, money, or valuable security from the person of another, shall be imprisoned in the Penitentiary for any term not exceeding fourteen years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 9,—6 V. c. 5, s. 2.

Assaulting with intent to rob—felony.

3. Any person who assaults any other person, with intent to rob, shall be guilty of felony, and (except in cases where a greater punishment is provided by this Act,) shall be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 10.

Forcibly taking money—felony.

4. Any person who with menaces or by force, demands any chattel, money, or valuable security, of any other person with intent to steal the same, shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not exceeding

three years, or in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 11.

5. Any person who being armed with any offensive weapon or instrument, robs, or assaults with intent to rob any person, or together with one or more person or persons, robs or assaults with intent to rob any person, or robs any person, and at the time of or immediately before or immediately after such robbery, beats, strikes or uses any other personal violence to any person, shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 7.

Robbery and assault—or assault with intent to rob.

Felony.

Punishment.

2. FALSE ACCUSATIONS.

6. Any person who accuses, or threatens to accuse, any person of the abominable crime of buggery, committed either with mankind or with beast, or of any assault with intent to commit the said abominable crime, or of any attempt or endeavour to commit the said abominable crime, or of making or offering any solicitation, persuasion, promise or threat to any person whereby to move or induce such person to commit or permit the said abominable crime, with a view or intent in any of the cases aforesaid; to extort or gain from such person, and by intimidating such person by such accusation or threat, extorts, or gains from such person any property, shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 8,—6 V. c. 5 s. 2.

False accusations to extort property.

Felony.

Punishment.

7. Any person who knowingly sends or delivers any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any chattel, money, or valuable security; and any person who accuses or threatens to accuse, or knowingly sends or delivers any letter or writing, accusing or threatening to accuse any person of any crime punishable by law with death, or transportation, or of any assault with intent to commit any rape, or of any attempt or endeavor to commit rape, with a view or intent to extort or gain from such person any chattel, money or valuable security, shall respectively be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 12.

Demanding money or goods by threatening letters, &c.

Felony.

Punishment.

OFFENCES AGAINST THE HABITATION, AND PLACES OF PUBLIC WORSHIP.

3. Burglary.

8. Any person who burglariously breaks and enters any dwelling house, and assaults with intent to murder any person being

Burglary, when a capital offence.

therein, or stabs, cuts, wounds, beats or strikes any such person, shall be guilty of felony, and shall suffer death. 4, 5 V. c. 25, s. 14.

When not a capital offence, and how punished.

9. Any person who commits the crime of burglary shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 15,--and see s. 5. 6 V. c. 5, s. 2.

The night defined.

10. The night, so far as the same is essential to the offence of burglary, shall commence at nine of the clock in the evening of each day, and conclude at six of the clock in the morning of the next succeeding day; And if any person enters the dwelling of another with intent to commit felony, or being in such dwelling house, commits any felony, and in either case breaks out of the said dwelling house in the night time, such person shall be guilty of burglary. 4, 5 V. c. 25, s. 16.

What entry or exit from a dwelling house shall constitute burglary.

11. Any person who steals any chattel, money or valuable security in any dwelling house, and by any menace or threat puts any one, being therein, in bodily fear, shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not exceeding fourteen years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 17,--6 V. c. 5, s. 2.

Stealing in a dwelling house and putting in bodily fear, felony.

What is or is not part of the dwelling house.

12. No building, although within the same curtilage with the dwelling house, and occupied therewith, shall be deemed a part of such dwelling house for the purpose of burglary, or for any of the purposes aforesaid, unless there be a communication between such building and dwelling house, either immediate, or by means of a covered and inclosed passage leading from the one to the other. 4, 5 V. c. 25, s. 18.

Larceny within the curtilage not being part of the dwelling house.

13. In case any person breaks and enters any building, and steals therein any chattel, money, or valuable security, such building being within the curtilage of a dwelling house and occupied therewith but not being part thereof according to the provision hereinbefore mentioned, and be convicted thereof, (either upon an indictment for the same offence, or upon an indictment for burglary, house breaking, or stealing to the value of five pounds sterling or \$24 33½ cents, in a dwelling house, containing a separate count for each such offence,) he shall be imprisoned in the Penitentiary for any term not exceeding fourteen years, nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 19.

Punishment.

Breaking into and stealing in shops.

14. Any person who breaks and enters any shop, warehouse, or counting house, and steals therein any chattel, money or valuable security, shall be liable to any of the punishments

which the Court may award as hereinbefore last mentioned. 4, 5 V. c. 25, s. 20.

15. Any person 1. Who is found by night armed with any dangerous or offensive weapon or instrument with intent to break or enter into any dwelling house or other building whatsoever, and to commit any felony therein, and 2. Any person who is found by night, having in his possession, without lawful excuse, any picklock, key, crow, jack, bit, or other implement of house-breaking, or any match or other combustible or explosive substance, and 3. Any person who is found by night, having his face blackened or otherwise disguised with intent to commit felony, and 4. Any person who is found by night in any dwelling house or other building whatsoever with intent to commit any felony therein, shall respectively be guilty of a misdemeanor and shall be imprisoned in the Penitentiary for two years or in any other prison or place of confinement with or without hard labor for any time less than two years. 18 V. c. 92, s. 23.

Persons found at night armed with intent to commit burglary or other felony.

A misdemeanor.

16. The time at which the night commences and concludes in any offence against the provisions in the last section mentioned, shall be the same as in cases of burglary. 18 V. c. 92, s. 42.

The night defined.

4. PLACES OF PUBLIC WORSHIP.

17. Any person who breaks and enters any Church or Chapel, and steals therein any chattel, or having stolen any chattel, money, or valuable security in any Church or Chapel breaks out of the same, shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 13,--6 V. c. 5.

Breaking into and stealing in churches, &c.

Punishment.

18. Any person who wilfully disturbs, interrupts, or disquiets any assemblage of persons met for religious worship, by profane discourse, by rude, or indecent behaviour, or by making a noise, either within a place of worship or so near it as to disturb the order or solemnity of the meeting, shall, upon conviction thereof before a Justice of the Peace, on the oath of one or more credible witnesses, forfeit and pay such sum of money, not exceeding twenty dollars, as the said Justice may think fit, and costs, within the period specified for the payment thereof, by the convicting Justice at the time of the conviction--and in default of payment, such Justice shall issue his warrant to a constable to levy such fine and costs within a time to be specified in the warrant, and if no sufficient distress can be found, such Justice shall commit the offender to the Common Gaol of the District, County or Division wherein the offence was committed, for any term not exceeding one month, unless the fine and costs be sooner paid. 4, 5 V. c. 27, ss. 31, 32.

Disturbing persons assembled for religious worship may be summarily convicted ;

And fined.

And if fine not paid may be committed.

5. LARCENY.

Larceny, what Courts may try. 19. Every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects, as Grand Larceny was before the distinction between Grand and Petty Larceny was abolished; and every Court whose power as to the trial of Larceny was, before such abolition limited to Petty Larceny, may try every case of Larceny the punishment of which cannot exceed the punishment hereinafter mentioned for simple Larceny, and may also try all accessories to such Larceny. 4, 5 V. c. 25, s. 2.

Simple larceny. 20. Every person guilty of Simple Larceny, or of any felony hereby made punishable like Simple Larceny, shall (except in the cases hereinafter otherwise provided for) be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 3.

Punishment.

6. HORSE STEALING AND CATTLE STEALING.

Horse and cattle stealing. 21. Any person who steals any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, or wilfully kills any of such cattle with intent to steal the carcase, or skin, or any part of the cattle so killed, shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not exceeding fourteen years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 29.

Punishment.

7. STEALING SECURITIES.

Stealing written securities of various kinds. 22. Any person who steals any tally, order, or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of this Province or of the United Kingdom of Great Britain and Ireland, or of any British Colony, or of any Foreign State or Colony, or in any fund of any body corporate, company or society, or to any deposit in any Savings Bank, or who steals any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money or for payment of moneys, whether of this Province, or of Great Britain, or of any British Colony, or of any Foreign State or Colony, or who steals any warrant or order for the delivery or transfer of any goods or valuable thing, shall be guilty of felony, of the same nature and in the same degree, and shall be punishable in the same manner, as if he had stolen any chattel of like value with the share, interest, or deposit to which the security so stolen relates, or with the money due on the

Felony.

Punishment.

security so stolen or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in the warrant or order; and each of the several documents hereinbefore enumerated shall, throughout this Act, be deemed for every purpose to be included under, and denoted by, the words "valuable security." 4, 5 V. c. 25, s. 5.

8. STEALING WILLS.

23. Any person who, either during the life of the testator or testatrix, or after his or her death, steals, or for any fraudulent purpose destroys or conceals any will, codicil, or other testamentary instrument, whether the same relates to real or personal estate, or to both, shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary for any period not exceeding fourteen years, nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years, or suffer such other punishment by fine or imprisonment, or by both, as the Court shall award, and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument, is the property of any person, or that the same is of any value. 4, 5 V. c. 25, s. 26,—6 V. c. 5.

Stealing wills
Punishment.

9. STEALING TITLE-DEEDS.

24. Any person who steals any original paper or parchment, written or printed, or partly written and partly printed, being evidence of the title, or of any part of the title to any real estate, shall be guilty of a misdemeanor, and shall be liable to any punishment which the Court may award as hereinbefore last mentioned. 4, 5 V. c. 25, s. 27.

Stealing title deeds—misdemeanor—punishment.

25. Nothing in this Act contained relating to either of the misdemeanors aforesaid, or to any proceeding, conviction, or judgment, to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity, which the party aggrieved by such offence, would have had if this Act had not been passed; but nevertheless the conviction of the offender shall not be received in evidence in any action at law or suit in equity against him; and no person shall be convicted of either of the misdemeanors aforesaid, by any evidence whatever, in respect of any act done by him, if at any time previously to his being indicted for such offence, he disclosed such act on oath in consequence of the compulsory process of a Court of Law or Equity in any action, suit, or proceeding *bonâ fide* instituted by any party aggrieved, or if he disclosed the same in an examination or deposition before any Commissioners of Bankrupt. 4, 5 V. c. 25, s. 28.

Such proceedings not to affect other remedies of parties aggrieved.

10. STEALING OR FRAUDULENTLY TAKING RECORDS, &C.

26. Any person who steals or for any fraudulent purpose takes from its place of deposit for the time being, or from any per-

Stealing or fraudulently

taking records
from place of
deposit.

Misdemeanor.

Punishment.

Indictments for
— need not state
owner or value.

son having the lawful custody thereof, or unlawfully and maliciously obliterates, injures, or destroys any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or any original document whatsoever, of or belonging to any Court of Justice, or relating to any matter, civil or criminal, begun, depending, or terminated in any such Court, or any bill, answer, interrogatory, deposition, affidavit, order or decree, or any original document whatsoever, of or belonging to any Court, or relating to any cause, or matter begun, depending, or terminated in any such Court, or any notarial minute, or the original of any other authentic Act, shall be guilty of a misdemeanor, and shall be liable to any punishment which the Court may award as in the twenty-third section hereinbefore mentioned. 4, 5 V. c. 25, s. 25.

27. In any indictment for such last mentioned offence, it shall not be necessary to allege that the article, in respect of which the offence has been committed, is the property of any person, or that the same is of any value. 4, 5 V. c. 25, s. 25, — See 27.

11. STEALING FROM VESSELS WRECKED, &C.

Stealing from
vessels, boats,
&c.

Punishment.

28. Any person who steals any goods or merchandize in any vessel, barge, or boat of any description whatsoever in any port of entry or discharge, or upon any navigable river or canal, or in any creek belonging to or communicating with any such port, river or canal, or who steals any goods or merchandize from any dock, wharf, or quay adjacent to any such port, river, canal or creek, shall be imprisoned in the Penitentiary for any term not exceeding fourteen years, nor less than two years, or be imprisoned in some other prison, or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 21.

Plundering or
stealing parts
of ships or
vessels wrecked,
&c.

Unlawfully
possessing ship-
wrecked goods.

Punishment.

29. Any person who plunders or steals any part of any ship or vessel which is in distress, or has been wrecked, stranded or cast on shore, or any goods, merchandize or articles of any kind belonging to such ship or vessel, shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned. 4, 5 V. c. 25, s. 22.

30. In case any goods, merchandize, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, as aforesaid, be by virtue of a search-warrant, to be granted as hereinafter mentioned, found in the possession of any person, or on the premises of any person with his knowledge, and such person, being carried before a Justice of the Peace, does not satisfy the Justice that he came lawfully by the same, then the same shall, by order of the Justice, be forthwith delivered over to, or for the use of, the rightful owner thereof; and the offender, on conviction of such offence before the Jus-

tice, shall forfeit and pay such sum of money, not exceeding eighty dollars, as to the Justice may seem meet. 4, 5 V. c. 25, s. 23.

31. If any person offers or exposes for sale any goods, merchandize, or articles whatsoever, which have been unlawfully taken, or which are reasonably suspected to have been so taken from any ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, any person to whom the same are offered for sale, or any officer of the Customs, or Peace Officer, may seize the same, and in such event shall, with all convenient speed, carry the same, or give notice of such seizure, to some Justice of the Peace; and if the person who offered or exposed the same for sale, being duly summoned by such Justice, does not appear and satisfy the Justice that he came lawfully by such goods, merchandize, or articles, then the same shall, by order of the Justice, be forthwith delivered over to, or for the use of the rightful owner thereof, upon payment of a reasonable reward, (to be ascertained by the Justice,) to the person who seized the same; and the offender, on conviction of such offence by the Justice, shall forfeit and pay such sum of money not exceeding eighty dollars, as to the Justice may seem meet. 4, 5 V. c. 25, s. 24.

Offering ship-wrecked goods for sale unlawfully.

May be summarily punished.

Fine.

12. STEALING RAILWAY TICKETS, &C.

32. If any person steals any ticket or order for a free or paid passage on any railway, or on any steam or other vessel, he shall be guilty of felony, and shall be imprisoned in any common gaol or prison with or without hard labour for any period less than two years. 18 V. c. 92, s. 36.

Stealing railway or steam-boat passage tickets.

13. DOG STEALING.

33. If any person steals any dog, or steals any beast or bird ordinarily kept in a state of confinement not being the subject of larceny at common law, such offender being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the value of the dog, beast, or bird, such sum of money not exceeding twenty dollars, as to the Justice may seem meet. 4, 5 V. c. 25, s. 30.

Dog stealing; punishment.

14. STEALING PARTS OF BUILDINGS, FIXTURES, &C.

34. If any person steals, or rips, cuts or breaks with intent to steal, any glass or wood-work belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property, or in a fence to any dwelling house, garden or area, or in any square, street, or other place dedicated to public use or ornament, such

Stealing parts of buildings, &c.

Felony. offender shall be guilty of felony, and shall be punished in the same manner as in the case of simple Larceny; and in case of any such thing fixed in any square, street, or other like place, it shall not be necessary to allege the same to be the property of any person. 4, 5 V. c. 25, s. 36.

Punishment.

Stealing furniture or fixtures by tenants. **35.** If any person steals any chattel or fixture let to be used by him or her, in or with any house or lodging, whether the contract be entered into by him or her, or by her husband, or by any person on behalf of him or her, or her husband, such offender shall be guilty of felony, and shall be punished in the same manner as in the case of simple Larceny; and in every such case of stealing any chattel, an indictment may be preferred in the common form as for Larceny, and in every such case of stealing any fixture, an indictment may be preferred in the same form as if the offender were not a tenant or lodger, and in either case the property may be laid in the owner or person letting to hire. 4, 5 V. c. 25, s. 37.

Felony.

Punishment.

15. STEALING TREES, SHRUBS, VEGETABLES, &c.

Stealing trees, shrubs, &c., of twenty cents value. **36.** If any person steals, cuts, breaks, roots up, or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be growing, the stealing of such article or articles, or the injury done being to the amount of twenty cents at the least, such offender being convicted before a Justice of the Peace, shall forfeit and pay over and above the value of the article or articles stolen, or the amount of the injury done, such a sum of money, not exceeding twenty dollars, as to the Justice may seem meet. 4, 5 V. c. 25, s. 31.

Punishment.

Stealing fences. **37.** If any person steals, or cuts, breaks or throws down with intent to steal, any part of any live or dead fence, or any wooden post, pale, or rail, set up or used as a fence, or any stile or gate, or any part thereof, respectively, such offender, being convicted before a Justice of the Peace, shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding twenty dollars, as to the Justice may seem meet. 4, 5 V. c. 25, s. 32.

Punishment.

Unlawful possession of trees, fences, &c., of forty cents value, found on search. **38.** If the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, rail, stile or gate, or any part thereof, being of the value of forty cents at the least, is by virtue of a search warrant, to be granted as hereinafter mentioned, found in the possession of any person, or on the premises of any person with his knowledge, and if such person, being carried before a Justice of the Peace, does not satisfy the Justice that he came lawfully by the same, he shall on conviction by the Justice, forfeit and pay, over and above the value of the article or articles

Punishment.

so found, any sum not exceeding eight dollars. 4, 5 V. c. 25, s. 33.

39. If any person steals, destroys, or damages with intent to steal, any tree, sapling, shrub, bush, plant, root, fruit, or vegetable production growing in any garden, orchard, nursery-ground, hot-house, green house, or conservatory, such offender being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding twenty dollars, as to the Justice may seem meet; and if any person so convicted afterwards commits any of the said offences, such offender shall be guilty of felony, and shall be punished in the same manner as in the case of Simple Larceny. 4, 5 V. c. 25, s. 34.

Stealing plants, &c., in gardens.

Punishment.

40. If any person steals, destroys or damages with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or enclosed, not being a garden, orchard or nursery-ground, such offender, being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the value of the article so stolen, or the amount of the injury done, such sum of money, not exceeding four dollars, as to the Justice may seem meet, and in default of payment thereof, together with the costs, if ordered, shall be committed to the House of Correction for any term not exceeding one month, unless payment be sooner made. 4, 5 V. c. 25, s. 35.

Stealing vegetables not being in a garden, &c.

Punishment.

16. OFFENCES BY CLERKS, SERVANTS, TRUSTEES, BANKERS, AGENTS.

Larceny by clerks and servants.

41. If any clerk or servant steals any chattel, money, or valuable security belonging to or in the possession or power of his master, such offender shall be imprisoned in the Penitentiary for any term not exceeding fourteen years, nor less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 38.

Larceny by clerks and servants.

42. If any clerk or servant, or any person employed for the purpose or in the capacity of a clerk or servant, by virtue of such employment, receives or takes into his possession any chattel, money or valuable security for, or in the name or on the account of his master, and fraudulently embezzles the same or any part thereof, such offender shall be deemed to have feloniously stolen the same from his master, although such chattel, money or security was not received into the possession of such master otherwise than by the actual possession of his clerk, servant or other person so employed; and such offender shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned. 4, 5 V. c. 25, s. 39.

Embezzlement of goods, &c., received for master.

Felony.

Punishment.

Mala Fide
mis-application
contrary to
written in-
struction of
moneys, &c.,
entrusted to
bankers, bai-
lees, &c.

43. If any money or security for the payment of money having been intrusted to any banker, merchant, broker, attorney or other agent, with a direction in writing to apply such money or any part thereof, or the proceeds or any part of the proceeds of such security, for any purpose specified in such direction, and such person in violation of good faith, and contrary to the purpose so specified, in any wise converts to his own use or benefit such money, security or proceeds, or any part thereof, respectively, every such offender shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary, for any term not less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years, or suffer such other punishment by fine or imprisonment, or by both, as the Court may award. 4, 5 V. c. 25, s. 41, and see 12 V. c. 12,--6 V. c. 5, s. 2.

Embezzlement
of goods, mo-
neys, &c., en-
trusted to bank-
ers, agents, &c.,
to be applied to
special pur-
poses—or for
safe custody,
&c.

44. If any banker, merchant, broker, attorney or other agent having been intrusted with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of this Province or of the United Kingdom of *Great Britain and Ireland*, or of *Great Britain* or of *Ireland*, or of any British Colony or Foreign State or Country, or in any fund of any body corporate, company or society for safe custody, or for any special purpose without any authority to sell, negotiate, transfer or pledge the same and such person in violation of good faith, and contrary to the purpose for which such chattel, security or power of attorney has been entrusted to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit such chattel or security, or the proceeds of the same or any part thereof, or the share or interest in the stock or fund to which such power of attorney relates, or any part thereof, such offender shall be guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned. 4, 5 V. c. 25, s. 41.

Misdemeanor.
Punishment.

Not to affect
trustees or
mortgagees.

Nor bankers
receiving mo-
neys due upon
securities.

Or disposing of
securities in
which they
have a lien.

45. Nothing hereinbefore contained relating to agents, shall affect any trustee in or under any instrument whatever, or any mortgagee of any property real or personal in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money which may become actually due and payable upon or by virtue of any valuable security according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling, transferring or otherwise disposing of any securities or effects in his possession, upon which he has any lien, claim or demand, entitling him by law so to do; unless such sale, transfer, or other disposal extended to a greater number or part of such securities or effects, than was requisite for satisfying such lien, claim or demand. 4, 5 V. c. 25, s. 42.

46. If any factor or agent, intrusted for the purpose of sale with any goods or merchandize, or intrusted with any bill of lading, warehouse keeper's or wharfinger's certificate or warrant or order for delivery of goods or merchandize, deposits or pledges for his own benefit and in violation of good faith, any such goods or merchandize, or any of the said documents as a security for any money, or negotiable instrument borrowed or received by such factor or agent, at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, such offender shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other Prison or place of confinement, for any term less than two years, or suffer such other punishment by fine or imprisonment, or by both, as the Court may award. 4, 5 V. c. 25, s. 43.

Factors pledging goods, &c., entrusted to them to sell.

Misdemeanor.

Punishment.

47. No such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, in case the same were not made a security for or subject to the payment of any greater sum of money than the amount which at the time of such deposit or pledge was justly due and owing to such factor or agent from his principal, together with the amount of any bill or bills of exchange drawn by or on account of such principal, and accepted by such factor or agent. 4, 5 V. c. 25, s. 43.

Not if owner is indebted to the Factor, &c.

48. Nothing in this Act contained, nor any proceeding, conviction or judgment to be had or taken thereupon against any banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall prevent, lessen or impeach any remedy at law or in equity, which any party aggrieved by such offence would have had if this Act had not been passed. 4, 5 V. c. 25, s. 44.

Other remedies of person aggrieved not to be affected.

49. The conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him. 4, 5 V. c. 25, s. 44.

Convictions not admissible in evidence.

50. No banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall be convicted by any evidence whatever as an offender against this Act, in respect of any act done by him, if he, at any time previously to his being indicted for such offence, disclosed such act on oath, in consequence of the compulsory process of any Court of law or equity in any action, suit or proceeding *bona fide* instituted by any party aggrieved, or if he disclosed the same in an examination or deposition before any Commissioner of bankrupt. 4, 5 V. c. 25, s. 44.

Nor disclosures made by the Agent, &c., under the compulsion of an oath.

51. If any person being a trustee of any property for the benefit, either wholly or partially, of some other person, or for any public or charitable purpose, does, with intent to defraud, convert or appropriate the same, or any part thereof, to or for his

Trustees fraudulently appropriating, &c.

own use or purposes, or does, with intent as aforesaid, otherwise dispose of or destroy such property or any part thereof, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 1, (1858.)

Trustees for public or charitable purposes liable under s. 51.

52. If any person being a Trustee of any money or other property for the benefit either wholly or partially of some other person, or for any public or charitable purpose, converts or appropriates the same or any part thereof to or for his own use or purposes, or otherwise wilfully disposes of the same contrary to his duty, so that such money or other property is not forthcoming and paid or delivered when such person is ordered or decreed by the Court of Chancery or other Court having jurisdiction in the matter to pay the same, he shall be deemed to have converted or disposed of the same, with intent to defraud within the meaning of the last preceding section of this Act, but this present section is to apply to Upper Canada only. 22 V. c. 33, s. 16, (1859.)

Bankers.

53. If any person, being a banker, merchant, broker, attorney or agent, and being intrusted for safe custody with the property of any other person, does with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or appropriate to or for his own use such property, or any part thereof, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 2, (1858.)

Persons holding powers of Attorney fraudulently selling property, guilty of a misdemeanor.

54. If any person intrusted with any power of attorney for the sale or transfer of any property, does fraudulently sell or transfer, or otherwise convert such property or any part thereof to his own use or benefit, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 3.

Bailees fraudulently converting property to their own use, guilty of larceny.

55. If any person, being a bailee of any property, fraudulently takes or converts the same to his own use, or the use of any person other than the owner thereof, although he shall not break bulk, or otherwise determine the bailment, he shall be guilty of larceny. 22 V. c. 2, s. 4.

Directors, &c., of any body corporate or public company, fraudulently appropriating property,—

56. If any person, being a director, member, or public officer of any body corporate or public company, fraudulently takes or applies, for his own use, any of the money or other property of such body corporate or public company, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 5, (1858.)

Or keeping fraudulent accounts,—

57. If any person, being a director, public officer, or manager of any body corporate or public company, does as such receive or possess himself of any of the money or other property of such body corporate or public company, otherwise than in payment of a just debt or demand, and does with intent to defraud, omit to make or to cause or direct to be made, a full and true entry thereof, in the books and accounts of such body corporate or public company, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 6.

58. If any director, manager, public officer, or member of any body corporate or public company does with the intent to defraud, destroy, alter, mutilate or falsify, any of the books, papers, writings or securities belonging to the body corporate or public company, of which he is a director or manager, public officer or member, or makes, or concurs in the making of any false entry, or any material omission in any book of account or other document, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 7.

Or wilfully destroying books, &c.

59. If any director, manager, or public officer of any body corporate or public company makes, circulates or publishes or concurs in making, circulating or publishing, any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property to such body corporate or public company, or to enter into any security for the benefit thereof, he shall be guilty of a misdemeanor. 22 V. c. 2, s. 8.

Or publishing fraudulent statements,—

Guilty of misdemeanor.

60. If any person receives any chattel, money, or valuable security, which has been so fraudulently disposed of as to render the party disposing thereof guilty of a misdemeanor under any of the provisions of the nine preceding sections of this Act, knowing the same to have been so fraudulently disposed of, he shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the party guilty of the principal misdemeanor has or has not been previously convicted, or has or has not been amenable to justice. 22 V. c. 2, s. 9.

Persons receiving property fraudulently disposed of, knowing it to have been so, guilty of a misdemeanor.

61. Every person found guilty of a misdemeanor under the ten next preceding sections of this Act, shall be liable, at the discretion of the Court, to be imprisoned in the Penitentiary for any term not exceeding three years nor less than two years, or to suffer such other punishment, by imprisonment for any term less than two years and with or without hard labour, or by fine, as the Court shall award. 22 V. c. 2, s. 10, (1858.)

Punishment for a misdemeanor under the last 10 sects. of this Act.

62. Nothing in the eleven next preceding sections of this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any Bill in Equity, or to answer any question or interrogatory in any civil proceeding in any Court of Law or Equity, or in any Court of Bankruptcy or Insolvency; but no answer to any such bill, question or interrogatory shall be admissible in evidence against such person in any proceeding under the said sections. 22 V. c. 2, s. 11.

No person exempt from answering questions in any Court, but his answer not admissible as evidence in prosecutions under this Act.

No remedy at law or in equity to be affected by this Act.

63. Nothing in the twelve next preceding sections of this Act contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person under the said sections, shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any offence against the said sections might have had, if the said sections had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in Equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated. 22 V. c. 2, s. 12.

Convictions not to be received in evidence in civil suits.

Sanction of Attorney General requisite to certain prosecutions;

64. No proceeding or prosecution for any offence included in the fifty-first or fifty-second sections, but not included in any other of the next following sections of this Act, shall be commenced without the sanction of Her Majesty's Attorney General, for Upper or for Lower Canada, as the case may be, or in case that office be vacant, of Her Majesty's Solicitor General for Upper or for Lower Canada, as the case may be; But when any civil proceeding has been taken against any person to whom the provisions of the said fifty-first or fifty-second sections, but not of any other of the following sections, may apply, no person who has taken such civil proceeding shall commence any prosecution under the said sections without the sanction of the Court or Judge before whom such civil proceeding has been had, or may be pending. 22 V. c. 2, s. 13.

Or the sanction of a Judge in certain cases.

If offence amounts to larceny, offender not to be acquitted of misdemeanor.

65. If upon the trial of any person under the fifty-first section or under any section between the fifty-first and the present section, it appears that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanor under the said sections. 22 V. c. 2, s. 14.

Misdemeanors not triable at sessions.

66. No misdemeanor against any of the sections in the last section mentioned shall be prosecuted or tried at any Court of General or Quarter Sessions of the Peace. 22 V. c. 2, s. 15.

Interpretation of certain terms;

67. The word "Trustee" shall in the next preceding sixteen sections mean a Trustee on some express trust created by some deed, will, commission, letters patent, appointment to office, or instrument in writing, and shall also include the heir and personal representative of such Trustee, and also all executors and administrators, and all assignees in Bankruptcy and Insolvency, under any Act of this Province now or hereafter to be in force; and in Lower Canada, the word "Trustee" shall also include any person who is, by the law of that Section of the Province, an "*Administrateur*," and the word "Trust" whatever is by such law an "*Administration*." 22 V. c. 2, s. 16, (1858.)

Trustee.

The expression "Court of Law" shall include any Court of Law having civil jurisdiction in Lower Canada.

The word "Property" shall include every description of real and personal property, goods, raw or other materials, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods; and such word "Property," shall also denote and include not only such real or personal property as may have been the original subject of a trust, but also any real or personal property into which the same may have been converted or exchanged, and the proceeds thereof respectively, and any thing acquired by such proceeds. 22 V. c. 2, s. 16.

68. If the Keeper of any Warehouse, or any Forwarder, Common Carrier, Agent, Clerk, or other person employed in or about any Warehouse, or if any other Factor or Agent, or any Clerk or other person employed in or about the business of such Factor or Agent, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of any goods or other property as having been received in his Warehouse, or in the Warehouse in or about which he is employed, or in any other manner received by him or by the person in or about whose business he is employed, before the goods or other property named in such receipt or acknowledgment have been actually delivered to him as aforesaid, with intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then unknown; or if any person knowingly and wilfully accepts or transmits or uses any such false receipt or acknowledgment, the person giving and the person accepting, transmitting or using such receipt or acknowledgment shall severally be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary, for any term not exceeding three years, nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years but not less than one year. 12 V. c. 12, s. 1,—14, 15 V. c. 2, s. 2. See 22 V. c. 20, ss. 1, 2, (1859).

Fraudulent receipts of goods, &c., by warehousemen, forwarders, &c.

69. In case any Merchandize having, in the name of the owner or of any other person, been shipped or delivered to the keeper of any warehouse or to any other factor, agent or carrier, to be shipped or carried, the consignee afterwards advances any moneys or gives any negotiable security to such owner or other person, then, if after any such advance the said owner or other person for his own benefit and in violation of good faith, and without the consent of such Consignee first had and obtained, makes any disposition of such merchandize different from and inconsistent with the agreement in that behalf between such owner or other person aforesaid and such Consignee at the time of or before such money being so advanced or such negotiable security being so given, with the intent to

Fraudulently disposing of goods by owners upon which consignee has made advances, &c.

deceive, defraud or injure such Consignee, the owner or other person aforesaid, and each and every other person knowingly and wilfully acting and assisting in making such disposition for the purpose of deceiving, defrauding or injuring such Consignee, shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary, for any period not more than three years, nor less than two years, or be imprisoned in some other Prison or place of confinement for any term less than two years but not less than one year; but no person shall be subject to prosecution under this section, who had, before making a disposition of the merchandize as aforesaid, paid or tendered to the Consignee the full amount of any advance made thereon. 12 V. c. 12, s. 2,--14, 15 V. c. 2, s. 2. See 22 V. c. 20, ss. 1, 2, (1859).

In case of partners, the offending party only liable.

70. If any offence in the two last preceding sections mentioned be committed by the doing of any thing in the name of any firm, company or copartnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, shall be deemed guilty of the offence, and not any other person. 12 V. c. 12, s. 3. See 22 V. c. 20, (1859.)

17. FALSE PRETENCES.

Obtaining goods, moneys, &c., by false pretences.

71. If any person, by any false pretence, obtains from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same, such offender shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary for any term not exceeding fourteen years, nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years; or shall suffer such other punishment, by fine or imprisonment, or by both, as the Court may award. 4, 5 V. c. 25, s. 45.

Obtaining signature to any bill, &c., by false pretences to be a misdemeanor.

72. If any person by any false pretence obtains the signature of any other person to any bill of exchange, promissory note, or any valuable security, with intent to cheat or defraud, every such offender shall be guilty of a misdemeanor, and shall be liable to fine or imprisonment or both, at the discretion of the Court; such imprisonment to be for a period less than two years. 22 V. c. 25, s. 1, (1859).

Punishment.

73. If any person obtains any property whatever, with intent to defraud, such offender shall be guilty of a misdemeanor, and shall be imprisoned for any period not exceeding two years, with or without hard labour. 18 V. c. 92, s. 11.--See 12 V. c. 10, s. 5, No. 15.

Attempting to obtain Railway, &c., passage.

74. If any person by means of any false ticket or order, or of any other ticket or order, fraudulently and wilfully obtains or attempts to obtain any passage on any railway or in any steam or other vessel, such offender shall be guilty of a misdemeanor,

and shall be liable to imprisonment in any common gaol or prison with or without hard labour, for any period not exceeding six months. 18 V. c. 92, s. 38.

18. RECEIVERS.

75. If any person receives any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanor by this Act excepting sections fifty-one to sixty-seven, such person knowing the same to have been unlawfully stolen, taken, obtained, or converted, such receiver shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor has or has not been previously convicted thereof, or has or has not been amenable to justice; and every such receiver shall be imprisoned in the Penitentiary for any term not less than two years or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 47.

Receiving stolen goods when a misdemeanor.

Punishment.

76. If any person receives any chattel, money, valuable security, or other property whatsoever, the stealing or taking whereof amounts to a felony, either at common law or by virtue of this Act, such person knowing the same to have been feloniously stolen or taken, every such receiver shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or for a substantive felony, and in the latter case, whether the principal felon has or has not been previously convicted, or be or be not amenable to justice.

Receiving, &c., when a felony.

77. Every such receiver howsoever convicted, shall be imprisoned in the Penitentiary for any term not exceeding fourteen years, nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years; And no person howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence. 4, 5 V. c. 25, s. 46.

Punishment.

78. Where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence or for the first offence only, or for the first and second offences only, any person who receives any such property, knowing the same to have been unlawfully come by, shall, on conviction thereof before a Justice of the Peace, be liable for every first, second and subsequent offence, to the same forfeiture or punishment to which a person guilty of a first, second and subsequent offence of stealing or taking such property, is by this Act made liable. 4, 5 V. c. 25, s. 52.

Receivers—where the principal offender is punishable on summary conviction.

19. CORRUPTLY TAKING REWARDS.

79. If any person corruptly takes any money or reward, directly or indirectly, under pretence or on account of helping

Corruptly taking rewards, &c.

Felony. a person to any chattel, money, valuable security, or other property whatsoever, which by any felony or misdemeanor has been stolen, obtained, or converted as aforesaid, such offender shall, (unless he cause the offender to be apprehended and brought to trial for the same,) be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 25, s. 50.

Punishment.

20. OFFERING REWARDS UNDER PROMISE OF SECRECY.

Offering re-
wards for re-
turn of stolen
goods, &c., un-
der promise of
secrecy.

50. If any person publicly advertises a reward for the return of any property, which has been stolen or lost, and in such advertisement uses any words purporting that no question will be asked, or makes use of any words in any public advertisement, purporting that a reward will be given or paid for any property which has been stolen or lost without seizing or making any inquiry after the person producing such property, or promises or offers in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of a loan upon any property stolen or lost, the money so paid or advanced; or any other sum of money or reward for the return of the property, or if any person prints or publishes any such advertisements in any of the above cases, the offender shall forfeit the sum of eighty dollars for the offence, to any person who will sue for the same, by action of debt to be recovered with full costs of suit. 4, 5 V. c. 25, s. 51.

21. FINES HOW LEVIED.

Default of pay-
ment when not
otherwise pro-
vided for.

51. In default of payment, in cases not otherwise provided for, of any fine imposed under the authority of this Act, on a summary conviction before any Justice of the Peace, together with the costs attending the same, within the period specified for the payment thereof, at the time of conviction by the Justice before whom the conviction takes place, such Justice may issue his warrant directed to any constable to levy the amount of such fine and costs within a certain time to be in the said warrant specified, and in case of no distress sufficient to satisfy the amount being found, he may commit the offender to the Common Gaol of the District, County or Division wherein the offence was committed for any term not exceeding one month, unless the fine and costs be sooner paid. 4, 5 V. c. 27, s. 32.

CAP. XCIII.

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An Act respecting Arson and other malicious injuries to property.

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

1. If any person unlawfully and maliciously sets fire to any dwelling house any person being therein, such offender shall be guilty of felony, and shall suffer death. 4, 5 V. c. 26, s. 2. Arson—a capital felony.

2. If any person unlawfully and maliciously by the explosion of gunpowder or other explosive substance, destroys, throws down or damages the whole or any part of any dwelling house, any person being therein, such offender shall be guilty of felony. 10, 11 V. c. 4, s. 1. Malicious explosion of gunpowder against houses. Felony.

3. If any person unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroys or damages any building with intent to murder any person, or whereby the life of any person is endangered, such offender shall be guilty of felony. 10, 11 V. c. 4, s. 2. Or buildings, felony.

4. If any person unlawfully and maliciously sets fire to any Church, Chapel or Meeting House for the exercise of any mode or form of religious worship whatever, or unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, or granary, or to any building or erection used in carrying on any trade or manufacture or any branch thereof, whether the same or any of them, respectively, be then in the possession of the offender, or in the possession of any other person, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 3. Setting fire to churches, &c. Felony. Punishment.

5. If any persons, riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish, pull down, or destroy, or begin to demolish, pull down or destroy any church, chapel, or meeting house, for the exercise of any mode or form of religious worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or movable, prepared for or employed in any manufacture, or in any branch thereof, every such offender shall be guilty of felony, Maliciously demolishing churches, &c. Felony.

Punishment.

and shall be imprisoned in the Penitentiary for the term of his natural life, or for any other term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 6.

Setting fire to school houses, &c.

6. If any person unlawfully and maliciously sets fire to any school-house, lecture room, seminary of learning, college or building used for the purpose of education, or to any village, town or city hall, or to any steam or fire engine house or toll booth, or to any building used or employed as a mechanics' institute, or as a public library, or to any hall or building used by any body or society of persons, by whatever name or designation they may be known, and whether they are associated together for educational, philanthropic or benevolent purposes, or for any other lawful purpose, or to any museum or repository of curiosities, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years, and it shall not be necessary to allege or set out in the indictment the name of the owner of any such building. 12 V. c. 20, s. 3.

Felony.

Punishment.

Setting fire to ships, &c., a capital felony.

7. If any person unlawfully and maliciously sets fire to, casts away or in any wise destroys any ship or vessel, either with intent to murder any person, or whereby the life of any person is endangered, such offender shall be guilty of felony, and shall suffer death. 4, 5 V. c. 26, s. 7.

Exhibiting false light—a capital felony.

8. If any person unlawfully exhibits any false light or signal, with intent to bring any ship or vessel into danger, or unlawfully and maliciously does any thing to the immediate loss or destruction of any ship or vessel in distress, such offender shall be guilty of felony, and shall suffer death. 4, 5 V. c. 26, s. 8.

Setting fire to ships, &c., with malicious intents.

9. If any person unlawfully and maliciously sets fire to, or in any wise destroys any ship or vessel, whether the same be completed or in an unfinished state, or unlawfully and maliciously sets fire to, casts away or in any wise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or the underwriter of any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for the term of his natural life, or for any other term not less than two years, or be imprisoned in any other prison or place of confinement for any time less than two years. 4, 5 V. c. 26, s. 9.

Felony.

Punishment.

Destroying part of ships in distress, &c.

10. If any person unlawfully and maliciously destroys any part of any ship or vessel in distress, or wrecked, stranded or cast on shore, or any goods, merchandize, or article of any kind

belonging to such ship or vessel, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years. **Punishment.** 4, 5 V. c. 26, s. 11.

11. If any person unlawfully and maliciously places or throws in, into, upon, against or near any building or vessel, any gun-powder or any other explosive substance, with intent to do any bodily damage to any person, or to destroy or damage any building or vessel, or any machinery, working tools, fixtures, goods or chattels, the offender shall, whether or not an explosion takes place, and whether or not an injury be effected to any person, or any damage be done to any building, vessel, machinery, working tools, fixtures, goods or chattels, be guilty of felony, and such offender shall be imprisoned in the Penitentiary for any time not exceeding seven years, nor less than two years, or be imprisoned in any Common Gaol for any period less than two years. **Maliciously throwing or placing gun-powder with evil intents.** **Felony.** **Punishment.** 10, 11 V. c. 4, s. 6,—14, 15 V. c. 2, s. 2.

12. If any person unlawfully and maliciously sets fire to any stack of corn, grain, pulse, straw, hay, peat, coal, charcoal or wood, or any steer of wood, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not more than five years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. **Setting fire to stacks of hay, grain, &c.** 4, 5 V. c. 26, s. 17—18 V. c. 92, s. 35.

13. If any person unlawfully and maliciously by any overt act attempts to set fire to any building or vessel, or to any stack, or to any vegetable produce of such kind, and with such intent that if the offence were complete the offender would be guilty of felony, and liable to be imprisoned in the Penitentiary for any term not less than two years, he shall, although such building, vessel, stack or vegetable produce be not actually set on fire, be guilty of felony, and shall be imprisoned in the Penitentiary for any time not exceeding seven years, nor less than two years, or be imprisoned in any Common Gaol for any term less than two years. **Attempts to set fire to buildings, vessels, stacks, &c.** **Felony.** **Punishment.** 10, 11 V. c. 4, s. 7.

14. If any person unlawfully and maliciously cuts or otherwise destroys any hop-binds growing on poles in any plantation of hops, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not exceeding four years nor less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. **Maliciously destroying hop-binds, &c.** **Felony.** **Punishment.** 4, 5 V. c. 26, s. 18.

15. If any person unlawfully and maliciously destroys or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distil- **Maliciously destroying roots, plants, &c.**

- ling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or enclosed, not being a garden, orchard or nursery ground, such offender being convicted thereof, before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding four dollars, as to the Justice seems meet. 4, 5 V. c. 26, s. 22.
- Penalty.**
- Maiming cattle, &c.** **Felony.** **16.** If any person unlawfully and maliciously kills, maims or wounds any cattle, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 16.
- Maliciously cutting or destroying silk, woollen or other goods.** **Felony.** **Punishment.** **17.** If any person unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy, or to render useless, any goods or article of silk, woollen, linen or cotton, or of any one or more of those materials, mixed with each other or mixed with any other material, or any frame-work-knitted piece, stocking, hose or lace, respectively, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process, or progress of manufacture; or unlawfully and maliciously cuts, breaks, or destroys, or damages with intent to destroy or to render useless, any warp, or shute of silk, woollen, linen or cotton, or of any one or more of those materials mixed with each other, or mixed with any other material, or any loom, frame, machine, engine, rack, tackle, or implement, whether fixed or movable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles; or by force enters into any house, shop, building or place, with intent to commit any of the offences aforesaid, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 4.
- Maliciously damaging or destroying threshing machines, &c.** **Felony.** **Punishment.** **18.** If any person unlawfully and maliciously cuts, breaks, or destroys, or damages with intent to destroy or to render useless, any threshing machine, or any machine or engine, whether fixed or movable, prepared for or employed in any manufacture whatsoever, (except the manufacture of silk, woollen, linen, or cotton goods, or goods of any one or more of those materials mixed with each other, or mixed with any other material, or any frame-work-knitted piece, stocking, hose or lace,) such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two years, or in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 5.
- Maliciously breaking down** **19.** If any person unlawfully and maliciously breaks down or cuts down any sea bank or sea wall, or the bank or wall of

any river, canal or marsh, whereby any land is or is in danger of being overflowed or damaged, or unlawfully and maliciously throws down, levels or otherwise destroys any lock, sluice, flood-gate, or other work on any navigable river or canal, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not exceeding four years, or in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 12.

banks of canals, rivers, &c.

Felony.
Punishment.

20. If any person unlawfully and maliciously cuts off, draws up or removes any piles, chalk, or other materials fixed in the ground and used for securing any sea bank or sea wall, or the bank or wall of any river, canal, or marsh, or unlawfully and maliciously opens or draws up any flood-gate, or does any other injury or mischief to any navigable river or canal with intent, and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, such offender shall be guilty of felony, and shall be imprisoned for any term not exceeding two years. 4, 5 V. c. 26, s. 12.

Or removing piles, &c., used in securing such banks.

Felony.
Punishment.

21. If any person unlawfully and maliciously pulls down, or in any wise destroys any public bridge, or does any injury with intent, and so as thereby to render such bridge or any part thereof dangerous or impassable, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not exceeding four years, nor less than two years, or in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 13.

Maliciously destroying public bridges.

Felony.
Punishment.

22. If any person unlawfully and maliciously throws down, levels, or otherwise destroys, in whole or in part, any turnpike gate, or any wall, chain, rail, post, bar, or other fence belonging to any turnpike gate, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or Ordinance relating thereto, in force in this Province, or any house, building or weighing engine erected for the better collection, ascertainment, or security of any such toll, such offender shall be guilty of a misdemeanor, and shall be punished accordingly. 4, 5 V. c. 26, s. 14.

Maliciously prostrating turnpike gates, &c.

Misdemeanor.

23. If any person unlawfully and maliciously breaks down or otherwise destroys the dam of any fish pond, or of any water which is private property, or in which there is any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water or so as thereby to cause the loss or destruction of any of the fish, or unlawfully and maliciously puts any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish therein, or unlawfully and maliciously breaks down or otherwise destroys the dam of any mill pond, such offender shall be guilty of a misdemeanor, and be punished accordingly. 4, 5 V. c. 26, s. 15.

Maliciously destroying fish ponds or dams, &c.

Or mill ponds, &c.

Misdemeanor.

Maliciously
destroying
trees in plea-
sure grounds,
&c.

24. If any person unlawfully and maliciously cuts, breaks, barks, roots up, or otherwise destroys or damages the whole or any part of any tree, sapling, or shrub, or any under-wood, respectively growing in any park, pleasure-ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling house, such offender shall be guilty of a misdemeanor, and shall be punished accordingly; and if any person unlawfully and maliciously cuts, breaks, barks, roots up, or otherwise destroys or damages the whole or any part of any tree, sapling, or shrub, or any underwood respectively, growing elsewhere than in any of the situations hereinbefore mentioned, such offender (in case the amount of the injury done exceeds the sum of four dollars,) shall be guilty of a misdemeanor, and be punished accordingly. 4, 5 V. c. 26, s. 19.

Or elsewhere
to the amount
of \$4.

Maliciously
destroying
trees in any
place to the
amount of
twenty cents.

25. If any person unlawfully and maliciously cuts, breaks, barks, roots up, or otherwise destroys or damages the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be growing, the injury done being to the amount of twenty cents at the least, such offender, being convicted thereof, before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding four dollars as such Justice may award. 4, 5 V. c. 26, s. 20.

Maliciously
destroying
plants, &c., in
gardens.

Penalty.

26. If any person unlawfully and maliciously destroys or damages with intent to destroy any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, hot-house, green-house or conservatory, such offender being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding eight dollars as to the Justice may seem meet. 4, 5 V. c. 26, s. 21.

Maliciously
destroying
fences, &c.

Penalty.

27. If any person unlawfully and maliciously cuts, breaks, throws down, or in any wise destroys any fence of any description whatsoever, or any wall, stile, or gate, or any part thereof, such offender, being convicted before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding four dollars, as to the Justice may seem meet. 4, 5 V. c. 26, s. 23.

Maliciously
damaging any
property.

Penalty.

28. If any person wilfully or maliciously commits any damage or injury, or spoil to or upon any real or personal property, either of a public or private nature, for which no remedy or punishment is hereinbefore provided, such person being convicted thereof, before a Justice of the Peace, shall forfeit and pay such sum of money as may appear to the Justice to be a reasonable compensation for the damage, injury or spoil so committed, not exceeding the sum of twenty dollars. 4, 5 V. c. 26, s. 24.

29. In case of private property, the sum of money in the last section mentioned shall be paid to the party aggrieved, except where such party has been examined in proof of the offence, and in such case, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as every penalty imposed by a Justice of the Peace under this Act, is hereinafter directed to be applied; But nothing in that section contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of. 4, 5 V. c. 26, s. 24. See 22 V. c. 98, s. 1, (1856.)

Application of.

30. If any person wilfully and maliciously puts, places, casts or throws upon or across any railway, any wood, stone or other matter or thing, or wilfully and maliciously takes up, removes, or displaces any rail, sleeper, or other matter or thing belonging to any railway, or wilfully and maliciously turns, moves, or diverts any point or other machinery belonging to any railway, or wilfully and maliciously makes or shews, hides or removes, or omits to make or shew, any signal or light upon or near any railway, or wilfully and maliciously does or causes to be done, or omits or neglects, or causes to be omitted or neglected, any other matter or thing, with intent to obstruct, upset, overthrow, injure, or destroy, any engine, tender, carriage, or truck using such railway, or to endanger the safety of any person travelling or being upon such railway, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than three nor more than seven years. 18 V. c. 92, s. 32.--See 13, 14 V. c. 31.

Maliciously obstructing or injuring railways, &c.

Felony.

Punishment.

31. If any person wilfully and maliciously casts, or throws, any wood, stone, or other matter or thing, or causes the same to fall or strike against, into or upon any carriage, engine, tender, or truck used upon any railway, with intent to endanger the safety of any person being in or upon such carriage, engine, tender or truck, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than three nor more than seven years. 18 V. c. 92, s. 33.

Maliciously throwing any thing against railway carriages, engines, &c.

32. If any person wilfully and maliciously sets fire to any station-house, engine-house, warehouse, or other building belonging or appertaining to any railway, lock, canal, or other navigation, or to any goods or chattels being in any building the setting fire to which is made felony by this or any other Act of Parliament, such offender shall be guilty of felony, and shall be punished as in the last preceding section is mentioned. 18 V. c. 92, s. 34.

Maliciously setting fire to any station, engine house, &c.

Felony.

Punishment.

33. Every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment, or upon summary conviction, shall equally apply and be enforced, whether the offence

Malice defined.

be committed from malice conceived against the owner of the property in respect of which it is committed or otherwise. 4, 5 V. c. 26, s. 25.

Jurisdiction of Justices of the Peace respecting gunpowder, &c.

34. Any Justice of the Peace of any District, City, Town, or place in which any gunpowder or other explosive, dangerous or noxious substance is suspected to be made or kept for the purpose of being used in committing an offence under this Act, may upon reasonable cause assigned upon Oath by any person or persons, issue a warrant under his hand and seal for searching in the day time any house, shop, cellar, yard or other building, or any vessel in which such gunpowder or other explosive, dangerous or noxious substance is suspected to be so made or kept, and every person acting in the execution of any such warrant may seize any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine or instrument or thing which he has good cause to suspect is intended to be used in committing or enabling any other person to commit any offence against this Act, and with all convenient speed after the seizure shall remove the same to such proper place as he thinks fit, and detain the same until ordered by a Judge of one of Her Majesty's Superior Courts of Criminal Jurisdiction, to restore it to the person who may claim the same. 10; 11 V. c. 4, s. 12.

Seizure.

Protection of searchers, seizers, &c.

35. The searcher or seizer shall not be liable to any suit for such detainer, or for any loss of or damage which may happen to the property other than by the wilful act or neglect of himself or of the persons whom he entrusts with the keeping thereof. 10, 11 V. c. 4, s. 12.

When gunpowder, &c., to be forfeited.

36. Any gunpowder, explosive substance or dangerous or noxious thing, or any machine, engine, instrument or thing intended to be used in committing or enabling any other person to commit any offence against this Act, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same may be found, or of the owner thereof being convicted for any offence under this Act, be forfeited; and the same shall be sold under the direction of the Court before which any such person may be convicted, and the proceeds thereof shall be paid into the hands of the Receiver General to and for the use of the Province. 10, 11 V. c. 4, s. 13.

How penalties enforced.

37. In every case of a summary conviction under this Act, where the sum forfeited for the amount of the injury done, or imposed as a penalty by the Justice, is not paid, either immediately after the conviction, or within such period as the Justice, at the time of conviction appoints, the convicting Justice (when not otherwise specially directed) may commit the offender to the Common Gaol or House of Correction, there to be imprisoned only, or to be imprisoned and kept to

hard labour, for any term not exceeding two months, where the amount of the sum forfeited or of the penalty imposed, or of both, together with the costs, do not exceed twenty dollars, and for any term not exceeding four months where the amount with costs exceeds twenty dollars, and does not exceed forty dollars, and for any term not exceeding six months where the amount with costs exceeds forty dollars; the commitment to be determinable in each case upon the payment of the amount and costs. 4, 5 V. c. 26, s. 33.

38. In case any person be summarily convicted before a Justice of the Peace of any offence against this Act, and it be a first conviction, the Justice, if he thinks fit, may discharge the offender from the conviction, upon his making satisfaction to the party aggrieved for damages and costs, or either of them, to be ascertained by the Justice. 4, 5 V. c. 26, s. 34.—See c. 103, s. 41.

When a person convicted may be discharged on terms.

39. Neither the Justices of the Peace acting in and for any District, County or City, nor the Recorder of any City, shall, at any Session of the Peace or at any adjournment thereof, try any person or persons for any offence under the second, third, eleventh or thirteenth sections of this Act. 10, 11 V. c. 4, s. 16.

Jurisdiction of Justices of the Peace and Recorders restricted.

C A P . X C I V .

Con. Stat. Can. page 988.

An Act respecting Forgery.

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

1. If any person forges or counterfeits or utters, knowing the same to be forged or counterfeited, the Great Seal of this Province, or of the late Province of Upper Canada, or of the late Province of Lower Canada, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any time not less than seven years. 10, 11 V. c. 9, s. 1.

Forgery of the Great Seal.

2. If any person forges or counterfeits or utters, knowing the same to be forged or counterfeited, the Seal at Arms of the Governor, to any commission, grant, appointment, license, warrant, order or other instrument of a public nature appertaining or relating to the affairs of this Province, or to any instrument purporting to be a commission, grant, appointment, license, warrant, order or other instrument of a public nature appertaining or relating to the affairs of this Province, or forges any public register or book, appointed by law to be made or kept, or wilfully certifies or utters any writing as and for a true copy of such public register or book, or of any entry therein, knowing such writing to be counterfeit or false, such offender shall be

Forging the Governor's Seal at Arms, &c.

Felony. guilty of felony, and shall be imprisoned in the Penitentiary,
Punishment. for any term not more than fourteen years, nor less than five years. 10, 11 V. c. 9, s. 2.

**Forging De-
bentures, &c.**

3. If any person forges or alters or offers, disposes of or puts off, knowing the same to be forged or altered, any debenture issued under the authority of any Act of the Legislatures of the late Provinces of Upper Canada or of Lower Canada, or of any Act of the Legislature of this Province, or any stamp or endorsement on or assignment of any such debenture, or any scrip issued by the Commissioner of Crown Lands for the time being, in lieu of or in satisfaction of any right or claim to a grant of land from the Crown in this Province or any part thereof, or any will, testament, codicil or testamentary writing, or any license of marriage, or any bank note, or any bill of exchange, or any promissory note for the payment of money, or any indorsement on, or any assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant or order for the payment of money, with intent in any of the cases aforesaid to defraud any person whatsoever, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not more than ten years, nor less than four years. 10, 11 V. c. 9, s. 3.

Land Scrip.

**Wills, marria-
ge licenses, &c.**

**Bank notes,
&c.**

Felony.

Punishment.

**Punishment of
death super-
seded.**

4. In case by any law at any time in force in any part of this Province, before this Act takes effect, any person was made liable to the punishment of death for forging or altering, or for offering, altering, disposing of or putting off, knowing the same to be forged or altered, any instrument or writing, designated in such law by any special name or description, and if such instrument or writing, however designated, be in law a will, testament, codicil or testamentary writing, or a bill of exchange, or a promissory note for the payment of money, or an endorsement on or assignment of a bill of exchange, or promissory note for the payment of money, within the true intent and meaning of this Act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender under this Act, and be punished in the manner provided in the last preceding section hereof. 10, 11 V. c. 9, s. 4.

**Substituted
punishment.**

**Forging, &c.,
Letters Patent.**

5. If any person forges or alters, or in any way publishes, puts off or utters as true, knowing the same to be forged or altered, any copy of letters patent, or of the enrolment or en- registration of letters patent, or of any certificate thereof made or given, or purporting to be made or given by virtue of any Statute of Upper Canada or of Lower Canada, or of this Pro- vince, every such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not more than

Felony.

Punishment.

seven years, nor less than three years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 5.

6. If any person forges, or alters, or utters, knowing the same to be forged or altered, any transfer of any share or interest of or in the Capital Stock of any Body Corporate, Company or Society, established by Charter or Act of Parliament in any part of this Province, or forges or alters, or utters, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such Capital Stock, or receives any dividend or profit payable in respect of any such share or interest, or demands or endeavours to have any such share or interest transferred, or to receive any dividend or profit payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the several cases aforesaid, to defraud any person whatsoever; or if any person falsely and deceitfully personates any owner of any such share, interest, dividend or profit as aforesaid, and thereby transfers any share or interest belonging to such owner, or thereby receives any money due to such owner, as if such person were the true and lawful owner, every such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not more than ten years, nor less than four years. 10, 11 V. c. 9, s. 6.

Forging, &c., transfers, of stock, &c.

Felony.

Punishment.

7. If any person falsely and deceitfully personates the owner of any share or interest of or in the Capital Stock of any Body Corporate, Company or Society, established by Charter or Act of Parliament in any part of this Province, or any owner of any dividend or profit payable in respect of any such share or interest as aforesaid, or any person having a claim for a grant of land from the Crown in this Province, or for any scrip or other payment or allowance in lieu of such grant of land, and thereby endeavours to transfer any share or interest belonging to any such owner, or to receive any money due to any such owner as if such offender were the true and lawful owner, or to obtain any such grant of land, or any scrip or other payment or allowance in lieu thereof, as if such offender were entitled thereto, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not more than seven years, nor less than three years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 7.

False personation of stockholder, &c.

Felony.

Punishment.

8. If any person forges the name or handwriting of any person as or purporting to be a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any Capital Stock in this Act before mentioned, or receives any dividend or profit payable in respect of any such share or interest, or assigns or transfers any

Forging name of witness to power of Attorney to transfer stock, &c.

Felony.

Punishment.

right to obtain a grant from the Crown of lands in this Province, or to obtain any scrip or other payment or allowance in lieu of such grant of land, or utters any such power of attorney or other authority with the name or handwriting of any person forged thereon as an attesting witness, knowing the same to be forged, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not less than two years nor more than seven years, or be confined in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 8.

Forging Notarial Acts, &c.

Felony.

Punishment.

9. If any person, with intent to defraud any person, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any notarial Act or instrument or copy purporting to be an authenticated copy thereof, *procès verbal* of any Surveyor, or like copy thereof, any judicial record, writ, order, return, exhibit, report, certificate or other document or entry made or filed in any suit or proceeding civil or criminal in any Court of Justice, or with any officer of such Court, or any copy or paper purporting to be an exemplification or authenticated or certified copy of any such judicial record, writ, order, return, exhibit, report, certificate, or other such document or entry as aforesaid, or any deed, bond, writing obligatory, assignment of a right to land, certificate of registration or affidavit of execution, or any memorial of any deed, will or other instrument, which may, at the time this Act takes effect or thereafter, be registered by virtue of any Statute in force in this Province or any part thereof, or any acquittance or receipt either for money or for goods, or any accountable receipt either for money or goods, as for any note, bill or other security for payment of money, or any warrant, order or request for the delivery or transfer of goods, or for the delivery of any note, bill or other security for the payment of money, or any contract, promise or agreement, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not less than four years nor more than ten years. 10, 11 V. c. 9, s. 9.

Falsely personating bail, entering into a recognizance, &c.

Felony.

Punishment.

10. If any person knowingly and wilfully, before any Court, Judge or other person lawfully authorized to take any recognizance or bail, acknowledges any recognizance or bail in the name of any other person not privy or consenting to the same, whether such recognizance or bail in either case be or be not filed, or if any person in the name of any other person not privy or consenting to the same, acknowledges any *cognovit actionem* or judgment, or any deed to be registered or enrolled, every such offender shall be guilty of felony, and shall be confined in the Penitentiary for any term not less than four years nor more than ten years. 10, 11 V. c. 9, s. 10.

Having in possession certain forged instru-

11. If any person without lawful excuse, the proof whereof shall lie upon the party accused, purchases or receives from

any other person, or has in his custody or possession, any forged bank-note or blank bank-note, knowing the same to be forged, such offender shall be guilty of felony, and shall be confined in the Penitentiary for any term not less than two years nor more than seven years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 11.

ments, when felony.

Punishment.

12. If any person engraves or in any wise makes upon any plate whatever, or upon any wood, stone or other material, any bank-note, bill of exchange or promissory note for the payment of money, purporting to be the bank-note, bill or promissory note, or part of the bank-note, bill or promissory note of any person or persons, body corporate or company carrying on the business of bankers in this Province, without the authority of such person or persons, body corporate or company, the proof of which shall lie on the party accused; or if any person engraves or makes upon any plate whatever, or upon any wood, stone or other material, any word or words resembling or apparently intended to resemble any subscription subjoined to any bank-note, bill of exchange or promissory note for the payment of money, issued by any such person or persons, body corporate or company carrying on the business of bankers, without such authority to be proved as aforesaid; or if any person without such authority, to be proved as aforesaid, uses, or without lawful excuse, to be proved by the party accused, knowingly has in his custody or possession, any plate, wood, stone or other material upon which any such bank-note, bill of exchange or promissory note, or part thereof, or any word or words resembling or apparently intended to resemble such subscription has been engraved or made; or if any person without such authority, to be proved as aforesaid, knowingly offers, utters, disposes of or puts off, or without lawful excuse, to be proved as aforesaid, knowingly has in his custody or possession, any paper upon which any part of such bank-note, bill of exchange or promissory note, or any word or words resembling or apparently intended to resemble any such subscription, has been made or printed, every such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not less than two years nor more than seven years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 12.

Forging engraving of bills, notes, &c.

Felony.

Punishment.

13. If any person forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, promissory note, undertaking or order for payment of money, in whatever language or languages the same may be expressed, and whether the same is or is not under seal, purporting to be the bill, note, undertaking or order of any foreign Prince or State, or of any minister or officer in the service of any foreign Prince or State, or of any body corporate or body of the like nature constituted or recognized by any

Forging bills, notes, &c., in foreign languages.

foreign Prince or State, or of any person or company of persons resident in any country not under the dominion of Her Majesty; or if any person engraves or in any wise makes upon any plate whatever or upon any wood, stone or other material, any bill of exchange, promissory note, undertaking or order for payment of money in whatever language or languages the same may be expressed, and whether the same is or is not intended to be under seal, purporting to be the bill, note, undertaking or order of any foreign Prince or State, or of any minister or officer in the service of any foreign Prince or State, or of any body corporate or body of the like nature constituted or recognized by any foreign Prince or State, or of any person or company of persons resident in any country not under the dominion of Her Majesty, without the authority of such foreign Prince or State, minister or officer, body corporate or body of the like nature, person or company of persons, the proof of which authority shall lie on the person accused; or if any person without such authority, to be proved as aforesaid, uses, or without lawful excuse, to be proved by the party accused, knowingly has in his custody or possession any plate, stone, wood or other material upon which any such foreign bill, note, undertaking or order or any part thereof has been engraved or made; or if any person without such authority, to be proved as aforesaid, knowingly utters, disposes of or puts off, or without lawful excuse to be proved as aforesaid, knowingly has in his custody or possession any paper upon which any part of any such foreign bill, note, undertaking or order has been made or printed, every such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary, for any term not less than two years, nor more than seven years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 13.

Felony.

Punishment.

Forging passenger tickets.

14. If any person knowingly forges, or utters, knowing the same to be forged, any ticket or order for a free or paid passage on any Railway or on any Steam or other Vessel, with intent to defraud any other person, such offender shall be guilty of felony, and shall be imprisoned in the Penitentiary for a period not exceeding three years, nor less than two years. 18 V. c. 92, s. 37.

Forging postage stamps, &c.

15. If any person forges, counterfeits or imitates any Postage Stamp issued or used under the authority of the Act respecting the Provincial Post Office, or by or under the authority of the Government or proper authority of the United Kingdom, or of any British North American Province, or of any Foreign Country, or knowingly uses any such forged, counterfeit or imitated Stamp, or engraves, cuts, sinks or makes any plate, die or other thing whereby to forge, counterfeit or imitate such stamp or any part or portion thereof, except by the permission in writing of the Provincial Postmaster General, or of some Officer or person who, under the regulations

to be made in that behalf, may lawfully grant such permission, or has possession of any such plate, die or other thing, without such permission, or as aforesaid forges, counterfeits or unlawfully imitates, uses or affixes to or upon any letter or packet, any stamp, signature, initials or other mark or sign purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon or any part thereof hath been prepaid or ought to be paid by or charged to any person, department or party whomsoever, such offender shall be guilty of felony, and be imprisoned in the Penitentiary for life. 13, 14 V. c. 17, *part of sec. 16.*

Felony.
Punishment.

16. Every person convicted of any offence which was subjected by any Act or Acts to the same pains or penalties as are imposed by the Act of Queen Elizabeth, intituled, *An Act against Forgers of False Deeds and Writings*, for any of the offences first enumerated in that Act, shall be guilty of felony, and shall in lieu of such pains and penalties, be confined in the Penitentiary for any term not less than two years nor more than seven years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 14.

Offences within the Statute of 5 Elizabeth, c. 14.

17. Where the forging or altering any matter whatsoever, or the offering, uttering, disposing of or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person in this province forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any such writing or matter, in whatsoever place or country out of this Province, whether under the dominion of Her Majesty or not, such writing or matters may purport to be made or may have been made, and in whatever language or languages the same or any part thereof may be expressed, such person and every person aiding, abetting or counselling such person, shall be deemed an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in this province. 10, 11 V. c. 9, s. 15.

Forgeries purporting to have been elsewhere than in Canada.

Punishment.

18. If any person in this province forges or alters or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange or any promissory note for the payment of money, or any endorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any deed, bond, writing obligatory for the payment of money (whether such deed, bond or writing obligatory has been made only for the payment of money or for the payment of money together with some other purpose) in whatever place or country out of this province, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, deed, bond or writing

Forging or uttering forged bills, bonds, deeds, &c., for payment of money purporting to be payable elsewhere than in Canada.

obligatory may be or may purport to be payable, and in whatever language or languages the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant or order be or be not under seal, such person and every person aiding, abetting or counselling such person, shall be deemed an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in this province. 10, 11 V. c. 9, s. 15.

Punishment.

Knowingly uttering or attempting to enforce forged instruments.

19. When by any law in force in any part of this Province, any person falsely making, forging, counterfeiting, erasing or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting away or making use of any matter whatsoever, knowing the same to be falsely made, forged, counterfeited, erased or altered, or any person demanding or endeavouring to receive or have any thing, or doing or causing to be done any act upon or by virtue of any matter whatsoever, knowing such matter to be falsely made, forged, counterfeited, erased or altered, or where by any law in force as aforesaid, any person falsely personating another or falsely acknowledging any thing in the name of another, or falsely representing any other person than the real party to be such party, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate was obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation, would be guilty of felony and be liable to any other punishment than is provided by this Act; then and in each of the several cases aforesaid, if any person is convicted of any such felony as hereinbefore mentioned, or of aiding, abetting, counselling or procuring the commission thereof, and no other provision is made for the punishment of any such offender under any other clause of this Act, such offender shall be imprisoned in the Penitentiary for any term not more than ten years nor less than two, or be imprisoned in any Common Gaol for any term less than two years; But nothing herein contained shall affect or alter any law relating to any coin lawfully current in this Province. 10, 11 V. c. 9, s. 16.

Punishment.

Forging or counterfeiting marks, labels, on goods, how punishable.

20. Any person who knowingly and wilfully, and with intent to deceive and defraud, forges or counterfeits, or causes or procures to be forged or counterfeited any private mark, token, stamp or label of any manufacturer, mechanic or other person being a resident of this Province, upon or with respect to any goods, wares or merchandize whatsoever, shall be guilty of felony, and shall be punished by imprisonment in the Common Gaol for a term at the discretion of the Court, but less than two years. 22 V. c. 21, s. 1, (1859.)

Vending goods, &c., with forg-

21. Any person who vends any goods, wares or merchandize, having thereon any forged or counterfeited private

mark, token, stamp or label, purporting to be the private mark, token, stamp or label of any other person being a resident of this Province, knowing the same at the time of the purchase thereof by him to be forged or counterfeited, shall be guilty of a misdemeanor, and shall be punished by imprisonment in the Common Gaol for a term not exceeding six months, or by a fine of not more than one hundred dollars, or by both, in the discretion of the Court. 22 V. c. 24, s. 2, (1859).

ed marks or labels to be a misdemeanor, and how punishable.

WHERE OFFENDERS AND ACCESSORIES TRIABLE, &c.

22. If any person commits any offence against this Act, or commits any offence of forging or altering any matter whatsoever, or of offering, uttering, disposing of or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case be indictable at Common Law or by virtue of any statute, the offence of every such offender may be dealt with, indicted, tried and punished, and be laid and charged to have been committed in any district, county or place in which he has been apprehended or may be in custody, as if his offence had been actually committed in that district, county or place; and every accessory before or after such offence, if the same be a felony, and every person aiding, abetting or counselling the commission of any such offence, if the same be a misdemeanor, may be dealt with, indicted, tried and punished, and his offence laid and charged to have been committed in any district, county or place in which the principal offender may be tried. 10, 11 V. c. 9, s. 17.

Where offences triable.

Accessories.

23. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree; and every accessory after the fact to any felony punishable under this Act shall on conviction be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 18.

Punishment of principals in the second degree and accessories.

24. In all informations or indictments for forging, altering or in any manner uttering any instrument or writing, it shall not be necessary to set forth any copy or *fac simile* thereof, but it shall be sufficient to describe the same in such manner as would sustain an indictment for stealing the same. 10, 11 V. c. 9, s. 19.

Indictments need not set forth a *fac simile*.

25. When the having any matter in the custody or possession of any person is in this Act expressed to be an offence, if any person has any such matter in his personal custody or possession, or knowingly or wilfully has any such matter in any dwelling house or other building, lodging, apartment, field or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter is for his own use or for the use or benefit of another,

What to constitute a being in illegal possession, &c.

every such person shall be deemed to have such matter in his custody or possession within the meaning of this Act; and where the committing of any offence with intent to defraud any person whatsoever is made punishable by this Act, in every such case the word "person" shall throughout this Act be deemed to include Her Majesty or any foreign Prince or State, or any body corporate or any company or society of persons not incorporated, or any person or number of persons whatsoever who may be intended to be defrauded by such offence, whether such body corporate, society, person or number of persons reside or carry on business in this Province or elsewhere, and whether under the dominion of Her Majesty or not; and it shall be sufficient in any indictment to name one person only of such company, society or number of persons and to allege the offence to have been committed with intent to defraud the person so named and another or others, as the case may be. 10, 11 V. c. 9, s. 20.

The word "person" defined.

When one person and another or others sufficient in an indictment.

Competency of witnesses.

26. In all prosecutions by indictment or information against any person or persons for any offence punishable under this Act, no person shall be deemed an incompetent witness, in support of the prosecution by reason of any interest which such person may have or be supposed to have in respect of any deed, writing, instrument or other matter given in evidence on the trial of such indictment or information; But the evidence of any person or persons so interested or supposed to be interested shall in no case be deemed sufficient to sustain a conviction for any of the said offences unless the same is corroborated by other legal evidence in support of such prosecution. 10, 11 V. c. 9, s. 21.

When must be corroborated.

Past offences provided for.

27. If any person who, before the first of January, one thousand eight hundred and forty-eight, having committed any offence against any Act repealed by the Statute 10, 11 V. c. 9, relating to forgery, or thereby declared to be no longer in force, has been convicted of the same since the said first of January, one thousand eight hundred and forty-eight, or after this Act takes effect, be convicted of the same, and if such offence was punishable with death, in every such case the person convicted of such offence shall not suffer the punishment of death, but shall in lieu thereof be confined in the Penitentiary, for any term not less than two nor more than ten years, or be imprisoned in any Common Gaol for any term less than two years. 10, 11 V. c. 9, s. 22.

CAP. XCVII.

Con. Stat. Can.
page 1005.

An Act respecting Principals in the second degree, accessories, and second convictions.

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

1. PRINCIPALS IN THE SECOND DEGREE.

1. In the case of every felony punishable under any of the preceding Criminal Acts, chaptered eighty-nine to ninety-six, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise, in the same manner as the principal in the first degree is punishable; and every accessory after the fact to any felony punishable under this or any of the said Acts, (except only a receiver of stolen property,) shall be liable to be imprisoned for any term not exceeding two years; and every person who aids, abets, counsels or procures the commission of any misdemeanor punishable under this or any of the said Acts, shall be liable to be indicted and punished as a principal offender. 4, 5 V. c. 25, s. 53,—10, 11 V. c. 4, s. 10,—1, 5 V. c. 26, s. 26,—c. 27, s. 35.

Principals in the second degree.

2. If any person aids, abets, counsels or procures the commission of any offence which is by this or any of the said Acts punishable on summary conviction, either for every time of its commission or for the first and second time only, or for the first time only, such person shall, on conviction before a Justice or Justices of the Peace, be liable for every first, second or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence as a principal offender is by any of the said Acts made liable. 4, 5 V. c. 25, s. 54,—4, 5 V. c. 26, s. 31.

Aiders and abettors.

2. ACCESSORIES BEFORE THE FACT.

3. If any person counsels, procures or commands, any other person to commit any Felony, in this Province, the person so counselling, procuring or commanding, shall be guilty of Felony, and may be indicted and convicted as an accessory before the fact to the principal Felony, either together with the principal Felon, or after the conviction of the principal Felon; or may be indicted for and convicted of a substantive Felony, whether the principal Felon has or has not been previously convicted, or been amenable to Justice, and if convicted as an accessory before the fact to the same Felony may be punished.

Accessories before the fact.

Punishment.

4. The offence of the person so counselling, procuring or commanding, howsoever indicted, may be inquired of, tried,

Where accessories triable.

determined and punished by any Court which has jurisdiction to try the principal Felon, in the same manner as if such offence had been committed at the same place as the principal Felony, although such offence may have been committed either on the High Seas or at any place on land, whether within Her Majesty's Dominions or without.

If offence committed abroad.

Where triable if offence committed in another district or county.

5. In case the principal Felony was committed within the body of any District or County, and the offence of counselling, procuring or commanding was committed within the body of any other District or County, the last mentioned offence may be enquired of, tried, determined and punished in either of such Districts or Counties; But no person who has been once duly tried for any such offence, whether as an accessory before the fact, or as a substantive Felony, shall be liable to be again indicted or tried for the same offence. 4, 5 V. c. 24, s. 37,—10, 11 V. c. 4, s. 10.

3. ACCESSORIES AFTER THE FACT.

Accessories after the fact where triable.

6. If any person becomes an accessory after the fact to any Felony, committed in Canada, the offence of such person may be inquired of, tried, determined and punished by any Court which has jurisdiction to try the principal Felon, in the same manner as if the act by reason whereof such person became an accessory had been committed at the same place as the principal Felony, although such act may have been committed either on the High Seas, or at any place on land, whether within Her Majesty's Dominions or without. 4, 5 V. c. 24, s. 38,—10, 11 V. c. 4, s. 10.

If offence committed abroad.

Where triable.

If offence committed in another district or county.

Effect of being once tried.

7. In case the principal Felony was committed within the body of any District or County, and the act by reason whereof any person became accessory, was committed within the body of any other District or County, the offence of such accessory may be enquired of, tried, determined and punished in either of such Districts or Counties; but no person who has been once duly tried for the offence of being an accessory shall be liable to be again indicted or tried for the same offence. 4, 5 V. c. 24, s. 38.

4. ACCESSORIES BEFORE OR AFTER.

Accessories liable though the principal has died.

8. If any principal offender has been in any wise convicted of any Felony, any accessory either before or after the fact, may be proceeded against in the same manner as if such principal Felon had been attainted thereof, notwithstanding such principal Felon had died or been pardoned, or otherwise delivered before attainer; and every such accessory shall suffer the same punishment, if such accessory be in any wise convicted, as such accessory would have suffered if the principal had been attainted. 4, 5 V. c. 24, s. 39,—10, 11 V. c. 4, s. 10.

5. SECOND CONVICTIONS.

9. If any person be convicted of any Felony not punishable with death, committed after a previous conviction for Felony, such person shall, on such subsequent conviction, be imprisoned in the Penitentiary for any term not less than two years, or be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 24, s. 30. Second convictions.

C A P. X C V I I I.

Con. Stat. Can.
page 1607.

An Act respecting the sale of Strychnine and other poisons.

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

1. No apothecary, chemist, druggist, vendor of medicines or other person in this Province, shall sell or deliver any arsenic, corrosive sublimate, strychnine, or other poison, mineral or vegetable, simple or composite, commonly known as deadly poison, (or which being incautiously or secretly administered may cause immediate death), to any person who does not then produce and deliver a certificate or note from some person duly licensed or legally authorized to Practise as a Physician or Surgeon, or some Priest or Minister of religion, resident in the locality, addressed to such apothecary, chemist, druggist, vendor of medicines or other person, and mentioning the name, residence, calling or profession of the person requiring such arsenic, corrosive sublimate, strychnine or other such poison as aforesaid, and stating the purpose for which it is required, and that it ought to be sold to the person requiring the same, and such certificate or note shall be kept by the person selling or delivering such poison as his justification for so doing. 12 V. c. 60, s. 2. Apothecaries and others not to sell poison to any person not furnished with a proper certificate.

2. Any apothecary, chemist, druggist, vendor of medicines, or other person who contravenes the provisions of the last Section, shall for each offence incur a penalty not exceeding forty dollars, and shall, if such penalty be not forthwith paid upon conviction, be committed to Gaol for a period not exceeding three months unless the penalty and the costs of prosecution be sooner paid. 12 V. c. 60, s. 2. Penalty.

3. The penalties imposed by this Act shall be recoverable, with costs, in a summary manner before any one Justice of the Peace, on the oath of one or more credible witnesses other than the prosecutor, and the prosecution may be commenced at any time within six months after the offence committed, and one moiety of the penalty shall belong to the prosecutor and the other moiety to Her Majesty, for the public uses of the Province. 12 V. c. 60, s. 3. Penalty how recoverable and appropriated.

Can. Stat. Con.
page 1008.

C A P. X C I X.

An Act respecting the Procedure in Criminal cases.

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

E X T R A C T S.

1. ARREST OF OFFENDERS CAUGHT IN THE ACT.

When offenders caught in the act may be arrested by a peace officer.

1. Any person found committing an offence punishable either upon indictment, or upon summary conviction, may be immediately apprehended by any Peace Officer, without a warrant, or by the owner of the property on or with respect to which the offence is committing or by his servant or any other person authorized by such owner, and shall be forthwith taken before some neighbouring Justice of the Peace, to be dealt with according to law. 4, 5 V. c. 25, s. 55, and c. 26, s. 28.

2. SEARCH WARRANT.

When search warrant may be granted.

2. If any credible witness proves upon oath, before a Justice of the Peace, that there is reasonable cause to suspect that any property on or with respect to which any offence, punishable either by indictment or summary conviction, has been committed, is in any dwelling-house, out-house, garden, yard, or other place, the Justice may grant a warrant to search such dwelling-house, out-house, garden, yard, or place for such property, as in the case of stolen goods. 4, 5 V. c. 25, s. 55.

3. ARREST OF PERSONS IN POSSESSION OF GOODS SUPPOSED TO HAVE BEEN STOLEN.

When and by whom persons in possession of goods supposed to have been stolen may be arrested.

3. In case any person to whom any property is offered to be sold, pawned, or delivered, has reasonable cause to suspect that any such offence has been committed, on or with respect to such property, he may, and if in his power, shall apprehend and forthwith carry before a Justice of the Peace, the party offering the same, together with such property, to be dealt with according to law. 4, 5 V. c. 25, s. 55.

4. ARREST OF OFFENDERS CAUGHT IN THE ACT IN THE NIGHT.

By whom offenders caught in the act in the night may be arrested.

4. Any person may apprehend any other person found committing any indictable offence in the night, and shall convey or deliver him to some constable or other person in order to his being taken as soon as conveniently may be before a Justice of the Peace, to be dealt with according to law. 18 V. c. 92, s. 40.

5. WHEN A CONSTABLE MAY ARREST WITHOUT WARRANT.

5. Any Constable or Peace Officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed or being about to commit any felony, and may detain such person until he can be brought before a Justice of the Peace to be dealt with according to law. 10, 11 V. c. 4, s. 14.

When a constable may arrest without a warrant.

6. DETENTION OF THE PERSONS ARRESTED.

6. No person having been apprehended as last aforesaid shall be detained after noon of the following day without being brought before a Justice of the Peace. 10, 11 V. c. 4, s. 15.

Detention of persons arrested.

7. COPIES OF DEPOSITIONS TO PRISONERS.

7. The person who has the lawful custody of the examinations of the witnesses upon whose depositions any person has been held to bail or committed to prison for any offence, shall, on demand and on payment of a reasonable sum for the same, not exceeding five cents for each folio of one hundred words, deliver to such person copies of such examinations and depositions.

On what terms prisoners entitled to Copies of depositions.

8. If no such demand be made before the day appointed for the commencement of the Assizes or Sessions at which the trial of such person is to take place, he shall not be entitled to have copies of such examinations or depositions, unless the Judge or other person to preside at such trial, is of opinion that such copy may be made and delivered without delay or inconvenience to such trial, but such Judge or other person so to preside, may, if he thinks fit, postpone the trial on account of such copies not having been previously received by the party charged. 4, 5 V. c. 24, s. 12.

When a demand or special order necessary.

8. BIGAMY,—PLACE OF TRIAL.

9. The offence of Bigamy may be dealt with, enquired of, tried, determined, and punished in the District or County where the offender has been apprehended or is in custody, as if the offence had been actually committed in that District or County. 4, 5 V. c. 27, s. 22.

Bigamy where triable.

9. RETURNING FROM TRANSPORTATION OR BANISHMENT.

10. Every offender returning from transportation or banishment may be tried either in the District, County or Place where the offender has been found at large, or in the District, County, or Place, in or at which such sentence, or order of transportation or banishment was passed or made. 4, 5 V. c. 24, s. 25.

Returning from transportation or banishment.

10. OFFENCES COMMITTED NEAR BOUNDARIES, &c.

Where offences committed on the confines of districts or counties may be tried.

11. When any Felony or Misdemeanor has been committed on the boundaries of two or more Districts or Counties, or within the distance of five hundred yards of any such boundaries, or was begun in one District or County and completed in another, every such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any of the said Districts or Counties, in the same manner as if it had been actually and wholly committed therein. 4, 5 V. c. 24, s. 40.

11. OFFENCES COMMITTED DURING JOURNEYS, OR COMMENCED ABROAD.

Offences committed on persons or property while *in transitu* by land or water—where triable.

12. In case any Felony or Misdemeanor be committed on any person, or on or in respect of any property in or upon any coach, waggon, cart, or other carriage whatever, employed in any journey, or be committed on any person, or on or in respect of any property, on board any vessel whatever employed in any voyage or journey upon any navigable river, canal, or inland navigation, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any District or County through any part whereof such coach, waggon, cart, carriage, or vessel passed in the course of the journey or voyage, during which such Felony or Misdemeanor was committed, in the same manner as if it had been actually committed in such District or County. 4, 5 V. c. 24, s. 41.

Offences committed on highways dividing two Districts or Counties—where triable.

13. In all cases where the side, centre, bank, or other part of any highway, or of any river, canal, or navigation, constitutes the boundary of any two Districts or Counties, any Felony or Misdemeanor mentioned in the two last preceding sections may be dealt with, inquired of, tried, determined, and punished in either of such Districts or Counties, through or adjoining to, or by the boundary of any part whereof such coach, waggon, cart, carriage, or vessel, passed in the course of the journey or voyage during which such Felony or Misdemeanor was committed, in the same manner as if it had been actually committed in such District or County. 4, 5 V. c. 24, s. 41.

When larcenies, &c., committed out of the Province may be tried therein.

14. If any person has in any part of Her Majesty's dominions, stolen or otherwise unlawfully taken any chattel, money, valuable security, or other property whatsoever, the stealing or unlawfully taking whereof is made punishable by indictment by the laws of this Province, and afterwards has the same property in his possession in any part of this Province, he may be dealt with, indicted, tried and punished for such offence, in that part of the Province, in the same manner as if he had stolen or unlawfully taken it in that part of Canada. 4, 5 V. c. 25, s. 68.

12. RECEIVERS.

15. If any person receives any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained or converted, such person whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, tried, and punished in any District, County or place in which he has or had any such property in his possession, or in any District, County, or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished in the District, County or place where he actually received such property. 4, 5 V. c. 25, s. 48.

Where persons receiving goods knowing the same to have been stolen may be tried.

16. Any person who in any part of this Province receives or has any chattel, money, valuable security, or other property whatsoever, which has been stolen or otherwise unlawfully taken in any other part of Her Majesty's dominions, knowing the said property to have been stolen or otherwise unlawfully taken, may be dealt with, indicted, tried, and punished for such offence in that part of this Province where he so received or had the stolen property, in the same manner as if it had been originally stolen or unlawfully taken in that part of Canada. 4, 5 V. c. 25, s. 68.

Where triable when the principal offence committed in any other part of Her Majesty's dominions.

13. PERSONS INJURED ABROAD AND DYING IN CANADA.

17. Where any person, being feloniously stricken, poisoned or otherwise hurt upon sea, or at any place out of this Province, dies of such stroke, poisoning or hurt, in this Province, or being feloniously stricken, poisoned, or otherwise hurt at any place in this Province, dies of such stroke, poisoning or hurt, upon the sea, or at any place out of this Province, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory before the fact to murder, or after the fact to murder, or manslaughter, may be dealt with, enquired of, tried, determined, and punished in the District, County, or Place in this Province, in which such death, stroke, poisoning, or hurt happened, in the same manner, in all respects, as if such offence had been wholly committed in such District, County or Place. 4, 5 V. c. 27, s. 6.

When persons injured abroad die in Canada, where offenders triable.

14. INTERPRETATION.

18. In the construction of the Consolidated Statutes of Canada, the word "indictment" shall be understood to include "information," "inquisition," and "presentment" as well as indictment, and also any plea or other pleading, and any Nisi Prius Record; and the terms "finding of

Interpretation of certain words.

the indictment" shall include also "the taking of an inquisition," "the exhibiting an information" and "the making of a presentment;" and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed. 18 V. c. 92, s. 46.

15. SEXES.

Genders, numbers, &c.

19. Whenever in any Act relating to any offence, whether punishable upon Indictment or summary conviction, any word has been used or employed importing the singular number or the masculine gender only, in describing or referring to the offence or to the subject matter on or with respect to which it was committed, or to the offender or the party affected or intended to be affected by the offence, every such Act shall be understood to include several matters of the same kind, as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and when a forfeiture or penalty is made payable to a party aggrieved, it shall be payable to a body corporate in case such a body be the party aggrieved. 4, 5 V. c. 24, s. 50.

50. APPEALS.

Appeal against convictions to Quarter Sessions, recognizance, &c.

117. In case any person thinks himself aggrieved by any summary conviction or decision under any of the foregoing Criminal Acts, then, in case such person within three days after such conviction or decision and seven days at least before the First Court of General, or Quarter Sessions of the Peace, for the District, Inferior District, County, or place to be held not sooner than twelve days next after the day of such conviction or decision, gives to the other party a notice in writing of his intention to appeal and of the cause and matter thereof, and in case such person either remains in custody until such sessions, or enters into a recognizance with two sufficient sureties before a Justice of the Peace, conditioned personally to appear at the said Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded, such person may appeal to such Court of Quarter Sessions, and the Court shall at such Sessions hear and determine the matter of the appeal, and shall make such order therein, with or without costs, to either party, as to the Court seems meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment. 4, 5 V. c. 25, s. 65,--c. 26, s. 38,--c. 27, s. 33.

118. In case a party in custody has given notice of appeal, and entered into a recognizance according to the provisions of the foregoing section, then the Justices before whom such recognizance was entered into shall liberate such party. *Ibid.*

Party entering into recognizance to be liberated.

119. Whenever an appeal is made from the decision of any Justice under any of the said Acts, the Court of General or Quarter Sessions shall have power to empanel a Jury to try the matter on which the decision has been made, and the Court, on the finding of the Jury, under oath, shall thereupon give such judgment as the circumstances of the case may require; But the Court shall not in any case adjudge the payment of a fine exceeding the sum specified in the conviction in addition to the costs, or order the imprisonment of the person, so convicted, for any period exceeding the time specified in the conviction, and all fines imposed and recovered by the judgment of such court, shall, if not otherwise specially provided, be applied and disposed of in the same manner as other fines imposed by a Justice of the Peace, are directed to be applied. 4, 5 V. c. 25, s. 65,—c. 26, s. 38,—c. 27, s. 34.—*See as to D. C. 14, 15 V. c. 13, and as to L. C. 20 V. c. 44, s. 22 to 29, and see 12 V. c. 10, s. 5, No. 17.*

Appeals triable by Jury.

52. APPROPRIATION OF PENALTIES.

122. Every sum of money forfeited for, or as the value of any property stolen or of any injury done (such value or amount to be assessed in each case by the convicting Justice or Justices) shall be paid to the party aggrieved, if known, except where such party has been examined in proof of the offence, and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty. 4, 5 V. c. 25, s. 58,—4, 5 V. c. 26, s. 32.

When forfeitures to be paid over to the party aggrieved.

123. When several persons join in the commission of the same offence, and upon conviction thereof, each is adjudged to forfeit a sum equivalent to the value of the property, or to the amount of the injury done, no further sum shall be paid to the party aggrieved than the amount forfeited by one of such offenders only, and the corresponding sum, forfeited by the other offenders, shall be applied in the same manner as other penalties imposed by a Justice of the Peace are directed to be applied. 4, 5 V. c. 25, s. 58,—4, 5 V. c. 26, s. 32; and see 12 V. c. 10, s. 5, No. 17.

How limited if more than one offender.

124. When not otherwise provided, the prosecution for every offence punishable on summary conviction shall be commenced within three months after the commission of the offence, and not otherwise; and the evidence of the party aggrieved and also the evidence of any inhabitant of the District, County or place in which the offence was committed, shall be admitted in proof of the offence notwithstanding any

Limitation as to summary proceedings.

forfeiture or penalty incurred by the offence, may be payable to any public fund of such District, County or place. 4, 5, V. c. 25, s. 56,—c. 26, s. 29,—c. 27, s. 41,—14, 15 V. c. 95, s. 10,—16 V. c. 178, s. 10, and see c. 103, s. 26.

Con. Stat. Can.
page 1037.

C A P. C.

An Act respecting the qualification of Justices of the Peace.

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

Justices of the Peace to be of the most sufficient persons.

1. All Justices of the Peace appointed in the several Districts and Counties of this Province, shall be of the most sufficient persons, dwelling in the said Districts and Counties respectively. 6 V. c. 3, s. 1.

Unless specially provided no Attorney, &c., to be Justice of the Peace while practising.

2. When not otherwise specially provided by law, no Attorney, Solicitor, or Proctor in any Court whatever, shall be a Justice of the Peace in and for any District or County of this Province, during the time he continues to practise as an Attorney, Solicitor or Proctor. 6 V. c. 3, s. 2.

Qualification for Justices of the Peace.

3. When not otherwise provided by law, no person shall be a Justice of the Peace, or act as such within any District or County of this Province, who has not in his actual possession, to and for his own proper use and benefit, a real Estate either in free and common socage, or *en fief*, or *en rôtûre*, or *en franc-alleu*, in absolute property, or for life, or by *emphytéose*, or lease for one or more lives, or originally created for a term not less than twenty-one years, or by usufructuary possession for his life, in lands, tenements or other immovable property, lying and being in this Province, of or above the value of one thousand two hundred dollars, over and above what will satisfy and discharge all incumbrances affecting the same, and over and above all rents and charges payable out of or affecting the same, or who before he takes upon himself to act as a Justice of the Peace does not take and subscribe the Oath following, before some Justice of the Peace for the District or County for which he intends to act, that is to say:

"I, A. B. do swear, that I truly and *bonâ fide* have to and for my own proper use and benefit, such an Estate (*specifying the same by its local description, rents, or any thing else*) as doth qualify me to act as a Justice of the Peace for the District or County of _____, according to the true intent and meaning of the Act respecting the qualification of Justices of the Peace; (*nature of such Estate, whether land, and if land, designating*) and that the same is lying and being (*or issuing out of lands,*

“tenements and hereditaments, situate) within the Township,
 “(Parish or Seigniorij) of _____, (or) in the several townships,
 “(Parishes or Seigniories) of _____ (or as the case may be.)—
 “So help me God.” 6 V. c. 3, s. 3.

4. A certificate of such oath having been so taken and sub-
 scribed as aforesaid, shall be forthwith deposited by the Justice
 of the Peace, who has taken the same at the Office of the Clerk
 of the Peace for the District or County, and shall, by the said
 Clerk, be filed among the records of the Sessions of the said
 District. 6 V. c. 3, s. 3.

The certificate
 of such oath to
 be deposited at
 the office of the
 Clerk of the
 Peace.

5. Every such Clerk of the Peace shall, upon demand, forth-
 with deliver a true and attested copy of the said Oath in writing
 to any person paying the sum of twenty cents for the same ;
 which copy being produced as evidence on the trial of any
 issue in any action or suit brought upon this Act, shall have the
 same force and effect as the record of the said Oath would
 have, if produced. 6 V. c. 3, s. 4.

Clerks of the
 Peace to deliv-
 er on demand
 an attested copy
 of such oath.

6. When not otherwise provided, any person who acts as
 Justice of the Peace in and for any District or County in this
 Province, without having taken and subscribed the aforesaid
 Oath, or without being qualified according to the true intent
 and meaning of this Act, shall for every such offence forfeit
 the sum of one hundred dollars, one moiety to Her Ma-
 jesty, and the other moiety to such person as will sue for
 the same, to be recovered, together with full costs of suit, by
 civil action, or by information, in any Court having competent
 jurisdiction in the District or County wherein the offence has
 been committed, and in every such action, suit or information, the
 proof of his qualification shall be upon the person against whom
 the suit is brought. 6 V. c. 3, s. 5. See 19, 20 V. c. 46, s. 1.

Penalty on
 Justices of the
 Peace acting
 without hav-
 ing taken the
 oath and not
 being qualified.

7. If the Defendant in any such action, suit or information,
 intends to insist upon any lands, tenements or real estate, not
 mentioned in the oath aforesaid, as constituting the whole or
 any part of his qualification to act as a Justice of the Peace, at
 the time of the offence alleged against him, he shall at or be-
 fore the time of his pleading, deliver to the plaintiff or informer,
 or to his Attorney, notice in writing, specifying such lands,
 tenements or real estate and the Township, Parish, Seigniorij or
 place, and the District or County in which the same are respect-
 ively situate, and if the plaintiff or informer in any such action,
 suit or information, thinks fit thereupon not to proceed any
 further, he may, with leave of the Court, discontinue such ac-
 tion, suit or information, on payment of such costs to the de-
 fendant, as such defendant may be entitled to, according to
 the course and practice of the Court. 6 V. c. 3, s. 6.

Manner of
 proceeding to
 enforce such
 penalty.

Defendant may
 give notice of
 other lands.

8. Upon the trial of any issue in any such action as aforesaid,
 no lands, tenements, or real estate which are not mentioned in

Lands not
 mentioned in

the oath or notice inadmissible in proof of qualification.

the oath or notice as aforesaid, shall be insisted upon by the defendant as part of his qualification. 6 V. c. 3, s. 7.

When charges on land limited.

9. When the lands, tenements or real property, mentioned in the said Oath or notice, are, together with other lands, tenements or real property, belonging to the person taking such oath, or delivering such notice, liable to any charges, rents or incumbrances, then the lands, tenements and real property mentioned in the said oath or notice, shall be deemed liable and chargeable only so far as the other lands, tenements and real property so jointly charged, are not sufficient to pay, satisfy or discharge the same. 6 V. c. 3, s. 8.

If qualification consists of Rent.

10. When the qualification hereby required or any part thereof, consists of rent, it shall be sufficient to specify in such oath or notice, so much of the lands, tenements, or real property, out of which such rent is issuing, as is of sufficient value to secure such rent. 6 V. c. 3, s. 9.

Defendant if successful to recover treble costs.

11. In case the plaintiff or informer in any such action, suit or information, discontinue the same, otherwise than as aforesaid, or judgment be given against him, the defendant shall recover treble costs. 6 V. c. 3, s. 10.

When proceedings in second actions to be stayed.

12. In case an action, suit or information be brought, and due notice thereof be given to the defendant, no proceedings shall be had upon any subsequent action, suit or information against the same person, for any offence committed before the time of giving such notice; and the Court wherein a subsequent action, suit or information is brought, and pending, may, upon the defendant's motion, stay the proceedings if such first action, suit or information, be prosecuted without fraud and with effect, and no action, suit or information, shall be deemed an action, suit or information within this Act, unless it be so prosecuted. 6 V. c. 3, s. 11.

Manner of proceeding in actions instituted for the recovery of penalties.

13. The Court in which any action, suit or information is brought for the recovery of any penalty imposed by this Act, shall require from the plaintiff or informer, his declaration upon oath that such action, suit or information is brought without fraud, and not for the purpose of protecting the defendant from any action, suit or information, which might be brought by any other person, by reason of the same offence; and if such declaration be not made to the satisfaction of the Court, the action, suit or information, shall be immediately dismissed with costs. 6 V. c. 3, s. 12.

Persons making false statements on oath guilty of wilful perjury.

14. If the statement in any oath, or in any declaration under oath, taken or made in pursuance of the requirements of this Act, be false, to the knowledge of the person making the same, such person shall be guilty of wilful and corrupt perjury, and subject to all the pains and penalties attendant on that offence. 6 V. c. 3, s. 13.

15. Every action, suit or information given by this Act, shall be commenced within the space of six months next after the fact committed. 6 V. c. 3, s. 14. Limitation of actions.

16. Nothing in this Act contained shall extend to the Members of Her Majesty's Legislative Council, or to the Members of Her Majesty's Executive Council, or to the Judges of any Superior Court of Law or Equity or to any County Judge, or to Her Majesty's Attorney General, Solicitor General, or Advocate General, or to any of Her Majesty's Counsel in the Law, or to any Mayor, Alderman, Reeve or Deputy Reeve of any Municipality. 6 V. c. 3, s. 15,—22 V. c. 99, s. 340. Provisions in this Act not to extend to persons holding certain situations.

17. No person having, using or exercising the Office of Sheriff or Coroner in and for any County or place in Upper Canada, or in either of the Districts of Montreal and Quebec in Lower Canada, shall be competent or qualified to be a Justice of the Peace or to act as such for any County or for the District wherein he is Sheriff or Coroner, during the time that he uses or exercises such Office, under the penalties aforesaid; and every act done by such Sheriff or Coroner, by the authority of any Commission of the Peace during the time aforesaid, shall be absolutely void and of none effect. 6 V. c. 3, s. 16,—22 V. c. 54, s. 1, (1859). Sheriffs and Coroners acting as such disqualified from acting as Justices of the Peace.

18. Any act or proceeding done or taken since the twenty-sixth day of November, one thousand eight hundred and fifty-seven, under the authority of a Commission of the Peace, by the Sheriff of any of the new Judicial Districts in Lower Canada, shall be as valid and have the same effect as though the Act passed in the sixth year of Her Majesty's Reign, intituled, *An Act for the qualification of Justices of the Peace*, had never been passed; and no such Sheriff shall be held to have incurred any penalty by reason of any such act or proceeding. 22 V. c. 54, s. 2, (1859). Acts done by Sheriffs in new Districts to be valid; and Sheriffs not liable to any penalty.

19. The fines and penalties incurred and payable to Her Majesty, by virtue of this Act, shall be paid into the hands of the Receiver General, for the public uses of the Province. 6 V. c. 3, s. 17. Fines and penalties to be paid to Receiver General.

20. It shall not be necessary in the case of any Commission of the Peace, issued since the 19th June, 1856, or after this Act takes effect, for any Justice named in any such commission who had under a former commission qualified himself in the terms of the third section of this Act, and deposited a certificate thereof in the office of the Clerk of the Peace, to take any oath of qualification before acting under such new Commission, unless such Justice, since he took such oath of qualification, has parted with the estate in right of which he so qualified. 19 V. c. 46, s. 1. Appointments since 19th June, 1856, provided for.

Except in case of judgment suit, &c., Act to apply to past cases.

21. Except in cases where a suit was commenced or judgment was recovered before the 19th June, 1856, the provisions of the last section shall be taken to apply to the case of any Justice of the Peace named in any Commission issued before that day, who had once qualified himself in the terms of the third section of this Act, and has continued to possess the same estate upon which he so qualified. 19-V, c. 46, s. 2.

Can. Stat. Can. page 1043.

C A P. C I I.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.

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

For what offences a Justice of the Peace may grant a warrant on summons to cause a person charged therewith to be brought before him.

1. In all cases where a charge or complaint (A) is made before any one or more of Her Majesty's Justices of the Peace for any Territorial Division in this Province, that any person has committed, or is suspected to have committed, any treason, or felony or any indictable misdemeanor or offence within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such Justice or Justices, is residing or being, or is suspected to reside or be within the limits of the jurisdiction of such Justice or Justices, then, and in every such case, if the person so charged or complained against is not in custody, such Justice or Justices of the Peace may issue his or their Warrant (B) to apprehend such person, and to cause him to be brought before such Justice or Justices, or any other Justice or Justices for the same Territorial Division. 14, 15 V. c. 96, s. 1,--16 V. c. 179, s. 1.

In what cases the party may be summoned instead of issuing a warrant in the first instance.

2. In all cases the Justice or Justices to whom the charge or complaint is preferred, instead of issuing in the first instance his or their Warrant to apprehend the person so charged or complained against, may, if he or they think fit, issue his or their Summons (C) directed to such person, requiring him to appear before the said Justice or Justices, at the time and place to be therein mentioned, or before such other Justice or Justices of the same Territorial Division as may then be there, and if, after being served with such Summons in manner hereinafter mentioned, he fails to appear at such time and place, in obedience to such Summons, the said Justice or Justices, or any other Justice or Justices of the Peace for the same Territorial Division, may issue his or their Warrant (D) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other

Justice or Justices of the Peace for the same Territorial Division, to answer to the said charge or complaint, and to be further dealt with according to law; But any Justice or Justices of the Peace may issue the Warrant hereinbefore first mentioned, at any time before or after the time mentioned in such Summons for the appearance of the said accused party. 14, 15 V. c. 96, s. 1,—16 V. c. 179, s. 1.

3. In case an indictment be found by the Grand Jury in any Court of Oyer and Terminer or General Gaol Delivery, or in any Court of General or Quarter Sessions of the Peace, against any person then at large, and whether such person has been bound by any Recognizance to appear to answer to any such charge or not, and in case such person has not appeared and pleaded to such indictment, the person who acts as Clerk of the Crown, Marshal, or Clerk of Assize at such Court of Oyer and Terminer, or Gaol Delivery, or as Clerk of the Peace at such Sessions, shall, at any time after the end of the Sessions of Oyer and Terminer, or Gaol Delivery, or Sessions of the Peace, at which such indictment has been found, upon application of the Prosecutor, or of any person on his behalf, and on payment of a fee of twenty cents, grant unto such Prosecutor or person a Certificate (F) of such indictment having been found; and upon production of such Certificate to any Justice or Justices of the Peace for the Territorial Division in which the offence is in such indictment alleged to have been committed, or in which the person indicted resides, or is supposed or suspected to reside or be, such Justice or Justices shall issue his or their Warrant (G) to apprehend the person so indicted, and to cause him to be brought before such Justice or Justices or any other Justice or Justices for the same Territorial Division, to be dealt with according to law. 14, 15 V. c. 96, s. 2,—16 V. c. 179, s. 2.

Warrant to apprehend party against whom an indictment is found.

4. If such person be thereupon apprehended and brought before any such Justice or Justices, such Justice or Justices, upon its being proved upon oath or affirmation before him or them that the person so apprehended is the person charged and named in such indictment, shall, without further inquiry or examination, commit (H) him for trial or admit him to bail in manner hereinafter mentioned. 14, 15 V. c. 96, s. 2,—16 V. c. 179, s. 2.

Commitment.

5. If the person so indicted is confined in any Gaol or prison for any other offence than that charged in such indictment at the time of such application and production of such Certificate to such Justice or Justices as aforesaid, such Justice or Justices, upon its being proved before him or them upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, shall issue his or their Warrant (I) directed to the Gaoler or Keeper of the Gaol or prison in which the person so indicted is then confined as

If person indicted be already in prison for some other offence, Justice may order him to be detained until removed by Writ of Habeas Corpus, or otherwise discharged.

aforsaid, commanding him to detain such person in his custody, until, by Her Majesty's Writ of *Habeas Corpus*, he be removed therefrom for the purpose of being tried upon the said indictment, or until he be otherwise removed or discharged out of his custody by due course of law. 14, 15 V. c. 96, s. 2,—16 V. c. 179, s. 2.

Not to prevent the issuing of Bench Warrants.

6. Nothing hereinbefore contained shall prevent the issuing or execution of Bench Warrants, whenever any Court of Competent Jurisdiction thinks proper to order the issuing of any such Warrant. 14, 15 V. c. 96, s. 2,—16 V. c. 179, s. 2.

Warrant may be issued on Sunday.

7. Any Justice or Justices of the Peace may grant or issue any Warrant as aforsaid, or any Search Warrant, on a Sunday as well as on any other day. 14, 15 V. c. 96, s. 3,—16 V. c. 179, s. 3.

When a charge is made if a warrant is to be issued information, &c., upon oath, &c.

8. In all cases when a charge or complaint for an indictable offence is made before any Justice or Justices aforsaid, if it be intended to issue a Warrant in the first instance against the party charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such Justice or Justices. 14, 15 V. c. 96, s. 4,—16 V. c. 179, s. 4.

When if summons to be issued instead of a warrant, information, &c., need not be on oath.

9. When it is intended to issue a Summons instead of a Warrant in the first instance, the information and complaint shall also be in writing, and be sworn to or affirmed in manner aforsaid except only in cases where by some Act of Parliament it is specially provided that such information and complaint may be by parole merely, and without any oath or affirmation to support or substantiate the same. 14, 15 V. c. 96, s. 4,—16 V. c. 179, s. 4.

No objection allowed for alleged defect in form or substance.

10. No objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who takes the examination of the witnesses in that behalf as hereinafter mentioned. 14, 15 V. c. 96, s. 4,—16 V. c. 179, s. 4.

In certain cases justice may grant a warrant to search dwelling house, &c.

11. If a credible Witness proves upon oath (E 1) before a Justice of the Peace, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any larceny or felony has been committed, is in any dwelling house, out-house, garden, yard, croft or other place or places, the Justice may grant a Warrant (E 2) to search such dwelling house, garden, yard, croft or other place or places, for such property. 14, 15 V. c. 96, s. 4,—16 V. c. 179, s. 4.

12. Upon such information and complaint being so laid as aforesaid, the Justice or Justices receiving the same may, if he or they think fit, issue his or their Summons or Warrant as hereinbefore directed, to cause the person charged to be and appear before him or them, or any other Justice or Justices of the Peace for the same Territorial Division to be dealt with according to law: and every Summons (C) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear at a certain time and place therein mentioned, before the Justice who issues such Summons, or before such other Justice or Justices of the Peace for the same territorial Division as may then be there, to answer to the said charge, and to be further dealt with according to law. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

Upon complaint being laid, justices receiving the same may issue summons or warrant for appearance of party charged.

13. Every such Summons shall be served by a Constable or other Peace officer upon the person to whom it is directed, by delivering the same to the party personally, or if he cannot conveniently be met with, then by leaving the same for him with some person at his last or most usual place of abode. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

How summons to be served.

14. The Constable or other Peace Officer who serves the same in manner aforesaid, shall attend at the time and place, and before the Justice or Justices in the said Summons mentioned, to depose, if necessary, to the service of such Summons. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

Constables, &c., to attend and depose.

15. If the person served does not appear before such Justice or Justices, at the time and place mentioned in such Summons, in obedience to the same, such Justice or Justices may issue his or their Warrant (D) for apprehending the party so summoned, and bringing him before such Justice or Justices, or before some other Justice or Justices for the same Territorial Division to answer the charge in the information and complaint mentioned, and to be further dealt with according to law. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

If party summoned do not attend, justice may issue a warrant to compel attendance.

16. No objection shall be taken or allowed to any such Summons or Warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Prosecutor before the Justice or Justices who takes the examination of the Witnesses in that behalf as hereinafter mentioned. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

No objection allowed for alleged defect in form or substance.

17. If it appears to the Justice or Justices that the party charged has been deceived or misled by any such variance, such Justice or Justices, at the request of the party so charged, may adjourn the hearing of the case to some future day, and in the meantime, remand the party or admit him to bail in

If variance appears to justices they may adjourn the case to a future day.

manner hereinafter mentioned. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

Warrant to apprehend parties to be under the hand and seal of justice.

18. Every Warrant (B) hereafter issued by any Justice or Justices of the Peace to apprehend any person charged with any indictable offence, shall be under the Hand and Seal, or Hands and Seals, of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the Territorial Division within which the same is to be executed, or to such Constable and all other Constables or Peace Officers in the Territorial Division within which the Justice or Justices issuing the same has jurisdiction, or generally to all the Constables or Peace Officers within such last mentioned Territorial Division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender, and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the Justice or Justices issuing such Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the charge contained in the said information, and to be further dealt with according to law. 14, 15 V. c. 96, s. 6,—16 V. c. 179, s. 6.

Warrant may remain in force until executed.

19. It shall not be necessary to make such warrant returnable at any particular time, but the same may remain in force until executed. 14, 15 V. c. 96, s. 6—16 V. c. 179, s. 6.

How and where warrant may be executed.

20. Such Warrant may be executed by apprehending the offender at any place in the Territorial Division within which the Justice or Justices issuing the same have jurisdiction, or in case of fresh pursuit, at any place in the next adjoining Territorial Division and within seven miles of the border of such first mentioned Territorial Division, without having such Warrant backed, as hereinafter mentioned. 14, 15 V. c. 96, s. 6,—16 V. c. 179, s. 6.

On what conditions constables, &c. may execute Warrant.

21. In case any Warrant be directed to all Constables or other Peace Officers in the Territorial Division within which the Justice or Justices have jurisdiction, any Constable or other Peace Officer for any place within such Territorial Division may execute the Warrant at any place within the jurisdiction for which the said Justice or Justices acted when he or they granted such Warrant, in like manner as if such Warrant had been directed specially to such Constable by name, and notwithstanding the place within which such Warrant is executed be not within the place for which he is Constable or Peace Officer. 14, 15 V. c. 96, s. 6,—16 V. c. 179, s. 6.

No objection allowed for alleged defect

22. No objection shall be taken or allowed to any such Warrant for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part

of the prosecution, before the Justice or Justices who takes the examination of the Witnesses in that behalf as hereinafter mentioned. 14, 15 V. c. 96, s. 6,—16 V. c. 179, s. 6.

23. If it appears to the Justice or Justices that the party charged has been thereby deceived or misled by any such variance, such Justice or Justices, at the request of the party charged, may adjourn the hearing of the case to some future day, and in the meantime may remand the party, or admit him to bail in manner hereinafter mentioned. 14, 15 V. c. 96, s. 6.—16 V. c. 179, s. 6.

If variance appears to the justices they may adjourn the case to a future day.

24. If the person against whom any such Warrant has been issued, cannot be found within the jurisdiction of the Justice or Justices by whom the same was issued, or if he escapes, goes into, resides, or is supposed or suspected to be, in any place within this Province, whether in Upper or in Lower Canada, out of the jurisdiction of the Justice or Justices issuing such Warrant, any Justice of the Peace within the jurisdiction of whom such person so escapes or goes, or in which he resides, is, or is supposed or suspected to be, upon proof made on oath of the hand-writing of the Justice who issued the same, and without any security being given, shall make an endorsement (K) on such Warrant, signed with his name, authorizing the execution of such Warrant within the jurisdiction of the Justice making such endorsement, and which endorsement shall be sufficient authority to the person bringing such Warrant, and to all other persons to whom the same was originally directed, and also to all Constables and other Peace Officers of the Territorial Division where such Warrant has been so endorsed, to execute the same in such other Territorial Division, and to carry the person against whom such Warrant issued, when apprehended, before the Justice or Justices of the Peace who first issued the said Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, or before some Justice or Justices of the Territorial Division, where the offence mentioned in the said Warrant appears therein to have been committed. 14, 15 V. c. 96, s. 7,—16 V. c. 179, s. 7.

Regulations as to the backing of warrants.

25. If the Prosecutor or any of the witnesses upon the part of the prosecution be then in the Territorial Division where such person has been so apprehended, the Constable, or other person or persons who have apprehended him may, if so directed by the Justice backing the Warrant, take and convey him before the Justice who backed the Warrant, or before some other Justice or Justices for the same Territorial Division or place; and the said Justice or Justices may thereupon take the examination of the Prosecutor or Witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a Justice or Justices of the Peace, with an offence alleged to have been committed in

Duty of constable in case of arrest.

another Territorial Division than that in which such persons have been apprehended. 14, 15 V. c. 96, s. 7,—16 V. c. 179, s. 7.

Power to justices to summon witnesses to attend and give evidence.

26. If it be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such Justice is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a Witness at the time and place appointed for the examination of the witnesses against the accused, such Justice shall issue his Summons (L 1) to such person under his Hand and Seal, requiring him to be and appear at a time and place mentioned in the Summons, before the said Justice, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to testify what he knows concerning the charge made against such accused party. 14, 15 V. c. 96, s. 8,—16 V. c. 179, s. 8.

If summons not obeyed warrant may be issued to compel attendance.

27. If any person so summoned neglects or refuses to appear at the time and place appointed by the said Summons, and no just excuse be offered for such neglect or refusal, then (after proof upon oath or affirmation of the Summons having been served upon such person, either personally or with some person for him at his last or most usual place of abode,) the Justice or Justices before whom such person should have appeared, may issue a Warrant (L 2) under his or their Hands and Seals, to bring such person; at a time and place to be therein mentioned, before the Justice who issued the said Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to testify as aforesaid, and which said Warrant may, if necessary, be backed as hereinbefore mentioned, in order to its being executed out of the jurisdiction of the Justice who issued the same. 14, 15 V. c. 96, s. 8,—16 V. c. 179, s. 8.

In certain cases warrant may issue in first instance.

28. If the Justice be satisfied by evidence upon oath or affirmation that it is probable the person will not attend to give evidence unless compelled so to do, then, instead of issuing such Summons, the Justice may issue his Warrant (L 3) in the first instance, and the Warrant, if necessary, may be backed as aforesaid. 14, 15 V. c. 96, s. 8,—16 V. c. 179, s. 8.

Persons appearing on summons and refusing to be examined may be committed.

29. If on the appearance of the person so summoned before the said last mentioned Justice or Justices, either in obedience to the said Summons or upon being brought before him or them by virtue of the said Warrant, such person refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation, refuses to answer the questions concerning the premises then put to him without giving any just excuse for such refusal, any Justice of the Peace then present and

there having jurisdiction, may, by Warrant (L 4) under his Hand and Seal, commit the person so refusing to the Common Gaol or House of Correction for the Territorial Division where the person so refusing then is, there to remain and be imprisoned for any time not exceeding ten days, unless he in the meantime consents to be examined and to answer concerning the Premises. 14, 15 V. c. 96, s. 8,—16 V. c. 179, s. 8.

30. In all cases where any person appears or is brought before any Justice or Justices of the Peace charged with any indictable offence, whether committed in this Province or upon the high seas, or on land beyond the sea, or whether such person appears voluntarily upon Summons or has been apprehended, with or without Warrant, or is in custody for the same or any other offence, such Justice or Justices before he or they commit such accused person to prison for trial, or before he or they admit him to bail, shall, in the presence of such accused person, (who shall be at liberty to put questions to any witness produced against him,) take the statement (M) on oath or affirmation of those who know the facts and circumstances of the case, and shall put the same in writing; and such depositions shall be read over to and signed respectively by the witnesses so examined, and shall be signed also by the Justice or Justices taking the same. 14, 15 V. c. 96, s. 9,—16 V. c. 179, s. 9.

As to the examination of witnesses.

31. The Justice or Justices before whom any such witness appears to be examined as aforesaid, shall, before such witness is examined, administer to such witness the usual oath or affirmation, which such Justice or Justices are hereby empowered to do; and if upon the trial of the person so accused as first aforesaid, it be proved upon the oath or affirmation of any credible witness, that any person whose deposition has been taken as aforesaid, is dead, or is so ill as not to be able to travel, and if it be also proved that such deposition was taken in presence of the person so accused, and that he, his Counsel or Attorney, had a full opportunity of cross-examining the witness, then if such deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be read as evidence in such prosecution without further proof thereof, unless it be proved that such deposition was not in fact signed by the Justice purporting to have signed the same. 14, 15 V. c. 96, s. 9,—16 V. c. 179, s. 9.

Justice to administer oath or affirmation.

32. After the examinations of all the witnesses on the part of the prosecution as aforesaid have been completed, the Justice of the Peace, or one of the Justices by or before whom such examinations have been so completed, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say any thing in answer to the charge? You are not obliged to say any thing unless you

After examination of the accused, Justice to read depositions taken against him and caution him as to any statement he may make.

“ desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial;” and whatever the prisoner then says in answer thereto shall be taken down in writing (N) and read over to him, and shall be signed by the said Justice or Justices, and kept with the depositions of the witnesses, and be transmitted with them as hereinafter mentioned. 14, 15 V. c. 96, s. 10,—16 V. c. 179, s. 10.

Examinations may be given in evidence in certain cases.

33. Upon the trial of the accused person, the examinations may if necessary be given in evidence against him without further proof thereof, unless it be proved that the Justice or Justices purporting to have signed the same did not in fact sign the same. 14, 15 V. c. 96, s. 10,—16 V. c. 179, s. 10.

Explanations to be made to the accused party.

34. The said Justice or Justices, before such accused person makes any statement, shall state to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat. 14, 15 V. c. 96, s. 10,—16 V. c. 179, s. 10.

Nothing herein contained to prevent prosecutor from giving in evidence confession, &c.

35. Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement made at any time by the person accused or charged, which by law would be admissible as evidence against him. 14, 15 V. c. 96, s. 10,—16 V. c. 179, s. 10.

Place where examinations taken not an open Court and no person to remain without consent.

36. The room or building in which the Justice or Justices take the examinations and statement as aforesaid, shall not be deemed an open Court for that purpose; and such Justice or Justices, in his or their discretion, may order that no person shall have access to or be or remain in such room or building without the consent or permission of such Justice or Justices, if it appear to him or them that the ends of Justice will be best answered by so doing. 14, 15 V. c. 96, s. 11,—16 V. c. 179, s. 11.

Power to justices to bind over the prosecutors and witnesses by recognizances.

37. Any Justice or Justices before whom any witness is examined as aforesaid, may bind by Recognizance (O) the Prosecutor, and every such Witness, to appear at the next Court of competent Criminal Jurisdiction at which the accused is to be tried, then and there to prosecute or prosecute and give evidence, or to give evidence, (as the case may be, against the party accused, which said Recognizance shall particularly specify the profession, art, mystery or trade of every such person entering into or acknowledging the same, together with his Christian and surname, and the Parish, Township or place of his residence, and if his residence be in a City, Town or Borough, and when convenient so to do, the name of the

street and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof, or lodger therein. 14, 15 V. c. 96, s. 12,--16 V. c. 179, s. 12.

38. The said Recognizance, being duly acknowledged by the person so entering into the same, shall be subscribed by the Justice or Justices before whom the same is acknowledged, and a notice (O 2) thereof, signed by the said Justice or Justices, shall at the same time be given to the person bound thereby. 14, 15 V. c. 96, s. 12,--16 V. c. 179, s. 12,--7 W. 4, c. 10, s. 8, *U. C.*

Recognizances to be subscribed to by justices, &c.

39. The several Recognizances so taken, together with the written information (if any) the depositions, the statement of the accused, and the Recognizance of Bail (if any) shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered to the proper Officer of the Court in which the trial is to be had, that is to say, in Upper Canada to the County Attorney for the County without delay, and in Lower Canada to the proper Officer before or at the opening of the Court on the first day of the sitting thereof, or at such other time as the Judge, Justice or person who is to preside at such Court, or at the said trial orders and appoints. 14, 15 V. c. 96, s. 12,--16 V. c. 179, s. 12,--20 V. c. 59, s. 11.

Recognizances to be transmitted to the Court in which the trial is had.

40. If any such witness refuses to enter into or acknowledge such Recognizance as aforesaid, the Justice or Justices of the Peace by his or their Warrant (P 1), may commit him to the Common Gaol or House of Correction for the Territorial Division in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the meantime such witness duly enters into such Recognizance as aforesaid before some one Justice of the Peace for the Territorial Division in which such Gaol or House of Correction is situate. 14, 15 V. c. 96, s. 12,--16 V. c. 179, s. 12.

Witness refusing to enter into recognizance may be committed.

41. If afterwards, for want of sufficient evidence in that behalf or other cause, the Justice or Justices before whom such accused party has been brought, does not commit him or hold him to bail for the offence charged, such Justice or Justices, or any other Justice or Justices for the same Territorial Division, by his or their Order (P 2) in that behalf, may order and direct the Keeper of such Common Gaol or House of Correction where such witness is in custody, to discharge him from the same, and such Keeper shall thereupon forthwith discharge him accordingly. 14, 15 V. c. 96, s. 12,--16 V. c. 179, s. 12.

Discharge.

42. If from the absence of witnesses, or from any other reasonable cause, it becomes necessary or advisable to defer the examination or further examination of the witnesses for

Power to justice to remand the accused from time to

time not exceeding 8 days by warrant.

any time, the Justice or Justices before whom the accused appears or has been brought by his or their Warrant (Q 1) may from time to time, remand the party accused for such time as by such Justice or Justices in their discretion may be deemed reasonable, not exceeding eight clear days at any one time, to the Common Gaol or House of Correction or other Prison, Lock-up house, or place of security in the Territorial Division for which such Justice or Justices are then acting. 14, 15 V. c. 66, s. 13,--16 V. c. 179, s. 13.

If remand be for 3 days only, by verbal order.

43. If the remand be for a time not exceeding three clear days, such Justice or Justices may verbally order the Constable or other person in whose custody such accused party may then be, or any other Constable or person to be named by the said Justice or Justices in that behalf, to continue or keep such accused party in his custody, and to bring him before the same or such other Justice or Justices as may be there acting at the time appointed for continuing the examination. 14, 15 V. c. 96, s. 13,--16 V. c. 179, s. 13.

But accused may be brought up at an earlier day.

44. Any such Justice or Justices may order such accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same Territorial Division, at any time before the expiration of the time for which such party has been remanded, and the Gaoler or Officer in whose custody he then is, shall duly obey such Order.

Party accused may be admitted to bail on the examination.

45. Instead of detaining the accused party in custody during the period for which such accused party has been so remanded, any one Justice of the Peace before whom such party has so appeared or been brought as aforesaid, may discharge him, upon his entering into a Recognizance (Q 2, 3) with or without a Surety or Sureties, at the discretion of such Justice, conditioned for his appearance at the time and place appointed for the continuance of the examination. 14, 15 V. c. 96, s. 13,--16 V. c. 179, s. 13.

If party does not appear upon recognizance, in U. C. the Justice may transmit the same to the Clerk of the Peace.

46. If such accused party does not afterwards appear at the time and place mentioned in such Recognizance, then in Upper Canada the said Justice or any other Justice of the Peace who may then and there be present, having certified (Q 4) upon the back of the Recognizance the non-appearance of such accused party, may transmit the Recognizance to the Clerk of the Peace for the Territorial Division within which the Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of the non-appearance of the said accused party. 14, 15 V. c. 96, s. 13,--16 V. c. 179, s. 13.

If a person be apprehended

47. Whenever a person appears or is brought before a Justice or Justices of the Peace in the Territorial Division wherein

such Justice or Justices have jurisdiction, charged with an offence alleged to have been committed by him within any Territorial Division wherein such Justice or Justices have not jurisdiction, such Justice or Justices shall examine such witnesses and receive such evidence in proof of the said charge as may be produced before him or them within his or their jurisdiction; and if in his or their opinion such testimony and evidence be sufficient proof of the charge made against the accused party, such Justice or Justices shall thereupon commit him to the Common Gaol or House of Correction for the Territorial Division where the offence is alleged to have been committed, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutor (if he has appeared before him or them) and the witnesses by Recognizance as hereinbefore mentioned. 14, 15 V. c. 96, s. 14,—16 V. c. 179, s. 14.

in one division on charge of offence committed in another, he may be examined in the former.

48. If such testimony and evidence be not, in the opinion of such Justice or Justices, sufficient to put the accused party upon his trial for the offence with which he is charged, then the Justice or Justices shall by recognizance bind over the witness or witnesses whom he has examined to give evidence as hereinbefore is mentioned; and such Justice or Justices shall, by Warrant (R 1) under his or their Hand and Seal, or Hands and Seals, order the said accused party to be taken before some Justice or Justices of the Peace in and for the Territorial Division where the offence is alleged to have been committed, and shall at the same time deliver up the information and complaint, and also the depositions and recognizances so taken by him or them to the Constable who has the execution of such last mentioned Warrant, to be by him delivered to the Justice or Justices before whom he takes the accused, in obedience to the said Warrant, and the said depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the said last mentioned Justice or Justices, and shall, together with such depositions and recognizances

And if evidence not deemed sufficient, may be transmitted to the proper division, &c.

as such last mentioned Justice or Justices take in the matter of such charge against the said accused party, be transmitted to the Clerk of the Court or other proper Officer where the said accused party is to be tried, in the manner and at the time hereinbefore mentioned, if such accused party should be committed for trial upon the said charge, or be admitted to bail. 14, 15 V. c. 96, s. 14,—16 V. c. 179, s. 14.

Where he may be committed for trial,—or be bailed.

49. In case such accused party be taken before the Justice or Justices last aforesaid, by virtue of the said last mentioned Warrant, the Constable or other person or persons to whom the said Warrant is directed, and who has conveyed such accused party before such last mentioned Justice or Justices, shall upon producing the said accused party before such Justice or Justices and delivering him into the custody of such person as the said Justice or Justices direct or name in that behalf,

As to payment of expenses of conveying the accused into the proper division.

be entitled to be paid his costs and expenses of conveying the said accused party before the said Justice or Justices. 14, 15 V. c. 96, s. 14,—16 V. c. 179, s. 14.

Justice to furnish constable with a receipt or certificate, &c.

50. Upon the said Constable delivering to the said Justice or Justices the Warrant, information (if any), depositions and recognizances as aforesaid, and proving by oath the hand-writing of the Justice or Justices who has subscribed the same, such Justice or Justices before whom the said accused party is produced shall thereupon furnish such Constable with a Receipt or Certificate (R. 2) of his or their having received from him the body of the said accused party, together with the said Warrant, information (if any,) depositions and recognizances, and of his having proved to him or them, upon oath, the hand-writing of the Justice who issued the said warrant. 14, 15 V. c. 96, s. 14,—16 V. c. 179, s. 14.

Constable on producing such certificate to be paid.

51. The said Constable, on producing such receipt or Certificate to the Sheriff or High Bailiff, if he was employed by such Officer, and if not, then to the Treasurer of the Municipality or Division in which such accused party was apprehended, shall be entitled to be paid all his reasonable charges, costs and expenses of conveying such accused party into such other Territorial Division, and of returning from the same. 14, 15 V. c. 96, s. 14,—16 V. c. 179, s. 14.

Power to any two justices to bail persons charged with felony, &c.

52. When any person appears before any Justice of the Peace charged with a felony or suspicion of felony, and the evidence adduced is in the opinion of such Justice, sufficient to put such accused party on his trial as hereinafter mentioned, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, such Justice, jointly with some other Justice of the Peace, may admit such person to bail upon his procuring and producing such surety or sureties as in the opinion of such two Justices will be sufficient to ensure the appearance of the person so charged, at the time and place when and where he is to be tried for the offence; and thereupon such two justices shall take the Recognizance (S. 1, 2,) of the said accused person and his sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial and not depart the Court without leave. 16 V. c. 179, s. 15,—14, 15 V. c. 96, s. 15.

In case of misdemeanor one justice may bail.

53. When the offence committed or suspected to have been committed is a misdemeanor, any one Justice may admit to bail in manner aforesaid; and such Justice or Justices may at their discretion require such bail to justify upon oath as to their sufficiency, which oath the said Justice or Justices may administer, and in default of such person procuring sufficient bail, then such Justice or Justices may commit him to prison, there to be kept until delivered according to law. 16 V. c. 179, s. 15,—14, 15 V. c. 96, s. 15.

54. In Upper Canada, in all cases of felony, where the party accused has been finally committed as hereinafter provided, any County Judge who is also a Justice of the Peace for the County within the limits of which such accused party is confined, may, in his discretion, on application made to him for that purpose, order such accused party or person to be admitted to bail on entering into Recognizance with sufficient sureties before two Justices of the Peace, in such an amount as the said Judge directs, and thereupon such Justices shall issue a warrant of deliverance (S 3,) as hereinafter provided, and shall attach thereto the order of the Judge directing the admitting of such party to bail. 16 V. c. 179, s. 15,--14, 15 V. c. 96, s. 15.

County Judge in his discretion may order a party committed for trial to be admitted to bail.

55. No Justice or Justices of the Peace, or County Judge shall admit any person to bail accused of treason or murder, nor shall any such person be admitted to bail, except, in Lower Canada, by order of Her Majesty's Court of Queen's Bench or of one of the Judges thereof or of a Judge of the Superior Court, or, in Upper Canada, by order of Her Majesty's Court of Queen's Bench or Common Pleas or of one of the Judges thereof, and nothing herein contained, shall prevent such Courts or Judges admitting any person accused of misdemeanor or felony to bail when they may think it right so to do. 16 V. c. 179, s. 15,--14, 15 V. c. 96, s. 15,--and See 20 V. c. 44, s. 30.

Certain offences not bailable except by Judge's order.

56. In all cases where a Justice or Justices of the Peace admits to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, such Justice or Justices shall send to or cause to be lodged with the keeper of such Prison, a Warrant of Deliverance (S 3,) under his or their Hand and Seal or Hands and Seals, requiring the said Keeper to discharge the person so admitted to bail if he be detained for no other offence, and upon such Warrant of Deliverance being delivered to or lodged with such Keeper, he shall forthwith obey the same. 16 V. c. 179, s. 16,--14, 15 V. c. 96, s. 16.

Justice bailing after commitment to issue a warrant of deliverance.

57. When all the evidence offered upon the part of the prosecution against the accused party has been heard, if the Justice or Justices of the Peace then present be of opinion that it is not sufficient to put the accused party upon his trial for any indictable offence, such Justice or Justices shall forthwith order such accused party, if in custody, to be discharged as to the Information then under inquiry, but if in the opinion of such Justice or Justices the evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce such Justice or Justices to commit the accused for trial without bail, or if the offence with which the party is accused be a misdemeanor, then such Justices shall admit the party to bail as hereinbefore provided, but if the offence be a felony, and the evidence given is such as to raise a strong presumption of guilt, then such Justice or Justices shall by his or their warrant (T 1,)

If the evidence be deemed insufficient, party to be discharged.

If sufficient to be bailed or committed, &c.

commit him to the Common Gaol for the Territorial Division to which he may by Law be committed, or in the case of an indictable offence committed on the High Seas or on land beyond the Sea, to the Common Gaol of the Territorial Division within which such Justice or Justices have jurisdiction, to be there safely kept until delivered by due course of Law. 16 V. c. 179, s. 17,—14, 15 V. c. 96, s. 17.

Provisions touching the conveyance of prisoners to gaol.

58. The Constable or any of the Constables, or other persons to whom any Warrant of Commitment authorized by this or any other Act is directed, shall convey the accused person therein named or described to the Gaol or other Prison mentioned in such Warrant, and there deliver him, together with the Warrant, to the Gaoler, Keeper or Governor of such Gaol or Prison, who shall thereupon give the Constable or other person delivering the prisoner into his custody a Receipt (T 2,) for such prisoner, setting forth the state and condition of the prisoner when delivered into the custody of such Gaoler, Keeper or Governor. 16 V. c. 179, s. 18,—14, 15 V. c. 96, s. 18.

As to payment of costs for the same.

59. In all cases in Lower Canada where such Constable or other person is entitled to his costs or expenses for conveying such person to prison as aforesaid, the Justice or Justices who commit the accused party, or any Justice of the Peace in and for the Territorial Division wherein the offence is alleged in the said Warrant to have been committed, may ascertain the sum which ought to be paid to such Constable or other person for arresting and conveying such prisoner to such Gaol or Prison, and also the sum which should reasonably be allowed him for his expenses in returning, and thereupon such Justice shall make an Order (T 2) upon the Sheriff for the Territorial Division within which the offence is alleged to have been committed, for payment to such Constable or other person of the sums so ascertained to be payable to him in that behalf; and the said Sheriff, upon such Order being produced to him, shall pay the amount thereof to such Constable or other person producing the same, or to any person who produces the same to him for payment. 14, 15 V. c. 96, s. 18. *Latter part.*

When and how defendant may be entitled to a copy of depositions.

60. At any time after all the examinations aforesaid have been completed, and before the first day of the Sessions, or other first sitting of the Court at which any person so committed to prison or admitted to bail as aforesaid is to be tried, such person may require and shall be entitled to have, from the Officer or person having the custody of the same, copies of the depositions on which he has been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of five cents for each folio of one hundred words. 16 V. c. 179, s. 19, 14, 15 V. c. 96, s. 19.

Powers of inspectors of police, &c.

61. Any one Inspector and Superintendent of Police, any Police Magistrate or Stipendiary Magistrate, appointed for any

Territorial Division, may do alone whatever is authorized by this Act to be done by any two or more Justices of the Peace, and the several forms in this Act contained, may be varied so far as necessary to render them applicable to such Inspector and Superintendent of Police, or to such Police Magistrate or Stipendiary Magistrate. 16 V. c. 179, s. 21,—14, 15 V. c. 96, s. 21.

62. Every Coroner, upon any inquisition taken before him, whereby any person is indicted for manslaughter or murder, or as an accessory to murder before the fact, shall, in presence of the party accused, if he can be apprehended, put in writing the evidence given to the jury before him, or as much thereof as may be material, giving the party accused full opportunity of cross-examination; and the Coroner shall have authority to bind by recognizance all such persons as know or declare any thing material touching the said manslaughter or murder, or the said offence of being accessory to murder, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or other Court at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such Coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken, and shall deliver the same to the County Attorney of the County or to the proper Officer of the Court at the time and in the manner specified in the thirty-ninth section of this Act. 4, 5 V. c. 24, s. 4.

Duty of coron-
ner.

63. When and so often as any person has been committed for trial by any Justice or Justices, or Coroner as aforesaid, such Prisoner, his Counsel, Attorney or Agent, may notify the said committing Justice or Justices, or Coroner, that he will so soon as Counsel can be heard, move one of Her Majesty's Courts of Superior Criminal Jurisdiction for that part of the Province in which such person stands committed, or one of the Judges thereof, or in Lower Canada a Judge of the Superior Court, or in Upper Canada the Judge of the County Court if it is intended to apply to such Judge under the fifty-fourth section of this Act, for an order to the Justices of the Peace, or Coroner for the Territorial Division where such Prisoner is confined, to admit such Prisoner to bail, whereupon such committing Justice or Justices, or Coroner, shall, with all convenient expedition, transmit to the office of the Clerk of the Crown, or the Chief Clerk of the Court, or the Clerk of the County Court (as the case may be,) close under the hand and seal of one of them, a certified copy of all informations, examinations, and other evidences, touching the offence wherewith such Prisoner has been charged, together with a copy of the warrant of commitment and inquest, if any such there be, and the packet containing the same shall be handed to the person applying therefor, in order to such transmission, and it shall be certified on the outside thereof to contain the information touching the case in question. 4, 5 V. c. 24, s. 5.

When party
committed
wishes to be
bailed, the jus-
tices on notice
thereof to for-
ward all infor-
mation to Clerk
of the Crown.

Same order to be made as upon *Habeas Corpus*.

64. Upon application to any of Her Majesty's Courts of Superior Criminal Jurisdiction, for that part of the Province within which such person stands committed, or to any Judge thereof, the same order touching the Prisoner being bailed or continued in custody, shall be made as if the party were brought up upon a Habeas Corpus. 4, 5 V. c. 24, s. 6.

Penalty on Justices and Coroners.

65. If any Justice or Coroner neglects or offends in any thing contrary to the true intent and meaning of any of the provisions of the sixty-second and following sections of this Act, the Court to whose Officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, set such fine upon every such Justice or Coroner as the Court thinks meet. 4, 5, V. c. 24, s. 7.

Provisions to apply to all justices and coroners.

66. The provisions of this Act relating to Justices and Coroners shall apply to the Justices and Coroners not only of Districts and Counties at large, but also of all other Territorial Divisions and Jurisdictions. 4, 5 V. c. 24, s. 8.

67. The several forms in the Schedule to this Act contained, or forms to the like effect, shall be good, valid and sufficient in the law and the word "District" as used therein, is intended to apply to Lower Canada, and the words "County" or "United Counties" to Upper Canada. 14, 15 V. c. 96, s. 20,—16 V. c. 179, s. 20.

SCHEDULES. 14, 15 V. c. 96,—16 V. c. 179.

(A) *Vide ss. 1 and 8.*

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

Province of Canada,
District (or *County*,
United Counties, or
as the case may be,)
of

The information and complaint of C. D. of
yeoman), taken _____ day of _____, in the year
of our Lord _____ before the undersigned, (*one*) of Her
Majesty's Justices of the Peace in and for the said District (or
County, as the case may be) of _____ who saith that
(*&c.*, *stating the offence*).

Sworn before (*me*), the day and year first above mentioned,
at _____

J. S.

(B) See ss. 1, 18.

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be, }
 of

To all or any of the Constables or other Peace Officers in the District (or *County, United Counties, or as the case may be,*) of

Whereas A. B., of (*laborer*), hath this day been charged upon oath before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of for that he, on , at , did (*&c. stating shortly the offence*); These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of to answer unto the said charge, and to be further dealt with according to law.

Given under (*my*) Hand and Seal, this day of at , in the District (*County, &c.*) aforesaid.

J. S. [L. S.]

(C) See ss. 2, 12.

SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be, }
 of

To A. B. of , (*laborer*):

Whereas you have this day been charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of for that you on , at , (*&c., stating shortly the offence*); These are therefore to command you, in Her Majesty's name, to be and appear before (*me*) on , at o'clock in the (*fore*) noon,

at _____, or before such other Justice or Justices of the Peace of the same District (or *County, United Counties, or as the case may be.*) of _____, as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under (my) Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____, in the District (or *County, &c.*) aforesaid

J. S. [L. s.]

(D) See ss. 2, 15.

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Province of Canada, }
 District (or *County, United Counties, or as the case may be.*) }
 of _____

To all or any of the Constables, or other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of _____:

Whereas on the _____ day of _____ (instant or last past) A. B. of the _____, was charged before (me or us,) the undersigned, (or name the Magistrate or Magistrates, or as the case may be.) (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, as the case may be.*) of _____, for that (&c., as in the Summons); And whereas (I, he, the said Justice of the Peace, we, or they, the said Justices of the Peace) then issued (my, our, his or their) Summons to the said A. B., commanding him, in Her Majesty's name, to be and appear before (me) on _____ at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices of the Peace as should then be there, to answer to the said charge, and to be further dealt with according to law; And whereas the said A. B. hath neglected to be or appear at the time and place appointed in and by the said Summons, although it hath now been proved to (me) upon oath, that the said Summons was duly served upon the said A. B.; These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (me) or some other of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be.*) of _____, to answer the said Charge, and to be further dealt with according to law.

Given under (my) Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____, in the District (*County*) of _____ aforesaid:
 J. S. [L. s.]

(E 1). See s. 11.

INFORMATION TO OBTAIN A SEARCH WARRANT.

Province of Canada,
 District (or *County*,
United Counties, or
as the case may be,
 of

The information of A. B. of the _____, of _____, in
 the said District (or *County, &c.*) (*yeoman*), taken this
 day of _____, in the year of our Lord _____, before me, W.
 S., Esquire, one of Her Majesty's Justices of the Peace, in and
 for the District (or *County, United Counties, or as the case may*
be) of _____, who saith that on the
 day of _____, (*insert description of articles stolen*), of
 the goods and chattels of Deponent, were feloniously stolen,
 taken and carried away, from and out of the (*Dwelling House*
&c.) of this Deponent, at the (*Township, &c.*) aforesaid, by (some
 person or persons unknown, *or name the person*), and that he
 hath just and reasonable cause to suspect, and doth suspect
 that the said goods and chattels, or some part of them, are con-
 cealed in the (*Dwelling House, &c., of C. D.*) of _____ in the
 said District (or *County*) (*here add the causes of suspicion, what-*
ever they may be). Wherefore, (*he*) prays that a Search Warrant
 may be granted to him to search (*the Dwelling House, &c.*)
 of the said C. D. as aforesaid, for the said goods and chattels so
 feloniously stolen, taken and carried away as aforesaid.

Sworn before me the day and year first above mentioned,
 at _____ in the said District, (or *County*) of _____

W. S.
 J. P.

(E 2) See s. 11.

SEARCH WARRANT.

Province of Canada,
 District (or *County*,
United Counties, or
as the case may be),
 of

To all or any of the Constables, or other Peace Officers, in the
 District (or *County, United Counties, or as the case may be*)
 of _____

Whereas A. B. of the _____, of _____, in the said
 District (*County &c.*) hath this day made oath before me the
 undersigned, one of Her Majesty's Justices of the Peace, in and

for the said District (or *County, United Counties, or as the case may be,*) of _____, that on the _____ day of _____ (copy information as far as place of supposed concealment); These are therefore in the name of our Sovereign Lady the Queen, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (*Dwelling House &c., of the said, &c.*) and there diligently search for the said goods and chattels, and if the same or any part thereof shall be found upon such search, that you bring the goods so found, and also the body of the said C. D. before me, or some other Justice of the Peace, in and for the said District (or *County, United Counties, or as the case may be*) of _____ to be disposed of and dealt with according to law.

Given under my Hand and Seal, at _____, in the said District, (*County, &c.*) this _____ day of _____, in the year of our Lord, one thousand eight hundred and _____

W. S., J. P. (Seal.)

(F) See s. 3.

CERTIFICATE OF INDICTMENT BEING FOUND.

I hereby certify that at a Court of (Oyer and Terminer, or General Gaol Delivery, or General Sessions of the Peace) holden in and for the District (or *County, United Counties, or as the case may be,*) of _____, at _____, in the said District, (*County, &c.*) on _____, a Bill of Indictment was found by the Grand Jury against A. B., therein described as A. B., late of _____, (*laborer,*) for that he (*&c. stating shortly the offence,*) and that the said A. B. hath not appeared or pleaded to the said indictment.

Dated this _____ day of _____ one thousand eight hundred and _____

Z. X.

Clerk of the Crown, or Deputy Clerk of the Crown for the District (or *County, United Counties, as the case may be,*

or

Clerk of the Peace of and for the said District (or *County, United Counties, as the case may be.*)

(G) See s. 3.

WARRANT TO APPREHEND A PERSON INDICTED.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be,)
 of

To all or any of the Constables, or other Peace Officers, in the said District (or *County*, *United Counties*, or *as the case may be*) of

Whereas it hath been duly certified by J. D., Clerk of the Crown of (*name the Court*) (or E. G. Deputy Clerk of the Crown, or Clerk of the Peace, *as the case may be*) in and for the District (or *County*, *United Counties*, or *as the case may be*) of that (&c., *stating the certificate*); These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*), or some other Justice or Justices of the Peace in and for the said District (or *County*, *United Counties*, or *as the case may be*), to be dealt with according to law.

Given under my Hand and Seal, this day of
 in the year of our Lord , at , in the District
 (or *County*, &c.) aforesaid.

J. S. [L. s.]

(H) See s. 4.

WARRANT OF COMMITMENT OF A PERSON INDICTED.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be,)
 of

To all or any of the Constables, or other Peace Officers in the said District (or *County*, &c.) of and to the Keeper of the Common Gaol, at , in the said District (or *County*, *United Counties*, or *as the case may be*) of :

Whereas by a Warrant under the Hand and Seal of (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, or *as the case may be*), of under Hand and Seal , dated the day of , after reciting that it had been certified by J. D. (&c. *as in the certificate*) () the said

Justice of the Peace commanded all or any of the Constables, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (*him*) the said Justice of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____ or before some other Justice or Justices in and for the said District (or *County, United Counties, or as the case may be,*) to be dealt with according to law; And whereas the said A. B. hath been apprehended under and by virtue of the said Warrant, and being now brought before (*me*) it is hereupon duly proved to (*me*) upon oath that the said A. B. is the same person who is named and charged by _____, in the said indictment; These are therefore to command you the said Constables and Peace Officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said Common Gaol at _____, in the said District (or *County, United Counties, or as the case may be*) of _____, and there to deliver him to the Keeper thereof, together with this Precept; and (I) hereby command you the said Keeper to receive the said A. B. into your custody in the said Gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (*my*) Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District (or *County, &c.*) aforesaid.

J. S. [L. S.]

(1) See s. 5.

WARRANT TO DETAIN A PERSON INDICTED, WHO IS ALREADY
IN CUSTODY FOR ANOTHER OFFENCE.

Province of Canada, }
District (or *County,* }
United Counties, or }
as the case may be) }
of _____

To the Keeper of the Common Gaol at _____ in the said District (or *County, United Counties, or as the case may be*) of _____

Whereas it hath been duly certified by J. D., Clerk of the Crown of (*name the Court*) or Deputy Clerk of the Crown, or Clerk of the Peace of and for the District (or *County, United Counties, or as the case may be*) of _____ that (*&c. stating the Certificate*); And whereas (*I am*) informed that the said A. B. is in your custody in the said Common Gaol at _____ aforesaid, charged with some offence, or other matter; and it being now duly proved upon oath before (*me*) that the said A. B. so indicted as aforesaid, and the said A. B., in your custody as aforesaid, are one and the same person; These are

therefore to command you, in Her Majesty's name, to detain the said A. B. in your custody in the Common Gaol aforesaid, until by Her Majesty's Writ of *Habeas Corpus* he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (my) Hand and Seal, this _____ day of _____, in the year of our Lord _____ at _____, in the District (or *County, &c.*), aforesaid.

J. S. [L. s.]

(K) See s. 24.

ENDORSEMENT IN BACKING A WARRANT.

Province of Canada, }
 District (or *County,* }
United Counties, or }
as the case may be,) }
 of _____

Whereas proof upon oath hath this day been made before me one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____, that the name of J. S., to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned; I do therefore hereby authorize W. T. who bringeth to me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom it may be lawfully executed, and also all Constables and other Peace Officers of the said District (or *County, United Counties, or as the case may be,*) of _____, to execute the same within the said last mentioned District (or *County, United Counties, or as the case may be*).

Given under my Hand, this _____ day of _____, in the year of Our Lord _____, at _____, in the District (*County, &c.*) aforesaid.

J. L.

(L 1) See s. 26.

SUMMONS TO A WITNESS.

Province of Canada, }
 District (or *County,* }
United Counties, or }
as the case may be,) }
 of _____

To E. F. of _____, (*laborer*):

Whereas information hath been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said

District (or *County, United Counties, or as the case may be*), of
 , that A. B. (&c., *as in the Summons or Warrant
 against the accused*), and it hath been made to appear to me
 upon (*oath*), that you are likely to give material evidence for
 (*prosecution*); These are therefore to require you to be and to
 appear before me on next, at o'clock in the
 (*fore*) noon, at , or before such other Justice or Justices
 of the Peace of the same District (or *County, United Counties,
 or as the case may be*), of , as may then be there to
 testify what you shall know concerning the said charge so made
 against the said A. B. as aforesaid. Herein fail not.

Given under my Hand and Seal, this day of
 in the year of Our Lord , at , in the District
 (*County, &c.*) aforesaid.

J. S. [L. s.]

(L. 2). See s. 27.

WARRANT WHEN A WITNESS HAS NOT OBEYED A SUMMONS.

Province of Canada, }
 District (or *County,*
United Counties, or
as the case may be), }
 of

To all or any of the Constables, or other Peace Officers, in the
 said District (or *County, United Counties, or as the case may
 be*), of

Whereas information having been laid before , (*one*) of
 Her Majesty's Justices of the Peace, in and for the said District
 (*County, &c.*) of , that A. B., &c., *as in the Summons*;
 And it having been made to appear to (*me*) upon oath that E.
 F. of , (*laborer*), was likely to give material evidence for
 the prosecution, (*I*) did duly issue (*my*) Summons to the said
 E. F., requiring him to be and appear before (*me*) on , at
 , or before such other Justice or Justices of the Peace
 for the same District (or *County, United Counties, or as the
 case may be*), as might then be there, to testify what he should
 know respecting the said charge so made against the said A.
 B. as aforesaid; And whereas proof hath this day been made
 upon oath before (*me*) of such Summons having been duly
 served upon the said E. F.; And whereas the said E. F. hath
 neglected to appear at the time and place appointed by the said
 Summons, and no just excuse has been offered for such ne-
 glect; These are therefore to command you to bring and have

the said E. F. before (me) on _____ at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices for the same District (or *County, United Counties, or as the case may be,*) as may then be there, to testify what he shall know concerning the said charges so made against the said A. B. as aforesaid.

Given under (my) Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____ in the District (County, &c.) aforesaid.

J. S. [L. s.]

(L 3) See s. 28.

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Province of Canada, }
 District (or *County,*
United Counties, or
as the case may be,) }
 of _____

To all or any of the Constables or Peace Officers in the said District (or *County, United Counties, or as the case may be,*) of _____

Whereas information has been laid before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the said District (or *County, United Counties, or as the case may be,*) of _____ that (&c. as in the Summons); and it having been made to appear to (me) upon oath, that E. F. of _____, (laborer), is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so; These are therefore to command you to bring and have the said E. F. before (me) on _____, at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices of the Peace for the same District (or *County, United Counties, or as the case may be,*) as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____ in the District (or *County, &c.,*) aforesaid.

J. S. [L. s.]

(L 4) See s. 29.

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN, OR TO GIVE EVIDENCE.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be,) }
 of

To all or any of the Constables or other Peace Officers in the District, (or *County, United Counties, or as the case may be*) of _____, and to the keeper of the Common Gaol at _____ in the said District (or *County, United Counties, or as the case may be*) of _____

Whereas A. B. was lately charged before _____ (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____, for that, (*&c. as in the Summons*); And it having been made to appear to (me) upon oath that E. F. of _____ was likely to give material evidence for the prosecution, (I) duly issued (my) Summons to the said E. F. requiring him to be and appear before me on _____, at _____, or before such other Justice or Justices of the Peace for the same District (or *County, United Counties, or as the case may be*) as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; And the said E. F. now appearing before (me) (or being brought before (me) by virtue of a Warrant in that behalf, to testify as aforesaid,) and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, (or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following) without offering any just excuse for such refusal; These are therefore to command you, the said Constables, Peace Officers, or any one of you, to take the said E. F. and him safely convey to the Common Gaol at _____ in the District (*County, &c.*) aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And (I) do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, and him there safely keep for the space of _____ days, for his said contempt, unless he shall in the meantime consent to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient Warrant.

Given under (my) Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District (*County, &c.*) aforesaid.

J. S. [L. S.]

(M) See s. 30.

DEPOSITIONS OF WITNESSES.

Province of Canada, }
 District (or County, }
 United Counties, or }
 as the case may be, }
 of }

The examination of C. W. of _____, (*farmer*;) and E. F. of _____ (*laborer*), taken on (*oath*) this _____ day of _____, in the year of our Lord _____, at _____, in the District (*County, or as the case may be*) aforesaid, before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) in the presence and hearing of A. B. who is charged this day before (*me*) for that he, the said A. B. _____ at _____ (*&c. describing the offence as in a Warrant of Commitment.*)

This Deponent, C. D. upon his (*oath*) saith as follows: (*&c. stating the depositions of the witness as nearly as possible in the words he uses. When his deposition is completed, let him sign it.*)

And this Deponent, E. F. upon his (*oath*) saith as follows: (*&c.*)

The above depositions of C. D. and E. F. were taken and (*sworn*) before me, at _____ on the day and year first above mentioned.

J. S.

(N) See s. 32.

STATEMENT OF THE ACCUSED.

Province of Canada, }
 District (or County, }
 United Counties, or }
 as the case may be, }
 of }

A. B. stands charged before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the District (or *County, United Counties, or as the case may be*) aforesaid, this day of _____ in the year of our Lord _____, for that the said A. B., on _____, at _____, (*&c., as in the caption of the depositions*;) And the said charge being read to the said A. B., and the witnesses for the prosecution C. D. and E. F. being severally examined in his presence, the

said A. B. is now addressed by me as follows: "Having heard the evidence, do you wish to say any thing in answer to the charge? You are not obliged to say any thing, unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial." Whereupon the said A. B. saith as follows: *(Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it if he will.)*

A. B.

Taken before me, at _____, the day and year first above mentioned.

J. S.

(O 1) See s. 37.

RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

Province of Canada,
District (or County,
United Counties, or
as the case may be,)
of

Be it remembered, That on the _____ day of _____ in the year of our Lord _____, C. D. of _____, in the _____ of _____, in the _____ (Township) of _____, in the _____ said District (or County, &c.,) of _____, (farmer,) (or C. D. of No. 2, _____ Street, _____, in the Town or City of _____, Surgeon, of which said house he is (tenant,) personally came before me, one of Her Majesty's Justices of the Peace in and for the said District (or County, United Counties, or as the case may be) of _____, and acknowledged himself to owe to our Sovereign Lady the Queen the sum of _____, of good and lawful current money of this Province, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said C. D. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at _____ before me:

J. S.

CONDITION TO PROSECUTE.

The condition of the within (or above) written Recognizance is such, that whereas one A. B. was this day charged before me J. S. Justice of the Peace within mentioned, for that (&c., as in the caption of the depositions;) if, therefore, he, the said C. D. shall appear at the next Court of Oyer and Terminer or General Gaol Delivery, (or at the next Court of General or Quarter Sessions of the Peace,) to be holden in and for the

District (or *County, United Counties, or as the case may be*) of
 * and there prefer or cause to be preferred a Bill of
 Indictment for the offence aforesaid, against the said A. B. and
 there also duly prosecute such indictment, then the said
 Recognizance to be void, or else to stand in full force and virtue.

CONDITION TO PROSECUTE AND GIVE EVIDENCE..

(Same as the last form, to the asterisk,* and then thus :—“ And
 “ there prefer or cause to be preferred a Bill of Indictment
 “ against the said A. B. for the offence aforesaid, and duly
 “ prosecute such Indictment, and give evidence thereon, as
 “ well to the Jurors who shall then enquire into the said
 “ offence, as also to them who shall pass upon the trial of the
 “ said A. B., then the said Recognizance to be void, or else to
 “ stand in full force and virtue.”

CONDITION TO GIVE EVIDENCE.

(Same as the last form but one, to the asterisk,* and then thus :—
 “ And there give such evidence as he knoweth upon a Bill of
 “ Indictment to be then and there preferred against the said
 “ A. B. for the offence aforesaid, as well to the Jurors who
 “ shall there enquire of the said offence, as also to the Jurors
 “ who shall pass upon the trial of the said A. B. if the said Bill
 “ shall be found a True Bill, then the said Recognizance to be
 “ void, otherwise to remain in full force and virtue.”

(O 2) See s. 38.

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE
 PROSECUTOR AND HIS WITNESS.

Province of Canada, }
 District (or *County,* }
United Counties, or }
as the case may be, }
 of

Take notice that you C. D. of _____, are bound in the
 sum of _____ to appear at the next Court of Oyer and
 Terminer and General Gaol Delivery, (or at the next Court of
 General Quarter Sessions of the Peace, in and for the District
 (or *County, United Counties, or as the case may be*) of
 _____ to be holden at _____, in the said District (*County, &c.*) and
 then and there (*prosecute and*) give evidence against A. B., and
 unless you then appear there, (*prosecute*) and give evidence
 accordingly, the Recognizance entered into by you will be
 forthwith levied on you.

Dated this _____ day of _____ one thousand
 eight hundred and _____

J. S.

(P 1) See s. 40.

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO
THE RECOGNIZANCE.

Province of Canada,
District (or County,
United Counties, or
as the case may be,) }
of }

To all or any of the Constables or other Peace Officers in the said District (or County, &c.) of _____, and to the Keeper of the Common Gaol of the said District (or County, United Counties, or as the case may be,) at _____, in the said District (or County, or as the case may be) of _____

Whereas A. B. was lately charged before the undersigned, (or name of Justice of the Peace, (one) of Her Majesty's Justices of the Peace in and for the said District (or County, &c.) of _____, for that (&c., as in the Summons to the Witness), and it having been made to appear to (me) upon oath that E. F., of _____, was likely to give material evidence for the prosecution, (I) duly issued (my) Summons to the said E. F., requiring him to be and appear before (me) on _____ at _____ or before such other Justice or Justices of the Peace as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (me) (or being brought before (me) by virtue of a Warrant in that behalf to testify as aforesaid), hath been now examined before (me) touching the premises, but being by (me) required to enter into a Recognizance conditioned to give evidence against the said A. B., hath now refused so to do. These are therefore to command you the said Constables or Peace Officers, or any one of you, to take the said E. F. and him safely to convey to the Common Gaol at _____ in the District (or County, &c.) aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. shall duly enter into such Recognizance as aforesaid, in the sum of _____ before some one Justice of the Peace for the said District, (or County, United Counties, or as the case may be,) conditioned in the usual form to appear at the next Court of Oyer and Terminer, or General Gaol Delivery, or General Quarter Sessions of the Peace), to be holden in and for the said District (or County, United Counties, or as the case may be,) of _____, and there to give evidence before the Grand Jury upon any Bill of Indictment which may then and there be preferred against the said

A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence, if a True Bill should be found against him for the same.

Given under my Hand and Seal, this _____, day of _____, in the year of Our Lord, _____ at _____ in the District (or *County, &c.*) of _____ aforesaid.

J. S. [L. s.]

(P 2) See s. 41.

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Province of Canada, }
 District (or *County,* }
United Counties, or }
as the case may be, }
 of _____

To the Keeper of the Common Gaol, at _____, in the District, (or *County, &c.*) of _____ aforesaid :

Whereas by (*my*) order dated the _____ day of _____ (*instant*), reciting that A. B. was lately before then charged before (*me*) for a certain offence therein mentioned, and that E. F. having appeared before (*me*), and being examined as a witness for the prosecution in that behalf, refused to enter into Recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such Recognizance as aforesaid; And whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody; These are therefore to order and direct you the said Keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my Hand and Seal, this _____, day of _____, in the year of Our Lord _____, at _____, in the District (or *County, &c.*) of _____ aforesaid.

J. S. [L. s.]

(Q 1) See s. 42.

WARRANT REMANDING A PRISONER.

Province of Canada,
 District (or *County*,
United Counties, or
as the case may be,)
 of

To all or any of the Constables or other Peace Officers in the said District (or *County*, *United Counties*, or *as the case may be*,) of _____, and to the Keeper of the (*Common Gaol* or *Lock-up House*) at _____, in the said District or *County*, &c.,) of _____

Whereas A. B. was this day charged before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said District (or *County*, *United Counties*, or *as the case may be*,) of _____, for that (&c., *as in the Warrant to apprehend*) and it appears to (me) to be necessary to remand the said A. B. ; These are therefore to command you, in Her Majesty's name, forthwith to convey the said A. B. to the (*Common Gaol* or *Lock-up House*), at _____, in the said District (or *County*, &c.,) and there to deliver him to the Keeper thereof, together with this Precept ; and I hereby command you the said Keeper to receive the said A. B. into your custody in the said (*Common Gaol* or *Lock-up House*), and there safely keep him until the _____ day of _____ (*instant*), when I hereby command you to have him at _____, at _____ o'clock in the (*fore*) noon of the same day before (me) or before some other Justice or Justices of the Peace for the said District (or *County*, *United Counties*, or *as the case may be*,) as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____, in the District (or *County*, &c.,) of _____ aforesaid.

J. S. [L. s.]

(Q. 2) See s. 45.

RECOGNIZANCE OF BAIL INSTEAD OF REMAND, ON AN
ADJOURNMENT OF EXAMINATION.

Province of Canada,
District (or County,
United Counties, or
as the case may be,) }
of

Be it remembered, That on the _____, day of _____, in the year of Our Lord _____, A. B. of _____ (laborer) L. L. of _____ (grocer), and N. O. of _____ (butcher), personally came before me, (one) of Her Majesty's Justices of the Peace for the said District (or County, United Counties, or as the case may be), and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____ each, of good and lawful current money of this Province, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at _____ before me.

J. S.

CONDITION.

The condition of the within written recognizance is such, that whereas the within bounden A. B. was this day (or on last past) charged before me for that (&c., as in the Warrant :) And whereas the examination of the Witnesses for the prosecution in this behalf is adjourned until the day of _____ (instant); If therefore the said A. B. shall appear before me on the said _____ day of _____ (instant), at _____ o'clock in the forenoon, or before such other Justice or Justices of the Peace for the said District (or County, United Counties,) of _____ (as the case may be), as may then be there, to answer (further) to the said charge, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

(Q 3) See s. 45.

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED
AND HIS SURETIES.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be, }
 of

Take notice that you A. B. of _____, are bound in the sum of _____, and your Sureties L. M. and N. O. in the sum of _____, each, that you A. B. appear before me J. S., one of Her Majesty's Justices of the Peace for the District (or *County, United Counties, or as the case may be,*) of _____, on the _____ day of _____ (*instant,*) at _____ o'clock in the (*fore*) noon, at _____, or before such other Justice or Justices of the same District (or *County, United Counties, or as the case may be*) as may then be there, to answer (*further*) to the charge made against you by C. D., and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the Recognizances entered into by yourself and Sureties will be forthwith levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____

J. S.

(Q 4) See s. 46.

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE
RECOGNIZANCE.

I hereby certify that the said A. B. hath not appeared at the time and place, in the above condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited.

J. S.

(R 1) See s. 48.

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE
COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Province of Canada, }
 District (or *County*, }
United Counties, or }
as the case may be, }
 of

To all or any of the Constables, or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of _____

Whereas A. B. of _____ (*laborer*), hath this day been charged before the undersigned (*one*) of Her Majesty's Justices.

of the Peace in and for the District (or *County, United Counties, or as the case may be*) of _____ for that (*&c. as in the Warrant to apprehend*); And whereas (I) have taken the deposition of C. D. a witness examined by (me) in this behalf, but inasmuch as (I) am informed that the principal witnesses to prove the said offence against the said A. B. reside in the District (or *County, United Counties, or as the case may be*) of _____ where the said offence is alleged to have been committed; These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said District (or *County, United Counties, or as the case may be*) of _____ and there carry him before some Justice or Justices of the Peace in and for that District (or *County, United Counties, or as the case may be,*) and near unto the (*Township of* _____) where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and (I) hereby further command you to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this Precept.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____, in the District (*County, &c.*) of _____ aforesaid.

J. S. [L. s]

(R 2) See s. 50.

RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Province of Canada, }
 District (or *County, United Counties, or as the case may be*) }
 of _____ }

I, J. P. one of Her Majesty's Justices of the Peace, in and for the District (or *County, &c.*) of _____, hereby certify that W. T., Constable, or Peace Officer, of the District (or *County, United Counties, or as the case may be*) of _____, has on this _____ day of _____, one thousand eight hundred and _____, by virtue of and in obedience to a Warrant of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the District (or *County, United Counties, or as the case may be*) of _____, produced before me, one A. B. charged before the said J. S. with having (*&c., stating shortly the offence*) and delivered him into the custody of _____ by my direction, to answer to the said charge, and further to be dealt with according to

law, and has also delivered unto me the said Warrant, together with the information (*if any*) in that behalf, and the deposition (s) of C. D. (*and of*) in the said Warrant mentioned, and that he has also proved to me upon oath, the hand-writing of the said J. S. subscribed to the same.

Dated the day and year first above mentioned, at in the said District (or *County, &c.*) of

J. P.

(S 1) See s. 52.

RECOGNIZANCE OF BAIL.

Province of Canada, }
District (or *County,* }
United Counties, or }
as the case may be) }
of

Be it remembered, That on the day of in the year of Our Lord , A. B. of , (*laborer,*) L. M. of , (*grocer,*) and N. O. of , (*butcher,*) personally came before (*us*) the undersigned, two of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) and severally acknowledged themselves to owe to our Lady the Queen, the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful current money of this Province, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he, the said A. B., fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at before us.

J. S.

J. N.

CONDITION.

The condition of the within written Recognizance is such, that whereas the said A. B. was this day charged before (*us*), the Justices within mentioned for that (*&c., as in the Warrant*); if therefore the said A. B. will appear at the next Court of Oyer and Terminer or General Gaol Delivery (or Court of General Quarter Sessions of the Peace) to be holden in and for the District (or *County, United Counties, or as the case may be*) of and there surrender himself into the custody of the Keeper of (*Common Gaol or Lock-up House*) there, and

plead to such Indictment as may be found against him by the Grand Jury, for and in respect to the charge aforesaid, and take his trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

(S 2) See s. 52.

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS BAIL.

Take notice that you A. B., of _____, are bound in the sum of _____, and your Sureties (*L. M. and N. O.*) in the sum of _____, each, that you A. B. appear (&c., *as in the condition of the Recognizance,*) and not depart the said Court without leave; and unless you, the said A. B. personally appear and plead, and take your trial accordingly, the Recognizance entered into by you and your Sureties shall be forthwith levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____.

J. S.

(S 3) See ss. 54, 56.

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER ALREADY COMMITTED.

Province of Canada, }
 District (or County, }
 United Counties, or }
 as the case may be }
 of _____

To the Keeper of the Common Gaol of the District (or County, United Counties, or as the case may be) at _____ in the said District (or County, United Counties, or as the case may be) at _____

Whereas A. B., late of _____, (*laborer*), hath before (*us*) (*two*) of Her Majesty's Justices of the Peace in and for the said District (or County, United Counties, or as the case may be) of _____, entered into his own Recognizance, and found sufficient sureties for his appearance at the next Court of Oyer and Terminer or General Gaol Delivery (or Court of General Quarter Sessions of the Peace) to be holden in and for the District (or County, United Counties, or as the case may be) of _____, to answer Our Sovereign Lady the Queen, for that (&c., *as in the Commitment*), for which he was taken and committed to your said Common Gaol; These are therefore to

command you, in Her said Majesty's name, that if the said A. B. do remain in your custody in the said Common Gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our Hands and Seals, this day of ,
in the year of Our Lord , at in the
District (or *County, &c.*) of aforesaid.

J. S. [L. s.]
J. N. [L. s.]

(T 1) See s. 57.

WARRANT OF COMMITMENT.

Province of Canada, }
District (or *County,* }
United Counties, or }
as the case may be }
of }

To all or any of the Constables, or other Peace Officers, in the District (or *County, United Counties, or as the case may be*) of , and to the Keeper of the Common Gaol of the District (or *County, United Counties, or as the case may be*) at , in the said District (or *County, &c.*), of

Whereas A. B. was this day charged before (me) J. S. (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of on the oath of C. D., of (*farmer,*) and others, for that (*&c. stating shortly the offence*); These are therefore to command you the said Constables or Peace Officers, or any of you, to take the said A. B., and him safely convey to the Common Gaol at aforesaid, and there deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my Hand and Seal, this day of , in
the year of Our Lord , at , in the District (or *County,*
&c.), of aforesaid.

J. S. [L. s.]

(T 2) See ss. 58, 59.

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER, AND
JUSTICE'S ORDER THEREON FOR THE PAYMENT OF THE CON-
STABLE'S EXPENSES IN EXECUTING THE COMMITMENT.

I hereby certify that I have received from W. T. Constable,
of the District (or *County, &c.*), of , the body of A. B.,

together with a Warrant under the Hand and Seal of J. S. Esquire, one of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) of _____, and that the said A. B., was (sober, or as the case may be,) at the time he was delivered into my custody.

P. K.

Keeper of the Common Gaol of the said District (or *County, &c.*) at _____

To R. W. Esquire, Treasurer of the District (or *County, United Counties, or as the case may be*) of _____ :

Whereas W. T., Constable, of the District (or *County, United Counties, or as the case may be*) of _____, hath produced unto me, J. P., one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of _____, the above receipt of P. K., Keeper of the Common Gaol at _____; And whereas in pursuance of the Statute in such case made and provided, I have ascertained that the sum which ought to be paid to the said W. T. for arresting and conveying the said A. B. from _____, in the District (or *County, &c.*) of _____ to the said Common Gaol, is _____, and that the reasonable expenses of the said W. T. in returning will amount to the further sum of _____, making together the sum of _____; These are therefore to order you, as such Treasurer for the said District (or *County, United Counties, or as the case may be*) of _____, to pay unto the said W. T. the said sum of _____, according to the form of the Statute in such case made and provided, for which payment this Order shall be your sufficient voucher and authority.

Given under my hand, this _____ day of _____, one thousand eight hundred and _____,

J. P.

Received the _____ day of _____, one thousand eight hundred and _____, of the Treasurer of the District (or *County, United Counties, or as the case may be*) of _____, the sum of _____, being the amount of the above Order.

\$ _____ cts.

W. T.

Can. Stat. Can.
page 1083.

CAP. CIII.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and Orders.

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

Where an information is laid, &c., before a Justice of the Peace, &c., such Justice may issue a summons to such party.

1. In all cases where an information is laid before one or more of Her Majesty's Justices of the Peace for any Territorial Division of this Province, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such Justice or Justices for which he is liable by law, upon a Summary Conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint is made to any such Justice or Justices, upon which he or they have authority by law to make any Order for the payment of money or otherwise, such Justice or Justices of the Peace may issue his or their Summons (A), directed to such person, stating shortly the matter of the information or complaint, and requiring him to appear at a certain time and place, before the same Justice or Justices, or before such other Justice or Justices of the same Territorial Division as may then be there, to answer to the said information or complaint, and to be further dealt with according to law. 4, 5 V. c. 25, s. 57,--c. 26, s. 30,--c. 27, s. 40,--14, 15 V. c. 95, s. 1,--16 V. c. 178, s. 1.

How summons to be served.

2. Every such Summons shall be served by a Constable or other Peace Officer, or other person to whom the same may be delivered, upon the person to whom it is directed, by delivering the same to the party personally, or by leaving it with some person for him at his last or most usual place of abode. 14, 15 V. c. 95, s. 1,--16 V. c. 178, s. 1.

Constables to attend to depose, &c.

3. The Constable, Peace Officer, or person who serves the same, shall attend at the time and place, and before the Justices in the said Summons mentioned, to depose, if necessary to the service thereof. 14, 15 V. c. 95, s. 1,--16 V. c. 178, s. 1.

Justices not obliged in certain cases to issue summons.

4. But nothing hereinbefore contained shall oblige any Justice or Justices of the Peace to issue any such Summons in any case where the application for any Order of Justices is by law to be made *ex parte*. 14, 15 V. c. 95, s. 1,--16 V. c. 178, s. 1.

No objection allowed for want of form.

5. No objection shall be allowed to any information, complaint or summons, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint or summons, and the evidence adduced on

the part of the informant or complainant at the hearing of such information or complaint; but if any such variance appears to the Justice or Justices present and acting at such hearing to be such that the person summoned and appearing has been thereby deceived or misled, such Justice or Justices, may, upon such terms as he or they think fit, adjourn the hearing of the case to a future day. 14, 15 V. c. 95, s. 1,—16 V. c. 178, s. 1.

6. If the person served with a Summons does not appear before the Justice or Justices at the time and place mentioned in such Summons, and it be made to appear to such Justice or Justices, by oath or affirmation, that such Summons was duly served, what the Justice or Justices deem a reasonable time before the time therein appointed for appearing to the same, then such Justice or Justices, upon oath or affirmation being made before him or them, substantiating the matter of such information or complaint to his or their satisfaction, may, if he or they think fit, issue his or their Warrant (B) to apprehend the party so summoned, and to bring him before the same Justice or Justices or before some other Justice or Justices of the Peace in and for the same Territorial Division, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction, the Justice or Justices before whom such information is laid, upon oath or affirmation being made before him or them substantiating the matter of such information to his or their satisfaction, may, if he or they think fit, instead of issuing such Summons as aforesaid, issue in the first instance his or their Warrant (C) for apprehending the person against whom such information has been so laid, and bringing him before the same Justice or Justices or before some other Justice or Justices of the Peace in and for the same Territorial Division to answer to the said information and to be further dealt with according to law. 14, 15 V. c. 95, s. 2,—16 V. c. 178, s. 2.

If summons not obeyed, Justice may issue warrant, &c.

7. If where a summons has been issued as aforesaid, and upon the day and at the place therein appointed for the appearance of the party so summoned, the party fails to appear in obedience to the Summons, then, if it be proved upon oath or affirmation to the Justice or Justices present, that a Summons was duly served upon the party a reasonable time before the time appointed for his appearance, such Justice or Justices of the Peace may proceed *ex parte* to the hearing of such information or complaint, and adjudicate thereon, as fully and effectually to all intents and purposes as if the party had personally appeared before him or them in obedience to the said Summons. 14, 15 V. c. 95, s. 2,—16 V. c. 178, s. 2.

Or if the summons having been duly served, &c., be not obeyed, the Justice may proceed *ex parte*.

Warrant to be under hand and seal of Justice.

8. Every Warrant to apprehend a Defendant that he may answer to an information or complaint as aforesaid, shall be under the Hand and Seal or Hands and Seals of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the Territorial Division within which the same is to be executed, or to such Constable and all other Constables in the Territorial Division within which the Justice or Justices who issued such Warrant hath or have jurisdiction, or generally to all the Constables within such last mentioned Territorial Division, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the Constable or other Peace Officer to whom it is directed, to apprehend the Defendant, and to bring him before one or more Justice or Justices of the Peace, of the same Territorial Division, as the case may require, to answer to the said information or complaint, and to be further dealt with according to law. 14, 15 V. c. 95, s. 3,—16 V. c. 178, s. 3.

It need not be returnable at any particular time.

9. It shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in full force until executed; and such Warrant may be executed by apprehending the Defendant at any place in the Territorial Division within which the Justices who issued the same have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, within seven miles of the border of such first mentioned Territorial Division, without having such Warrant backed as hereinafter mentioned. 14, 15 V. c. 95, s. 3,—16 V. c. 178, s. 3.

By whom warrant may be executed.

10. In all cases where the Warrant is directed to all Constables or Peace Officers in the Territorial Division within which the Justice or Justices who issued the same have jurisdiction, any Constable or Peace Officer for any place within the limits of such jurisdiction may execute such Warrant in like manner as if the Warrant was directed specially to such Constable by name, and notwithstanding that the place in which such Warrant is executed be not within the place for which he is such Constable or a Peace Officer. 14, 15 V. c. 95, s. 3,—16 V. c. 178, s. 3.

Endorsement of warrant when taken into another jurisdiction how performed and its effects.

11. If the person against whom any such Warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it issued, or, if he escapes, goes into, resides or is, or is supposed or suspected to be in any place within this Province, whether in Upper or Lower Canada, out of the jurisdiction of the Justice or Justices who issued the Warrant, any Justice of the Peace, within whose jurisdiction such person may be or be suspected to be as aforesaid, upon proof upon oath of the hand-writing of the Justice or Justices issuing the Warrant, may make an endorsement upon it, signed with

his name, authorizing the execution of the Warrant within his jurisdiction; and such endorsement shall be a sufficient authority to the person bringing the Warrant, and to all other persons to whom it was originally directed, and to all Constables or other Peace Officers of the Territorial Division wherein the endorsement has been made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the Warrant or some other Justice having the same jurisdiction. 14, 15 V. c. 95, s. 3,—16 V. c. 178, s. 3.

12. No objection shall be taken or allowed to any Warrant issued as aforesaid, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Informant or Complainant, but if it appears to the Justice or Justices present and acting at such hearing, that the party apprehended under such Warrant has been deceived or misled by any such variance, such Justice or Justices may, upon such terms as he or they think fit, adjourn the hearing of the case to some future day, and in the meantime commit (D) the said Defendant to the Common Gaol, House of Correction, lock-up house, or other prison, or place of security within the Territorial Division or place wherein the said Justice or Justices may be acting, or to such other custody as the said Justice or Justices think fit, or may discharge him upon his entering into a Recognizance (E), with or without surety or sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing is so adjourned. 14, 15 V. c. 95, s. 3,—16 V. c. 178, s. 3.

No objection allowed for want of form in the warrant.

13. In all cases where a Defendant is discharged upon Recognizance as aforesaid, and does not afterwards appear at the time and place in such Recognizance mentioned, the Justice who took such Recognizance, or any Justice or Justices who may then be there present, having certified (F) upon the back of the said Recognizance the non-appearance of the Defendant, may in Upper Canada transmit such Recognizance to the Clerk of the Peace of the Territorial Division within which such Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of the non-appearance of the said Defendant. 14, 15 V. c. 95, s. 3,—16 V. c. 178, s. 3.

Where a defendant is discharged on recognizance and fails to appear, &c.

14. In any information or complaint or proceedings thereon, in which it is necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, partners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another, or others, as the case may be, and

Description of property of partners, &c., in any information or complaint or proceedings thereon.

whenever in any information or complaint, or the proceedings thereon, it is necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and whenever in any such information or complaint, or the proceedings thereon, it is necessary to describe the ownership of any work or building made, maintained or repaired at the expense of any Territorial Division or place, or of any materials for the making, altering or repairing the same, they may be therein described as the property of the inhabitants of such Territorial Division or place. 14, 15 V. c. 95, s. 4,—16 V. c. 178, s. 4.

Abettors, &c.,
how punishable.

15. Every person who aids, abets, counsels or procures the commission of any offence which is punishable on Summary Conviction, shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction, and shall be liable, on conviction, to the same forfeiture and punishment as the principal offender, and may be proceeded against and convicted either in the Territorial Division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling or procuring was committed. 14, 15 V. c. 95, s. 5,—16 V. c. 178, s. 5.

Power to Jus-
tices to sum-
mon witnesses
to attend and
give evidence.

16. If it be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the Jurisdiction of such Justice is likely to give material evidence on behalf of the Prosecutor or Complainant or Defendant, and will not voluntarily appear as a witness at the time and place appointed for the hearing of such information or complaint, such Justice shall issue his Summons (G 1) to such person, under his Hand and Seal, requiring him to be and appear at a time and place mentioned in such Summons, before the said Justice, or before such other Justice or Justices of the Peace for the said Territorial Division, as may then be there, to testify what he knows concerning the said information or complaint. 14, 15 V. c. 95, s. 6,—16 V. c. 178, s. 6.

If summons be
disobeyed, &c.,
Justice may
issue warrant.

17. If any person so summoned neglects or refuses to appear at the time and place appointed by the said Summons, and no just excuse be offered for such neglect or refusal, then (after proof upon oath or affirmation of such Summons having been served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode) the Justice or Justices before whom such person should have appeared may issue a Warrant (G 2) under his or their Hands and Seals, to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the said Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as may be then there, to testify as aforesaid, and which said Warrant

may, if necessary, be backed as hereinbefore mentioned, in order to its being executed out of the jurisdiction of the Justice who issued the same. 14, 15 V. c. 95, s. 6,—16 V. c. 178, s. 6.

18. If such Justice be satisfied, by evidence upon oath or affirmation, that it is probable that such person will not attend to give evidence without being compelled so to do, then instead of issuing a Summons he may issue his Warrant (G 3) in the first instance, and which, if necessary, may be backed as aforesaid. 14, 15 V. c. 95, s. 6,—16 V. c. 178, s. 6.

When Justice may issue his warrant in the first instance.

19. If on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to the Summons, or upon being brought before him or them, by virtue of the said Warrant, such person refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation refuses to answer such questions concerning the premises as are then put to him, without offering any just excuse for such refusal, any Justice of the Peace then present, and having jurisdiction, may, by Warrant (G 4) under his Hand and Seal, commit the person so refusing to the Common Gaol or House of Correction for the Territorial Division where such person then is, there to remain and be imprisoned for any time not exceeding ten days, unless in the meantime, he consents to be examined and to answer concerning the premises. 14, 15 V. c. 95, s. 6,—16 V. c. 178, s. 6.

Witnesses refusing to be examined may be committed.

20. In all cases of complaints upon which a Justice or Justices of the Peace may make an Order for the payment of money or otherwise, such complaint shall be in writing and on oath, (T) unless it is enacted or provided to the contrary by some particular Act of Parliament upon which such complaint is framed. 14, 15 V. c. 95, s. 7,—16 V. c. 178, s. 7.

Certain complaints must be in writing.

Exception.

21. In all cases of informations for offences or acts punishable upon Summary Conviction, any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between such information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material, provided the offence or act be proved to have been committed within the jurisdiction of the Justice or Justices by whom such information is heard and determined. 14, 15 V. c. 95, s. 8,—16 V. c. 178, s. 8.

As to any variance between information, and the facts or evidence.

If deemed material, Justice may adjourn the case.

22. If any such variance, or any other variance between the information and the evidence adduced in support thereof, appears to the Justice or Justices present, and acting at the hearing, to be such that the party charged by such information has been thereby deceived or misled, such Justice or Justices, upon such terms as he or they think fit, may adjourn the hearing of the case to some future day, and in the meantime commit (D) the said Defendant to the Common Gaol, House of Correction or other prison, lock-up house or place of security, or to such other custody as the said Justice or Justices think fit, or may discharge him upon his entering into a Recognizance (E), with or without Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing is adjourned. 14, 15 V. c. 95, s. 8,—16 V. c. 178, s. 8.

In case the defendant is bailed and fails to appear afterwards.

23. In all cases where a Defendant has been discharged upon Recognizance as aforesaid, and does not afterwards appear at the time and place in such Recognizance mentioned, the said Justice who took the said Recognizance, or any other Justice or Justices who may then be there present, having certified (F) upon the back of the said Recognizance the non-appearance of the Defendant, may in Upper Canada, transmit such Recognizance to the Clerk of the Peace of the Territorial Division within which such Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of the non-appearance of the said Defendant. 14, 15 V. c. 95, s. 8,—16 V. c. 178, s. 8. See 22 V. c. 28, s. 3, (1858,) as to L. C.

What to be done.

In Upper Canada recognizance to be sent to Clerk of the Peace.

24. All cases of complaint upon which a Justice or Justices of the Peace are authorized by law to make an Order, and all cases of information for any offence or act punishable upon Summary Conviction, unless some particular Act of Parliament otherwise permits, shall be made or laid on oath or affirmation as to the truth thereof. 14, 15 V. c. 95, s. 9,—16 V. c. 178, s. 9.

Complaint or information must be made upon oath, except in certain cases.

And always where warrant is issued in the first instance, complaint or information to be for one matter only.

25. In all cases of informations, where the Justice or Justices receiving the same thereupon issue his or their Warrant in the first instance, to apprehend the Defendant as aforesaid, and in every case where the Justice or Justices issue his or their Warrant in the first instance, the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before any such Warrant shall be issued, and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every such information shall be for one offence only, and not for two or more offences, and every such complaint or information may be laid or made by the Complainant or Informant in person, or by his Counsel or Attorney, or other person authorized in that behalf. 14, 15 V. c. 95, s. 9,—16 V. c. 178, s. 9.

26. In all cases where no time is specially limited for making any such complaint or laying any such information in the Act or Acts of Parliament relating to the particular case, such complaint shall be made, and such information shall be laid within three months from the time when the matter of such complaint or information arose. 4, 5 V. c. 27, s. 41,—14, 15 V. c. 95, s. 10,—16 V. c. 178, s. 10. *See ante* c. 99, s. 123.

For information or complaint.

27. Every such complaint and information shall be heard, tried, determined and adjudged by one or two or more Justice or Justices of the Peace, as may be directed by the Act or Acts of Parliament upon which such complaint or information is framed, or by any other Act or Acts of Parliament in that behalf. 14, 15 V. c. 95, s. 11,—16 V. c. 178, s. 11.

As to the hearing of complaints and informations.

28. If there be no such direction in any Act of Parliament, then such complaint or information may be heard, tried, determined and adjudged by any one Justice for the Territorial District where the matter of such information or complaint arose. 14, 15 V. c. 95, s. 11,—16 V. c. 178, s. 11.

If there be no such direction.

29. The room or place in which such Justice or Justices sit to hear and try any such complaint or information, shall be deemed an open and public Court to which the public generally may have access, so far as the same can conveniently contain them. 14, 15 V. c. 95, s. 11,—16 V. c. 178, s. 11.

To be deemed an open Court.

30. The party against whom such complaint is made or information laid, shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by Counsel or Attorney on his behalf. 14, 15 V. c. 95, s. 11,—16 V. c. 178, s. 11.

Defendant may make full defence, and produce witnesses.

31. Every Complainant or Informant in any such case shall be at liberty to conduct the complaint or information, and to have the Witnesses examined and cross-examined by Counsel or Attorney on his behalf. 14, 15 V. c. 95, s. 11,—16 V. c. 178, s. 11.

Prosecutor may be heard by Counsel or Attorney.

32. If at the day and place appointed in and by the Summons aforesaid for hearing and determining the complaint or information, the Defendant against whom the same has been made or laid does not appear when called, the Constable, or other person who served him with the Summons, shall declare upon oath in what manner he served the said Summons; and if it appear to the satisfaction of the Justice or Justices that he duly served the said Summons, in that case, such Justice or Justices may proceed to hear and determine the case in the absence of such Defendant, or the said Justice or Justices, upon the non-appearance of such Defendant as aforesaid, may, if he or they think fit, issue his or their Warrant in manner hereinbefore directed, and shall adjourn the hearing of such

In case the defendant does not appear, &c.

complaint or information until the said Defendant be apprehended. 15, 15 V. c. 95, s. 12,—16 V. c. 178, s. 12.

When defendant has been apprehended, &c.

33. When the Defendant has been apprehended under such Warrant, he shall be brought before the same Justice or Justices, or some other Justice or Justices of the Peace for the same Territorial Division who shall thereupon, either by his or their Warrant (H) commit the Defendant to the Common Gaol, House of Correction or other prison, lock-up house or place of security, or if he or they think fit, verbally to the custody of the Constable or other person who apprehended him, or to such other safe custody as he or they deem fit, and may order the said Defendant to be brought up at a certain time and place before such Justice or Justices, of which said Order the Complainant or Informant shall have due notice. 14, 15 V. c. 95, s. 12,—16 V. c. 178, s. 12.

If defendant appears, &c.

34. If upon the day and at the place so appointed as aforesaid, the Defendant appears voluntarily in obedience to the Summons in that behalf served upon him, or be brought before the said Justice or Justices by virtue of a Warrant, then, if the Complainant or Informant, having had due notice as aforesaid, does not appear by himself, his Counsel or Attorney, the Justice or Justices shall dismiss the complaint or information unless for some reason he or they think proper to adjourn the hearing of the same until some other day, upon such terms as he or they think fit, in which case such Justice or Justices may commit (D) the Defendant in the meantime to the Common Gaol, House of Correction or other prison, lock-up house or place of security, or to such other custody as such Justice or Justices think fit, or may discharge him upon his entering into a Recognizance (E) with or without Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing may be adjourned. 14, 15 V. c. 95, s. 12,—16 V. c. 178, s. 12.

If defendant afterwards fails to appear, &c.

35. If the Defendant does not afterwards appear at the time and place mentioned in his Recognizance, then in Upper Canada, the Justice who took the Recognizance, or any Justice or Justices then there present, having certified (F) on the back of the Recognizance the non-appearance of the Defendant, may transmit the Recognizance to the Clerk of the Peace for the Territorial Division in which the Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of the non-appearance of the Defendant. 14, 15 V. c. 95, s. 12,—16 V. c. 178, s. 12. See 22 V. c. 28, s. 3, as to L. C.

If both parties appear, Justice to hear and determine the case.

36. If both parties appear, either personally or by their respective Counsel or Attorneys, before the Justice or Justices who are to hear and determine the complaint or information,

then the said Justice or Justices shall proceed to hear and determine the same. 14, 15 V. c. 95, s. 12,—16 V. c. 178, s. 12.

37. In case the Defendant be present at the hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to shew why he should not be convicted, or why an Order should not be made against him, *as the case may be.* 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

Proceedings on the hearing of complaints and informations.

38. If he thereupon admit the truth of the information or complaint, and shew no cause or no sufficient cause why he should not be convicted, or why an Order should not be made against him, *as the case may be,* the Justice or Justices, present at the said hearing, shall convict him or make an Order against him accordingly. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

Justice may convict party if he admit the truth, &c.

39. If he does not admit the truth of the information or complaint as aforesaid, the Justice or Justices shall proceed to hear the Prosecutor or Complainant and such Witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint, and shall also hear the Defendant and such Witnesses as he may examine, and such other evidence as he may adduce in his defence, and also hear such Witnesses as the Prosecutor or Complainant may examine in reply, if such Defendant has examined any Witnesses or given any evidence other than as to his the Defendant's general character. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

If he does not admit the truth, &c.

40. The Prosecutor or Complainant shall not be entitled to make any observations in reply upon the evidence given by the Defendant, nor shall the Defendant be entitled to make any observations in reply upon the evidence given by the Prosecutor or Complainant in reply as aforesaid. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

Complainant or defendant not to make observations in reply upon the evidence, &c.

41. The Justice or Justices, having heard what each party has to say as aforesaid, and the Witnesses and evidence so adduced, shall consider the whole matter and unless otherwise provided determine the same, and convict or make an Order upon the Defendant or dismiss the information or complaint, as the case may be. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13, *See* c. 93, s. 38.

After hearing evidence, Justice to determine the matter.

42. If he or they convict or make an Order against the Defendant, a Minute or Memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I 1, 3) or Order (K 1, 3) shall afterwards be drawn up by the said Justice or Justices in proper form, under his or their Hand and Seal or Hands and Seals, and he or they shall cause the same

If defendant is convicted, a minute to be made gratis, and conviction drawn up afterwards.

to be lodged with the Clerk of the Peace to be by him filed among the Records of the General or Quarter Sessions of the Peace. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

Or if he dismiss the complaint, &c.

43. If the said Justice or Justices dismiss the information or complaint, such Justice or Justices may, when required so to do, make an Order of Dismissal of the same (L,) and shall give the Defendant on that behalf a Certificate thereof (M,) which Certificate upon being afterwards produced, shall without further proof, be a bar to any subsequent information or complaint for the same matters respectively, against the same party. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

If information or complaint negative any exemption.

44. If the information or complaint in any such case negatives any exemption, exceptions, proviso, or condition in the Statute on which the same is framed, it shall not be necessary for the Prosecutor or Complainant to prove such negative, but the Defendant may prove the affirmative thereof in his defence, if he would have advantage of the same. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

Prosecutors and complainants in certain cases to be deemed competent witnesses and examined upon oath, &c.

45. Every Prosecutor of any such information not having any pecuniary interest in the result, and every Complainant in any such complaint as aforesaid, whatever his interest may be in the result of the same, shall be a competent Witness to support such information or complaint, and every Witness at any such hearing as aforesaid shall be examined upon oath or affirmation, and the Justice or Justices before whom any such Witness appears for the purpose of being so examined, shall have full power and authority to administer to every such Witness the usual oath or affirmation. 14, 15 V. c. 95, s. 14,—16 V. c. 178, s. 14.

Justice may adjourn hearing of any case and commit defendant or suffer him to go at large, &c.

46. Before or during the hearing of any such information or complaint, any one Justice or the Justices present, may in their discretion, adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective Attorneys or Agents then present, and in the meantime the said Justice or Justices may suffer the Defendant to go at large or may commit (D) him to the Common Gaol or House of Correction or other prison, lock-up place, or other place of security within the Territorial Division for which such Justice or Justices are then acting, or to such other safe custody as the said Justice or Justices think fit, or may discharge such Defendant upon his Recognizance (E,) with or without sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned. 14, 15 V. c. 95, s. 15,—16 V. c. 178, s. 15.

47. If, at the time and place to which such hearing or further hearing has been adjourned, either or both of the parties do not appear, personally or by his or their Counsel or Attorneys respectively, before the said Justice or Justices, or such other Justice or Justices as may then be there, the Justice or Justices then there present may proceed to such hearing or further hearing as if such party or parties were present. 14, 15 V. c. 95, s. 15,—16 V. c. 178, s. 15.

If Defendant or Prosecutor appear, the case may be heard.

48. If the Prosecutor or Complainant do not appear, the said Justice or Justices may dismiss the said information or complaint with or without costs, as to such Justices seems fit. 14, 15 V. c. 95, s. 15,—16 V. c. 178, s. 15.

If the Prosecutor does not appear, case may be dismissed.

49. In all cases when a Defendant is discharged upon his Recognizance as aforesaid, and does not afterwards appear at the time and place mentioned in such Recognizance, the Justice or Justices who took the said Recognizance, or any other Justice or Justices who may then be there present, having certified (F) on the back of the recognizance the non-appearance of such accused party, may in Upper Canada, transmit such Recognizance to the Clerk of the Peace for the Territorial Division in which such Recognizance was taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant. 14, 15 V. c. 95, s. 15,—16 V. c. 178, s. 15.

If defendant fails to re-appear, &c.

50. In all cases of conviction where no particular form of conviction is given by the Statute creating the offence or regulating the prosecution for the same, and in all cases of conviction upon Statutes hitherto passed, whether any particular form of conviction has been therein given or not, the Justice or Justices who convict, may draw up his or their conviction, on parchment or on paper, in such one of the forms of conviction (I 1, 3) as may be applicable to the case, or to the like effect. 4, 5 V. c. 26, s. 37,—c. 27, s. 42,—14, 15 V. c. 95, s. 16,—16 V. c. 178, s. 16.

Form of convictions and orders to be as in Schedule where no particular form is given in the Statute creating the offence.

51. In case an Order be made, and no particular form of Order is given by the Statute giving authority to make such Order, and in all cases of Orders made under the authority of any Statutes hitherto passed, whether any particular form of Order is therein given or not, the Justice or Justices by whom such Order is made, may draw up the same in such one of the forms of Orders (K 1, 3) as may be applicable to the case, or to the like effect. 14, 15 V. c. 95, s. 16,—16 V. c. 178, s. 16.

Where no special form is given, form in (K 1, 3) may be adopted.

52. In all cases when by an Act of Parliament authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying an Order of

Defendant to be served with copy of order before distress

or commit-
ment.

a Justice or Justices, the Defendant shall be served with a copy of the Minute of such Order before any Warrant of Commitment or of Distress is issued in that behalf, and such Order or Minute shall not form any part of such Warrant of Commitment or of Distress. 14, 15 V. c. 95, s. 16,—16 V. c. 178, s. 16.

Power to Jus-
tices to award
costs not in-
consistent
with the fees
established by
law to be taken.

53. In all cases of Summary Conviction, or of Orders made by a Justice or Justices of the Peace, the Justice or Justices making the same, may in his or their discretion, award and order in and by such Conviction or Order that the Defendant shall pay to the Prosecutor or Complainant such costs as to the said Justice or Justices seem reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before Justices of the Peace. 14, 15 V. c. 95, s. 17,—16 V. c. 178, s. 17.

Costs may be
awarded to
defendant
when the case
is dismissed.

54. In cases where such Justice or Justices, instead of convicting or making an Order, dismiss the information or complaint, he or they, in his or their discretion, may, in and by his or their Order of Dismissal, award and order that the Prosecutor or Complainant shall pay to the Defendant such costs as to the said Justice or Justices seem reasonable and consistent with law. 14, 15 V. c. 95, s. 17,—16 V. c. 178, s. 17.

Costs so allow-
ed shall be spe-
cified in con-
viction or order
of dismissal.

55. The sums so allowed for costs shall in all cases be specified in the Conviction or Order, or Order of Dismissal, and the same shall be recoverable in the same manner and under the same Warrants as any penalty or sum of money adjudged to be paid in and by the Conviction or Order is to be recovered. 14, 15 V. c. 95, s. 17,—16 V. c. 178, s. 17.

And may be
recovered by
distress.

56. In cases where there is no such penalty or sum of money to be recovered as aforesaid, such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress, by imprisonment, with or without hard labour, for any time not exceeding one month, unless the costs be sooner paid. 14, 15 V. c. 95, s. 17,—16 V. c. 178, s. 17.

Powers to Jus-
tices to issue
warrant of dis-
tress in cases
where a pecu-
niary penalty,
&c., has been
adjudged.

57. Where a Conviction adjudges a pecuniary penalty or compensation to be paid, or where an Order requires the payment of a sum of money, and by the Statute authorizing such Conviction or Order, the penalty, compensation, or sum of money is to be levied upon the goods and chattels of the Defendant, by distress and sale thereof; and also in cases where, by the Statute in that behalf, no mode of raising or levying such penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, the Justice or any one of the Justices making such Conviction or Order, or any Justice of the Peace for the same Territorial Division, may issue his Warrant of Distress (N 1, 2) for the purpose of levying the same, which said Warrant of Distress shall be in

writing, under the Hand and Seal of the Justice making the same. 14, 15 V. c. 95, s. 18,—16 V. c. 178, s. 18.

58. If, after delivery of such Warrant of Distress to the Constable or Constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the Justice granting such Warrant, then upon proof being made upon oath of the handwriting of the Justice granting such warrant, before any Justice of any other Territorial Division, such Justice shall thereupon make an endorsement (N 3) on such Warrant, signed with his Hand, authorizing the execution of such Warrant within the limits of his jurisdiction, by virtue of which said Warrant and endorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall be levied by the person bringing such Warrant, or by the person or persons to whom such Warrant was originally directed, or by any Constable or other Peace Officer of such last mentioned Territorial Division, by distress and sale of the goods and chattels of the Defendant therein. 14, 15 V. c. 95, s. 18,—16 V. c. 178, s. 18.

Proceeding if sufficient distress be not found.

59. Whenever it appears to any Justice of the Peace to whom application is made for any Warrant of Distress as aforesaid, that the issuing thereof would be ruinous to the Defendant and his family, or whenever it appears to the said Justice, by the confession of the Defendant or otherwise, that he hath no goods and chattels whereon to levy such distress, then such Justice, if he deems it fit, instead of issuing a Warrant of Distress, may (O 1, 2) commit the Defendant to the Common Gaol, House of Correction, or Lock-up House in the Territorial Division, there to be imprisoned with or without hard labor, for the time and in the manner the Defendant could by law be committed in case such Warrant of Distress had issued, and no goods or chattels had been found whereon to levy the penalty or sum and costs aforesaid. 14, 15 V. c. 95, s. 18,—16 V. c. 178, s. 18.

When the issuing a warrant would be ruinous to defendant or when there are no goods, Justice may commit him to prison.

60. In all cases where a Justice of the Peace issues any such Warrant of Distress, he may suffer the Defendant to go at large, or verbally, or by a written Warrant in that behalf, may order the Defendant to be kept and detained in safe custody, until Return has been made to such Warrant of Distress, unless the Defendant gives sufficient security, by Recognizance or otherwise, to the satisfaction of such Justice, for his appearance before him at the time and place appointed for the Return of such Warrant of Distress, or before such other Justice or Justices for the same Territorial Division, as may then be there. 14, 15 V. c. 95, s. 19,—16 V. c. 178, s. 19.

When distress issued, defendant may be bailed until it is returned.

61. In all cases where a Defendant gives security by Recognizance as aforesaid, and does not afterwards appear at the

If defendant does not afterwards appear,

the recognizance to be certified by a Clerk of the Peace.

time and place in the said Recognizance mentioned, the Justice who hath the same, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of the Defendant, may, in Upper Canada, transmit such Recognizance to the Clerk of the Peace for the Territorial Division within which the offence is laid to have been committed, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant. 14, 15 V. c. 95, s. 19,—16 V. c. 178, s. 19.

In default of sufficient distress Justice may commit defendant to prison.

62. If at the time and place appointed for the Return of any such Warrant of Distress, the Constable, who has had execution of the same, returns (N 4) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of, or occasioned by the levy of the same, the Justice of the Peace before whom the same is returned, may issue his Warrant of Commitment (N 5) under his Hand and Seal, directed to the same or any other Constable, reciting the Conviction or Order shortly, the issuing of the Warrant of Distress, and the Return thereto, and requiring such Constable to convey such Defendant to the Common Gaol, House of Correction, or Lock-up House of the Territorial Division for which such Justice is then acting, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive the Defendant into such Gaol, House of Correction or Lock-up House and there to imprison him, or to imprison him and keep him to hard labor, in such manner and for such time as is directed and appointed by the Statute on which the Conviction or Order mentioned in such Warrant of Distress is founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the Defendant to prison, if such Justice thinks fit so to order (the amount thereof being ascertained and stated in such commitment,) be sooner paid. 15, 15 V. c. 95, s. 20,—16 V. c. 178, s. 20.

Imprisonment for a subsequent offence to commence at expiration of that for previous offence.

63. Where a Justice or Justices of the Peace, upon such information or complaint as aforesaid, adjudges the Defendant to be imprisoned, and such Defendant is then in prison undergoing imprisonment upon conviction for any other offence, the Warrant of Conviction for such subsequent offence shall be forthwith delivered to the Gaoler or other Officer to whom the same is directed, and the Justice or Justices who issued the same, if he or they think fit, may award and order therein, that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such Defendant was previously adjudged or sentenced. 14, 15 V. c. 95, s. 21,—16 V. c. 178, s. 21.

64. When any information or complaint is dismissed with costs as aforesaid, the sum awarded for costs in the Order for Dismissal may be levied by distress [Q 1] on the goods and chattels of the Prosecutor or Complainant in the manner aforesaid; and in default of distress or payment, such Prosecutor or Complainant may be committed [Q 2] to the Common Gaol or other Prison or Lock-up House or House of Correction, in manner aforesaid, for any time not exceeding one month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such Prosecutor or Complainant to prison (the amount thereof being ascertained and stated in such commitment), be sooner paid. 14, 15 V. c. 95, s. 22,—16 V. c. 178, s. 22.

If information be dismissed, costs may be recovered by distress upon prosecutor.

65. In case an appeal against any such Conviction or Order as aforesaid be decided in favor of the Respondents, the Justice or Justices who made the Conviction or Order, or any other Justice of the Peace for the same Territorial Division, may issue the Warrant of Distress or Commitment as aforesaid for execution of the same, as if no such Appeal had been brought. 4, 5 V. c. 25, s. 65,—c. 26, s. 38,—14, 15 V. c. 95, s. 23,—16 V. c. 178, s. 23.

And the conviction shall be enforced.

66. If upon any such Appeal the Court of General or Quarter Sessions orders either party to pay costs, the Order shall direct the costs to be paid to the Clerk of the Peace of the Court, to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid. 14, 15 V. c. 95, s. 23,—16 V. c. 178, s. 23,—See 18 V. c. 97, l. C.

If costs of appeal be ordered to be paid.

67. If the same be not paid within the time so limited, and the party ordered to pay the same has not been bound by any Recognizance conditioned to pay such costs, the Clerk of the Peace or his Deputy, on application of the party entitled to such costs, or of any person on his behalf and on payment of a Fee of twenty cents, shall grant to the party so applying, a Certificate [R] that such costs have not been paid, and upon production of such Certificate to any Justice or Justices of the Peace for the same Territorial Division, he or they may enforce the payment of such costs by Warrant of Distress [S 1] in manner aforesaid, and in default of distress he or they may commit [S 2] the party against whom such Warrant has issued in manner hereinbefore mentioned, for any time not exceeding two months, unless the amount of such costs and all costs and charges of the distress, and also the costs of the commitment and conveying of the said party to prison, if such Justice or Justices think fit so to order, (the amount thereof being ascertained and stated in such commitment), be sooner paid. 4, 5 V. c. 25, s. 59,—14, 15 V. c. 95, s. 23,—16 V. c. 178, s. 23.

If they be not paid within a certain time and be not secured by recognizance.

On payment of penalty, distress not to be levied.

68. In all cases where a Warrant of Distress has issued as aforesaid against any person, and such person pays or tenders to the Constable having the execution of the same, the sum or sums in such Warrant mentioned, together with the amount of the expenses of such distress up to the time of payment or tender, such Constable shall cease to execute the same. 14, 15 V. c. 95, s. 24,—16 V. c. 178, s. 24.

Or the party, if imprisoned for non-payment, may be discharged.

69. In all cases in which any person is imprisoned as aforesaid for non-payment of any penalty or other sum, he may pay or cause to be paid to the Keeper of the prison in which he is imprisoned, the sum in the Warrant of Commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also mentioned, and the said Keeper shall receive the same, and shall thereupon discharge such person if he be in his custody for no other matter. 14, 15 V. c. 95, s. 24,—16 V. c. 178, s. 24.

In cases of summary proceeding, one Justice may issue summonses, warrants, &c.

70. In all cases of Summary proceedings before a Justice or Justices of the Peace out of Sessions, upon any information or complaint as aforesaid, one Justice may receive such information or complaint, and grant a Summons or Warrant thereon and issue his Summons or Warrant to compel the attendance of any Witnesses for either party and to do all other acts and matters necessary, preliminary to the hearing, even in cases where by the Statute in that behalf such information and complaint must be heard and determined by two or more Justices. 4, 5 V. c. 25, s. 64,—14, 15 V. c. 95, s. 25,—16 V. c. 178, s. 25,—See 4 G. 4, c. 19, s. 7, L. C.

One Justice may issue a warrant of distress or commitment.

71. After a case has been heard and determined, one Justice may issue all Warrants of Distress or Commitment thereon. 14, 15 V. c. 95, s. 25,—16 V. c. 178, s. 25,—2 V. c. 4, s. 2, U. C.

Although not a convicting Justice.

72. It shall not be necessary that the Justice who so acts before or after such hearing, shall be the Justice or one of the Justices by whom the case is or was heard and determined. 14, 15 V. c. 95, s. 25,—16 V. c. 178, s. 25.

Two Justices must join in the decision, &c.

73. In all cases where by Statute it is required that any information or complaint shall be heard and determined by two or more Justices, or that a Conviction or Order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case. 14, 15 V. c. 95, s. 25,—16 V. c. 178, s. 25.

Regulation as to the payment of Clerk's fees.

74. In Lower Canada the Fees to which any Clerk of the Special Sessions, or Clerk of the Weekly Sessions or Clerk to any Justice or Justices out of Sessions, is entitled, shall be ascertained, appointed and regulated in manner following, that is to say: the Justices of the Peace, at their General or Quarter Sessions for the several Districts, shall, from time to time, as they

see fit, make Tables of the Fees which in their opinion should be paid to the Clerks of the Special and Weekly Sessions, and to the Clerks of the Justices of the Peace within their several jurisdictions, and which said Tables, being signed by the Chairman of every such Court of General or Quarter Sessions, shall be laid before the Secretary of this Province, and such Secretary, if he sees fit, may alter such Table or Tables of Fees, and subscribe a certificate or Declaration that the Fees specified in such Table or Tables, as made by such Justices, or as altered by such Secretary, are proper to be demanded and received by the Clerks of the Special Sessions and Weekly Sessions and the Clerks of the several Justices of the Peace respectively throughout Lower Canada, and such Secretary shall cause copies of such Table or Set of Tables of Fees to be transmitted to the several Clerks of the Peace throughout Lower Canada, to be by them distributed to the Justices within their several Districts respectively, and to be by the said Justices placed in the hands of their Clerks respectively. 14, 15 V. c. 95, ss. 26, 18.

75. If after such copy has been received by any such Clerk, he demands or receives any other or greater Fee or Gratuity for any business or act transacted or done by him as such Clerk than such as is set down in such Table or Set of Tables, he shall forfeit for every such demand or receipt the sum of eighty dollars, to be recovered by action of debt in any Court having jurisdiction for that amount by any person who will sue for the same. 14, 15 V. c. 95, s. 26.

Penalty for Clerks receiving greater fees than entitled to.

76. Until such Tables or Set of Tables are framed and confirmed, and distributed as aforesaid, such Clerk or Clerks may demand and receive such Fees as they are now by any Rule or Regulation of a Court of General or Quarter Sessions, or otherwise, authorized to demand and receive. 14, 15 V. c. 95, s. 26.

What fees Clerks may demand.

77. In every Warrant of Distress to be issued as aforesaid in Lower Canada, the Constable or other person to whom the same is directed, shall be thereby ordered to pay the amount of the sum to be levied thereunder unto the Clerk of the Peace, Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justices of the Peace, (*as the case may be*), for the place wherein the Justice or Justices issued such Warrant, and if a person convicted of any penalty, or ordered by a Justice or Justices of the Peace to pay any sum of money, pays the same to any Constable or other person, such Constable or other person shall forthwith pay the same to such Clerk of the Peace, Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justice of the Peace, (*as the case may be*.) 14, 15 V. c. 95, s. 27.

Regulations as to whom penalties, &c., are to be paid.

78. If any person committed to prison in Lower Canada, upon any Conviction or Order as aforesaid for non-payment of

May pay penalty to gaoler.

any penalty, or of any sum thereby ordered to be paid, desires to pay the same and costs before the expiration of the time for which he has been so ordered to be imprisoned by the Warrant for his commitment, he shall pay the same to the Gaoler or Keeper of the prison in which he is so imprisoned, and such Gaoler or Keeper shall forthwith pay the same to the said Clerk of the Peace, Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justice of the Peace, *as the case may be.* 14, 15 V. c. 95, s. 27.

Gaoler to pay the same to Clerk.

As to whom Clerk is to pay the same.

79. All sums so received by the said Clerk shall forthwith be paid by him to the party or parties to whom the same respectively are to be paid, according to the directions of the Statute on which the information or complaint in that behalf has been framed. 14, 15 V. c. 95, s. 27.

In certain cases Clerk to pay the same to Treasurer, &c.

80. If such Statute contains no such directions for the payment thereof to any person or persons, then such Clerk shall pay the same to the Treasurer of the District, Municipality, City, Town or Borough in which such person has been so condemned to pay the said sum, and for which such Treasurer shall give him a receipt. 14, 15 V. c. 95, s. 27.

Said Clerks and gaolers to keep an exact account of all such moneys received by them, &c.

81. Every such Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justice of the Peace, and every such Gaoler or Keeper of a prison, shall keep a true and exact account of all such moneys by him received, of whom and when received, and to whom and when paid, and shall, once in every three months, render a fair copy of every such account to the Clerk of the Peace for the District in which such payment has been made, who shall likewise, every three months, render a similar account to the Justices assembled at the Quarterly Sessions of the Peace for the said District, as also, once every month to the Justices assembled at the Weekly Sessions of the Peace. 14, 15 V. c. 95, s. 27.

Inspector, &c., may act alone.

82. Any one Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate, appointed for any City, Borough, Town, Place or Territorial Division, and sitting at a Police Court or other place appointed in that behalf, shall have full power to do alone whatever is authorized by this Act to be done by two or more Justices of the Peace; and the several forms hereinafter contained may be varied so far as it may be necessary to render them applicable to the Police Courts aforesaid, or to the Court or other place of sitting of such Stipendiary Magistrate. 14, 15 V. c. 95, s. 29, 16 V. c. 178, s. 28.

To have power in preserving order.

83. Any Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate as aforesaid, sitting as aforesaid at any Police Court or other place appointed in that behalf, shall have such and like powers and authority to preserve order in the said Courts during the holding thereof, and

by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any Courts of Law in this Province, or by the Judges thereof respectively, during the sittings thereof. 14, 15 V. c. 95, s. 30,—1 V. c. 178, s. 29.

84. The said Inspectors and Superintendents of Police, Police Magistrates and Stipendiary Magistrates, in all cases where any resistance is offered to the execution of any Summons, Warrant of Execution or other Process issued by them, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the Process of other Courts in like cases. 14, 15 V. c. 95, s. 31,—16 V. c. 178, s. 30.

And for enforcing execution of process.

85. In all the Cities, Towns, and other places in Lower Canada where General or Quarter Sessions of the Peace are held, the Clerk or Clerks of the Peace shall act as Clerk or Clerks of the Justices of the Peace and of the Inspectors or Superintendents of Police in such Cities, Towns, and other places, as well at all Special as at all Weekly Sessions of the Peace held therein. 14, 15 V. c. 95, s. 32.

Clerks of the Peace in L. C. to act as Clerks of Justices.

86. The word "Territorial Division" whenever used in this Act shall mean in Lower Canada—District, Township, Parish, or other place, and in Upper Canada—County, Union of Counties, Township, City, Town or other place to which the Context may apply. 16 V. c. 178, s. 32.

Meaning of "Territorial Division."

87. The word "Prison," whenever it occurs in this Act, shall be held to mean any place where parties charged with offences against the law are usually kept and detained in custody. 16 V. c. 178, s. 34.

Meaning of "Prison."

88. The several forms in the Schedule to this Act contained, or forms to the like effect, shall be deemed good, valid and sufficient in law, and the word "District," as used therein, is intended to apply to Lower Canada and the words "County" or "United Counties" to Upper Canada. 14, 15 V. c. 95, s. 28,—16 V. c. 178, s. 27.

Forms of Schedule to be valid, &c.

SCHEDULES.

(A) See s. 1.

14, 15 V. c. 95,—16 V. c. 178.

SUMMONS TO THE DEFENDANT UPON AN INFORMATION OR COMPLAINT.

Province of Canada,
 District (or *County*,
United Counties, or
as the case may be,)
 of

To A. B. of (laborer).

Whereas information hath this day been laid (or complaint hath this day been made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, City, Town, &c., as the case may be,*) of _____, for that you (here state shortly the matter of the information or complaint): These are therefore to command you in Her Majesty's name, to be and appear on _____, at _____ o'clock in the forenoon, at _____, before me or such Justices of the Peace for the said District (or *County, United Counties, as the case may be,*) as may then be there, to answer to the said information (or complaint), and to be further dealt with according to law.

Given under (my) Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____, in the District (or *County, or as the case may be,*) aforesaid.

J. S. [L. s.]

(B) See s. 6.

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Province of Canada,
 District (or *County*,
United Counties, or
as the case may be,)
 of

To all or any of the Constables or other Peace Officers in the District (or *County, United Counties, or as the case may be*) of _____

Whereas on _____ last past, information was laid (or complaint was made) before _____, (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of _____ for that A.

B. (&c., as in the Summons): And whereas (I) the said Justice of the Peace then issued (my) Summons unto the said A. B. commanding him in Her Majesty's name, to be and appear on _____, at _____ o'clock in the forenoon, at _____, before (me) or such Justices of the Peace as might then be there, to answer unto the said information (or complaint,) and to be further dealt with according to law; And whereas the said A. B. hath neglected to be and appear at the time and place so appointed in and by the said Summons, although it hath now been proved to me upon oath that the said Summons hath been duly served upon the said A. B.: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more of Her Majesty's Justices of the Peace in and for the said District (or County, *United Counties, or as the case may be,*) to answer to the said information (or complaint), and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____ at _____, in the District (or County, *United Counties, or as the case may be,*) aforesaid.

J. S. [L. s.]

(C) *Sec. s. 6.*

WARRANT IN THE FIRST INSTANCE.

Province of Canada, }
 District (or County, }
United Counties, or }
as the case may be, }
 of _____

To all or any of the Constables or other Peace Officers in the said District (or County, *United Counties or as the case may be,*) of _____

Whereas information hath this day been laid before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said district (or County, *United Counties, or as the case may be,*) of _____, for that A. B. (*here state shortly the matter of information*); and oath being now made before me substantiating the matter of such information: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more of Her Majesty's Justices of the Peace in and for the said District (or County, *United Counties, or as the case may be,*) to answer to the said information, and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____, in the District (County, &c., *or as the case may be*) aforesaid.

J. S. [L. s.]

(D) See ss. 12, 22, 34, 46.

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN ADJOURNMENT OF THE HEARING.

Province of Canada, }
 District (or *County*, }
United Counties or }
as the case may be) }
 of

To all or any of the Constables or Peace Officers in the District (or *County, United Counties, or as the case may be*) of _____, and to the Keeper of the (*Common Gaol or Lock-up House*) at _____

Whereas on _____ last past, information was laid (or complaint made) before _____, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, as the case may be*) of _____, for that (*&c., as in the Summons*); And whereas the hearing of the same is adjourned to the _____ day of _____ (*instant*), at _____ o'clock in the (*fore*) noon at _____, and it is necessary that the said A. B. should in the meantime be kept in safe custody: These are therefore to command you, or any one of the said Constables or Peace Officers, in Her Majesty's name, forthwith to convey the said A. B. to the (*Common Gaol or Lock-up House*), at _____, and there deliver him into the custody of the Keeper thereof, together with this Precept: And I hereby require you, the said keeper to receive the said A. B. into your custody in the said (*Common Gaol or Lock-up House*) and there safely keep him until the _____ day of _____, (*instant*) when you are hereby required to convey and have him, the said A. B., at the time and place to which the said hearing is so adjourned as aforesaid, before such Justices of the Peace for the said District (or *County, United Counties, as the case may be*) as may then be there, to answer further to the said information (or complaint,) and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____, in the District (or *County, &c., or as the case may be*) aforesaid.

J. S. [L. s.]

(E) See ss. 12, 22, 34, 46.

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHEN
THE CASE IS ADJOURNED, OR NOT AT ONCE PROCEEDED WITH.

Province of Canada,
District (or *County*,
United Counties, or
as the case may be)
of

Be it remembered, That on _____, A. B. of _____,
(*laborer*, and L. M. of _____, (*grocer*), and O. P. of _____,
(*yeoman*.) personally came and appeared before the undersigned,
(*one*) of Her Majesty's Justices of the Peace in and for the said
District (or *County*, *United Counties*, or as the case may be) of _____,
and severally acknowledged themselves to owe to our
Sovereign Lady the Queen the several sums following, that is
to say: the said A. B. the sum of _____ and the said L.
M. and O. P. the sum of _____, each, of good and lawful
current money of this Province, to be made and levied of their
several goods and chattels, lands and tenements respectively,
to the use of our said Lady the Queen, Her Heirs and Suc-
cessors, if he the said A. B. shall fail in the condition endorsed
(or hereunder written.)

Taken and acknowledged the day and year first above
mentioned at _____ before me.

J. S. [L. s.]

The condition of the within (or the above) written Recogni-
zance is such that if the said A. B. shall personally appear on
the _____ day of _____, (*instant*), at _____ o'clock in the
(*forenoon*), at _____, before me or such Justices of the
Peace for the said District (or *County*, *United Counties*, or as
the case may be) as may then be there, to answer further to the
information (or complaint) of C. D. exhibited against the said
A. B. and to be further dealt with according to law, then the
said Recognizance to be void, or else to stand in full force and
virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE
DEFENDANT AND HIS SURETIES.

Take notice that you, A. B., are bound in the sum of _____
and you L. M. and O. P., in the sum of _____, each, that
you, A. B., appear personally on _____ at _____ o'clock in
the (*forenoon*) at _____, before me or such Justices of the
Peace for the District (or *County*, *United Counties*, or as the
case may be) of _____ as shall then be there, to answer further
to a certain information (or complaint) of C. D. the further
hearing of which was adjourned to the said time and place,

and unless you appear accordingly, the Recognizance entered into by you, A. B., and by L. M. and O. P. as your Sureties, will forthwith be levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____

J. S. [L. s.]

(F) See ss. 13, 23, 35, 49, 61.

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE DEFENDANT'S RECOGNIZANCE.

I hereby certify, that the said A. B. hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited.

J. S. [L. s.]

(G 1.) See s. 16.

SUMMONS TO A WITNESS.

Province of Canada, District (or County, United Counties, or as the case may be.) of _____

To E. F. of _____, in the said District (or County, United Counties, or as the case may be) of _____

Whereas information was laid (or complaint was made) before _____ (one) of Her Majesty's Justices of the Peace in and for the said District (or County, United Counties, or as the case may be) of _____, for that (&c., as in the Summons.) and it hath been made to appear to me upon (oath) that you are likely to give material evidence on behalf of the Prosecutor (or Complainant, or Defendant) in this behalf; These are therefore to require you to be and appear on _____, at _____ o'clock in the (fore) noon, at _____ before me or such Justices of the Peace for the said District (or County, United Counties, or as the case may be) as may then be there, to testify what you shall know concerning the matter of the said information (or complaint).

Given under my Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____ in the District (or County, or as the case may be) aforesaid.

J. S. [L. s.]

(G 2) See s. 17.

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

Province of Canada,
District (or *County, United Counties, or as the case may be*) of

To all or any of the Constables and other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of

Whereas information was laid (or complaint was made) before (one) of Her Majesty's Justices of the Peace, in and for the said District or (*County, United Counties, or as the case may be*) of for that (*&c., as in the Summons,*) and it having been made to appear to (me) upon oath, that E. F., of , in the said District (or *County, United Counties, or as the case may be*) (laborer) was likely to give material evidence on behalf of the (*prosecutor.*) (I) did duly issue (my) Summons to the said E. F., requiring him to be and appear on , at o'clock in the (*fore*) noon of the same day, at , before me or such Justice or Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) as might then be there, to testify what he should know concerning the said A. B., or the matter of the said information (or complaint): And whereas proof hath this day been made before me, upon oath, of such Summons having been duly served upon the said E. F.; And whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse hath been offered for such neglect; These are therefore to command you to take the said E. F., and to bring and have him on , at o'clock in the noon, at before me or such Justice or Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) as may then be there to testify what he shall know concerning the said information (or complaint).

Given under my Hand and Seal, this day of
in the year of Our Lord , at in the District (or
County, or as the case may be) aforesaid.

J. S. [L. s.]

(G. 3) See s. 18.

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Province of Canada,
 District (or *County, United Counties,*
or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of

Whereas information was laid (or complaint was made,) before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of , for that (&c., as in the *Summons*.) and it being made to appear before me upon oath, that E. F., of (laborer,) is likely to give material evidence on behalf of the (prosecutor) in this matter, and it is probable that the said E. F., will not attend to give evidence without being compelled so to do; These are therefore to command you to bring and have the said E. F., before me, on , at o'clock in the (fore) noon, at or, before me or such other Justice or Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) as may then be there, to testify what he shall know concerning the matter of the said information (or complaint.

Given under my Hand and Seal, this day of , in the year of our Lord, , at , in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. s.]

(G. 4) See s. 19.

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN OR GIVE EVIDENCE.

Province of Canada,
 District (or *County, United Counties,*
or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at

Whereas information was laid (or complaint was made) before (me) (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties or as*

the case may be) of _____, for that (&c., as in the Summons,) and one E. F., now appearing before me such Justice as aforesaid, on _____, at _____, and being required by me to make oath or affirmation as a witness in that behalf, hath now refused so to do, (or being now here duly sworn as a witness in the matter of the said information (or complaint) doth refuse to answer a certain question concerning the premises which is now here put to him, and more particularly the following question (here insert the exact words of the question,) without offering any just excuse for such his refusal; These are therefore to command you, or any one of the said Constables or Peace Officers to take the said E. F., and him safely to convey to the Common Gaol at _____ aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol and there imprison him for such his contempt for the space of _____ days, unless he shall in the meantime consent to be examined and to answer concerning the premises, and for so doing, this shall be your sufficient Warrant.

Given under my hand and Seal, this _____ day of _____ in the year of Our Lord, _____, at _____, in the District (or County, United Counties, or as the case may be) aforesaid.
 J. S. [L. s.]

(H) See s. 33.

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Province of Canada,
 District (or County, United Counties, or as the case may be) of _____ }

To all or any of the Constables, or other Peace Officers in the said District (or County, United Counties, or as the case may be) of _____, and to the Keeper of the (Common Gaol or Lock-up House) at _____

Whereas complaint was made (or information was laid before _____ (one) of Her Majesty's Justices of the Peace in and for the District (or County, United Counties, or as the case may be) of _____, for that (&c., as in the Summons or Warrant); And whereas the said A. B. hath been apprehended under and by virtue of a Warrant, upon such information (or complaint) and is now brought before me as such Justice as aforesaid; These are therefore to command you, or any one of the said Constables, or Peace Officers, in Her Majesty's name forthwith to convey the said A. B. to the (Common Gaol or Lock-up House) at _____, and there to deliver him to the said Keeper thereof, together with this Precept; And I do hereby

command you the said Keeper to receive the said A. B. into your custody in the said (*Common Gaol or Lock-up House*), and there safely keep him until next, the day of (*instant*), when you are hereby commanded to convey and have him at , at o'clock in the noon of the same day, before me, or such Justice or Justices of the Peace of the said District, or *County, United Counties, or as the case may be*) as may then be there, to answer to the said information (or complaint,) and to be further dealt with according to law.

Given under my hand and seal, this day of , in the year of our Lord , at , in the District (*County or as the case may be*) aforesaid.

J. S. [L. s.]

(I 1) See ss. 42, 50.

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF SUFFICIENT DISTRESS, BY IMPRISONMENT.

Province of Canada,
District (or *County, United Counties, or as the case may be*) of }

Be it remembered, That on the day of , in the year of our Lord , at , in the said District (or *County, United Counties, or as the case may be*), A. B. is convicted before the undersigned, (one) of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be*), for that the said A. B., (&c., *stating the offence, and the time and place when and where committed*), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (*stating the penalty, and also the compensation, if any*) to be paid and applied according to law, and also to pay to the said C. D. the sum of , for his costs in this behalf; and if the said several sums be not paid forthwith on or before the of next,) *I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, *I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*), at in the said District (or *County*) of (there to be kept to hard labor) for the space of unless the said several sums and all costs and charges of the said distress (*and of the commitment and conveying of the said A. B. to the said Gaol*), shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at in the District (or *County, United Counties, or as the case may be*) aforesaid.

J. S. [L. s.]

* Or when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks* say, "then inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. or his family," (or, "that the said A. B. hath no goods or chattels whereon to levy the said sums by distress)," I adjudge, &c., (as above, to the end.)

(12)

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT, IMPRISONMENT.

Province of Canada,
District (or County, United Counties, or as the case may be,) of }

Be it remembered, That on the _____ day of _____, in the year of Our Lord _____, at _____, in the said District (or County, United Counties, or as the case may be,) A. B. is convicted before the undersigned, (one) of Her Majesty's Justices of the Peace for the said District (or County, United Counties, or as the case may be,) for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed,) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (stating the penalty and the compensation, if any,) to be paid and applied according to law; and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums be not paid forthwith (or, on or before _____ next,) I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (or County, United Counties, or as the case may be,) at _____ in the said District or county of _____ (and there to be kept at hard labor) for the space of _____, unless the said sums and the costs and charges of conveying the said A. B. to the said Common Gaol, shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at _____ in the District (or County, United Counties, or as the case may be,) aforesaid.

(13) See ss. 42, 50.

J. S. [L. s.]

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &c.

Province of Canada,
District (or County, United Counties, or as the may be,) of }

Be it remembered, That on the _____ day of _____, in the year of Our Lord _____, in the said District (or County,

United Counties, or as the case may be,) A. B. is convicted before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said district (*or County, United Counties, or as the case may be*), for that he the said A. B. (*yc., stating the offence and the time and place when and where it was committed*); and I adjudge the said A. B. for his said offence to be imprisoned in the Common Gaol of the said District or (*County, United Counties, or as the case may be,)* at _____ in the County of _____ (*and there to be kept at hard labor*) for the space of _____; and I also adjudge the said A. B. to pay to the said C. D. the sum of _____ for his costs in this behalf, and if the said sum for costs be not paid forthwith, (*or on or before* _____ *next*), then *I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, *I adjudge the said A. B. to be imprisoned in the said Common Gaol, (*and kept there at hard labor*) for the space of _____, to commence

* *Or, when the issuing of a Distress Warrant would be ruinous to the Defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks **,* say "inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. and his family," (*or, "that the said A. B. hath no goods or chattels whereon to levy the said sum for costs by distress"*) I adjudge, &c.
 at and from the term of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned at _____ in the District (*or County, United Counties, or as the case may be*) aforesaid.

J. S. [L. s.]

(K 1) See ss. 42, 51.

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF DISTRESS, IMPRISONMENT.

Province of Canada,
 District (*or County, United Counties, or as the case may be*) of _____ }

Be it remembered, That on _____ complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or County, United Counties, or as the case may be*) of _____ for that (*stating the facts entitling the Complainant to the order, with the time and place when and where they occurred*), and now at this day, to wit, on _____ at _____, the parties aforesaid appear before me the said

Justice, (or, the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the summons in this behalf, which required him to be and appear here on this day before me or such Justice or Justices of the Peace for the said District (or *County, United Counties, or as the case may be*) as should now be here, to answer the said complaint, and to be further dealt with according to law; and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the said sum of _____ forthwith, or on or before _____ next; (or as the Statute may require), and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums be not paid forthwith (or on or before _____ next) then, * I hereby order that the same be levied by distress, and sale of the goods and chattels of the said A. B.) and in default of sufficient distress in that behalf, * I adjudge the said A. B.

* Or, when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears he has no goods whereon to levy a distress, then, instead of the words between the asterisks ** say, "inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. hath no goods or chattels whereon to levy the said sums by distress,") I adjudge, &c. to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at _____ in the said District (or *County*) of _____, (and there kept to hard labour) for the space of _____ unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said common Gaol.) shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord, _____ at _____ in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. s.]

(K 2)

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF PAYMENT, IMPRISONMENT.

Province of Canada, }
 District (or *County, United Counties, or as the case may be*) of _____ }

Be it remembered, That on _____ complaint was made before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said district (or *County, United Counties or as the*

case may be) of _____, for that (&c., stating the facts entitling the Complainant to the order, with the time and place when and where they occurred), and now at this day, to-wit, on _____, at _____, the parties aforesaid appear before me the said Justice, (or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in his behalf, requiring him to be and appear here on this day before me or such Justices of the Peace for the said District (or County, United Counties, or as the case may be) as should now be here, to answer the said complaint, and be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the sum of _____ forthwith, or on or before _____ next, (or as the Statute may require,) and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums be not paid forthwith, (or on or before _____ next,) then I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (or County, United Counties, or as the case may be) at _____ in the said District (or County of _____ (there to be kept to hard labor) for the space of _____, unless the said several sums (and costs and charges of commitment and conveying the said A. B. to the said Common Gaol) shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District (or County, or as the case may be) aforesaid.

J. S. [L. s.]

(K 3) See ss. 42, 51.

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS PUNISHABLE WITH IMPRISONMENT.

Province of Canada,
District (or County, United Counties,
ties, or as the case may be) of _____

Be it remembered, That on _____ complaint was made before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said District (or County, United Counties, or as the case may be,) of _____, for that (stating the facts entitling the Complainant to the order, with the time and place where and when they occurred,) and now at this day, to-wit, on _____, at _____, the parties aforesaid appear before me the said Justice, (or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly

served with the Summons in this behalf, which required him to be and appear here this day before me, or such Justice or Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) as should now be here, to answer to the said complaint, and to be further dealt with according to law, and now having heard the matter of the said complaint, I do therefore adjudge the said A. B. to *(here state the matter required to be done)*, and if upon a copy of the Minute of this Order being served upon the said A. B. either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A. B. for such his disobedience to be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be,*) at _____, in the said County of _____ *(there to be kept at hard labor)* for the space of _____ unless the said order be sooner obeyed, *(if the Statute authorize this)*; and I do also adjudge the said A. B. to pay to the said C. D. the sum of _____ for his costs in this behalf, and if the said sum for costs be not paid forthwith, *(or, on or before _____ next,)* I order the same to be levied by distress and sale of the goods and chattels of the said A. B. and in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said Common Gaol, *(there to be kept at hard labor)* for the space of _____ to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District (or *County, United Counties, or as the case may be*) aforesaid.

J. S. [L. s.]

(L) Sec 43.

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Province of Canada,
District (or *County, United Counties, or as the case may be*) of _____

Be it remembered, That on _____ information was laid (or complaint was made) before the undersigned, *(one)* of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____, for that *(&c., as in the Summons to the Defendant,)* and now at this day, to wit, on _____, at _____, both the said parties appear before me in order that I should hear and determine the said information *(or complaint,)* *(or the said A. B. appeareth before me, but the said C. D. although duly called doth not appear,)* whereupon the matter of the said information *(or complaint)* being by me duly considered *(it manifestly appears*

to me that the said information (or complaint) is not proved,* and I do therefore dismiss the same, (and do adjudge that, the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf: and if the said sum for costs be not paid forthwith, (or on or before) I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said District (or County, United Counties, or as the case may be,) at in the said County of (and there to be kept at hard labor) for the space of , unless the said sum for costs and all costs and charges of the said distress (and of the commitment of the said C. D. to the said Common Gaol,) shall be sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at in the District (or County, United Counties, or as the case may be) aforesaid.

J. S. [L. s.]

* If the Informant or Complainant do not appear, these words may be omitted.

(M) See s. 43.

CERTIFICATE OF DISMISSAL.

I hereby certify that an information (or complaint) preferred by C. D. against A. B. for that (or as in the Summons,) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the District (or County, United Counties, or as the case may be) of , and was by me dismissed (with costs.)

Dated this day of , one thousand eight hundred and

J. S. [L. s.]

(N 1) See s. 57.

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Province of Canada,
District (or County, United Counties, or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the said District (or County, United Counties, or as the case may be) of

Whereas A. B. late of (laborer) was on this day (or on last past) duly convicted before (one) of Her Majesty's Justices of the Peace, in and for the said District

(or *County, United Counties, or as the case may be*) of _____, for that (*stating the offence as in the conviction*) and it was thereby adjudged that the said A. B., should for such his offence forfeit and pay, (&c., *as in the conviction,*) and should also pay to the said C. D., the sum of _____ for his costs in that behalf; and it was thereby ordered that if the said several sums should not be paid (*forthwith*) the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was thereby also adjudged that the said A. B., in default of sufficient distress, should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at _____ in the said County of _____ (*and there to be kept at hard labor*) for the space of _____ unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B., to the said Common Gaol, should be sooner paid; And whereas the said A. B., being so convicted as aforesaid, and being (*now*) required to pay the said sums of _____ and _____ hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within _____ days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me (*the convicting Justice or one of the convicting Justices*) that I may pay and apply the same as by law is directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then, that you certify the same unto me, to the end that such further proceedings may be had thereon as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____ in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. s.]

(N 2) See s. 57.

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Province of Canada, }
 District (or *County, United Counties, or as the case may be*) of _____ }

To all or any of the Constables, or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of _____

Whereas on _____ last past, a complaint was made before (one) of Her Majesty's Justices of the Peace in and for _____

the said District (or *County, United Counties, or as the case may be*) for that (&c., *as in the order,*) and afterwards, to wit, on _____, at _____, the said parties appeared before _____ (*as in the order,*) and thereupon having considered the matter of the said complaint, the said A. B., was adjudged to pay to the said C. D., the sum of _____ on or before _____ *then next,*) and also to pay to the said C. D. the sum of _____ for his costs in that behalf; and it was ordered that if the said several sums should not be paid on or before the said _____ then next, the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was adjudged that in default of sufficient distress in that behalf, the said A. B. should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) at _____, in the said County of _____ (*and there kept at hard labor*) for the space of _____, unless the said several sums and all costs and charges of the distress (*and of the commitment and conveying of the said A. B. to the said Common Gaol*) should be sooner paid; And * whereas the time in and by the said order appointed for the payment of the said several sums of _____ and _____ hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of _____ days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me, (*or some other of the convicting Justices, as the case may be*) that I (or he) may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____, in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. s.]

(N 3) See s. 58.

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Province of Canada,
District (or *County, United Counties,*
ties, or as the case may be) of _____ }

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the

said District (or County, United Counties, or as the case may be,) that the name of J. S. to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned, I do therefore authorize U. T. who bringeth me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom the same may be lawfully executed, and also all Constables and other Peace Officers in the said District, (or County, United Counties, or as the case may be,) of to execute the same within the said District (or County, United Counties, or as the case may be) and of

Given under my Hand, this _____ day of _____, one thousand eight hundred and _____

O. K.

(N 4) See s. 62.

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., Constable of _____, in the District (or County, United Counties, or as the case may be) of _____, hereby certify to J. S., Esquire, one of Her Majesty's Justices of the Peace for the District (or County, United Counties, or as the case may be) that by virtue of this Warrant, I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my Hand, this _____ day of _____, one thousand eight hundred and _____

W. T.

(N 5) See s. 62.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

To all or any of the Constables and other Peace Officers, in the District (or County, United Counties, or as the case may be,) of _____, and to the Keeper of the Common Gaol of the said District (or County, United Counties, or as the case may be,) of _____, at _____, in the said District (or County) of _____

Whereas (&c., as in either of the foregoing Distress Warrants N 1, 2, to the asterisks*, and then thus): And whereas afterwards, on the _____ day of _____, in the year aforesaid, I, the said Justice issued a Warrant to all or any of the Constables or other Peace Officers of the District (or County, United Counties, or as the case may be,) of _____ commanding them, or any of them, to levy the said sums of _____ and _____ by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress, by the Constable who had the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but

that no sufficient distress whereon to levy the sums above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the common Gaol at _____, and there deliver him to the said Keeper, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody, in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____, unless the said several sums, and all the costs and charges of the said distress, (*and of the commitment and conveying of the said A. B. to the said Common Gaol*) amounting to the further sum of _____, shall be sooner paid unto you the said Keeper; and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____ in the District (or County as the case may be) aforesaid.

J. S. [L. S.]

(O 1)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY
IN THE FIRST INSTANCE.

Province of Canada,
District (or County, United Counties,
ties, or as the case may be) of _____

To all or any of the Constables and other Peace Officers in the said District (or County, United Counties, or as the case may be,) of _____, and to the Keeper of the Common Gaol of the said District (or County, United Counties, or as the case may be) of _____, at _____, in the said District (or county) of _____:

Whereas A. B., late of _____ (*laborer,*) was on this day convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the said District (or County, United Counties, or as the case may be) for that (*stating the offence as in the conviction,*) and it was thereby adjudged that the said A. B., for his offence, should forfeit and pay the sum of _____ (*&c as in the conviction*), and should pay to the said C. D. the sum of _____ for his costs in that behalf; and it was thereby further adjudged that if the said several sums should not be paid (*forthwith*) the said A. B. should be imprisoned in the Common Gaol of the said District (or County, United Counties, or as the case may be) at _____ in the said District (or County) of _____ (*and there kept at hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of conveying the said A. B. to the said Common Gaol*) should be

sooner paid ; And whereas the time in and by the said conviction appointed for the payment of the said several sums hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default ; These are therefore to command you, the said constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept ; and I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____, unless the said several sums (*and costs and charges of carrying him to the said Common Gaol, amounting to the further sum of _____*), shall be sooner paid ; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District (or *County, or as the case may be*) aforesaid.

J. S. [L. s.]

(O 2)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Province of Canada,
District (or *County, United Counties, or as the case may be*) of _____ }

To all or any of the Constables and other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of _____, and to the Keeper of the Common Gaol of the District (or *County, United Counties, or as the case may be*) of _____ at _____ in the said District (or *County*) of _____ :

Whereas on _____ last past, complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____ for that (*&c., as in the order*), and afterwards, to wit, on the _____ day of _____, at _____ the parties appeared before me the said Justice (*or as it may be in the order*) and thereupon having considered the matter of the said complaint, I adjudged the said A. B. to pay the said C. D. the sum of _____, on or before the _____ day of _____ then next, and also to pay to the said C. D. the sum of _____ for his costs in that behalf ; and I also thereby adjudged that if the said several sums should not be paid on or before the _____ day of _____ then next, the said A. B. should be imprisoned in the Common Gaol of the District (or *County, United Counties, or as the case may be*) of _____ at _____

in the said County of _____ (and there be kept at hard labor) for the space of _____, unless the said several sums (and the costs and charges of conveying the said A. B. to the said Common Gaol, as the case may be) should be sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you the said Constables and Peace Officers, or any of you, to take the said A. B. and him safely to convey to the said Common Gaol, at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; and I do hereby command you the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (and keep him at hard labor) for the space of _____, unless the said several sums (and the costs and charges of conveying him to the said Common Gaol, amounting to the further sum of _____), shall be sooner paid unto you the said Keeper; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____ at _____ in the District (or County, or as the case may be) aforesaid.

J. S. [L. s.]

(Q 1)--Sec s. 64.

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT.

Province of Canada,
 District (or County, United Counties, or as the case may be) of _____

To all or any of the Constables, or other Peace Officers in the said District (or County, United Counties, or as the case may be) of _____

Whereas on _____ last past, information was laid (or complaint was made) before _____ (one) of Her Majesty's Justices of the Peace in and for the said District (or County, United Counties, or as the case may be) of _____ for that (&c., as in the order of dismissal,) and afterwards, to wit, on _____ at _____, both parties appearing before _____ in order that (I) should hear and determine the same, and the several proofs adduced to (me) in that behalf being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (or complaint) was not proved, (I) therefore dismissed the same and adjudged that the said C. D. should pay to the said A. B. the sum of _____ for his costs incurred by him in

his defence in that behalf; and (I) ordered that if the said sum for costs should not be paid (*forthwith*) the same should be levied on the goods and chattels of the said C. D., and (I) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of at in the said District or County of (*and there kept at hard labor*) for the space of unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said Common Gaol should be sooner paid; * And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, hath not paid the same, or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D.; and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then that you do sell the said goods and chattels so by you distrained and do pay the money arising from such sale to me (*the Justice who made such order or dismissal, as the case may be*) that (I) may pay and apply the same as by law directed, and may render the overplus (if any,) on demand to the said C. D., and if no such distress can be found, then that you certify the same unto me (or to *any other Justice of the Peace for the same District (or County, United Counties), or as the case may be*) to the end that such proceedings may be had therein as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____, in the District (or *Counties, or as the case may be*) aforesaid.

(Q 2)--See s. 64. J. S. [L. s.]

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

Province of Canada,
 District (or *County, United Counties, or as the case may be*) of _____

To all or any of the Constables, or Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of _____, and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of _____ at _____ in the said District (or County) of _____

Whereas (&c., as in the last form, to the asterisk,* and then thus :) And whereas afterwards, on the _____ day of _____, in the year aforesaid, I, the said Justice, issued

a Warrant to all or any of the Constables or other Peace Officers of the said District (or *County, United Counties, or as the case may be*) commanding them, or any one of them to levy the said sum of _____ for costs, by distress and sale of the goods and chattels of the said C. D. ; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (or Peace Officer) charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found ; These are therefore to command you, the said Constables and Peace Officers, or any one of you, to take the said C. D. and him safely convey to the Common Gaol of the said District (or *County, United Counties, as the case may be*) at _____ aforesaid, and there deliver him to the Keeper thereof, together with this Precept ; and I hereby command you, the said Keeper of the said Common Gaol, to receive the said C. D. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____, unless the said sum, and all the costs and charges of the said distress (*and of the commitment and conveying of the said C. D. to the said Common Gaol amounting to the further sum of _____*;) shall be sooner paid up unto you the said Keeper ; and for you so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____ in the year of Our Lord _____, at _____, in the District (or *County, or as the case may be*) aforesaid,

J. S. [L. s.]

(R)--See s. 67.

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID

Office of the Clerk of the Peace for the District (or *County, United Counties, or as the case may be*) of _____

TITLE OF THE APPEAL.

I hereby certify, that at a Court of General Quarter Sessions of the Peace, holden at _____, in and for the said District (or *County, United Counties, or as the case may be*) on _____ last past, an appeal by A. B. against a conviction (or order) of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) came on to be tried, and was there heard and determined, and the said Court of General Quarter Sessions thereupon ordered that the said conviction (or order) should be confirmed (or quashed) and that the said (*Appellant*) should pay

to the said (*Respondent*) the sum of _____ for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace of the said District (or *County, United Counties, or as the case may be*) on or before the _____ day of _____ instant, to be by him handed over to the said (*Respondent*) and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated the _____ day of _____, one thousand eight hundred and _____

G. H.
Clerk of the Peace.

(S. 1)--See s. 67.

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST A CONVICTION OR ORDER.

Province of Canada,
District (or *County, United Counties or as the case may be*) of _____ }

To all or any of the Constables, or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of _____

Whereas (&c., as in the Warrants of Distress, N 1, 2, ante, and to the end of the Statement of the Conviction or Order, and then thus): And whereas the said A. B. appealed to the Court of General Quarter Sessions of the Peace for the said District (or *County, United Counties, or as the case may be*) against the said Conviction or Order, in which appeal the said A. B. was the Appellant, and the said C. D. (or J. S. Esquire, the Justice of the Peace who made the said Conviction or Order) was the Respondent, and which said appeal came on to be tried and was heard and determined at the last General Quarter Sessions of the Peace for the said District (or *County, United Counties, or as the case may be*) holden at _____, on _____, and the said Court of General Quarter Sessions thereupon ordered that the said Conviction (or Order) should be confirmed (or quashed,) and that the said (*Appellant*) should pay to the said (*Respondent*) the sum of _____ for his costs incurred by him in the said appeal, which said sum was to be paid to the Clerk of the Peace of the said District (or *County, United Counties, or as the case may be*) on or before the _____ day of _____, one thousand eight hundred and _____, to be by him handed over to the said C. D.; And whereas the Clerk of the Peace of the said District (or *County, United Counties, or as the case may be*) hath on the _____ day of _____ instant, duly certified that the said sum for costs had not been paid; * These are therefore to command you, in Her Majesty's name,

forthwith to make distress of the goods and chattels of the said A. B. and if within the space of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Peace for the said District (or *County, United Counties, or as the case may be*) of _____ that he may pay and apply the same as by law directed; and if no such distress can be found, then that you certify the same unto me or any other Justice of the Peace for the same District (or *County, United Counties, or as the case may be*) to the end that such proceedings may be had therein as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District (or *County, as the case may be*) aforesaid.

O. K. [L. s.]

(S 2)—See s. 67.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Province of Canada,
District (or *County, United Counties, or as the case may be*) of _____ }

To all or any of the Constables or other Peace Officers, in the said District (or *County, United Counties, or as the case may be*) of _____, and to the Keeper of the Common Gaol of the said District (or *County, United Counties, or as the case may be*) of _____, at _____, in the said county of _____

Whereas (&c., *as in the last form, to the asterisk*, and then thus*): And whereas, afterwards, on the _____ day of _____, in the year aforesaid, I, the undersigned, issued a Warrant to all or any of the Constables and other Peace Officers in the said District (or *County, United Counties, or as the case may be*) of _____, commanding them, or any of them, to levy the said sum of _____, for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (or Peace Officer), who was charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely

to convey to the Common Gaol of the said District (or *County, United Counties* of *as the case may be.*) at aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; And I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of , unless the said sum and all costs and charges of the said Distress (*and of the commitment and conveying of the said A. B. to the said Common Gaol, amounting to the further sum of*), shall be sooner paid unto you, the said Keeper, and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. N. [L. s.]

(T)—See s. 20.

GENERAL FORM OF INFORMATION ON OATH.

Province of Canada,
 District (or *County, United Counties, or as the case may be*) of }

The information (or complaint) of C. D., of the township of , in the said District (or *County, United Counties, or as the case may be*) of (*laborer*) (*If preferred by an Attorney or Agent, say :*) "by D. E., his duly authorized Agent (or Attorney), in this behalf, taken upon oath, before me, the undersigned, one of Her Majesty's Justices of the Peace, in and for the said District (or *County, United Counties, or as the case may be*) of , at N., in the said District, (*County, or as the case may be*) of , this day of , in the year of our Lord, one thousand eight hundred and , who saith * that (he hath just cause to suspect and believe, and doth suspect and believe that) A. B., of the (*township*) of , in the said District (or *County or as the case may be*) of , (within the space of , (*the time within which the information or complaint must be laid.*) last past, to wit, on the day of instant, at the township of , in the District (*County, or as the case may be*) aforesaid, did (*here set out the offence &c.*) contrary to the form of the Statute in such case made and provided.

C. D. (or D. E.)

Taken and sworn before me, the day and year and at the place above mentioned.

J. S.

FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Province of Canada,
 District (or County, United Counties,
 or as the case may be) of

Be it remembered, that on _____, information was laid (or complaint was made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said District (or County, United Counties, or as the case may be) of _____, for that _____ (&c., as in the Summons to the Defendant,) and now at this day, to wit, on _____, at _____, (if at an adjournment, insert here: "To which day the hearing of this case hath been duly adjourned, of which the said C. D. had due notice," both the said parties appear before me in order that I should hear and determine the said information (or complaint), (or the said A. B. appeareth before me, but the said C. D., although duly called, doth not appear); whereupon the matter of the said information (or complaint) being by me duly considered, (it manifestly appears to me that the said information (or complaint) is not proved, and (if the Informant or Complainant do not appear, these words may be omitted), I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of _____ for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (or on or before _____), I order that the same be levied by distress and sale of the goods and chattels of the said C. D. and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said District (or County, United Counties, or as the case may be) of _____ at _____ in the said County of _____ (and there kept at hard labor) for the space of _____, unless the said sum for costs, and all costs and charges of the said distress (and of the commitment and conveying of the said C. D. to the said Common Gaol) shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____ in the District (or County, or as the case may be) aforesaid.

J. S. [L. s.]

FORM OF CERTIFICATE OF DISMISSAL.

I hereby certify, that an information (or complaint preferred by C. D. against A. B. for that (&c., as in the Summons) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the District (or County, United Counties, or as the case may be) of _____, and was by me dismissed (with costs).

Dated this _____ day of _____, one thousand eight hundred and _____

J. S.

GENERAL FORM OF NOTICE OF APPEAL AGAINST A CONVICTION.

To C. D. of &c., and _____ (the names and additions of the parties to whom the notice of appeal is required to be given.)

Take notice, that I, the undersigned A. B., of &c., do intend to enter and prosecute an appeal at the next General Quarter Sessions of the Peace, to be holden at _____, in and for the District (or *County, United Counties, or as the case may be,*) of _____, against a certain conviction (or order) bearing date on or about the _____ day of _____ instant, and made by (you) C. D., Esquire, (one) of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be,*) of _____, whereby the said A. B., was convicted of having or was ordered to pay _____, (here state the offence as in the conviction, information or Summons, or the amount adjudged to be paid, as in the order, as correctly as possible.) And further, take notice that the grounds of my appeal are, first, that I am not guilty of the said offence; secondly, that the formal conviction drawn up and returned to the Sessions is not in law sufficient to support the said conviction of me the said A. B., (together with any other grounds, care being taken that all are stated, as the appellant will be precluded from going into any other than those stated.)

Dated this _____ day of _____, one thousand eight hundred and _____

A. B.

MEM.—If this notice be given by several Defendants, or by an Attorney, it can easily be adapted.

FORM OF RECOGNIZANCE TO TRY THE APPEAL, &C.

Be it remembered, that on _____, A. B., of _____ (laborer,) and L. M. of _____ (grocer) and N. O. of _____ (yeoman,) personally came before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be,*) of _____, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at _____, before me,

J. S.

The condition of the within written Recognizance is such, that if the said A. B. shall, at the (*next*) General Quarter Sessions of the Peace, to be holden at _____, on the day of _____ next, in and for the said District (or *County, United Counties, or as the case may be,*) of _____, enter and prosecute an appeal against a certain conviction bearing date day of _____ instant, and made by me the said Justice, whereby he the said A. B. was convicted, for that he the said A. B. did on the _____ day of _____, at the township of _____, in the said District (or *County, United Counties, or as the case may be,*) of _____, (*here set out the offence as stated in the conviction;*) And further, that if the said A. B. shall abide by and duly perform the order of the Court to be made upon the trial of such appeal, then the said Recognizance to be void, or else to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT (APPELLANT) AND HIS SURETY.

Take notice, that you, A. B., are bound in the sum of _____, and you, L. M. and N. O. in the sum of _____ each, that you the said A. B. at the next General or Quarter Sessions of the Peace to be holden at _____, in and for the said District (or *County, United Counties, or as the case may be,*) of _____, enter and prosecute an Appeal against a conviction dated the _____ day of _____ (*instant,*) whereby you, A. B. were convicted of (*stating offence shortly*), and abide by and perform the Order of the Court to be made upon the trial of such Appeal; and unless you prosecute such Appeal accordingly, the Recognizance entered into by you will forthwith be levied on you.

Dated this _____ day of _____ one thousand eight hundred and _____

SURETIES.

COMPLAINT BY THE PARTY THREATENED FOR SURETIES FOR THE PEACE.

*Proceed as in the Form (T) to the asterisk *; then:* that A. B. of the (*Township*) of _____, in the District (or *County, or as the case may be,*) of _____, did, on the _____ day of _____ (*instant or last past, as the case may be*), threaten the said C. D. in the words or to the effect following, this is to say, (*set them out, with the circumstances under which they were used*): and that from the above and other threats used by the said A. B. towards the said C. D., he the said C. D. is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient Sureties to keep the peace and be of good behaviour towards him the said C. D.; and the said C. D. also saith that he doth not

make this complaint against nor require such Sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM OF RECOGNIZANCE FOR THE SESSIONS.

Be it remembered, that on the _____ day of _____, in the year of Our Lord _____, A. B. of _____ (*laborer*), L. M. of _____ (*grocer*), and N. O. of _____ (*butcher*), personally came before (*us*) the undersigned, (*two*) of Her Majesty's Justices of the Peace for the said District (or *County, United Counties, or as the case may be*), of _____ and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____ each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned; at _____, before us.

J. S.
J. T.

The condition of the within written Recognizance is such, that if the within bounden A. B. (of &c.) shall appear at the next Court of General or Quarter Sessions of the Peace to be holden in and for the said District (or *County, United Counties, or as the case may be*) of _____, to do and receive what shall be then and there enjoined him by the Court, and in the meantime shall keep the peace and be of good behaviour towards Her Majesty and all Her liege people, and specially towards C. D. (of &c.) for the term of _____ now next ensuing, then the said Recognizance to be void, or else to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Province of Canada,
District (or *County, United Counties, or as the case may be*) of _____ }

To the Constable of the _____ in the District (or *County*) (or *one of the United Counties, or as the case may be*) of _____ and to the Keeper of the Common Gaol of the said District, County (or *United Counties, as the case may be*) at _____, in the said District or County (or *in the County of* _____):

Whereas on the _____ day of _____ instant, complaint on oath was made before the undersigned (or J. L. Esquire,)

(one) of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____, by C. D. of the township of _____, in the said District (*County, or as the case may be*) (laborer,) that A. B. of, &c., on the _____ day of _____, at the township of _____ aforesaid, did threaten (&c., follow to end of complaint, as in form above, in the past tense, then) : And whereas the said A. B. was this day brought and appeared before the said Justice (or J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the said District (or *County, United Counties, or as the case may be*) of _____, to answer unto the said complaint : And having been required by me to enter into his own Recognizance in the sum of _____ with two sufficient Sureties in the sum of _____ each, as well for his appearance at the next General Quarter Sessions of the Peace, to be held in and for the said District (or *County, United Counties, or as the case may be*) of _____, to do what shall be then and there enjoined him by the Court, as also in the meantime to keep the Peace and be of good behaviour towards Her Majesty and all Her liege people, and especially towards the said C. D., hath refused and neglected, and still refuses and neglects to find such sureties) : These are therefore to command you the said Constable of the Township of _____ to take the said A. B., and him safely to convey to the (*Common Gaol*) at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept ; And I do hereby command you the said Keeper of the said (*Common Gaol*) to receive the said A. B. into your custody, in the said (*Common Gaol*;) there to imprison him until the said next General Quarter Sessions of the Peace, unless he, in the meantime, find sufficient Sureties as well for his appearance at the said Sessions, as in the meantime to keep the peace as aforesaid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____ in the District (*County, or as the case may be*) aforesaid.

J. S. [L. S.]

Con. Stat. Can.
page 1133.

CAP. CIV.

An Act respecting the appointment of Special Constables.

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

Any two or more Justices of the Peace empowered to appoint special Constables in certain cases of

1. In case it be made to appear to any two or more Justices of the Peace of any Territorial Division in this Province, upon the oath of any credible witness, that any tumult, riot or felony has taken place or is continuing, or may be reasonably apprehended in any Territorial Division or place situate

within the limits for which the said respective Justices usually act, and in case such Justices be of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of the property in any such Territorial Division or place as aforesaid, then and in every such case such Justices or any two or more Justices acting for the same limits may nominate and appoint, by precept in writing under their hands, so many as they think fit of the householders or other persons not legally exempt from serving the office of Constable, residing in such Territorial Division or place as aforesaid, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to the said Justices respectively seem necessary, for the preservation of the public peace and for the protection of the inhabitants and the security of property in such Territorial Division or place. 10, 11 V. c. 12, s. 1.

apprehension of riot, felony, &c.

Who may be appointed.

2. The Justices of the Peace who appoint Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting for the same limit, may administer to any person so appointed the following Oath, that is to say:

Such Justices may administer an oath of office to the person so appointed.

“I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Special Constable for the _____ of _____, without favour or affection, malice or ill will; and that I will, to the best of my power, cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty’s subjects; and that while I continue to hold the said office, I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law: So help me God.” 10, 11 V. c. 12, s. 1.

Form of the oath.

3. In case it be deemed necessary to nominate and appoint Special Constables as aforesaid, notice of the nomination and appointment, and of the circumstances which rendered it expedient, shall be forthwith transmitted by the Justice making such nomination and appointment, to the Secretary of the Province. 10, 11 V. c. 12, s. 1.

Notice of such appointment to be sent to Provincial Secretary.

4. The Justices of the Peace who appoint any Special Constables under this Act, or any two of them, or the Justices acting for the limit within which such Special Constables have been called out, may, at a Special Session of such last mentioned Justices, or the major part of such last mentioned Justices, at such Special Session, make such orders and regulations as may, from time to time be necessary and expedient for rendering such Special Constables more efficient for the preservation of the public peace, and may remove any such Special Constable from his office for any misconduct or neglect of duty therein. 10, 11 V. c. 12, s. 2.

Justices may make regulations touching such special Constables.

And may remove any of them.

Powers of such Special Constables and local extent of such powers.

5. Every Special Constable appointed under this Act, shall, not only within the Territorial Division or place for which he has been appointed, but also throughout the entire jurisdiction of the Justices who appoint him, have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to all such duties and responsibilities, as any Constable duly appointed has by virtue of any law or statute whatsoever. 10, 11 V. c. 12, s. 3.

Such Constables may act in an adjoining division in certain cases.

6. Where any Special Constables appointed under this Act are serving within any Territorial Division or place, and two or more Justices of the Peace of any adjoining Territorial Division or place, make it appear, to the satisfaction of any two or more Justices of the Peace acting for the limits within which such Special Constables are serving, that extraordinary circumstances exist which render it expedient that the said Special Constables should act in such adjoining Territorial Division or place, then and in every such case the said last mentioned Justices may if they think fit, order all or any of the said Special Constables to act in such adjoining Territorial Division or place in such manner as to the said last mentioned Justices seem meet. 10, 11 V. c. 12, s. 4.

Their powers in such adjoining divisions.

7. Every such Special Constable, during the time he so acts in such adjoining Territorial Division or place, shall have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to the same duties and responsibilities, as if he were acting within the Territorial Division or place for which he was originally appointed. 10, 11 V. c. 12, s. 4.

Penalty on persons appointed and refusing to take the oath.

8. If any person being appointed a Special Constable as aforesaid, refuses to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace who so appointed him, or by any two of them, or by any other two Justices of the Peace acting for the same limits, he may be convicted thereof forthwith before the said Justices so requiring him, and shall forfeit and pay such sum of money not exceeding twenty dollars as to the convicting Justices may seem meet. 10, 11 V. c. 12, s. 5.

Or to appear at the place appointed for taking such oath.

9. If any person being appointed a Special Constable as aforesaid, neglects or refuses to appear for the purpose of taking the said oath, at the time and place for which he has been summoned, he may be convicted thereof before the Justices who appointed him, or any two of them, or before any other two Justices of the Peace acting for the same limits, and shall forfeit and pay such sum of money not exceeding twenty dollars as to the convicting Justices seems meet, unless such person proves to the satisfaction of the said Justices that he was prevented by sickness or some unavoidable accident which in the judgment of the said Justices is a sufficient excuse. 10, 11 V. c. 12, s. 5.

Sufficient excuse may be allowed.

10. If any person having been appointed a Special Constable as aforesaid, and being called upon to serve, neglects or refuses to serve as such Special Constable, or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office, the person so offending shall, on conviction thereof before any two Justices of the Peace, forfeit and pay for every such neglect or refusal such sum of money not exceeding twenty dollars, as to the said Justices seems meet, unless such person proves to the satisfaction of the said Justices that he was prevented by sickness or some unavoidable accident in the judgment of the said Justices constituting a sufficient excuse. 10, 11 V. c. 12, s. 6.

Penalty for refusing to act or to obey orders.

Sufficient excuse may be allowed.

11. The Justices who have appointed any Special Constables under this Act, or the Justices acting for the limits within which such Special Constables have been called out, at a Special Session to be held for that purpose, or the major part of such last mentioned Justices at such Special Session, may suspend or determine the service of all or any of the Special Constables so called out as to the said Justices respectively seems meet; and notice of such suspension or determination of the services of all or any of the said Special Constables shall be forthwith transmitted by such respective Justices to the Secretary of the Province. 10, 11 V. c. 12, s. 7.

Justice may suspend or determine the services of Special Constables.

Notice to be sent to the Provincial Secretary.

12. Every such Special Constable shall, within one week after the expiration of his office, or after he has ceased to hold or exercise the same pursuant to this Act, deliver over to his successor, if any such has been appointed, or otherwise to such person and at such time and place as may be directed by any Justice of the Peace acting for the limits within which such Special Constable may have been called out, every staff, weapon and other article which has been provided for such Special Constable under this Act; and if any such Special Constable omits or refuses so to do, he shall, on conviction thereof before two Justices of the Peace, forfeit and pay for such offence such sum of money not exceeding eight dollars, as to the convicting Justices seems meet. 10, 11 V. c. 12, s. 8.

Special Constables, to deliver up their staves, &c., when discharged.

Penalty for refusing or neglect.

13. If any person assaults or resists any Constable appointed by virtue of this Act while in the execution of his office, or promotes or encourages any other person so to do, every such person shall, for such offence on conviction thereof before two Justices of the Peace, forfeit and pay any sum not exceeding forty dollars, or shall be liable to such other punishment upon conviction on an indictment or information for such offence, as persons are by law liable for assaulting a Constable in the execution of the duties of his office. 10, 11 V. c. 12, s. 9.

Punishment of persons assaulting Special Constables or encouraging others to do so.

14. The Justices of the Peace acting for the limits within which special Constables have been called out to serve, may, at a Special Session to be held for that purpose, or the major part

Special Constables may be allowed a certain sum

per diem for
their services.

of the Justices at such Special Session, may from time to time order such reasonable allowances for their trouble, loss of time and expenses, not exceeding one dollar per diem, to be paid to such Special Constables who have so served or are then serving, as to such Justices, or to such major part of them, seem proper. 10, 11 V. c. 12, s. 10.

To be paid by
the Treasurer
of the Muni-
cipality.

15. The Justices so ordering shall make every order for the payment of such allowances and expenses upon the Treasurer of the Territorial Division or other Municipal division within which such Special Constables have been called out to serve, and such Treasurer shall pay the same out of any moneys in his hands at the time; and the said Treasurer shall be allowed the same in his accounts, and the sum shall be provided for by the Council of the Territorial Division or other Municipality wherein the expense arises. 10, 11 V. c. 12, s. 10.

Special Ses-
sions may be
adjourned and
shall be held
legal until the
contrary be
proved.

16. The Justices of the Peace assembled at any Special Session for any of the purposes mentioned in this Act, may adjourn the same from time to time as they think proper; and every Special Session actually holden for any of the purposes mentioned in this Act, shall be deemed and taken to have been legally holden until the contrary be proved. 10, 11 V. c. 12, s. 11.

Limitation of
prosecutions
under this Act.

17. The prosecution for every offence punishable upon summary conviction by virtue of this Act, shall be commenced within two months after the commission of the offence. 10, 11 V. c. 12, s. 12.

Application of
penalties.

18. Every penalty or forfeiture for any offence against this Act shall be paid to the Treasurer of the Territorial Division or other Municipal Division within which the offence was committed. 10, 11 V. c. 12, s. 12.

Inhabitants of
Municipalities
to be compe-
tent witnesses.

19. No inhabitant of any such Territorial Division or other Municipal Division shall, by reason of the payment of such forfeiture or penalty to the Treasurer of such Territorial Division or other Municipal Division, be deemed an incompetent witness in proof of any offence against this Act. 10, 11 V. c. 12, s. 12.

How penalties
may be levied
if not paid
within the time
to be appoint-
ed.

20. The Justices of the Peace by whom any person is summarily convicted and adjudged to pay any sum of money for any offence against this Act, may adjudge that such person shall pay the same either immediately or within such period as the said Justice thinks fit; and in case such sum of money be not paid by the time so appointed, the same shall be levied by distress and sale of the goods and chattels of the offender, together with the reasonable charges of such distress; and for want of sufficient distress, such offender shall be imprisoned in the Common Gaol for any term not exceeding one month when the

fine to be paid does not exceed twenty dollars, and for any term not exceeding two months in any other case; the imprisonment to cease in every case upon payment of the sum due. 10, 11 V. c. 12, s. 13.

21. The Justices of the Peace before whom any person is summarily convicted of any offence against this Act, may cause the conviction to be drawn up in the following form of words, or to the like effect, that is to say: 10, 11 V. c. 12, s. 14. A form of conviction appointed.

To wit: } Be it remembered, that on the _____ day
 } of _____, in the year of Our Lord _____
in the _____ of _____, in the District of _____,
J. N. is convicted before us A. B. and C. D., two of Her Majesty's Justices of the Peace for the said District of _____ for that he the said J. N. did (*here specify the offence, and the time and place when and where the same was committed, as the case may be*), and we do adjudge that the said J. N. shall for the said offence forfeit the sum of _____ and shall pay the same immediately (*or shall pay the same on or before the _____ day of _____*) to the Treasurer of the _____.

Given under our hands the day and year first above mentioned.

A. B.
C. D.

22. No conviction for any offence against this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of Her Majesty's Superior Courts of Record; and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be therein alleged that it is founded on a conviction, and there be a good and valid conviction to sustain the same. 10, 11 V. c. 12, s. 15. Convictions not to be removed or declared void for want of form, &c.
Nor commitments.

23. When any distress has been made for levying any moneys by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same, be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant, distress, or other proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but the person aggrieved by such irregularity, may recover full satisfaction for the special damage, if any, in an action upon the case. 10, 11 V. c. 12, s. 15. Similar proceedings as to distress and proceedings under it.

24. All actions and prosecutions against any person for any thing done in pursuance of this Act, shall be laid and tried in the County or other proper venue where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such cause Provisions for the protection of persons acting under this Act.

of action shall be given to the Defendant one month, at least, before the commencement of the action. 10, 11 V. c. 12, s. 16.

No costs unless on certificate of Judge.

25. No Plaintiff shall recover in any such action if tender of sufficient amends was, by or on behalf of the Defendant, made before action brought, or if a sufficient sum of money has been paid into Court since action brought, and though a verdict be given for the Plaintiff in any such action, the Plaintiff shall not have costs against the Defendant, unless the Judge before whom the trial is had, certifies his approbation of the action, and of the verdict obtained. 10, 11 V. c. 12, s. 16.

Con. Stat. Can. page 1148.

C A P . C V I .

An Act respecting the trial and punishment of juvenile offenders.

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

Persons of not more than 16 years of age, committing certain offences may be summarily convicted by two Justices.

1. Every person charged with having committed or having attempted to commit, or with having been an aider, abettor, counsellor or procurer in the commission of any offence which is simple larceny, or punishable as simple larceny, and whose age at the period of the commission or attempted commission of such offence does not, in the opinion of the Justice before whom he is brought or appears as hereinafter mentioned, exceed the age of sixteen years, shall, upon conviction thereof, in open Court, upon his own confession or upon proof, before two or more Justices of the Peace for any District in Lower Canada, or City, County, or Union of Counties in Upper Canada, be committed to the Common Gaol or House of Correction within the jurisdiction of such Justices, there to be imprisoned with or without hard labor, for any term not exceeding three months, or, in the discretion of such Justices, shall forfeit and pay such sum, not exceeding twenty dollars, as the said Justices may adjudge. 20 V. c. 29, s. 1.

If offence not proved, case to be dismissed.

2. If such Justices, upon the hearing of any such case, deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the party charged on finding surety for his future good behaviour, or without sureties, and then make out and deliver to the party charged, a certificate under the hands of such Justices stating the fact of such dismissal. 20 V. c. 29, s. 1.

Form of certificate.

3. Such certificate shall be in the form or to the effect set forth in the form following :

To wit: } We, _____ of Her Majesty's Justices
 } of the Peace for the _____, of _____

(or if a Recorder, &c., under section seven, I, a of the of , as the case may be) do hereby certify, that on the day of , in the year of Our Lord , at , in the said of M. N. was brought before us the said Justices (or me the said) charged with the following offence, that is to say: (here state briefly the particulars of the charge); and that we the said Justices (or I, the said thereupon dismissed the charge.

Given under our hands (or my hand) this day of 20 V. c. 29, s. 1.

4. If such Justices be of opinion, before the person charged has made his defence, that the charge is from any circumstance a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Act, such Justices shall, instead of summarily adjudicating thereupon, deal with the case in all respects as if this Act had not been passed. 20 V. c. 29, s. 1. Case may be tried, &c., if Justices think fit.

5. The Justices before whom any person is charged and proceeded against under this Act, before such person is asked whether he has any cause to shew why he should not be convicted, shall say to the person so charged, these words, or words to the like effect: Justices to give person charged the option of a trial by Jury.

“ We shall have to hear what you wish to say in answer to the charge against you; but if you wish to be tried by a Jury, you must object now to our deciding upon it at once.” And if such person, or a parent or guardian of such person, then objects, such person shall be dealt with as if this Act had not been passed. 20 V. c. 29, s. 2.

6. Any two or more Justices of the Peace, for any District in Lower Canada, or for any City, County or Union of Counties in Upper Canada, sitting in open Court, before whom any such person, as aforesaid, charged with any offence made punishable under this Act, is brought or appears, may hear and determine the case under the provisions of this Act. 20 V. c. 29, s. 3. Power to J. Ps. to hear and determine.

7. The Recorder, Inspector and Superintendent of Police, of either of the Cities of Quebec or Montreal, the Sheriff of any District in Lower Canada, other than the Districts of Quebec and Montreal, any Deputy Sheriff in the District of Gaspé, any Judge of a County Court in Upper Canada, being a Justice of the Peace, any Recorder of a City in Upper Canada being a Justice of the Peace, any Police Magistrate in Upper Canada, and any Stipendiary Magistrate in Upper Canada, Same power to Recorder, &c., and certain other functionaries.

sitting in open Court, and having by law the power to do acts usually required to be done by two or more Justices of the Peace, may and shall, within their respective jurisdictions, hear and determine every charge under this Act, and exercise all the powers herein contained, in like manner and as fully and effectually as two or more Justices of the Peace can or may do by virtue of this Act. 20 V. c. 29, s. 3.

Sheriffs when sitting under this Act to be attended by Clerks of the Peace.

8. The Sheriffs of such Districts as aforesaid respectively, and any Deputy Sheriff in the District of Gaspé, when sitting or acting under the provisions of this Act, shall be assisted, attended and obeyed by the Clerks of the Peace, Bailiffs, Constables and other Officers of such Districts respectively, in the same manner as Justices of the Peace in and for the said Districts respectively would be assisted, attended and obeyed by them respectively, under the same or similar circumstances; and the Clerk of the Peace of each such District, shall be and act as the Clerk of the Court of the Sheriff of such District, under the provisions of this Act. 20 V. c. 29, s. 4.

Certificate of dismissal or a conviction, a bar to further proceedings.

9. Every person obtaining such certificate of dismissal as aforesaid, and every person convicted under the authority of this Act, shall be released from all further or other proceedings for the same cause. 20 V. c. 29, s. 5.

Mode of compelling appearance of person punishable on summary conviction.

10. In case any person whose age is alleged not to exceed sixteen years be charged with any such offence, on the oath of a credible witness before any Justice of the Peace, such Justice may issue his summons or warrant to summon or to apprehend the person so charged to appear before any two Justices of the Peace, at a time and place to be named in such summons or warrant. 20 V. c. 29, s. 6.

Power to one Justice to remand or take bail.

11. Any Justice or Justices of the Peace, if he or they think fit, may remand for further examination or for trial, or suffer to go at large upon his finding sufficient sureties, any such person charged before him or them with any such offence as aforesaid. 20 V. c. 29, s. 7.

Condition of recognizance.

12. Every such surety shall be bound by recognizance to be conditioned for the appearance of such person before the same or some other Justice or Justices of the Peace for further examination, or for trial before two or more Justices of the Peace as aforesaid, or for trial at some Superior Criminal Court, as the case may be. 20 V. c. 29, s. 7.

Recognizance may be enlarged.

13. Every such recognizance may be enlarged from time to time by any such Justice or Justices or Court to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward when the party has appeared according to the condition thereof. 20 V. c. 29, s. 7.

14. Every fine imposed under the authority of this Act, shall be paid to the Justices who impose the same, or to the Clerk of the Recorder's Court, or the Clerk of the County Court or the Clerk of the Peace, *as the case may be*, and shall be by him or them paid over to the County Treasurer for County purposes, if the same was imposed in Upper Canada, and if it was imposed in any New District in Lower Canada, then to the Sheriff of such District as Treasurer of the Building and Jury Fund for such District, to form part of the said Fund, and if it was imposed in any other District in Lower Canada, then to the Prothonotary of such District, to be by him applied, under the direction of the Governor in Council, towards the keeping in repair of the Court House in such District, or to be by him added to the moneys or fees collected by him, for the erection of a Court House or Gaol in such District, so long as such fees are collected to defray the cost of such erection. 20 V. c. 29, s. 8.

Application of
fines.

15. Any Justice of the Peace shall, by Summons, require the attendance of any person as a witness upon the hearing of any case before two Justices under the authority of this Act, at a time and place to be named in such summons. 20 V. c. 29, s. 9.

Any Justice of
the Peace may
summon wit-
nesses.

16. Any such Justice may require and bind by recognizance all persons whom he considers necessary to be examined touching the matter of such charge, to attend at the time and place to be appointed by him, and then and there to give evidence upon the hearing of such charge. 20 V. c. 29, s. 9.

And bind by
recognizance.

17. In case any person so summoned or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, then upon proof being first given of such person's having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, either of the Justices before whom any such person ought to have attended, may issue a warrant to compel his appearance as a witness. 20 V. c. 29, s. 9.

In case of re-
fusal Justice
may compel
attendance of
witness.

18. Every summons issued under the authority of this Act, may be served by delivering a copy thereof to the party, or to some inmate at such party's usual place of abode, and every person so required by any writing under the hand or hands of any Justice or Justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. 20 V. c. 29, s. 10.

How summons
may be served.

19. The Justices before whom any person is summarily convicted of any such offence as hereinbefore mentioned, may cause the conviction to be drawn up in the following form or

Form of con-
viction.

in any other form of words to the same effect, that is to say:

To wit : } Be it remembered that on the _____ day
 of _____, in the year of Our Lord one
 thousand eight hundred and _____, at _____, in
 the District of _____, (County or United Counties, &c.,
 as the case may be) A. O. is convicted before us, J. P. and J. R.,
 two of Her Majesty's Justices of the Peace for the said District
 (or City, &c.) or me, S. J. Recorder _____, of the _____ of
 _____, (or as the case may be) for that he the said A. O. did
 (specify the offence and the time and place when and where the
 same was committed, as the case may be, but without setting
 forth the evidence), and we the said J. P. and J. R. (or I the
 said S. J.) adjudge the said A. O. for his said offence to be
 imprisoned in the _____ (or to be imprisoned in the
 _____, and there kept at hard labour for the space of
 _____, (or we (or I) adjudge the said A. O. for his said
 offence to forfeit and pay _____, (here state the penalty
 actually imposed,) and in default of immediate payment of the
 said sum, to be imprisoned in the _____ (or to be
 imprisoned in the _____, and there kept to hard labour)
 for the space of _____, unless the said sum shall be
 sooner paid.

Given under our hands and seals (or my hand and seal) the
 day and year first above mentioned.

And the conviction shall be good and effectual to all intents
 and purposes. 20 V. c. 29, s. 11.

Convictions
 not void for
 defect, &c.

Nor commit-
 ments.

20. No such conviction shall be quashed for want of form
 or be removed, by *certiorari* or otherwise, into any of Her
 Majesty's Superior Courts of Record; and no Warrant of
 commitment shall be held void by reason of any defect therein,
 provided it be therein alleged that the party has been con-
 victed, and there be a good and valid conviction to sustain the
 same. 20 V. c. 29, s. 12.

Convictions by
 J. Ps. to be sent
 to Clerks of the
 Peace.

21. The Justices of the Peace before whom any person is
 convicted under the provisions of this Act, shall forthwith
 transmit the conviction and recognizances to the Clerk of the
 Peace for the District in Lower Canada, or for the City,
 County or Union of Counties in Upper Canada, wherein the
 offence was committed, there to be kept by the proper officer
 among the records of the Court of General Quarter Sessions of
 the Peace. 20 V. c. 29, s. 13.

Who shall
 make quarterly
 returns, &c., to
 the Provincial
 Secretary.

22. Each such Clerk of the Peace shall transmit to the Pro-
 vincial Secretary a quarterly return of the names, offences and
 punishments mentioned in the convictions, with such other
 particulars as may from time to time be required. 20 V. c. 29,
 s. 13.

23. No conviction under the authority of this Act shall be attended with any forfeiture, but whenever any person is deemed guilty under the provisions of this Act, the presiding Justices may order restitution of the property in respect of which such offence was committed, to the owner thereof or his representatives. 20 V. c. 29, s. 14.

No forfeiture on conviction. But restitution may be made.

24. If such property be not then forthcoming, the same Justices, whether they award punishment or dismiss the complaint, may inquire into and ascertain the value thereof in money, and if they think proper, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments at such periods as the Court deems reasonable. 20 V. c. 29, s. 14.

If such property is not forthcoming, &c.

25. The party so ordered to pay may be sued for the same as a debt in any Court in which debts of the like amount may be by law recovered, with costs of suit, according to the practice of such Court. 20 V. c. 29, s. 14.

The party so ordered to pay may be sued, &c.

26. Whenever any Justices of the Peace adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act, and such penalty is not forthwith paid, such Justices if they deem it expedient, may appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so to be appointed, unless such offender gives security to the satisfaction of such Justices for his appearance on such day, and such Justices may take such security by way of recognizance or otherwise at their discretion. 20 V. c. 29, s. 15.

Recovery of penalties.

27. If at the time so appointed such penalty has not been paid, the same or any other Justices of the Peace may, by Warrant under their hands and seals, commit the offender to the Common Gaol or House of Correction within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication; such imprisonment to cease on payment of the said penalty. 20 V. c. 29, s. 15.

Commitment for non-payment.

28. The Justices of the Peace before whom any person is prosecuted or tried for any offence cognizable under this Act, may, at their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution of such sums of money as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein, and to order payment to the Constables and other Peace Officers for the

Expenses of prosecution how to be paid.

apprehension and detention of any person so charged. 20 V. c. 29, s. 16.

If there be no conviction.

29. And although no conviction takes place, the said Justices may order all or any of the payments aforesaid, when they are of opinion that the parties or any of them have acted *bond fide*. 20 V. c. 29, s. 16.

Amount of expenses how ascertained and certified.

30. The amount of expenses of attending before the examining Justices and the compensation for trouble and loss of time therein, and the allowances to the Constables and other Peace Officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such Justices, but the amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars. 20 V. c. 29, s. 16.

Orders for payment how to be made and upon whom.

31. Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper Justices of the Peace as aforesaid, shall be forthwith made out and delivered by the said Justices or one of them, or by the Clerk of the Recorder's Court, Clerk of the County Court or Clerk of the Peace, as the case may be, unto such prosecutor or other person, upon such Clerk being paid for the same, the sum of twenty cents and no more, and shall be made upon the Officer to whom fines imposed under the authority of this Act are required to be paid over in the District, City, County or Union of Counties in which the offence was committed, or was supposed to have been committed, who, upon sight of every such order, shall forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, the money in such order mentioned, and shall be allowed the same in his accounts. 20 V. c. 29, s. 17.

Protection of persons acting under this Act.

32. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District or Circuit in Lower Canada, or in the County or Union of Counties in Upper Canada where the fact was committed, and shall be commenced within three months after the fact committed, and not otherwise. 20 V. c. 29, s. 18.

Notice in writing to be given to defendant.

33. And notice in writing of such action or prosecution and of the cause thereof, shall be given to the Defendant, one month at least, before the commencement of the action or prosecution. 20 V. c. 29, s. 18.

34. In any such action or prosecution, the Defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon. 20 V. c. 29, s. 18. Defendant may plead the general issue.

35. No Plaintiff shall recover in any such action, if tender of sufficient amends was made before such action brought, or if a sufficient sum of money has been paid into Court after such action brought by or on behalf of the Defendant. 20 V. c. 29, s. 18. If tender of amends made, plaintiff not to recover, &c.

36. If a verdict passes for the Defendant, or the Plaintiff becomes non-suit, or discontinues any such action or prosecution after issue joined, or if, upon demurrer or otherwise, judgment be given against the Plaintiff, the Defendant shall recover his full costs and have the like remedy for the same as any Defendant hath by law in other cases. 20 V. c. 29, s. 18. If the defendant be successful.

C A P . V I I .

*Stat. Can. 24
V. c. 7, page
20.*

An Act to amend the Law relating to the unlawful administering of Poison.

[Assented to 18th May, 1861.]

WHEREAS the present law has been found insufficient to protect persons from the unlawful administering of poison, except in cases where the intent is to commit murder: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows: Preamble.

1. Whosoever shall unlawfully and maliciously administer to or cause to be administered to, or taken by any other person, any poison or other destructive or noxious thing so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and, being convicted thereof, shall be liable to be sentenced to imprisonment for any period not less than two years. Maliciously administering poison, &c., and endangering life, &c., felony.

2. Whosoever shall unlawfully and maliciously administer to, or cause to be administered to, or taken by any other person, any poison or other destructive or noxious thing with intent to injure, aggrieve or annoy such person, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be sentenced to imprisonment for any period not more than two years. Maliciously administering poison, &c., with the intent to injure, &c., misdemeanor.

Offenders indicted for the felony may be convicted of the misdemeanor.

3. If upon the trial of any person, charged with the felony above mentioned, the Jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of the misdemeanor above mentioned, then and in every such case the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon the delinquent shall be liable to be punished in the same manner as if convicted upon an indictment for the misdemeanor.

C A P . V I .

Con. Stat. L.
C. page 16.

An Act respecting Tavern-Keepers and the sale of Intoxicating Liquors.

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

E X T R A C T S .

L I C E N S E S , D U T I E S A N D F E E S .

1. Except Distillers duly licensed under chapter nineteen of the Consolidated Statutes of Canada, who may, as such Licensed Distillers, sell spirituous liquors in the same quantities as Storekeepers or Merchants licensed under this Act to sell spirituous liquors, no person shall sell or retail brandy, rum, whisky or other spirituous liquors, wine, ale, beer, porter, cider or other vinous or fermented liquors, (all which are included by the words 'spirituous, vinous or fermented liquors,' whenever used in this Act) in a less quantity than three gallons at any one time,—nor shall any person keep any Inn, Tavern, Temperance Hotel or other House of Public Entertainment for the reception of travellers and others, without a license as hereinafter provided for. 14, 15 V. c. 100, s. 2.

Except licensed Distillers no one to sell spirituous liquors in quantities under three gallons without license.

16. If any person so licensed under this Act dies before the expiration of his license, or removes from his house, such person, his assigns, or legal representatives, may transfer such license to any other person, who, under such transfer, may exercise the rights granted by such license, until the expiration thereof, in the house and premises for which such license was granted, but in no other place :

In case a person licensed dies before expiration of his license.

2. But the person in whose favor such transfer is made shall produce to the Revenue Inspector a certificate, and enter into a bond, with sureties, such as was required of the original holder of such license ; such transfer being endorsed on the license by the Revenue Inspector ; and if no such transfer is executed within three months after the death or removal of the original holder of the license, the license shall be null and void. *Ibid*, s. 17.

Transferee of license to produce certificate, &c.

17. No Municipal Councillor or Elector, being a common brewer, distiller or retailer of any spirituous liquors, or keeper or proprietor of any house or place of public entertainment, shall sign any certificate for a license for any inn, tavern, temperance hotel, or house or place of public entertainment, or for the transfer of a license for any such house or place of public entertainment, under a penalty of fifty dollars for each such offence. 14, 15 V. c. 100, s. 33.

Certain persons disqualified from signing certificate.

Penalty on signing not being qualified.

18. Any person who knowingly signs any certificate for a license or for the transfer of a license, without being duly qualified to do so, shall be liable to a penalty of twenty dollars for each such offence. 14, 15 V. c. 100, s. 34.

Steamboats, &c.

Steamboat owners, &c., may obtain licenses.

19. Every owner, master, or person in charge of any steamboat or vessel, who intends to retail or allow to be retailed spirituous, vinous or fermented liquors, on board such steamboat or vessel, shall, upon applying for the same and paying the duty and fee thereon, receive from any Revenue Inspector a license for such purpose, without entering into the bond hereinbefore required for keeping a house or place of public entertainment, which license shall be constantly exposed in the bar-room or bar-cabin of such steamboat or vessel, under a penalty of twenty dollars. 14, 15 V. c. 100, s. 27 part.

Stores or Shops.

Shop licenses to be issued on certain conditions.

20. Every Revenue Inspector shall, upon receipt of the duty and the fee hereinbefore mentioned, issue to any person applying for the same, a license for retailing in any one shop, store or place, to be accurately designated in such license, spirituous, vinous or fermented liquors, in quantities of not less than three half pints at any one time. *Ibid*, s. 24, part.

Conditions and Restrictions under Municipal By-laws.

Further provisions not inconsistent with the preceding sections may be made by Municipal By-Laws.

21. The provisions of the twelve next preceding sections shall be subject to such further conditions and restrictions upon the granting of such licenses as aforesaid as have been lawfully imposed in any municipality by any By-law not inconsistent with this Act, then in force; and no Revenue Inspector shall grant any such license, contrary to the provisions of such By-law, provided a copy thereof has been transmitted by the proper municipal officer to such Revenue Inspector. 23 V. c. 61, s. 26, par. 10, &c., and local Acts.

PENALTIES FOR SELLING, &c., WITHOUT LICENSE.

Penalty for selling liquors without license.

22. If any person keeps an inn, tavern, temperance hotel, or any other house or place of public entertainment,—or sells, vends or barbers by retail, brandy, rum, whisky, or other spirituous liquors, wine, ale, beer, porter, cider or other vinous or fermented liquors, or causes or suffers the same or any of the same to be sold, vended or bartered by retail in his house or premises, or in any boat, barge, craft or other construction, floating on or moored in any river, lake or stream, or in any house, shanty, hut, or other building erected upon any frozen water, without the license required by this Act, or contrary to its true intent and meaning,—such person shall incur a penalty of fifty dollars for each such offence.

2. And any person who knowingly purchases any spirituous, vinous or fermented liquor in any quantity less than three gallons at any one time, from any person not duly licensed to retail the same, shall be liable to a penalty of ten dollars for each such offence, unless he gives information of such purchase to the District Revenue Inspector within forty-eight hours after such purchase. 14, 15 V. c. 100, s. 9.

Penalty on purchasing in such case.

23. If any person not being duly licensed under this Act, exposes or causes or suffers to be exposed in any window, door, or other opening of his house or premises any article, or in, on or near his house or premises any sign, painting, printing or writing of a description or character to induce travellers or others to believe or suppose such house to be a duly licensed house or place of public entertainment, or that spirituous, or vinous or fermented liquors may be sold, vended or bartered by retail therein, such person shall be liable to a penalty of twenty dollars for each such offence. 14, 15 V. c. 100, s. 14.

Penalty on persons not licensed exposing liquors, or putting up signs, &c.

24. Every owner, master or person in charge of a steamboat or vessel, who retails or allows to be retailed or vended, any spirituous, vinous or fermented liquor, on board such steamboat or vessel, without having previously obtained a license, shall be subject to a penalty of fifty dollars, for each and every offence, which penalty shall be sued for and recovered as hereinafter prescribed, and the amount thereof, with costs, if not forthwith paid, shall be levied by distress and sale of the tackle and furniture of the steamboat or vessel, on board of which such spirituous, vinous or fermented liquor has been retailed or vended, by warrant under the hand of the Justice or Justices of the Peace before whom the offender has been convicted. 14, 15 V. c. 100, s. 28.

Penalty on persons selling on board Steamboats, &c., without license.

OBLIGATIONS AND RESTRICTIONS ON PERSONS LICENSED.

Houses of Public Entertainment.

25. Every licensed inn or tavern, temperance hotel or house of public entertainment, situate in a village or in the country parts, shall contain at least three rooms, with at least one good bed in each, for the accommodation of travellers, in addition to those used by the family;—and the keeper of every such inn, tavern, temperance hotel, or other house of public entertainment, shall have a stable adjacent or attached to such house, with convenient stalls for at least four horses, and the keeper of such house shall be constantly supplied with a sufficient quantity of provisions, and of hay and oats, for travellers and their cattle;—And in default of any one or more of the foregoing requirements, the keeper of such house shall be liable to a penalty of twenty dollars. *Ibid*, s. 10.

What accommodation for travellers must be provided at every Inn.

26. The keeper of every licensed inn, tavern, temperance hotel or other house or place of public entertainment, shall, at all

License to be exhibited to

Inspector when required, and a sign to be kept up.

times on demand, exhibit his license to the Revenue Inspector, his deputy or deputies, and shall cause the same to be constantly exposed to public view in the bar-room in a conspicuous place and manner to the satisfaction of the Revenue Inspector, and shall also cause to be painted in legible characters of not less than three inches in height, and of proportionate width, immediately over the door of such house, his name at full length, with the following words in addition, as the case may be: "licensed to retail spirituous liquors," "licensed to retail wines and fermented liquors," "licensed to keep a temperance hotel;"—and whenever such house is situate in country parts, the keeper thereof shall also expose or cause to be exposed, and keep so exposed, during the whole time of the duration of his license, a like sign in letters not less than four inches in height, and of proportionate width, in a conspicuous place near the house, to indicate the same to travellers,—and shall, in default of complying with any of the foregoing requirements, incur a penalty of twenty dollars for each offence. 14, 15 V. c. 100, s. 11.

Penalty

Keepers of Inns to keep orderly houses, and prevent gambling therein.

Certain restrictions on sale of liquors.

27. The keeper of every licensed inn, tavern, temperance hotel, or other house or place of public entertainment, shall keep a peaceable, decent and orderly house, and shall not knowingly suffer any person resorting to his, her or their house to play any game whatsoever at which money or any thing which can be valued in money shall be lost or won;—No keeper of any house licensed to retail spirituous liquor, or vinous and fermented liquor, shall keep a bar or bars in more than one house, or vend at any time any such liquor to any intoxicated person—nor on Sundays to any person whomsoever, except sick persons or travellers,—nor to any soldier, seaman, apprentice or servant, knowing him to be such, on any day after eight o'clock in the afternoon in winter, and nine o'clock in the afternoon in summer,—under a penalty of twenty dollars for each offence. *Ibid.*, s. 12.

Penalty on refusing to receive travellers.

28. No person holding a license to keep an inn, tavern, temperance hotel, or other house of public entertainment, shall refuse to receive and accommodate any traveller without just cause, under a penalty of twenty dollars for each offence. *Ibid.*, s. 13.

Keepers of Temperance Hotels to prevent spirituous liquors being drunk on their premises.

29. If any keeper of a licensed temperance hotel knowingly suffers any spirituous, vinous or fermented liquor to be drunk in the house or on the premises thereto belonging;—or if any keeper of a licensed inn, tavern or other house or place of public entertainment, not licensed to retail spirituous liquors, knowingly suffers to be drunk any spirituous liquor within such house, or any out-building, or in any part of the premises belonging to such inn, tavern, or house or place of public entertainment, he shall be liable to a penalty of twenty dollars for each such offence. *Ibid.*, s. 20.

30. Whenever any person has drunk to excess in any inn, tavern or other house or place of public entertainment, any spirituous or other intoxicating liquors sold by or with the permission or sufferance of the keeper thereof, for the gain or reward of such keeper, and while in a state of intoxication or drunkenness arising out of the use of such spirituous or intoxicating liquor, has come to his death by committing suicide or by drowning, perishing from cold, or by any accident occurring in consequence of his being so intoxicated or drunk,—the keeper of such inn or tavern, or house or place of public entertainment, shall be liable to be indicted and tried before the Court of Queen's Bench sitting in the district in which such person resides, for a misdemeanor, and if convicted thereof, shall be liable to a penalty of not less than two hundred dollars, nor more than one thousand dollars, to be paid to the heirs or legal representatives of the deceased person, or to be imprisoned for a period not less than one month nor more than six months. 14, 15 V. c. 100, s. 27.

Liability of innkeepers who give liquor to persons who afterwards, being intoxicated, commit suicide.

Penalty.

31. If any person licensed under this Act to keep an inn, tavern, temperance hotel, or other house or place of public entertainment, is convicted of any breach or non-fulfilment of the requirements of this Act, or of any felony, the Governor may cancel, revoke or suspend the license granted to such person; and if such person, after being duly notified of such revocation or suspension of his license, continues to keep open a house of public entertainment, or retails any spirituous, vinous or fermented liquor, such person shall be liable to the pains and penalties imposed on persons for keeping a house of public entertainment, or for retailing such liquors without license. 14, 15 V. c. 100, s. 35.

Licences under this Act may be revoked.

Stores and Shops.

32. If any person holding any license to sell spirituous, vinous or fermented liquors in any shop, store or place, but not to keep a house of public entertainment, sells any such liquor in quantity less than three half pints, or allows any such liquor to be drunk within such shop, store or place, or on the premises appertaining to the same, either by the purchaser of such liquor or by any person not residing with or in the employ of the person holding such license,—or sells any such liquor in any quantity less than three gallons in any shop, store or place not designated in such license,—such person shall be liable to a penalty of fifty dollars for every such offence. *Ibid*, s. 24, part.

Penalty on persons holding shop licenses selling less than three half pints or allowing liquor to be drunk on the premises.

33. The owner or keeper of every such shop or store shall cause to be painted in legible characters, immediately over the door of such shop or store, his name at full length, with the addition "LICENSED WINE AND SPIRIT STORE," and shall cause his license to be constantly exposed in a conspicuous place and manner within such shop or store, and shall allow

Persons holding shop licenses to have signs.

the Revenue Inspector, his deputy or deputies to have free access thereto at all reasonable hours, under a penalty of twenty dollars for each offence. *Ibid*, s. 26.

Penalty on purchaser drinking liquor in shops.

34. If any person who has purchased any spirituous, vinous or fermented liquor, in any shop or store, licensed only as mentioned in the next preceding section, drinks the same or any part thereof, or allows the same or any part thereof to be drunk in the said shop, store, or any house or out-buildings, or premises appertaining thereto, such person shall be liable to a penalty of ten dollars for each such offence. 14, 15 V. c. 100, s. 25.

Liquors may not be sold on Steamboats while laid up in winter.

35. If the owner, master or person in charge of any steamboat or vessel allows any spirituous, vinous or fermented liquor to be sold on board such steamboat or vessel during the time the same shall be laid up in winter, he shall be liable to a penalty of forty dollars for each offence, notwithstanding his having obtained a license under this Act: *Ibid*, s. 27.

Municipal By-laws to prevail as regards sale of liquor in Steamboats.

2. And such license shall not prevent the effect of any municipal by-law prohibiting the sale of spirituous, vinous or fermented liquors in any municipality through or in which such steamboat or vessel may pass or be, and the license shall have no effect in such municipality while such by-law is in force therein. 23 V. c. 61, s. 26, *par.* 10, &c.

PROSECUTION, &C., FOR OFFENCES AGAINST THIS ACT.

Where and by whom suits under this Act shall be commenced and prosecuted.

36. Any prosecution for an offence against this Act committed within the limits of any County, Parish, Township, Town, or Village Municipality, may be instituted by or in the name of any Revenue Inspector of the District, before any one or more Justices of the Peace, or the Inspector and Superintendent of Police, or a Stipendiary Magistrate, within the District wherein the offence has been committed, or within any district whatever, if the offence has been committed on board a steamboat or other vessel,—or by or in the name of the Clerk or Treasurer, or Secretary-Treasurer, or the Mayor, or any one of the Councillors or Officers of such Municipality, before any one or more Justices of the Peace therein or in a neighbouring Parish or Township,—and in every case where the prosecution is not brought by or in the name of a Revenue Inspector, the share which would otherwise have accrued to the Revenue Inspector, shall belong to the Municipality (as hereinafter provided), to be appropriated to such purposes as they deem proper, but the Municipality shall be answerable for all the costs of prosecution; And in the next following fifteen sections the word "Justice" includes any magistrate mentioned in this section, and two or more Justices in all cases where two or more act. 20 V. c. 46, s. 1—14, 15 V. c. 100, s. 42.

What the term "Justice" shall comprehend.

37. Any prosecution under any of the provisions of this Act, except those of the thirtieth section, shall be commenced within six months after the alleged offence, and shall be heard and determined in a summary manner, either upon the confession of the defendant or upon the evidence of one or more witnesses or witnesses:

Limitation of suits.
Exception.

2. In default of immediate payment of the penalty, and such costs as are awarded to the prosecutor, the amount thereof shall (subject to the discretion hereinafter vested in the convicting Justice) be levied by warrant of distress out of the goods and chattels of the defendant; and in default of such goods and chattels, or in case of their being insufficient, the defendant shall be imprisoned under the warrant of any such Justice for a period of not less than two months, and not exceeding six months; but the defendant may at any time obtain his liberation from such imprisonment by making full payment of the said penalty and of all costs, whether incurred upon or after conviction;

How payment of penalties may be enforced.

3. Every summons or other process, proceeding or paper, in any such prosecution may be served, and the service thereof certified under his oath of office by any constable or peace officer duly appointed for the district in which the same is brought. 14, 15 V. c. 100, s. 42, and 20 V. c. 46, s. 1, &c.

Service of process.

38. Whenever any judgment is rendered under this Act, for the amount of any penalty and costs, the justice trying the case may call upon the defendant to declare whether or not he possesses sufficient goods and chattels to satisfy the judgment and costs, and if he refuses to answer to the satisfaction of such justice, he may be forthwith imprisoned, under the warrant of such justice, in the common gaol or house of correction, for a period not exceeding three months; but no warrant of distress shall, in such case, issue against his goods and chattels. 20 V. c. 46, s. 2.

Imprisonment in lieu of distress in certain cases.

39. If the defendant declares that he possesses sufficient goods and chattels to satisfy the judgment and costs, then in default of immediate payment a warrant of distress (or execution) may issue against them; and if upon the return of the bailiff or other officers charged with the execution of the warrant in that behalf, it appears that there has not been a sufficient levy, and the justice is satisfied by affidavit or otherwise that there has been misrepresentation, concealment or fraud on the part of the defendant, the justice may imprison such defendant in the common gaol or house of correction until the judgment and costs be fully paid, or for a period not exceeding three months. *Ibid.*, s. 3.

In case defendant makes a false declaration as to his means.

40. Such justice may, if he deems it expedient, in the event of such penalty and costs not being immediately paid, appoint

Further powers to Justice as

regards the recovery of penalties.

some future day for the payment thereof, and may order the offender to be detained in safe custody until the day so appointed, unless such offender gives security for his or her appearance on such day, to the satisfaction of the said justice, who is hereby empowered to take such security by way of recognizance or otherwise at his discretion;—and if at the time so appointed the penalty is not paid, the same or any other justice of the peace may, by warrant under his hand and seal, commit the offender to any common gaol or house of correction within his jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication; such imprisonment to cease on payment of the said penalty and costs. 20 V. c. 46, s. 4.

Informations may contain several counts.

41. In all informations and complaints for the prosecution of offences against this Act, several counts for the same offence, and several offences under the same section, similar in their nature and only constituting different categories of the same offence, may be included, provided the time and place of the commission of each offence be alleged; and the form in Schedule (D) annexed to this Act shall be altered in this particular;—and the information or complaint may be amended before plea to the merits in any matter of form or substance, upon motion in writing of the complainant, setting forth the required amendment, but without obliterating or altering the original pleading; and if the amendment be allowed, the defendant, (if he requires it,) may have a further delay to plead to the merits, or for plea and proof, as it may be ordered; and if the information or complaint, in the opinion of the Justice, be so defective either in form or substance, that a legal conviction cannot be based upon it, and it be not amended or reformed, the Justice may dismiss the case, the whole with or without costs in his discretion. 20 V. c. 46, s. 8.

Amendment of pleading and further delay to plead.

Proof in prosecution facilitated.

42. It shall not be necessary, in any action or prosecution under this Act, to prove that the offence was committed on the precise day specified to obtain judgment against the defendant; provided it be proved that the offence was committed on or about the day set forth in and by the summons, information or declaration, and before the commencement of such action or prosecution. 14, 15 V. c. 100, s. 19.

Forms.

43. The forms of declaration, summons, conviction, warrant of distress and commitment, D, E, F, G, H, annexed to this Act, or other form to the like effect, shall be good and sufficient, and shall be used in any prosecution under this Act, or in any proceeding antecedent to, or consequent thereon, 14, 15 V. c. 100, s. 45.

Suits under this Act not to be dismissed for defect or informality.

44. No suit, action or prosecution under any of the provisions of this Act, (except those of the thirtieth section) shall be dismissed or set aside for any alleged defect, informa-

lity, error or omission; but if it appears that the party summoned has or may have been deceived or misled, the presiding Justice may, upon such terms as he thinks fit, adjourn the hearing of the case to some future day. 14, 15 V. c. 100, s. 43.

45. Any person examined or called as a witness on any such action or prosecution shall be bound to answer all questions put to him which are deemed pertinent to the issue, notwithstanding any declaration on his part that his answer may disclose facts tending to subject him to the penalty imposed by the twenty-second section of this Act; but such evidence shall not be used against him in any prosecution under the said section. 20 V. c. 46, s. 9.

Examination of witnesses.

46. Any person who tampers with a witness, either before or after he is summoned as such witness on any trial under this Act,—or by the offer of money, or by threats, or in any way, either directly or indirectly, induces or attempts to induce any such person to absent himself or herself, or to swear falsely, shall be liable to a penalty of fifty dollars for each such offence. 14, 15 V. c. 100, s. 47.

Penalty on tampering with witnesses.

47. In every prosecution for any contravention of the provisions of this Act the depositions of the witnesses shall be reduced to writing by the clerk of the peace, or some one appointed by him, or by the justice trying the case, and shall be filed of record in the cause, in like manner as if the same had been taken in the Superior Court for Lower Canada. 20 V. c. 46, s. 5.

Depositions to be reduced to writing.

48. The said clerk of the peace, or other clerk officiating in this behalf, shall be entitled to charge and receive at the rate of ten cents for each hundred words of the said evidence so reduced to writing, or of two dollars per diem for the time during which he is so occupied, in the discretion of the Justice trying the case, to be entered in taxation and paid by the party failing on such proceeding, if judgment be rendered therein against either party; and if no judgment be rendered therein within three months after the return of the Summons or Information, then the fees of such Clerk shall be paid equally by the said parties. *Ibid*, s. 7.

Fees to Clerk taking depositions.

How paid.

49. No judgment or conviction in pursuance of this Act, or adjudication on appeal therefrom, shall be removed by *Certiorari*, or otherwise, into any of Her Majesty's Superior Courts of Record in Lower Canada. 16 V. c. 214, s. 6.

Judgments, &c., under this Act not to be removed by *Certiorari*.

50. No appeal from any conviction, order or judgment for any offence against this Act shall be allowed under any law or statute whatsoever, in any case wherein the trial was had before, and the conviction made by two justices of the peace,—or by any inspector and superintendent of police or stipendiary magistrate, and another justice of the peace:

No appeal allowed in cases tried before two justices.

Provision for appeal in cases tried before one Justice.

2. Nor if the case was tried and the conviction made before one justice only, shall any appeal whatever be allowed according to the practice observed with respect to appeals in other cases; but any party to the cause, whether complainant or defendant, aggrieved by any conviction, order or judgment made or rendered by only one justice of the peace, may within eight days after the making or rendering thereof, and after two days' notice to the opposite party or his attorney, and after having complied, (if a defendant,) with the conditions of the next following section, apply to any justice of the Superior Court, by petition setting forth the grounds of his application, and praying to be permitted to appeal from such conviction, order or judgment, to the next court of general quarter sessions;

Permission of the Judge required.

3. And thereupon such judge, if he sees fit, may make an order directing the justice or public officer having the legal custody of the record in the case, to send the same immediately before him, together with a copy of the conviction, according to the form in the schedule to this Act; and upon examining the same and hearing the parties, if present, he may allow the said appeal or reject the said petition with costs to be taxed by him, and entered in execution against the party failing by the justice who tried the case, or without costs in his discretion;

Transmission of the record, &c.

4. And if the judge allows the said appeal, he may order the said petition and record in the said case to be returned to and filed with the clerk of the court of quarter sessions, to be set down without further formality for hearing on the first day next thereafter of any session of the said court, when the said appeal shall be heard, and shall be restricted to a mere revision of the proceedings, proof and judgment therein, without the admission of any other evidence or the adoption of any further proceedings whatever. 20 V. c. 46, s. 6.

But in any case notice of appeal must be given within twenty-four hours.

51. No person against whom any judgment is rendered under this Act, shall be entitled to appeal under the next preceding section, unless within twenty-four hours from the date of such judgment, he gives notice to the Clerk, or the person acting as Clerk of the convicting Justice, of his intention to appeal therefrom, and within fifteen days from the date of such judgment, deposits with the Clerk of the Peace for the district within which such judgment has been pronounced, the amount of the penalty and costs awarded by such judgment. 14, 15 V. c. 100, s. 44, and 20 V. c. 46, s. 6.

How fines under this Act shall be disposed of.

52. All fines and penalties recovered under this Act, shall be disposed of in the following manner, that is to say:

2. One third thereof shall belong to the person upon whose information the prosecution was instituted, and such person shall not, on account of his interest in the event of such suit, be incompetent to give evidence therein;

3. If the prosecution has been brought by a Revenue Inspector, one third shall belong to and be retained by such Revenue Inspector, and the remaining third shall belong to the Crown; and if there be no informer, then one half shall belong to such Revenue Inspector, and the other half to the Crown; but in cases where the Revenue Inspector or his Deputy has been the sole witness, the whole of the penalty shall belong to the Crown;

4. If the prosecution has been brought by any municipal officer, the informer (if any) shall have one third as aforesaid, but the share which would have accrued to the Revenue Inspector if he had been the prosecutor, shall belong to the municipality;

5. The share belonging to the Crown shall be paid to the Revenue Inspector for the Revenue Division, and by him to the Receiver General for the public uses of the Province;—the share belonging to any Municipality shall be paid to the Treasurer thereof for its use. 14, 15 V. c. 100, s. 46,—and 20 V. c. 46, s. 5.

REVENUE INSPECTORS, THEIR DUTIES, POWERS, &c.

53. A list of the licensed houses of public entertainment shall be published by the several Revenue Inspectors once a year, or oftener, at such time or times and in such newspapers as may be directed by the Minister of Finance. 14, 15 V. c. 100, s. 36.

List of licensed houses to be published annually.

54. Every Revenue Inspector may, with the consent and approval of the Minister of Finance, appoint one or more deputy or deputies for the performance of the duties relating to his office under this or any other Act;—and every such Revenue Inspector and every Deputy to be appointed by him, shall take and subscribe the following oath, before any judge of the Superior Court, or before the Commissioner of Customs, who may administer the same; and every such oath shall be deposited in the office of the Minister of Finance:

Revenue Inspector may have a Deputy.

“I, _____, Revenue Inspector for the revenue division
 “of _____, do swear, that I will well and truly execute
 “and perform the duties of Revenue Inspector, relating to inns,
 “taverns, temperance hotels, and other houses and places of
 “public entertainment, according to the best of my skill and
 “knowledge, and that in all cases of fraud or suspicion of
 “fraud that may come to my knowledge, I will spare no person
 “from favor or affection, nor will I aggrieve any person from
 “hatred or ill-will, and that I will in all things, to the best of
 “my skill and ability, comply with and enforce the law in this
 “behalf. So help me God.” *Ibid*, s. 22.

Oath.

Inspector to visit yearly each licensed Tavern in his division.

55. Every Revenue Inspector, either in person or by his deputy, shall visit, once at least in each year, every inn, tavern, temperance hotel, and every other house or place of public entertainment within the revenue division for which he is appointed, shall examine the same, and shall prosecute every keeper of any such inn, tavern, temperance hotel, or place, of public entertainment, or other person who offends against this Act. 14, 15 V. c. 100, s. 21.

And may also inspect Steam-boats.

56. Any Revenue Inspector, or his deputy, may, at all reasonable hours, go on board any steamboat or vessel to examine whether a license be exhibited, and to ascertain whether all other requirements of this Act are complied with. *Ibid*, s. 29.

In case Tavern-keeper refuses admittance to Inspector.

57. If the keeper of any licensed inn, tavern, temperance hotel, or of any licensed house or place of public entertainment, refuses admittance to the Revenue Inspector, or to his deputy—or if any person in any way opposes or hinders, obstructs or molests the Revenue Inspector, or his deputy, in the execution of his duty, such keeper or person shall be liable to a penalty of forty dollars for each such offence. *Ibid*, s. 23.

Penalty on person molesting him in the exercise of his office.

58. Any person who by force or violence, or in any way assaults, resists, opposes, molests, hinders or obstructs any Revenue Inspector or his deputy, in the exercise of his office, or any person acting under him, shall be liable to a penalty of not more than forty dollars, nor less than eight dollars for each such offence. *Ibid*, s. 30.

Protection of Inspector in suits brought against him for things done by him in discharge of his duty.

59. No action or prosecution shall be maintainable against any Revenue Inspector for any thing done by him in the exercise of his office, unless the same is brought within six months after the cause thereof; and the defendant may plead the general issue, and give the special matter in evidence; and if the Plaintiff is non-suited, or discontinues the action, or judgment is given against the Plaintiff, the Defendant shall receive costs;—and if judgment be given for the Plaintiff, and the Judge or Court before whom the action or prosecution has been tried, certifies that the Revenue Inspector had reasonable grounds for the act or proceeding complained of, the Plaintiff shall not be entitled to any costs of suit, nor to more than nominal damages. 14, 15 V. c. 100, s. 48.

His right of appeal.

60. In every action or prosecution instituted or commenced by, or against any Revenue Inspector under the provisions of this Act, or for any thing done in pursuance of this Act, such Revenue Inspector may appeal from the judgment given therein, within three months thereafter, to any Court having competent jurisdiction. 14, 15 V. c. 100, s. 49.

UNORGANIZED TRACTS.

61. The provisions of this Act apply to unorganized tracts of Country in Lower Canada, so far as they are consistent with those of the Act twenty-third Victoria, chapter six, and subject to the exceptions made in the sixth section of that Act. 23 V. c. 6, s. 6.

SCHEDULES.

(D)

FORM OF DECLARATION.

Province of Canada, }
 District of }

Special Sessions of the Peace.

(*Name of Revenue Inspector.*) of the city, (town, township or parish) of (*name of the city, town, township or parish.*) in the district of (*name of the district.*) Revenue Inspector for the (*division if the district be divided.*) district of (*name of district.*) in behalf of our Sovereign Lady the Queen, prosecutes, (*name of defendant.*) of the city, (town, township or parish) of in the district of

For that whereas the said (*name of defendant.*) did at the city, (town, township, or parish,) of in the district aforesaid, on, and at sundry times before and since (*here state succinctly the offence.*) contrary to the statute, in such case made and provided; Whereby and by force of the said statute, the said hath become liable to pay the sum of dollars cents.

Wherefore the said Revenue Inspector prays judgment in the premises, and that the said (*name of defendant.*) may be condemned to pay the sum of dollars cents, for the said offence, with costs.

Revenue Inspector,
 for the district of

Prosecutor.

If the prosecution is brought by a Municipal Officer, vary the form accordingly.

** In any of these Schedules say "defendants," instead of "defendant," if there are more than one.*

(E)

FORM OF SUMMONS.

Province of Canada, }
District of }

To (name of defendant,) of the (city, town, township or parish,) of (name of the city, town, parish or township,) in the district of (name of district.)

You are hereby commanded to be and appear before me, the undersigned Justice* of the Peace for the said district, at (name of place,) on the _____ day of _____, at the hour of _____ of the clock in the _____ noon, or before such other Justice or Justices of the Peace for the said district, as may then be there, to answer to the complaint made against you by (name of Revenue Inspector,) Revenue Inspector, (or as the case may be,) who prosecutes you in Her Majesty's name and behalf, for the causes mentioned in the declaration hereunto annexed ;— otherwise judgment will be given against you by default.

Given under my hand and seal, this _____ day of _____ in the year of our Lord, one thousand eight hundred and _____, at _____, in the district aforesaid.

J. P. [Seal.]

* In any of these Schedules say "Justices," instead of "Justice," when there are more than one.

CERTIFICATE OF SERVICE.

I, the undersigned _____ do hereby certify, upon my oath of office, that on the _____ day of _____, I did serve the within summons, and the declaration thereto annexed, on the within named defendant, at the hour of _____ of the clock in the _____ noon, by leaving a true and certified copy of the said summons and of the said declaration at the domicile of the said defendant, in the speaking to _____ of _____ day of _____ 18 _____.

Note.—The copy left with or for the Defendant is to be certified as a "true copy" by the Justice of the Peace signing the Summons.

(F)

FORM OF CONVICTION.

Province of Canada, }
District of }

Be it remembered, That on the _____ day of _____, in the year one thousand eight hundred and _____, at (name of place

where convicted,) in the said district, (name of defendant,) is convicted before the undersigned (one) of Her Majesty's Justices of the Peace for the said district, for that he, the said (name of defendant,) did (state the offence succinctly of which he or they were convicted) and (I or we) adjudge the said (name of defendant) for his said offence, to forfeit and pay to the sum of _____, and also to pay to the said the sum of _____, for his costs in this behalf.

Given under _____ hand and seal, the day and year first above mentioned.

Signature, J. P. (Seal or Seals.)
or Signatures.

(G)

FORM OF WARRANT OF DISTRESS.

Province of Canada, }
District of _____ }

(Name of Justice) Esquire, _____ of Her Majesty's Justices of the Peace in and for the said District.

To any bailiff, constable or other officer of the Peace, in and for the said district :

Whereas (name of Defendant) of the Parish of (name of Parish or Township,) in the said district, hath been convicted before (one) of Her Majesty's Justices of the Peace for the said District, of having (state the offence) whereby the said (name of Defendant) hath forfeited, and hath by the said Justice been adjudged to pay the sum of _____ dollars _____ cents, and further the sum of (amount of the costs allowed by me) the said Justice allowed and adjudged to be paid by the said (Defendant) to (name of Officer) Revenue Inspector, (or as the case may be) for costs by him laid out about the conviction aforesaid (*); These are therefore to command and require you, and each and every of you, to distrain the goods and chattels of the said (name of Defendant) wheresoever they may be found within the said district; and on the said goods and chattels so distrained to levy the said penalty and costs, making together the sum of _____ dollars _____ cents. And if within the space of four days next after such distress by you made, the said last mentioned sum of _____ dollars _____ cents, together with the reasonable charges of taking and keeping the said distress are not paid, that then you do sell the said goods and chattels so by you distrained as aforesaid, and out of the money arising from such sale that you do pay the said sum of _____ dollars _____ cents, unto the said _____ Revenue

Inspector, (*or as the case may be*) returning to the said the overplus, the reasonable charges of taking, keeping and selling the said distress being first deducted; and you are to certify to with the return of this precept what you shall have done in the execution thereof. Hereof fail not.

Given under hand and seal, at , in the said district, this day of , in the year one thousand eight hundred and

Signature, J. P. [Seal.]

(H)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

To all or any of the Bailiffs, Constables and other Peace Officers, in the district of , and to the keeper of the (*house of correction*) at in the said district of

Whereas (&c., as in the foregoing distress warrant to the (*) and then, this): And whereas afterwards, on the in the year aforesaid, I, (*or, as the case may be,*) issued a warrant to all or any of the bailiffs, constables or other Peace Officers of the district of , commanding them or any of them, to levy the said sums of and by distress and sale of the goods and chattels of the said ; And whereas it appears to me, as well by the return to the said warrant of distress by the (*constable*) who had the execution of the same, as otherwise, that the said (*constable*) hath made diligent search for the goods and chattels of the said , but that no sufficient distress whereon to levy the sums above mentioned could be found; These are therefore to command you, the said Bailiffs, Constables or Peace Officers, or any one of you, to take the said and him safely to convey to the (*house of correction*) at aforesaid, and there deliver him to the said keeper, together with this precept; and I do hereby command you the said keeper of the said (*house of correction*) to receive the said into your custody, in the said (*house of correction*) there to imprison him, (*and keep him to hard labor*) for the space of , unless the said several sums, and all the costs and charges of the said distress, (*and of the commitment and conveying of the said to the said house of correction*) amounting to the further sum of , are sooner paid unto you the said keeper; and for so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year of our Lord , at , in the district aforesaid.

Signature, J. P. [L. s.]

C A P . X X V I .

Con. S. L. C.
page 278.

An Act respecting Abuses prejudicial to Agriculture.

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

1. This Act shall not affect the powers and duties of the Municipal Councils, whether local or County, excepting in so far only as herein expressly provided.

Powers and duties of municipal councils not affected.

DAMAGES BY TRESPASS ON THE PROPERTY OF OTHERS.

2. Except in the discharge of any duty imposed by law, no person shall enter upon or pass over the land of another without permission of the owner or his representative, on pain of incurring a fine of not less than one, nor more than six dollars :

Penalty on trespassing.

2. It shall be lawful, nevertheless, to make use of any navigable or floatable river or water-course, and the banks thereof, for the conveyance of all kinds of lumber, and for the passage of all boats, ferries and canoes, subject to the charge of repairing, as soon as possible, all damages resulting from the exercise of such right, and all fences, drains or ditches so damaged ;

Navigable water-courses and the banks thereof to be thoroughfares.

3. The proprietor, or his representative or servant, may arrest without warrant any person in the act of contravening this section, and bring him forthwith before a Justice of the Peace. 20 V. c. 40, s. 2.

Arrest of offenders.

3. Any person who during the day, upon the property of any other person, leaves any gate open, takes down, cuts, breaks, removes or damages any fence, cuts or destroys any hedge, cuts, shatters, breaks down, removes or damages, any tree, shrub, or plant, removes any canoe, craft, ferry or boat from the bank of any river or other place, or burns or removes from such property, any wood, shall incur a penalty of not less than one nor more than six dollars ; if such offence be committed during the night, the penalty shall be doubled ; and whether the offence be committed by day or by night, the offender may be condemned to the payment of damages :

Penalty on persons damaging property, &c.

If by night.

2. Any person who has pulled down or removed any part of a fence, or who is found upon any land, highway or road, having in his possession any part of the materials of any fence, may be arrested without any warrant, either by the owner or one of his servants, or by any person cognizant of the offence, and brought before any Justice of the Peace, who may imprison him with a view to further examination, for any period not exceeding twenty-four hours, or admit him to bail if he can furnish it to the satisfaction of the Justice of the Peace ;

Pulling down or carrying away fences.

Offender may arrange with complainant.

3. The person so arrested may, however, arrange with the proprietor or complainant, and may be discharged upon payment of all costs, damages and penalties theretofore incurred. *Ibid*, s. 3.

In case offender be a stranger without means.

4. If the person contravening the provisions of this Act is a stranger, or has no real property in the Parish or Township, and has no means of paying the fine, damages and costs of conviction, the Justice of the Peace may order that the defendant be confined in a place of security until the return of the Writ of seizure, or until he shall produce sufficient security, as provided by section sixty of chapter one hundred and three of the Consolidated Statutes of Canada. *Ibid*, s. 4.

DAMAGES CAUSED BY ANIMALS.

Animals not to be allowed to stray.

5. No person shall permit any horse, mule, horned cattle, sheep, goat, pig, fowl, or other animal belonging to him to stray upon the property of another, without the permission of the owner or tenant thereof nor on the bank of any stream, nor on any public road or place, under the following penalties:

Fines.

		\$ cts.
	For each Stallion not under two years of age, not less than \$5, nor more than...	10 00
	“ “ Bull, boar, or ram not less than \$1 nor more than.....	4 00
	“ “ Gelding, mare, ox, cow, or hog....	00 25
	“ “ Colt, filly, calf, or goat.....	00 20
	“ “ Sheep.....	00 10
	“ “ Goose, duck, turkey, or other poultry.	00 5

To be doubled for subsequent offences.

And such penalties shall be doubled for the second or any subsequent offence, whether any arrangement has or has not been come to between the parties, or judgment has or has not been rendered with regard to any prior offence. 20 V. c. 40, s. 5.

Pigs to be ringed.

6. Any person who allows a pig to stray, without having ringed it, shall pay a fine of not less than one, nor more than two dollars. *Ibid*, s. 6.

Animals at pasture.

7. The owner or tenant of any land shall be responsible for damages caused by any animal he receives to pasture, as though such animal were his own property:

How complaint of damage by animals shall be made.

2. If the animal causes damage, the complainant may give verbal notice of his complaint by speaking to any reasonable person in any house built upon the land on which the animal is at pasture,—or at the domicile of the person who has received the animal to pasture, by speaking to him personally or to any reasonable member of his family. *Ibid*, s. 7.

8. Any person who has suffered damage by any horse, mule, cattle, poultry or other domestic animal, may make complaint thereof, before any Justice of the Peace, either for the damages only, or for the penalty and the damages together, and if the Justice of the Peace shall be convinced that no damage has been caused (if the action is only brought for damages) he shall dismiss the complaint and condemn the complainant to pay costs; Proceedings.
Complaint dismissed.

2. But if the action is brought for both penalty and damages, he shall condemn the offender to costs, if any part of such complaint be well founded;—but if the complaint is unfounded, except in so far as it relates to the penalty, and costs have been incurred to ascertain the damages, he shall only condemn the offender to the costs of the complaint and the penalty, and the complainant to the costs incurred to ascertain the damages; If complaint be maintained.

3. If the Justice has reason to believe that damage has been done, he shall forthwith order the parties contesting, unless they forthwith arrange the matter in dispute between them in his presence, each to name an *expert*; and the Justice himself shall appoint a third, and the two others also, if the parties refuse to name them; The *experts*, if so named, shall proceed as soon as possible to ascertain the damages in the presence of the parties, or in their absence after having given them notice, and they shall report in writing to the Justice of the Peace the conclusions arrived at by them in the matter; Experts in certain cases.
Their duties.

4. The Justice of the Peace, after notifying the parties, and having heard them, if present, in favor of or against the report, shall award to the complainant the amount of damages set forth in the report, with the costs of report and prosecution, taxed by such Justice, and shall cause the amount to be raised in the manner hereinafter prescribed; Justice to make final award.

5. If, however, before making complaint to a Justice of the Peace, the party, who has suffered the damages and the party against whom complaint is laid, voluntarily consent to abide by the decision of *experts* to be named by themselves, the decision of such *experts* shall be binding upon both parties; But if the two *experts*, in case of their being of contrary opinions, are unable to agree as to the selection of a third; any Justice of the Peace, upon the application of one of the parties, may appoint a third *expert*; Amicable reference to experts.
Third expert.

6. If the party condemned neglects or refuses to pay the sum fixed by the *experts*, such party may be sued by the person to whom such sum is payable or by his representative, before any Justice of the Peace. 20 V. c. 40, s. 8. In case of failure to pay award.

9. Any owner or occupier of land, or his servant or representative, and any Inspector may seize and impound where Animals straying may be impounded.

a public pound exists, or take and retain at his own place of abode, any animal he finds wandering on his property or on a public road or place, or on the bank of any stream, until the owner of such animal has paid the fine, damages and costs imposed by this Act, as the case may be :

Party impounding an animal must feed it.

Penalty.

2. The person who has confined such animal shall provide it with proper food, in sufficient quantity, and give it water and take proper care of it under a penalty of forty cents for each day during which he neglects to do so, besides the damages occasioned by such neglect ;--The said penalty, and damages, if any, shall belong to the owner of such animal, and may be recovered by him before a justice of the peace if the person who has confined the animal does not pay them after being required so to do ;

In case owner be unknown.

3. If the owner of such animal is unknown to the person who has taken it in possession, such person shall give public notice on two consecutive Sundays at the door of the church, in the parish or township, and if there are more churches than one, then at the door of the church which is nearest to the locality in which the animal was seized, that such animal will be sold at such a time, hour and place, unless the owner do, before that time, claim back his property ;

Time for reclaiming animal.

4. If the owner does not reclaim his property before the Monday following the day on which the last notice is given, and pay the fine, costs and damages, the animal shall be sold on the said Monday by one of the inspectors, who has been notified to that effect by the party seizing ;

Costs.

5. But if the owner reclaims his animal at any time between the date of the seizure and the Monday after the day on which the last notice has been given, he shall, in such case, be bound to pay the costs and damages as well as the fine ;

Proceeds of sale how dealt with.

6. The inspector shall receive the proceeds of the sale and thereout shall pay the fine, the costs of all kinds as estimated by a justice of the peace, and the damages, and shall remit the balance to the secretary-treasurer of the parish, township or village municipality in which the offence was committed, as the case may be ;--the municipality shall pay over such balance to the owner of the animal, if such owner becomes known to such municipality within one year, but if not, shall retain the amount for the improvement of bridges, roads and works under its control ;

Inspector to render an account.

7. The inspector shall render an account of the due application of the moneys arising out of the sale of the said animal to the secretary of the parish, township or village municipality in which the offence was committed, within thirty days after such sale, on pain of the fine imposed by this Act ;

8. But if the person so seizing any animal knows the owner thereof, he shall give him notice of the seizure, as speedily as possible, and if such owner does not reclaim his animal and pay the fine, damages and costs, as the case may be, within twenty-four hours, the case shall be dealt with as provided by the second, third, fourth and fifth paragraphs of this section; but if the sale of such animal do not realize sufficient to pay the penalty, damages and costs, as the case may be, the offender shall nevertheless be bound to pay any balance remaining due;

If owner be known.

To be liable for an deficiency.

9. In any case it shall not be necessary to seize and confine any fowl or other species of domestic poultry, in order to be entitled to claim damages, but only to prove by one credible witness, other than the complainant, that they have really caused the damage complained of; nevertheless whoever chooses to seize them may do so. 20 V. c. 40, s. 9.

Damage by poultry.

10. The inspector may, at the sale of any animal, refuse the offer or bid of any person who is unknown or insolvent, or a stranger in the parish or township in which the sale is made, unless he gives security to the satisfaction of the inspector, of his ability to pay;

Inspector may refuse bids.

2. If after the sale of any animal the purchaser does not immediately pay the price, the inspector may forthwith re-sell the animal, and so continue to do until the price is paid, and shall only give up possession after such payment;

Re-sale.

3. Within one month from the day of sale the owner of any animal sold may reclaim it from the purchaser, provided he pay him at once ten per cent upon the purchase money, over and above all his disbursements, for purchase, keep, and other charges;

Former owner may reclaim on certain conditions.

4. But to entitle the owner to avail himself of the next preceding paragraph, he must be a stranger in the parish in which the animal is sold;

But he must be a stranger.

5. If there be no bidder on the day fixed for the sale, the inspector shall adjourn it to another day, and shall give public notice thereof. 20 V. c. 40, s. 10.

If there be no bidders.

11. The owner (or his representative) of any animal confined by the keeper of any public pound, or by any person whomsoever, may demand delivery thereof between five o'clock in the morning and nine o'clock in the evening, upon payment, or legal tender to the keeper, of the fine, damages and costs; and the keeper shall incur a penalty not exceeding two dollars for every day he shall afterwards unjustly detain such animal, in addition to the damages thereby occasioned;

Owner may demand release from pound on payment of fine and costs.

Persons unlawfully taking away animals impounded.

2. Any person who takes and conveys away any animal so impounded or detained for damages it may have caused, or respecting which a complaint has been made, shall be liable to a penalty equal to the whole amount of the damages and penalty for which the proprietor of the animal was liable, and to a further fine of two dollars, or to be imprisoned for eight days, or both. 20 V. c. 40, s. 11.

DOGS.

Vicious or dangerous must be confined or killed.

12. Any justice of the peace,—upon a complaint made to him that a dog is vicious or supposed to be attacked by hydrophobia, that it is in the habit of attacking persons, or animals at large or in harness, without the limits of its master's property,—may, after hearing the parties in a summary manner, and if he is convinced that the complaint is well founded, condemn the proprietor or possessor of such dog to cause it to be confined for a period of forty days, or may order that such dog be killed,—with costs against such owner or possessor :

Penalty.

2. If the owner or possessor of such dog permits it to go at large, or fails to kill it, in contravention of the order of the Justice, such owner or possessor shall incur a penalty of not more than one dollar *per diem* ;

In case the dog has bitten any one.

3. But if it is proved that the dog has bitten any person outside the limits of its master's property, and that the dog is vicious, the Justice of the Peace shall condemn the owner or possessor to kill it ;

Dogs pursuing and killing sheep.

4. It shall nevertheless be lawful to kill any dog which, without the limits of its master's property, pursues or is known to pursue and strangle sheep,—or to make a complaint to a Justice of the Peace, who shall condemn the owner to kill such dog and to pay the costs, upon the testimony of one credible person, without prejudice to any claim for damages caused by the loss of the sheep. 20 V. c. 40, s. 12.

OBSTRUCTIONS UPON LANDS.

Timber thrown on lands or beaches to be hauled up after 1st June.

13. If any description of timber or wood of any kind be carried in any manner whatever upon the beach of any lake or floatable or navigable stream or upon the land adjoining, and remains there until the first day of June, the owner or occupier of such land or beach may then cause such timber to be hauled up and deposited in a place of safety :

Subsequent proceedings.

2. Such owner or occupier shall then give public notice, that such timber (describing the same and any marks thereon) has been found upon his land or beach, that it is in such a place, and that if the expenses incurred for the publication of the notice and in hauling the timber to such place, and the damages, if

any, are not paid before such a day and before the sale, such timber will be publicly sold by an Inspector to the highest bidder;

3. The proceeds of the sale shall be applied to the payment of all expenses and damages occasioned by such timber, and if there be any surplus, it shall be handed over to the Secretary-Treasurer of the local municipality in which the timber was found, and if there is no such municipality, then to the Secretary-Treasurer of the county municipality, to form part of the funds in his hands, if, within the period of one year from the sale of such timber, the surplus arising from such sale is not claimed by the owner of the timber or his representative. *Ibid*, s. 13.

Application of proceeds of sale.

RIVERS AND STREAMS.

14. Whoever throws into any river, rivulet, or water-course in Lower Canada, any slabs, bark, waste stuff, or other refuse of any saw-mill, (except saw-dust) or any stumps, roots, or waste timber, and allows the same to remain in and to obstruct such river, rivulet, or water course, shall thereby incur a penalty not exceeding two dollars, and not less than one dollar, for every day during which such obstruction remains therein after he is required by the party interested to remove the same, over and above all damages arising therefrom. 6 V. c. 17, s. 1.

Penalties on persons causing obstructions in rivers, streams, &c.

FILTH.

15. Any person who deposits or causes to be deposited any filth or dead animal in any river, stream or water-course, or upon any public highway, or upon the property of another, shall incur a penalty of four dollars, (without prejudice to any other damages,) recoverable upon the oath of the prosecutor and one credible witness, and such person shall be bound to remove such filth or dead animal, under a penalty of one dollar for every day he neglects to do so, without prejudice to any further damage caused by such neglect:

Penalty for throwing filth into streams.

2. If such person be unknown or cannot be discovered, the Inspector shall cause the animal to be buried, and shall cause all filth to be removed from the river, stream or water-course, public road or private property, within twenty-four hours after he has been notified so to do; and such burial or removal shall be effected at the cost of the local municipality, if any exist, if not, at the cost of the county municipality;

In case offenders be unknown.

3. Any person may compel any one retaining on his own property any dead animal or filth, to bury the same, under a penalty of one dollar for each day he neglects so to do. 20 V. c. 40, s. 14.

Dead animals, &c., to be buried.

NOXIOUS WEEDS.

Noxious weeds &c., to be destroyed.

16. Any person may, by special notice require any owner, occupier or holder of any land or common not actually under seed, or any person bound to keep in order any public or private road or by-road, to cut and destroy between the twentieth of June and the first of August, the daisies, thistles, wild endive, chicory, celadine and all other noxious weeds or plants considered as such, growing on the said land or common or public or private road or by-road:

In case of refusal.

2. In case of refusal or neglect, any Justice of the Peace may, eight days after notice has been given, condemn the delinquent, upon complaint supported by the oath of one credible witness other than the complainant, or upon the confession of the party prosecuted, to a penalty of forty cents for every day he so refuses or neglects, over and above the costs and charges incurred in obtaining such judgment, and such judgment shall be rendered in a summary manner;

Penalty for scattering seed of weeds.

3. Any person who scatters, or causes to be scattered, the seeds of weeds, to the prejudice of another person, shall incur a penalty of not less than one nor more than eight dollars;

Wild mustard.

4. Any person may, after special notice, compel his neighbour to pull up wild mustard, even in a sown field, so soon as it flowers, under the penalty mentioned in the preceding paragraph. 20 V. c. 40, s. 15.

DÉCOUVERTS.

Découvert may be demanded.

17. Any owner or occupant of any cultivated land may, by the intervention of an Inspector, compel his neighbour, whether he be owner, possessor or occupant, to grant him *découvert*:

Extent thereof.

2. Such *découvert* shall be forty-five feet in breadth adjacent to the line of separation, and of the length of the cultivated land;

When and how to be made.

3. The Inspector, before ordering the making of such *découvert*, shall visit the locality, after having given special notice of his visit to the parties interested, and upon his order the *découvert* shall be made within a period not exceeding one month;

In case of refusal or neglect.

4. Whoever refuses or neglects to obey the order of the Inspector shall pay for each arpent in length of such *découvert* a fine of forty cents for the first year, and double that amount for any subsequent year;

Certain trees exempted.

5. The *découvert* shall not extend to fruit trees, nor to hard and soft maple trees, nor to trees retained for the embellish-

ment of the property, but to all other trees and shrubs whatsoever ;

6. Any person availing himself of the two next preceding paragraphs shall, nevertheless, be bound to pay the damages as ascertained by *experts* to be chosen, one by each neighbour, and the third, if required, by any Justice of the Peace, unless the two *experts* already appointed themselves agree in the choice of a third ;

7. If one of the neighbours refuse to name his *expert*, any Justice of the Peace may name him on the requisition of any person interested in the carrying out of such *expertise*. 20 V. c. 40, s. 16.

18. The Inspector shall not order that the *découvert* be made, unless the complainant proves that he has given special notice to the person from whom he demands such *découvert*, or to his representative, before the first day of December next preceding his complaint :

2. If the complaint is brought against a person who does not reside in the district or who has no known agent, the complainant must prove that the notice has been posted up at the door of the Church of the place in which the property is situate, and upon the property itself, for four consecutive Sundays, at any time whatsoever within the year preceding the first day of December then last ;

3. After the order given by the Inspector, the complainant alone shall be entitled to prosecute, if necessary, for the execution of the works, and this in conformity with the provisions of this Act. 20 V. c. 40, s. 17.

WATER-COURSES.

19. On or before the fifteenth day of July in each year, all water-courses shall be thoroughly opened, cleansed and rendered fit for the passage of all water flowing into the same, and any person failing to do the said work shall incur a penalty of forty cents for each and every day after he has been notified by one or more of the parties interested to do the said work. 20 V. c. 40, s. 18.

20. Any proprietor or occupant of land may call upon the Inspector to visit and examine any water-course common to several lands, the labour relating to which has been regulated by a *procès-verbal*, or by an agreement made by the parties interested, or by Municipal authority, to the end that he may order that the said water-course be made, repaired and kept in order in the manner stated in the *procès-verbal* or agreement, or by Municipal authority ;—and in any cases relating only to

Who may act as.

repairing and keeping a water-course in order, it shall, for that purpose, be lawful to take an Inspector of the said Parish or Township, whether he be an interested party or not, the provisions of the twentieth and twenty-first sections of this Act to the contrary notwithstanding:

Penalty for refusal.

2. Any person who fails to obey the decision of the Inspector shall incur a penalty of forty cents for each day the work shall remain undone after the delay fixed by the Inspector;

Complainant, in certain cases, may do the work and recover the costs.

3. The Inspector upon the expiration of the specified delay, shall, if required so to do, authorize the complainant to do or cause to be done the work which the Inspector has ordered, and the complainant shall be entitled to recover the cost of the said work and all his just expenses;

Amount may be recovered under s. 35.

4. If the person condemned to do the work refuses or neglects to pay the amount, the same may be recovered in the manner hereinafter prescribed in the thirty-fifth section of this Act. 20 V. c. 40, s. 19.

How the work shall be divided

21. Whenever it becomes necessary to open, deepen, enlarge or divide a water-course common to several lands, the work connected with have not been appointed and regulated by any *procès-verbal* or agreement, or by municipal authority, the matter in dispute shall, on the requisition of one of the parties interested be adjusted by two disinterested Inspectors in the Parish or Township in which such work is to be done; or

What Inspector may act:

2. If there be no disinterested Inspector in the said Parish or Township, then by two disinterested Inspectors in a neighboring Parish or Township, and so whenever the services of Inspectors are required according to the provisions of this Act. 20 V. c. 40, s. 20.

Water-course in more than one parish, &c.

22. Any person interested in the opening of a water-course or the widening thereof or its division into several branches, may, if it crosses two or more Townships or Parishes, call upon a disinterested Inspector from each of the said Townships or Parishes to regulate and determine as to the making of the said water-course or the widening thereof:

In case of difference among Inspectors.

2. If the Inspectors are equally divided upon the matter in dispute, they may call in another disinterested Inspector, and if they are unable to agree as to the choice of such other disinterested Inspector, any Justice of the Peace shall appoint him upon the requisition of an interested party or of an Inspector, and the decision of the majority shall be final;

Form of proceedings.

3. The proceedings shall be carried on in the manner and form prescribed for the establishment of a water-course in which but one Parish or Township is interested; and the same rule

shall apply to the homologation of the *procès-verbal*. 20 V. c. c. 40, s. 21.

23. The Inspectors, upon the day and hour fixed upon, shall repair to the premises, accompanied by the parties interested if they think proper to be there, and having ascertained the most suitable place for the water-course, shall give their decision and prepare a *procès-verbal* of their proceedings, setting forth the work to be done, in what manner and by whom it is to be done and maintained, with any other details they deem it advisable to insert in the said *procès-verbal*. Duties of Inspectors.

2. The Inspectors shall enter in the *procès-verbal* a statement of the expenses incurred in the examination of the premises, the advertisements, and the drawing up of the *procès-verbal*; Expenses.

3. The said *procès-verbal* must be an authentic and notarial deed, or before two witnesses, if the Inspectors are unable to sign their names; but if they are able to sign their names, it may be either a notarial deed, or drawn by the Inspectors themselves; How *procès-verbaux* shall be prepared.

4. An authentic copy of the said *procès-verbal*, if it is executed before notaries, or a duplicate thereof, when it is executed under the hands of the Inspectors, shall be deposited, on the day following that of the first notice, in the following places: Copies of *procès-verbal* to be deposited with-

5. With the Secretary-Treasurer of the Parish or Township Municipality in which the said *procès-verbal* is to be presented for homologation; The secretary of the municipality.

6. If there be no such Parish or Township Municipality, then with the School Secretary of the said Parish or Township; and in either the one or the other place, the parties interested shall have access gratuitously to the said *procès-verbal*; Or school secretary.

7. It shall be the duty of the Secretary in whose office the said *procès-verbal* is deposited, to register the same and the apportionment of all the work relative to water-courses in the Parish or Township in which he resides, and to keep an index of these registers for the facilitating of searches; Secretary to register it and keep an index.

8. If there is neither a local nor a School Municipality in any Parish or Township, then the deposit of *procès-verbaux* or apportionments shall be made with the Secretary-Treasurer of the County Council. 20 V. c. 40, s. 22. If there be no local or school municipality.

24. The Inspectors, after having prepared their *procès-verbal*, shall give public notice to the parties interested, of the name of the Justice of the Peace before whom the said *procès-verbal* is to be presented for homologation, so that they may be enabled to be present at the place and hour and upon the day fixed in Notice of presentation for homologation.

the notice, to urge their objections thereto (if any) before the said Justice of the Peace :

Access to *procès-verbal*.

2. The Inspectors may have the said *procès-verbal* from the person with whom it is deposited in order to be homologated, provided they return it immediately afterwards ;

Delay before homologation.

3. In any case the *procès-verbal* shall not be homologated until the tenth day after the day upon which the first notice was given ;

Copy to Inspectors.

4. As soon as the said *procès-verbal* is homologated, a certified copy thereof shall be given by the person charged with the registration thereof under this Act, to the senior in age of the inspectors who prepared it, that he may cause the work therein mentioned to be performed ;

If it relates to several parishes.

5. If, however, the *procès-verbal* relates to several parishes or townships, a copy thereof shall be given to the inspector of each parish or township, because in that case the work will be conducted by each inspector in his own parish ;

Secretary-treasurer of parish to register Inspector's copy.

6. Each of the inspectors shall cause his copy of the *procès-verbal* as well as the apportionment of the work on the water-course in question, to be registered by the Secretary-Treasurer of the parish or township in which he resides, and this at the cost of the parties interested in such water-course ;

Communication *gratis*.

7. The said inspector shall grant communication of the said *procès-verbal* to all persons interested therein, *gratis*, whenever they shall require it ;

Inspectors retiring.

8. Inspectors retiring from office shall hand over to their successors the *procès-verbaux*, apportionments, and all other documents they have in their possession ;

Amendment of *procès-verbal*.

9. Any Justice of the Peace, with the unanimous consent of the parties present in court, may, at the time of the homologation of the *procès-verbal*, make amendments thereto, and the said amendments shall be entered in the Act of homologation. 20 V. c. 40, s. 23.

Parties aggrieved how to proceed.

25. If any one or more of the parties interested in any such *procès-verbal* deem themselves aggrieved thereby, he or they may complain thereof to the Justice of the Peace to whom the *procès-verbal* is to be presented for homologation :

Complaint when to be brought.

2. The said complaint must be brought within eight days after the first day upon which the notice of homologation was given ;

3. The Justice of the Peace before whom the said complaint has been laid, prior to the expiration of the ten days mentioned in paragraph three of the preceding section, shall give communication of the complaint in question to any person desiring the same; Notice thereof to be given to the Inspector.
4. The Justice of the Peace shall not decide the question in dispute, without the assistance of another Justice of the Peace, and they shall both hear the witnesses and the parties; Two Justices required.
5. If, upon the day of hearing, the Justices of the Peace do not agree, or it be necessary to have additional witnesses and the presence of a third Justice of the Peace, they may adjourn to some subsequent day for that purpose; Third Justice required.
6. The parties interested and their witnesses shall appear upon such day before the Justices of the Peace; Appearance.
7. The Justices of the Peace after having maturely considered the allegations on both sides, shall deliver their judgment in presence of the parties, if they are present in Court; Judgment.
8. If they see that the formalities have been observed, that there has been neither partiality, injustice or negligence, in the conduct of the inspector, they shall homologate the *procès-verbal*, to be executed according to its form and tenor; Homologation of *procès-verbal*.
9. If, on the contrary, it appears to them that there has been partiality, want of correctness or negligence in the examination of the premises, or that the labor has not been equitably apportioned, they shall submit the question to three *experts*, to be appointed as follows: one by the Justices of the Peace, one by the plaintiff and one by the defendant; When it shall be submitted to *experts*.
10. If one or both parties refuse to appoint their *experts*, the Justices of the Peace may appoint them; In case of refusal to appoint *experts*.
11. The *experts*, after having been sworn by a Justice of the Peace who is thereunto authorized by this Act, and after having given public notice thereof to the inspector and the parties interested, at least eight days previously, shall visit in their presence, if they think proper to be present, those places only of which the *procès-verbal* makes mention, and shall hear the allegations on both sides; Duties of *experts*.
12. After such visit the *experts* shall report their decision to one of the Justices of the Peace who has already heard the case; the said decision shall be final and conclusive to all intents and purposes whatsoever; To report their decision.
13. If by their decision, the majority of the *experts* affirm that of the inspectors, the *procès-verbal* of the latter shall be homologated by the Justices of the Peace and put into execution; In case of affirmation.

In contrary case a new *procès-verbal* to be prepared.

14. If, on the contrary, the majority of the *experts* reverse the decision of the Inspectors, such majority shall prepare a new *procès-verbal*; But such new *procès-verbal* shall not affect any other property than that affected by the *procès-verbal* of the Inspectors;

Procès-verbal may be annulled purely and simply.

15. If, however, the *experts* cannot prepare a new *procès-verbal* because they might deem it to be their duty to change the direction of the water-course, to apportion differently the work to be done, or make any other change which might affect property which was not affected by the *procès-verbal* of the Inspectors, they shall purely and simply annul the said *procès-verbal*, and matters shall be in the same position as they were before the *procès-verbal* was made;

In case of appeal against *procès-verbal*.

16. In all cases, however, in which there is an appeal from a *procès-verbal*, the Inspectors who prepared it may compel the parties at whose request they prepared it, to appear and defend it and to pay the costs and expenses thereof, if, through any fault of such parties, it be found defective;

In what case inspector is liable for costs.

17. If, however, the *procès-verbal* is defective, through any negligence or partiality on the part of the Inspectors, then the Inspectors shall pay the costs and expenses thereof. 20 V. c. 46, s. 24.

Inspector to fix sites for bridges.

26. The Inspector shall determine the bridges required upon any public road to pass over the water-courses, and the sites upon which they are to be built, and shall point out the lands of the proprietors liable to complete and keep them in repair. *Ibid*, s. 25.

Owners of higher lands not bound to assist in draining the lower.

27. The owner of any land higher than that of his neighbour shall not in any case be required by an Inspector to make or assist in making a water-course through his land of any greater depth than is necessary for draining his own land:

But must allow drains through his lands.

2. The possessor or owner of any low or swampy land may make a water-course through the high land of his neighbour to drain his own, and may make use of any one already made, may deepen the same if it is not deep enough, and repair and keep the same in order,--at his own expense. 20 V. c. 40, s. 26.

Penalty for obstructing a water-course.

28. Whoever obstructs any water-course or allows it to be obstructed, shall incur a penalty not exceeding one dollar for every day such obstruction remains after the expiration of two days from the time upon which he receives notice to remove the same:

Proceedings in case of obstruction.

2. Any person interested in the water-course in which the obstruction is found, shall give notice to the person in default, and may recover the penalty with costs against such person. *Ibid*. s. 27.

29. Any person interested in a water-course may require the Inspector to call a public meeting of the parties interested in the said water-course, to decide whether the work appertaining thereto shall be performed by joint labour (*corvées*), by separate shares, or by contract:

Public meeting.

2. The Inspector shall call the said meeting by giving public notice thereof to the parties interested;

How called.

3. The majority of the interested parties present shall decide what is to be done with respect to the apportionment of the work on such water-course, or part thereof, as the case may be, and may require the Inspector to make or cause to be made an apportionment, in which shall be shewn the portion which each of the parties interested will have to pay in money or perform in work;

Majority of those interested to decide.

4. The said apportionment, before it goes into operation, shall be ratified before a Justice of the Peace and amended if there be occasion therefore, and the formalities for the homologation of the said apportionment shall be the same as those prescribed for the homologation of the *procès-verbal* for a water-course. *Ibid*, s. 28.

Apportionment homologated.

30. The Inspector shall give public notice of the day which he shall appoint for each person interested to perform his share of the work according to the tenor of the *procès-verbal*, whether such work is to be done in common or according to the apportionment made for that purpose:

Inspector to give notice of day fixed for performing work.

2. Whosoever refuses or neglects to repair to the spot on the day appointed, and to perform his share of the work, shall incur a penalty of forty cents, for each day during which he refuses or neglects to execute the orders of the Inspector;

Penalty for refusing to attend.

3. The Inspector, after the expiration of eight days from the time appointed for beginning the work, may cause the work of any of the person who has neglected to perform it, to be done, and may recover the expenses with costs from the party or parties in default;

Work of parties not attending to be done at their costs.

4. Upon the requisition of one or more of the parties interested in a water-course, the Local Municipality, whenever required so to do, shall appoint a Trustee from among the parties interested in such water-course regulated by any *procès-verbal* or act of agreement or by Municipal authority, to see to the execution of the work relating to such water-course; such trustee shall have all the powers and fulfil all the duties of the inspector, with respect to the water-course in which he is interested, and shall be subject to the penalties imposed by this Act for any neglect to perform his duties; he shall not be bound to serve more than two years, and shall act gratuitously; the trustee

Trustees to be appointed in certain cases.

shall have precedence over the inspector, and when he is compelled to prosecute, and in that case only, shall be entitled to ten cents per hour. 20 V. c. 40, s. 29.

LINE DITCHES.

Inspector to order the necessary work.

31. The inspector, upon the application of any owner or occupant of any land through which it is proposed to make a line ditch (*fossé de ligne*), shall visit the place, command the performance of the necessary work, and determine how and by whom it shall be executed :

Duty of Inspector with respect to ditches.

2. The inspector, when required so to do by the proprietor or occupant of any land, shall inspect the ditch which separates the land of the party complaining from that of any other person, and determine whether the said ditch is sufficient for his use ;

Inspector may order ditch to be enlarged.

3. If the inspector declares the said ditch to be insufficient, he may order the person of whom complaint is made, to deepen, cleanse and repair the same within a delay which shall not exceed the time strictly necessary to perform the said work ;

Complainant must have his own ditch in good order.

4. If the inspector finds that the line ditch of the party complaining is equally insufficient, and if he is required so to do by the person of whom complaint is made, he shall immediately condemn the party complaining to deepen, cleanse or repair his line ditch within a delay which shall not exceed the time strictly necessary ;

Penalty for disobedience.

5. For each day upon which the said person fails to comply with the order of the inspector, he shall incur a penalty of forty cents for each arpent in length of such ditch, (any fraction being reckoned as a whole arpent) ;

Inspector may order complainant to do the work and recover costs.

6. The inspector, after the expiration of the delay granted by him, may, if required so to do, authorize the complainant to perform or cause to be performed the work, the execution of which he has ordered, and such complainant alone shall be entitled to recover the costs of such work and all his fair expenses, if the person condemned to do such work neglects or refuses to pay the amount ;

Certain lands in the townships subject to the same provisions.

7. In the townships in which lands have been set apart by government for public line-roads (*routes*), the said lands shall be subject to the same provisions as lands belonging to private individuals ;

In case of inundation from insufficiency of ditches.

8. If a proprietor or occupant of cultivated land suffers from the overflowing or flooding of such land, occasioned by the insufficiency of the ditches which his neighbour has upon any land in standing timber or brushwood, he may require the inspector to visit the premises in question ;

9. After his visit the inspector may order, if it is necessary for the purpose of putting a stop to the said inundation or overflowing of water, that the necessary work be done either upon the lines or in any other part of the land in standing timber or brushwood ;

After visit the Inspector may order certain work to be done.

10. The power conferred by the two preceding paragraphs upon the inspector shall only be exercised in so far as regards land in standing timber or brushwood, and not otherwise ;

Effect of the two preceding paragraphs limited.

11. The establishment of a front road between two ranges or concessions shall in no respect alter the obligations between neighbors, when such road is entirely within one of the ranges or concessions ;

As to new front roads.

12. Whoever obstructs or allows to be obstructed in any manner whatsoever, any line ditch, shall be liable to a penalty not exceeding one dollar for each day such ditch is so obstructed. 20 V. c. 40, s. 30.

Obstructions to line ditches.

LINE FENCES.

1. Upon the requisition of any proprietor or occupant of land, the inspector shall proceed to inspect the line which divides his land from that of his neighbor, and on which it is proposed to erect a new *mitoyen* fence, and shall determine in what manner the said *mitoyen* work shall be done or apporportioned, and shall prescribe the shortest possible delay for the execution thereof ;

General duties of Inspectors with respect to line fences.

2. Upon a similar requisition, the inspector shall further visit any fence separating the land of the complainant from that of his neighbor, and shall determine whether the said fence is sufficient ;

To visit fences.

3. If he declares the same to be insufficient, he may order the person complained of to repair it within a delay which shall not exceed the time strictly necessary to do the said work ;

If he finds them insufficient.

4. If the Inspector finds that the line fence of the complainant is equally insufficient, and if he is required so to do by the person complained of, he shall immediately condemn the complainant to repair it within a delay which shall not exceed the time strictly necessary ;

If complainant's fence be also insufficient.

5. For each day during which the said party fails to conform to the order of the Inspector, he shall incur a penalty of forty cents for each arpent in length of such fence (any fraction being reckoned as a whole arpent) ;

Penalty for not obeying his orders.

6. The Inspector, after the expiration of the delay, may, if required so to do, authorize the complainant to perform or cause

Complainant may make the fence at the

expense of the party neglecting. to be performed, the work the execution of which he has ordered, and such complainant alone shall be entitled to recover the costs of such work and all his fair expenses, if the person condemned to do such work neglects or refuses to pay the amount;

As to certain township lands. 7. In the Townships in which lands have been set apart by Government for public line-roads (*routes*) the said lands shall be subject to the same provisions as lands belonging to private individuals;

As to new front roads. 8. The establishment of any front road between two ranges or concessions shall in no respect alter the obligations of one neighbor to another when such road is entirely within one of the ranges or concessions. 20 V. c. 40, s. 31.

Previous notice in certain cases. 33. When the matter in question relates to the making of a new fence or the repairing of one which is in such a state that the costs of repairing it would be equal to that of a new one, the Inspector shall not condemn the party against whom complaint is made, unless the party complaining proves that he gave the party complained against or the party usually acting in his behalf, special notice thereof before the first day of December next preceding such complaint:

If the party be unknown. 2. If the party complained against does not reside within the Parish or Township, or has no known agent, or tenant, or party acting in his behalf, the complainant must prove that a notice was posted up at the door of some church in the parish or township in which the property is situate for four consecutive Sundays, during any time of the year preceding the first day of December then last past. *Ibid*, s. 32.

FEES AND RECOVERY OF COSTS.

Fees to Inspectors. 34. Each Inspector, whenever required to act by virtue of this Act, shall be entitled to ten cents for every hour he is necessarily employed in the execution of his duty:

In case of joint labor. 2. In case of joint labor (*travaux miroyens* or *en-commun*), the costs shall be paid by the party in default whether that be the party at whose instance the Inspector acted or the adverse party;—or they shall be paid in equal portions by the parties interested in the matter in dispute, if the Inspector has condemned them respectively to perform their joint labour or caused it to be performed;

In cases of water-course. 3. When the Inspector has been called upon to visit a water-course, he shall also be entitled to ten cents per hour, and to the expenses incurred for advertisements, homologation and registry of the *procès-verbaux*, apportionments and the copies thereof, necessary for the Inspector charged with the superintendence of the works;

4. The Inspector shall also be entitled to ten cents per hour Fees, for superintending the construction of a water-course;

5. All these costs shall be recovered by him and apportioned By whom pay- in equal parts among all the parties interested, without regard able. to the value or extent of their respective lands;

6. If, however, he has made but one visit to the premises Fees for in- and decided that it is not advisable to make or change a spection only. *procès-verbal*, he shall still be entitled to ten cents per hour and his expenses, if any be incurred, to be paid by the person who shall have employed him;

7. The Inspector shall be entitled to ten cents for every hour Further fees in necessarily employed, when he is obliged to sue any person certain cases. for the recovery of the costs incurred for the establishing of a water-course, of which the *procès-verbal* has been homologated;

8. If any Justice of the Peace finds the complaint brought Justice to give before him to be well founded, he may give judgment in favor of judgment. the Inspector for the amount which he claims for neglect or refusal to pay the costs of the *procès-verbal* and other expenses, together with the amount to which the Inspector is himself entitled;

9. Every Secretary-Treasurer shall be entitled to five cents Fee to Secre- per one hundred words, for the registration of *procès-verbaux* tary-Treasurer and apportionments, and also for certified copies of all documents delivered by him in virtue of this Act; The copies thus certified shall be received in evidence in all Courts of competent jurisdiction or before any Justice of the Peace. 20 V. c. 40, s. 33.

35. Any person who has made or caused to be made any Recovery of expenses in certain cases. water-course, ditch, bridge, fence or *découvert*, in conformity with the provisions of this Act, may recover the amount of the expense incurred in performing such work from the person bound to perform such work or from the owner of the land on which it has been performed, before any Court of competent jurisdiction or before any Justice of the Peace, if the person bound to perform such work neglects or refuses to pay such amount; and such amount may also be recovered in the manner prescribed by the laws and statutes then in force in Lower Canada. 20 V. c. 40, s. 34.

ALTERATION OF A PROCÈS-VERBAL.

36. Any party interested in a *procès-verbal* of a water course *Procès-verbal* may be amend- duly homologated or regulated by act of agreement or by municipal authority, may demand a change in or amendment to the ed in certain cases. said *procès-verbal*, act of agreement or municipal By-law; provided his said demand be supported by the affidavits of two

of the parties interested in the water-course regulated by the *procès-verbal*, act of agreement or municipal By-law sought to be amended, or by one affidavit only, if such *procès-verbal*, act of agreement or municipal By-law only concerns two interested parties :

What shall be stated in affidavit.

2. It shall be sufficient to state in the said affidavits that useful or necessary changes may be made, (without specifying or enumerating the said changes,) to entitle any of the parties interested to require a visit from the inspector to examine and decide upon the said changes ;

Certified copy to be proof, &c.

3. These affidavits shall be annexed to the new *procès-verbal* founded upon them ; and copies of these affidavits, certified by the person charged with the enrégistration of the *procès-verbal*, shall be sufficient proof before any Court of competent jurisdiction or before any Justice of the Peace ;

How amendments shall be effected.

4. Any change in any *procès-verbal* shall be made by a second *procès-verbal*, but not, however, until all the formalities required for the making of a new *procès-verbal* have been fulfilled ;

If there is too much water in a water-course.

5. By virtue of a new *procès-verbal* as aforesaid, any water-course may be divided if the water is too abundant for a single water-course, either by directing the water into a water-course already verbalised, or by causing it to flow in any other direction. *Ibid*, s. 35.

COMPLAINTS.

How complaints shall be made.

37. Any person making a complaint in virtue of this Act before a Justice of the Peace, shall make his declaration under oath, unless it is otherwise provided for by this Act, and the Justice of the Peace may issue his warrant or summons to appear, against the person whom the complaint affects, ordering him to appear before him or any other Justice of the Peace, and may render judgment in a summary manner upon the oath of one credible witness other than the party bringing the said complaint ; Provided however, that if the defendant resides within the same parish or township as the complainant, the Justice shall only issue a summons :

Proviso.

Justice may issue execution.

2. The Justice of the Peace may issue a warrant eight days after judgment, for seizure and sale of the goods and chattels of the person condemned ;

Costs—if case dismissed.

3. When the Justice of the Peace acquits the defendant, he shall dismiss the complaint with costs against the complainant ;

Justice must be desinterested.

4. No Justice of the Peace shall hear any complaint or give any decision, if he is related within the third degree to any of the parties in the said suit, or in any wise interested therein ;

5. With the exception of the cases for which it is otherwise provided by this Act, no inspector shall act as such in any matter in which he is interested or in which any one of his relations within the third degree is interested;—And if it be impossible to find in the parish or township in which the services of an inspector are required, any disinterested inspector not related as aforesaid, an inspector shall be chosen from one of the neighbouring parishes or townships. Inspectors to be disinterested. 20 V. c. 40, s. 36.

SUITS.—PENALTIES.

38. Actions and proceedings brought or taken in virtue of this Act shall be brought or taken before one or more Justices of the Peace, as the case may require; such Justices of the Peace shall only have jurisdiction, when they reside in the county in which the offence has been committed,—or when the question relates to the homologation of *proces-verbaux* and apportionments, in the county or counties in which the properties affected are situate : How and where suits under this Act shall be brought.

2. All suits for penalties or damages must be commenced within three months after the commission of the offence on which they are founded. *Ibid*, s. 37. Limitation.

39. All the penalties, damages and assessments imposed by virtue of this Act may be sued for and recovered summarily by one and the same action against the same person (if it is not provided for otherwise) upon the oath of one credible person, other than the party complaining, or upon the confession of the person sued, and the amount may be levied with the costs, by a warrant under the hand and seal of the justice of the peace, and by seizure and sale of the moveable effects of the offending party : How penalties may be recovered.

2. One half of the penalty shall belong to the party informing, and the other to the municipality within the limits of which the offence has been committed, unless it is otherwise provided; If, however, the party informing or suing be an inspector, the penalty shall, in that case, go to the local municipality in which the offence has been committed; Application of penalty.

3. Any inspector may, in his quality of inspector, sue for all infractions or contraventions of the provisions of this Act, unless it is otherwise provided for, and he shall have the same rights and privileges as any informer or party complaining for the recovery of his costs, expenses, or other claims; Privileges of Inspector as to such suits.

4. Whoever refuses or neglects, when required, to fulfil the duties imposed upon him by this Act, shall incur a penalty of one dollar for each time he so refuses or neglects to act. 20 V. c. 40, s. 38. General penalty for failure to comply with this Act.

Amount and recovery of penalties in cases unprovided for.

40. Any penalty for contravening the provisions of this Act, the amount of which is not fixed by this Act, shall be not less than one nor more than eight dollars, and may be sued for, recovered and made payable in the same manner as the penalties expressly fixed by this Act :

Imprisonment on failure to pay.

2. Any person condemned to pay a penalty or damages and costs, as the case may be, and who does not pay the same within eight days after judgment, shall be punishable by imprisonment for a period not exceeding thirty days, if the party has no goods, moveables or effects, and this fact be proved to the satisfaction of the justice of the peace by the return of the person charged with the warrant of distress (*saisie execution*.) *Ibid*, s. 39.

TIMBER IN FORESTS.

Any person found near any wood in possession of any tree, must give a satisfactory account of it to the owner of such wood.

41. Any person found either in a forest reserved chiefly for fire wood or for the making of sugar or for other purposes, or on any road in its vicinity, in Lower Canada, and having in his possession any tree or part of a tree, who, on being thereunto required by any person having a right of property or the right to cut wood in any such forest, or part thereof, whether divided or undivided, or by any one acting on behalf of such person, or by any keeper of such forest or part thereof, refuses to give a satisfactory account of the manner in which he became possessed of any such tree or part of a tree, may be carried, by the party interrogating him, before any Justice of the Peace, and if such person does not satisfy the Justice that he came lawfully by the said tree or part of a tree, he shall, on conviction by such Justice, forfeit and pay, over and above the value of such tree or part of a tree so found, any sum not exceeding eight dollars; and every such fine shall form part of the building and jury fund for the district in which it is imposed :

Penalty in default.

Act to extend to Indian Reserves.

2. This section shall extend to any Indian Reserve in Lower Canada, and to any person purchasing either within or without the limits of an Indian Reserve, any tree or part of a tree from an Indian, and to any Indian selling the same; and the Chief of any Tribe or any person authorized to take charge of a Reserve, or portion thereof by competent authority, may act under the provisions of this section ;

Application of certain sections.

3. The provisions of the four next preceding sections of this Act, shall not apply to complaints, suits and penalties under this section. 23 V. c. 63, ss. 1 & 2.

False oath to be perjury.

42. Any person who knowingly takes a false oath, in whatever case it may be, shall be liable to the pains and penalties provided by law for wilful and corrupt perjury. 20 V. c. 40, s. 40.

MANNER OF GIVING PUBLIC OR SPECIAL NOTICE WHEN NOT OTHERWISE PROVIDED FOR BY THIS ACT.

Public Notice.

43. Whoever has to give public notice, shall, after having signed or attested it in the presence of two witnesses, cause it to be read and posted for two consecutive Sundays at the principal door of the parish church or chapel or other place of public worship in the parish or township, immediately after divine service in the morning ;

How public notice shall be given.

2. Such notice shall also be posted up in some frequented place in the parish or township ;

And posted.

3. If the notice relates to work to be executed in two or more parishes or townships, the notice shall be given in each of such parishes or townships in the manner provided by the two next preceding paragraphs.

If it relates to two or more parishes.

Special Notice.

44. Every special notice required by this Act shall be given during eight days, and either in writing, or *viva voce* before two witnesses, whose evidence shall be the proof of such notice :

Special notice how given.

2. If the notice is given in writing, it shall not be necessary to adopt any particular form ; it shall suffice that the purport of the notice be set forth in an intelligible manner ; that the notice in all cases be dated ;--and that it be attested before two witnesses or a notary, if the person giving it be unable to sign it,--and that it mention the official capacity, if any, of the signer. *Ibid*, s. 42.

If it be in writing.

INTERPRETATION.

45. In this Act the word "land" (*terrain*) means also land generally (*terre* :)

Land.

2. The word "water-course" includes any "ditch," "drain" or "stream" in which one or more persons are interested ;

Water-course.

3. The word "inspector" means either "road inspector" or "inspector of fences and ditches ;"

Inspector.

4. By the word "disinterested," shall be understood "who has no personal interest or is under no obligation with respect to the work to be done, and is not related to or connected with any of the parties interested, within the third degree." 20 V. c. 40, s. 45.

Disinterested.

SHORT TITLE.

46. This Act shall be called the "Agricultural Act." *Ibid*, s. 44.

Short Title.

Stat. Can. 24
V. c. 30, p. 80.

C A P . X X X .

An Act to amend the Agricultural Act.

[Assented to 18th May, 1861.]

Preamble.

WHEREAS it is expedient to continue the right of Appeal from Judgments rendered in virtue of the Agricultural Act, chapter twenty-six of the Consolidated Statutes for Lower Canada, and to amend the said Act in the manner hereinafter provided: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

APPEAL TO THE CIRCUIT COURT.

Appeal to Circuit Court.

1. An Appeal from any Judgment rendered in virtue of the Agricultural Act, or of this Act, may be brought in the Circuit Court, either of the District or County in which the Judgment was rendered, or in any of the Counties adjacent to such County or District.

How brought.

2. The Appeal shall be brought in the manner following: No such Judgment shall be executory until the expiration of fifteen days after the date thereof, and in the course of the said fifteen days the party intending to appeal shall give a simple notice of his intention to the Justice, or one of the Justices of the Peace, or to the Clerk of the said Justices of the Peace, or of the Court by which such Judgment was rendered.

Security by appellant.

3. Within fifteen juridical days next after the rendering of the Judgment, the appellant shall give security before the Clerk of the Court to which he intends appealing, (by a surety who shall justify his sufficiency to the amount of at least one hundred dollars,) that the appellant will effectively prosecute the said appeal, and will satisfy the Judgment and pay the damages and costs in case the appeal is not prosecuted, or the judgment appealed from is confirmed.

Sureties to justify.

4. The surety shall justify his sufficiency upon oath before the said Clerk, who may make any examination or put any question necessary for that purpose.

Bond.

5. The security bond may be in the form number one, annexed to this Act, or in any analogous form.

Copies thereof.

6. The Clerk shall deliver a copy of the security bond to any one requiring the same, and any copy certified by him as a true copy, shall be authentic.

Writ of appeal—its tenor.

7. Within the said fifteen days the Appellant, after having given the security above prescribed, may obtain from the

Clerk of the Circuit Court in which the Appeal is brought, a Writ of Appeal in the English or French language, under the seal of the said Court, (but the absence of such seal shall not invalidate the writ), signed by the said Clerk and setting forth that the Appellant deems himself aggrieved by the Judgment appealed from, and ordering the Justice or Justices of the Peace or the Court, to transmit all the documents, proceedings, and papers forming the record, or contained in any register and relating to the cause.

8. The said Writ shall be returnable, in term or in vacation, within fifteen days from its date, and a duplicate thereof shall be served five days at least before the return day, upon the Respondent or his Attorney, and also upon the Clerk of the Justice or Justices of the Peace, or of the Court, by whom the Judgment appealed from shall have been rendered; and thereupon it shall be the duty of the said Justices and of the said Clerk to transmit the said record forthwith and not later than the day fixed for the return of the said Writ, to the Clerk of the Circuit Court in which the Appeal shall have been brought, with a certificate signed and sealed by one Justice at least, or by the Clerk, certifying that the documents transmitted are all the documents relating to the cause.

Procedure on the return of writ.

9. The writ may be in the form number two, annexed to this Act, or in any form to the like effect.

Form of writ.

10. On the return day of the Writ of Appeal, or on the following day, each party or his Attorney shall file an appearance, and at any time after, on the inscription for hearing by either party, one day's notice of which in term, and three days of which in vacation, shall have been given to the opposite party, the Appeal shall be heard for all purposes whatsoever and decided summarily; And no new evidence shall be adduced.

Appearance.

Hearing.
No new evidence.

11. The Circuit Court shall adjudge the costs on such Appeal, and if the Judgment appealed from be fully confirmed, it shall order that the record be remitted to the Justice or Justices or Court who shall have pronounced the Judgment or conviction, and such remission shall be effected by the Clerk of the Circuit Court, who shall annex to the record a copy of the Judgment of the said Court and a certificate of the costs allowed on the said Appeal, and the said costs shall be levied by the same means, and in the same manner in which the judgment of the Justice or Justices, or of the Court below, is carried into effect according to law.

Costs on appeal, if judgment be confirmed.

12. But if, on the other hand, the said Judgment be modified or set aside, in whole or in part, the record and proceedings on the judgment appealed from, and any proceedings upon the Appeal, shall remain to form part of the records of

In case the judgment be reversed or modified, &c.

the Circuit Court, by which and under the authority of which, whatever shall have been adjudged, ordered, confirmed, modified or amended by the judgment of the said Court shall be carried into effect, and that by the same means and in the same manner as the judgment appealed from might itself have been carried into effect.

Appellant neglecting certain proceedings to be held to have abandoned the appeal.

13. Any Appellant who shall have neglected to cause the Writ of Appeal above mentioned to be served as aforesaid, or who, having caused it to be served, shall fail effectually to prosecute the said Appeal, shall be deemed to have abandoned the said Appeal, and upon application of the Respondent, the Circuit Court shall declare forfeited all the rights and claims founded on the said Appeal, and shall allow costs to the Respondent, and shall order that the record, (if it has been transmitted,) be sent back to the Court or Judge below; and if the record has not been transmitted, then, upon production of the notice of appeal or writ of appeal, the said Respondent shall obtain such costs as the Court may adjudge.

Recourse against sureties.

14. The execution of the Judgment against the party condemned shall not deprive the party who shall have succeeded, of his recourse against the sureties for the whole or any part of the costs of the Appeal remaining unpaid, to the payment of which every surety shall be bound, under the penalty of seizure and execution, in the same manner and to the same degree as the principal parties.

Certiorari not allowed.

15. No judgment rendered in virtue of the said Act or of this Act shall be contested or set aside by writ of *certiorari*.

Doubts removed as to appeals before this Act.

16. To remove all doubts it is declared that any appeal instituted before this Act goes into force from any judgment rendered in virtue of the *Agricultural Act*, shall be proceeded with, decided and carried into execution in the same manner and shall be deemed as valid to all intents and purposes whatsoever, as though the twentieth section of the Act twenty-second Victoria, chapter one hundred and one, had never been repealed and had always remain in force, but only as regards those cases, the said twentieth section being hereby repealed as regards any appeal to be instituted after this Act goes into force.

WATER COURSES.

Interpretation of section 23.

17. The first paragraph of the twenty-third section of the *Agricultural Act* is not to be interpreted as compelling Inspectors to make the apportionment of the work required for the opening or keeping in repair of a water course, at the same time as the *procès-verbal* ordering such work; but the apportionment shall be made in accordance with the twenty-ninth section of the said Act.

COMPLAINTS.

18. After the word "townships," at the end of the fifth paragraph of section thirty-seven of the said Act, the following words shall be added: "or if there is not any such Inspector in one of the neighbouring parishes or townships, then from any one of the parishes or townships in the county." Section 37 amended.

SUITS—PENALTIES.

19. After the second paragraph of the fortieth section of the said Act, the following paragraph shall be added: Section 40, amended.

"3. Any Inspector refusing or neglecting to perform any duty imposed on him by this Act, shall incur a penalty of not less than five nor more than ten dollars for each such refusal or neglect." Penalty on Inspector neglecting his duty.

INTERPRETATION.

20. The word "land" or "property," in the second, third and fifth sections of the said Act, shall include any beach land belonging to any person or corporation. Words "land" "property" what to include.

21. Any Act or part of an Act inconsistent with this Act, is repealed. Repeal of inconsistent enactments.

FORM No. 1.

Province of Canada,
District of }
County of } IN THE CIRCUIT COURT.

Whereas in a cause (or matter) between A. B., plaintiff or complainant, and C. D., defendant, judgment was rendered on or about the _____ day of _____, at _____, in the district of _____ or county of _____, and the said C. D., (or A. B.,) desires to appeal from the said judgment.

Be it known, that on this day, the _____ day of _____, in the year _____, appeared before me C. E., Clerk of the said Circuit Court, at _____, in the said district of _____, H. P., (quality and residence), who, after having justified his sufficiency on oath as required by law, became surety that the said appellant would effectively prosecute the said appeal and satisfy the judgment, and also pay the damages and costs in case the said appeal is not proceeded with, or in case the said judgment is confirmed; failing all which, the said surety binds himself towards the proper parties to pay and discharge whatever amount may be required by law.

And the above having been read to him, the said surety has signed (or declared that he is unable to sign.)

Taken, acknowledged and sworn before me, the said Clerk, at the said
on the day and year secondly above
mentioned.

G. E.

C. C. C.

FORM No. 2.

Province of Canada, } VICTORIA, by the Grace of God, of the
Lower Canada, } United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith :

To (names of the Justice or Justices.)

Whereas in a cause (or matter) by you decided on or about
the day of , at , in the county of ,
in the district of , between

A. B.

Plaintiff (or Complainant),

and

C. D.

Defendant.

The said C. D., (or A. B.,) deems himself aggrieved by
the said judgment, and has provided the securities required by
law—We command you, and each of you, to transmit all the
documents, proceedings and papers composing the record or
contained in the registers and relating to the said cause, to our
Circuit Court, in and for the district of (or county of
) at , on or before the day of
, that good and speedy justice may be done in the said
matter.

In testimony whereof, We have caused the Seal of our said
Court to be affixed hereto, at , the day of
in the year of Our Lord, one thousand eight hundred and
sixty

C. E.

Clerk of the said Circuit Court.

CAP. XXXI.

An Act respecting Vehicles used on Winter Roads,

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

EXTRACTS.

Description of
sleighs to be
used for trans-
port of loads

1. No winter carriage or vehicle without wheels shall be
used for the conveyance of any other load than passengers and
their baggage, to the amount of one hundred weight for each

passenger, on any of the Queen's highways or public roads, except sleighs or sleds having runners at least six English feet in length on the straight part of the bottom thereof, and eight and a half feet in length, including the curved part, and that have no part of the bottom of the sleigh or sled, or of the cross beams that support the bottom thereof, lower than ten English inches above the bottom of the runners, such sleigh or sled to have an open space between the runners and the raves on which the body rests, except where such space is broken by the perpendicular knees between the said raves and runners, and a clear distance of at least two and a half English feet between the inside of the runners at the bottom thereof, nor shall the shaft or pole be attached to the body of the sleigh or sled, or runners thereof, at a lower height than ten English inches above the bottom of the runners :

on the Queen's highways in winter.

2. But the length hereinbefore prescribed for the runners of the said sleighs or sleds, shall not affect the sleds used for saw-logs or heavy timber, commonly called bob-sleds. 3, 4 V. c. 25, s. 1, and 6 V. c. 12, and 12 V. c. 59.

Bob-sleds not affected.

2. Nothing in this Act shall prevent any kind of winter carriage from being used for crossing any such Queen's highway or public road, or proceeding along it for a distance not exceeding six arpents, for the purpose of passing from one part to another of the property of the owner of such carriage. 3, 4 V. c. 25, s. 2.

Any kind of winter carriage may be used for crossing such highways.

3. No cariole, train, berline or other winter carriage, other than such sleighs or sleds as are hereinbefore described and permitted, shall be used on any such Queen's highway or public road, unless the shafts of such carriage (if any there be) shall be attached to such cariole, train, berline or other winter carriage at the height above the bottom of the runners hereinbefore prescribed, and fixed otherwise than under the bottom thereof. 3, 4 V. c. 25, s. 3 and 4 V. c. 33, s. 2.

No winter carriage to be used on such highway, with the shafts fixed under the bottom, &c.

4. The foregoing sections apply to all Lower Canada, excepting the district of Quebec, the district of Gaspé, and that part of the district of Three-Rivers, which extends on the south side of the river Saint Lawrence from the district of Quebec up to the parish of Nicolet exclusively, and on the north side up to the town of Three-Rivers inclusively ; The said districts being bounded for the purposes of this Act as before the passing of the Act 20 V. c. 44. 12 V. c. 59.

The foregoing sections not to apply to certain parts of L. C.

5. When two winter vehicles meet, or a winter vehicle meets a person on horseback travelling on the same beaten track or snow, it shall be the duty of the driver or drivers of such vehicle or vehicles, to drive their horse or horses, or other beast or beasts of draught, to the right, so that while passing, but one of the runners of such vehicle or of each of such vehicles shall occupy the beaten track. 3, 4 V. c. 25, s. 4.

When winter vehicles meet each to drive to the right.

Preceding section applicable to all public roads during the winter season.

6. The next preceding section of this Act extends and applies to all public roads in Lower Canada, defined and laid out during the winter season by lawful authority, on the rivers and other waters when frozen, and on land. 3, 4 V. c. 25, s. 5.

Penalty upon persons offending against this Act.

7. Any person offending against the provisions of this Act, shall, for each such offence, incur a penalty of two dollars, on conviction thereof before any justice of the peace for the district, on the oath of one credible witness other than the informer; and such justice of the peace may if such penalty be not forthwith paid, with the costs of the prosecution, at his discretion, cause the amount thereof to be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of such justice of the peace, or may commit such offender to the common gaol of the district, for a period not exceeding eight days. 3, 4 V. c. 25, s. 6 and 4 V. c. 33, s. 3.

Penalties how to be disposed of.

8. One moiety of all pecuniary penalties, recovered under the authority of this Act, shall be paid over to the Receiver General, and shall belong to Her Majesty for the public uses of the Province, and the other moiety shall belong to and be paid over to the informer. 3, 4 V. c. 25, s. 7.

Con. Stat. L. C. page 888.

CAP. XC VII.

An Act respecting the Courts of General or Quarter Sessions of the Peace, Justices of the Peace, and Special Sessions of the Peace.

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

EXTRACTS:

Fees to Clerks of Justices out of Sessions may be fixed by tariff.

13. The fees to which any Clerk to any Justice out of sessions is entitled, shall be regulated in manner following, that is to say: the Justices of the Peace at their General or Quarter Sessions, for their several districts, or the Court of Queen's Bench in any criminal district in which no Court of General or Quarter Sessions is held, may, from time to time, as they see fit, respectively, make Tables of the Fees which in their opinion should be paid to the Clerks of the Justices of the Peace within their several jurisdictions, and which said Tables being signed by the Chairman of any such Court of General or Quarter Sessions or Judge holding the Court of Queen's Bench in any such district as last aforesaid, shall be laid before the Provincial Secretary, and such Secretary may alter such Tables of Fees, and subscribe a certificate or declaration that the fees specified in such Tables as made by such Justices, or as altered by such Secretary, are proper to be de-

manded and received by the Clerks, and such Provincial Secretary shall cause copies of such Table or set of Tables to be transmitted to the several Clerks of the Peace of the district or districts for which the said tariffs have been so made, to be by them distributed to the Justices within their several districts; and to be by the said Justices placed in the hands of their Clerks:

2. If after such copy is received by any such Clerk, he demands or receives any other greater fee or gratuity for any business or act done by him as such Clerk than such as is set down in such Table or set of Tables, he shall forfeit for every such demand or receipt the sum of eighty dollars, to be recovered by action of debt in any Court having jurisdiction to that amount by any person who sues for the same;

Penalty for taking greater fees.

3. Until such Tables or set of Tables are framed and confirmed, and distributed as aforesaid, such Clerks may demand and receive such fees as they are now by any rule or regulation of a Court of General or Quarter Sessions or by chapter one hundred of these Consolidated Statutes, or otherwise, authorized to demand and receive: 14, 15 V. c. 95, s. 26, —but see Post Cap. 100 of this work,—and Con. Stat. c. 103, ss. 74, 76.

Fees until such tariff is made.

C A P. X C V I I I .

Con. Stat. L. C. p. 395.

An Act respecting Appeals from the decisions of Justices of the Peace in Summary Convictions.

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

1. In any appeal to a Superior Court from the conviction, judgment or decision given by any one or more Justices of the Peace under the provisions of chapter one hundred and three of the Consolidated Statutes of Canada respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders, no judgment shall be given in favour of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any Warrant to apprehend a defendant, issued upon any such information or complaint, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint,—unless it shall be proved before such superior Court that such objection was made before the Justice or Justices of the Peace before whom the case was tried and by whom such conviction, judgment or decision was given,—nor unless it is proved that notwithstanding it was shewn to such Justice or Justices of the Peace that by such variance the person sum-

In appeals from decisions of Justices, judgment not to be given for appellant on any defect, &c., in proceedings, unless the objection was urged before the Justices who gave the judgment.

moned and appearing or apprehended, had been deceived or misled, such Justice or Justices refused to adjourn the hearing of the case to some further day as provided in and by the said Act. 18 V. c. 97, s. 1.

In cases which have been tried on the merits, conviction not to be afterwards set aside for defect of form.

2. In all cases where it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried; and that the defendant has not appealed against the conviction where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case. 4 G. 4, c. 19, s. 8.

Discretion to Court as regards costs.

3. The Court to which an appeal is made from the conviction, judgment or decision of any Justice or Justices of the Peace in any case of summary conviction, or into which any case is removed by Writ of *Certiorari*, may or may not, in its discretion, award costs to the party in whose favor judgment is given, or against the party appealing. 18 V. c. 97, s. 2.

Con. Stat. L.
C. p. 896.

C A P. X C I X.

An Act respecting the Registers to be kept by Justices of the Peace.

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

Justices to keep registers of convictions.

1. Every Justice of the Peace in Lower Canada shall keep, in a register to be by him provided for the purpose, true and faithful minutes or memorandums at length of every conviction at any time by him made pursuant to any law or statute in force in Lower Canada. 4 G. 4, c. 19, s. 1.

Where two Justices present, register to be kept by the senior and signed by the junior.

2. In all cases which are cognizable by any two or more Justices of the Peace, the minutes or memorandums of convictions by this Act required shall be kept by the senior Justice of the Peace, and be subscribed by the junior Justice of the Peace present during the proceedings which have been had:

In Quebec, Montreal and Three-Rivers, registers to be kept by Clerks of the Peace.

2. Except that in the cities of Quebec, Montreal and Three-Rivers, the registers which by this Act are directed to be kept, shall be kept by the clerks of the peace in the said cities respectively, who shall account for the fines imposed according to law, by the Justices of the Peace in the said cities respectively. 4 G. 4, c. 19, s. 2.—See 14, 15 V. c. 95, s. 27.

What shall be specified in such registers.

3. All the costs allowed in each such case shall also be specified in such register, as well as the day when execution

was issued to levy such costs and condemnation, and the day when the fine was paid into the hands of the clerk, pursuant to such condemnation ; and the amount of the fine and costs shall be distinctly specified in every writ of execution issued in any such case. 4 G. 4, c. 19, s. 3, and 14, 15 V. c. 95, s. 27.

4. Each Justice of the Peace shall make a quarterly return of every prosecution for any offence of a public nature, or for the recovery of any penalty imposed for any such offence, which has been brought before him; (whether sitting alone or with any other Justice or Justices,) at any other place than the court house of any district, and such return shall be sent to the clerk of the peace for the district, not more than ten nor less than five days before the holding of each court of quarter sessions, (or if no such Court be held in the District then before the holding of the Court of Queen's Bench,) and shall be filed of record by such clerk, and laid before the Judge or Justices at such Court, and such return shall extend from the date of the then last return to that of the return itself, and shall shew--

Quarterly returns of prosecutions to be made by Justices to the Court of Quarter Sessions.

1. The Justice or Justices (if any,) sitting with the Justice making the return ;
2. The place of sitting ;
3. The name of the prosecutor ;
4. The name of the defendant ;
5. The offence ;
6. The result, whether conviction or acquittal ;
7. The judgment and amount of penalty, if any ;
8. The costs allowed to the successful party ;
9. The costs allowed against the unsuccessful party, for any thing done at his instance in or about the prosecution ;
10. The amount of penalty paid, and to whom or to whom to be paid ;
11. The amount of penalty applied to any public purpose, or remaining to be so applied, and in whose hands ;

What particular such return shall contain.

And such return shall be dated at the time and place at which it is made, and signed by the Justice making it, and shall be made by each Justice, whether any such prosecution has been brought before him or not, during the period over which it extends. 2 (3) V. c. 20, s. 1.

To be dated and signed by Justice.

Justices neglecting to make return.

5. Each clerk of the peace, within ten days after each term of the court of quarter sessions for his district, shall return to the Governor the name of each Justice of the Peace in such district, who has not then complied with the requirements of this Act. 2 (3) V. c. 20, s. 2.

Fines, &c., to be paid over to the Clerk of the Peace, unless where it is otherwise ordered.

6. In every case with respect to which it is not otherwise ordered by some other Act then in force, the Justice of the Peace making such Return as aforesaid shall, with the report, transmit to the Clerk of the Peace the amount of fines and penalties received by him and belonging to the Crown, and the Clerk of the Peace shall forthwith pay over the same to the proper officer, taking duplicate receipts; and the said Clerk shall also, on the last day of the term of the Court of Queen's Bench or of Quarter Sessions, (as the case may be) lay before the Court a statement of all moneys so paid to him and of all defaults in such payment. 4 G. 4, c. 19, ss. 4, 5, &c.

Con. Stat. L. C. p. 898.

C A P . C .

An Act respecting Clerks and Bailiffs employed by Justices of the Peace.

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

Certain fees allowed to Clerks of Justices of the Peace in the country parishes.

1. No person acting as clerk to any justice of the peace in the country parishes, shall at any time, or under any pretext whatsoever, demand or require higher fees than those herein-after mentioned, that is to say:—

For drawing up a deposition, fifty cents ;

For drawing up a warrant, fifty cents ;

For drawing up a bail bond, fifty cents ;

For making out a *committimus*, fifty cents ;

For a summons, thirty cents ;

For each copy, ten cents ;

For a *subpœna*, twenty cents ;

For each copy, ten cents ;

For the entry of a final judgment, twenty-five cents ;

For a copy thereof, twenty-five cents ;

For a warrant of execution, twenty-five cents ;

For each copy of any entry made in the register kept by such magistrate, at the rate of ten cents for every hundred words ;

2. But this section shall cease to be in force in any district whenever a tariff of fees has been made for such district under the seventy-fourth section of chapter one hundred and three of the Consolidated Statutes of Canada, or the thirteenth section of chapter ninety-seven of these Consolidated Statutes. 6 W. 4, c. 19, s. 1, &c.

Another tariff may be substituted.

2. The person performing the duty of the clerk shall not require any payment for any paper he prepares in any criminal prosecution (mere assaults and batteries excepted,) and shall, under the dictation and order of the justice of the peace, keep the register of such justice of the peace, without being entitled to any remuneration for so doing ; and such clerk shall likewise, at his own cost (either by employing a person to do the duty of crier, or otherwise,) cause order to be maintained during the sittings of the court, and shall execute all the orders made by any such justice of the peace in that behalf. 6 W. 4, c. 19, s. 1.

Duty of the Clerk to a Justice of the Peace.

3. Any Justice of the Peace may appoint one or more constables, if need be, to execute the orders of such Justice of the Peace, who may administer the requisite oath, which oath shall be enregistered in the register of such Justice of the Peace. 6 W. 4, c. 19, s. 4.

Constables may be appointed.

4. All bailiffs of the Superior Court are hereby authorized to execute all orders of Justices of the Peace within their respective districts, without its being necessary that they should be appointed constables. 6 W. 4, c. 19, s. 6.

Bailiffs of S. C. may execute orders of Justices of the Peace.

5. No bailiff or constable employed to execute the orders of any justice of the peace, shall, at any time, or under any pretext whatever, demand or require higher fees than those hereinafter mentioned, that is to say :—

Fees to constables or bailiffs executing such orders.

For executing any warrant of arrest, one dollar, and fifty cents for his assistant, (*recors*) ;

For a seizure and sale under execution, the publication included, one dollar and fifty cents, and fifty cents for his assistant ;

And for a seizure only, not followed by a sale, one half of the said fees ;

For the service of any summons, *subpoena*, or order, twenty-five cents, and twenty cents for each league travelled to serve the same, the distance in returning not to be reckoned ;

For each official return of illegal resistance, fifty cents, and twenty-five cents for his assistant ;

In case of service of several summonses at the same place, time, &c.

But whenever any bailiff or constable serves several summonses or *subpœnas* for the same complainant, at the same time and on the same road, he shall only be entitled to travelling expenses as far as for one journey, and the fees for the services. 6 W. 4, c. 19, s. 2.

Penalty on contravention of this Act.

6. Every person who contravenes this Act, shall be liable to a penalty not exceeding twenty dollars, recoverable in a summary way before any justice of the peace of the district on legal proof, and whereof one moiety shall go to the prosecutor, with reasonable costs, and the other moiety shall belong to Her Majesty, for the public uses of the Province. *Ibid*, s. 3.

As to fees hereafter established.

7. The fees established by this Act shall not in any wise prejudice or affect the fees especially established, before or after the coming into force of these Consolidated Statutes, by any Act of the Provincial Parliament then in force concerning the duties and services of clerks, constables or bailiffs above mentioned in any case. *Ibid*, s. 7.

Clerks, &c., forbidden to plead before Justices.

8. No clerk or person performing the duty of clerk, bailiff or constable executing the orders of a justice of the peace, shall in any manner represent either of the parties or plead before such justice of the peace, under a penalty of four dollars to be recovered and applied in the manner mentioned in the sixth section of this Act. *Ibid*, s. 5.

Con. Stat. L. C. p. 901.

C A P. C I.

An Act for the protection of Justices of the Peace, Magistrates and other Officers, in the performance of public duties.

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

A month's notice of action to be given to the magistrate, &c., in a certain form, and plaintiff to be bound by such notice.

1. No writ shall be sued out against any Justice of the Peace or other officer or person fulfilling any public duty, for any thing by him done in the performance of such public duty, whether such duty arises out of the common law, or is imposed by Act of Parliament, either Imperial or Provincial, nor shall any judgment or verdict be rendered against him, unless notice in writing of such intended writ, specifying the cause of action with reasonable clearness, has been delivered to such Justice, officer or other person, or left at the usual place of his abode, by the attorney or agent of the party who intends to sue out such writ, at least one month before suing out such writ :

2. In computing such month, the day of the service of such notice and the day of suing out such writ shall both be excluded; and on such notice shall be written the name and place of abode of the attorney or agent suing out such writ, and by the cause of action stated in such notice the party suing out such writ shall be bound, and shall not be allowed to give evidence of any other cause of action at the trial thereof. 14, 15 V. c. 54, s. 2.

Month how computed.

Particulars on notice, &c.

2. Any such justice, officer or other person acting as aforesaid, may, at any time within one month after the service of such notice as aforesaid, tender amends to the party complaining, or his agent or attorney; and in case the same is not accepted, may plead such tender in bar to any action brought against him grounded on such writ, together with the plea of not guilty, and any other plea; and if the court or jury find the amount tendered to have been sufficient, they shall find for the defendant; but if the court or jury find they were insufficient, or that no tender of amends was made, and also find the other issues against the defendant, or if they find against the defendant where no tender of amends is made or pleaded, then they shall give a judgment or verdict for the plaintiff, with such damages as they think proper, and the plaintiff shall have his costs of suit. *Ibid*, s. 3.

Magistrate, &c., may tender amends.

Effect of such tender.

3. Any such action against such justice, officer or other person, acting as aforesaid, shall be laid and tried within the district or circuit, where the act complained of was done and committed:

In what district &c., action must be laid.

2. Such justice, officer or other person, acting as aforesaid, may apply to change the *venue* in such action, upon notice to the plaintiff in such action, if he thinks fit so to do;

Changing *venue*.

3. The *venue* may be changed to any other district that the court in which such action is brought, or any judge thereof in chambers may order, if it is made to appear to such court or judge that such action cannot be tried fairly and without prejudice in the district in which the *venue* in such action is laid. 14, 15 V. c. 54, s. 4.

The same.

4. Every such justice, officer or person acting as aforesaid, in any such action, may plead the general issue only thereto, that he is not guilty, and give all special matters of justification or excuse, or that he received no notice of action thereunder, as fully and amply as if the same were specially pleaded in such action. *Ibid*, s. 5.

General issue may be pleaded, &c.

5. Such justice, officer or other person acting as aforesaid, if he has not tendered amends, or has tendered insufficient amends, may pay into court such sum as he thinks fit, without requiring the leave of the court or a judge therefor; and such

Magistrate, &c., may pay money into Court.

payment into court shall be specially pleaded, and shall have the same effect, and such proceedings shall be had thereafter, as in ordinary cases of payment of money into court. *Ibid*, s. 6.

What costs defendant shall recover if successful.

6. If in any such action, judgment is rendered in favor of such justice, officer or other person acting as aforesaid, either on demurrer, verdict, non-suit, or *non-pros*, or otherwise, or the plaintiff discontinues his suit, the defendant shall be entitled to and recover against the plaintiff all his costs, as between attorney and client, but no double or treble costs shall in any case be taxed or allowed against the plaintiff. *Ibid*, s. 7.

Limitation of actions against magistrates, &c.

7. No such action or suit shall be brought against any justice, officer or other person acting as aforesaid, for any thing done by him in the performance of his public duty, unless commenced within six months after the act committed. *Ibid*, s. 8.

Protection to extend to the magistrate only &c., and in what cases to him.

8. The privileges and protection given by this Act, shall be given to such justice, officer or other person acting as aforesaid, only, and to no other person or persons whatever, and any such justice, officer and other person shall be entitled to such protection and privileges in all cases where he has acted *bona fide* in the execution of his duty, although in such act done, he has exceeded his powers or jurisdiction, and has acted clearly contrary to law. *Ibid*, s. 9.

Provisions of Acts passed before 14, 15 V. c. 54, conferring privileges in like matters, repealed.

9. So much of any Act, public, local, personal or private, passed before the thirtieth day of August, 1851, and in force in Lower Canada, as confers any privileges,—either as to notice or limitation of action, or as to pleading the general issue and giving the special matter in evidence, or as to the *venue* of the action, or the tender of amends or payment of money into court,—upon any magistrate, public officer or other person for any act done either by virtue of his office or under the provisions of any such Act, is repealed, except as to actions, or proceedings pending on the said day. 14, 15 V. c. 54, s. 1.

Con. Stat. L. C. p. 903.

C A P. C I I.

An Act respecting the Police in Quebec and Montreal, and certain regulations of Police in other Towns and Villages.

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

EXTRACTS:

OF THE POWERS OF JUSTICES OF THE PEACE WITH RESPECT TO DISORDERLY PERSONS—GAMBLERS, &C.

Application of next sections.

9. The ten sections next following apply not only to the cities of Quebec and Montreal, but also to every town and

village Municipality in Lower Canada, erected or existing under the provisions of chapter twenty-four of these Consolidated Statutes, subject to the provisions of section twenty-nine of that Act. 23 V. c. 61, s. 29.

10. Any justice of peace may condemn all loose, idle and disorderly persons convicted before him on his own view or by their own confession, or on the oath of one or more credible witnesses, to pay immediately or within such period of time as he thinks fit, a fine not exceeding five pounds sterling, and in default of payment immediately or at the time appointed, (as the case may be,) such persons shall be imprisoned in the common gaol or house of correction of the district or in any lock up house or other place provided by the Municipality for the purpose, at hard labor, for any time not exceeding two months, the imprisonment to cease upon payment of the sum due :

Proceedings as regards disorderly persons.

2. But it shall be in the discretion of the justice before whom any person, apprehended as a loose, idle and disorderly person is brought, either to commit such person or to discharge him, although an act of vagrancy be proved to have been committed by him ;—and it shall also be in the discretion of such justice on discharging any such person, to bind him in sufficient recognizance to appear before the justices at the next general or quarter sessions of the peace or Court of Queen's Bench, if no Court of Quarter Sessions be held in the district, to answer any charge or charges that may be alleged against him. 2 V. (1) c. 2, s. 8,—7 V. c. 2, s. 1,—9 V. c. 23,—20 V. c. 41, s. 7,—23 V. c. 61, s. 29.

Discretion of the Justice of the Peace.

11. Persons who, being able to work, and thereby or by other means to maintain themselves and families, wilfully refuse or neglect to do so,--

Persons refusing to work ;

Persons openly exposing or exhibiting in any street, road, public place, or highway, any indecent exhibition, or openly and indecently exposing their persons,--

Exposing their persons, &c. ;

Persons loitering in the streets or highways and obstructing passengers, by standing across the footpaths, or by using insulting language, or in any other way,—tearing down or defacing signs, breaking windows, breaking doors or door-plates, or the walls of houses, yards or gardens, destroying fences, causing a disturbance or noise in the streets or highways by screaming, swearing, or singing,—being drunk, and impeding or incommoding the peaceable passengers,--

Obstructing passengers, &c. ;

All common prostitutes or night walkers wandering in the fields, public streets or highways, not giving a satisfactory account of themselves,--

Prostitutes, &c. ;

Persons in the habit of frequenting houses of ill-fame, not giving a satisfactory account of themselves,--

Frequenters of houses of ill-fame

And taverns; Persons tippling in taverns or tap-rooms, after the hour of ten at night and before the hour of five in the morning, between the twenty-first day of March and the first day of October, and after the hour of nine at night and before the hour of six in the morning, from the first day of October to the twenty-first day of March,--

Gamblers— Persons winning money or other valuable thing in playing at cards, dice or other chance game, in taverns,--

Shall be deemed disorderly persons. Shall be deemed loose, idle and disorderly persons, within the meaning of this Act. 2 V. (1) c. 2, s. 9.

Justice may issue search warrants.

12. Any Justice of the Peace, upon information upon oath before him made, that any persons hereinbefore described are loose, idle and disorderly persons, and are, or are reasonably suspected, to be harboured or concealed in any house of ill-fame, tavern or boarding house, may, by warrant under his hand or seal, authorize any constable or other person to enter at any time such house, or tavern, and to apprehend and bring before him or any other Justice or Justices, all persons found therein and so suspected as aforesaid :

How such persons shall be punished.

2. And if, on examining such persons so apprehended and brought as aforesaid, it appears to such Justice or Justices that they or any of them cannot give a satisfactory account of themselves, such Justice or Justices may condemn them to pay, either immediately or within such period as he or they think fit, a fine not exceeding five pounds sterling; and in default of payment at the time appointed, they shall be imprisoned in the Common Gaol or House of Correction, or in the lock-up-house, or other place provided by the Municipality for the purpose, at hard labor for any time not exceeding two months, in the city of Quebec or of Montreal, or thirty days in any other town or village municipality, the imprisonment to cease upon payment of the sum due. 2 V. (1) c. 2, s. 10,--7 V. c. 21, s. 1, and 9 V. c. 23,--23 V. c. 61, s. 29.

Charges against them to be in writing.

13. In all proceedings against loose, idle, and disorderly persons, the charge shall be reduced to writing and shall be stated by the justice or justices of the peace to the party accused, who shall be held to plead forthwith to the same; and the said charge shall be summarily tried, due time being given to the party accused to procure the attendance of the necessary witnesses to establish his defence, if he so requires. 7 V. c. 21, s. 3.

Commitments to specify the facts of the case.

14. Every commitment to gaol or to the house of correction or lock-up-house, shall specify the particular fact or facts, as to time, place and circumstance, which constitute the offender a loose, idle and disorderly person; and any commitment which does not specify such facts, shall be held to be insufficient, and the party imprisoned under color thereof shall be entitled to be

discharged from imprisonment, upon application to that effect to any judge of the Court of Queen's Bench or of the Superior Court, or any other person authorized by law to act in the absence of such judge. 7 V. c. 21, s. 5.

15. Any justice of the peace may commit any person convicted before him, by his own view or by the oath of one or more credible witness or witnesses, or by his confession, of over-loading, over-driving or otherwise ill-treating any horse, dog or other animal, to the common gaol, for any time not exceeding one month; and all constables shall and may apprehend any such person, and bring him before a justice of the peace, to be dealt with according to the provisions of this Act. 2 V. (1) c. 2, s. 11.

How cruelty to animals shall be punished.

16. Whenever any person is charged on the oath of a credible witness, before any justice of the peace, with any offence punishable by a penalty, on summary conviction under this Act, the justice may summon the person charged to appear before any two justices of the peace at a time and place to be named in such summons; and if the person charged does not appear accordingly, then (upon proof of the due service of the summons, by delivering a copy thereof to such person or by delivering a copy to his wife or servant or some inmate of the family of such person, at his usual place of abode,) the justices, before whom he ought to have appeared, may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person, and bringing him before them.

Proceedings to enforce the appearance of a person charged under this Act.

2. The prosecution for any offence punishable by a penalty upon summary conviction by virtue of this Act, shall be commenced within three months after the commission of the offence and not otherwise. 2 V. (1) c. 2, s. 12.

Limitation of prosecutions.

17. The justices of the peace by whom any person is convicted and adjudged to pay any sum of money, for any offence against this Act, may adjudge that such person shall pay the same either immediately or within such period as they think fit; and in default of payment at the time appointed, the said person shall be imprisoned in the common gaol or house of correction, for any term not exceeding two months, in the city of Quebec or Montreal, or thirty days in any other town or village municipality, which said imprisonment shall cease upon payment of the sum due. 2 V. (1) c. 2, s. 14.

Certain time may be allowed for the payment of the fine.

18. All fines and penalties imposed for offences against this Act shall make part of the Building and Jury Fund of the district in which they are imposed, and shall be paid over by the Justices or persons receiving them to the Sheriff of such district accordingly. 20 V. c. 44, s. 113,—23 V. c. 57, s. 2.

Application of fines imposed under this Act.

Appeals from convictions under this Act.

19. Any person, convicted under this Act, may appeal from such conviction to the next ensuing General Quarter Sessions of the Peace, upon giving good and sufficient security to pay the penalty awarded against him and all costs of such appeal; and the said sessions of the peace shall hear such appeal and dispose of the same, and award costs in manner and form as practised upon other appeals. 7 V. c. 21, s. 4.

OF LABORERS, SERVANTS AND APPRENTICES FOUND GAMBLING, &C.

Servants or apprentices gambling in taverns how punished.

25. If any journeyman, day laborer, servant or apprentice, plays at any game of cards, dice, skittles or any other game, for money, liquor or otherwise, in any house, out-house, apartment or ground in the occupation of or belonging to any person licensed to sell spirituous liquors by retail, or to keep a house of public entertainment in Lower Canada, and such journeyman, servant or apprentice be convicted thereof before a justice of the peace in the villages or country parishes, or before the justices of the peace in their weekly sittings in the cities of Quebec or Montreal, by the oath of one credible witness, or by confession, he shall forfeit and pay for every such offence, a sum not exceeding four dollars, and not less than one dollar; and in default of payment of such fine or penalty within six days, such journeyman, labourer, servant or apprentice shall be committed to the house of correction for a space of time not exceeding eight days, in discharge of such penalty as aforesaid:

Cap. 8 of these Gen. Stat. not affected.

2. Nothing in this section shall affect any provision of the eighth chapter of these Consolidated Statutes relating to billiard tables. 57 G. 3, c. 16, s. 10.

Discretion of Justice as regards costs.

26. The justices of the Peace, before whom any such case is heard and determined, may award the costs which either of the parties shall have to pay the other, as they judge fit; and in case any person against whom any such costs are so awarded, does not pay the same within seven days next after they have been so awarded, any such justice or justices of the peace, whether in or out of session, may issue a warrant of distress for levying the same, by the seizure and sale of the offender's goods and chattels. *Ibid*, s. 14.

Penalties how disposed of.

27. One moiety of every penalty imposed in virtue of the twenty-fifth section of this Act, shall belong to the informer, and the other moiety shall make part of the Building and Jury Fund of the district in which it is imposed, and shall accordingly be paid over by the Justice or person receiving it to the Sheriff of such district. 20 V. c. 44, s. 113, &c.

Appeals from judgments under sect. 25.

28. Upon every judgment under the said twenty-fifth section, by any justices of the peace, an appeal shall lie to the justices of

the court of quarter sessions of the peace for the district where the judgment was rendered, upon which appeal the full merits of the original complaint may be heard and adjudged:

2. But the appellant, before the allowance of any appeal as aforesaid, shall give good and sufficient security to pay the amount of the judgment appealed from, and costs as well on the original complaint as on the appeal. 57 G. 3, c. 16, s. 12. Security for costs.

CAP CIII.

Con. Stat. L. C. p. 911.

An Act respecting Officers of Militia as Peace Officers and Inquests to be held by them in certain cases.

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

OF OFFICERS OF MILITIA AS PEACE OFFICERS.

1. All captains and other officers of militia in the several parishes of Lower Canada, duly commissioned and likewise the sergeants, appointed by the said captains and other officers in their respective parishes, are and shall be public and peace officers within their respective parishes, and authorized and enjoined to do and exercise all the duties and services of public and peace officers within their respective parishes according to law. 27 G. 3, c. 6, s. 1. Officers of militia to be peace officers in their respective parishes.

2. Every captain, officer and sergeant of militia in Lower Canada, shall be a peace officer for the criminal district within which he resides; and it shall be his duty, when thereto commanded by any justice of the peace or superior officer of militia, to accompany and aid any other peace officer or constable, in conveying any prisoner or prisoners, charged with a criminal offence, to or towards any gaol in such district; But such captain or officer of militia may require any militiaman or militiamen of his company to perform the aforesaid service. 6 W. 4, c. 37, s. 1. And bound to aid in conveying prisoners to gaol.

3. Any justice of the peace in Lower Canada, or any captain or superior officer of militia, upon the requisition of a justice of the peace, may order any person belonging to the company of such captain, and having a carriage and horse, to furnish the same for the conveyance of any prisoner or prisoners charged with a criminal offence, and the effects of such prisoner or any other effects which it may be necessary to send along with such prisoners for the purposes of justice, to or towards the common gaol of the district; and every person having a carriage and horse, shall be bound to obey such order. *Ibid.*, s. 2. Powers of Justices of the Peace as regards the providing for such conveyance.

Penalty on refusal to render such assistance.

4. Any captain, officer or sergeant of militia, who refuses to accompany or assist a constable or peace officer, in conveying any prisoner charged as aforesaid, to or towards a common gaol,—and any person having a carriage and horse as aforesaid, who neglects or refuses, when ordered, to furnish the same for the conveyance of any such prisoner, to or towards such gaol, shall, for every such offence, forfeit, being a commissioned officer, a sum not exceeding eight dollars, and every non-commissioned officer, or militiaman, a sum not exceeding four dollars to be recovered in a summary manner, upon complaint, hearing and conviction before any justice of the peace, on the testimony of one or more credible witnesses :

Its recovery.

2. Such penalty if not paid within twenty-four hours after conviction, shall be levied, together with costs, by distress and sale of the goods and chattels of the party convicted. 6 W. 4, c. 37, s. 3.

Distance to which the prisoner is to be conveyed.

5. No such officer or sergeant of militia, nor the carriage or horse of any person commanded to furnish the same, shall be bound to go farther than the residence of the nearest captain or other commissioned officer belonging to the next company of militia, being such peace officer as aforesaid, living on or near the most direct or shortest route towards the prison to which such prisoner is to be conveyed. *Ibid*, s. 4.

Disposal of penalties.

6. One moiety of the penalties imposed and to be levied by virtue of this Act, shall go to the informer, and the other moiety shall go to Her Majesty, for the public uses of this Province. *Ibid*, s. 5.

Duty of officers of militia, when marks of violence are found on a dead body.

7. Where any marks of violence are found on any dead body, the captain or senior officer of militia may, in his parish, summon together six respectable householders of his parish to inspect the same, and they shall, according to the opinion of such householders, report the manner and cause of such death in writing to the nearest justice of the Peace, that a further examination may if necessary be made therein. 34 G. 3, c. 6, s. 36.

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